

IN THE SUPREME COURT OF THE STATE OF NEVADA

CALVIN ELAM,

Appellant,

v.

STATE OF NEVADA,

Respondent.

Docket No. 85421

Electronically Filed
Mar 27 2023 06:10 PM
Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANT'S APPENDIX
Volume III**

Monique McNeill, Esq.
Nevada Bar No. 9862
P.O. Box 2451
Las Vegas, Nevada 89125
Phone: (702) 497-9734
Email: Monique.mcneill@yahoo.com
Attorney for Appellant Elam

<u>INDEX</u>	
<u>Document</u>	<u>Page Nos.</u>
Indictment	1-6
Transcript, Trial Day 1	7-327
Transcript, Trial Day 2	328-539
Transcript, Trial Day 3	540-723
Transcript, Trial Day 4	724-814
Transcript, Trial Day 5	815-909
Transcript, Trial Day 6	910-1061
Transcript, Trial Day 7	1062-1070
Transcript, Sentencing	1072-1076
Pro Per Petition	1077-1100
Motion to Withhold Judgment on Petition	1101-1105
State's Response to Pro Per Petition	1106-1132
Findings of Facts, Conclusions of Law and Order, date 12/1/2020	1133-1158
Remittitur	1159-1162
Supplemental Points and Authorities	1163-1191
State's Response to Supplement	1192-1226
Transcript, Argument 8/25/22	1227-1238

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 27th day of March, 2023. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM LAXALT

MONIQUE MCNEILL

STEVEN WOLFSON

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

Calvin Elam

By: /S/ Monique McNeill
MONIQUE MCNEILL
State Bar # 9862

1 not been involved in any way, shape, or form in her case. So I
2 don't know what the negotiation is. I don't know who
3 represents her. If I had to guess I would say it's the PD,
4 because I don't think there's any kind of conflict.

5 THE COURT: Why don't we just do 10:30 then, 'cause
6 the --

7 MS. LUZAICH: As long as they can --

8 THE CLERK: What's her name?

9 MS. LUZAICH: Arrie Webster, W-e-b-s-t-e-r
10 (inaudible). Here, I just want to show I'm crossing out -- she
11 had crossed out all the, you know, felonies of it. So I
12 crossed out right here ex-felon and then I crossed out --

13 THE COURT: It's, like, eight things. It will take an
14 hour.

15 THE MARSHAL: I was going to say, I can just call
16 control and get --

17 THE COURT: Or you can go down, I don't care.

18 THE MARSHAL: No, no. I can call (unintelligible).
19 I can call control and find out what marshal's in there. And I
20 can call down there and have them pull her case first. If
21 well, I'm assuming the PDs are there on time.

22 THE COURT: Yeah, because they --

23 THE MARSHAL: Well, I shouldn't have said that
24 because they're not here on time either.

25 THE COURT: All right. If anyone needs -- yes?

1 MR. ERICSSON: Your Honor, I do need to make a record
2 on the one juror that I --

3 THE COURT: Let's do -- can we do that at the end of
4 the day?

5 MR. ERICSSON: Sure. Yes, yep. I just don't want to
6 forget.

7 (Proceedings recessed 3:34 to 3:38)

8 (Outside the presence of the jury)

9 THE COURT: How is -- is it Debra or Devra?

10 MS. LUZAICH: Debra.

11 THE COURT: How long is that going to take?

12 MS. LUZAICH: Not very.

13 THE COURT: Oh.

14 MS. LUZAICH: But I just -- I need to hook into this
15 for a PowerPoint --

16 THE COURT: It's okay.

17 MS. LUZAICH: -- and unless you want to add -- how
18 long are your Instructions going to take?

19 THE COURT: It's just --

20 MS. LUZAICH: The Information or the Indictment is
21 fairly long.

22 THE COURT: That's what takes all the time. I'm
23 guessing 20 minutes.

24 I don't like to tell them how many challenges there
25 are because I like everybody to be confused. But they're

1 always so surprised when they're the ones that are, like, on
2 the jury.

3 MS. LUZAICH: Yep. Okay. I'm hooking into the thing
4 for PowerPoint, and I don't know how to do this, so --

5 THE COURT: Okay.

6 MS. LUZAICH: Ow, and I just, oh, my finger.

7 THE COURT: Everybody's ready. Kenny, you can bring
8 them in.

9 MS. LUZAICH: Wait, no, no, no, no, no please. And
10 can I go to the bathroom, really -- I'm sorry, I -- pretty
11 please.

12 (Pause in the proceedings.)

13 THE COURT: Is everyone ready?

14 Kenny, bring them in.

15 MS. LUZAICH: Okay. Why can't I get this on there?
16 Oh, that's why. It's there. I couldn't get it on there and
17 now it is.

18 (Jury entering 3:45 p.m.)

19 THE MARSHAL: And can all the jurors see the
20 television to your left?

21 UNIDENTIFIED SPEAKER: Yes.

22 THE MARSHAL: We're good? Okay.

23 THE COURT: Ladies and gentleman, as I told you
24 before our break I'm going to take a few minutes to talk to you
25 about what to expect during this trial. My comments are

1 intended to serve as an introduction to the trial. At the
2 conclusion of the trial I will give you more detailed
3 instructions in writing, and those detailed instructions will
4 control your deliberations.

5 This is a criminal case brought by the State of
6 Nevada against the defendant. The case is based on an
7 Information. The clerk will now read the Information and state
8 the -- Indictment, excuse me -- the clerk will now read the
9 Indictment and state the plea of the defendant.

10 (Reading of Indictment not transcribed.)

11 THE COURT: Ladies and gentlemen, you should
12 distinctly understand that the Indictment just read to you is
13 simply a description of the charges made by the State against
14 the defendant. It is not evidence of anything. It does not
15 prove anything; therefore, the defendant starts out with a
16 clean slate. The defendant has pled not guilty and is presumed
17 innocent.

18 This is a criminal case, and there are two basic
19 rules you must keep in mind. First, the defendant is presumed
20 innocent unless and until proved guilty beyond a reasonable
21 doubt. The defendant is not required to present any evidence
22 or prove his innocence. The law never imposes upon a defendant
23 in a criminal case the burden of calling any witnesses or
24 introducing any evidence. Second, to convict, the State must
25 prove beyond a reasonable doubt that the crime was committed

1 and that the defendant is the person who committed the crime.

2 It will be your duty as jurors to decide from the
3 evidence to be presented whether the defendant is guilty or not
4 guilty. You are the sole judges of the facts. You will decide
5 what the facts are from the evidence which will be presented.
6 The evidence will consist of testimony of witnesses and
7 documents and other things received into evidence as exhibits.
8 You must apply the facts to the law which I shall give you and
9 in that way reach your verdict. It is important that you
10 perform your duty of determining the facts diligently and
11 conscientiously for ordinarily there is no way of correcting an
12 erroneous determination of facts by the jury.

13 You should not take anything I may say or do during
14 the trial as indicating my opinion as to how you should decide
15 the case or to influence you in any way in your determination
16 of the facts. At times, I may even ask questions of witnesses.
17 If I do so, it is for the purpose of bringing out matters which
18 should be brought out and not in any way to indicate my opinion
19 about the facts or to indicate the weight or value you should
20 give to the testimony of a witness.

21 There are two kinds of evidence, direct and
22 circumstantial. Direct evidence is testimony about what the
23 witness personally saw, heard or did. Circumstantial evidence
24 is indirect evidence; it is proof of one or more facts from
25 which one can find another fact. By way of example, if you

1 wake up in the morning and see that the ground, the sidewalks
2 and the streets are all wet and water is running down the
3 gutters, you may find from those facts that it rained during
4 the night. It is proof of one or more facts from which you can
5 find another fact. Conversely, if you are awake during the
6 night and saw the rain fall that would be direct evidence,
7 which is something you personally saw. You may consider both
8 direct and circumstantial evidence in deciding this case.

9 The law permits you to give equal weight or value to
10 both, but it is for you to decide how much consideration to
11 give to any evidence. Certain things are not evidence, and you
12 must not consider them as evidence in deciding the facts of
13 this case. They include statements and arguments by the
14 attorneys, questions and objections of the attorneys, testimony
15 I instruct you to disregard and anything you may see or hear if
16 the court is not in session, even if what you see or hear is
17 done or said by one of the parties or by one of the witnesses.
18 Remember, evidence is sworn testimony by a witness while court
19 is in session and documents and other things received into
20 evidence as exhibits.

21 There are rules of law which control what can be
22 received into evidence. When a lawyer asks a question or
23 offers an exhibit into evidence and the lawyer on the other
24 side thinks it is not permitted by the rules, that lawyer may
25 object. If I overrule the objection, the question may be

1 answered or the exhibit received. If I sustain the objection,
2 the question cannot be answered, and the exhibit cannot be
3 received. Whenever I sustain an objection to a question,
4 ignore the question and do not guess what the answer might have
5 been.

6 Sometimes I may order evidence stricken from the
7 record and tell you to disregard or ignore such evidence. This
8 means that when you are deciding the case you must not consider
9 the evidence which I have told you to disregard.

10 It is the duty of a lawyer to object to evidence
11 which the lawyer believes may not be permitted under the rules.
12 You should not be prejudiced in any way against the lawyer who
13 makes objections on behalf of the party the lawyer represents.
14 Also, I may find it necessary to admonish a lawyer. If I do,
15 you should not be prejudiced towards the lawyer or client
16 because I have found it necessary to admonish him or her.

17 You are not to concern yourself in any way with the
18 sentence which the defendant might receive if you should find
19 the defendant guilty. Your function is to decide whether the
20 defendant is guilty or not guilty of the charges. If and only
21 if you find the defendant guilty, then it becomes the duty of
22 the Court to pronounce sentence.

23 Until this case is submitted to you, do not talk to
24 each other about it or about anyone having anything to do with
25 it until you go into the jury room to deliberate on it. Do not

1 talk with anyone about this case or about anyone having
2 anything to do with it until you've been discharged as jurors.
3 Anyone else includes members of your family and your friends.
4 You may tell them that you are a juror in a criminal case, but
5 don't tell them anything else about this case until after
6 you've been discharged by me. Do not let anyone talk to you
7 about the case or about anyone having anything to do with it.

8 If someone should try to talk to you, please report
9 that to me immediately by contacting the bailiff. Do not read
10 any news stories, listen to any radio broadcasts or watch any
11 television reports about the case or about anyone having
12 anything to do with it.

13 Do not do any research or make any investigation
14 about the case on your own. You may be tempted to visit the
15 scene. Please do not do so. In view of the time that has
16 elapsed since this case has come to trial, substantial changes
17 may have occurred at the location in question. Also, in making
18 an unauthorized visit without the benefit of explanation you
19 may get erroneous impressions. Therefore, please avoid going
20 near or past the location until after the case has been
21 completed.

22 At the end of the trial you will have to make your
23 decision based on what you recall of the evidence. You will
24 not have a written transcript to consult, and it is difficult
25 and time-consuming for the court recorder to play back lengthy

1 testimony. Therefore, I urge you to pay close attention to the
2 testimony as it is given.

3 If you wish, you may take notes to help you remember
4 what witnesses said. If you do take notes, please keep them to
5 yourself until you and your fellow jurors go to the jury room
6 to decide the case. Do not let note taking distract you so
7 that you do not hear other answers by witnesses. You should
8 rely upon your own memory of what was said and not be overly
9 influenced by the notes of other jurors.

10 Do not make up your mind about what the verdict
11 should be until after you have gone to the jury room to decide
12 the case and you and your fellow jurors have discussed the
13 evidence. It is important that you keep an open mind.

14 A juror may not declare to a fellow juror any fact
15 relating to this case of which the juror has knowledge. If any
16 juror discovers during the trial or after the jury has retired
17 that that juror or any other juror has personal knowledge of
18 any fact in controversy in the case, that juror shall disclose
19 that situation to me in the absence of the other jurors. This
20 means that if you learn during the course of the trial that you
21 have personal knowledge of any fact which is not presented by
22 the evidence in this case you must declare that fact to me.
23 You communicate to the Court through one of the bailiffs.

24 During the course of this trial, the attorneys for
25 both sides and all court personnel other than the bailiff are

1 not permitted to converse with members of the jury. These
2 individuals are not being antisocial. They are bound by ethics
3 and the law not to talk to you. To do so might contaminate
4 your verdict.

5 The trial will proceed in the following manner. The
6 deputy district attorney will make an opening statement which
7 is an outline to help you understand what the State expects to
8 prove. Next, the defendant's attorney may but does not have to
9 make an opening statement. Opening statements serve as an
10 introduction to the evidence which the party making the
11 statement intends to prove. The State will then present its
12 evidence, and counsel for the defendant may cross-examine the
13 witnesses. Following the State's case, the defendant may
14 present evidence, and the deputy district attorney may
15 cross-examine those witnesses; however, as I have already said,
16 the defendant is not obligated to present any evidence or to
17 call any witnesses.

18 After all of the evidence has been presented, I will
19 instruct you on the law. After the instructions on the law
20 have been read to you, each side has the opportunity to present
21 oral argument. What is said in closing argument is not
22 evidence. The arguments are designed to summarize and
23 interpret the evidence. Since the State has the burden of
24 proving the defendant guilty beyond a reasonable doubt, the
25 State has the right to both open and close the arguments.

1 After the arguments have been completed, you will retire to
2 deliberate on your verdict.

3 Jurors are permitted to ask questions of the
4 witnesses. If you have a question for one of the witnesses, I
5 ask that you write it down using a full sheet of your notebook
6 paper, then wait until the attorneys for both sides have had an
7 opportunity to question the witness because very often one of
8 the lawyers will ask your question. If not, get my attention
9 or the bailiff's attention, and he will retrieve the question
10 from you.

11 Please do not be offended if I don't ask one of your
12 questions. That doesn't mean it's not an interesting question
13 or something like that, but the questions from the jurors are
14 governed by the same rules of evidence that control what the
15 lawyers can ask. So if your question calls for hearsay or some
16 other type of inadmissible evidence, I may not ask it.

17 That concludes my introductory remarks.

18 Ms. Luzaich, are you ready to proceed --

19 MS. LUZAICH: Yes, thank you.

20 THE COURT: -- with your opening statement?

21 (Opening statement for the State)

22 MS. LUZAICH: This is Arrie Webster. This is Arrie
23 Webster at the end of the day on March 10 of 2015. If you look
24 at her she looks somewhat disheveled, she's wearing different
25 shoes and she's a tad bruised.

1 Earlier in the day of March 15th -- or sorry, March
2 10th of 2015, Arrie and her dog Payton (phonetic) went to visit
3 with her friend Annie. You'll hear from Annie during the
4 trial. Annie's real name is Elizabeth Gentile or Gentile but
5 people call her Annie. Annie lives with Pam. And Annie and
6 Pam have dogs of their own.

7 Arrie and her dog went to visit with Annie and her
8 dog at Annie's place at, 1116 North Jones. It's apartments on
9 Jones just kind of north of Washington. While she was out on
10 the balcony visiting with Annie, she looked down and she saw
11 the defendant, Calvin Elam. He lives there as well. He lived
12 in 1108 at the time, two buildings down from Annie.

13 Arrie had recently discovered that she and the
14 defendant are somewhat related because the defendant was
15 involved with Jonique Mack who is "Annie's cousin". So "Annie"
16 would call the defendant cuz, the defendant would call Annie --
17 or Arrie, cuz.

18 And on that day Arrie sees the defendant, yells down,
19 hey cuz, or something along those lines, and the defendant
20 waves her over to his apartment. She thinks nothing of it. So
21 she goes to his apartment to visit with him; this is early in
22 the afternoon. She sees him get out of his white Nissan
23 Sentra, go into his apartment. She goes downstairs from
24 Annie's apartment and says, Here, Annie, watch Payton, my dog,
25 I'll be right back. I'm going to go see what cuz wants. So

1 she goes downstairs and walks into his apartment.

2 You will hear that earlier that week the defendant's
3 two pit bull dogs turned up missing. The defendant was not
4 happy about that. When Arrie walked into his apartment he
5 accused her of taking his dogs. She tried to explain to him
6 she had nothing to do with it, not only didn't she take his
7 dogs, she actually tried to help look for them earlier. But he
8 was having none of it. His voice got stronger and more
9 accusatory, and before she knew it he made her get down on her
10 knees, put her hands behind her back, hogtied her -- oops
11 sorry, I'm getting better at this -- hogtied her. He put a
12 shotgun in her mouth -- a shotgun that was in the apartment.
13 He taped her mouth; he stuffed her mouth with paper.

14 He called people on the phone, people came over, and
15 while she was in that position, her pants were pulled down.
16 She was beat with a belt. She was stunned with a stun-gun.
17 She was hit with a broom. And at some point, she heard, I'm
18 going to give her what she wants, and that broom went between
19 her butt cheeks.

20 She'll tell you, you know, I was clenched. I was
21 scared. I didn't know what had hit me. It touched me. It
22 went between my cheeks. Did it go all the way in; I don't
23 know. I was so scared I thought I was gonna die.

24 While she was in there, there were other people
25 there. She heard the defendant talking to the other people

1 about his kids, about picking up his kids; remember this is
2 mid-afternoon. You're going to hear that the defendant does in
3 fact have several kids, that kids live in the apartment, and
4 you'll see evidence of the facts that his kids live in the
5 apartment. Immediately behind the apartment complex that he
6 lives in, in fact, immediately behind his own building is an
7 elementary school where his kids go to school.

8 Not long after Arrie heard -- and remember, she's
9 laying on the ground hogtied. Her pants are down. She's hands
10 behind her back, all tied up, something covering her face. Not
11 long after, she hears him talk about going to pick up his kids.
12 She hears nothing. She hears nothing in the apartment. She
13 realizes this is my chance, I'm going to get away. And she's
14 able to kind of roll over to the door, open the door, get
15 outside where people find her, help her, and untie her.

16 You know, they say that some things are so crazy you
17 can't make them up. So you're not only going to hear from
18 Arrie about this -- oops, you're going to hear from Debra Fox.
19 Debra Fox is an individual who is not a friend of Arrie's. She
20 does not live in the neighborhood. She does not know all these
21 players. What she will tell you is she was bringing her baby
22 to be babysat that day; it coincidently is Pam who is Annie,
23 Elizabeth Gentile's girlfriend who is babysitting Debra's baby.
24 She drops her baby off. And as she is walking outside and
25 walking down the stairs of 1116, she sees Arrie coming towards

1 her hogtied. Her hands are tied. Her feet are tied. Her
2 pants are down. There's tape on her and she's screaming, Help
3 me, help me, I've been kidnapped.

4 Debra will tell you that as she sees this happening,
5 she sees Annie. She knows Annie. Because like I said, Annie's
6 girlfriend who is Pam, is babysitting Debra's child. She sees
7 Annie coming towards Arrie and helps "Arrie" untie her, cut the
8 rope, do whatever and all these other people also coming over
9 to help. You'll hear from Debra that she then goes to work at
10 the Smith's. And later while she's at Smith's she comes
11 outside to take a break, and she sees Arrie with the police.
12 That photograph that you saw at the very beginning, that's
13 Arrie at the Smith's talking to the police. And that's how
14 Debra ends up giving a statement.

15 You're also going to hear from Annie, who's going to
16 describe for you how Arrie was at her apartment that morning
17 with her dog, that they were visiting, that Arrie saw the
18 defendant, that she went down to talk to him, that she said,
19 I'll be back, watch my dog, and she was shocked that Arrie
20 didn't come right back, because she doesn't leave her dog for
21 very long. And she was so worried that she actually went
22 looking for her. And what did she find? She found Arrie
23 hogtied, hands tied, feet tied, and had to help her along with
24 all of the other individuals.

25 But not only are you going to hear from these people,

1 you're going to see the injury to Annie's mouth -- or Arrie.
2 Sorry, the Annie, Arrie thing is killing me. You're going to
3 see the injury to Arrie's mouth. You're going to see the
4 injuries to her legs from being hogtied and being on the ground
5 and trying to get out of there. You're going to see injury to
6 her wrists from being hogtied. You're going to see that when
7 the police did arrive, they were looking for evidence of what
8 had occurred.

9 And this dumpster right here is in between 1108 and
10 1112; remember, 1108 is where the defendant lives, so it's
11 right by there. And inside the dumpster you're going to see
12 and hear that all the twine, the cord were found. You're going
13 to see that Arrie's out by that same dumpster. You're going to
14 see theres Arrie shoe that was found by itself; remember in the
15 photo Arrie was wearing mismatched shoes because she ran right
16 out of her shoes as she was trying get away from the defendant.

17 The police went to 1108; they served a search
18 warrant. Calvin Elam lives in 1108 North Jones. And inside
19 his kitchen just like Arrie described, you're going to see that
20 there is the tape that she was taped with. You're going to see
21 that there's the paper that was used or different paper but
22 similar to that that was used to stuff her -- in her mouth.
23 You're going to see that there was the belt that was used to
24 beat her. You're going to see that there was the broom that
25 was used to hit her and then attempt to penetrate her. All of

1 these things in the kitchen exactly where she described.

2 You're also going to see that there is a shotgun that
3 is also on the floor in the kitchen. The shotgun as the police
4 arrived there was still in a box. You're going to hear from
5 the police that they photograph things as they are exactly as
6 they are. That's where it was found; that's how it was found.
7 Then they open the box and see that oh, the shotgun that Arrie
8 described is right there.

9 And then finally, you're going to hear from the DNA
10 analyst that the barrel of the shotgun -- remember where Arrie
11 is going to describe for you that the shotgun was put in her
12 mouth. The barrel of the shotgun was tested, and the DNA on
13 the shotgun was found to be Arrie Webster's; one in 16.9
14 quintillion chances that it's hers. Essentially, she's the
15 only person on the planet whose DNA that could belong to.

16 Ladies and gentleman, that is the State's case in a
17 nutshell. Over the course of the next week you're going to
18 hear from all of the witnesses, not only Arrie, not only Annie,
19 not only Debra, but all of the people, the police officers who
20 went there, the crime scene analysts who looked, the DNA
21 analysts, the fingerprint people; you're going to hear from all
22 of these individuals. And based on the evidence, what you're
23 going to see and what you're going to hear, the State's going
24 to ask you to find the defendant guilty of all the charges.
25 Thank you.

1 THE COURT: All right. Thank you, Ms. Luzaich.

2 Does the defense wish to make an opening statement at
3 this time?

4 MR. ERICSSON: Yes, Your Honor. Very briefly, thank
5 you.

6 (Opening statement for the defense.)

7 MR. ERICSSON: We're finally getting going with the
8 trial. It's been two days to get to this point. As you know,
9 the State has the burden of proof, and depending on what the
10 State presents will be how we defend the case as far as the
11 order of how they present their witnesses.

12 But one of the things you saw the State talk about or
13 Ms. Luzaich talk about one piece of DNA evidence that she
14 thinks is significant. You are going to hear that there was
15 lots of evidence tested from Mr. Elam's apartment, that there
16 was no physical match in multiple testings related to Arrie,
17 that one would suggest -- would believe there would be evidence
18 of DNA or other physical evidence with the story that she
19 tells.

20 Now, at this stage it seems like a fairly straight
21 forward case. But you're going to hear numerous times that
22 Arrie talks to different people about this alleged incident.
23 And what we are asking you to do is to carefully listen each
24 time she talks to somebody about the allegations she's making.
25 And as -- obviously, there's a reason the State has the burden

1 of proof, and that is it is very difficult to prove a negative.
2 And so as the defense we do not have a burden to prove a
3 negative. But what we can do is analyze the evidence from the
4 testimony of the complaining witness. And from that it is my
5 very sincere belief that you will determine that Arrie is not
6 telling the truth of what happened that day.

7 So I know this can be very difficult to keep your
8 minds open as you are listening to this evidence as it comes
9 in. But one of the instructions is do not make your mind up
10 until you've heard all of the evidence in this case. And after
11 you do that and critically analyze what evidence the State has
12 produced as well as the evidence that is not presented to you,
13 it is my strong conviction that you will find that there is
14 simply no reason to believe the story that Arrie has presented.
15 And that you will find Mr. Elam not guilty of each of the
16 charges. And we ask that you pay close attention. Thank you.

17 THE COURT: All right. Thank you, Mr. Ericsson.

18 Is the State ready to call its first witness?

19 MS. LUZAICH: Yes. Thank you. The State would call
20 Debra Fox.

21 THE MARSHAL: Step right up there for me, please.
22 And raise your right hand and face the clerk to your left.

23 **DEBRA FOX**

24 [Having been called as a witness and being first duly sworn,
25 testified as follows:]

1 THE CLERK: Thank you. Please have a seat. State
2 and spell both your first and last name for the record.

3 THE WITNESS: Okay. Debra Fox. D-e-b-r-a, F-o-x.

4 THE COURT: All right. Thank you. Ms. Luzaich.

5 DIRECT EXAMINATION

6 BY MS. LUZAICH:

7 Q Hi. May I call you Debra?

8 A Yes.

9 Q Thank you. Debra, do you live here in Las Vegas?

10 A Yes.

11 Q Do you have a child?

12 A Yes.

13 Q How old is your child?

14 A She's four.

15 Q So she is of young babysitting type age?

16 A Yes.

17 Q Have you lived here in Las Vegas at least since early
18 of 2015?

19 A Yes.

20 Q And in March of 2015 did you work?

21 A Yes.

22 Q Where did you work?

23 A Smith's.

24 Q Smith's the grocery store?

25 A Yes.

1 Q There's a bunch of Smith's here in town, which
2 Smith's did you work at?

3 A On Vegas and Jones.

4 Q Okay. Is that in the north almost west area?

5 A 14th, yeah.

6 Q That's in Clark County, correct?

7 A Yes.

8 Q And when you worked at Smith's what would happen with
9 your daughter?

10 A I would drop her off to her babysitter's.

11 Q In March of 2015, who was her babysitter?

12 A Pamela.

13 Q Do you know Pamela's last name or do you remember?

14 A Yancy (phonetic), like, Yancy, probably butchering
15 the name.

16 Q Okay. Where would you drop your child off?

17 A I don't remember the address but to her apartment.

18 Q Okay. To where she lived?

19 A Yeah.

20 Q Was that an apartment on North Jones?

21 A Yes.

22 Q And did you -- are you aware whether or not Pamela
23 lived there alone or with anybody?

24 A I was aware she lived there with somebody.

25 Q Who did she live there with?

1 A I know her by Annie.

2 Q Okay. And had you previously met Annie?

3 A Yes.

4 Q So you knew who Annie was and what she looked like?

5 A Yes.

6 Q Okay. So in March of 2015, your child was what,
7 two-ish?

8 A Three.

9 Q Three?

10 A Two and a half, three.

11 Q Okay. And would you bring her to Pamela's and just
12 kind of drop and run, or would you sometimes visit?

13 A It would -- it depends if I was running behind. That
14 day I know I was running behind so I was trying to drop her off
15 and leave.

16 Q Okay. The day that we're about to talk about?

17 A Yeah.

18 Q Okay. And how would you get to Pamela's with the
19 baby?

20 A Either my sister would take me or there would be
21 times where she would just randomly pick her up. So it would
22 just depend on how we would go.

23 Q But you would drive there as opposed to take the bus?

24 A Uh-huh.

25 Q Okay. And when you would drive there, would you park

1 the car near the apartment?

2 A Yeah.

3 Q And did Pamela live upstairs or downstairs?

4 A She lived upstairs.

5 Q And is it the kind of apartment that you would walk
6 upstairs that are outside, as opposed to walk in a building and
7 go upstairs?

8 A Yes.

9 Q Okay. So specifically on March 10 of 2015, did you
10 take your child to drop her off with Pamela?

11 A Yes.

12 Q And was that in the afternoon or early afternoon?

13 A Of the early afternoon.

14 Q And did you do that because you were going to work at
15 Smith's?

16 A Yes.

17 Q And is the apartment close to Smith's?

18 A Yes.

19 Q You could probably walk there if you chose, right?
20 That close?

21 A Yes.

22 Q Did you drop the baby off inside?

23 A Yes.

24 Q And tell me what happened, if anything, as you left.

25 A So after I dropped her off I was walking downstairs.

1 As I was talking to them from walking downstairs, some lady
2 came running down the alleyway yelling, Help. And then she's,
3 like, bound up, tied.

4 Q Okay. You said, A lady came running up the alley;
5 can you tell what direction she had come from?

6 A I'm honestly bad at directions. I just know it was
7 -- so the apartments were like this, she was running towards
8 this way.

9 Q Okay. She was -- was she running towards you?

10 A Yeah.

11 Q Okay. So she was coming from the opposite direction?

12 A Well, no, 'cause the opposite it's like a gate. So
13 technically from the side, from my side.

14 Q Okay. Let me rephrase that. Was she running in the
15 alleyway?

16 A Yeah.

17 Q Okay.

18 MS. LUZAICH: Can I approach the witness?

19 THE COURT: You may.

20 MS. LUZAICH: Of course now I've got to figure out
21 where I put the -- sorry. Did I leave the maps up there?

22 THE CLERK: Yeah.

23 MS. LUZAICH: Of course I did. May I approach?

24 THE COURT: You may. You may move freely.

25 BY MS. LUZAICH:

1 Q Showing you what's been marked as State's Proposed
2 Exhibits 63 and 64. Is this an aerial view of the apartment
3 complex that we're talking about?

4 A Yes.

5 Q And that's State's Proposed Exhibit 63; is that
6 correct?

7 A Uh.

8 Q Does that say 63?

9 A Yes.

10 Q Okay. And then State's Proposed Exhibit 64, is that
11 a bigger aerial view of the area that we're talking about that
12 encompasses more of the area?

13 A Yes.

14 MS. LUZAICH: Move them into evidence?

15 THE COURT: Any objections?

16 MR. ERICSSON: No, Your Honor.

17 THE COURT: All right. That will be admitted.

18 (State's Exhibit Nos. 63 - 64 admitted.)

19 MS. LUZAICH: May I publish?

20 THE COURT: You may.

21 MS. LUZAICH: Thank you. Is this on?

22 THE MARSHAL: Yes.

23 BY MS. LUZAICH:

24 Q Okay. Debra, I'm showing you State's Exhibit 63.
25 Can you see it on the screen in front of you?

1 A Yes.

2 Q Okay. Now, just to orient us, can you see Jones
3 Boulevard?

4 A Yes.

5 Q Is that all the way to the left in the diagram?

6 A Yes.

7 Q And then are there three kind of apartment blocks
8 that are -- have yellow balloons, just for the record?

9 A Yes.

10 Q And can you see the alleyway that we were talking
11 about that she was running down?

12 A Yes.

13 Q If you touch your screen you can make marks on it.
14 So can you show us where the alley is.

15 A Right here. Do I just touch it?

16 Q Yeah, touch it and draw.

17 A Does it make it mark? I'm touching it. Okay.

18 Q Okay. Can you, like, make a --

19 THE COURT: If you drag your hand it will make --

20 THE WITNESS: Okay.

21 BY MS. LUZAICH:

22 Q Okay. So that's the alley right there?

23 A Yes.

24 Q Okay. And do you know -- well, actually I'll just
25 leave it. And then show me where Jones is just so that people

1 can be oriented.

2 A Right there.

3 Q Okay. And can you -- now I'm going to show you
4 State's Exhibit 64. Can you see that -- oops, can you see
5 that?

6 A Yes.

7 Q And 64 is the bigger view of what we were talking
8 about, right?

9 A Yes.

10 Q And can you see Smith's on here?

11 A Yes.

12 Q Can you circle it, like, if you touch it and drag
13 your finger and make a circle.

14 A (Witness complies.)

15 Q Okay. And are the same balloons on here the same
16 ones that are on the other one?

17 A Yes.

18 Q Okay. So as you are coming down the stairs you said
19 she was coming towards you?

20 A Yes.

21 Q And you described her as kind of bound. Describe for
22 me what you mean.

23 A She was -- when she was running down, she had her
24 arms tied, her pants were pulled down, I believe, her legs were
25 tied too and she had something wrapped around her mouth kind

1 of, but it's kind of off, like, she kinda, like, happened --

2 Q As if she had pulled it off?

3 A Yeah, like --

4 Q Or pulled it away?

5 A Yeah.

6 Q Now, I use the word running, was she actually able to
7 run? You described her legs as being bound.

8 A I don't -- I don't exactly remember because it was so
9 long ago. I remember she was coming towards me, not exactly
10 running, maybe more like stumbling in a way.

11 Q Okay. So coming towards you?

12 A Yeah.

13 Q But you were very clear, she was bound, her hands and
14 her feet?

15 A Uh-huh. Yes.

16 Q We always have to say yes or no instead of uh-huh.
17 The court recorder has a yes button, a no button, no uh-huh
18 button.

19 A Okay. Sorry.

20 Q And you described something around her mouth; could
21 you tell from where you were what that was?

22 A No.

23 Q But there was something there?

24 A Yes.

25 Q Can you describe the woman for me.

1 A Like, describe her what she was?

2 Q Yes.

3 A African American. She had short hair. I don't know
4 how tall she was. I don't remember that much.

5 Q Had you ever seen her before?

6 A No.

7 Q Was she somebody that you knew personally?

8 A No. No.

9 Q Other than Pamela and Annie, did you know anybody
10 else in that neighborhood?

11 A No.

12 Q So when you saw this woman coming towards you all
13 bound and stuff, was this happening as you're physically
14 walking down the stairs from Pamela's?

15 A Yes.

16 Q What else, if anything did you see?

17 A Just other people walking up towards her, asking her
18 if she was okay, what happened. And I was --

19 Q Okay. Were they trying to help her?

20 A Yes.

21 Q Could you hear whether or not she was saying
22 anything --

23 A She was --

24 Q -- as she was approaching you before they got to her?

25 A All I heard was just, Please help me, call the cops.

1 And then I kind of went my separate ways after.

2 Q When you heard the, Please help me, call the cops,
3 what tone of voice was that in?

4 A Like, she had a panic, like, scared voice.

5 Q Okay. And you said you went your way?

6 A Uh-huh.

7 Q Is that a yes?

8 A Yes, sorry.

9 Q Where was your way? Did you go to Smith's?

10 A I was heading towards work.

11 Q Okay. And did you actually start work that day?

12 A Yes.

13 Q And did you see that woman again later on?

14 A Yes. I was going on break and I was on -- going on
15 break. I was going outside, and she was outside with another
16 police officer.

17 Q Now, when you say she was outside with another police
18 officer, where is that?

19 A It was at where I was at working. She was standing
20 outside of my job by where normally people take smoke breaks
21 and stuff.

22 Q Okay.

23 MS. LUZAICH: And, I'm sorry, I'm going to -- well,
24 can I approach?

25 THE COURT: Sure. You can move freely.

1 BY MS. LUZAICH:

2 Q Showing you what's been marked as State's Proposed
3 Exhibits 1 and 2. State's Proposed Exhibit 1, what is that?

4 A My job.

5 Q Is that a picture of the Smith's?

6 A Yes.

7 Q And is that how it looked on that date?

8 A Yes.

9 MS. LUZAICH: Move it into evidence?

10 THE COURT: Any objection?

11 MR. ERICSSON: No, Your Honor.

12 THE COURT: All right. That will be admitted.

13 (State's Exhibit No. 1 admitted.)

14 BY MS. LUZAICH:

15 Q State's Proposed Exhibit 2, do you recognize that
16 person?

17 A Yes.

18 Q Who is that?

19 A Arrie.

20 Q And do you know her -- well, is that the person who
21 was --

22 A The one was running down, yes.

23 Q Okay. When you say Arrie, have you learned a lot
24 since this actually happened?

25 A Yes.

1 Q Okay.

2 MS. LUZAICH: Move it into evidence.

3 THE COURT: Any objection?

4 MR. ERICSSON: No, Your Honor.

5 THE COURT: All right. That will be admitted.

6 (State's Exhibit No. 2 admitted.)

7 MS. LUZAICH: Permission to publish?

8 THE COURT: You may.

9 BY MS. LUZAICH:

10 Q Showing you State's Exhibit 1. That's the front of
11 the Smith's that we're talking about; is that right?

12 A Yes.

13 Q And that's the police car in the picture?

14 A Yes.

15 Q And showing you State's exhibit 2. That's the woman
16 that you saw that day --

17 A Yes.

18 Q -- that you've just called Arrie?

19 A Yes.

20 Q And is that photo taken right in front of the
21 Smith's?

22 A Yes.

23 Q You can tell that 'cause of the nice painting on the
24 wall?

25 A The building. Yes.

1 Q Now, I'm sorry, I just want to go back to the
2 apartment for a second. As you were coming down the stairs was
3 there something in front of the stairs?

4 A There was, like, dumpsters.

5 MS. LUZAICH: May I approach?

6 THE COURT: You may. You can move freely.

7 MS. LUZAICH: Thank you. Showing you what's been
8 marked -- you said that didn't you, sorry.

9 THE COURT: It's all right.

10 BY MS. LUZAICH:

11 Q Showing you what's been marked as State's Proposed
12 Exhibit 26; does that look familiar?

13 A Yes.

14 Q What is that?

15 A Dumpsters.

16 Q Are those the dumpsters that you were describing?

17 A Yes.

18 Q So are those the dumpsters that are near where she
19 was when she was running towards you?

20 A Yes.

21 Q You're looking funny.

22 A 'Cause it's so dark. See, I feel like the dumpsters
23 were -- I don't think those were the dumpsters 'cause there
24 is -- over there.

25 Q Okay. You think they were different dumpsters?

1 A Uh-huh.

2 Q Is that a yes?

3 A Yes, sorry. Bad habit.

4 Q Okay. Are there multiple sets of dumpsters in that
5 apartment complex?

6 A Yes.

7 Q Okay. Were there dumpsters near where you were
8 standing --

9 A Yes.

10 Q -- that you think look different than that?

11 A Yes.

12 MS. LUZAICH: Thank you. I pass the witness.

13 THE COURT: All right. Cross.

14 MR. ERICSSON: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. ERICSSON:

17 Q Good afternoon, Ms. Fox.

18 A Good afternoon.

19 Q You indicated that you were in a hurry when you were
20 dropping your child off that afternoon?

21 A Yes.

22 Q So when this person came towards the stairwell that
23 you were coming down --

24 A Uh-huh.

25 Q -- did you actually go up to that person physically?

1 A I walked past her. I -- I walked -- I was right
2 there 'cause I walked up with her, with Annie. I didn't talk
3 to her exactly, but I did walk up towards her.

4 Q Okay. Is it fair to say that you were headed to work
5 and you need to get going as --

6 A Yes.

7 Q Okay. Did you personally observe any injuries on the
8 person that you heard asking for help?

9 A I -- no.

10 Q Okay. And the person that you observed, did she have
11 her hands tied in front of her?

12 A Yes.

13 Q Okay. How long would you estimate it was from the
14 time that you became aware of this person in the alleyway until
15 you walked past the person headed to her?

16 A Like, when she came running, like --

17 Q Yes. And I'm just asking for your best estimate of
18 how much time when you first became aware of the person until
19 you walked past her headed to work?

20 A Like, minutes I would say, like, five minutes.

21 Q Okay. When you were walking down the stairwell after
22 dropping your child off, was there anybody with you at that
23 point?

24 A Well, Annie 'cause she came running down, but other
25 than that, no. No one was walking down with me.

1 Q Okay. When you first became aware of this person
2 coming down the --

3 A Uh-huh.

4 Q -- alley, was Annie out there on the stairwell with
5 you at that point, or was she still in the apartment?

6 A She was on top, 'cause we were talking. It was Pam
7 and her, and we were all talking, having a conversation as I
8 was walking down.

9 Q Okay. Other than this person calling for help, and I
10 believe you testified, said, Call the police; is that right?

11 A Uh-huh.

12 Q Did you hear her say anything else?

13 A No.

14 Q How far was the person that was coming down that
15 alleyway that you have identified in that -- one of the
16 photographs that was shown to you from the bottom of the stairs
17 that you were coming down when you first noticed that person,
18 if you can estimate in feet approximately?

19 A I'm horrible at this. I couldn't tell you.

20 Q Okay. You see how far you and I are from one
21 another, if you remember where you were standing as you were
22 coming down the stairwell, and you became aware of this person
23 in the alleyway; was the person further from the bottom of the
24 stairs than you and I are from one another?

25 A I want to say we're about the same distance if I

1 remember, 'cause about -- a little bit further maybe.

2 Q Okay.

3 A So I want to say probably up to the tables.

4 Q Okay. So for the jurors, your best estimate is when
5 you became aware of that person she was approximately from
6 where you're sitting to where the table here that says
7 defendant on it --

8 A Yeah.

9 Q -- from the bottom of the stairs?

10 A Yes.

11 Q Thank you very much.

12 A You're welcome.

13 MR. ERICSSON: I have no further questions.

14 THE COURT: All right. Redirect.

15 REDIRECT EXAMINATION

16 BY MS. LUZAICH:

17 Q Mr. Ericsson just asked you, did you see any injuries
18 on her. Were you looking for injuries?

19 A No.

20 Q And would you agree that she's fairly dark skinned?

21 A Yes.

22 Q Is it possible that she had injuries, you just didn't
23 see them?

24 A Yes.

25 MS. LUZAICH: Thank you. Nothing further.

1 THE COURT: Anything else?

2 MR. ERICSSON: No, Your Honor. Thank you.

3 THE COURT: Did we have any juror questions for this
4 witness? All right. I see no additional questions. Thank you
5 for your testimony.

6 THE WITNESS: Thank you.

7 THE COURT: Please do not discuss your testimony with
8 anyone else who may be a witness. And you are excused at this
9 time.

10 THE WITNESS: Okay. Thank you.

11 THE COURT: Counsel, approach.

12 And the bailiff will just --

13 THE MARSHAL: Right this way, ma'am.

14 THE COURT: -- show you -- right there by the
15 bailiff.

16 THE WITNESS: Okay.

17 (Conference at the bench not recorded.)

18 THE COURT: All right. Ladies and gentleman, we're
19 going to go ahead and take our evening recess in a moment. We
20 will be in recess until 10:30 tomorrow morning. The Court has
21 a calendar on various civil matters in the morning, so for that
22 reason we will not reconvene until 10:30.

23 Before I excuse you for the evening recess, I must
24 again admonish you that you're not to discuss the case or
25 anything relating to the case with each other or with anyone

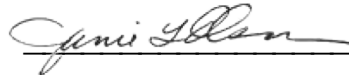
1 else. You're not to read, watch or listen to any reports of or
2 commentaries on the case, person or subject matter relating to
3 the case. Do not do any independent research by way of the
4 Internet or any other medium. Do not visit the location at
5 issue. And please don't form or express an opinion on the
6 trial.

7 Please place your notepads in your chairs and follow
8 the bailiff through the double doors. He will give you
9 instruction on where to meet tomorrow and where to park
10 tomorrow.

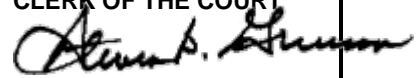
11 (Proceedings recessed for the evening 4:41 p.m.)

12 -oOo-

13 ATTEST: I do hereby certify that I have truly and correctly
14 transcribed the audio/video proceedings in the above-entitled
15 case.

16
17 

18 Janie L. Olsen
19 Transcriber
20
21
22
23
24
25



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

CALVIN THOMAS ELAM,

Defendant.

CASE NO. C305949-1
DEPT NO. XXI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

WEDNESDAY, JUNE 21, 2017

JURY TRIAL - DAY 3

APPEARANCES:

FOR THE STATE:

ELISSA LUZAICH, ESQ.
Chief Deputy District Attorney

FOR THE DEFENSE:

THOMAS A. ERICSSON, ESQ.

RECORDED BY: PATTI SLATTERY, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

00540

W I T N E S S E S

WITNESSES FOR THE STATE:

ARRIE WEBSTER (Outside the presence of the jury)

Voir Dire Examination by Mr. Ericsson 10

ARRIE WEBSTER

Direct Examination by Ms. Luzaich 17

Cross-Examination by Mr. Ericsson 72

Redirect Examination by Ms. Luzaich 99

Follow-Up Examination by Ms. Luzaich 113

ELIAS CARDENAS

Direct Examination by Ms. Luzaich 118

Cross-Examination by Mr. Ericsson 130

Redirect Examination by Ms. Luzaich 131

BRADLEY GROVER

Direct Examination by Ms. Luzaich 133

Cross-Examination by Mr. Ericsson 166

Follow-Up Examination by Ms. Luzaich 169

Follow-Up Examination by Mr. Ericsson 171

THEODORE WEIRACH (Outside the presence of the jury)

Direct Examination by Ms. Luzaich 175

Cross-Examination by Mr. Ericsson 178

E X H I B I T S

STATE'S EXHIBITS ADMITTED:

3 Close-up photo - black female, face, 138

4 Photo - black female, inside of bottom lip 57

E X H I B I T S (CONTINUED)

STATE'S EXHIBITS ADMITTED (CONTINUED) :

5	Photo - black female, legs	137
6	Close-up photo - black female, legs, right leg	137
7	Close-up photo - black female, legs, left leg	58
8	Photo - black female, legs, knees to feet	137
9	Photo - black female, backs of legs	137
10	Photo - black female, forearms, under	137
11	Photo - black female, forearms, top	137
12	Photo - two apartment buildings	141
13	Photo - Street view apartments on left	141
14	Photo - 900 house number	141
15	Photo - stairs up to apartment	141
16	Photo - door with D on it	141
17	Photo - stairs, scooter, grill	141
18	Close-up photo - grill, plant	141
19	Photo - item under grill	141
20	Photo - grill by wall	141
21	Photo - sheet balled up with tape	62
22	Photo - power box 1112, shoe	150
23	Photo - outside of apartment, dumpster, red stairs	150
24	Photo - parking spot 1112, shoe	150
25	Close-up photo - shoe	61
26	Photo - two dumpsters	150

E X H I B I T S (CONTINUED)

STATE'S EXHIBITS ADMITTED (CONTINUED) :

27	Photo - stairway, 110	59
28	Photo - dumpster, side view	150
29	Photo - inside of dumpster	150
30	Photo - cord inside of dumpster	150
31	Photo - black twine	150
33	Photo - white door, red trim	60
34	Photo - kitchen, oven on right	155
35	Photo - kitchen, sink on right	60
36	Photo - broom, water bottle	155
37	Photo - sink, broom	61
38	Photo - mop bucket with mop	155
39	Photo - oven, mac and cheese	155
40	Photo - oven, packing tape	155
41	Photo - sink, broom handle	155
42	Close-up photo - belt	155
43	Photo - long box	128
44	Photo - black rifle in box	104
45	Photo - living room, couch on right	155
46	Photo - living room, bed, office chair	155
47	Photo - doorway of room	155
48	Photo - high table, framed pictures on wall	155
49	Photo - TV with Huggies boxes	155

E X H I B I T S (CONTINUED)

STATE'S EXHIBITS ADMITTED (CONTINUED) :

50	Photo - cabinet open on right	155
51	Photo - two dressers, crates	155
52	Photo - hanging clothes	155
53	Photo - two trashcans	155
54	Photo - shower, toilet	155
55	Photo - pill bottle	155
56	Close-up photo - pill bottle	155
57	Photo - black dresser	155
58	Photo - ID on black dresser	155
59	Close-up photo - ID	155
60	Photo - shotgun on box	155
61	Photo - shotgun on box, trigger on top	155
62	Photo - kitchen countertop, tissue	155
65	Photo - white Sentra	59
66	Photo - defendant	23
67	Photo - DMV form	166
68	Photo - blue LA baseball hat	164

1 LAS VEGAS, CLARK COUNTY, NEVADA, JUNE 21, 2017, 10:44 A.M.

2 * * * * *

3 (Outside the presence of the jury.)

4 THE COURT: -- some matters out of the presence.

5 MR. ERICSSON: Yes, Your Honor.

6 THE COURT: All right. We're on --

7 Are we on the record?

8 THE COURT RECORDER: Yes, Your Honor.

9 THE COURT: We're on the record out of the presence
10 of the jury.

11 And, Mr. Ericsson, you wanted to make a record
12 regarding jury selection and your challenge for cause, which
13 was denied by the Court.

14 MR. ERICSSON: Thank you, Your Honor. Yes. I had at
15 the bench done a challenge for cause on potential juror, Badge
16 No. 13-0395, named Keith Paul Doering, D-o-e-r-i-n-g. He was
17 the individual -- another one who indicated that he would
18 basically believe the testimony of a police officer over
19 somebody -- a nonpolice officer if all other factors were the
20 same, and it was my position that that bias that he has towards
21 the testimony of law enforcement would make him an
22 inappropriate juror for this type of case.

23 At the bench you had denied the motion -- the motion
24 to strike or remove for cause, and so we had to exercise one of
25 our peremptory challenges on that prospective juror.

1 THE COURT: Ms. Luzaich.

2 MS. LUZAICH: All he said was that -- the question
3 was if all else was equal and one police officer and one
4 nonpolice officer testified, would you believe the police
5 officer, and he said, yes, unless there was -- unless there was
6 something different or whatever. So he qualified that, and
7 pretty much anybody on the planet, except for potentially a
8 defendant, would say the same thing. So I don't think that it
9 rises to a challenge for cause.

10 THE COURT: Yeah, that's how I heard it. That if
11 everything else was equal between the witnesses, he would favor
12 the police officer if everything else was equal, but if there
13 was a reason that -- not to believe the police officer, he
14 wouldn't. So I -- you know, that would be things like
15 inconsistencies and ability to perceive, whatever. So I don't
16 think it rose to the level of a for-cause challenge.

17 Was there anything else we needed to address on the
18 record?

19 MR. ERICSSON: Your Honor, we've requested that
20 before the testimony of Arrie Webster is presented that I be
21 allowed outside the presence of the jury to ask her questions
22 about the current case she's involved in.

23 THE COURT: And that's fine, and Ms. Luzaich has
24 represented that she didn't receive any benefit on her other
25 case, but certainly you can question her about that. So when

1 she's here, we'll bring her in out of the presence of the jury,
2 and you can question her. My understanding is she's still at
3 the jail.

4 Do we have an update?

5 MS. LUZAICH: I do not have an update.

6 THE MARSHAL: You would have to ask Ms. Luzaich,
7 Judge --

8 MS. LUZAICH: I do not have --

9 THE MARSHAL: (unintelligible) investigator --

10 MS. LUZAICH: -- an update. Sorry.

11 THE COURT: Okay. All right. I guess if there's
12 nothing else, we'll just be at ease.

13 (Colloquy off the record.)

14 (Proceedings recessed 10:45 a.m. to 11:11 a.m.)

15 (Outside the presence of the jury.)

16 THE COURT: All right. Court is in session out of
17 the presence of the jury.

18 And, ma'am, can you stand up and just face this lady
19 right here, and she's going to administer the oath to you.

20 ARRIE WEBSTER

21 [having been called as a witness and being first duly sworn,
22 testified as follows:]

23 THE CLERK: Thank you. Please have a seat. State
24 and spell your first and last names for the record.

25 THE WITNESS: Yes. Arrie, spelled A-r-r-i-e, middle

1 initial R. Last name Webster, W-e-b-s-t-e-r.

2 THE COURT: All right. Mr. Ericsson is going to ask
3 you some questions, and then when we bring the jury in, after
4 we're done with that, we're going to administer the oath to you
5 again. Okay?

6 THE WITNESS: Yes.

7 So, Mr. Ericsson, go ahead, and then, Ms. Luzaich may
8 have some questions also.

9 MS. LUZAICH: I don't.

10 THE COURT: I'm not sure.

11 THE COURT RECORDER: Your Honor, I can't hear her.
12 She needs to move closer to the microphone.

13 THE COURT: Oh, okay. Do you see that black box
14 there?

15 THE WITNESS: Yes.

16 THE COURT: That's the microphone. So make sure you
17 speak up into the microphone because this lady right here at
18 the end is our recorder, and she has to make sure that
19 everything that's said is clear so that she can prepare a
20 transcript later.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Okay. So just make sure you speak up
23 clearly. All right. Thank you.

24 Go ahead, Mr. Ericsson.

25 MR. ERICSSON: Thank you, Your Honor.

VOIR DIRE EXAMINATION

BY MR. ERICSSON:

Q Good morning.

A Good morning.

Q Ms. Webster, I want to ask you questions about the case that you were in court on this morning, and obviously we don't have the jury in here at this point. Are you represented by an attorney in that case?

A Yes, I am.

Q And who's the attorney?

A I don't know his -- I just know it's a public defender.

Q Okay. And you had court this morning, correct?

A Yes, I did.

Q What happened in court this morning?

A The -- I'm getting out on my own "recognance".

Q Okay. So you were released on your own recognizance today after the court hearing?

A Yes.

Q Okay. Did you enter a --

A Actually, I waived the hearing. Yes. It was a "prenary" hearing, and, yes. Did that answer your question correctly? That's what you looking for.

Q Well, did you enter a plea to a charge today?

A Yes.

1 Q Okay. And what was the plea? What did you plead
2 guilty to today?

3 A Attempted burglary.

4 Q Okay. And as part of that plea, they released you on
5 your own recognizance today?

6 A Yes.

7 Q Is that correct?

8 Okay. But what were you originally charged with on
9 that case?

10 A Alleged burglary.

11 Q Okay. Was it just one count of burglary?

12 A Yes.

13 Q And when you were negotiating that case, do you know
14 if -- did they talk to you about testifying in this case
15 against Mr. Elam?

16 A Not at all.

17 Q Okay. Did you have your attorney talk to the
18 prosecutor on that other case about the case you have with
19 Mr. Elam?

20 A No.

21 Q No. And did it come up in any way that you were a
22 victim in this case here?

23 A No, sir.

24 Q Okay. Have you been told that if you come in and
25 testify against Mr. Elam that that will help you in the case

1 that you have being brought against you?

2 A No, not at all.

3 Q Besides the case you entered the plea in today, do
4 you have any other criminal convictions?

5 A No, sir.

6 Q Okay. So --

7 A Any prior?

8 Q Right. Any other prior convictions.

9 A Not since this incident has occurred in 2015 if
10 that's what you talking about.

11 Q Okay.

12 A No.

13 Q Okay. And, ma'am, we don't have the jury here, and I
14 don't know if your prior convictions -- they probably -- or I
15 don't know if they would come in, but do you have any other
16 convictions, even prior --

17 THE COURT: Other than the case that you appeared on
18 today, do you have any other felony cases or felony
19 convictions?

20 THE WITNESS: No.

21 THE COURT: So what did you plead guilty to today?

22 THE WITNESS: Attempted -- attempted burglary.

23 THE COURT: Okay. And then you haven't obviously
24 been sentenced on that yet, right?

25 THE WITNESS: No. No, ma'am.

1 THE COURT: Okay.

2 MR. ERICSSON: Okay.

3 THE COURT: So just be mindful she doesn't have any
4 convictions.

5 MR. ERICSSON: Right. Okay.

6 THE WITNESS: Thank you.

7 BY MR. ERICSSON:

8 Q And when you entered the plea today, was there any
9 type of agreement regarding the type of sentence that the
10 prosecutors are going to recommend at the time of sentencing?

11 A No.

12 Q Is there an agreement that they're going to not
13 oppose that you receive probation?

14 A No.

15 MR. ERICSSON: Okay. I have no further questions,
16 Your Honor.

17 THE COURT: All right. Ms. Luzaich, anything else?

18 MR. ERICSSON: No. Thank you.

19 THE COURT: All right. Do you want us to leave her
20 here or --

21 MS. LUZAICH: I would ask you to do that.

22 THE COURT: That's fine. All right.

23 MS. LUZAICH: She's got the orange shoes on.

24 THE COURT: She said she doesn't have anything, and
25 she has no, again, she has no prior convictions because she

1 hasn't been convicted yet.

2 MS. LUZAICH: I would represent --

3 THE COURT: She doesn't have a JOC. In other words,
4 she hasn't been adjudged guilty of the case today.

5 MS. LUZAICH: Correct. And if I could, I will
6 represent as an officer of the court that I intentionally did
7 not get involved in her case. I didn't know -- I didn't even
8 know -- I don't -- I still don't know what the facts are. I
9 knew there was a burglary charge, and I just found that out on
10 Friday, but I intentionally did not get involved in this. I
11 can pull up the plea agreement if you want to know what the
12 negotiation is, but it's got nothing to do with me.

13 I would also represent to the Court that when I ran
14 her SCOPE, she has no felony convictions. The only conviction
15 I found was in 2013 for ITS. It was reduced from a simple PCS,
16 and in 2005, petty larceny.

17 THE COURT: Okay.

18 MS. LUZAICH: But that's all that she's got.

19 THE COURT: So there's nothing to be used for
20 impeachment purposes.

21 MR. ERICSSON: Your Honor, I would take Ms. Luzaich
22 up on if she could pull the guilty plea agreement on the case
23 she had today, and --

24 THE COURT: Okay.

25 MS. LUZAICH: I'll do that right now.

1 MR. ERICSSON: -- I can just look at it.

2 THE COURT: Okay. Can we get started while she's
3 doing that?

4 MR. ERICSSON: Yes, Your Honor.

5 THE COURT: If you want to e-mail it to Crystal, then
6 she can just print it out and hand it to Mr. Ericsson, unless
7 you -- did you find it?

8 MS. LUZAICH: Oh, yeah.

9 THE COURT: Oh, you've got it.

10 Mr. Ericsson, you want to just go look over
11 Mr. Luzaich's shoulder.

12 MS. LUZAICH: It's not the file-stamped one.

13 THE COURT: That's fine.

14 MS. LUZAICH: It's just the one that's in our
15 database.

16 THE COURT: That way you can just see if there's
17 anything in there, and we can get started.

18 MR. ERICSSON: Yes. Thank you.

19 Okay. Thank you.

20 MS. LUZAICH: And for the record, I did that.

21 THE COURT: All right.

22 MR. ERICSSON: And, Your Honor, for the record, the
23 guilty plea agreement does indicate that the State will not
24 oppose probation at the time of sentencing and agrees to no
25 opposition to an OR release today. I do not think that that

1 changes my position.

2 THE COURT: Yeah, it doesn't -- I mean, honestly was
3 this a business burglary or a residential?

4 THE WITNESS: It was a residential.

5 THE COURT: Okay. Well, it's a first time. So that
6 doesn't seem like a really unusual negotiation.

7 MS. LUZAICH: No. And just for the record --

8 THE COURT: To be frank. I mean --

9 MS. LUZAICH: -- what the plea agreement states, The
10 State will retain the right to argue, but will have no
11 opposition to probation. The State will not oppose defendant's
12 own recognizance release after entry of plea in District Court.

13 I've never understood the right to argue, but no op
14 to probation. I mean, they're kind of different things, but
15 that's what the track does.

16 THE COURT: Okay. Kenny, bring them in.

17 MS. LUZAICH: And you can see on the screen in front
18 of you, right?

19 THE WITNESS: Yes, ma'am.

20 (Jury entering 11:21 a.m.)

21 THE COURT: All right. Court is now back in session.
22 The record should reflect the presence of the State through the
23 deputy district attorney, the presence of the defendant and his
24 counsel, the officers of the court, and the ladies and
25 gentlemen of the jury.

1 And as you can see, ladies and gentlemen, our next
2 witness has already been called to the stand.

3 And, ma'am, if you would just stand up, please, and
4 face this lady right there, the clerk will administer the oath
5 to you.

6 **ARRIE WEBSTER**

7 [having been called as a witness and being first duly sworn,
8 testified as follows:]

9 THE CLERK: Please have a seat. State and spell your
10 first and last name for the record.

11 THE WITNESS: Arrie, A-r-r-i-e. Last name Webster,
12 W-b -- W-e-b-s-t-e-r.

13 THE COURT: All right. Thank you.

14 Ms. Luzaich, you may proceed.

15 MS. LUZAICH: Thank you.

16 **DIRECT EXAMINATION**

17 **BY MS. LUZAICH:**

18 Q Good morning.

19 A Good morning.

20 Q May I call you Arrie?

21 A Yes, you may.

22 Q Thank you, Arrie. I'm going to direct your attention
23 back to March of 2015, if I could. Were you living here in Las
24 Vegas at the time?

25 A Yes, I was.

1 Q And on specifically March 10th of 2015, did you go
2 to visit somebody?

3 A Yes, I did.

4 Q Tell me who did you go to visit?

5 A I went to visit Calvin.

6 Q Well, did you go visit somebody else first?

7 A Yes. It was Annie and Pamela.

8 Q Annie and Pamela. So tell me who Annie and Pamela
9 are.

10 A Well, they are my -- they were my neighbors and
11 close -- they're close friends of mine.

12 Q Okay. Was one of them closer to you than the other?

13 A Yes, and that was --

14 Q Who was the one that was closer?

15 A Annie.

16 Q Annie. Does Annie also go by another name?

17 A Well, her real name is Elizabeth, and --

18 Q Okay. It is.

19 A -- we call her Annie.

20 Q But we call -- you call her Annie?

21 A Yes.

22 Q For how long -- back in March of 2015, for how long
23 had you known Annie?

24 A Give or take about six months.

25 Q Were you and Annie pretty good friends?

1 A Yes, we were.

2 Q And when you went to visit Annie, did you have
3 someone or something with you?

4 A Yes, I did. I had my puppy. Yes, I had a puppy with
5 me.

6 Q What kind of puppy did you have?

7 A It was a mixture of a shih tzu and a poodle.

8 Q What was your puppy's name?

9 A Payton.

10 Q And did you and Payton often go visit Annie?

11 A Yes. Actually, she also had a dog, and I took my
12 puppy to actually play with her puppy every other day.

13 Q Okay. So what was Annie's -- did Annie have one dog
14 or more than one dog?

15 A I think she had at the time a dog and a kitten or a
16 cat at the time.

17 Q Okay. So Payton and Annie's dog would kind of have
18 play dates?

19 A Yes.

20 Q Where did Annie live at the time?

21 A She stayed off of Jones, like, two -- actually it was
22 two buildings from 1108.

23 Q Okay.

24 A Jones, North Jones.

25 Q So it was Jones Boulevard here in Clark County,

1 right?

2 A Yes.

3 Q And what was a main cross street that was close just
4 so that we can get an idea of the area?

5 A Carmen.

6 Q Okay. So by Jones and Carmen Annie lived?

7 A Yes.

8 Q And that was in an apartment?

9 A Yes, they were four-plexes.

10 Q And was Annie's apartment upstairs or downstairs?

11 A It was upstairs.

12 Q Who was the lady who lived with Annie?

13 A It was her partner, which her name is Pamela.

14 Q Okay. Were you also friends with Pamela?

15 A Yes, ma'am.

16 Q So you and Payton went over to visit Annie and
17 Annie's puppy, and when you went, was that early in the day?

18 A It was around 11:00, 12:00ish.

19 Q Okay. When you would visit with Annie and the dogs
20 would play, would you kind of hang out in her apartment?

21 A Yes.

22 Q And is there a balcony on her apartment?

23 A Yeah, she had a very large deck, and we would often
24 sit out there and socialize.

25 Q So you and Annie would visit on the deck while the

1 dogs played?

2 A Yes.

3 Q And is that what you were doing on March 10th?

4 A That is correct.

5 Q While you were visiting with Annie that day, did
6 someone or something attract your attention?

7 A Yes, it did.

8 Q Tell me about that.

9 A I seen Calvin, and I says -- I said, What's up, and
10 he motioned me to come over.

11 Q When you saw the person that you said is Calvin,
12 where were you?

13 A I was on top of the deck.

14 Q Sitting outside --

15 A (Unintelligible.)

16 Q -- on the deck?

17 A Yes.

18 Q And where was the person?

19 A He was in front of his -- his apartment.

20 Q Okay. Downstairs?

21 A Which is -- yes. Which is two -- two buildings --
22 depending on which direction you're coming from, it was behind
23 hers.

24 Q Okay. But was he downstairs?

25 A Yes.

1 Q Did you see him arrive at the building?

2 A Yes. He --

3 Q How did he arrive at the building?

4 A He arrived in a white two-door Nissan Sentra.

5 Q Okay. And you keep looking over there. Do you see
6 the person that we're talking about here in court today?

7 A Yes.

8 Q Can you describe where he is sitting and an article
9 of clothing that he's wearing.

10 A He has a plaid -- plaid button-up collared shirt on.

11 Q And is he sitting at that table?

12 A That is correct.

13 Q Jacket or no jacket?

14 A No jacket.

15 MS. LUZAICH: May the record reflect the
16 identification of the defendant?

17 THE COURT: It will.

18 MS. LUZAICH: Thank you.

19 BY MS. LUZAICH:

20 Q Does he look a little different today than he did two
21 years ago?

22 A Yes.

23 MS. LUZAICH: Can I approach?

24 THE COURT: You may. You may move freely.

25 MS. LUZAICH: Oh. I forgot you said that. Sorry.

1 BY MS. LUZAICH:

2 Q Annie, I'm going to show you what's been -- or,
3 sorry, Arrie, I'm going to show you what's been marked as
4 State's Proposed Exhibit 66. Does that look familiar?

5 A Yes.

6 Q Is that how the defendant looked two years ago?

7 A Yes.

8 MS. LUZAICH: Move it into evidence.

9 THE COURT: Any objection?

10 MR. ERICSSON: No, Your Honor.

11 THE COURT: All right. That'll be admitted.

12 (State's Exhibit No. 66 admitted.)

13 MS. LUZAICH: Permission to publish?

14 THE COURT: You may.

15 BY MS. LUZAICH:

16 Q Okay. So two years -- like today would you agree
17 that he's sitting here, just for the record, clean-shaven, no
18 facial hair today?

19 A Yes, ma'am.

20 Q And two years ago he had some facial hair?

21 A Yes, ma'am.

22 Q As you're sitting on Annie's balcony and you're
23 overlooking something, what are you overlooking?

24 A Well, just the -- it was the back of the alley, but
25 it was like a yard, a courtyard.

1 Q Okay. But there was an alleyway behind the
2 buildings; is that correct?

3 A Yes, it's a pavement alleyway.

4 Q And would the alleyway run parallel to Jones?

5 A Well, it would run parallel from Carmen to
6 Washington.

7 Q Okay. Sorry about that.

8 A Jones was behind it.

9 Q Okay. I'm going to show you Annie -- or Arrie --
10 sorry, the Annie-Arrie thing is --

11 A It's okay.

12 Q -- killing me -- State's Exhibit 63. Does this look
13 like the area that we're talking about?

14 A That's exactly the area we're talking about.

15 Q Okay. So we see 1108. And when you said it's two
16 buildings down from 1108, do you -- what do you know 1108 to
17 be?

18 A Calvin's residential area, where he was living.

19 Q Where he was living at the time?

20 A Yes.

21 Q And have you been -- prior to March 10th, had you
22 been to his place?

23 A Yes, ma'am.

24 Q And that's how you know where it is?

25 A Yes, ma'am.

1 Q And do you see it on our map?

2 A Yes, ma'am.

3 Q Okay. And can you show me where -- if you touch the
4 screen, it'll show up on the screen. Does that make sense?
5 Can you show me which building was the defendant's.

6 A (Witness complies.)

7 Q Okay. Sometimes it doesn't go exactly where you're
8 touching. Were you touching where it says 1108?

9 A That is correct.

10 Q And then where is Annie's in relation to that?

11 A (Witness draws on screen.)
12 You see it?

13 Q So two buildings going up on the screen; is that
14 correct?

15 A That is correct.

16 Q And then can you just kind of drag your finger where
17 the alley is that you were just telling me about.
18 You can kind of just make a line all the way up and
19 down. Touch the screen.

20 A (Inaudible.)

21 Q Do you want me to make it bigger?

22 A It was like right here.

23 Q Okay. So all the way down there?

24 A Yes.

25 Q Okay. Thank you. So you guys are sitting on the

1 balcony. You're overlooking the alley, and that's what you're
2 seeing?

3 A Yeah.

4 Q Right there?

5 A Yes, ma'am.

6 Q Okay. Now, you said Calvin. On March 10th of 2015,
7 did you know that that was his name?

8 A No, I did not.

9 Q How would you refer to him back in March of 2015?

10 A Cuz, cousin.

11 Q How come?

12 A In-law -- a in-law. Her name is Joanique Mack.

13 Q Okay. Did there come a time that you met the
14 defendant?

15 A Well, actually he approached me.

16 Q Okay. Tell me about that.

17 A I was walking down Jones, and he's like, Hey. We
18 know mutual people. I have kids by your cousin, and I was,
19 like, Who, and he then stated Joanique Mack.

20 Q Do you know how to spell Joanique for our nice court
21 recorder?

22 A No. I could try.

23 Q Okay. Would that be J-o-a-n-i-q-u-e, maybe?

24 A Yes.

25 Q Mack, M-a-c-k?

1 A Exactly.

2 Q Okay. So is Joanique Mack your cousin?

3 A By marriage.

4 Q Okay. Your cousin by marriage. And have you known
5 Joanique for a long time?

6 A Since '97.

7 Q Okay. Somebody that's related to you married into
8 her family.

9 A Yes, my brother.

10 Q Okay. So you've known Joanique for a long time, and
11 do you know when it was -- around when it was that the
12 defendant approached you and said, Hey, we have people in
13 common?

14 A Maybe a month or two prior to the -- maybe four or
15 five months prior to the incident.

16 Q Okay. So relatively close in time?

17 A Yes, ma'am.

18 Q Okay. So when he approached you that day and said,
19 Hey, we have people in common, how did it come to be that you
20 would refer to him the way you do?

21 A Well, it's when he stated that, we would often pass
22 each other's path. Well, I would pass -- pass his path because
23 his residence was on the way to the store or a commercial area.

24 Q Okay.

25 A So I would often pass, and he would be out there

1 playing with the children.

2 Q He had children?

3 A He would be playing -- yes, he said his kids. I knew
4 them as his children.

5 Q Okay. Did he have a bunch of kids?

6 A More than two, yes.

7 Q Okay. And you had said you would call him Cuz?

8 A Yes, ma'am.

9 Q And would you see him often because you were at
10 Annie's as well?

11 A As well, yes, you could say that.

12 Q So specifically on March 10th, as you're sitting on
13 Annie's deck, you see the defendant come get out of his car,
14 and he motioned to you. What did he motion you to do?

15 A To come over.

16 Q When he motioned you, what did you do?

17 A I immediately went over because I wanted to explain
18 the situation at hand, what I -- well -- well, I wanted to,
19 yeah, explain the situation at hand that occurred.

20 Q What situation occurred?

21 A His pit bulls puppy -- pit bull puppies came up
22 allegedly missing.

23 Q Okay. So you knew that he had some puppies?

24 A Yes, ma'am.

25 Q And they were pit bulls?

1 A Yes. Yes, I think so.

2 Q Had you seen them before?

3 A Yes.

4 Q Do you know when they came up missing?

5 A I want to say that weekend prior.

6 Q So just a couple days before March 10?

7 A Yes, ma'am.

8 Q And how did you learn that they came up missing?

9 A Because I was visiting a friend that stayed in the

10 next building from him, and as I was exiting his apartment, I

11 seen his girlfriend looking for the puppies.

12 Q Okay. Now, we're talking a lot about his. You were

13 visiting your friend --

14 A Yes. His name is Edward Brown.

15 Q -- who lived --

16 I'm sorry?

17 A His name is Edward Brown.

18 Q Edward Brown. So you were visiting Mr. Brown who

19 lived next to the defendant?

20 A In the next building.

21 Q Oh, in the next building. Okay. And when you left

22 Mr. Brown's apartment, you said you saw somebody's girlfriend

23 looking for puppies. Whose girlfriend --

24 A It was Calvin's girlfriend at that time or baby

25 mother.

1 Q Okay. And you were familiar with her because you had
2 seen her before?

3 A Because of him. He introduced me to her.

4 Q Okay. So you saw his girlfriend looking for puppies,
5 and when you saw her looking for puppies, what did you do?

6 A Well, I seen her and the mother of the puppies
7 distraught. So me being a dog lover, I said, I'll help you
8 look around for the puppies, and I did, and I couldn't -- we
9 didn't find them at that -- at that time, and I went my -- I
10 departed and went my way, and everybody went their own separate
11 ways.

12 Q Okay. So you on March 10th wanted to go see Cuz --

13 A Yes.

14 Q -- to talk to him about his puppies?

15 A Well, to talk to him about what he did and to let him
16 know I didn't have anything to do with his puppies missing.

17 Q Okay. Was it your understanding that he was upset
18 because the puppies were missing?

19 A Yes.

20 Q And did he think -- was it your understanding that he
21 thought somebody took the puppies?

22 A From what I was told that he was highly upset --

23 Q Okay --

24 MR. ERICSSON: (unintelligible).

25 / / /

1 BY MS. LUZAICH:

2 Q Well, I -- I'm sorry. You can't -- you can't tell us
3 what somebody told you --

4 A Okay.

5 Q -- unless it was the defendant, but was it your
6 understanding that he was upset and thought somebody took them?

7 A That's correct.

8 Q So you wanted to talk to him about that?

9 A To basically let him know I didn't have anything to
10 do with it.

11 Q Okay. So when you were going over to tell him that
12 you didn't have anything to do with it, did you bring Payton
13 with you?

14 A No, I did not.

15 Q What did you do with Payton?

16 A I had left him at Annie's and Pamela's house.

17 Q Okay. And that was okay with Annie?

18 A Yes.

19 Q So you went over to the defendant's, and tell me what
20 happens as you go to the defendant's.

21 A Well, as I walked up, he was already in the
22 apartment. So I walked in the apartment; therefore, we were in
23 the kitchen, and I started with something like, well, I heard
24 what happened, and I didn't have anything to do with it, and he
25 insisted I did, and again I stated to him no, I didn't, and he

1 was, like -- his voice changed, tone, his demeanor, and then --

2 Q When you say his voice, tone and demeanor changed,
3 what did they change to?

4 A Aggressive, and loud, I guess. Scary.

5 Q When he got aggressive, loud and scary, did he do
6 anything?

7 A Yes, he did.

8 Q What did he do? Tell us.

9 A He told me if I didn't have anything to do with it,
10 don't worry about it, but right now, turn around, get on your
11 knees.

12 Q When he said that, what did you do?

13 A I said, Are you serious? And then again his demeanor
14 and his voice, I could tell he was serious. So I turned around
15 and got on my knees.

16 Q Now, you described that you had come into the
17 kitchen. Were you still in the kitchen?

18 A Yes, I was.

19 Q Was he also in the kitchen?

20 A Yes.

21 Q Was anybody else in the kitchen at the time?

22 A Not at that time.

23 Q Okay. At that time, had you seen anybody else in the
24 apartment?

25 A No, but after, I did see his -- his -- his baby

1 mother came out of the bedroom or the living room, and --

2 Q At what point did she come out of another room?

3 A Well, I was -- well, when I was still on my knees and
4 hogtied. She came to the refrigerator -- went to the
5 refrigerator, and immediately -- she didn't spend any time in
6 the kitchen -- opened the refrigerator and went back into
7 another room.

8 Q Okay. And I'm sorry. You said hogtied.

9 A Yes.

10 Q I guess I hadn't gotten there yet.

11 A I'm sorry.

12 Q Was his --

13 No, no, no. It's my fault.

14 -- with his angry and loud demeanor, he had told you
15 to get on your knees and turn around. So you did that. Tell
16 me what happened after that.

17 A He tied me up with electrical cords and tape, and
18 stuffed my mouth with -- with fabric and covered my eyes up,
19 and then finished it with a pillow case.

20 Q Okay. I'm going to go back a little bit. You said
21 he tied you up with electrical cord and stuff. How did he tie
22 you up? Like what parts of your body did he tie up?

23 A Oh. He -- my arms were tied behind my back connected
24 to my feet.

25 Q Okay. And were you still on the floor in the

1 kitchen?

2 A On my knees.

3 Q On your knees?

4 A Yes.

5 Q Okay. You said that he had put stuff in your mouth
6 and tape around you. Before he did that, did he do something
7 else?

8 A I mean, before he did that he --

9 Q Did he put something else in your mouth?

10 A At what particular time? I mean, the --

11 Q You tell me.

12 A Okay. Yes, he did, and it was -- it was the gun. It
13 was a shot -- to me it looked like a shotgun. It had, like,
14 two bullets could go come out the end. I don't know the name
15 of it -- of the gun, but it reminds me of like a shotgun.

16 Q Okay. Arrie, are you nervous?

17 A Yes.

18 Q Okay. Relax. Take a deep breath. All right. You
19 said a shotgun?

20 A Uh-huh.

21 Q Describe it. What color was it?

22 A It was black and long.

23 Q Okay. And you said -- where did he put it?

24 A In my mouth, but I closed my mouth. He lifted my
25 chin up, like, Bitch, it's not a game, and --

1 Q That's what he said to you? Bitch, it's not a game?

2 A Yes.

3 Q Put it in your mouth or close to your mouth?

4 A Yes.

5 Q How did you feel when he did that?

6 A Like, nothing. Like, he just -- I don't -- I can't
7 even think of a word to describe it to be honest with you.

8 Q Okay. So he put the shotgun in or about your mouth,
9 and then is that -- is that when he put the stuffing in your
10 mouth and tape?

11 A It was after. After he did that, that's when he put
12 the stuff down my throat and in my mouth.

13 Q Is he saying something the whole time that he's doing
14 this?

15 A The whole time he antagonizing, saying the dogs was
16 going to come up. You and your friends had something to do
17 with the dogs missing. The whole entire time he had me tied up
18 and beating me, I told him I didn't have anything to do with
19 the dogs missing.

20 Q Okay. So when he put the stuff in your mouth, do you
21 know what it was?

22 A Some type of fabric and -- fabric.

23 Q Okay. Do you know what kind of tape used?

24 A Clear tape.

25 Q Okay. So you're on your knees. He's saying these

1 terrible things. You're all hogtied. You've got the tape
2 around your mouth. Then what happens?

3 A He gets on his phone. Well, I don't know how in the
4 sequence it happened. I mean, he beat me with a belt, pulled
5 my pants down, took the broom -- he made me feel like
6 everything that he was going to, you know, angling to stick --
7 stick it in my anal. I scooted around the floor. Then the
8 phone call -- he made the phone call, and within minutes it was
9 like three women and another guy that came -- came in the door.

10 They video cam'd it. I heard laughter like it was
11 funny, tormented me again verbally. Then he broke out with a
12 Taser. He made me feel like he was -- my eyes was going to
13 come up -- like (unintelligible) I wasn't going to have any
14 eyesight. That's how close he got to my face with the Taser.
15 Then made me feel like -- almost like they was going to put me
16 in the trunk of the car and just toss me -- just be done. I
17 was -- it was going to be over over some pit bulls.

18 Q Okay.

19 A Puppies.

20 Q I'm going to go back a little bit, Arrie.

21 A Go ahead.

22 Q You talked about -- you okay?

23 A Yes.

24 Q Okay. You talked about a phone call. Could you hear
25 him make a phone call?

1 A I mean, yes. I mean, I heard him get on the -- well,
2 actually I seen through the cracks. It was cracks. I could
3 see bits and pieces of what he was doing.

4 Q Okay. Had he put some --

5 A So I seen him --

6 Q I'm sorry to interrupt. Go ahead.

7 A Go ahead.

8 Q Had he put something over your head? Had he put
9 something over your head?

10 A It was a pillow case, but it was thin, and I could
11 see through, you know.

12 Q Do you know if there was a pattern on the pillow
13 case?

14 A It could've been a flat -- a flower pattern or
15 something. Sure.

16 Q Okay. Do you remember at this very moment?

17 A Not at this very moment. This was two years ago. I
18 don't -- I mean, if I did, I tried to block it out.

19 Q Okay.

20 A But --

21 Q So you had something over your head. While it's over
22 your head, is that when you heard the phone call?

23 A No. I heard him -- I seen him on the cell phone.
24 Then I heard his voice talking on the phone.

25 Q What was he saying on the phone?

1 A Oh, yeah, I have one of them here. Come over.

2 Q Okay. And after he said, "I have one of them here.
3 Come over," did somebody come over?

4 A Shortly after, yes. It was maybe two or three black
5 females and one black male.

6 Q Okay. Can you describe -- like, were you able to see
7 the black male?

8 A Vaguely.

9 Q Okay. Can you describe him at all?

10 A He was a dark-skinned complexion, short. I want to
11 say he had a goatee also --

12 Q How --

13 A -- but I'm not sure.

14 Q How would you describe the defendant? What he looked
15 like back then?

16 A Just like the picture you -- the picture you showed
17 me.

18 Q No. But describe him. Like tall, short, thin,
19 heavy.

20 A Tall and about the same size he is now.

21 Q Right. But he's sitting down. So, I mean, was he --
22 there were two men there, correct?

23 A Yes.

24 Q The defendant and somebody else. Was the defendant
25 taller or shorter than the other man?

1 A He's taller than the other guy.

2 Q Okay.

3 A And lighter than the other guy. The other guy was
4 dark skinned.

5 Q Okay. So the defendant is tall and lighter skinned.
6 The other guy was shorter and darker skinned?

7 A That's correct.

8 Q Would you call the defendant thin or heavy?

9 A Medium built.

10 Q Okay. What about the other guy? Would you call him
11 thin or heavy?

12 A Short and stocky.

13 Q Short and stocky. Okay. Now, do you remember was it
14 before or after the other guy got there that you described
15 beating with the belt and tasing with the Taser?

16 A It was after because they were video camera-ing it.
17 They were like, yes. So it was all of them, and so it had to
18 be when they got there. That's when all this took place.

19 Q Okay. So after the guy gets there, they're beating
20 you you said with a belt. Who was beating you with the belt?

21 A Calvin.

22 Q Was it just Calvin?

23 A Yes.

24 Q And where on your body was that happening?

25 A While I -- I was on the floor. So the leather belt

1 touched all my whole body.

2 Q Okay. Do you know how many times?

3 A Multiple times.

4 Q Okay.

5 A I don't -- can't --

6 Q I assume you were not counting?

7 A No.

8 Q You described beat you with a belt. You said
9 something about a stun -- a Taser. Tell me about that. Could
10 you see it?

11 A I didn't -- he had it held in his hand. The only
12 thing I seen when he used it the -- when he used it, I didn't
13 see the object, but I seen the little -- it looks like
14 lightning when he pushed it and shocked me or tased me with it.

15 Q Okay. Who -- who held --

16 A And the vibration -- you know, and I heard it go
17 (demonstrates a noise), and then I seen the -- the -- so the
18 shock of it, you know.

19 Q Okay. Who held the Taser?

20 A Calvin.

21 Q Did the other guy also hold the Taser?

22 A No.

23 Q There's a different -- would you -- well, do you know
24 is there a difference between a stun gun and a Taser?

25 A No, I don't know the difference.

1 Q Okay. The item that you saw, is it the kind of thing
2 that looks like a pistol, like a gun, or does it look
3 different?

4 A Again, I didn't see it because he had in his hand. I
5 seen and heard the --

6 Q Okay. So you heard it, but it was small enough that
7 you couldn't see the object while it was in his hand?

8 A That is correct.

9 Q Okay. But you were able to see the current kind of
10 between two things?

11 A Yes.

12 Q And did somebody say something about the Taser while
13 you were being tased?

14 A I don't remember.

15 Q Did it come close to your face?

16 A Yes. That's how I see -- was able to describe how it
17 looked to you.

18 Q And do you remember somebody said something about it
19 while it was near your face?

20 A I don't remember.

21 Q You said you were beat with a belt, tased with a
22 Taser. You said something about a broomstick. Tell me about
23 the broomstick.

24 A Okay. He -- terrified. I thought he was going to
25 stick it anally -- anally in me to where, I mean, I just passed

1 out. I don't -- I mean, I just -- I was that -- I mean, at
2 that time when that took place, I was exhausted. I was
3 exhausted. I was -- I just blanked out.

4 Q Did this take place over a long period of time?

5 A Yes. Yes, it did, at least a couple of hours.

6 Q Okay. When you say broomstick, were you ever able to
7 see the broomstick? See what kind of broom it was?

8 A Yes, I did. It was a wood-handled broomstick with
9 straw.

10 Q And did only Calvin or did Calvin and the other guy
11 use the broomstick?

12 A Just Calvin.

13 Q What did he do with it?

14 A He had to leave it in the apartment. I mean --

15 Q No. No. No. I'm sorry. How did he use it?

16 A He -- the -- he used it -- the top of it, he used it
17 to touch me with.

18 Q Where did he touch you with it?

19 A On my butt area.

20 Q Okay. What position were you in at the time that
21 that happened?

22 A Our -- my -- I was on the floor. My chest was on the
23 floor. At that time, I mean, I fell from my knees. I went on
24 my knees. I just felled over.

25 Q Okay.

1 A So I was just -- when he touched me, I would try to
2 scoot away or try not to be touched with it.

3 Q Do you remember did he or the other guy say anything
4 at the time that that was happening?

5 A If they did, I don't remember. I was too busy saying
6 I didn't do it.

7 Q Okay. So you were telling Calvin the whole time that
8 you didn't do it? You didn't take the dogs?

9 A (Witness nods head.)

10 Q You're nodding your head. Can you answer out loud.

11 A I'm sorry. Yes, ma'am.

12 Q Thank you. So when you say that you were scooting
13 around, what physically were you doing when he had the
14 broomstick at you?

15 A Physically I was moving, trying to -- I was moving
16 around the kitchen on the floor.

17 Q Trying to avoid the broomstick?

18 A That is correct.

19 Q Okay. And I'm sorry. I know this is tough, and it's
20 not fun talking about, but did the broomstick touch your behind
21 anywhere?

22 A Yes.

23 Q Where did it touch your behind?

24 A It touched me in several places. Like I said, at one
25 point in time I just braced myself for him to just do it, and

1 then I just blanked out.

2 Q You keep saying "do it". What did you think he was
3 going to do?

4 A Stick it up me anally.

5 Q Okay. Inside your butt?

6 A Yes.

7 Q Okay. Did he do anything towards that?

8 A Yes. That's what I'm saying. I braced myself for
9 him to do it because that's what I thought he was going to do.

10 Q Okay. And did he?

11 A If he did, I passed out. I don't remember.

12 Q Did you feel pain at the time?

13 A Again, I braced myself. I don't know. I don't
14 remember.

15 Q Okay. When you say you braced yourself, you kind of
16 make your shoulders go up. Were you -- were you clenching your
17 body? Is that the --

18 A Yes, ma'am.

19 Q -- how you would describe it?

20 You had said something earlier -- and I'm sorry I
21 forgot to follow up on -- about your pants being down?

22 A Uh-huh.

23 Q Describe that for me.

24 A He pulled them down and was whooping me with the
25 leather belt.

1 Q Pulled what down?

2 A My -- my shorts.

3 Q Okay. Were you wearing anything under your shorts?

4 A Just some men briefs. They were some basketball
5 shorts. So that's how he was able to just pull them down.

6 Q Okay. So the basketball shorts and the shorts
7 underneath, both came down?

8 A Yes. Yes.

9 Q Okay. So when he was hitting you with the belt and
10 stuff, was that on your bare skin?

11 A Yes.

12 Q Could you hear -- were they saying anything else
13 while this was going on? Anything other than about the dogs?
14 Anything about you?

15 A We're going to put the bitch in the trunk and -- and
16 it's not just going to happen to you. We're going to go over
17 there and get everybody else because the puppies are going to
18 come up.

19 Q Okay. Could you hear only one voice or more than one
20 voice saying things like that?

21 A Well, then I heard -- it was more than one voice, and
22 I just heard them laugh -- the other girls laughing in the
23 background.

24 Q Okay. Now, you knew the defendant Calvin. So you
25 knew his voice.

1 A Uh-huh.

2 Q Did you hear the other man's voice saying anything
3 like that?

4 A Yes, like, We just going to put the bitch in the
5 trunk, and the other three females, they were just video
6 camera-ing it, laughing.

7 Q Did there come a time that they -- that they left?

8 A Eventually, yes, I heard nothing, and I said
9 something out loud to see who was -- who -- were they still
10 there.

11 Q Okay.

12 A And --

13 Q Before you heard nothing, did you hear the defendant
14 say anything about where he might be headed?

15 A Yes. He made a phone call of some sort, talking
16 about it was time to pick up the kids from school.

17 Q Okay. And this was a weekday. So it was a school
18 day?

19 A Yes, ma'am.

20 Q Is there a school near where the apartment is?

21 A Yes, this was right behind the alley.

22 Q Okay. So you said that all of a sudden you heard
23 nothing, and you, like, said something to see if anybody
24 responded?

25 A Yes.

1 Q Did anybody respond?

2 A No. No, they didn't.

3 Q So what did you do?

4 A I rolled. I was able to roll myself or scoot myself
5 to the door, and I somehow in a way got to my knees, unlocked
6 the door and threw myself out the door and rolled to -- rolled
7 down the parking lot into the pavement where the cars roll down
8 the street, and at that particular time, Annie was on her deck
9 looking, like where is she at, and she seen me, and she ran to
10 me, and yelled for help, and that's when I was -- they helped
11 me. They helped me get out the situation I was in. I was --
12 so it was two other guys, and they helped untie me and took the
13 stuff out of my mouth.

14 Q Okay. So when you say, "helped me get out of the
15 situation I was in," you mean being all tied up?

16 A Yes.

17 Q Is that right?

18 Okay. As they were helping you get untied, were they
19 having a hard time with that?

20 A Yes, to where one had to run and get a knife.

21 Q Okay. Were you -- were you kind of in the alleyway
22 by then?

23 A Yes. At that particular time where they untied me, I
24 was right by Annie's house, by Annie's apartment downstairs.

25 Q Okay. So were you -- were you trying to -- when you

1 got into the alley and were finally able to escape --

2 A Yes.

3 Q -- and got into the alley, were you trying to head at
4 least in Annie's building direction?

5 A I was closest to Annie's. I was just trying to leave
6 where I -- from his building.

7 Q Were you afraid he was going to come back?

8 A Of course I was. I was terrified.

9 Q So as they're untying you, what were you trying to
10 do?

11 A I'm trying to, like, tell them to get me out of here.
12 You know, they're going to -- they're going to -- you're not
13 doing it fast enough (unintelligible), you know, and then they
14 were able to untie me, and surely within seconds Calvin
15 returned, you know, in a vehicle, and he seen -- he noticed me
16 and rolled right past, and it just -- I just froze, and that's
17 when I went to Tony's house.

18 Q Who's Tony?

19 A He is another close friend of mine that stays on the
20 corner of Washington and Jones.

21 Q And is that in the opposite direction from Calvin's
22 and Annie's?

23 A Yes.

24 Q You said you went to Tony's house. What did you do?

25 A I was just -- because -- and to me Annie's house was

1 too close to his house. So I went to --

2 Q To the defendant's?

3 A Yes.

4 -- so I went to Tony house to feel safe and figure
5 out -- out what just happened because I couldn't believe it
6 happened to me, and I was just --

7 Q Shocked?

8 A Shocked is not the word. I can't even figure out a
9 word.

10 Q Okay. Did you call the police at that point?

11 A No. Because at that particular time again, he
12 appears again, him and his friend, and --

13 Q All right. Who is him?

14 A Calvin.

15 Q Where did he appear?

16 A He came or he was coming from the CTS, I mean, the
17 Cadillac, the GTS Cadillac, and they walked down -- down the
18 alley.

19 Q Okay. What Cadillac are we talking about?

20 A His -- his friend drove a silver or blue GTS
21 four-door Cadillac.

22 Q Okay. And I'm sorry. When you were still being
23 untied and they were helping you, you said that you saw the
24 defendant drive by in a vehicle. Was it not his white Sentra
25 that he drove by in at that point?

1 A I don't think it was. I don't think it was.

2 Q Okay. Was it the Cadillac that you were talking
3 about?

4 A No.

5 Q No?

6 A Huh-uh.

7 Q Who was driving when he -- I mean, was it somebody
8 you recognized?

9 A No.

10 Q Okay. So what Cadillac was he walking from when you
11 saw him at Tony's?

12 A His -- the guy that was came that he called to come
13 over, the black stocky one, it was his Cadillac.

14 Q How do you know that?

15 A Because prior to that, I seen them hanging out one
16 day, and they were in front of the Cadillac.

17 Q Oh, okay. So you saw that same Cadillac at the
18 apartment that day when you escaped?

19 A Yes.

20 Q And he was walking -- when you were at Tony's, you
21 saw the defendant walking from that vehicle in the direction of
22 Tony's?

23 A Well, he was going back down to in the direction of
24 his house.

25 Q Oh. Oh.

1 A I'm sorry.

2 Q So you just saw him while you were at Tony's?

3 A Yes.

4 Q So what did you do?

5 A He looked directly at me, and I looked directly at
6 him, and I just froze up, and he proceeded to -- whatever
7 (unintelligible) walk, throw up his signs, walk -- and walking
8 down the alley.

9 Q What -- what was his demeanor like? Did he look like
10 he felt bad?

11 A No. He felt -- I mean, he looked, like, Snoop Dogg
12 on one of his videos.

13 Q Okay. So what did you do? You said you froze, and
14 then what?

15 A Yes. And then that's when I proceeded to just leave
16 the area, and I ended up at Dave Otto's office.

17 Q Why is that?

18 A Because I was unsure. I didn't feel safe, and I just
19 knew I had a friend up that -- well, at the David Otto's
20 office.

21 Q Who was your friend?

22 A Kunta Kinte Patterson.

23 Q Did you know Kunta for a long time?

24 A For over 20 years.

25 Q And is that where he worked -- Kunta -- at the

1 office?

2 A Yes. He worked at David Otto's office as paralegal.

3 Q Where's the office?

4 A In the same shopping center as Smith's, which is on
5 Vegas Drive and Jones.

6 Q Okay. I'm going to show you State's Exhibit 64.

7 Okay. This is another map. It's just bigger than the one we
8 looked at before. Would you agree with that?

9 A Yes, ma'am.

10 Q And I should say, when I say bigger, it encompasses
11 more area, right?

12 A That's correct.

13 Q Yes. Okay. So as you look at the map, just so that
14 we can orient ourselves, do you see 1108, 1112 and 1116 North
15 Jones? Sorry. I shouldn't point.

16 A Yes, I do.

17 Q And is that the apartments that we were just talking
18 about?

19 A Yes.

20 Q Can you see the elementary school that you described
21 for us?

22 A Yes, I can.

23 Q Can you just kind of circle the elementary school for
24 me.

25 A (Witness complies.)

1 Q Okay. So it's literally right behind the apartments
2 that we were just talking about, right?

3 A Literally, yes.

4 Q Can you see the Smith's shopping center on here?

5 A Yes, it's white.

6 Q And you also have circled that. And is that where
7 David Otto's office is that your friend Kunta was working?

8 A Yes, ma'am.

9 Q And that's where you went after you left Tony's?

10 A Yes.

11 Q Now, did you explain to Kunta what had happened to
12 you just a little while ago?

13 A Yes, I do.

14 Q Did he do something to help you after you explained
15 it to him?

16 A Yes. He immediately got on the phone and called
17 Metro.

18 Q Okay. And were you standing there while he calls
19 Metro?

20 A Yes, I was.

21 Q Okay. And did you in fact kind of give them some
22 information while he was on the phone with them?

23 A (No response.)

24 Q I mean, you could hear what he was saying to them?

25 A Yes, I heard -- yes.

1 Q Were they asking him questions?

2 A No. No. They just said where you at again, and he
3 gave them the address, and they were there in seconds.

4 Q Okay. And did they ask him what happened, like why
5 he was calling?

6 A No. He just said, I have a --

7 MR. ERICSSON: Objection. She's -- she's speaking
8 hearsay of what the gentleman's saying.

9 MS. LUZAICH: That's fine. I'll move on.

10 THE COURT: Okay.

11 BY MS. LUZAICH:

12 Q Okay. So he called 9-1-1, and did police come in
13 response to his call?

14 A Yes, ma'am.

15 Q Did you see them shortly thereafter?

16 A Yes.

17 Q Where did you see them?

18 A In the parking lot.

19 Q In which parking lot?

20 A In Smith's parking lot.

21 Q At Smith's. Okay. Did a detective -- did a police
22 officer in a uniform come talk to you?

23 A Yes.

24 Q And did you explain to him what had happened?

25 A Yes, I did.

1 Q Did also a detective ultimately come talk to you?
2 A Yes, he did.
3 Q Somebody that's not in uniform, right?
4 A Yes.
5 Q Now, while you were at Smith's, did an ambulance come
6 and kind of have the guys check you over?
7 A Yes, they did.
8 Q Did they ask you if you wanted to go to the hospital?
9 A Yes.
10 Q And did you go to the hospital?
11 A I went, but I didn't -- I didn't go in the ambulance.
12 Q Okay. Why did you not want to go with them?
13 A Because I -- I was trying to wait on some family
14 members to get there. I didn't want -- yes.
15 Q Is it hard to do this by yourself?
16 A Yes, it is.
17 Q Did a crime scene person also come to the hospital?
18 A Yes, ma'am.
19 Q Not hospital, I'm sorry, to Smith's? Did somebody
20 take --
21 A It was several --
22 Q -- photos of --
23 A -- people that came.
24 Q Did a lot of people come?
25 A Yes.

1 Q Okay. Did they take photographs of you at Smith's as
2 well?

3 A Yes, ma'am.

4 Q Okay. Showing you State's Exhibit 1, now is that the
5 Smith's without the extra stuff? Is that the Smith's that
6 we're talking about?

7 A Yes.

8 Q Showing you State's Exhibit 2, is that you that day?

9 A Yes.

10 Q Now, can you see the shoes that you're wearing?

11 A Yes.

12 Q Are those shoes your shoes?

13 A Those are my shoes.

14 Q Did you lose your shoe that day?

15 A Yes, ma'am.

16 Q I'm going to show you a bunch of pictures if I could
17 also, Arrie.

18 MS. LUZAICH: Do you want to see?

19 MR. ERICSSON: No. I've seen them. Thank you.

20 BY MS. LUZAICH:

21 Q Okay. Arrie, I'm going to show you State's Proposed
22 Exhibit 4. Is that a picture of you?

23 A Yes, it is.

24 Q Is that the inside of your lip?

25 A Yes, it is.

1 Q Was that taken at the Smith's that day?

2 A Yes, it was.

3 Q And is that a fair and accurate depiction of how you
4 looked after this incident occurred?

5 A That's correct.

6 MS. LUZAICH: Move it into evidence?

7 THE COURT: Any objection?

8 MR. ERICSSON: No, Your Honor.

9 THE COURT: It'll be admitted.

10 (State's Exhibit No. 4 admitted.)

11 MS. LUZAICH: Thank you.

12 BY MS. LUZAICH:

13 Q Showing you State's Proposed Exhibit 7, is that a
14 photograph of your legs?

15 A Yes, ma'am.

16 Q Is that a photograph that was taken at Smith's on the
17 day after this incident?

18 A The day after? The day --

19 Q On the day of. Sorry.

20 A Yes.

21 Q After this incident occurred. On the same day, after
22 the incident occurred, how's that?

23 A That's better. Thank you.

24 Q And is that how your legs looked after the incident
25 occurred?

1 A Yes, it was.
2 MS. LUZAICH: Move it into evidence.
3 THE COURT: No objection?
4 MR. ERICSSON: No, Your Honor.
5 THE COURT: All right. That'll be admitted.
6 (State's Exhibit No. 7 admitted.)
7 MS. LUZAICH: Permission to publish?
8 THE COURT: Sure. You may.
9 BY MS. LUZAICH:
10 Q Okay. Arrie, let's look at State's Exhibit 4. Okay.
11 That's a picture of the inside of your lip?
12 A Yes, it is.
13 Q And was that bruise there before this occurred?
14 A No, it wasn't.
15 Q State's Exhibit 7, that's a picture of your legs;
16 would you agree?
17 A Totally, yes.
18 Q As you look at the screen, does it show kind of
19 bright? When you looked at the picture, did the picture looked
20 different? Not as bright? You know what I mean?
21 A Yes.
22 Q And in the picture, could you see injuries to your
23 legs?
24 A In this picture here, yes.
25 Q Okay. Just it doesn't look very good on that screen.

1 And were there any of those injuries to your legs before the
2 incident?

3 A No.

4 Q Okay. Showing you State's Exhibit 65 -- Proposed,
5 sorry, Exhibit 65, do you recognize that?

6 A Yes. That's the white Nissan that they had or have.

7 Q Is that the car that the defendant was driving that
8 you saw him get out of when he motioned you over?

9 A Yes, ma'am.

10 MS. LUZAICH: Move it into evidence.

11 THE COURT: No objection?

12 MR. ERICSSON: No, Your Honor.

13 THE COURT: That'll be admitted.

14 (State's Exhibit No. 65 admitted.)

15 BY MS. LUZAICH:

16 Q Okay. Showing you State's Proposed Exhibit 27, what
17 is that?

18 A That's the outside of Calvin's apartment.

19 MS. LUZAICH: Move it into evidence.

20 THE COURT: That'll be admitted.

21 No objection?

22 (State's Exhibit No. 27 admitted.)

23 MR. ERICSSON: No objection. And, Your Honor, for
24 the record, I've seen all these photos.

25 THE COURT: You have no objection to any series?

1 MR. ERICSSON: I have no objection to the photos.

2 THE COURT: Okay.

3 BY MS. LUZAICH:

4 Q State's Proposed Exhibit 33, what's that?

5 A That's his front -- his door --

6 Q The actual door --

7 A -- that I entered.

8 Q So a close-up of State's -- State's Exhibit 27; is
9 that right?

10 A Yes.

11 MS. LUZAICH: Move it into evidence.

12 THE COURT: Admitted.

13 (State's Exhibit No. 33 admitted.)

14 BY MS. LUZAICH:

15 Q Showing you State's Proposed Exhibit 35, what's that?

16 A That is his kitchen.

17 Q And then in the --

18 MS. LUZAICH: Oh. Move it into evidence.

19 THE COURT: It's admitted.

20 (State's Exhibit No. 35 admitted.)

21 BY MS. LUZAICH:

22 Q And in the photo, can you see a broom?

23 A Yes, I can.

24 Q Showing you State's Proposed 37, is that a close-up
25 of the broom?

1 A Yes.

2 Q Is that the broom that he used that day?

3 A It looks like it.

4 MS. LUZAICH: Move it into evidence.

5 THE COURT: It's admitted.

6 (State's Exhibit No. 37 admitted.)

7 BY MS. LUZAICH:

8 Q Showing you State's Proposed Exhibit 25, do you
9 recognize that?

10 A That's the shoe I had on. Well, I had those shoes
11 on, but when I escaped, the one -- the one was left behind, and
12 that's it.

13 Q Okay. So when you went to -- well, when you went to
14 Annie's that day and went from Annie's to the defendant's
15 apartment, is that the shoe you were wearing?

16 A Yes.

17 MS. LUZAICH: Move it into evidence.

18 THE COURT: Admitted.

19 (State's Exhibit No. 25 admitted.)

20 BY MS. LUZAICH:

21 Q And then finally State's Proposed Exhibit 21, do you
22 recognize that?

23 A That's the pillowcase he have over my head and the
24 tape he used to tie me up with the cord -- extension cord or
25 electrical cord.

1 MS. LUZAICH: Move it into evidence.

2 THE COURT: Admitted.

3 (State's Exhibit No. 21 admitted.)

4 MS. LUZAICH: Permission to publish?

5 BY MS. LUZAICH:

6 Q Okay. So, Annie, showing you State's Exhibit -- or,
7 Arrie, so sorry --

8 A It's okay.

9 Q -- State's Exhibit 27, you said that's his front
10 door; is that correct?

11 A Yes, ma'am, the white door.

12 Q The white door over there in the corner. So State's
13 Exhibit 33, that's just the door up close, correct?

14 A Yes, ma'am.

15 Q 35, that's the --

16 A That's his kitchen.

17 Q -- kind of a view of the kitchen. And 37, that's the
18 up close of the wooden broomstick, correct?

19 A Again, looks like it.

20 Q Of a wooden broomstick -- how's that? And in 37 can
21 you see that in the -- 36, can you see that in the top right
22 corner?

23 A Yes, I can.

24 Q 25, that's the shoe that you were wearing that day
25 that we just discussed?

1 A Yes, ma'am.

2 Q And it looks like it's on the ground, correct?

3 A Yes.

4 Q It was not on your feet after you escaped?

5 A That's correct.

6 Q And Exhibit 21, this is the pillowcase that was over
7 your head with tape, correct? That you just described?

8 A Yes, ma'am.

9 Q Arrie, after the photographs were taken, we talked
10 about the fact that a detective came to speak to you. Was that
11 a male detective?

12 A (No response.)

13 Q Was it a male detective that you spoke to the night
14 of this incident?

15 A Again, I talked to several people, and I think it was
16 several detectives.

17 Q Okay. Let me rephrase that. Did there come a time
18 that one detective spoke to you with a tape recorder going in
19 his vehicle, and he asked you to tell him everything about what
20 occurred?

21 A Yes.

22 Q Okay. And was that detective a male detective?

23 A Yes.

24 Q Did you tell him that the broomstick didn't -- did
25 not -- penetrate you?

1 A I could've said it. Again, I blacked out. He did
2 everything for me to think that it's what he was going to do,
3 and again I told you that I braced myself for it, kind of
4 clenched down. I passed out. I don't know.

5 Q Is it also difficult to talk about it to a male
6 detective?

7 A Very.

8 Q In fact, two days later, did a female detective come
9 talk to you?

10 A Yes, she did.

11 Q And did you describe for her actually what happened
12 with the broomstick?

13 A Yes.

14 Q Did you also tell the detective that the guys were
15 saying before using the broomstick, I know what she wants?

16 A Yes, I did.

17 Q Do you remember that happening?

18 A Yes.

19 Q Do you also remember telling or did you tell the
20 detective that one of the two guys says, Is the bitch dead?

21 MR. ERICSSON: And, Your Honor, I would object.
22 These are leading questions.

23 MS. LUZAICH: It's refreshing --

24 THE COURT: Well, show it to her if you want to
25 refresh her recollection, and then ask her if she remembers.

1 BY MS. LUZAICH:

2 Q Do you remember telling the detective some of the
3 things that the individuals said?

4 A Well, by you saying that, it did, and, yes, I do.

5 Q And would it refresh your remember -- your
6 recollection to look specifically at the statement to see what
7 you told them?

8 A Would I like to? What you --

9 Q Would it help your memory?

10 A Yes, it would.

11 Q Okay. I'm going to show you on page 44, and did you
12 have the opportunity to actually review your statement before
13 you testified?

14 A Yes.

15 Q Okay. So I'm going to show you on page 44. Would
16 you agree that Q are the questions that the detective asked you
17 and A are the answers that they asked you?

18 A Yes.

19 Q Or that you answered them I should say. Sorry about
20 that. Or him. Do you want to read that and tell me if that
21 refreshes your memory?

22 A Yes.

23 Q Okay. So do you remember telling the detective that
24 you did something to try and save yourself?

25 A Yes. I -- I actually played like I was dead, like I

1 was unconscious so they could actually stopped beating and
2 tasing me.

3 Q And when you did that, did you hear them say
4 something?

5 A Yes. They said, Is the bitch dead.

6 Q Did they say something else after that?

7 A I'm not -- I'm sure they did.

8 Q Did they say, Wake her up? Tase her again?

9 A Yes.

10 Q And did you tell the detective that?

11 A Yes, I did.

12 Q Now, did -- after you finished talking to the
13 detective that night, did you go back to where you were
14 staying?

15 A No, I did not.

16 Q Where did you go?

17 A I went to Annie's and Pamela's house.

18 Q Okay. Why is that?

19 A Because the detectives felt like it wasn't safe for
20 me to be at my apartment by myself.

21 Q Okay. And did it help being with Annie and Pamela?

22 A Yes, it did.

23 Q Also Payton was there, right?

24 A Yes, he was.

25 Q Okay. Did there come a time after that that you

1 actually did go to the hospital?

2 A Yes, I did.

3 Q Do you know when that was?

4 A The next day.

5 Q Okay. Now, by the time you were done talking with
6 the detectives and doing all that, was it after midnight into
7 the following morning?

8 A Yes, ma'am.

9 Q Okay. So when you say the next day, would that have
10 been on the 12th that you went to the hospital?

11 A The 11th or the 12th. I'm not sure.

12 Q Okay. But close in time? Like you didn't go a week
13 later or a month later? You went close in time?

14 A Yes, ma'am.

15 Q What hospital did you go to?

16 A I went to UMC.

17 Q Why did you go there?

18 A After I faced reality and just told myself that this
19 really did happen and occur to me, I wanted to see was -- did
20 anything -- was I, you know, sexually assaulted or did I have
21 anything by crawling on the floor or --

22 Q You want to get checked?

23 A Yes.

24 Q Okay. How did you get to UMC?

25 A I don't even recall how I got there to be honest with

1 you.

2 Q Okay. When you went, did you see somebody in
3 particular?

4 A It was a female physician, doctor.

5 Q Is she a Sexual Assault Nurse Examiner?

6 A Yes, that was her title.

7 Q Okay. Do you remember what her name was?

8 A No, I don't.

9 Q Could it have been Jeri Dermanelian?

10 A I do believe her first name was Jeri.

11 Q Okay. Was she an older lady?

12 A Yes, ma'am.

13 Q And did she examine you?

14 A Yes, she did.

15 Q Did she give you one of those -- an actual vaginal
16 examination?

17 A Yes.

18 Q And did she try to give you an anal examination as
19 well?

20 A Yes.

21 Q Is that really uncomfortable?

22 A Yes, it is.

23 Q Did she ask you a lot of questions?

24 A Yes, meaning a lot. Yes.

25 Q Did you do your best to answer her questions?

1 A Yes, I did.

2 Q And after that, did two female detectives come talk
3 to you about your examination?

4 A Yes, they did.

5 Q And did you actually explain to them what the
6 defendant had done with the broomstick?

7 A Yes. Yes, I did.

8 Q Do you remember what you told them?

9 A Not word for word, no, I don't.

10 Q How about generally?

11 A Again, it happened two years ago. I've tried
12 everything to block it out.

13 Q Okay. Did you tell them that it was embarrassing to
14 talk about?

15 A Yes, I did.

16 Q Especially with a male detective?

17 A Yes, I did.

18 Q And did you tell them that he actually put the broom
19 between your butt cheeks?

20 A Yes, I did.

21 Q And is that because that's what happened?

22 A Yes.

23 Q Arrie, did you want any of these things to happen?

24 A No. I tried everything in my power for not -- for it
25 not to happen.

1 Q And are you today still scared about this?

2 A I mean, a person can say a pit, a Bluenose.
3 Initially like I relive the whole thing all over again.

4 Q You what? I'm sorry.

5 A I relive it all over again when someone says dog or a
6 pit bull or a Bluenose.

7 MS. LUZAICH: Thank you, Arrie.

8 THE WITNESS: Thank you.

9 MS. LUZAICH: I would pass the witness.

10 THE COURT: All right. May I see, Counsel.

11 THE WITNESS: Actually I do have a -- I could ask a
12 question?

13 MS. LUZAICH: No.

14 THE COURT: No.

15 THE WITNESS: Sorry.

16 THE COURT: Sorry. We're the only ones that get to
17 ask questions.

18 (Conference at the bench not recorded.)

19 THE COURT: Ladies and gentlemen, we're going to go
20 ahead and take our lunch break. We'll be in recess for the
21 lunch break until 1:20.

22 During the lunch break, you're reminded that you're
23 not to discuss the case or anything relating to the case with
24 each other or with anyone else. You're not to read, watch or
25 listen to any reports of or commentaries on the case, person or

1 subject matter relating to the case. Don't do any independent
2 research by way of the Internet or any other medium. Do not
3 visit the location at issue, and please don't form or express
4 an opinion on the trial.

5 Please place your notepads in your chairs and follow
6 the bailiff through the double doors. We'll see you back at
7 1:20.

8 And, ma'am, don't discuss your testimony with anybody
9 else during the break.

10 THE WITNESS: Yes, ma'am.

11 (Jury recessed 12:21 p.m.)

12 MS. LUZAICH: What time did you say? I'm sorry.

13 THE COURT: 1:20.

14 MS. LUZAICH: Arrie, what did you want to ask?

15 THE COURT: Yeah. I was going to say what did you
16 want to ask?

17 THE WITNESS: What happened to the -- what happened
18 to the puppies?

19 THE COURT: Oh, I have no idea.

20 MS. LUZAICH: I do. I can tell you after.

21 THE COURT: Well, she can tell you.

22 MS. LUZAICH: But I can't tell you yet.

23 THE COURT: Yeah.

24 All right. Till 1:20, and the investigator's going
25 to get you, right?

1 UNIDENTIFIED SPEAKER: Yes, Your Honor.
2 THE COURT: Hopefully, they'll give you some lunch.
3 THE WITNESS: Thank you very much.
4 (Proceedings recessed 12:22 p.m. to 1:24 p.m.)
5 (Outside the presence of the jury.)
6 MS. LUZAICH: Can we approach, Judge?
7 Judge, can we approach?
8 THE COURT: Yes, approach.
9 (Conference at the bench not recorded.)
10 (In the presence of the jury.)
11 THE COURT: All right. Court is now back in session.
12 And, ma'am, you are still under oath. Do you
13 understand that?
14 THE WITNESS: Yes, ma'am.
15 THE COURT: All right. Thank you.
16 And, Mr. Ericsson, you may begin your
17 cross-examination.
18 MR. ERICSSON: Thank you, Your Honor.
19 CROSS-EXAMINATION
20 BY MR. ERICSSON:
21 Q Good afternoon, Ms. Webster.
22 A Good afternoon, sir.
23 Q You have been interviewed by a lot of people about
24 this case, correct?
25 A That is correct.

1 Q And I want to ask you questions about the various
2 interviews and what you told people at different times, and I
3 want to start with you recall that on the day of this incident
4 that the police had you fill out a -- a handwritten voluntary
5 statement?

6 A Yes.

7 Q And you remember doing that?

8 A Yes, I do.

9 Q Okay. And I know that this was some time ago. So
10 I'll start asking you some questions, but if it refreshes your
11 memory, let me know, and I can show you the report.

12 A Okay.

13 Q Do you recall that when on the day of the -- that you
14 filled out the voluntary statement that you had indicated that
15 you went over to talk to Calvin at his place?

16 A Yes, I said that.

17 Q And you indicated that you went to express concerns
18 you had, and then he started asking you some questions?

19 A Yes.

20 Q Okay. And you indicated that he tied you up,
21 correct?

22 A Yes.

23 Q Now, in that report, you didn't mention anything
24 about him having a gun, did you?

25 A I don't know if I wrote it down or not.

1 Q Okay. And like I said, I know it's been some time.

2 MR. ERICSSON: Your Honor, may I approach and show
3 her her report --

4 THE COURT: You may.

5 MR. ERICSSON: -- that will refresh her memory?

6 BY MR. ERICSSON:

7 Q Can you take a moment and just read that to yourself.

8 A (Witness complies.)

9 Q Does that appear to be the voluntary statement that
10 you prepared?

11 A That is what I wrote at that time, yes.

12 Q Okay. And you prepared that on March 10, 2015?

13 A Yes, the date of the incident.

14 Q Okay. And is that your handwriting on that report?

15 A I wrote it, yes.

16 Q Okay. So in that report, you don't indicate anything
17 about being threatened with a gun or having a gun put in your
18 mouth, correct?

19 A No, it's not on the paper.

20 Q And you don't indicate anything about being
21 threatened with a broomstick, correct?

22 A No, it's not on the paper.

23 Q Okay. And you don't -- there's no indication that
24 there was any attempts to put anything in your anal area,
25 correct?

1 A It's not on the paper.

2 Q Okay. And in that report you indicate that you think
3 that there was Mr. Elam, one other black male and three females
4 that all participated in the attack on you?

5 A I don't think. They were there, and they played a
6 part in it. Yes, they were there. They didn't try to stop
7 him.

8 Q Okay. Well -- and I'm asking you specifically about
9 what you wrote on that day. Did you indicate that, And then
10 other people enter -- a black male, three other females -- and
11 they also took parts of the -- and then if you would look at
12 that, there's a word there that is hard to make out. Can you
13 tell me what that word says? It's the second from the bottom
14 of your handwritten statement.

15 A They also took part of the -- that word there?

16 Q Correct.

17 A It had to be beating because followed with that word
18 is, With a leather belt. So obviously it had to be beating,
19 but at the same time, that's when it happened. So I was
20 distraught. I mean, I'm pretty sure it's more than that that I
21 missed out or just didn't say, spoke about.

22 Q No. And okay. I understand that. I just want to
23 make sure that we are accurate though. In your statement you
24 wrote -- and now that I know what that word is -- it was a
25 little hard to read -- three -- And then other people enter,

1 one black male, three other females -- they also took part of
2 the beating with leather belt and then tased me. So when you
3 prepared this statement back then, were you telling the police
4 that the three women and the other black male participated in
5 the beating with the leather belt?

6 A Well, I mean, they were there. They didn't do
7 anything to prevent it. So for me, they were a part of that.

8 Q Okay. Okay. So --

9 A If anything, they didn't say stop. So therefore they
10 "edged" him on. That's, like --

11 Q Okay. And -- and just I'll ask you questions. Just
12 respond to the questions. Okay?

13 A Okay. Go ahead.

14 MS. LUZAICH: Well, she is trying to respond to the
15 question.

16 THE WITNESS: Maybe -- maybe (unintelligible) unclear
17 of something. I'm trying to clarify it for you.

18 MR. ERICSSON: Okay.

19 THE WITNESS: That's all.

20 BY MR. ERICSSON:

21 Q All right. You have anything more --

22 A I don't want them to be --

23 Q -- to say about --

24 A -- misled.

25 Q -- about the one black male and the three black

1 females participating in the beating with the leather belt?

2 A If you were -- again, they were there. They didn't
3 do anything to stop. I didn't hear anything, no actions. They
4 encouraged him to do it.

5 Q Okay. So that same day you were interviewed by a
6 detective who recorded the interview. Do you recall being
7 interviewed by a Detective Nelson?

8 A I recall being interviewed again, like you said, by
9 several people, and I do remember the officer named Nellis --

10 Q Okay.

11 A Nelson.

12 Q And do you recall telling Officer Nelson that Calvin
13 had invited you over to his house, and you went into his house,
14 correct?

15 MS. LUZAICH: What page are you on?

16 THE WITNESS: He motioned me. So it's just this,
17 come here, Cuz.

18 MR. ERICSSON: Okay.

19 THE WITNESS: And again I was eager to go because I
20 wanted to explain the misconception of whatever. What he
21 thought, he thought wrong. I didn't have anything -- no parts
22 to do with his dogs missing.

23 BY MR. ERICSSON:

24 Q And I have -- I'm going to ask you these questions
25 pretty focused, and I'm not trying to keep you from answering

1 whatever you need to answer but just to keep the record clear,
2 if you could just answer the question, and then if there are
3 other things that Ms. Luzaich wants you to talk about, she can
4 ask you those later.

5 A Yes, sir.

6 MR. ERICSSON: Okay. I'm on page 8 of the Detective
7 Nelson interview. And I'm sorry. I'm now -- page 13 is where
8 this is from.

9 BY MR. ERICSSON:

10 Q Do you remember telling Detective Nelson when he
11 asked you what had happened that you told him that you went
12 into the kitchen area of Calvin's apartment?

13 A Yes, sir.

14 Q And that --

15 THE COURT: Oh.

16 Oh, I'm sorry.

17 BY MR. ERICSSON:

18 Q -- and that when you entered the kitchen Calvin told
19 you to turn around and get down on your knees?

20 A He did so.

21 Q And that Calvin, he tied your hands?

22 A He proceeded to tie my hands --

23 Q Okay.

24 A -- in the back of my back --

25 Q Okay. And then he tied your feet up?

1 A To my feet, yes.

2 Q Okay. And then he stuffed something into your mouth
3 and taped your mouth, correct?

4 A Yes, it was stuffed in my throat, in my mouth, and
5 then he taped my mouth.

6 Q And then he put something over your head?

7 A A pillow case.

8 Q And he blindfolded you with that, correct?

9 A He put the pillowcase on top of my head.

10 Q Okay. And then at some point it's your testimony,
11 well, what you told Officer Nelson, that other individuals come
12 into the apartment, correct?

13 A Yes, sir.

14 Q And do you remember telling Detective Nelson that it
15 was -- you described a second black male who was not Calvin,
16 correct?

17 A Yes, I did.

18 Q And you've talked about him previously; that he was a
19 shorter, heavier set individual, correct?

20 A Yes, that drove a Cadillac GTS.

21 Q Okay. And didn't you tell Detective Nelson that it
22 was that person who had the broomstick and was threatening you
23 with the broomstick?

24 MS. LUZAICH: What page are you on?

25 MR. ERICSSON: Page -- she talks about it throughout,

1 but page 36.

2 BY MR. ERICSSON:

3 Q So do you recall when you talked to Detective
4 Nelson --

5 A No, I don't recall.

6 Q Okay. Then I'll turn and show you the statement.

7 MR. ERICSSON: I apologize, Your Honor. I've got a
8 lot of notes from all of those interviews, and I need to find
9 the right page.

10 BY MR. ERICSSON:

11 Q And I will come back to that area in a second here.
12 You testified that you were tased a number of times,
13 correct?

14 A Multiple times, yes, sir.

15 Q Okay. And where on your body were there marks, if
16 any, from the tasing?

17 A I didn't examine myself. So I don't know, sir.

18 Q Okay. But when you were interviewed by the police,
19 did they ask to see any evidence of the tasing that you
20 received?

21 A Not to my recollection, no.

22 Q And later that night or the next day did you look at
23 your body to see where the marks were, if any, from the tasing?

24 A Well, I can say when the paramedics came they looked
25 over my legs and my back of my back, I mean, in areas but

1 nobody verbally said -- look -- said where is the Taser marks?

2 Q Did you observe any Taser marks on you at any time
3 when you looked at your body?

4 A All I observed was the -- what I've told you in the
5 testimony today.

6 Q Okay. I'm just asking did you observe any marks from
7 the multiple tasings that you received?

8 A Again, what I observed is what I told you in the
9 testimony today.

10 Q I'm entitled to an answer to that question.

11 A No marks.

12 Q No marks. Okay.

13 A Just what I've seen and what I heard. And where I
14 felt.

15 Q Okay. And it's your testimony earlier today that you
16 did not see the Taser. You just heard a Taser; is that
17 correct?

18 A I heard a Taser, and whatever the -- what I seen that
19 came between the two brackets on the hand device he was using.

20 Q Okay.

21 A And again, if it was a Taser or a stun gun.

22 Q Focusing back on the interview with Detective Nelson
23 on the night of this alleged incident, do you remember telling
24 Detective Nelson that there was no penetration with the
25 broomstick?

1 A Again I told him -- I -- I felt that up until I
2 passed out he made me feel like that's what he was going to do.
3 I scooted. I tried to prevent it. I blacked out. I don't --
4 at that point, I don't remember.

5 Q Okay. Do you --

6 A Anything afterwards.

7 Q Okay. And do you remember him asking you, What do
8 you mean started touching you with a broomstick?

9 MS. LUZAICH: What page?

10 MR. ERICSSON: This is page 36, 5th line down.

11 BY MR. ERICSSON:

12 Q And then you answered, He -- I, and I am -- it's
13 jumping around. They didn't put no penetration. Do you
14 remember saying that to the detective?

15 A No, I don't.

16 MR. ERICSSON: Okay. Your Honor, may I approach?

17 THE COURT: You may. You may move freely.

18 BY MR. ERICSSON:

19 Q So I'm showing you top of page 36. If you can just
20 read the first half to yourself.

21 A (Unintelligible.)

22 Q Just the first half of the questions and answers to
23 yourself.

24 Have you had a chance to read that?

25 A Yes.

1 Q Does that refresh your memory of your conversation
2 with Detective Nelson?

3 A Yes.

4 Q So is it -- is it accurate to say that when he asked
5 you, quote, What do you mean started touching you with a
6 broomstick --

7 A Uh-huh.

8 Q -- and you answered, He -- they didn't put no
9 penetration.

10 A Well, after I --

11 Q And, ma'am, the question is simply --

12 A Okay.

13 Q Was that your answer to him at that point?

14 A Yes.

15 Q And then did you answer, But they, like, act like
16 they wanted to do it. You know, I thought they were going to
17 do it.

18 A Yes.

19 Q Was that your answer to Detective Nelson on that day?

20 A Yes.

21 Q Do you remember -- and this is page 39 -- do you
22 remember telling Detective Nelson that the paramedics saw marks
23 on your rear end from being whipped with a belt?

24 A Yes.

25 Q And you were telling him that -- this is page 40 --

1 that you were hit over 25 times with the belt?

2 A Do I recall it? No, I don't, but -- no, I don't
3 recall it.

4 Q And I understand that this was quite some time ago.
5 So.

6 MR. ERICSSON: If I may approach, Your Honor, and
7 show her page 40.

8 THE COURT: You may.

9 BY MR. ERICSSON:

10 Q This is the top half of the page. If you can read
11 that section to yourself.

12 A Okay.

13 Q Do you remember -- does this refresh your memory?

14 A Yes. I mean, if it's down there, definitely I said
15 it, but I don't recall, you know.

16 Q Okay. So --

17 A But I said it, yes.

18 Q So on the day of the alleged incident, you told
19 Detective Nelson that when he asked you how many times you were
20 hit with the belt you said over 25 times?

21 A That's correct.

22 Q Do you remember describing to Detective Nelson that
23 one of the males in the alleged incident was light skinned, and
24 the other one was dark skinned?

25 A Yes, sir.

1 Q And did you describe Mr. Elam as the light-skinned
2 suspect?

3 A Yes, sir.

4 Q And the other individual then was the dark-skinned
5 suspect, correct?

6 A Yes, sir.

7 Q And do you remember -- and this is page 41 -- getting
8 back to the broomstick, that you told Detective Nelson it was
9 the dark-skinned suspect who was threatening you with a
10 broomstick, indicating that he knew what you wanted? Do you
11 remember that?

12 A Yes.

13 Q So I'm trying to get back to that prior question I
14 couldn't find a reference to. Do you remember telling
15 Detective Nelson that it was the dark skinned or the suspect
16 other than Mr. Elam who was threatening you with the
17 broomstick?

18 A Again, I remember -- yes, I do remember saying that.

19 Q After Mr. Elam put the pillowcase over your head, it
20 remained on your head during the time you were in the
21 apartment, correct?

22 A That is correct.

23 Q Do you remember telling Detective Nelson that you
24 thought you had been tased six or seven times?

25 A I don't remember, but if it's on paper, I said it.

1 Yes.

2 Q Okay. Well, and I -- I don't want you to have to
3 guess. So I'll show you. This is page 45.

4 A Six or seven times.

5 Q And just read to yourself the section above that so
6 you know what you're responding to.

7 Does that refresh your memory as to what you told
8 Detective Nelson?

9 A Vaguely, yes.

10 Q Okay. So having seen this, does that refresh your
11 memory that you told him that you were hit with a Taser or the
12 stun gun six or seven times?

13 A Yes.

14 Q And do you remember what parts of the body you told
15 him they used the stun gun on you?

16 A No. Again, I told you that I seen the light that
17 came between the brackets, and I heard it.

18 Q Okay.

19 A But as far as --

20 Q And again, if you can just answer the questions. If
21 there are other things that Ms. Luzaich wants you to answer,
22 she will ask you questions.

23 So if you would read the bottom part of page 45 and
24 see if that refreshes your memory on where you told the
25 detective you had been stunned with the Taser.

1 A Okay. Yes.

2 Q And where did you tell Detective Nelson on the day of
3 this alleged incident that you were hit with a Taser?

4 A My legs, back of my neck, my back.

5 Q Do you remember that after you allegedly left the
6 apartment that when you were talking with Annie you asked if
7 you could use her phone?

8 A To use her phone, no.

9 Q Do you remember if you were trying to call the police
10 when you were -- when Annie was there talking with you?

11 A Vaguely. Vaguely.

12 Q Okay. But you didn't call the police when you were
13 there with Annie, did you?

14 A I might have wanted to, but I was strongly
15 discouraged if that's -- if that's what I said. Yeah, I wanted
16 to, but I was, like, strongly discouraged to. So, yes.

17 Q Okay. And I am almost finished with asking you
18 questions about the interview on that first night. Do you
19 recall telling -- and this is page 61 -- Detective Nelson that
20 when he asked you if they sexually assaulted you that you
21 responded, No, but I just thought they would?

22 A No. I don't recall saying that to that -- with
23 Nelson.

24 Q It's 61, middle of the page. If you could read for
25 me (inaudible). Does that refresh your recollection?

1 A Yes.

2 Q So do you remember the question, Did they ever
3 sexually assault you at all, and you answered, No, but I just
4 thought they would?

5 A I remember that.

6 Q Do you remember telling Detective Nelson that same
7 day that you thought Mr. Elam had broken into Mike's apartment
8 and hogtied him --

9 MS. LUZAICH: Can we approach?

10 THE COURT: Sure.

11 (Conference at the bench not recorded.)

12 BY MR. ERICSSON:

13 Q So, Annie (sic), I now want to move two days after
14 that interview and the alleged incident on March 10th, and
15 you've talked about this somewhat earlier. On March 12th, do
16 you remember going down to UMC and being examined by a sexual
17 assault nurse?

18 A Yes.

19 Q And is it accurate to say that when you were
20 interviewed by that nurse that you tried to be as truthful as
21 you could?

22 A That is correct.

23 Q Was there any reason that you would have not been
24 truthful with the sexual assault nurse?

25 A Yes, embarrassment and disbelief that it happened to

1 me.

2 Q Okay. Let me ask you that. As you sit here today,
3 were you truthful in what you told the sex assault nurse on
4 March 12th, 2015?

5 A Yes.

6 Q Do you remember telling the sexual assault nurse that
7 when you were in the apartment that you were vaginally
8 penetrated by a penis?

9 A I'm sorry. Say that again.

10 Q Did you tell the sexual assault nurse that during
11 this alleged attack on two days earlier that somebody put his
12 penis in your vagina?

13 A No. Can I see that?

14 Q Yeah, I can show you the report.

15 MR. ERICSSON: Counsel, it's the last page of the
16 report I'm showing her.

17 BY MR. ERICSSON:

18 Q And my guess is you probably have not seen the actual
19 report that was prepared by the sexual assault examiner.

20 A No.

21 Q Okay. And I'm referring to this page up at the top.
22 It says No. 1231, page 10. Do you see that? Do you see those
23 numbers up there?

24 A Uh-huh.

25 Q Under the box titled penetration -- do you see that

1 there?

2 A Uh-huh.

3 Q Do you see where they have checked the box under
4 vaginal?

5 A Uh-huh.

6 Q They checked the box by penis.

7 A Uh-huh.

8 Q Okay. Do you remember telling the sexual assault
9 nurse that you were vaginally penetrated by a finger?

10 A I don't remember saying that. I don't remember
11 seeing the paper of a finger to a --

12 Q Okay.

13 A No.

14 Q Do you remember telling the sexual assault nurse that
15 you were vaginally penetrated by someone's tongue?

16 A No.

17 Q Do you remember telling them that -- the sexual
18 assault nurse -- that you were possibly vaginally penetrated by
19 a broomstick?

20 A Again, I don't remember. No, I don't.

21 Q Do you remember telling the sexual assault nurse that
22 you were unsure if you were penetrated rectally by the
23 broomstick?

24 A That's correct.

25 Q Now I want to move one day later. This was March

1 the 13th of 2015, the day after the examination at UMC. Do you
2 remember that you were interviewed by I believe a female
3 detective by the name of Ryland [phonetic]?

4 A Do I remember?

5 Q Right. Do you remember that you were --

6 A Yes, I remember.

7 Q Okay. And do you remember that she recorded the
8 interview with you?

9 A Yes, I do.

10 Q And when you interviewed with Detective Ryland three
11 days after the alleged incident, were you as truthful as you
12 could be with her?

13 A At the time, I think so, yes.

14 MR. ERICSSON: And, Counsel, I'm going to ask her
15 questions from pages 7 and 8 to begin with.

16 BY MR. ERICSSON:

17 Q Do you remember when you were describing what
18 happened at Calvin's apartment; that you told Detective Ryland
19 that you went in his apartment, and he shut the door behind
20 you? Do you remember that?

21 A Yes.

22 Q And that he asked you where the dogs were at?

23 A Yes. He was, like, you and your people know where
24 the dogs are.

25 Q Okay.

1 A (Unintelligible), yes, to the puppies.

2 Q Okay. And then do you remember, and I'm paraphrasing
3 here, but you telling the detective that he told you that,
4 quote, Don't take it personal, but this gotta be done, and I'm,
5 like, what are you talking about? And that's when he was,
6 like, turn around. Get on your knees, and he proceeded to cow
7 tie me and stuff my mouth and tape my mouth and blindfolded me?

8 A Yes, I said that.

9 Q So when you were describing to Detective Ryland what
10 had happened, you indicated when you first came in he told you
11 to get down on your knees, to turn around and get down on your
12 knees, and he -- he proceeded to cow tie you, stuff your mouth
13 and blindfold you, correct?

14 A Yes.

15 Q When you described that, you didn't indicate there
16 that he had placed a shotgun in your mouth before he did that,
17 did you?

18 A Again, no, I didn't. It was several things again
19 that I probably didn't say.

20 Q Okay.

21 A I was --

22 Q But when you were interviewing with her, you were
23 trying to be as truthful as you could, correct?

24 A Yes. At all times when I got interviewed I was
25 trying to be as truthful as I could be or my memory let me.

1 Yes. The question's yes. The answer's yes.

2 Q This next question is from page 15. Do you remember
3 telling Detective Ryland that -- that they all tased you? Do
4 you remember telling her that?

5 A No, I don't.

6 Q Do you remember telling -- well, and I'll approach
7 and show you.

8 MR. ERICSSON: Counsel, we're at the middle of the
9 page of page 15.

10 BY MR. ERICSSON:

11 Q If you could read that section to yourself.

12 A Okay. And if it's there, they did it if I said it.

13 Q Well, and do you remember when you were asked how
14 many times do you think he tased you or who tased you, you
15 answered, They -- they all tased me?

16 A Yes.

17 Q And then you indicated that it was like a gang
18 beating, correct?

19 A That's how I felt.

20 MR. ERICSSON: And this is page 17, Counsel.

21 BY MR. ERICSSON:

22 Q Do you remember telling Detective Ryland that when
23 you were asked -- this is referring to the broomstick -- Did he
24 stick it in your butt, do you remember answering, I mean, he
25 could have, I don't know?

1 A I blacked out. I don't know.

2 Q Ms. Webster, I'm at the last section of asking you
3 about --

4 A Thank you.

5 Q -- prior statements you've made in this case. Do you
6 remember back in April of 2015 -- so approximately a month
7 after the alleged incident on April 9th, 2015 -- that you
8 testified in a court proceeding regarding this case?

9 A Yes. Yes.

10 Q Okay. And you probably don't know the date, but --

11 A No.

12 Q -- was there a point where you were sworn under oath,
13 other than in this courtroom, and told -- where you swore that
14 you'd tell the truth about what happened?

15 A Yes, sir.

16 MR. ERICSSON: Okay. Counsel, I'm on page 15 of the
17 April 9th, 2015, transcript.

18 BY MR. ERICSSON:

19 Q Do you remember when you were in court previously
20 that you were asked to describe what happened once you got into
21 the kitchen area?

22 A (No audible response.)

23 Q Do you remember that?

24 A No, I don't.

25 Q Okay. Then I'll approach. This is the -- if you'd

1 read to yourself the top half of page 15 in this transcript.

2 A Okay.

3 Q Does that refresh your memory as to what you
4 testified to previously?

5 A Yes.

6 Q Okay. So in response to the question, What happened
7 once you got into the kitchen area, did you previously respond
8 under oath, I made it as far as the water gallon, and he
9 proceeded to ask me questions about where the dogs were, where
10 the puppies were; again I tried to tell him that I didn't have
11 anything to do with it; I was nothing in collusion of those
12 puppies that was missing; then at that time his voice and his
13 demeanor started to change, and at that time I kind of felt
14 like I was in danger, and he basically told me to turn around,
15 get on my knees, and he started to hogtie me and stuffed my
16 mouth?

17 A That's exactly what he did.

18 Q Do you remember when you testified in court
19 previously --

20 MR. ERICSSON: And this is the next page, 16,
21 Counsel.

22 BY MR. ERICSSON:

23 Q -- do you remember testifying that the color of the
24 cords that you were tied up with were red, white and yellow
25 cords?

1 A If I said that, yes. There was RCA, I mean,
2 auxilliary cords, but it was multiple cords -- electric cords,
3 extension cords.

4 Q Do you remember describing them as red, white and
5 yellow cords? Correct?

6 A Do I remember? No.

7 Q Okay. Reading in the middle section of page 16.

8 A Okay.

9 Q So does that refresh your memory of what you
10 testified to approximately a month after the alleged
11 accident -- incident?

12 A Yes.

13 Q Okay. And when you were describing cords, you
14 described them as red, white and yellow cords? Is that
15 correct?

16 A I don't remember if I described them as those cords,
17 but if it's on the paper, I said it. Yes.

18 I mean, that's what I seen, but I don't know what he
19 tied me up because my head is in front of you, and my arms and
20 my hands and my feet are in back of me.

21 Q Okay. But when you were previously were describing
22 what you were tied up with, you told --

23 A That's what I -- when I previous was asked, that's
24 what I seen.

25 Q Okay.

1 A Visually.

2 MR. ERICSSON: Counsel, I'm on page 19.

3 BY MR. ERICSSON:

4 Q Do you remember testifying previously that, They --
5 indicating plural -- They took turns beating me and tasing me
6 and laughing and video camera it?

7 A Yes.

8 Q And I apologize. I keep repeating questions --

9 A You do, yes.

10 Q -- but they're from different times when you were
11 asked about it.

12 MR. ERICSSON: This is page 21, Counsel.

13 BY MR. ERICSSON:

14 Q When you were asked about the broomstick when you
15 testified previously in court, do you remember testifying that
16 you did not know if the broomstick went in?

17 A Yes. No. Can I say something?

18 Q You can --

19 A I'm just going to ask you a question.

20 Q You -- you'll be able to --

21 A Okay.

22 Q -- you'll most likely be asked some more questions by
23 Mr. Luzaich.

24 THE COURT: Right. Ms. Luzaich -- when

25 Mr. Ericsson's done asking you questions, she's going to ask

1 you some more questions.

2 THE WITNESS: Okay.

3 BY MR. ERICSSON:

4 Q I'm almost finished. Do you have any idea why in the
5 nurse examiner's report she indicated, according to the report,
6 that you had told her that you were vaginally penetrated in
7 this attack by a penis -- and let me finish the question --

8 A Go ahead.

9 Q -- a finger and a tongue?

10 MS. LUZAICH: Well, I would object. She can't
11 testify why something would appear in a report that she's never
12 seen before.

13 THE COURT: Yeah. That's sustained. You can ask did
14 she tell her or indicate that, but she can't speak as to why
15 somebody else did something.

16 BY MR. ERICSSON:

17 Q Are you clear that you did not tell the nurse
18 examiner that you were not vaginally penetrated by a penis, a
19 finger and a --

20 A I'm a thousand times sure I didn't say it.

21 Q Thank you.

22 THE WITNESS: Thank you.

23 MR. ERICSSON: I have no further questions at this
24 time.

25 THE COURT: All right. Ms. Luzaich, redirect.

1 MS. LUZAICH: Since he was picking and choosing
2 little pieces of the statements, I would move the three
3 statements into evidence.

4 MR. ERICSSON: Your Honor, I --

5 THE COURT: Do you object?

6 MR. ERICSSON: If she wants to ask about the
7 statements, she can --

8 THE COURT: Yeah. That's --

9 MR. ERICSSON: -- but that's not appropriate.

10 THE COURT: The objection's sustained. You can go
11 over specific parts of the statement if you'd like.

12 REDIRECT EXAMINATION

13 BY MS. LUZAICH:

14 Q How are you doing, Arrie?

15 A I'm doing better.

16 Q Okay.

17 A Just want to get this over with.

18 Q I'm sorry?

19 A Just would like to get this behind me.

20 Q It's been a long day, right?

21 A It's been a long two years.

22 Q Okay. And I'm sorry, but I'm going to go back to the
23 statements that Mr. Ericsson was just asking you about. Okay?

24 A Go right ahead.

25 Q You described for us earlier that after this happened

1 you just -- you felt like you were in shock, right? While you
2 were at Tony's, you just felt like you were in shock?

3 A I felt like it didn't happen to me. It couldn't
4 happen to me.

5 Q Did you still feel that way while you were talking to
6 the different police officers?

7 A Yes, especially the males. I mean, yes, I did.

8 Q And was it hard to talk about this kind of stuff? I
9 mean all of it, not just the sexual aspect, sexual assault
10 aspect, but all of it, was it hard to talk about it and try and
11 put it into words when people kept asking you?

12 A It's still hard today, especially about some pit bull
13 puppies I didn't have anything to do with.

14 Q Okay. When Mr. Ericsson asked you about the first
15 statement -- that's the handwritten one. It looks kind of like
16 this, right? And that was the one that you personally took a
17 pen and you wrote; is that correct?

18 A Yes, ma'am.

19 Q Now, did you try to write every single thing that
20 happened on this statement?

21 A I don't know what -- I was just trying to tell the
22 events that happened.

23 Q To get your thoughts on paper?

24 A Yes. But my mind was going faster than the pen
25 wrote.

1 Q Okay. That makes sense. And then when you talked to
2 the detective in the car at Smith's -- that's that very first
3 tape-recorded interview; is that right?

4 A I think so.

5 Q The first tape-recorded interview that you remember,
6 right?

7 A That's correct.

8 Q Mr. Ericsson talked about the fact that he didn't
9 think you said that you had the gun put in your mouth. I'm
10 going to show --

11 MS. LUZAICH: Oh, sorry about that, Kenny.

12 BY MS. LUZAICH:

13 Q I'm going to show you page 29. Here on page 29 of
14 the transcript -- let's see if I can get to the question -- the
15 question, he hogties you; you're on the floor; he's in there by
16 himself; his baby mama's in the back, and you said yes. And at
17 that point, Does he hit you with anything, like that, and did
18 you say he stuck, no, he put the gun in my mouth? Is that what
19 you said?

20 A Yes.

21 Q He questions you. He put a gun in your mouth? And
22 you said, He puts it in, yes. He puts tissue in. I mean, I
23 couldn't even breathe. So you did tell the detective that he
24 put the gun in your mouth before he put the tissue in your
25 mouth. Is that --

1 A Thank you, Jesus. Yes, I did.

2 Q Okay. That was on page 29 of the interview, correct?
3 Did you just look at that?

4 A Yes, I did.

5 Q And then -- sorry, I probably should've just brought
6 my notes back up there with me -- on page 32 of that same
7 interview, does the detective say, Okay, you said earlier he
8 put a gun in your mouth; at what point did that happen? And
9 what did you say?

10 A I answered before he -- before he put the tape.

11 Q Before he taped it up --

12 A Yeah.

13 Q -- is that what you said?

14 A Yes.

15 Q And he asked you specifically what kind of gun was
16 it; is that right?

17 A Yes.

18 Q And did you tell him it looked like a shotgun to me,
19 but other people say it was a gauge?

20 A Yes.

21 Q Did he ask you, Was it a long gun, and you said, It
22 was a long gun?

23 A Yes.

24 Q You also talked at the Grand Jury about the gun.
25 Would you agree with that?

1 A Yes.

2 Q Specifically on page 23 and probably earlier, but I'm
3 not finding it just now. Now, at the Grand Jury, that was a
4 situation kind of like a court where a prosecutor asked you
5 some questions, and there was other people who were listening
6 to the evidence; is that right?

7 A That is right.

8 Q And the prosecutor then asked you, You also mentioned
9 a firearm; tell us about the firearm, correct?

10 A Correct.

11 Q And you said, it was a black gauge?

12 A Yes, I did.

13 Q And when the prosecutor said, So when you say gauge,
14 do you mean a longer gun, and you said, Yes, it wasn't a
15 handgun?

16 A Yes.

17 Q Kind of put you in the mind of a shotgun, but it was
18 black?

19 A Yes, I did.

20 Q And then did she say, What was done with the firearm?

21 A Yeah.

22 Q And did you say, He shoved it in my mouth?

23 A That is correct.

24 Q When you were asked, When you say he, which he,
25 Calvin or the other guy, how did you respond?

1 A Calvin.

2 Q And when she said, Was that before your mouth was
3 taped up, did you say, After, I mean, yes, before, before it
4 was taped up?

5 A That's exactly what I said.

6 Q I'm going to show you if I could State's Proposed
7 Exhibit, sorry, State's Proposed Exhibit 44. Does that look
8 familiar?

9 A That's the shotgun.

10 Q Okay. Maybe not in the box at the time that you saw
11 it, but that looks like the gun that you saw?

12 A Yes.

13 MS. LUZAICH: Move it into evidence.

14 THE COURT: Any objection?

15 MR. ERICSSON: No, Your Honor.

16 THE COURT: All right. That'll be admitted.

17 (State's Exhibit No. 44 admitted.)

18 MS. LUZAICH: Permission to publish?

19 THE COURT: You may.

20 BY MS. LUZAICH:

21 Q You talked a little bit about the Taser with the
22 detective. Do you remember a little bit about that?

23 A Yes.

24 Q He wanted some information about the detective. On
25 page 45, did you actually describe it -- oops, wrong

1 transcript -- for the detective? You don't remember describing
2 it for the detective?

3 A I think how I described it is the same way I
4 described it today.

5 Q Okay. I'm showing you page 45; is that correct?

6 A Yes.

7 Q Actually, let me go back to 44 just because it starts
8 there. Remember, I asked you earlier on direct examination
9 that one of them said, Is the bitch dead? Wake her up. Tase
10 her again. So the detective asked you, So the Taser, what did
11 it look like? Did you say a square?

12 A Okay. Can I answer it?

13 Q Absolutely.

14 A I mean, it was two years ago. I mean, I -- if some
15 of it's on paper again, I said it.

16 Q Okay. So let's -- let's just go through together how
17 you told the detective. Did you -- would you agree you told
18 the detective it was square?

19 A Yes.

20 Q Did he ask you what color?

21 A Yes.

22 Q What did you tell him at the time?

23 A Pink.

24 Q Did you say, I want to say pink; I don't know?

25 A That's what I said, those exact words.

1 Q Okay. Just so that we're clear, I want them to know
2 what you told the detective. The detective said, Put it to
3 your eye, that's what I'm wondering. Do you know what color,
4 and you said, I don't know; he didn't do it; he just did it
5 like that, you know?

6 A I mean, I remember the conversation, but like I
7 can't -- today I can't say well vaguely what color it was or
8 the shape.

9 Q That's okay.

10 A I just remember the sound of it and the two brackets,
11 and it looked like lightning that close to my face.

12 Q Okay. Did you describe for the detective that you
13 don't know how it works, but you felt it?

14 A That's correct.

15 Q And is that still how you feel today? You don't know
16 how it works, but you felt it?

17 A Yes.

18 Q And he specifically asked you, It's not like the
19 police Tasers where they shoot out at you, correct?

20 A Yes.

21 Q And you said, No, it wasn't one of those.

22 A That's correct.

23 Q And when he asked you, It's one that they press on
24 you, and it electrocutes you, you said yes?

25 A I said that, yes.

1 Q Were you kind of demonstrating something for him
2 because he asked you what's your hand showing me? And you said
3 bigger than a pager, smaller than a pack of cigarettes?

4 A Exactly. Yes.

5 Q In addition to talking about the Taser, I know we
6 talked a lot -- you, me, and you and Mr. Ericsson -- about the
7 broomstick.

8 A Yes, we did.

9 Q You said that it's, you know, it's difficult to talk
10 to a male detective, I expect, about that stuff, especially
11 after you've just gone through it, but do you remember you also
12 talked to the female detective, Detective Ryland, two days
13 later, correct?

14 A Correct.

15 Q And when you talked to her, did you actually tell her
16 that you did pass out?

17 A Yes, I did.

18 Q Did you tell her that -- sorry. Did you tell her
19 that your rectum felt sore? Here, let me show it to you.
20 Sorry. Specifically she asked you -- and I'm on page 18 -- You
21 don't remember any type of penetration, but you believe that it
22 happened, and you said yes; is that right?

23 A That's right. Yes.

24 Q And when she asked you, Why do you think that
25 happened, you talked about how you felt the broom on your

1 buttocks, and you were scooting, scooting. He was steadily
2 coming towards you, towards your buttocks. You were scared,
3 could've passed out or just closed your eyes, but you clinched
4 and clinched, and he could've done it, right?

5 A Yes.

6 Q And then did you say, After, it doesn't feel the
7 same; it feels sore?

8 A Yes, I said it.

9 Q Is that right? She said, In your rectum, and you
10 said yes?

11 A Yes, I said it.

12 Q And then I'm going to go to page 46. On page 46, you
13 were asked -- and there were two lady detectives, right? The
14 second one jumped in every now and then and asked a question.

15 A Yes, she did.

16 Q So did that second detective ask you, What did you
17 think they were going to do with the broomstick? Did you say,
18 Just penetrate me anally with it?

19 A Yes, I said it.

20 Q And when she followed up a little bit and said, And
21 you said you didn't know if they did or not, how did you
22 respond? Can you tell us?

23 A Well, yes. I felt like -- that's what I was going to
24 say before.

25 Q Go ahead.

1 A The broomstick went in between my buttocks, but as
2 far as going in me anally, I don't know. I passed out.

3 Q Okay. So when you talk about in between the
4 buttocks, you have two butt cheeks, correct?

5 A Yes. Uh-huh.

6 Q In between the two butt cheeks, but you weren't sure
7 that it went in the hole. Is that what you were trying to say?

8 A Yes.

9 Q But you were sure that it went between the two
10 cheeks?

11 A Yes, ma'am.

12 Q Did you also tell them that you were so scared during
13 the beating that you actually urinated on yourself?

14 A If it's on paper, I said it.

15 Q Do you remember that?

16 A No.

17 Q Just because I don't want anybody to think I'm making
18 it up, I'm on page 50. When she asks you about you went for
19 the exam the night before -- because remember this is on the
20 13th; would you agree with that? March 13th of 2015, and she's
21 asking about you when you went for the exam the night before,
22 what happened in between the incident and last night when you
23 went to the exam. You said nothing. They asked you about did
24 you shower and stuff like that, correct?

25 A (No audible response.)

1 Q And you said, Yes, because I urinated on myself. I
2 was scared to death. Would you agree with that?

3 A Yes.

4 Q She said, So you urinated during that? You said,
5 Yeah, during the beating; yes, on myself.

6 A Yes, I said it.

7 Q You did say it?

8 A It happened.

9 Q Arrie, had you ever had a problem with Calvin before
10 that?

11 A No.

12 Q Would you have considered yourself friends?
13 Friendly?

14 A Yes, I did.

15 MS. LUZAICH: Thank you. I have nothing further.

16 THE COURT: Mr. Ericsson?

17 MR. ERICSSON: Nothing further, Your Honor.

18 THE COURT: I think we have some juror questions.
19 Counsel, approach.

20 (Conference at the bench not recorded.)

21 THE COURT: All right. We have some juror questions
22 up here, in no particular order.

23 How did you know the defendant suspected you of
24 taking his dogs?

25 THE WITNESS: He paid a visit to a friend which was

1 Edward Brown, the neighbor that stayed a building -- well, the
2 next building to him --

3 THE COURT: Okay.

4 THE WITNESS: -- and he went over there and kicked
5 the door in.

6 THE COURT: And did --

7 MS. LUZAICH: Um --

8 THE COURT: -- did then Mr. Brown tell you that the
9 defendant suspected you of taking the dogs?

10 MR. ERICSSON: Objection, Your Honor. Her response,
11 and that would be hearsay from Mr. Brown.

12 THE COURT: Well, based on something Mr. Brown told
13 you, is that why you went to explain the dogs to --

14 It's not being offered for hearsay purpose, Counsel.

15 THE WITNESS: Well, I went to a friend's house, and
16 they was like, Calvin --

17 THE COURT: Oh --

18 THE WITNESS: -- came over here and kicked the door
19 in, put a -- put the shotgun --

20 THE COURT: Okay. Well, wait a minute. Did you --
21 let me --

22 MR. ERICSSON: Your Honor, if we may --

23 THE COURT: -- move on. That is hearsay. So it's
24 sustained.

25 Did you physically try to resist being tied up?

1 THE WITNESS: No.

2 THE COURT: Okay. And why not.

3 THE WITNESS: I was scared.

4 THE COURT: Okay. Excluding your shoes, were you
5 wearing the same clothes at Smith's and at Calvin's apartment?

6 THE WITNESS: I was wearing a pair of black Pro Club
7 basketball shorts, and I don't remember the color top.

8 THE COURT: Yeah. I think the question is are the
9 clothes you're wearing in the picture the same clothes that you
10 had on when you went to his apartment?

11 THE WITNESS: Yes.

12 THE COURT: Okay. How long do you think you were
13 blacked out for?

14 THE WITNESS: 15 to 20 minutes.

15 THE COURT: Okay. Did the defendant do anything
16 other than verbally threaten you to get you to comply with his
17 order to turn around and get down on your knees?

18 THE WITNESS: No.

19 THE COURT: Is it possible that when you were at the
20 examination at UMC you requested to be checked out for signs of
21 vaginal penetration?

22 THE WITNESS: Possible.

23 THE COURT: Is it because you were unable to recall
24 whether or not you had been vaginally penetrated because you
25 were blacked out?

1 THE WITNESS: Yes.

2 THE COURT: Ms. Luzaich --

3 THE WITNESS: Possible.

4 THE COURT: Ms. Luzaich, you may follow up if you
5 have anything.

6 MS. LUZAICH: Just very briefly.

7 FOLLOW-UP EXAMINATION

8 BY MS. LUZAICH:

9 Q Arrie, in response to the question did you resist
10 anything when he said turn around and get down on your knees,
11 you didn't. You just did it. Why did you just do it?

12 A Well, when he -- when he told me to again, I stressed
13 to him that I didn't do it. His voice got louder. His
14 demeanor got "worse". I was -- I thought I was the only one
15 in there. So I feared -- I feared him. I was scared. So I
16 did what he asked me to do.

17 Q Okay. Is he a lot bigger than you?

18 A Yeah.

19 MS. LUZAICH: Thank you.

20 THE WITNESS: You're welcome.

21 THE COURT: Mr. Ericsson?

22 MR. ERICSSON: I have no further questions.

23 THE COURT: Any additional questions from the jury?

24 (No response.)

25 THE COURT: All right. Thank you.

1 THE WITNESS: Thank you.

2 THE COURT: Please don't discuss your testimony with
3 anyone else who may be a witness.

4 And, ladies and gentlemen, we're going to go ahead
5 and take a brief recess, just about ten minutes, which will put
6 us at about ten of 3:00. Is that enough time for everybody?

7 All right. During the brief recess, you're reminded
8 that you're not to discuss the case or anything relating to the
9 case with each other or with anyone else. You're not to read,
10 watch or listen to any reports of or commentaries on the case,
11 person or subject matter relating to the case. Don't do any
12 independent research by way of the Internet or any other
13 medium, and please don't form or express an opinion on the
14 trial.

15 Please place your notepads in your chairs and follow
16 the bailiff through the double doors.

17 (Jury recessed 2:40 p.m.)

18 MS. LUZAICH: Thank you, Arrie.

19 THE WITNESS: Thank you.

20 Thank you (unintelligible).

21 THE COURT: Thank you.

22 MS. LUZAICH: There's a quick detective and then
23 crime scene, and then I was going to play the defendant's
24 statement, but now I'm wondering -- I don't know that we'll get
25 to that today.

1 THE COURT: Yeah, I don't know that we will either.
2 So.

3 MS. LUZAICH: I think it's about an hour.

4 THE COURT: We can interrupt it though. I don't
5 think it's a big deal, do you, if we interrupt it?

6 MS. LUZAICH: Oh, I don't care. So do you want to
7 start it at least?

8 THE COURT: Yeah. I mean, if we have, like, 15
9 minutes till 5:00, let's just break. If it's, you know, 40
10 minutes, let's play at least what we can get done of the
11 statement.

12 MS. LUZAICH: Sure. Sure.

13 THE COURT: And then tomorrow, I was thinking
14 10:45 for a start.

15 MS. LUZAICH: Sure.

16 THE COURT: What do we have for tomorrow? Do we
17 think it's going to take all day or --

18 MS. LUZAICH: Okay. Now, here's the thing. As of
19 right now, if I put a bunch of witnesses on tomorrow, because
20 Annie is still in the hospital, I'll only have one witness on
21 Friday. So --

22 THE COURT: The one witness on Friday, they can't
23 come Thursday or --

24 MS. LUZAICH: Well, no.

25 THE COURT: Who's the witness on Friday?

1 MS. LUZAICH: Jeri Dermanelian.
2 THE COURT: Oh.
3 MS. LUZAICH: Yeah. And because, you know, she
4 schedules exams --
5 THE COURT: Right.
6 MS. LUZAICH: -- I can't move her day to day.
7 THE COURT: So what --
8 MS. LUZAICH: I can move her, like, hours, but not
9 day to day.
10 THE COURT: Yeah.
11 MS. LUZAICH: So I can, I guess, end early -- a
12 little earlier tomorrow and put one of those over till Tuesday
13 or Friday, and just call two witnesses on Friday.
14 THE COURT: Right. I guess what we could do -- well,
15 I guess we could start at 1:00 o'clock on --
16 MS. LUZAICH: Tomorrow?
17 THE COURT: -- tomorrow.
18 MS. LUZAICH: Sure.
19 THE COURT: I mean, could we get everybody done
20 except for the one witness you want to move to Friday if we
21 start at 1:00 tomorrow?
22 MS. LUZAICH: Oh, yeah.
23 THE COURT: And we could do the rest of it in four
24 hours?
25 MS. LUZAICH: I mean, if we go 1:00 to 5:00 tomorrow,

1 I can fill 1:00 to 5:00.

2 THE COURT: Right.

3 MS. LUZAICH: And then I can fill a little bit on
4 Friday, but I would just say don't start at 9:00 on Friday.

5 THE COURT: Let's do that. Let's go ahead then and
6 just start in the afternoon tomorrow.

7 MS. LUZAICH: Okay.

8 THE COURT: That makes more sense.

9 MS. LUZAICH: Okay.

10 THE COURT: Than rushing to start and finishing at
11 3:00 or whatever.

12 MS. LUZAICH: That would be good.

13 Oh, no.

14 THE COURT: Okay. For the record, Juror No. 14 went
15 up to the bailiff as they were exiting and asked him why the
16 last witness had two different pairs of shoes on at Smith's --
17 I think she covered that but -- and he said he can't answer any
18 questions. If she has a question, she needs to write it down.

19 MS. LUZAICH: Oy vey.

20 THE COURT: Anyway, some of them don't get the
21 meaning of testimony as opposed to us just answering their
22 questions. So.

23 (Proceedings recessed 2:44 p.m. to 3:02 p.m.)

24 (Outside the presence of the jury.)

25 THE COURT: Who's next?

1 MS. LUZAICH: Detective Cardenas, and then go over
2 our crime scene.

3 (Jury entering 3:05 p.m.)

4 THE COURT: All right. Court is now back in session,
5 and the State may call its next witness.

6 MS. LUZAICH: Thank you. The State would call Eli
7 Cardenas.

8 **ELIAS CARDENAS**

9 [having been called as a witness and being first duly sworn,
10 testified as follows:]

11 THE CLERK: Thank you. Have a seat. Please state
12 and spell your first and last name for the record.

13 THE WITNESS: My name is Elias Cardenas. E-l-i-a-s,
14 C-a-r-d-e-n-a-s.

15 THE COURT: All right. Thank you.
16 Ms. Luzaich.

17 MS. LUZAICH: Thank you.

18 DIRECT EXAMINATION

19 BY MS. LUZAICH:

20 Q Good afternoon. Sir, can you describe for the jury
21 how you're employed.

22 A I'm a robbery detective with Las Vegas Metropolitan
23 Police Department.

24 Q How long have you been with Metro?

25 A About 16 and a half years now.

1 Q And how long have you been with robbery?
2 A About 8 and half now.
3 Q When you started at Metro, were you a patrol officer?
4 A Yes, I was.
5 Q For how long were you patrol?
6 A About eight years.
7 Q And once you left patrol, what did you do?
8 A I became a robbery detective.
9 Q Okay. And you've been there ever since?
10 A Yes.
11 Q As a robbery detective, what do you do?
12 A We investigate robberies, kidnap for extortions,
13 interview victims, witnesses, go out to scenes, gather video,
14 you know, and then follow up and investigate the cases.
15 Q Are there a whole group of robbery detectives who do
16 what you do?
17 A Yes, there are.
18 Q And is it just one group of them, or are there
19 different squads? How does it work?
20 A For a while we only had one, but now we have three,
21 but, yes, there are three squads in robbery right now. At the
22 time of this case, I believe there were four squads though.
23 Q Okay. So then let me -- let's go back to March 2015
24 just so that we're on the same page. So in March of 2015, you
25 said that there were four robbery squads?

1 A Correct. Two day shift, two swing shift.

2 Q And you were on one of them?

3 A That is correct.

4 Q Which were you on?

5 A Swing shift.

6 Q In your swing shift squad, how many detectives were
7 there?

8 A Seven or eight.

9 Q Seven or eight detectives or seven or eight and a
10 sergeant?

11 A Seven or eight detectives just on our squad.

12 Q Okay. Did you also have a supervisor?

13 A Yes, we did.

14 Q And how would you get assigned cases? Like how would
15 you -- you come to work, and you start to work a case. How
16 would that come about?

17 A There's a couple different ways. One, if we are on
18 and an active case comes out that needs immediate follow-up, we
19 will go out there right there and then and then follow up. The
20 way they decide who is the lead detective is we have the area
21 broken up in area commands, and every detective has one or two
22 area commands assigned to them. The other way is, you know, we
23 just have a queue, and as robberies come in, they get assigned
24 to each one of us based on area command, and then you follow up
25 on that.

1 Q When you say a lead detective, what does a lead
2 detective do?

3 A They're the ones that will usually do the arrest
4 report, take the lead on the whole case, and they'll kind of
5 direct the other detectives on what to do, patrol officers on
6 what to do, how to do it, what it is that they -- they need or
7 require for, you know, their case.

8 Q Okay. So if you were the lead detective, you would
9 know everything that's going on in your case, and you would
10 say, hey, you know, Detective Smith, can you do this for me,
11 Detective Jones, can you do that for me, something like that?

12 A That is correct.

13 Q And the other detectives, do they necessarily know
14 what the lead detective does?

15 A Yeah, they know what they're doing, but we don't
16 have, you know, all of the -- we don't always have all of the
17 information.

18 Q Yeah, that was a poorly phrased question. Do the
19 rest of the detectives have all of the information that the
20 lead detective does?

21 A Not always. We have the summary or, you know, of
22 what is going on and what it is that they are -- want us to do
23 or what it is that we're looking for.

24 Q You know the gist of what's happening, but maybe not
25 be specific details of everything?

1 A Correct.

2 Q So I'm going to direct your attention if I could to
3 an investigation that I believe your squad was involved with on
4 March 10th of 2015, in the area of 1108 N. Jones. Did you
5 become involved in that investigation?

6 A I did.

7 Q Were you the lead detective?

8 A No, I was not.

9 Q Who was the lead detective?

10 A Detective Jason Nelson.

11 Q And was Detective Nelson the lead because that was
12 his area that he was handling?

13 A That is correct.

14 Q And did Detective Nelson kind of brief you and the
15 other detectives about what was going on and what he wanted
16 each of you to do?

17 A Yes.

18 Q And did he have a bunch of you doing different
19 things?

20 A Yes, he did.

21 Q Do you know around what time it was that you got
22 involved in the investigation?

23 A It was after, you know, 2:00 or 3:00 o'clock. I
24 don't remember the exact time, but I remember getting the call
25 and us eventually showing up to the scene.

1 Q Okay. So it was in the afternoon as opposed to
2 2:00 or 3:00 in the morning; is that correct?

3 A That is correct.

4 Q And what was the first task that you were asked to
5 complete?

6 A I was asked to interview Mrs. Mack.

7 Q Okay. And would that have been Joanique Mack?

8 A That is correct.

9 Q And did you actually have a conversation with her?

10 A I did.

11 Q Where did you have that conversation?

12 A In my vehicle right near 1108 North Jones.

13 Q Okay. And after you had a conversation with Joanique
14 Mack, what else did you do?

15 A I kind of hung out in the alley waiting for
16 instructions as to what it is we were going to do and, you
17 know, just kind of feeling out what the neighbors had to say,
18 you know, just kind of waiting around to be honest with you.

19 Q At this point, did you have information that there
20 was a kidnapping and that there was a weapon involved?

21 A Yes.

22 Q And did you believe that you knew who the suspect
23 was?

24 A Yes.

25 Q And at the time that you got involved, did you know

1 where the suspect was?

2 A I did not know where he was.

3 Q Were you in the area in the hopes that he might come
4 back there?

5 A Yes.

6 Q Did anybody actually kind of knock on the door to
7 1108 to see if anyone was home at 1108?

8 A Yes. There were officers that knocked on the door.

9 Q And were you present when that occurred?

10 A I was.

11 Q And did anybody answer when officers knocked on the
12 door?

13 A No, they did not.

14 Q So is it at least your belief that there was nobody
15 home at 1108?

16 A Yes.

17 Q And when I say 1108, I don't mean the time. I mean
18 the apartment.

19 A Correct.

20 Q Just so that we're on the same page. So were you
21 kind of waiting in the area to see if somebody came back?

22 A Yes, and for instructions as to what it is we were
23 going to do with the apartment.

24 Q While, you -- for how long were you in the area?

25 A We were there for a while. I remember it was still

1 light when we got out there, and it was probably dark when we
2 left.

3 Q Okay. So hours as opposed to minutes?

4 A Absolutely.

5 Q Did you have some conversations with other neighbors
6 as well?

7 A Yes, we did.

8 Q Did there come a time that you obtained a phone
9 number for the person that you believed the suspect to be?

10 A Yes.

11 Q What was the name of the individual that you believed
12 the suspect to be?

13 A Calvin Elam.

14 Q Did you actually call that number?

15 A I did.

16 Q And do you know around what time it was that you
17 called that number?

18 A It was -- it was pretty early in the investigation
19 when we first got there. It was still light.

20 Q Still light.

21 A Yes.

22 Q Okay. And did an individual answer the phone of the
23 number that you called?

24 A Yes.

25 Q What did you say to that individual?

1 A I identified myself as a robbery detective. I wanted
2 to confirm that this was Calvin Elam, and after he told me it
3 was, I went on and gave him kind of a brief synopsis that we
4 were there because we were investigating an incident that
5 occurred allegedly at his apartment, and we wanted him to come
6 back.

7 Q Did you indicate to him that you are actually at his
8 apartment?

9 A Yes, we did.

10 Q Or at least in the vicinity of, as opposed to in.

11 A Yes, I did.

12 Q And did you ask him anything else?

13 A I asked if he knew the victim.

14 Q When you say, Did he know the victim, did you use a
15 name with him?

16 A Yes.

17 Q What name did you use?

18 A Arrie.

19 Q And did he respond whether or not he knew Arrie?

20 A He acknowledged to knowing her.

21 Q You said you asked him if he would come back?

22 A That's correct.

23 Q And did he elect to come back?

24 A No, he did not.

25 Q Did you then hang up the phone?

1 A Yes.

2 Q Did you also or were you aware that a search warrant
3 was obtained for Apartment 1108?

4 A Yes.

5 Q Or actually 1108, the apartment in the Building 1108?

6 A Correct.

7 Q Detective Nelson obtained that search warrant?

8 A Yes, he did.

9 Q Did you participate in serving the search warrant on
10 that apartment?

11 A I did.

12 Q And just so that we're clear, showing you State's
13 Exhibit 27, is that the 1108 building?

14 A Yes, it is.

15 Q And is that the door to the apartment that you
16 entered to search?

17 A Yes, it is.

18 Q Showing you State's Exhibit 33, is that the up close
19 of the door?

20 A Yes, it is.

21 Q Were you looking for, among other things, a shotgun
22 when you went into the apartment?

23 A Yes.

24 Q Did you find a shotgun when you went into the
25 apartment?

1 A Yes, I did.

2 Q Can you describe for me where -- this is you
3 personally, correct?

4 A Yes.

5 Q Can you describe for me where you found the shotgun.

6 A Do you guys see the door? The door faces eastbound
7 into the alley. As soon as you open the door, it swings from
8 right to left, and there's like a little hallway. Right to the
9 right is the kitchen, and then as soon as you go through that
10 small hallway, there's a bedroom to the left and a bedroom to
11 the right. Well, right in that very first hallway, when you
12 first enter the front door, on the ground, there's a long box,
13 and, you know, as soon as I opened that up, there was a shotgun
14 in there.

15 Q Sorry. I'm just looking for pictures.

16 I'm going to show you what's been marked as State's
17 Proposed Exhibit 43. Is that how you found the shotgun?

18 A Yes.

19 Q And then did you open it?

20 A I did.

21 MS. LUZAICH: Move it into evidence.

22 THE COURT: Any objection?

23 MR. ERICSSON: No, Your Honor.

24 THE COURT: That'll be admitted.

25 (State's Exhibit No. 43 admitted.)

1 BY MS. LUZAICH:

2 Q Showing you State's Exhibit 43, that's how you found
3 it?

4 A Yes, ma'am.

5 Q Can you describe for the record how it appears.

6 A It was just laying on the ground there in a box, in a
7 cardboard box.

8 Q Okay. But the box is closed; is that correct? Just
9 for the record.

10 A Yes.

11 Q And that was right near the door you indicated?

12 A Yes, the door -- from this picture, the door would be
13 on the bottom portion of the screen. That's where the picture
14 came from, and the photographs are being taken into the -- into
15 the apartment.

16 Q So it's right kind of by the front door as you enter
17 into the kitchen?

18 A The kitchen is off onto the right. If you see the
19 difference in tile off to the right --

20 Q If you touch it, you can circle where the kitchen
21 begins.

22 A Right here, this is the kitchen, and the door, the
23 front door is over here on this side, and as soon as you
24 look --

25 Q Can you touch it so that we can see.

1 A -- as soon as you look forward, this is a little
2 hallway. This is where you have the shotgun, and then the
3 kitchen is over this way.

4 Q So you walk in the front door. It's right there in
5 front of you?

6 A Yes.

7 Q And then did you open the package to see what was in
8 there?

9 A I did.

10 Q I really do know how to -- it's just not working but.

11 THE MARSHAL: Bottom right.

12 MS. LUZAICH: That's what I'm doing.

13 There it goes.

14 BY MS. LUZAICH:

15 Q And when you opened the package, State's Exhibit 44,
16 is that what you found?

17 A Yes, it is.

18 MS. LUZAICH: Thank you. I pass the witness.

19 THE COURT: All right. Cross.

20 CROSS-EXAMINATION

21 BY MR. ERICSSON:

22 Q Good afternoon, Detective. I just have a couple
23 brief questions.

24 So at some point you called Mr. Elam and asked if he
25 would come back to the apartment, correct?

1 A Correct.

2 Q Now, he eventually did come back to the apartment and
3 in fact was interviewed by fellow officers with Metro?

4 A Later on, yes. That is my understanding.

5 MR. ERICSSON: Okay. Thank you. I have no further
6 questions.

7 THE COURT: Any redirect?

8 REDIRECT EXAMINATION

9 BY MS. LUZAICH:

10 Q Are you sure he came back to 1108?

11 A I know that he was taken into custody that night.

12 Q Wasn't he taken into custody at Joanique Mack's
13 apartment on Lake Mead?

14 A It's very possible. I -- I was not there when he
15 arrived. This is the first time I've actually even seen him.

16 Q Okay. So you remain -- did you remain at 1108 until
17 late at night when it was dark?

18 A Yes.

19 Q Or let me rephrase that. You said earlier, We were
20 out there until -- for hours until it was dark?

21 A Correct.

22 Q Were you one of the last people to leave the area?

23 A 1108, yes.

24 Q And were you as of the time that you got there until
25 the time you left, did you ever see that person that's sitting

1 next to the man who just asked you questions?

2 A No.

3 Q Did you ever see him at that apartment?

4 A I had not seen him, no.

5 MS. LUZAICH: Thank you.

6 THE COURT: Mr. Ericsson, any recross?

7 MR. ERICSSON: No further questions.

8 THE COURT: Did we have any juror questions for the
9 witness?

10 All right. I see no additional questions.

11 Thank you for your testimony. Please don't discuss
12 your testimony with anyone else who may be a witness in this
13 case.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: Thank you. And you are excused.

16 And the State may call its next witness.

17 MS. LUZAICH: The State's going to call Brad Grover,
18 but I'm trying to get the photos back in order.

19 **BRADLEY GROVER**

20 [having been called as a witness and being first duly sworn,
21 testified as follows:]

22 THE CLERK: Have a seat and state and spell your
23 first and last name for the record.

24 THE WITNESS: My name is Bradley Grover.

25 B-r-a-d-l-e-y, G-r-o-v-e-r.

1 THE COURT: All right. Thank you.

2 Ms. Luzaich.

3 MS. LUZAICH: Thank you.

4 DIRECT EXAMINATION

5 BY MS. LUZAICH:

6 Q Good afternoon, sir. How are you employed?

7 A I am a senior crime scene analyst with the Las Vegas
8 Metropolitan Police Department.

9 Q Okay. First, can you tell us what is a crime scene
10 analyst?

11 A Well, we respond to crime scenes. We document the
12 crime scene using notes, photography, reports, diagrams when
13 necessary. We identify, collect and preserve evidence. We
14 process for fingerprints, and any other duties that might be
15 required at the scene.

16 Q Do you have any special training that enables you to
17 do the things that you've just described?

18 A Well, I have my bachelor of science degree in biology
19 from UNLV. I started my employment in April of 1995, at which
20 time I had 40 hours of in-service training followed by three
21 months of field training with a senior crime scene analyst. I
22 then completed the American Institute of Applied Science
23 Forensic Science course, which covers a variety of topics
24 related to crime scene investigation, and since that time, I've
25 attended numerous and various classes related to crime scene

1 investigation.

2 Q So you said that you're a senior crime scene analyst,
3 not just a crime scene analyst. What is the difference between
4 a senior crime scene analyst and a crime scene analyst?

5 A Well, we have three levels. There's a Crime Scene
6 Analyst I, Crime Scene Analyst II and then a senior. The I is
7 an entry-level position, which after two years you can take a
8 proficiency test and then move to the II level, and then after
9 a minimum of four years, you can test for a promotional to
10 become a senior crime scene analyst.

11 Q So since you're a senior, does that mean that you've
12 already become -- tested and become a II?

13 A Yes.

14 Q And then promoted to become a senior?

15 A Yes.

16 Q For how long have you been a crime scene analyst with
17 Metro?

18 A Approximately 22 years and 2 months.

19 Q And for how long have you been a senior?

20 A About 18 of that.

21 Q What can a senior do that a regular crime scene
22 analyst cannot?

23 A Well, we can pretty much work any crime scene without
24 any supervision. We can train junior crime scene analysts.
25 That's the most of it.

1 Q Do you also -- when you say train junior crime scene
2 analyst, would that be like as a training officer or --

3 A Correct.

4 Q I mean like on-the-job training?

5 A Yes.

6 Q And do you do that on a regular basis?

7 A Yes, I do.

8 Q I'm going to direct your attention if I could
9 specifically back to March 10th of 2015. Were you working as a
10 senior crime scene analyst at that time?

11 A Yes, I was.

12 Q And did you or were you asked to participate in
13 several different crime scenes on that day?

14 A Yes, I was.

15 Q And "participate in" is probably a bad word. Sorry
16 about that. When you go to a crime scene, like, how do you get
17 to be there? Does -- do you just pick and choose where you go?
18 Does somebody call to get you there? How does that work?

19 A Well, we tend to take calls in a rotation, and as the
20 calls come in, depending on if you're -- depending on what it
21 is, you might get assigned to that call through dispatch.

22 Q So a -- but is it always at the request of another
23 police officer?

24 A Yes.

25 Q Somebody who's investigating?

1 A Yes.

2 Q I guess that's the way I should have phrased it. So
3 on March 10 of 2015, were you asked in the early afternoon to
4 respond to a particular location?

5 A Yes, I was.

6 Q Where was the first location that you were asked to
7 respond to?

8 A It was a Smith's grocery store.

9 Q What was the nature or at least what was your
10 understanding of the nature of what sent you there?

11 A It was a kidnapping and sexual assault.

12 Q So did you go to the Smith's?

13 A Yes, I did.

14 Q And specifically where was that?

15 A That was 1433 North Jones.

16 Q And is that at least in the area of, like, Jones and
17 between Washington and Lake Mead?

18 A I believe so.

19 Q When you got there, who, if anybody, was already
20 there?

21 A I believe that Detective Nelson was there.

22 Q Would there also have been some police officers, like
23 uniformed officers?

24 A Yes. There tends to be patrol officers and then
25 usually a detective if it's this type of call.

1 Q And when you said Detective Nelson was there, would
2 he have been in plainclothes?

3 A Yes.

4 Q Was there also an individual there with him?

5 A Yes.

6 Q What were you asked to do, if anything, at the
7 Smith's location?

8 A I was asked to photograph some injuries to the
9 victim.

10 Q When you go and photograph injuries on a victim, do
11 you just walk up to them and say, oh, I see a cut, click. You
12 know, I see a bruise, click, or do you do something else?

13 A No. Typically they point out what injuries they may
14 have because I don't know what their state was yesterday or
15 earlier. So I wouldn't be able to determine that.

16 Q I guess the question was more do you also first take
17 an overall and then focus in on specific injuries if they
18 exist?

19 A Yes, I do.

20 Q Okay. So I'm going to show you State's -- okay.
21 Some of these are in evidence. So State's Proposed -- are
22 already in evidence 1 through 11. So can you just look through
23 all of these, and tell me, are these photos that you took at
24 the Smith's, and do they fairly and accurately depict the
25 person that you photographed?

1 A Yes, they are, and yes, they do.

2 MS. LUZAICH: Thank you.

3 And I would move whichever ones are not already in
4 evidence into evidence.

5 THE COURT: Any objection?

6 MR. ERICSSON: No, Your Honor.

7 THE COURT: All right. The clerk will note those
8 admitted.

9 MS. LUZAICH: Thank you.

10 (State's Exhibit Nos. 3, 5,6, 8-11 admitted.)

11 BY MS. LUZAICH:

12 Q Okay. So State's Exhibit 2, just so that we're all
13 on the same page, is this the individual, the overall that you
14 took?

15 A Yes, it is.

16 Q And was it your understanding that her name is Arrie
17 Webster?

18 A Yes.

19 Q And then you also take Exhibit 3, you know, just a
20 facial --

21 A Identification shot.

22 Q Okay. State's Exhibit 4, what's depicted here?

23 A This was some bruising on the inner lip and her lower
24 lip.

25 Q State's Exhibit 5.

1 A This is showing her legs and some abrasions that were
2 on her knees and shins.

3 Q And then you always do a close-up, correct? So
4 Exhibit 6?

5 A Yes, is a closer view.

6 Q Closer view. And then Exhibit 7, even closer,
7 correct?

8 A Yes.

9 Q And then you also do the back as well, correct?

10 A Yes.

11 Q Exhibit 9. And then had you known anything about
12 what happened to her physically? I mean, had you heard that
13 she was tied up?

14 A I had heard that, yes.

15 Q So did you also take Exhibit 10, photographs of her
16 wrists?

17 A Yes.

18 Q And did you notice anything about her wrists?

19 A There may have been some redness on her wrists, and
20 she was complaining of some pain on her wrists and forearms.

21 Q Okay. And that's Exhibit 10, the front -- or sorry,
22 the -- with her palms up wrists?

23 A Yes.

24 Q Correct?

25 A Correct.

1 Q And you saw redness there, and then Exhibit 11, palms
2 down, correct?

3 A Yes.

4 Q And then finally Exhibit 8, like, really up close of
5 the abrasions on her legs, correct?

6 A Yeah. This is more on the shins.

7 Q After you photographed Arrie at the Smith's, did you
8 go to another location?

9 A Yes, I did.

10 Q What was that location?

11 A That was 900 North Jones.

12 Q When you went to 900 North Jones, did you again take
13 overalls of the location and then closer up shots of things
14 that you found?

15 A Yes.

16 Q Showing you what's been marked as State's Proposed,
17 and sorry also some in evidence, 12 through 21. Can you look
18 at these and tell us if they fairly and accurately depict what
19 you observed in the vicinity of 900 North Jones.

20 A I forgot the question. Yes, I took them.

21 Q Do those photographs fairly and accurately depict
22 what you observed in the vicinity of 900 North Jones?

23 A Yes, they do.

24 MS. LUZAICH: Thank you.

25 Move them into evidence.

1 THE COURT: Any objection?

2 MR. ERICSSON: No, Your Honor.

3 THE COURT: All right. Those will all be admitted.

4 (State's Exhibit Nos. 12-21 admitted.)

5 BY MS. LUZAICH:

6 Q And I'm sorry. I did forget to ask. What time was
7 it that you responded to the Smith's?

8 A Can I check my --

9 Q Did you prepare a report at or near the time of the
10 incident?

11 A Yes, I did.

12 Q Would it refresh your recollection to refer to your
13 report?

14 A Yes, it would.

15 Q Go right ahead.

16 A Okay. I arrived at the Smith's at about 1826 hours.

17 Q Which in people time is?

18 A Which is like 6:26 in the evening. And then I
19 arrived at the 900 North Jones location at 1844, which is like
20 6:44 in the evening.

21 Q Okay. So in March, by 6:44, it's starting to get
22 dark, correct?

23 A Yes.

24 Q So let's go over these just so that we can get a
25 bearing. State's Exhibit 12, what are we looking at here?

1 A This is the back side or the east side of 900 North
2 Jones.

3 Q And would you agree they're apartment buildings, kind
4 of duplexes?

5 A Yes.

6 Q And then they have balconies as well?

7 A Yes. And this is -- I think there's a -- this is an
8 alleyway down the east side of it.

9 Q That was my next question. So we're looking at three
10 vehicles. Would you agree?

11 A Yes.

12 Q So it's a vehicle. Then a building. Is the alley
13 behind the vehicles or on the other side of the building?

14 A I'm standing in the alley shooting it, looking
15 towards the --

16 Q Looking at the building. Okay.

17 A -- the backside of the building.

18 Q So the alley is that the bottom of the photograph?

19 A Yes.

20 Q Thank you. I never know how to quite phrase that.
21 So State's Exhibit 13, what are we looking at?

22 A This is looking north down that same alley because
23 the next scene that I'm going to be responding to is just down
24 the alley, and it's hard to see in this picture, but down
25 around there there's a dumpster, and I'm just taking a picture

1 from where I'm at down to that location.

2 Q Because you know what -- at the time you're doing
3 this, you know what's coming next, correct?

4 A Yes.

5 Q Okay. So as you stand in the alleyway, are you right
6 now in this photograph standing kind of in front of or next to
7 900?

8 A Yes. And I'm -- I'm trying to show the relationship
9 between where this location is and the next one that I
10 responded to.

11 Q And in this photograph, can you actually see 1108?

12 A I think you can, but I couldn't say. It's a little
13 dark, and I couldn't say for sure. I can't see an address from
14 here.

15 Q As you stood there that night, whether or not you can
16 physically see it in the picture, as you stood there that
17 night, could you see as far down as 1108? I mean, it's
18 unobstructed, correct?

19 A Yes.

20 Q A straight shot all the way from 900, past 1108,
21 1116, all that?

22 A Yes.

23 Q Okay. And then State's Exhibit 14.

24 A This is a location shot. I'm just showing that it's
25 900.

1 Q And you always do that just so that everybody knows
2 what these photos are, correct?

3 A Yes.

4 Q State's Exhibit 15.

5 A Now, this is a view showing -- I think this is
6 Apartment D. That's right here. So I'm looking towards
7 Apartment D in Building 900 at 900 North Drive -- 900 North
8 Jones.

9 Q Because there's an item that we're going to be
10 looking at in a second that was located at this location; is
11 that correct?

12 A Correct.

13 Q So just to be clear, exhibit --

14 A I'm sorry I keep doing that.

15 Q No. No. No problem. Exhibit, sorry, 16, that's the
16 front door. So you're correct. Exhibit -- or Apartment D,
17 correct?

18 A Yes.

19 Q Exhibit 17. Now, what is your understanding that you
20 are going to here to collect?

21 A I was told that there was a bed sheet and some tape
22 that was bunched up that was under a barbecue.

23 Q Okay. So is that the barbecue?

24 A Yes, that's the barbecue.

25 Q And underneath is what you're looking for, correct?

1 A Correct.

2 Q So 18 is the barbecue with the sheet slightly closer,
3 correct?

4 A Yes.

5 Q 19 is the real close of the sheet with the tape on
6 it?

7 A Correct.

8 Q And then 21, that's what it looked like, correct?

9 A Correct.

10 Q Did you collect that item?

11 A I collected both of those items.

12 Q Oh, yes. Sorry. So were they two separate things,
13 the -- did it look like a pillowcase to you?

14 A I think I described it as a fitted bed sheet.

15 Q Okay. And then the separate was the tape?

16 A The tape.

17 Q And when I say collect, what do you physically do
18 with it?

19 A I will collect it, put in a package, seal the package
20 and keep, you know, impound it as evidence.

21 Q Okay. So you collect each item, and do you do it
22 separately?

23 A Yes.

24 Q Put it in an envelope or something of that kind?

25 A Or a bag or whatever it fits in.

1 Q Uh-huh. And you put anything on the outside so that
2 everybody knows what it is?

3 A I'll put a label on it that has all the pertinent
4 information to that with the event number, and the last thing
5 we'll do is seal it with red tape. I'll initial it and put the
6 date to seal it so that -- so that in the future you can tell
7 if it's been tampered with or not.

8 Q Okay. And when you say an event number, what is an
9 event number?

10 A An event number is a number that is assigned to each
11 case that comes in on a particular day.

12 Q And how is an event number structured?

13 A Okay. In this particular event, the number is
14 150310, dash, 3372. What those numbers represent, the first
15 two is 1, 5, which is a year. The second two is 0, 3, which is
16 the month, and 10 is the day. So this would be March 10th of
17 2015. The numbers after the dash, the 3,372 represents the
18 number of -- that was the three thousand, seven hundred, and
19 second call that we responded to that day as a department.

20 Q And every time there is an event number, does every
21 incident or event that Metro responds to get its very own
22 number?

23 A Yes.

24 Q And then anything that might be collected or
25 generated as a result of that incident, will it get impounded

1 or somehow collected under that event number?

2 A Yes.

3 Q And that way in the future, like two years later,
4 everybody can find whatever they want pertaining to that event
5 number?

6 A Yes.

7 Q To that event I should say. So when you -- when you
8 collect evidence, you take it at the scene. Do you do anything
9 to ensure that it is no longer compromised?

10 A Well, in this case I would take and put it in my
11 vehicle. I'd put it in a package. It's not sealed at that
12 time or it doesn't have a label on it, but I'll put the event
13 number on it so it can't be confused with any other event
14 number and then put it in my vehicle.

15 Q And you want to keep it -- do you want to keep it
16 separate so that you know what it is, but nobody else can get
17 to it, touch it, change it or anything like that?

18 A Yes.

19 Q Once it's in your sole care, custody and control,
20 it's at least -- there's a word. Sorry -- it's in a safe
21 condition so that it can't be tampered with anymore?

22 A Correct.

23 Q So you collected that, and once you put it in a
24 envelope and later what will you ultimately do with it?

25 A Later I will put a label on it. Usually I'll put

1 some sort of marking on the item. Like I'll staple a piece of
2 paper to it that has my initials and P number on it, the date,
3 the event number and the item number on it. That will be
4 placed into -- like the sheet was probably placed into a paper
5 bag, which I will then staple closed, put a label on it that
6 has all the information relating to the call on it and stating
7 what's in that bag. Then I will seal it with a red seal,
8 initial and date that so they can tell if -- once it's out of
9 my custody, I could tell if anybody's gotten into the package
10 or if the package is in any different condition when I see it
11 again.

12 Q And then do you deposit it with the evidence vault?

13 A Yes.

14 Q And they collect it and keep it safe?

15 A Yes.

16 Q Okay. So is that the only piece of evidence that you
17 collected, or those two, in the 900 North Jones area?

18 A Yes.

19 Q Once you left 900 North Jones, where did you go?

20 A I then went to 1108 North Jones.

21 Q And when you went to 1108 North Jones, was there a
22 search warrant that allowed you to go inside to search?

23 A A little later, after I responded there there was.

24 Q And my other question was, prior to your entering the
25 apartment, was there items of evidence outside the apartment

1 that were located?

2 A There was a trash dumpster that was in the parking
3 lot sort of between Building 1108 and I think it was 1112. It
4 was out in the parking lot generally between those two
5 buildings.

6 Q Okay. And what was -- what was the significance of
7 the dumpster?

8 A Inside of the dumpster there was like a dark gray or
9 a black hose, and there was some black twine inside the
10 dumpster.

11 Q And did you collect that?

12 A Yes, I did.

13 Q What else was collected out there?

14 A There was a shoe that was in the parking lot that was
15 east of Building 112.

16 Q Okay. Now, you don't find of these items. You just
17 collect them, correct? Somebody else finds them?

18 A Sometimes I do, but in this --

19 Q These.

20 A Oh. Oh. Oh. I thought you meant -- okay. Yes, in
21 this case --

22 Q Okay. You didn't?

23 A -- I think somebody pointed them out to me.
24 Otherwise I wouldn't know what the significance was.

25 Q Okay. So showing you what's been marked as State's

1 Proposed Exhibits 22 through 31, and I'm sorry, there may be
2 some that are already in. Can you tell me, do these photos
3 fairly and accurately depict what was located outside of 1108
4 near the dumpster?

5 A Yes, they do.

6 MS. LUZAICH: Move them into evidence.

7 THE COURT: Any objection?

8 MR. ERICSSON: No, Your Honor.

9 THE COURT: Those will be admitted.

10 (State's Exhibit No. 22-31 admitted.)

11 MS. LUZAICH: Thank you.

12 BY MS. LUZAICH:

13 Q So you photographed the items that were found in the
14 dumpster and the shoe, correct?

15 A Correct.

16 Q And you also photographed the area to give us an idea
17 of where everything was found?

18 A Correct.

19 Q So State's Exhibit 22 -- well, actually here.
20 Actually, first, State's Exhibit 23, what are we looking at?

21 A I can't really see it in here, but there's a shoe in
22 this picture. I don't know. The lights -- it's so bright
23 right in this area, but there's a shoe in this picture right
24 about there. There's the trash dumpsters over there. This is
25 Building 112, and the building to the south of that is 1108.

1 Q Do you mean 1112?

2 A 1112. I'm sorry.

3 MS. LUZAICH: How do I get rid of that glare? Do you
4 know?

5 THE MARSHAL: No. Because the light's not on. So.

6 MS. LUZAICH: If I turn the light on, will that make
7 it worse or better?

8 THE MARSHAL: You can try.

9 THE COURT: It makes it worse.

10 THE WITNESS: Well, you can actually see the shoe
11 better -- a little bit better down here. Oh, now you moved it.

12 MS. LUZAICH: Let's turn it back off.

13 THE WITNESS: There you go.

14 BY MS. LUZAICH:

15 Q Okay. So there's a shoe by the dumpster; is that
16 correct?

17 A Yeah. The shoe is north of the dumpsters and east of
18 Building 1112.

19 Q Okay. So these two dumpsters, where are they located
20 in relation to these duplex buildings or whatever?

21 A East, in the parking lot east of and between 1108 and
22 1112.

23 Q Okay. And then is there something on the wall that
24 demonstrates the building that we're looking at?

25 A Yes. I think there's a power panel that has the

1 address on it.

2 Q Okay. Is that the power panel there?

3 A No. I think it's north of that or to the right of
4 that.

5 Q Okay. Showing you State's 22. Is that the power
6 panel up close?

7 A Yes.

8 Q And then maybe 24. Okay. Does that show the power
9 panel of the building?

10 A Yeah. There's the power panel with the building
11 number on it and the shoes here in the foreground.

12 Q Which you still can't see because of the glare but --
13 and then does that little blue speed bump thing say 1112?

14 A Yeah, it looks like it does.

15 Q And then State's Exhibit 25, is that the up close of
16 the shoe?

17 A Yes.

18 Q And that was found near that dumpster?

19 A Yes.

20 Q So just to show us where we are, State's Exhibit 26,
21 what are we looking at?

22 A Those are the dumpsters. The dumpster I keep
23 referring to in particular is the one on the left.

24 Q And those are the two dumpsters in relation to which
25 building is behind them?

1 A 1108 in this photo.

2 Q And the shoe would be where? Like you can't see it
3 in the photo, but it would be where?

4 A I'm probably standing pretty close to where it's at.

5 Q Okay.

6 A So.

7 Q State's Exhibit 27, what are we looking at?

8 A This is the Building 1108, and there's an apartment
9 that's below that.

10 Q Is that the apartment, the white door that you're
11 going to ultimately go into to search?

12 A Yes.

13 Q And what is this at the bottom right here?

14 A Excuse me. That's the edge of one of the
15 dumpsters --

16 Q Okay. And --

17 A -- so I'm kind of shooting over the dumpster, looking
18 towards that apartment to show the relationship between where
19 that dumpster is and where that apartment is.

20 Q Okay. So the dumpster is that close to the apartment
21 that you're about to search?

22 A It's -- I don't know if that's an accurate statement.
23 I mean, depending if I'm zoomed in, I can't say that that's
24 what the distance is, but that's the relationship.

25 Q It's right in front of it?

1 A It's pretty close to it, yes.

2 Q Take a couple steps away?

3 A Probably 20 or 30 feet I would guess.

4 Q Okay. And then finally 28.

5 A This is another photo showing the dumpster and the
6 relationship to the two buildings. So the building over here
7 to the right is 1112. The one to the left is 1108.

8 Q And then 29.

9 A This is looking inside the dumpster.

10 Q And what do we see inside the dumpster?

11 A There's a hose that's wound up --

12 Q Can you draw on it.

13 A This is a hose, and then over here is some black
14 twine.

15 Q Okay. And then did you -- 30, is that the up close
16 of the hose?

17 A Yes.

18 Q And 31, is that the up close of the twine?

19 A Yes.

20 Q And those are the items that were found in the
21 dumpster?

22 A Yes.

23 Q And you marked, tagged and placed into evidence as
24 well?

25 A Correct.

1 Q Once you were done doing that, what did you do?

2 A After some period of time, the detectives got a
3 search warrant, and we went into the apartment.

4 Q And when you went into the apartment, did you again
5 take photographs of the overall apartment and then certain
6 items of evidence?

7 A Yes, I did.

8 Q Showing you what's been marked as State's Proposed
9 and in evidence Exhibits 33 through 62. Can you tell me do
10 these photographs fairly and accurately depict Apartment 11 --
11 the apartment in 1108 that you searched and the items that you
12 found?

13 A Yes, these are those photos, and it does.

14 MS. LUZAICH: Move whatever's not in evidence into
15 evidence.

16 THE COURT: Any objection?

17 MR. ERICSSON: No, Your Honor.

18 THE COURT: All right. Those will all be admitted.

19 (State's Exhibit Nos. 33-62 admitted.)

20 MS. LUZAICH: Thank you.

21 BY MS. LUZAICH:

22 Q And I won't go through all of these I promise. You
23 take a photograph, 32, just to show you're in 1108, correct?

24 A Location, yes.

25 Q And 33, the front door, correct?

1 A Yes.

2 Q Now, what were you -- do you know what you were
3 looking for?

4 A Through information from the detectives, I was
5 looking for a shotgun, some tape. There was a belt, I believe,
6 a broom, and I think that's it.

7 Q Okay. Did you find a shotgun?

8 A Yes.

9 Q Did you find tape?

10 A Yes.

11 Q Did you find a broom?

12 A Yes.

13 Q Did you find a belt?

14 A Yes.

15 Q Where were those items located?

16 A Several of the items were in the kitchen, which
17 included the broom, a roll of clear tape and the belt, and the
18 shotgun was in a box in the hallway.

19 Q Okay. So overalls, 34, you took of the kitchen,
20 correct?

21 A Correct.

22 Q And 35, that's just the other angle from the kitchen?

23 A Yes.

24 Q And you said you were looking for a broom. Did you
25 take a picture of every broom just in case?

1 A Pretty much.

2 Q So in 35, there are two things with handles, correct?

3 A I see more than that.

4 Q Oh, three at least actually.

5 A I see maybe four.

6 Q Three or four or five. Okay. So 36, you took a
7 picture of one?

8 A Yes.

9 Q But that's not a wooden broom, correct?

10 A No.

11 Q 37, you took a picture of another one because that is
12 a wooden broom?

13 A Yes. And there's another broom with a metal handle
14 next to it.

15 Q And is -- okay. And is this, the big one with the
16 wooden handle, is that the only wooden handled broom that you
17 found?

18 A Yes.

19 Q And then 38, there's another handle, but that's a
20 mop; is that right?

21 A Yes.

22 Q And then you talked about tape. Exhibit 39, did you
23 find tape?

24 A Yes.

25 Q Where was the tape found?

1 A On the east counter, next to the stove.
2 Q And --
3 A Do you want me to circle it?
4 Q Describe the tape for me if you would.
5 A It's like clear packing tape.
6 Q And did you take a up close --
7 A Yes, I did.
8 Q -- Exhibit 40?
9 A Yes.
10 Q Okay. And that's the clear packaging tape that you
11 mentioned.
12 A Yes.
13 Q Now, next to it, and I know it's glare, but what's
14 next to it?
15 A There's some tissue or toilet paper or something
16 wadded up there.
17 Q Okay. Right next to the packaging tape, correct?
18 A Yes.
19 Q State's Exhibit 41 -- well, did you find a belt?
20 A Yes, I did.
21 Q Where did you find a belt?
22 A It was on the west counter south of the sink.
23 Q So State's Exhibit 41, is there a belt there?
24 A Yes.
25 Q Where is it?

1 A It's right here.

2 Q And then did you take a closer picture of it?

3 A Yes, I did.

4 Q State's Exhibit 42, is that the close-up of the belt?

5 A Yes.

6 Q And describe the belt for me as best you can.

7 A It's like a brown and black leather belt.

8 Q And is there a buckle on it somewhere?

9 A I believe there is.

10 Q And you said you found a shotgun in the hallway?

11 A Yes.

12 Q Is that the shotgun?

13 A Well, this is a box that the shotgun was in.

14 Q Okay. And sorry. That's Exhibit 43. And then is it

15 your practice that any time you find something you take a

16 photograph of it exactly as you find it before anybody touches

17 it?

18 A I try to do that, yes.

19 Q And is that what we're looking at right now?

20 A Yes.

21 Q And then after it's photographed exactly as you find

22 it, do you then begin to open it to see what's in it?

23 A Yes.

24 Q Because it's possible that it's empty, right?

25 A Yes.

1 Q But does it actually say shotgun on it?

2 A I think it does.

3 Q You know it, I know it -- I'm going to hand it to you
4 just because it's easier that way. Does it actually say
5 shotgun on it?

6 A Yes, it says, Pardner Pump Shotgun.

7 Q And then Exhibit 44, is that after you open it?

8 A Yes.

9 Q And then later on do you actually take a picture of
10 evidence with -- I don't know -- rulers or some such?

11 A Yeah, a scale.

12 Q What's the purpose for that?

13 A Just to show the size of it.

14 Q So State's Exhibit 60, did you do that?

15 A Yes. It appears to be a little cut off here. But
16 down here at the corner there's part of my scale.

17 Q Okay. And that's done just for size you said?

18 A Yes.

19 Q Did you also take overalls from the rest of the
20 location?

21 A Yes.

22 Q Did it appear to you that there were, in fact,
23 children living in the location?

24 A I believe so.

25 Q Showing you State's Exhibit 49, what are we looking

1 at here?

2 A This is the big screen TV with a lot of diapers piled
3 on top.

4 Q And when you say a lot of diapers?

5 A There's numerous boxes. I believe they're diapers,
6 but --

7 Q Like 10 or so?

8 A -- Huggies.

9 Q Is that correct? Like 10 or so boxes?

10 A It looks that way, yeah, 9 or 10.

11 Q Sorry. I'm just -- rather than go through every
12 single one. Do you also try to demonstrate who may live in a
13 certain location?

14 A Sometimes we do, yes.

15 Q And did you find something here to demonstrate who
16 lived in this location?

17 A Yes.

18 Q What did you locate?

19 A A prescription pill bottle.

20 Q Do you remember where that was?

21 A It was on the bed in the northwest bedroom.

22 Q Showing you State's Exhibit 55, is that the pill
23 bottle?

24 A Yes.

25 Q And then do you also take a close-up so that

1 everybody can read it because that print's really small?

2 A Yes.

3 Q State's Exhibit 56 --

4 A Yes.

5 Q -- is that the pill bottle?

6 A Yes.

7 Q And does it -- whose name is on it?

8 A Calvin Elam.

9 Q Did you find anything else?

10 A An ID card.

11 Q And where did you find that?

12 A That was on the east dresser in the northwest

13 bedroom.

14 Q Showing you State's Exhibit 57, is that the east

15 dresser?

16 A Yes.

17 Q And then 58 was a slightly up close, but 59, is that

18 a really up close?

19 A It's --

20 Q (Unintelligible.)

21 A Yeah, it's hard to see it, but.

22 Q 59, is that the really up close, and is it an ID?

23 A Yes, it's a Nevada ID card.

24 Q And whose ID is it?

25 A Calvin Thomas Elam -- Elam.

1 Q Now, while you were at all of these locations, are
2 you by yourself, or is anybody with you?

3 A No. There's detectives there, and I believe my
4 supervisor even came out.

5 Q And they're kind of directing you where to go, what
6 to do, that kind of thing?

7 A For the most part.

8 Q Well, because they know the investigation?

9 A Yeah, they have information that I may not
10 necessarily have. They know what they're looking for, what
11 we're looking for.

12 Q In addition to -- or after serving the search warrant
13 at 1108 North Jones, did you go to another location?

14 A Yes, we did.

15 Q Where was that?

16 A Can I refer to my report?

17 Q If it were to refresh your recollection.

18 A Yes. We went to 6300 West Lake Mead, Building 16,
19 Apartment 1011.

20 Q And when you went there, did you know what you were
21 looking for?

22 A Not necessarily.

23 Q Okay. When you went there, did you actually locate
24 and photograph a vehicle?

25 A Yes.

1 Q Can you describe that vehicle.

2 A That was a Nissan Sentra.

3 Q Showing you State's Exhibit 65, is that the vehicle
4 that you photographed at 6300 Lake Mead?

5 A Yes.

6 Q Were you also looking for a blue LA Dodgers hat --
7 okay. Maybe not Dodgers, but a blue LA hat?

8 A I'm not sure that I knew that we were looking for
9 that, but I did take a photo --

10 Q Did you locate one?

11 A -- of it. Yes.

12 Q Okay. Showing you what's been marked as State's
13 Proposed Exhibit 68, is that the hat that was found at that
14 location?

15 A Yes.

16 Q Do you remember where it was found?

17 A I'd have to -- I think it was on the north shelf in
18 the southeast bedroom actually.

19 Q So it was in a bedroom?

20 A Yes.

21 MS. LUZAICH: Move it into evidence.

22 THE COURT: Any objection?

23 MR. ERICSSON: No, Your Honor.

24 THE COURT: All right. That'll be admitted.

25 (State's Exhibit No. 68 admitted.)

1 BY MS. LUZAICH:

2 Q Is that the hat you found?

3 A Yes.

4 Q And while it might not look blue on the screen, was
5 it blue when I showed it to you?

6 A Yes.

7 Q Did you also locate a piece of documentation from
8 DMV?

9 A I believe we did.

10 Q Showing you what's been marked as State's Proposed
11 Exhibit 67.

12 A Yes.

13 Q And is that a paper showing an ID card was obtained?

14 A Yes.

15 Q And whose name is on it?

16 A Calvin Thomas Elam.

17 Q With what address?

18 A 1108 North Jones Boulevard, Apartment A.

19 Q And is that the apartment that you actually searched
20 earlier?

21 A Yes.

22 Q But you found this one in the 6300 Lake Mead?

23 A Correct.

24 MS. LUZAICH: Move it into evidence.

25 THE COURT: No objection?

1 MR. ERICSSON: No objection.

2 THE COURT: That's admitted.

3 (State's Exhibit No. 67 admitted.)

4 BY MS. LUZAICH:

5 Q Just so that everybody can see, is that what we're
6 talking about?

7 A Yes.

8 Q And then finally, did you collect some telephones,
9 cellular telephones?

10 A I did not collect them. I believe the detectives
11 collected them.

12 MS. LUZAICH: Oh, did he? Okay. Thank you then.
13 I would pass the witness.

14 THE COURT: All right. Cross.

15 MR. ERICSSON: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. ERICSSON:

18 Q Good afternoon, Mr. Grover.

19 A Good afternoon.

20 Q So when you went and took the photographs of
21 Ms. Webster, that was on -- I heard you say the time, but I
22 want to make sure of the date. Was that on March 10th --

23 A Yes.

24 Q -- 2015?

25 A Yes.

1 Q And we've seen the photographs. You took a number of
2 pictures of her body. Were you told specific areas from
3 detectives or from her as to where she was alleging injury?

4 A Yes.

5 Q And what were you told to be looking for?

6 A Well, I was told that she had an injury in her mouth,
7 that her hands were bound and that she might have injury to her
8 wrists, and her legs had abrasions on them.

9 Q Okay. But were you told that she was claiming that
10 she had been beaten with a belt over 25 times?

11 A I don't recall if I was told that.

12 Q Did you have any discussions with her when you were
13 taking the photographs of her?

14 A I believe I did, yes.

15 Q Did she indicate to you that she had been beaten with
16 a belt?

17 MS. LUZAICH: Objection. Hearsay.

18 MR. ERICSSON: It's not for the truthfulness. It's
19 whether or not --

20 MS. LUZAICH: Yeah, it is.

21 THE COURT: All right. Well --

22 BY MR. ERICSSON:

23 Q Just whether or not --

24 THE COURT: Counsel, approach.

25 (Conference at the bench not recorded.)

1 BY MR. ERICSSON:

2 Q Mr. Grover, in your work on this case, did you become
3 aware that the alleged victim was indicating that she'd been
4 beaten with a belt?

5 A I believe I was.

6 Q Did anybody ask you to take photographs attempting to
7 document any injury from the beating?

8 A No. And typically I will ask is there anything else,
9 do you have any other injuries. That's typically my routine.

10 Q Okay. During your -- or your work on this case, did
11 you become aware that there were allegations from the alleged
12 victim that she had been tased approximately six or seven
13 times?

14 A I do not recall that.

15 Q Do you recall being asked to try to take pictures
16 related to any tasing injury?

17 A No.

18 MR. ERICSSON: Thank you very much.

19 I have no further questions.

20 THE COURT: All right. Ms. Luzaich, any redirect?

21 MS. LUZAICH: No.

22 THE COURT: Any juror questions for the witness?

23 All right. I see no additional questions -- oh,
24 wait. We do have one.

25 I'll see counsel at the bench, please.

1 (Conference at the bench not recorded.)

2 THE COURT: All right. We have a question.

3 Did you dust for fingerprints?

4 THE WITNESS: No, I did not.

5 THE COURT: And why not?

6 THE WITNESS: This wasn't a question of -- my
7 understanding was there was no question as to who the players
8 in this scenario were. So wasn't trying to identify anybody in
9 this particular case.

10 THE COURT: All right. Ms. Luzaich, do you have any
11 follow-up?

12 FOLLOW-UP EXAMINATION

13 BY MS. LUZAICH:

14 Q Did you swab any items that you collected for DNA?

15 A Yes, I did.

16 Q What did you swab for DNA?

17 A I swabbed the end of the barrel of the shotgun, and I
18 swabbed the end of the broom handle.

19 Q Which broom handle?

20 A The -- the wood broom handle.

21 Q Okay. Just because there were several we talked
22 about.

23 A Right.

24 Q So the tall wood broom handle you swabbed for DNA?

25 A Yes.

1 Q And the shotgun barrel?

2 A The end of the barrel, yes.

3 Q Okay. So why did you only swab the broom handle?
4 Like, the end of it?

5 A The information that I had at the time is that the
6 victim may have been sexually assaulted with the broom, and --

7 Q So you were looking for her DNA?

8 A Yes.

9 Q Hope -- or at least you were hoping to be able to
10 obtain her DNA?

11 A Yes.

12 Q And why did you swab only the barrel end of the
13 shotgun?

14 A Because I also had information that the shotgun had
15 been placed in the victim's mouth. So that would confirm -- if
16 we could get her DNA on the end of the shotgun barrel, that
17 would confirm that.

18 Q Okay. So you were hoping to be able to ultimately
19 obtain her DNA there as well?

20 A Correct.

21 Q Now, when you say that you swabbed the end of the
22 barrel and the end of the broomstick, how do you go about doing
23 that?

24 A Well, we use a cotton-tipped swab that's sterile and
25 in a sterile package. We apply distilled water to the end of

1 the swab. We will then swab that area, which has a swab that
2 has a cap that goes on it. That's placed in an envelope, and
3 it's sealed just like all the rest of the evidence.

4 Q Okay. So you --

5 A And then that goes to the laboratory for them to --
6 to do.

7 Q And you take one Q-tip for the gun and a separate one
8 for the broom, correct?

9 A Correct.

10 Q Just so that everybody -- nobody's confused --

11 A Correct.

12 Q -- and you package them separately?

13 A Correct.

14 Q And you send them to the lab in separate packages?

15 A Correct.

16 Q And you seal it so that everybody knows that you sent
17 it there, and somebody will unseal it to test it if that's
18 going to happen?

19 A Correct.

20 MS. LUZAICH: Thank you.

21 THE COURT: Mr. Ericsson, any follow-up questions?

22 MR. ERICSSON: Yes, Your Honor.

23 FOLLOW-UP EXAMINATION

24 BY MR. ERICSSON:

25 Q Mr. Grover, were there other items that were also

1 tested for DNA in this investigation?

2 A No, just those two.

3 Q Do you know would there have possibly been other
4 crime scene analysts there who were obtaining material for DNA
5 testing?

6 A Not at -- not where I was at. I don't know if there
7 was follow-up at some other time, but as far as this scene
8 goes, it was just me. My supervisor was there as well, but he
9 was just there. He didn't do anything.

10 Q Okay. Do you know if later in the investigation
11 there was any attempted testing to try to identify DNA on the
12 materials that you took photographs of in the dumpster?

13 A I don't have any knowledge of that.

14 Q Okay. So as far as you understand, the only -- the
15 only items that you personally attempted to obtain DNA from
16 were the end of the broom handle and the shotgun?

17 A Correct.

18 MR. ERICSSON: Thank you. No further questions.

19 THE COURT: Ms. Luzaich, anything else?

20 MS. LUZAICH: No, nothing further.

21 THE COURT: Any additional juror questions for the
22 witness?

23 All right. Sir, I see no other questions. Thank you
24 for your testimony. Please don't discuss your testimony with
25 any other witnesses in this case, and you are excused.

1 And is the State ready to call its next witness?

2 MS. LUZAICH: I am, but can we just have two minutes
3 to set up? Because I'm going to play --

4 THE COURT: All right. Ladies and gentlemen, we're
5 just going to take a real quick recess, just under ten minutes.
6 Yes.

7 MR. ERICSSON: Actually, Your Honor, if we can
8 approach.

9 THE COURT: Sure.

10 MR. ERICSSON: It may be a little bit longer because
11 of one item.

12 (Conference at the bench not recorded.)

13 THE COURT: We'll just be at ease while we resolve
14 some scheduling issues.

15 (Pause in the proceedings.)

16 THE COURT: Approach.

17 (Conference at the bench not recorded.)

18 THE COURT: Ladies and gentlemen, we're going to go
19 ahead and take our evening recess. We will reconvene tomorrow
20 at 12:30. Because we're starting so late, we will not be
21 taking a lunch break tomorrow. So make sure you eat lunch or
22 bring a snack or do whatever you need to do because we -- you
23 know, we'll be taking short breaks like we do in the afternoon,
24 but we will not be taking a lunch break.

25 Before I excuse you for the evening recess, I must

1 remind you that you're not to discuss the case or anything
2 relating to the case with each other or with anyone else.
3 You're not to read, watch or listen to any reports of or
4 commentaries on the case, person or subject matter relating to
5 the case. Do not do any independent research by way of the
6 Internet or other medium. Please don't visit the location at
7 issue, and please don't form or express an opinion on the case.

8 Place your notepads in your chairs and follow the
9 bailiff through the double doors. We'll see you back tomorrow
10 at 12:30.

11 (Jury recessed for the evening 4:14 p.m.)

12 THE COURT: Why don't we take like a really quick
13 break, and then we'll do the Jackson-Denno hearing with the
14 detective.

15 MS. LUZAICH: Sure.

16 THE COURT: And then we can be done for the day.

17 (Proceedings recessed 4:13 p.m. to 4:24 p.m.)

18 (Outside the presence of the jury.)

19 THE COURT: Just face that lady right there.

20 **THEODORE WEIRACH**

21 [having been called as a witness and being first duly sworn,
22 testified as follows:]

23 THE CLERK: Thank you. Please have a seat. State
24 and spell your first and last names for the record.

25 THE WITNESS: First name is Theodore,

1 T-h-e-o-d-o-r-e. Last name Weirauch, W-e-i-r-a-u-c-h.

2 THE COURT: All right. Thank you.

3 Who wants to go first? Mr. Ericsson or Ms. Luzaich?

4 MS. LUZAICH: That's fine.

5 DIRECT EXAMINATION

6 BY MS. LUZAICH:

7 Q Can you describe -- are you a police officer with the
8 Las Vegas Metropolitan Police Department, currently employed in
9 the robbery detail?

10 A Yes, I am.

11 Q How long have you been with Metro?

12 A Almost 16 years.

13 Q How long have you been with robbery?

14 A Almost 9.

15 Q Were you working on March 10th of 2015, with
16 Detective Nelson on a kidnapping arising out of the 1108 North
17 Jones area?

18 A Yes, I was.

19 Q Was it your understanding that the suspect's name was
20 Calvin Elam?

21 A Yes.

22 Q Did you have occasion to interview an individual
23 known to you as Calvin Elam at headquarters?

24 A Yes, I did.

25 Q Do you see that person here in court today?

1 A Yes, I do.

2 Q Can you describe an article of clothing and where
3 he's sitting.

4 A He sitting right there, and it's a light blue shirt.

5 MS. LUZAICH: Record reflect --

6 BY MS. LUZAICH:

7 Q Without a jacket?

8 A Yeah, without a jacket. Light blue button-up shirt.

9 MS. LUZAICH: Record reflect the identification of
10 the defendant?

11 THE COURT: It will. Thank you.

12 BY MS. LUZAICH:

13 Q Where did you come into contact with the defendant?

14 A At Metro headquarters.

15 Q Specifically where at Metro headquarters?

16 A First floor, Building A in the interview rooms.

17 Q Was he already in an interview room when you got
18 there?

19 A Yes, he was.

20 Q Was he by himself in the interview room?

21 A Yes, he was.

22 Q Was he handcuffed?

23 A Yes.

24 Q And when he was handcuffed, was he chained to the
25 little thing there?

1 A Yeah, there's a little bar that's attached to a
2 table.

3 Q That was the word I was looking for -- the bar. Did
4 you read him his rights?

5 A Yes, I did.

6 Q When you read him his rights, did you do it from
7 memory or from a card?

8 A From a card.

9 Q You probably didn't bring the card today because we
10 were going to play the tape, right?

11 A I have a card on me, but I think it's a different
12 type of card now.

13 Q A different card. Did he indicate that he understood
14 his rights?

15 A Yes.

16 Q And did he then begin to talk to you?

17 A Yes.

18 MS. LUZAICH: Pass the witness.

19 THE COURT: Mr. Ericsson.

20 MR. ERICSSON: Thank you.

21 THE COURT: Was the card the standard-issue card that
22 was carried by Metro officers at that time?

23 THE WITNESS: Yes, it was.

24 THE COURT: Okay. And now they've given you another
25 different card. Is that what's happened?

1 THE WITNESS: Yes.

2 THE COURT: Okay.

3 CROSS-EXAMINATION

4 BY MR. ERICSSON:

5 Q And, Detective -- and you are a detective, correct?

6 A Yes, I am.

7 Q What is the difference with the card that you now
8 carry compared to the one you had back in March of 2015?

9 A I believe they added one more line for us to read off
10 of.

11 Q And can you pull out the card that you currently
12 carry.

13 A Yeah.

14 Q Do you have that there?

15 A Yes.

16 Q For the record, can you just read the card that you
17 currently carry.

18 A You have the right to remain silent. Anything you
19 say can be used against you in a court of law. You have the
20 right to consult with an attorney before questioning. You have
21 the right to the presence of an attorney during questioning.
22 If you cannot afford an attorney, one will be appointed to you
23 before questioning. Do you understand these rights.

24 Q Thank you. And what is the additional line to your
25 belief that has been added to the card now compared to the one

1 you carried in March of 2015?

2 MS. LUZAICH: Objection. Relevance.

3 THE COURT: Overruled.

4 THE WITNESS: It's -- I'm assuming it's all worded
5 the same. It's one of these two lines right here, the third or
6 fourth line.

7 MR. ERICSSON: And, Your Honor, may I approach and --

8 THE COURT: Sure.

9 THE WITNESS: I think it's -- I think it's this one
10 they added right here. You have the right to consult with an
11 attorney before questioning as opposed to before it might have
12 just been you have the right to the presence of an attorney
13 during questioning. I don't think they added that one.

14 BY MR. ERICSSON:

15 Q Okay. So to your knowledge, the new line on this
16 card is the line that reads --

17 A Go ahead. It's this third one right here I believe
18 is the one that they added is you have the right to consult
19 with an attorney before questioning.

20 THE COURT: I think that's right.

21 THE WITNESS: I think.

22 BY MR. ERICSSON:

23 Q Okay. So to your knowledge, you did not provide
24 Mr. Elam with that sentence when you gave him a Miranda warning
25 back in --

1 A No, I wouldn't have. I would've read it just
2 verbatim off the card of the day.

3 MR. ERICSSON: Thank you.

4 Your Honor, I've been doing a fair amount of
5 litigation in federal court on that issue. I would move to
6 prevent to the statement being introduced in this trial. I
7 think that that is a necessary warning for it to be an
8 effective Miranda warning, and since that was not given --

9 THE COURT: Ms. Luzaich.

10 MS. LUZAICH: The United States Supreme Court
11 disagrees with that. It was one bad ruling in federal court
12 that I believe may have either since been overruled or
13 something like that, but the United States Supreme Court
14 doesn't agree, and neither does the Nevada Supreme Court.

15 THE COURT: Anything else, Mr. Ericsson?

16 MR. ERICSSON: No. And this is -- obviously I'm
17 first time learning that he's got a different card. So, you
18 know, whatever your ruling is now I -- I may --

19 THE COURT: Well, yeah --

20 MR. ERICSSON: -- may supplement tomorrow.

21 THE COURT: -- it's denied. I mean, I think the
22 reason they have the new card is to address that issue to the
23 extent some judges may be granting those motions or what have
24 you. That doesn't mean that it was wrong before. I think they
25 just changed the cards because various opinions. So the

1 request is denied.

2 Do you have any more questions for the detective?

3 MR. ERICSSON: No, Your Honor.

4 THE COURT: Ms. Luzaich, any other questions for the
5 detective?

6 MS. LUZAICH: No, Judge.

7 THE COURT: All right. Detective, thank you. You
8 have to come back tomorrow at 12:30.

9 THE WITNESS: Yes, ma'am.

10 THE COURT: All right. Thank you.

11 Anything else for us today?

12 MS. LUZAICH: No.

13 THE COURT: Okay. Oh, I had something. Juror No. 8,
14 who --

15 MS. LUZAICH: Juror No. 8 also?

16 THE COURT: Again.

17 -- who doesn't write on a full sheet of paper --
18 says --

19 THE MARSHAL: I told her about that, Judge.

20 THE COURT: -- she has --

21 Okay. Well, you told her before. Now, she just
22 handed you this again.

23 THE MARSHAL: I think it was --

24 UNIDENTIFIED SPEAKER: No, it was 14 before.

25 THE MARSHAL: I think it was Juror No. 10 or 11 that

1 did that half sheet. So I warned him and said full sheet.

2 THE COURT: Okay. Well, Juror No. 8 had the last
3 questions.

4 THE MARSHAL: Oh.

5 THE COURT: And that was the partial sheet, right?
6 Or maybe it was a full sheet.

7 In any event, somebody, Juror No. 8, handed you again
8 or just now --

9 THE MARSHAL: She handed it to me as we were walking
10 out.

11 THE COURT: Right.

12 Okay. And I'm just going to read the questions.

13 Was there DNA or prints on hose and twine? House?
14 Arrie?

15 Do you know why the dumpster empty except for the
16 hose, twine and some items?

17 MS. LUZAICH: We had that question --

18 THE COURT: Which I didn't ask. So apparently she
19 didn't realize I wasn't asking the question --

20 MS. LUZAICH: So she asked it again?

21 THE COURT: -- she felt like I just didn't read it or
22 something. So in any event we'll just make that a Court's
23 Exhibit.

24 MS. LUZAICH: All right.

25 THE COURT: There's nobody to ask, even if I wanted

1 to.

2 MS. LUZAICH: Right. You can ask me. I would happy
3 to tell.

4 THE COURT: All right. See you guys tomorrow.

5 MR. ERICSSON: 12:30, Your Honor?

6 MS. LUZAICH: What time you going to -- are you
7 planning on starting Friday?

8 THE COURT: Well, that depends how much we have left.

9 MS. LUZAICH: But can I ask for not 9:00 o'clock?

10 THE COURT: Right. So like 10:00 or --

11 MS. LUZAICH: Okay. 10:00, 10:30.

12 THE COURT: Yeah, something like that. Probably
13 10:00. And then Monday we'll start at 9:00 because we'll have
14 closings and everything, and the sooner they go in the back to
15 deliberate, the sooner we can all leave. You know what I mean?

16 MS. LUZAICH: So you're not going to do that
17 evidentiary hearing Monday?

18 / / /

19 / / /

20 / / /

21 / / /

22 / / /

23 / / /

24 / / /

25 / / /

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

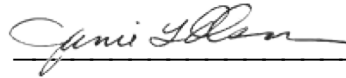
THE COURT: No.

MS. LUZAICH: Okay.

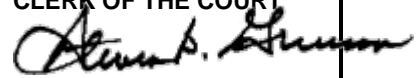
THE COURT: So we moved it. So we're going to --
(Proceedings recessed for the evening 4:33 p.m.)

-oOo-

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



Janie L. Olsen
Transcriber



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

CALVIN THOMAS ELAM,

Defendant.

CASE NO. C305949-1
DEPT NO. XXI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

THURSDAY, JUNE 22, 2017

JURY TRIAL - DAY 4

APPEARANCES:

FOR THE STATE:

ELISSA LUZAICH, ESQ.
Chief Deputy District Attorney

FOR THE DEFENSE:

THOMAS A. ERICSSON, ESQ.

RECORDED BY: PATTI SLATTERY, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

00724

W I T N E S S E S

WITNESSES FOR THE STATE:

THEODORE WEIRAUCH

Direct Examination by Ms. Luzaich	5
Cross-Examination by Mr. Ericsson	14

CARL TAYLOR

Direct Examination by Ms. Luzaich	18
Cross-Examination by Mr. Ericsson	30
Follow-Up Examination by Mr. Ericsson	36

HEATHER GOULDTHORPE

Direct Examination by Ms. Luzaich	37
Cross Examination by Mr. Ericsson	52

CASSANDRA ROBERTSON

Direct Examination by Ms. Luzaich	54
Cross Examination by Mr. Ericsson	84

E X H I B I T S

STATE'S EXHIBITS ADMITTED:

71	DVD - police interview with defendant	11
72	DNA report, Item No. 8	65
73	DNA report, Item No. 3	81

1 LAS VEGAS, CLARK COUNTY, NEVADA, JUNE 22, 2017, 12:42 P.M.

2 * * * * *

3 (Outside the presence of the jury.)

4 THE COURT: Are we ready?

5 MS. LUZAICH: Yes.

6 MR. ERICSSON: Yes, Your Honor.

7 THE COURT: All right. We need a minute for the
8 defendant to put his tie on.

9 And then refresh my memory, Ms. Luzaich, who are
10 we -- who's up next?

11 MS. LUZAICH: Detective Weirauch, the statement.

12 THE COURT: Oh, okay.

13 MS. LUZAICH: And just because, you know, everything
14 that can go wrong does, I spoke to Officer Kroening, who is the
15 first responding officer and was going to testify this
16 afternoon. He has pneumonia.

17 THE COURT: Oh.

18 MS. LUZAICH: So Monday is getting bigger and bigger.
19 He thinks he'll be better by Monday.

20 THE COURT: Okay. We'll start at 9:00 Monday. And
21 he was today?

22 MS. LUZAICH: Yep.

23 THE COURT: So he won't be tomorrow then.

24 MS. LUZAICH: No.

25 THE COURT: Did he go to the doctor? What did he do

1 today?

2 MS. LUZAICH: Yeah. Yeah. Well, not today. He's
3 been sick since Friday.

4 THE COURT: Oh.

5 MS. LUZAICH: On vacation.

6 THE COURT: Kenny, bring them in.

7 (Jury entering 12:44 p.m.)

8 THE COURT: All right. Court is now back in session.
9 The record should reflect the presence of the State, the
10 defendant and his counsel, the officers of the court, and the
11 ladies and gentlemen of the jury.

12 And is the State ready to call its next witness?

13 MS. LUZAICH: Yes. The State calls Detective
14 Weirauch.

15 **THEODORE WEIRAUCH**

16 [having been called as a witness and being first duly sworn,
17 testified as follows:]

18 THE CLERK: Thank you. Please have a seat. State
19 and spell both your first and last names for the record.

20 THE WITNESS: My first name is Theodore,
21 T-h-e-o-d-o-r-e. My last name is Weirauch, W-e-i-r-a-u-c-h.

22 THE COURT: All right. Thank you.

23 Ms. Luzaich.

24 MS. LUZAICH: Thank you.

25 / / /

DIRECT EXAMINATION

BY MS. LUZAICH:

Q Good afternoon, sir. How are you employed?

A With the Las Vegas Metropolitan Police Department.

Q In what capacity?

A As a robbery detective.

Q How long have you been with Metro?

A Almost 16 years.

Q How long have you been with robbery?

A Almost 8.

Q Now, when you started with Metro 16 years ago, did you work in the patrol division?

A Yes, I did.

Q And would that have been responding to calls for service, things of that nature?

A Yes.

Q Once you became a robbery detective, what did that entail?

A Follow-up investigations of robberies, kidnaps, extortions.

Q And do you work on a squad?

A Yes, I do.

Q Specifically back in March of 2015, did you work on a squad at that time as well?

A Yes.

1 Q Did the squad that you worked on in March of 2015
2 include Detective Nelson and Detective Cardenas?

3 A Yes, it did.

4 Q Were there other detectives as well?

5 A Yes.

6 Q But those are the two we've heard about thus far.

7 A Yes.

8 Q Detective Cardenas explained to us a little bit
9 yesterday about how each case will have kind of a lead
10 detective, and that lead detective will ask the other
11 detectives on the squad to maybe do things to help. Would you
12 agree with that?

13 A Yes.

14 Q On March 10th of 2015, did you participate in the
15 investigation into a kidnapping involving a lady named Arrie
16 Webster?

17 A Yes, I did.

18 Q And was Detective Nelson the lead detective in that
19 case?

20 A Yes, he was.

21 Q Do you know around what time it was that you got
22 involved in the investigation?

23 A Probably about 6:00 at night or so.

24 Q And were you asked to talk to a couple of witnesses?

25 A Yes.

1 Q Did you also speak with the person that was the
2 suspect?

3 A Yes.

4 Q Did the person that was the suspect have a name that
5 was given to you?

6 A Yes, he did.

7 Q What was the name?

8 A Calvin Elam.

9 Q And did you participate in the arrest of Calvin Elam?

10 A The entire squad kind of participates in helping with
11 the investigation. Do you mean like the completion of the
12 arrest report, or what do you mean?

13 Q No, the physical going, finding him and picking him
14 up.

15 A Oh, the taking him into custody, no.

16 Q Okay. That was not you, correct?

17 A That was not me.

18 Q Where did you come into contact with him?

19 A At the headquarters, Martin Luther King and Alta.

20 Q So somebody else had found him, arrested him and
21 brought him to the headquarters; is that correct?

22 A Yes.

23 Q Okay. And do you know around what time it was that
24 you came into contact with him at the headquarters?

25 A Late at night. I'm not exactly sure of the exact

1 time.

2 Q Okay. When you came into contact with him,
3 specifically where at headquarters was he?

4 A In the interview rooms in Building A.

5 Q And that's the campus that's right down here, MLK
6 and, like, Alta, correct?

7 A Yes, right across the street from Walker Furniture.

8 Q Are there several buildings?

9 A There's three.

10 Q So you say Building A. What is the significance, if
11 any, of Building A?

12 A It's the only one with an interview room in it.

13 Q Okay. That's significant. Describe for me what is
14 an interview room?

15 A I guess it could be anything, but our interview room
16 has -- is equipped to record audio and video. It's -- there's
17 about 12 of them in a row. You can -- it has a table in the
18 middle. On that table there's a couple bars to where you can
19 handcuff the suspects or the people you're interviewing to the
20 bar so they don't, you know, escape. It's just like what you
21 see on TV, just an interview room.

22 Q Okay. But table, chairs, and literally that's it
23 because you just want to be able to talk to somebody without
24 distraction. Would you agree with that?

25 A Yes.

1 Q When you came into contact with the defendant, was he
2 already -- or I'm sorry. Do you see the person here in court
3 today?

4 A Yes, I do.

5 Q Can you describe where he's sitting and an article of
6 clothing that he's wearing.

7 A He sitting right here on the left, and it's a gray
8 button-up shirt and a gray tie.

9 MS. LUZAICH: Record reflect identification of the
10 defendant?

11 THE COURT: It will.

12 MS. LUZAICH: Thank you.

13 BY MS. LUZAICH:

14 Q When you came into contact with the defendant, was he
15 already in the interview room?

16 A Yes, he was.

17 Q Was he handcuffed?

18 A Yes, he was.

19 Q And did you go in and kind of introduce yourself to
20 him?

21 A Yes.

22 Q You mentioned that it's recorded. Is there an audio
23 recording of pretty much everything that happened in the
24 interview room?

25 A Yes, there is.

1 Q And does that audio ultimately get transcribed?

2 A Yes, it does.

3 Q Is it the lead detective's job to get that
4 accomplished?

5 A Yes.

6 Q And once it's transcribed, is it then provided to the
7 State? To the prosecutor?

8 A Yes, it is.

9 Q And have you reviewed the transcript to determine
10 that it was accurate?

11 A Yes, I did.

12 MS. LUZAICH: I would move the audio of the interview
13 into evidence.

14 THE COURT: No objection?

15 MR. ERICSSON: Your Honor, may we approach?

16 THE COURT: Sure.

17 (Conference at the bench not recorded.)

18 THE COURT: No objection, Mr. Ericsson?

19 MR. ERICSSON: No, Your Honor.

20 THE COURT: All right. That'll be admitted.

21 MS. LUZAICH: And permission to play it.

22 THE COURT: Oh, and I'm sorry. What number was that?

23 MS. LUZAICH: Well, it hasn't been marked yet. So
24 next in order.

25 THE CLERK: Okay.

1 MS. LUZAICH: And what number is it?

2 THE CLERK: That will be 71.

3 THE COURT: All right. So Proposed 71 is admitted.

4 MS. LUZAICH: Thank you.

5 (State's Exhibit No. 71 admitted.)

6 MS. LUZAICH: And permission to play it?

7 THE COURT: You may.

8 MS. LUZAICH: And just for the record, while the jury
9 is going to hear the audio, the transcript is going to be
10 visual -- on the screen, and you can read it.

11 (Publishing State's Exhibit No. 71.)

12 BY MS. LUZAICH:

13 Q That was the interview between yourself and the
14 defendant; is that correct?

15 A That's correct.

16 Q Now, when you --

17 MS. LUZAICH: Would you take that off the screen.

18 BY MS. LUZAICH:

19 Q As a detective, do you go to schools, take classes on
20 interviewing techniques, things like that?

21 A Yes.

22 Q And when you do interviews with different
23 individuals, do you utilize those techniques?

24 A Yes.

25 Q Are there different kinds of techniques that you

1 would use, for example, on a victim as opposed to a defendant?

2 A Yes.

3 Q Or even a victim as opposed to a witness?

4 A Yes.

5 Q And were you using techniques when you were
6 interviewing the defendant?

7 A Yeah. I mean --

8 Q Sort of --

9 A I mean, I just try to have a conversation. I guess
10 anything would be a technique. Yeah.

11 Q Okay. So, for example, when you were talking about,
12 oh, the State of Nevada knows that Arrie is a thief or arrested
13 her or something, that was not true, correct? It was just
14 something --

15 A I didn't know if it was true or not.

16 Q -- that you were -- sorry?

17 A I didn't know if it was true or not.

18 Q Right. It was just something that you were using to
19 facilitate a conversation?

20 A Yes.

21 Q When you were talking about arresting Jessica, you
22 did not arrest Jessica, correct?

23 A I didn't.

24 Q It was something you were using to facilitate the
25 conversation?

1 A Yes.

2 Q Are there a lot of things that you were saying that
3 the DNA, and things like that that you're just using to
4 facilitate the conversation?

5 A Yes.

6 Q It's not all truthful. It's just things to help move
7 the conversational along?

8 A Yes.

9 MS. LUZAICH: Thank you. I pass the witness.

10 THE COURT: All right. Mr. Ericsson.

11 MS. LUZAICH: Oh, I'm sorry. No. One more. Sorry.

12 BY MS. LUZAICH:

13 Q We said earlier that there was a transcript generated
14 of the interview, correct?

15 A Yes.

16 Q And on the transcript would it indicate what time the
17 interview took place?

18 A Yes, it would.

19 Q Would it refresh your recollection to look at the
20 transcript to know what time it would've taken place?

21 A Yes.

22 Q Is this a copy of the transcript between yourself and
23 the defendant?

24 A Yes, it is.

25 Q And what time did the interview take place?

1 A At 2300 hours on 3/10 of 2015.

2 Q And 2300 hours in people time is?

3 A 11:00 p.m.

4 MS. LUZAICH: Thank you.

5 THE WITNESS: Thank you.

6 MS. LUZAICH: Now, I would pass the witness.

7 THE COURT: Mr. Ericsson.

8 CROSS-EXAMINATION

9 BY MR. ERICSSON:

10 Q Detective, I just have a few questions. What items,
11 if any, did you request to have DNA testing done on?

12 A None.

13 Q Were you involved at all in the decision-making on
14 what to have tested from this investigation?

15 A No.

16 MR. ERICSSON: Thank you. I have no further
17 questions.

18 THE COURT: Any redirect?

19 MS. LUZAICH: No.

20 THE COURT: Any questions from the jury?

21 All right. I see no questions.

22 Detective, thank you for your testimony. Please
23 don't discuss your testimony with any other witnesses, and you
24 are excused at this time.

25 THE WITNESS: Thank you.

1 THE COURT: Ladies and gentlemen, we're going to go
2 ahead and take a quick recess, just about 10 minutes.

3 During the brief recess you are reminded that you're
4 not to discuss the case or anything relating to the case with
5 each other or with anyone else. You're not to read, watch or
6 listen to any reports of or commentaries on the case, person or
7 subject matter relating to the case. Don't do any independent
8 research by way of the Internet or other medium. Please don't
9 visit -- I'm sorry. Please don't form or express an opinion
10 on the trial.

11 Please place your notepads in your chairs and follow
12 the bailiff through the double doors.

13 (Jury recessed 1:51 p.m.)

14 THE COURT: Scheduling?

15 MS. LUZAICH: Yes.

16 THE COURT: What's next?

17 MS. LUZAICH: Oh, Carl Taylor is next, and then
18 prints and DNA.

19 THE COURT: Okay. Who's Carl Taylor?

20 MS. LUZAICH: A witness from the apartment.

21 THE COURT: Okay.

22 (Proceedings recessed 1:52 p.m. to 2:03 p.m.)

23 (Outside the presence of the jury.)

24 THE COURT: Isn't it better to start at 10:00 and be
25 done at 12:00 in case it goes long. That way --

1 MS. LUZAICH: The --
2 THE COURT: Is there a problem starting at 10:00?
3 MS. LUZAICH: No, just the officer is flaky. He's
4 the one who -- the sergeant who shows up here at noon on the
5 first day, hands Kenny his subpoena, like, I'm here. Really?
6 A sergeant.
7 THE COURT: Wow.
8 MS. LUZAICH: Yeah.
9 THE COURT: Maybe he hasn't done much in justice
10 court.
11 MS. LUZAICH: I expect he hasn't done much in court
12 anywhere.
13 THE COURT: Right. Well --
14 MS. LUZAICH: So I just want a little bit of time to
15 talk to him.
16 THE COURT: Okay. I mean --
17 MS. LUZAICH: 10:00's fine. No, 10:00's fine.
18 THE COURT: -- fine starting at 10:30, but I don't
19 want to be sitting here at 1:30. You know what I'm saying --
20 MS. LUZAICH: Right. No. 10:00 is --
21 THE COURT: -- like everybody is starving to death if
22 things --
23 MS. LUZAICH: Yeah. 10:00 is fine.
24 THE COURT: -- if things go long.
25 MS. LUZAICH: 10:00 is good.

1 THE COURT: Because that way, you know, we'll just
2 break. I'll tell them we're done for the day. You don't have
3 to hang around for lunch, and --

4 MS. LUZAICH: Okay.

5 THE COURT: That's just my thinking. You know what I
6 mean.

7 MS. LUZAICH: Yeah. I said that --

8 THE COURT: It just seems like things always go long,
9 and then we're all, like, starving.

10 MS. LUZAICH: No. I agree. I agree. I sent the
11 instructions to my secretary. So hopefully she's formatting
12 them.

13 THE COURT: Okay.

14 MS. LUZAICH: And as soon as they get formatted, I'll
15 forward them to Krystal and to Tom.

16 THE COURT: All right. Bring them in.

17 (Colloquy off the record.)

18 (Jury entering 2:05 p.m.)

19 THE COURT: All right. Court is now back in session,
20 and the State may call its next witness.

21 MS. LUZAICH: The State calls Carl Taylor.

22 THE COURT: And then just face that lady right there,
23 please, and she'll administer the oath to you.

24 THE CLERK: Raise your right hand.

25 **CARL TAYLOR**

1 [having been called as a witness and being first duly sworn,
2 testified as follows:]

3 THE CLERK: Thank you. Please have a seat. State
4 and spell both your first and last name for the record.

5 THE WITNESS: Carl Taylor. C-a-r, last -- I mean,
6 C-a-r-l is the first name. The last name is T-a-y-l-o-r.

7 THE COURT: All right. Thank you.

8 Ms. Luzaich.

9 MS. LUZAICH: Thank you.

10 DIRECT EXAMINATION

11 BY MS. LUZAICH:

12 Q Good afternoon. May I call you Carl?

13 A Yes.

14 Q Thank you. Carl, are you nervous?

15 A Yes.

16 Q Okay. If you don't understand anything I say, please
17 tell me, and if you need to take a second, tell me that, too.

18 Okay?

19 A Yes.

20 Q I'm going to take you, if I could, right back to
21 March of 2015. Back then did you live on North Jones?

22 A Yes.

23 Q Where on North Jones did you live?

24 A North Jones.

25 Q What -- do you know the number?

1 A My address?
2 Q Yes.
3 A 1204.
4 Q Okay. And?
5 A 1204 North Jones, Apartment A.
6 Q Apartment A.
7 A Uh-huh.
8 Q So was that one of those fourplex buildings?
9 A Yes.
10 Q And did you -- do you know a lady named Annie?
11 A Yes.
12 Q Does Annie live with a lady named Pamela?
13 A Yes.
14 Q Just so that we know that we're talking about the
15 same people.
16 A Yes.
17 Q And did your Building 1200, was that near Annie's
18 building?
19 A Yes.
20 Q Does Annie live in 1116?
21 A Yes.
22 Q So about how many buildings away from Annie was your
23 building?
24 A We was like across -- our buildings was across from
25 each other.

1 Q Close to each other?
2 A Yes.
3 Q Okay. And was there an alley behind the building?
4 A Yes.
5 Q Could you walk down the alley from your building to
6 Annie's?
7 A Yes.
8 Q Okay. Do you know somebody named Calvin?
9 A Yes.
10 Q Did that person named Calvin live in that same area
11 as well?
12 A Yes.
13 Q In one of those buildings?
14 A Yes.
15 Q Do you see that person here in court today?
16 A Yes.
17 Q Can you point to him and describe something that he's
18 wearing.
19 A A gray shirt.
20 Q No jacket?
21 A Or it looked like a shirt to me.
22 Q Without a jacket?
23 A Actually I'm not getting what you're saying.
24 Q There are two men sitting at that table. Is he the
25 man that's not wearing a jacket?

1 A Yes.

2 MS. LUZAICH: Okay. Record reflect the
3 identification of the defendant?

4 THE COURT: It will.

5 MS. LUZAICH: Thank you.

6 BY MS. LUZAICH:

7 Q Did you know the defendant from living in the area?

8 A Yes.

9 Q Had you seen him a bunch of times in the area?

10 A Yes.

11 Q Did you know any of the people that he lived with?

12 A No.

13 Q When I say did you know, did you see people that he
14 lived with?

15 A Yes.

16 Q Can you describe the people that he lived with. And
17 this is in March of 2015.

18 A Yes. The people he was living with was a lady, a
19 young lady. She was, like, short, like, little. She wasn't
20 fat or skinny, but she was in between, and she was, like, brown
21 skin -- brown skinned, yeah.

22 Q Was she young?

23 A Yeah, I guess.

24 Q How old are you?

25 A How old am I? 33.

1 Q Was she a bit younger than you?
2 A Yes.
3 Q Okay. And when I said young, I didn't mean like 10
4 or 11. Did she have a child?
5 A Yes.
6 Q Okay. Did she have a baby?
7 A Yes.
8 Q Okay. Did the defendant also have kids living in his
9 apartment?
10 A Yes.
11 Q And would you see them periodically?
12 A Yes.
13 Q Okay. Are you and Annie friends?
14 A Yes.
15 Q Are you good friends?
16 A Yes.
17 Q Would you visit with Annie at her place?
18 A Yes.
19 Q And would Annie visit with you at your place?
20 A Yes.
21 Q Did you also know a girl named Arrie?
22 A Yes.
23 Q Did you know her well?
24 A Throughout the neighborhood, yes.
25 Q So would Arrie come to your house?

1 A No.

2 Q Would you go to Arrie's house?

3 A No.

4 Q Okay. But you knew her from the neighborhood?

5 A Yes.

6 Q All right. I'm going to take you to March 10th of
7 2015. Something happened that causes us to be here, right?

8 A Yes.

9 Q Can you tell me what you saw yourself that day.

10 A Well, what I saw is when me and Annie was talking I
11 seen Arrie. She was actually hopping, and jumping, trying to
12 get away and rolling, and she was just hopping and rolling, and
13 when she got to us, that's when Annie took over to help her.

14 Q Did you see where she was hopping and rolling from?

15 A Yes.

16 Q Where was she hopping and rolling from?

17 A From the apartment, his apartment, Calvin.

18 Q Okay. You saw her come from Calvin's apartment?

19 A Yes.

20 Q And when she was hopping and rolling and came to you,
21 tell me, how did she look?

22 A She was all tied up, and her clothing was down, but
23 she was tied up.

24 Q Okay. When you say she was tied up, were her hands
25 tied?

1 A Yeah. Her hands, her ankles. Yes.

2 Q And you said her clothes were down. What do you
3 mean?

4 A Her -- her shorts were down. Yes.

5 Q Down where?

6 A To her ankles.

7 Q Okay. And what about her head or her face?

8 A It was -- she -- it was actually her mouth was
9 wrapped up with tape with pads stuffed in her mouth.

10 Q Okay. Was there something else on her head or
11 around --

12 A A pillowcase.

13 Q And you said Annie took over.

14 A Yes.

15 Q What did Annie do?

16 A She actually was cutting the stuff, the wires and the
17 plastic off of her.

18 Q Okay.

19 A To free her.

20 Q Now, before you saw Arrie come out of the defendant's
21 apartment, did you see anybody go into his apartment?

22 A Yes.

23 Q Who -- and when I say who, I don't necessarily mean a
24 name, but can you describe whoever you saw go into his
25 apartment.

1 A A black guy was, say, 5-11, 6-foot, say about 250,
2 dark skin.

3 Q How would you describe the defendant? Tall or short?

4 A Tall.

5 Q The guy that you're describing, was he the same size
6 as the defendant?

7 A No.

8 Q Same height?

9 A Shorter.

10 Q Shorter.

11 A Uh-huh.

12 Q Okay. And would you describe the defendant as dark
13 skinned or light skinned?

14 A Light skinned.

15 Q And the guy that you're describing, was he like
16 lighter or darker, different --

17 A He was darker.

18 Q Okay. And darker and heavier?

19 A Yes.

20 Q And shorter?

21 A Yes.

22 Q And before you saw Arrie come out of the apartment,
23 did you see anybody else come out of the apartment?

24 A Could you ask that again.

25 Q Yes. You described how you saw Arrie come out and be

1 rolling and hopping.

2 A Yes.

3 Q Before you saw that that day, did you see anybody
4 else come out of the apartment?

5 A No.

6 Q Even a while before?

7 A Before she came out?

8 Q Yes.

9 A Yes, I seen people come out. Yes.

10 Q Okay. A while before?

11 A Yes.

12 Q Can you describe for me who you saw come out --

13 A It was --

14 Q -- a while before?

15 A Three -- three ladies came out and the man.

16 Q Okay. So you saw the man go in, and then you later
17 saw him come out?

18 A Uh-huh. Yes.

19 Q Had you ever seen that man before?

20 A Yes.

21 Q In the neighborhood?

22 A Yes.

23 Q Had you seen him with anybody?

24 A Not that I know of.

25 Q Had you seen him with the defendant?

1 A Yes.

2 Q Okay. And those ladies that you described, had you
3 ever seen them before?

4 A No. No.

5 Q When -- did you see the defendant come out of the
6 apartment before Arrie came --

7 A Yes.

8 Q -- hopping and rolling?

9 A Yes.

10 Q Did he come out before those people, at the same
11 time, after, what?

12 A No. He actually came out after them.

13 Q Okay. When those other people came out, did you see
14 what if anything they did?

15 A No.

16 Q I mean, did they leave?

17 A Yeah, they left.

18 Q Okay.

19 A Yes.

20 Q Did you see what they left in? Did they walk? Did
21 they drive?

22 A A car. It was a car. I don't know which car it was,
23 but it was burgundy with dark tinted windows.

24 Q Okay. And what about the defendant? Did he stay?
25 Did he go?