

1                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2  
3                   **No. 85782**

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Elizabeth A. Brown  
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4                   **JUSTIN D. PORTER**

5  
6                   Appellant,

7                   v.

8                   **THE STATE OF NEVADA**

9                   Respondent.

10  
11                   Appeal from a Judgment of Conviction  
12                   Eighth Judicial District Court, Clark County  
13                   The Honorable Jacqueline Bluth, District Court Judge  
14                   District Court Case No. 01C174954

15                   **APPELLANT’S APPENDIX**  
16                   **VOLUME VI**

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## **INDEX**

<b><u>Vol</u></b>	<b><u>Document</u></b>	<b><u>Page</u></b>
<b>I</b>	Amended Information, filed May 2, 2001	AA 0018
<b>II</b>	Decision and Order, filed November 18, 2019	AA 0337
<b>XI</b>	Defendant's Sentencing Memorandum, filed November 2, 2022	AA 2489
<b>VII</b>	Ex Parte Application for Order Requiring Material Witness to Post Bail, filed September 12, 2022	AA 1617
<b>XI</b>	Fifth Amended Information, filed December 27, 2022	AA 2533
<b>I</b>	Findings of Fact, Conclusions of Law and Order, filed February 14, 2014	AA 0153
<b>I</b>	Findings of Fact, Conclusions of Law and Order, filed June 11, 2012	AA 0146
<b>I</b>	Findings of Fact, Conclusions of Law and Order, filed March 14, 2016	AA 0171
<b>II</b>	Findings of Fact, Conclusions of Law, and Order, filed May 28, 2020	AA 0343
<b>II</b>	Findings of Fact, Conclusions of Law, and Order, filed July 13, 2022	AA 0379
<b>IV</b>	Fourth Amended Information, filed September 6, 2022	AA 0753
<b>I</b>	Information, filed April 26, 2001	AA 0001
<b>XI</b>	Judgment of Conviction, filed February 15, 2023	AA 2546
<b>I</b>	Judgment of Conviction, filed October 13, 2009	AA 0136
<b>I</b>	Motion to Sever Counts XXX, XXXI, XXXII Charging Murder and Related Crimes Against Gyaltsso Lungtok, filed May 15, 2008	AA 0107
<b>XI</b>	Notice of Appeal, filed February 16, 2023	AA 2558

<b>I</b>	Notice of Appeal, filed October 29, 2009	AA 0138
<b>I</b>	Notice of Entry of Findings of Fact, Conclusions of Law and Order, filed February 24, 2014	AA 0161
<b>I</b>	Notice of Entry of Findings of Fact, Conclusions of Law and Order, filed March 22, 2016	AA 0178
<b>II</b>	Notice of Entry of Findings of Fact, Conclusions of Law and Order, filed June 4, 2020	AA 0359
<b>II</b>	Notice of Entry of Findings of Fact, Conclusions of Law and Order, filed July 19, 2022	AA 0389
<b>I</b>	Order Denying Defendant's Motion to Dismiss Notice of Intent to Seek Death Penalty for Violation of International Treaty and Customary Law, filed January 2, 2003	AA 0046
<b>I</b>	Order Denying Defendant's Motion to Remand to Juvenile Court, filed November 6, 2008	AA 0123
<b>XI</b>	Order Directing Entry and Transmission of Written Judgment of Conviction, filed January 24, 2023	AA 2544
<b>I</b>	Order for Petition for Writ of Habeas Corpus, filed February 14, 2012	AA 0145
<b>I</b>	Order for Petition for Writ of Habeas Corpus, filed November 4, 2015	AA 0170
<b>I</b>	Order for Petition for Writ of Habeas Corpus, filed September 10, 2013	AA 0152
<b>I</b>	Order Granting Defendant's Motion to Sever Counts XXX, XXXI, XXXII Charging Murder and Related Crimes Against Gyaltso Lungtok, filed July 3, 2008	AA 0121
<b>VII</b>	Order Requiring Material Witness to Post Bail or Be Committed to Custody, filed September 12, 2022	AA 1625
<b>II</b>	Pro Per Motion for Dismiss of Information, filed November 15, 2019	AA 0319

<b>I</b>	Pro Per Motion to Dismiss and Substitute Counsel and Motion to Dismiss, filed May 31, 2017	AA 0186
<b>XI</b>	Pro Per Notice of Appeal, filed December 1, 2022	AA 2531
<b>II</b>	Pro Per Petition for Writ of Habeas Corpus, filed August 12, 2019	AA 0255
<b>I</b>	Recorder's Transcript of Hearing Severe Counts - Per Order Filed on July 3, 2008, filed June 26, 2019	AA 0213
<b>I</b>	Recorder's Transcript of Hearing Status Check Trial Setting Acknowledgment, filed November 22, 2010	AA 0140
<b>II</b>	Recorders Transcript of Proceedings Jury Trial - Day 1, filed August 31, 2022	AA 0400
<b>III</b>	Recorder's Transcript of Proceedings Jury Trial - Day 2, filed September 1, 2022	AA 0551
<b>IV</b>	Recorder's Transcript of Proceedings Jury Trial - Day 3, filed September 6, 2022	AA 0764
<b>IV</b>	Recorder's Transcript of Proceedings Jury Trial - Day 4, filed September 7, 2022	AA 0868
<b>V</b>	Recorder's Transcript of Proceedings Jury Trial - Day 5, filed September 8, 2022	AA 1102
<b>VI</b>	Recorder's Transcript of Proceedings Jury Trial - Day 6, filed September 9, 2022	AA 1366
<b>VII</b>	Recorder's Transcript of Proceedings Jury Trial - Day 7, filed September 12, 2022	AA 1628
<b>VIII</b>	Recorder's Transcript of Proceedings Jury Trial - Day 8, filed September 13, 2022	AA 1799
<b>IX</b>	Recorder's Transcript of Proceedings Jury Trial - Day 9, filed September 14, 2022	AA 2013
<b>IX</b>	Recorder's Transcript of Proceedings Jury Trial - Day 10, filed September 15, 2022	AA 2155

<b>X</b>	Recorder's Transcript of Proceedings Jury Trial - Day 11, filed September 19, 2022	AA 2323
<b>XI</b>	Recorder's Transcript of Proceedings Jury Trial - Day 12, filed September 20, 2022	AA 2461
<b>II</b>	Recorder's Transcript of Proceedings Re All Pending Motions, filed September 18, 2019	AA 0264
<b>I</b>	Reporter's Transcript of Status Check Negotiations, filed September 19, 2007	AA 0094
<b>I</b>	Second Amended Information, filed October 11, 2001	AA 0035
<b>II</b>	Stipulation and Order to Reset Trial Date, filed April 20, 2022	AA 0376
<b>I</b>	Third Amended Information, filed April 30, 2009	AA 0125
<b>XI</b>	Transcript from Sentencing Hearing, filed November 3, 2022	AA 2497
<b>I</b>	Transcript of Evidentiary Hearing, filed February 8, 2005	AA 0048
<b>I</b>	Transcript of Proceedings Sentencing, filed September 30, 2009	AA 0129
<b>I</b>	Verdict, filed May 8, 2009	AA 0127
<b>XI</b>	Verdict, filed September 20, 2022	AA 2478

1 hypothetically.

2 MS. LUZAICH: Then why is it relevant?

3 MR. GOODWIN: It --

4 THE COURT: It -- it's speculative. "Jug" is a  
5 nickname; "Sean Carter" is something like a full name.

6 MR. GOODWIN: That's all I'm saying. Asking for  
7 clarification of question. That's all I'm saying.

8 THE COURT: "Sean Carter" sounds like a full name.

9 MR. GOODWIN: Yeah.

10 THE COURT: We all agree on that. I assume the  
11 witness is -- witness agreed with.

12 THE WITNESS: Right.

13 THE COURT: And "Jug" sounds more like a nickname;  
14 is that right?

15 THE WITNESS: Right.

16 THE COURT: Okay.

17 BY MR. GOODWIN:

18 Q And, in fact, you testified that you thought a short  
19 name -- you thought when heard the short name that it was a  
20 nickname?

21 A Yes.

22 Q Okay. Now, you told Ms. Lowry just now that you  
23 recognize this person as the person who was in your apartment.  
24 You also recognize this person as the person you saw on

1 television; is that right?

2 A Right.

3 Q Okay. Now, in response to seeing this person on  
4 television that did these terrible things to you, do you call  
5 the police and tell them, "That's the guy. He's on TV. He's  
6 the guy who did this to me."

7 A No.

8 Q Okay. And, finally, Ms. Lowry wanted you to talk a  
9 little bit about having looked at this person that was in the  
10 apartment. You acknowledge that you looked at him, but you  
11 looked at primarily from the side, and you were making efforts  
12 not to get caught looking at this person; is that right?

13 A I was making efforts not to be caught concentrating  
14 on his looks. But, yes, I did get a very good look at him  
15 from the side and from the face on.

16 Q From the profile?

17 A From all angles, basically.

18 Q Okay. Ma'am.

19 A Excuse me.

20 Q Please. You told us today, and you testified for  
21 Ms. Lowry when this person told you his name was Sean Carter,  
22 you didn't really believe it; right?

23 A Right.

24 Q And, in fact, you told the police the same thing;

1 correct?

2 A Correct.

3 Q And when you spoke to the fire marshal after you  
4 made this police statement, you didn't tell them that you  
5 thought this name, Sean Carter, was fictitious; is that true?

6 A I don't remember discussing the name "Sean Carter"  
7 with the fire marshal. I might have, but I don't recall it.

8 Q Okay. So you don't know that the name Sean -- what  
9 the hell's the guy -- Carter. Carter. I beg your pardon.  
10 You don't remember -- you don't have any idea the name  
11 "Sean Carter" was all over the fire report that was made in  
12 this case?

13 A No.

14 Q Okay. Thanks again, ma'am.

15 THE COURT: Anything else, Ms. Lowry?

16 MS. LUZAICH: No, Judge.

17 [TRANSCRIPT READING END]

18 THE COURT: Okay. Thank you, Ms. Schifalacqua.

19 MS. SCHIFALACQUA: Thank you, Your Honor.

20 THE COURT: All right. Ladies and gentlemen, we're  
21 going to take a 15-minute recess at this point in time.

22 During this recess please do not discuss or communicate  
23 with anyone, including fellow jurors, in any way regard the  
24 case or its merits either by voice, phone, e-mail, text,



1 internet, or other means of communication or social media.

2 Please do not read, watch, or listen to any news, media  
3 accounts, or comments about the case; do any research, such as  
4 consulting dictionaries, using the internet, or using  
5 reference materials.

6 Please do not make any investigation, test a theory of  
7 the case, recreate any aspect of the case, or in any other way  
8 attempt to learn or investigate the case on your own. And  
9 please do not form or express any opinion on this matter until  
10 it's formally submitted to you.

11 I'll see you in 15 minutes. So be back at 1:55, 1:55  
12 please.

13 THE MARSHAL: All rise.

14 [RECESS AT 1:41 P.M.; PROCEEDINGS RESUMED AT  
15 2:05 P.M.]

16 [IN THE PRESENCE OF THE JURY]

17 THE MARSHAL: All rise.

18 THE COURT: All right. Welcome back, everybody.  
19 Please be seated whenever you get to your chairs.

20 We're on the record in State of Nevada versus  
21 Justin Porter, C174954. Mr. Porter is here with Mr. Gill.  
22 Mr. Goodwin will be joining us shortly. Both Chief Deputy  
23 District Attorneys, Ms. Luzaich as well as Ms. Kollins, are  
24 present on behalf of State.

1 Do the parties stipulate to the presence of the jury?

2 MS. LUZAICH: Yes, Your Honor.

3 MS. KOLLINS: Yes, Your Honor.

4 MR. GILL: Yes, Your Honor.

5 THE COURT: All right. Ladies and gentlemen, the  
6 next witness is an individual by the name of  
7 Marlene Livingston. She is also not present with us. So  
8 we'll be having another reader come in and read her testimony  
9 at -- that she gave under oath at a previous hearing.

10 Ms. Rinetti, could you come forward, please.

11 Ms. Rinetti will be reading the part of Ms. Livingston.

12 DENA RINETTI,  
13 Was first duly sworn to read the answers in the transcript  
14 to the best of her ability:

15 MS. RINETTI: I do.

16 THE CLERK: Please be seated. And will you please  
17 state your name and spell it for the record.

18 MS. RINETTI: Dena Rinetti, D-E-N-A. Last name,  
19 Rinetti, R-I-N-E-T-T-I.

20 THE COURT: Ms. Kollins, as Ms. Lowry.

21 [TRANSCRIPT READING BEGIN]

22 DIRECT EXAMINATION

23 BY MS. KOLLINS:

24 Q Mrs. Livingston, why don't you scoot up to that

1 microphone. And if you keep your voice up, then that way I'm  
2 sure the judge hears you, Defense counsel hears you, and I  
3 won't have to ask you the same questions over, okay?

4 A Okay.

5 Q Mrs. Livingston, how old are you?

6 A Now, I'm 67.

7 Q And when is your birthday?

8 A October 12, 1933.

9 Q I'd like to direct your attention to April 4th of  
10 this year. Where were you living at that time?

11 A 1301 Clifford.

12 Q And is that here in Las Vegas, Clark County?

13 A Yes, uh-huh.

14 Q And did you say 1301 Clifford?

15 A No, 2301.

16 Q 2301 Clifford. And what kind of place is that?

17 A He has 11 apartments.

18 Q So it's an apartment complex?

19 A Yes, uh-huh.

20 Q And what apartment did you live in?

21 A Number 11.

22 Q And was that a multi-story building?

23 A Second floor.

24 Q Your apartment was on the second floor?

1           A     Yes.

2           Q     Now, on April 4th, did you work at that time?

3           A     It was really April 3rd. I got out of work at  
4 9:00 o'clock.

5           Q     Okay. So we'll start the events -- we'll start on  
6 April 3rd, but we'll work our way into the early morning hours  
7 of April 4th.

8           A     Yes, uh-huh.

9           Q     So on April 3rd, did you work?

10          A     Yes, I worked 1:00 in the afternoon till 9:00 at  
11 night.

12          Q     Okay. When you got off at 9:00 at night, did you go  
13 home?

14          A     Yeah, I went right home.

15          Q     And --

16               MR. GILL: I beg your pardon, you know. Could you  
17 instruct Ms. Livingston to speak up just a little louder?

18               THE COURT: Yes. It's really hard to hear in here.

19               THE WITNESS: I'm sorry.

20               THE COURT: It's okay. Like lean as far as you can  
21 right there.

22               That's good. Try that.

23               THE WITNESS: Okay.

24               ///

1 BY MS. KOLLINS:

2 Q You said that you went right home after work.

3 A Yes.

4 Q Did you have a vehicle at that time?

5 A Yes.

6 Q What kind of car did you have?

7 A A '91 Dynasty.

8 Q Is that a Dodge?

9 A Yes.

10 Q And what color was it?

11 A White.

12 Q And about what time did you get home from work?

13 A About 9:20.

14 Q Did you stay at home?

15 A Um, I usually -- it's like a routine. It's when I  
16 get my social security check, I get my mail, and I go up to my  
17 apartment.

18 Q Okay. So that particular evening, did you --

19 A I did the same thing.

20 Q -- get your social security check?

21 A Yes.

22 Q And did you do something with your check that night?

23 A After I went up to my apartment and looked through  
24 my mail, um, I went to Boulder Station to cash it.

1 Q And --  
2 A And --  
3 Q -- after you --  
4 A And I cashed it at 10:00 o'clock at night.  
5 Q Okay. And how much money did you have after you  
6 cashed it?  
7 A 515.  
8 Q And how long did you stay at Boulder Station?  
9 A After I cashed my check, I went and got some Chinese  
10 food. Then I went to the nickel machines and I played them  
11 for a good hour or more.  
12 Q Okay.  
13 A I wasn't paying attention to the time.  
14 Q At some point did you leave Boulder Station?  
15 A Yep.  
16 Q And where did you go?  
17 A I went out, got in my car, and drove home.  
18 Q Okay. And do you know about what time you got home?  
19 A I have no idea.  
20 Q Okay. And when you got home, what did you do?  
21 A Um, I had brought -- bought two dinners of Chinese  
22 food. So I put some of the food on a plate and stuck it in  
23 the microwave. And then I went in and took my work clothes  
24 off. And I was looking through my purse and that's when the

1 party came booming in the door. And I -- I had -- only was  
2 sitting there with my bra and panties on because I was going  
3 to put my pajamas on and get the food out of the microwave.

4 Q Okay. The front door to your apartment -- when you  
5 came home after having gone to Boulder Station, um, did you  
6 secure your front door in any way?

7 A Oh, yeah. I had two locks on it. I locked both of  
8 them.

9 Q Okay. And you said you put some food in the  
10 microwave and then you were in the process of undressing.

11 A Yes.

12 Q Okay. And when you heard the door boom, you said  
13 you had your bra and a pair of pants on?

14 A Yes.

15 Q And where --

16 A I was sitting -- I was sitting on the edge of the  
17 bed.

18 Q Okay. And is there -- is this a studio-type  
19 apartment or were you in a bedroom?

20 A It's just one bedroom.

21 Q Okay. A little --

22 A A little room and then the bedroom and a bath and a  
23 small kitchen.

24 Q And so you said you heard a boom and then what's the

1 next thing that happened?

2 A Well, first, I didn't know if it was a fireman or  
3 somebody got in the wrong apartment. It just startled me. I  
4 wasn't scared at first until I saw the fellow standing there.  
5 And he had a mask on. I just said, "Oh, my God." And I just  
6 sort of froze and sat on -- stayed on the bed.

7 Q Okay. And where was this when you say -- we're  
8 talking about a man?

9 A Yes.

10 Q Where was this man standing when you first saw him?

11 A Oh, it was only a good yard into the door.

12 Q Okay.

13 A Standing by the dine -- a little table I have  
14 there -- I had there. And he was standing there, and he  
15 started to -- I just froze and he started to walk towards me  
16 and then he had a knife in his hand.

17 Q Okay. And can you describe the knife?

18 A It was silver and it was like the kind of knife that  
19 you would cut a roast with.

20 Q Okay. When you say it was silver, can we  
21 distinguish between the blade part and the handle part? Was  
22 the whole thing silver?

23 A I only seen the blade part.

24 Q Okay. And so that's the part that you're saying was



1 silver?

2 A Yes, uh-huh.

3 Q Okay. And when you say it was the kind of knife  
4 that you would -- did you say carve or cut a roast?

5 A Like cut a roast, you know?

6 Q Okay. Do you know how long it was?

7 A I have no idea.

8 Q Okay. And what hand was the knife in?

9 A I believe it to be in the right hand.

10 Q And, now, you said he had a mask on. Can you --

11 A It was some kind of -- I could see -- it's just his  
12 mouth, I didn't -- I just sort of closed my eyes.

13 Q Okay. Let me ask you, as best you can to tell us  
14 about what was on his face or his head, when you say "mask,"  
15 describe as best you can.

16 A I would take it as something like a scarf or  
17 bandana. I could -- his eyes, you could see. I could --  
18 his -- I could see his mouth.

19 Q Okay. So you could -- his eyes were --

20 A Okay. He just --

21 Q His eyes weren't covered?

22 A Like, he wrapped around, like, a scarf or something  
23 I have. I didn't take -- like I said, I closed my eyes.

24 Q Okay. All right. But there was something around

1 his face?

2 A Yes.

3 Q His eyes were not covered?

4 A No.

5 Q And you could see his mouth?

6 A Yes.

7 Q Okay. Could you tell me how tall he was?

8 A I would say he's about 5-10 and about 160 pounds  
9 because he was about the same size as one of my sons.

10 Q Okay. And how -- how tall is your son?

11 A About 5-10 and a half.

12 Q 5-10 and how much does your son weigh?

13 A About 170.

14 Q Okay. And what race was this man?

15 A Black.

16 Q And how old did he appear to be to you?

17 A I guess the [sic] 20. He sounded young.

18 Q So you're basing that on his voice?

19 A The sound of his voice, yes.

20 Q Okay. Anything else?

21 A No, he just spoke very good English.

22 Q Okay.

23 A I understand [sic] everything he said.

24 Q Okay. And so did he speak to you?

1           A     Um, he just -- he asked me for the money and, um, I  
2     reached in my wallet and gave it to him. And he decided he  
3     wanted more money and he [sic] said, "That's all I have. I  
4     don't make a lot of money." And then he asked me if I had  
5     gold. And I said the only gold thing I have is this little  
6     pinky ring. And I gave him the pinky ring.

7           Q     Okay.

8           A     And he went over to the jewel box. And I said,  
9     "Take anything you want. It's all cost -- costume jewelry. I  
10    don't have any money. Take anything you want, just please  
11    don't hurt me."

12          Q     Okay. And when you said that, um, he asked for  
13    money, where was your money in?

14          A     My wallet.

15          Q     Okay.

16          A     And he, um, he took the knife and he sort of flicked  
17    through it and he saw a ten dollar bill and he says, "You're  
18    lying to me."

19                And I said, "No, I'm not lying. I'm sorry." I said I  
20    cashed some nickels at Boulder Station and I had the -- I  
21    showed him the card from Boulder Station and that I had been  
22    there. And I said it was only nickels. I cashed \$10 worth of  
23    nickels and I shoved it in my purse. I didn't put it in the  
24    wallet, so I didn't want him to think I was lying.

1 Q Okay. Okay. Let me take you back a little bit.  
2 You said when the man came into your apartment you were  
3 sitting on your bed.

4 A Yes.

5 Q Where was your -- and you said you got your money  
6 out of your wallet. Where was your wallet?

7 A It was sitting -- it was sitting right next to me.

8 Q Okay. Was your wallet in your purse?

9 A Yes.

10 Q Okay.

11 A Yes.

12 Q And was that next to you on the bed?

13 A Yes.

14 Q How much money did you take out of your wallet and  
15 hand over to him?

16 A Whatever, like, \$500.

17 Q Okay.

18 A Um, I know I spent money playing the nickels. But I  
19 just handed him the money. I didn't care.

20 Q Okay.

21 A And he said not to look at him. And I says, "I'm  
22 not trying to look at ya. I don't want to know what you look  
23 like."

24 Q Okay. When you -- when you handed him the money,

1 uh, did you see where he put it or what he did with it?

2 A No. No. I just kept my head down and my eyes  
3 closed.

4 Q Okay. And what about when you handed him the ring?  
5 You said it was a pinky ring?

6 A Yeah. Yes.

7 Q Did you see what he did with that?

8 A No, I did not.

9 Q Okay. Um, you said he used the knife to kind of go  
10 through your purse?

11 A Just sort of flicked the -- flicked the purse open.  
12 Like it was open --

13 Q Okay.

14 A -- but he just sort of flicked it.

15 Q Okay. And do you recall anything about his  
16 clothing?

17 A No, I kept my eyes closed. I just didn't want him  
18 to hurt me.

19 Q Okay. So what was the next thing that happened?

20 A Um, he went around the bed and there was a phone  
21 there. And I didn't look over at him. I knew he had the  
22 phone in his hand because I could tell by the noise. But I  
23 said, "Take anything you want. I just want to see my  
24 grandkids tomorrow."

1 Q So --

2 A He came back around the bed and went over to this  
3 little dresser where I had a little -- a little plastic  
4 jewelry box. I said, "I don't have -- it's all costume  
5 jewelry."

6 Q Mrs. Livingston, why don't you just take a minute  
7 and just kind of take a deep breath. And there's a drink of  
8 water up there if you'd like that. Just kind of relax and  
9 I'll wait a second before I ask you another question.

10 How about if I show some photographs; is that all right?

11 A Okay.

12 Q Um, show you some photographs of your apartment  
13 building and your vehicle?

14 A Okay.

15 MS. KOLLINS: For the record, I've shown Defense  
16 counsel these photographs.

17 THE COURT: Okay.

18 MS. KOLLINS: And they're State's Proposed Exhibits  
19 154 through 162. Sorry.

20 [TRANSCRIPT READING END]

21 MR. GILL: And, Your Honor, not to interrupt, but  
22 Ms. Kollins did show me those photographs. We've agreed to  
23 them. Not only are they in this transcript, but we've agreed  
24 to -- no objection. They'll -- should be admitted by

1 stipulation.

2 THE COURT: Okay.

3 MS. KOLLINS: That's correct. I'm just checking --  
4 catching up on the real transcript.

5 THE COURT: Okay.

6 [TRANSCRIPT READING BEGIN]

7 MS. KOLLINS: And I'm showing the witness State's  
8 Proposed 154.

9 BY MS. KOLLINS:

10 Q Do you recognize what's in that picture?

11 A Yeah, my apartment is -- my apartment is right  
12 there.

13 [TRANSCRIPT READING END]

14 MS. KOLLINS: And outside the transcript, I'm gonna  
15 publish these as I show them to her.

16 THE COURT: All right. And then just, your hand --  
17 sometimes if you put your hand on top of the picture, it  
18 focuses, it auto focuses.

19 Mmm, try the zoom.

20 There we go. Thank you.

21 MS. KOLLINS: There we go.

22 [TRANSCRIPT READING BEGIN]

23 BY MS. KOLLINS:

24 Q Okay. And you pointed to the upstairs apartment?

1           A     Yes.

2           Q     And does there appear to be some yellow tape in  
3 front of the door on the railing in front of that apartment?

4           A     Um --

5           Q     When we're pointing upstairs, is there something  
6 hanging on the rail in front of the apartment door?

7           A     No, not unless they did something.

8           Q     No, I'm saying in this picture, is that where your  
9 apartment is?

10          A     Oh, yeah. Yes.

11          Q     Okay. Okay. All right. And does that fairly and  
12 accurately depict your apartment at this time?

13          A     Yes.

14                MS. KOLLINS: Okay. And we'll move for the  
15 admission of 154.

16                THE COURT: Any objection?

17                MR. GILL: No objection.

18 BY MS. KOLLINS:

19          Q     And 155, is that also your apartment, a picture of  
20 your apartment?

21          A     Yes.

22          Q     And does that fairly and accurately depict your  
23 apartment?

24          A     Uh-huh.



1 MS. KOLLINS: I'll move for the admission of 155.

2 THE COURT: Any objection?

3 MR. GILL: Judge, we're not gonna have any objection  
4 to any of these photographs.

5 THE COURT: Okay.

6 MS. KOLLINS: I'll move for the admission of 154  
7 through 162.

8 THE COURT: Okay.

9 BY MS. KOLLINS:

10 Q Okay. Showing you 156, can you tell us what's in  
11 this picture?

12 A Oh, that's my door. That's my door.

13 Q Okay. This was the damage that -- from breaking in  
14 the door?

15 A Uh, this was the damage that -- from breaking in the  
16 door.

17 Q Okay. So you're indicating --

18 A The outside.

19 Q Damage to the door?

20 A Door frame.

21 Q And that wasn't there before this man --

22 A Oh, no.

23 Q -- who came into your apartment?

24 A No. Oh, no.

1 Q And State's 157, also does that -- does that also  
2 show damage to your door frame?

3 A Yes.

4 Q Okay. And 158, again, the outside of your door and  
5 the damage to your door frame.

6 A Yes.

7 Q And 159, what's that a picture of?

8 A Um, where my phone is.

9 Q Okay. And, now, in this photograph, the receiver  
10 and the phone cord are not attached.

11 A Right.

12 Q Okay. And were -- were they attached and working  
13 before this man came into your house that night?

14 A Yes.

15 Q Okay. And you started to say earlier that this man  
16 went over near your phone.

17 A Yes.

18 Q Okay. And what did you hear or see at the time he  
19 was near your phone?

20 A I thought maybe he just yanked the phone, you know,  
21 the cord. I thought he just yanked it.

22 Q Okay.

23 A And then I didn't know until the next day that the  
24 police said he -- that this is cut.

1 Q Okay. And it wasn't like that before.

2 A Nope.

3 Q Okay. And State's Exhibit 160, what is that a  
4 picture of?

5 A That's my car.

6 Q Okay. And 161 and 162, also photographs of your  
7 car?

8 A Yes.

9 Q Okay. And where was your phone located in your  
10 apartment?

11 A On the left-hand -- left-hand side of my bed.

12 Q On the left side of your bed?

13 A Side of my bed.

14 Q Okay.

15 A On a little nightstand.

16 Q Okay. After the man went over to the area of your  
17 telephone, then what was the next thing that happened after  
18 that?

19 A I think that's when he came around. I was still  
20 sitting on the bed and he told me to stand up. So I stood up.  
21 And he said, "Bend over." And, um, I sort of just pulled my  
22 pants the side a little. And I said to him, "I have a pad --  
23 a pad on." And, uh, so then he sat down on the bed, took his  
24 penis out and said, "We'll do it this way." Either you [sic]

1 said this way or we're gonna have -- "we'll do it orally."

2 And, um --

3 Q Okay.

4 A -- not to bite him.

5 Q The last part, I'm sorry, what did he say?

6 A He said not to bite him.

7 Q Okay. And so after he indicated that it was going  
8 to be orally and not to bite him, what was the next thing that  
9 happened?

10 A Um, said something about he likes to fuck old  
11 ladies.

12 Q Okay. And where was he at, at this point?

13 A Lying on -- on my bed.

14 Q I'm sorry?

15 A Partly -- he was lying his -- partly on my bed but  
16 his shoulders were up.

17 Q Okay.

18 A And he took my head and was moving my head.

19 Q Okay.

20 A And, uh --

21 Q But was he undressed in some fashion?

22 A No. No.

23 Q Okay.

24 A I just kept my eyes closed.

1 Q Okay. Marlene, was his penis exposed?

2 A Oh, yes. Yes. Yes. Yes.

3 Q Okay. How was it that his penis was exposed or out  
4 of his pants?

5 A Because he put my head, made me -- I had to put my  
6 mouth on it. And he had the back of my head and pushing me up  
7 and down.

8 Q Okay. What I'm asking is, is how was it that his  
9 penis was out of his clothes? Were his pants unzipped? Were  
10 they pulled down a little bit? Um --

11 A I guess when -- when he sat down he must have turned  
12 and just unzipped his pants. I mean it -- this was happening  
13 very fast, you know. And, like I said, I kept my eyes closed.

14 Q Okay. So what you know is that his penis was  
15 exposed.

16 A Yes.

17 Q And you said he put his hand on the back of your  
18 head?

19 A Yes.

20 Q Like his palm on the back of your head?

21 A Yes.

22 Q And then what did you do with his hand on the back  
23 of your head?

24 A Pushed my head up and down.

1 Q Okay. And did his penis go in your mouth?

2 A Yes, it did.

3 Q And was that against your will?

4 A Very. Yes.

5 Q Okay. And where was the -- where was the knife?

6 A I don't know.

7 Q Okay. And was he saying anything during this

8 time -- during this -- during this time?

9 A Just don't bite me.

10 Q And what were you doing?

11 A Praying.

12 Q Okay. And how long did that go on?

13 A It didn't last very long. I don't know. I just --

14 I was afraid he was going to get mad.

15 Q And why were you afraid he was going to get mad?

16 A Because I wasn't doing, I guess, what he wanted.

17 Q And how is it that you thought that you weren't

18 doing how he wanted it? Was it something he said or --

19 A No, I just -- I just knew he wasn't happy.

20 Q Okay. So what's the next thing that happens?

21 A He got up, he asked me, you know -- yeah, I had my

22 eyes closed. I don't know how he put his penis back in his

23 pants. I don't know. Uh --

24 Q It's --

1           A     He asked me if I have a car. He asked me if I had a  
2 gun. He asked me if I had a husband. If they were going to  
3 be coming in. And I said no. I said, "I got a car."

4           He says, "What color?"

5           I said, "A white car." And there was two of 'em down  
6 there. And I didn't want him to know I was -- thinking I was  
7 lying.

8           He says, "What kind of car is it? A white Dynasty?" He  
9 said, "Where are the keys?" I took them out of my purse and I  
10 handed him the keys.

11          Q     Okay.

12          A     He said, "Which one is the key?"

13          And I said, "The black one."

14          Q     Okay. And --

15          A     And it says it opens everything. And he told me to  
16 go in the bathroom. I went in the bathroom. Said "wash your  
17 mouth out."

18          Q     Who said --

19          A     Pardon.

20          Q     You said wash your mouth out?

21          A     He said wash my mouth out.

22          Q     Okay. He told you to wash your mouth out?

23          A     Yes.

24          Q     Okay.

1           A     And I -- so I just kept the faucet running. He kept  
2     splashing water into my mouth and spitting it out. I kept  
3     doing that. Told him to stay in the -- he was standing in the  
4     back -- standing in back of me. And then he told me to stay  
5     in the bathroom. And then I didn't hear him. And I stayed in  
6     the bathroom, I don't know, 10, 15 minutes. I was scared to  
7     come out because I didn't know if he was still there.

8           Q     Okay.

9           A     So then I finally came out and he wasn't there.

10          Q     So what did you do?

11          A     I went to the window and I looked out. My car was  
12     gone. So I grabbed my cigarettes and then I was scared maybe  
13     he'd come back in. So I went and I threw on -- my pajamas on  
14     and went outside and I stood by the railing out there.

15          Q     Let me -- you said that when you -- he was asking  
16     you about your car and you didn't want him to think that you  
17     were being dishonest with him about where your car was. Did  
18     you say something about there were two white cars or --

19          A     Yeah, I said there's -- I said, "Mine's the white  
20     Dynasty."

21          Q     Okay. And I'm going to show you State's 154.  
22     Obviously, parking places in front of your apartment building.

23          A     Yes.

24          Q     And there's two cars between them and an empty



1 space?

2 A Right.

3 Q Is that where your car was parked?

4 A Yeah, mine would have been the -- here.

5 Q Okay. Yours was in the empty space.

6 A Yes.

7 Q And next to it was another white car that was parked  
8 there?

9 A Whoever lives there, I don't know. I didn't bother  
10 with my neighbors.

11 Q Okay.

12 MR. GILL: Ma'am, did you say Bonneville?

13 MS. KOLLINS: She -- no, she said "I don't bother  
14 with my neighbors."

15 MR. GILL: Oh, okay.

16 BY MS. KOLLINS:

17 Q Is that what you said?

18 A Yeah, I don't know their names.

19 MR. GILL: Thank you.

20 THE WITNESS: I just go to work and come home.

21 BY MS. KOLLINS:

22 Q So, Marlene, you said that you were -- that you went  
23 and you looked and you were out on the balcony.

24 A No, I -- because I was still in my bra and pants --

1 Q Okay.

2 A -- I just looked out the window and seen that the  
3 car was gone. So I knew he wasn't there.

4 Q Okay.

5 A So then, um, I went and got my pajamas on because I  
6 was -- still didn't -- I was scared he might come back. So I  
7 went back, got my clothes on, my pajamas, and stepped outside  
8 with my cigarettes and was smoking and just standing there. I  
9 could -- I was -- from where I was standing, I could see if  
10 anybody was going to come -- be coming back. The -- up the  
11 stairs from either -- either place.

12 And I thought, well, if he comes back, I'll just start  
13 screaming. I don't know what else to do there. So I stood  
14 there for -- I don't know how long. And then I was cold. So  
15 I went down and wrapped on my landlord's door and told him  
16 what happened.

17 Q What's your landlord's name?

18 A Jim.

19 Q Okay.

20 A Fredericks.

21 Q Okay.

22 THE COURT: Jim what?

23 THE WITNESS: Jim Fredericks. And I told him what  
24 happened and, um, he says, "Call the police."

1           And I said, "No, I swore on the Bible. I swore on my  
2 mother's grave I wouldn't call the police. And I don't -- I  
3 won't." So he called.

4 BY MS. KOLLINS:

5           Q     Okay. So -- so who had you sworn to that you would  
6 not call the police? Who had you said that to?

7           A     To --

8           Q     To the man in your apartment?

9           A     To the man, yes.

10          Q     Okay. And so you didn't call the police, your  
11 landlord called the police?

12          A     Yes.

13          Q     Okay. And at some point after that phone call was  
14 made, the police responded to --

15          A     Yeah.

16          Q     Okay. And did you give a statement to the police;  
17 is that correct?

18          A     Yes. And then they took me over to UMC.

19          Q     So the hospital?

20          A     Yes.

21          Q     For an examination?

22               And people responded to your apartment and obviously took  
23 those pictures and --

24          A     Yeah.

1 Q Uh --

2 A Yeah, and I called my daughter.

3 Q And investigating your apartment?

4 A And I called my daughter.

5 Q Okay. Mrs. Livingston, that's all the questions I  
6 have right now. Mr. Abood is gonna ask you some questions,  
7 okay?

8 A Okay.

9 MS. KOLLINS: Thank you.

10 MR. GILL: Thanks, Judge.

11 CROSS-EXAMINATION

12 BY MR. GILL:

13 Q Good afternoon, Ms. Livingston.

14 A Good afternoon.

15 Q Just have a few questions I want to ask you. Just  
16 clarify a few things.

17 Now, you told us that this person that was in your  
18 apartment had a mask on. And this mask -- and you're shaking  
19 your head "yes."

20 A Yes, he had some kind of mask. Yes.

21 Q Okay. And was the top of this mask over the nose?

22 A I have no idea.

23 Q Okay. And the reason I'm asking you is because you  
24 told us that you can see his mouth, is that to mean you could

1 see it underneath the mask?

2 A Well, that I could hear him. I could hear him  
3 speaking, so I'm just taking it for granted his mouth was  
4 showing. I don't want to see the man. I didn't want to  
5 identify him. I just wanted to live.

6 Q So whether or not you could actually see the mouth  
7 or whether it was covered by the handkerchief, I guess what  
8 you're telling us is, there's no way for you to identify this  
9 person.

10 A No way. No. I don't want to look at him now. I  
11 just don't want to.

12 Q Now, you also told us that you thought this person  
13 was about 20 years old. Did you at any point tell the police  
14 that you thought he was in his mid 20s?

15 A I might have -- I might have thought I said 20. He  
16 sounded young to me.

17 Q So when you say that he sounded young, is that to  
18 say that he had the voice of an adolescent, if you know what I  
19 mean?

20 A No. I don't know, uh, just sounded young.

21 Q Okay. Was that because of the words he was using?

22 A No, he spoke very good. I work with quite a few  
23 black people. Some of 'em I don't understand as well. Um,  
24 it's hard for me to understand them. They'll repeat it to me

1 and then we joke about it. But I said, I understood  
2 everything. He spoke very good English to me.

3 Q So was it the -- was it the -- the deepness or lack  
4 of deepness in his voice that caused you to think he sounded  
5 young?

6 A No, just sounded young to me.

7 Q Okay.

8 A I got -- I grew up with -- I mean, grown kids.

9 Q Okay. He didn't have a deep voice, did he?

10 A Just sounded young. That's all I can say.

11 Q Okay. That's fine, Ms. Livingston.

12 Now, the clothing that he was wearing, were they  
13 baggy clothes or were they really tight?

14 A I have no idea. I kept my eyes closed.

15 Q So if I were to ask you to tell us whether he was  
16 wearing Blue Jeans or not, you couldn't really do that.

17 A Nope. The only thing I could say was I know he had  
18 sneakers or what do you call them?

19 Q I think I know --

20 A The kind that all the kids -- all the young kids  
21 wear.

22 Q Okay.

23 A It's the only thing I noticed.

24 Q Can you describe these sneakers?

1           A     I would think -- I would think black and white, but  
2 I'm not sure. If my eyes were closed, they were just staring  
3 down at the floor. And I didn't want to upset him at all.

4           Q     I understand. Now, when you say black and white,  
5 are you referring to the sole being black and the top being  
6 white?

7           A     Oh, no. No.

8           Q     You just don't know, okay.  
9 Now, my guess is you didn't notice whether this person  
10 had any tattoos or scars.

11          A     No. No. No, sir.

12          Q     At any point while he was in your apartment, was he  
13 walking around with you looking for items to steal?

14          A     No, I stayed -- I sat right on the edge of the bed.

15          Q     And I guess you testified that he was interested not  
16 just in money, but he also wanted gold or jewelry?

17          A     Like gold jewelry, yes.

18          Q     Okay. Ma'am, I know this is very uncomfortable for  
19 you. And unfortunately, I have to ask you some uncomfortable  
20 questions. I hope you forgive me. Now, did you see this  
21 man's penis?

22          A     No. No.

23          Q     So are you able to give us an estimation as to how  
24 large his penis was?

1           A     No.

2           Q     Okay. I didn't quite understand what you were  
3     telling us concerning this telephone. What kind of -- was it  
4     the type of telephone where the handle or the receiver was  
5     attached to the other unit with a cord?

6           A     Yes, just like --

7           Q     Or was it -- is that the type of phone?

8           A     Yeah, a square -- square -- you know, where you  
9     punch in the numbers.

10          Q     Right.

11          A     And the telephone itself is sitting on the side of  
12     it. And it's all connected in the cord.

13          Q     Yes. And so it's not a cordless phone.

14          A     No. No. It's got the whole unit.

15          Q     Okay. And you said something about the phone being  
16     yanked off the cord or something like that?

17          A     Well, I knew he walked over there by the phone, and  
18     I could hear the phone. I didn't turn my head to see what he  
19     was doing. I just heard the phone, and I just took it for  
20     granted that he yanked it out of the wall, the unit. I didn't  
21     know until the next day that he had cut the cord. I didn't  
22     know that.

23          Q     So you did discover the following day that the cord  
24     had actually been cut.



1           A     Well, one of the -- Detective Jensen is the one that  
2     told me.

3           Q     Okay. So you never noticed it yourself. One of the  
4     detectives --

5           A     Nope.

6           Q     -- told you?

7           A     No.

8           Q     You had a wall clock in your apartment; is that  
9     correct?

10          A     Yes.

11          Q     And at some point in time you reset the time on that  
12     wall clock?

13          A     I think I did. I'm not sure. I'm not sure.

14          Q     Okay. Do you recall telling the police -- any  
15     police officer at any time that you walked over to your wall  
16     clock and you reset the time on it after this had happened?

17          A     I might have. I don't remember.

18          Q     After you gave the police your statement, do you  
19     remember giving the police a statement in this case?

20          A     I had lots of people asking me questions. I just  
21     kept answering the best I could.

22          Q     And was it just that one occasion, the morning of  
23     this incident that people were asking you questions?

24          A     At my landlord's apartment, they were asking me

1 questions. When I got to the hospital, they were asking me  
2 questions.

3 Q And when you say "they," you're talking about police  
4 officers?

5 A Officers, yes.

6 Q How many different police officers do you think  
7 there were asking you questions?

8 A One was asking most of them, but I was in the  
9 apartment or in my landlord's apartment and different times,  
10 like, the next day when they were taking fingerprints and  
11 stuff, Mr. Jensen was asking me different things -- I don't  
12 know -- about the phone, about the little jewelry box, and  
13 took the bedspread and the blanket, took that. I mean, I  
14 was -- I was waiting for my daughter. The man was there  
15 fixing the door and the landlord was there. The neighbors  
16 were there. Sort of confusing to remember it.

17 Q Yes, ma'am.

18 A Okay. I wasn't really with it.

19 Q Do you recall whether you actually ever wrote out a  
20 handwritten statement?

21 A I don't think I did, no.

22 Q Ma'am, at some point in that evening, after all this  
23 had occurred, I guess the early morning, you told the police  
24 that you noticed a shiny black truck driving around and

1 around; is that right?

2 A Yes.

3 Q Can you tell the judge about that, please.

4 A When I was standing outside, I noticed this black  
5 shinny truck go by. And I happened to glance and watch it.  
6 And it went around to the next apartments and I thought maybe  
7 they were looking for somebody in the apartment or something.  
8 But he turned the truck around, came back, and went around the  
9 block and came back.

10 And he must have done that two or three times. And  
11 then -- I got worried, thinking maybe they were friends of the  
12 fellow that broke in and they're seeing if I called the  
13 police. Because it just seemed funny that they kept going  
14 around. And it was quite a new -- new truck. Very  
15 nice-looking black truck. And that it -- it left. And wasn't  
16 too long after that that I went down and woke up my landlord.

17 Q Your landlord being Mr. Jim Fredericks?

18 A Yes.

19 Q And you told us earlier that you told Mr. Fredericks  
20 what had happened to you.

21 A Yes.

22 Q And do you know whether or not the police took a  
23 statement from Mr. Fredericks?

24 A Oh, I don't know. I don't think so.

1 Q Okay.

2 A They asked me a lot of questions. They might have  
3 asked him but, you know, it's so confusing at that time to try  
4 and remember. I mean, I didn't even want to go to the  
5 hospital. I thought, I was just glad to be there.

6 Q Yes, ma'am. Let me ask you a couple questions about  
7 your vehicle --

8 A Sure.

9 Q -- if you don't mind.

10 A Okay.

11 Q Ma'am, do you routinely toss napkins in your car  
12 after you use them?

13 A You know what? I do. I have it where you plug in  
14 your strap.

15 Q Yes, ma'am.

16 A Uh, lot of times I keep my -- some of my napkins  
17 there.

18 Q Okay. Do you have a little garbage receptacle in  
19 your vehicle?

20 A I did then, yes.

21 Q And is it -- is it unusual that there would be  
22 napkins, a few napkins tossed about on the floor boards of  
23 your vehicle?

24 A No, they'd be on the next seat next to me.

1 Q On the seat?

2 A On the seat next to me.

3 Q Yes, ma'am. Do you smoke cigarettes by chance?

4 A I did. But I haven't -- I don't know if I was  
5 smoking them then. Right now, I smoke whatever's the  
6 cheapest.

7 Q Yes, ma'am. I understand.

8 A But I did smoke more.

9 Q Okay.

10 A Maybe I might have had a pack or something, you  
11 know.

12 Q All right. Very well. So if there were more  
13 cigarettes in the ashtray, you wouldn't doubt that they were  
14 yours.

15 A No.

16 Q Okay. What about Wild Cherry Pepsi? Have you ever  
17 had Wild Cherry Pepsi?

18 A I don't think so.

19 Q No, ma'am?

20 A I don't think so.

21 Q Okay. And do you recall if any member of your  
22 family ever left a bottle of Wild Cherry Pepsi in your car?

23 A I don't think so. I don't remember.

24 Q Okay. Now, earlier in the evening, before these

1 terrible things happened, you told us that you went to the  
2 Boulder Station; is that correct?

3 A Yes.

4 Q And you parked in an area that you normally don't  
5 park in; is that right?

6 A Right.

7 Q And, in fact, you told the police, "I would never  
8 park there, but I did." Is the reason why you would never  
9 park there is because it's next to the theaters and they got a  
10 lot of kids coming in and out from there?

11 A No. Um, normally I park up near where the Bingo  
12 room is. And that night I was just going to cash my check,  
13 get my Chinese food and go home. So it was easier for me to  
14 pull in the first driveway, which takes me in the back. And I  
15 wasn't used to it at all. And found a parking spot and went  
16 in.

17 Q So was it just a question of location, in terms of  
18 your never parking there?

19 A It was just convenience, you know, convenience of  
20 what I wanted. I didn't even intend to play the machines that  
21 night. I just was going in to cash my check.

22 Q So the parking at the rear of the theaters is  
23 unusual for you because it's not close to the entrance that  
24 you normally use?

1           A     Right. Right.

2           Q     Okay.

3           A     It's the only time that I ever parked there.

4           Q     Now, when you parked there, did you notice whether  
5 or not there were a lot of people coming or going concerning  
6 these movies that they've always got playing?

7           A     Nope. Nope, it wasn't busy.

8           Q     It wasn't busy. Okay.

9           Did you -- Ms. Livingston, did you get your vehicle back?

10          A     Yes, I did.

11          Q     And was it damaged in any way, as far as you can  
12 tell?

13          A     I had an oil leak that I didn't have. In one part  
14 of the -- I don't remember which side. It seems like it sort  
15 of dented a little bit.

16          Q     Will you excuse me for a second?

17          A     Sure.

18          Q     My understanding, ma'am, is that when you went to  
19 the hospital, you had that examination that they do. You told  
20 the nurses there that this person never touched you; is that  
21 correct?

22          A     Just the back of the head.

23          Q     Right. And he never threatened to tie you up or  
24 anything like that?

1           A     No, he did not.

2           Q     Did he curse at you? Did you use foul language?

3           A     Just the one thing.

4           Q     The one thing that he said?

5           A     Yeah, that's --

6           Q     Okay. How did you -- what -- let me rephrase it.

7 When did you discover that somebody had actually been

8 arrested?

9           A     I didn't hear you. I -- I didn't hear you.

10          Q     I beg your pardon. When did you discover that  
11 somebody had actually been arrested for doing these things to  
12 you? Did somebody call you and tell you?

13          A     Somebody at work told me. At work, they all know  
14 that -- that I was raped. That's all I told people. Because  
15 I had to call in work and so they knew -- knew I needed a few  
16 days off and, um, so one of the people that worked might have  
17 told me. I don't remember.

18                I know I talked to Mr. Jensen on the phone. He might  
19 have told me. I don't think he was arrested. I -- he said  
20 something about -- I asked him if he arrested -- if they were  
21 ever -- ever caught anybody. I says, "Would you call me and  
22 let me know?"

23                And he said, "Definitely."

24          Q     And did you ever receive that phone call from him?



1           A     I think -- I think he said that they thought they  
2 caught him. And, you know, I try and forget this. They  
3 wanted to know if I wanted to go to counseling. I just want  
4 to forget it.

5           Q     Yes, ma'am. I understand.

6           MR. GILL: I don't have any more questions, and I  
7 appreciate your time.

8           THE WITNESS: Thank you.

9           MS. KOLLINS: I have just a couple little  
10 clarifications that I need to make.

11                       REDIRECT EXAMINATION

12 BY MS. KOLLINS:

13          Q     Mrs. Livingston, when this man left your apartment,  
14 you said you waited a little while before you went to then  
15 look out the window.

16          A     Window.

17          Q     Okay. When you looked out the window, was your car  
18 gone from its parking space?

19          A     It was gone. Then I knew he was gone.

20          Q     Okay. Did you see your car in the area or in the  
21 parking lot or --

22          A     No.

23          Q     You didn't see your car at all?

24          A     No.

1 Q And did there -- there come a point in time when you  
2 got your car back?

3 A Yes.

4 Q And when was that, or how long was it after this  
5 happened?

6 A Um, it wasn't that many days. My daughter might  
7 know. But I don't remember. It wasn't that long. It wasn't  
8 that long.

9 Q Okay. So it was a matter of days?

10 A Yes.

11 Q Okay.

12 A Just a few days.

13 Q And how was it that you saw your car again? How did  
14 that come about or that you were notified?

15 A They called. Mr. Jensen called and said that they  
16 had my car.

17 Q So the police called you and told you they had it?

18 A And they came and picked my daughter and I up and  
19 took me over to get the car.

20 Q Okay. And when Defense counsel is asking about  
21 parking your car at the Boulder Station, did I hear you  
22 correctly? Because your voice kind of trailed off. Did you  
23 say that the parking lot where you parked was not busy at that  
24 time you were talking --

1           A     Well, no, it's usually busy.

2           Q     Okay.

3           A     But I always park where the Bingo -- it's closer for  
4 me to go in the Bingo. I wasn't going to play Bingo.

5           Q     Okay.

6           A     So I went in the first driveway that I hadn't been  
7 in. And it takes you back where the theaters and stuff are or  
8 something. So I just found a parking spot and ran in to cash  
9 my check and get the Chinese food. And I was going to go  
10 right home.

11          Q     Okay.

12          A     And then I started playing the machines.

13          Q     When you parked your car, where you parked it on  
14 this night --

15          A     Yes.

16          Q     -- when you walked into the Boulder Station and then  
17 later on you walked back out to the car, was that parking lot  
18 area where your car was parked, was it busy?

19          A     Well, I had to look for a parking spot, I mean --

20          Q     Okay.

21          A     It's usually busy, especially around that time.

22          Q     Okay. Were there a lot of people around?

23          A     Well, not that I -- I mean, I didn't notice.

24          Q     Okay. Thank you.

1 MS. KOLLINS: I have nothing further.  
2 MR. GILL: Thank you, Your Honor.  
3 Thank you, ma'am.  
4 THE COURT: Thank you for your testimony.  
5 THE WITNESS: Thank you.  
6 [TRANSCRIPT READING END]  
7 THE COURT: And that concludes the testimony  
8 (indiscernible).  
9 Thank you, Ms. Rinetti.  
10 MS. RINETTI: Thank you.  
11 MS. KOLLINS: Your Honor, may I approach your clerk  
12 and take care --  
13 THE COURT: Yeah, of course.  
14 MS. KOLLINS: -- some business matters?  
15 MR. GILL: Your Honor, while she's doing that, can  
16 we approach very quickly?  
17 THE COURT: Yes, of course.  
18 [BENCH CONFERENCE BEGIN]  
19 MR. GILL: Very quick. With mom coming in, he's  
20 gonna break down. Just a heads up.  
21 THE COURT: Yeah, and I already know.  
22 MR. GILL: Okay.  
23 MS. LUZAICH: I --  
24 MR. GILL: I don't know what to do at this point --

1 THE COURT: There's nothing to do.  
2 MR. GILL: The first few days I've tried so --  
3 THE COURT: (Indiscernible)  
4 MR. GILL: So that's just a heads up to the Court.  
5 THE COURT: Thank you. I appreciate it.  
6 MR. GILL: Yeah.  
7 [BENCH CONFERENCE END]  
8 MS. KOLLINS: (Indiscernible)  
9 THE COURT: Okay.  
10 We're just going to be at ease for a few minutes.  
11 They're marking some of the exhibits for the next witness.  
12 [DISCUSSION OFF THE RECORD]  
13 MS. KOLLINS: Your Honor, we have a stipulation to  
14 the admission of State's 236 through 254.  
15 THE COURT: Okay. Those will be admitted.  
16 [STATE'S EXHIBITS 236-254 ADMITTED.]  
17 MS. KOLLINS: Your Honor, we also have a stipulation  
18 to State's 255 through 275.  
19 THE COURT: Okay.  
20 [STATE'S EXHIBITS 255-275 ADMITTED.]  
21 [DISCUSSION OFF THE RECORD]  
22 MS. KOLLINS: Your Honor, the State is also offering  
23 a stipulation 276 through 284.  
24 MR. GILL: That's correct, Your Honor.

1 THE COURT: Okay. That'll be admitted.

2 [STATE'S EXHIBITS 276-284 ADMITTED.]

3 MS. KOLLINS: State would call Crime Scene Analyst  
4 Debbie Brotherson.

5 THE COURT: Okay.

6 THE MARSHAL: If you could just step up there,  
7 remain standing and raise your right hand so the clerk can  
8 swear you in.

9 DEBORAH BROTHERSON,  
10 [Having been called as a witness and being first duly  
11 sworn testified as follows:]

12 THE WITNESS: Yes, I do.

13 THE CLERK: Please be seated.

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

16 THE WITNESS: Deborah Brotherson, D-E-B-O-R-A-H,  
17 B-R-O-T-H-E-R-S-O-N.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MS. KOLLINS:

21 Q Good afternoon, Ms. Brotherson. Thank you for your  
22 patience. How are you?

23 A I'm good. Thank you.

24 Q Are you retired from a particular profession?

1           A     Yes.

2           Q     And what is that?

3           A     I retired as a crime scene analyst seven years ago,  
4 from the metropolitan -- Las Vegas Metropolitan Police  
5 Department.

6           Q     And how long were you employed with Metro?

7           A     Twenty years.

8           Q     And how long were you a crime scene analyst?

9           A     I worked actively as a crime scene analyst for  
10 20 years. And I spent one year in the latent print section.

11          Q     Okay. And you said you retired about six years ago?

12          A     It's been seven and a half.

13          Q     Congratulations.

14          A     Thank you.

15          Q     When you were a crime scene analyst, did your career  
16 encompass the year 2000 in it?

17          A     Yes, it did.

18          Q     Tell us, just generally, what a crime scene analyst  
19 does and what your job was back at that time.

20          A     Well, in 2000 I had been hired on for five years.  
21 And a was a Crime Scene Analyst II, getting ready to test for  
22 the senior position. But each person that's hired in as  
23 Metro, as a crime scene analyst, is expected to progress to  
24 senior. So we respond to all types of crime scenes, from

1 burglaries, property crimes, to sexual assaults, robberies,  
2 child molestation, homicide, officer involved shootings.

3 Our job entails photographing the scene, taking notes,  
4 interacting with victims, other police officers, detectives.  
5 We're expected to recover physical evidence, as far as  
6 (indiscernible) firearms, latent prints, all manner of any --  
7 anything that might link a subject or a victim to a crime.

8 Q Okay. So kind of, to shorten up, to document a  
9 scene where a crime has occurred and preserve that evidence  
10 and report on it; fair enough?

11 A Exactly.

12 Q Okay. So in 2000 -- I'm gonna walk you through  
13 three events that we're here to talk about today, okay?

14 A Yes.

15 Q Now, these three events -- now, obviously we spoke  
16 before we came in here today; correct?

17 A Correct.

18 Q When you processed them back in 2000, you had no  
19 idea whether or not they were related to each other.

20 A There was a suspicion that they might be related.

21 Q Okay.

22 A But there's no way of knowing. They hadn't  
23 developed the suspect, as far as I knew.

24 Q Okay. I want to talk to you about a car that



1 belonged to a Marlene Livingston. Did you have occasion to  
2 assist in the processing of that vehicle after it was  
3 recovered?

4 A Yes, I did. On April 5th of 2000, I -- I went to  
5 work. And my first job of the night was to process a 1991  
6 Dodge Dynasty that had been secured and was located in our  
7 garage part of the lab.

8 Q Okay. And when -- it wasn't your responsibility to  
9 get the car there or to have recovered it, just to process it  
10 once it arrived; correct?

11 A That's correct.

12 Q And what kind of actions would you have taken to  
13 process that particular vehicle?

14 A Well, I would talk to a detective, if one was  
15 present, or an officer. In my notes it doesn't say that the  
16 detective was there yet. But first step is to photograph the  
17 car, its general condition, to show that it was sealed.  
18 Sealed being that whoever had the vehicle towed to lab for  
19 processing would put a -- a sticker with his P number, event  
20 number, and the date across each and every door or hood or  
21 roof, whatever, to where it gained access into the vehicle.  
22 So no one else could access the vehicle.

23 So I photographed the car for identification purposes. I  
24 photographed to show its sealed condition. If I know that

1 there looked to be any new or interesting or damage to the  
2 car, something that wouldn't be particular to a vehicle, I  
3 would document that with photography as well.

4 Q Showing you what's been admitted as State's 280, do  
5 you recognize the vehicle in that photograph?

6 A I do. You can't see the plate, but that looks to be  
7 the Dodge Dynasty. And you can see there's a seal --

8 Q How's that?

9 A That's good. And there --

10 Q Okay.

11 A -- appears to be a seal across the top of the hood.

12 Q Okay. So that was the '91 Dodge Dynasty with the  
13 Nevada plate 728ENB belonging to Marlene Livingston?

14 A That's correct.

15 Q Okay. And came to you in a sealed condition;  
16 correct?

17 A Yes.

18 Q That's documenting the seal.

19 Did you actually go to the location where that vehicle  
20 was recovered?

21 A No, I did not.

22 Q Okay. And you said that you processed the sealed  
23 vehicle. What -- what occupied the majority of your  
24 processing efforts in that car?

1           A     It was basically a search for any physical evidence  
2 and then, subsequently, latent print processing.

3           Q     Okay. Did you process the windshield area for  
4 latent prints or palm prints?

5           A     Yes, I did.

6           Q     Okay. And just for the ladies and gentlemen of the  
7 jury, what is a latent print?

8           A     Well, "latent" indicates that you can't see  
9 something. It's invisible. You might be able to see it, but  
10 you can't differentiate what it is. Might look like a smudge.  
11 So by processing, I apply -- we apply a powder or chemical to  
12 that area, to enhance the print.

13           Now, on a vehicle, because it's metal, generally, and  
14 it's a nice smooth, slick surface, it's easiest to process  
15 with conventional black powder and a brush, which is applied  
16 by a brush. So I started the -- the beginning -- at the front  
17 of the car and I worked my way to the back, and I processed  
18 every inch that I -- and if I said, I see a disturbance and/or  
19 depending on the -- how long the car's been sitting, the  
20 entire vehicle.

21           And I was able to recover prints from the hood, the  
22 windshield, the roof, both front fenders, all four exterior  
23 doors, both of the rear quarter panels, and the trunk lid.  
24 And that was just the outside of the car.

1 Q Okay. Showing you State's Admitted 276, is that the  
2 windshield of that Dodge Dynasty?

3 A Yes, it is.

4 Q And those tape pieces we see there, are those part  
5 of the tool sets that is used to lift and preserve a latent  
6 print?

7 A Correct. After applying with the powder, you can --  
8 to enhance and make visible the latent print, it's recovered  
9 by using tape. And that wide tape is actually used  
10 specifically for a larger section, like a palm print or even a  
11 series of fingers. So that's why the tape is so wide.  
12 Generally, the tape is, like, two and a half inches wide.  
13 That's a four-inch wide for palms.

14 Q And 277 is a slightly closer view of that same tape  
15 location?

16 A Yes, and if you can see, but I've written a notion  
17 on the -- on the part of the tape that's sticking up.  
18 Generally, the -- when there's a lot of prints, I have to be  
19 able to indicate which print I recovered from what area. So I  
20 would use a -- a diagram on the back of the card that the tape  
21 was lifted and applied to a card. So I would put that number  
22 with the diagram for the location of the recovered latent  
23 print.

24 Q Okay. So the -- the tape that's closest to us or at

1 the -- on the -- closest to the driver's side of the -- of the  
2 photograph, that would be lift 55. And it looks like the one  
3 in the center is lift 56; is that fair?

4 A That's correct.

5 Q Okay. And showing you what's been admitted as  
6 State's 278. I know you took a lot of lifts off this car, but  
7 this is just the driver's side window and lifts you were able  
8 to take off that portion of the vehicle?

9 A Yes. But you it looks like before I numbered them.  
10 So there's -- there's a palm print on the exterior driver door  
11 window.

12 Q Okay.

13 A And then -- can I touch this? There's additional  
14 tape --

15 THE COURT: Just one second. So there's a mouse in  
16 front of you.

17 THE WITNESS: Oh.

18 THE COURT: Could you toggle it for me?

19 There you go. So now they can kind of see if you toggle  
20 over that area.

21 THE WITNESS: Okay. Thank you.

22 THE COURT: Thank you.

23 THE WITNESS: I don't know if you can see this. But  
24 I'm just gonna show you different areas. There's a piece of

1 tape here on the glass next to the vertical frame  
2 (indicating). And you can see there's a lot of powder  
3 sticking to what looks to be fingerprints all the way down.  
4 They're lifted if I can see ridge detail that I believe could  
5 be compared, compared to a known exemplar, meaning that they  
6 have a suspect or they want to put the print into AFIS to try  
7 to develop a suspect through the computer system.

8 So you can see there's -- it's been touched. But doesn't  
9 necessarily mean they're gonna be usable. But there's tape  
10 here on the left rear passenger window, here, here, and here  
11 (indicating). All the way down and then across the frame.  
12 Right below the window on the driver door (indicating).

13 BY MS. KOLLINS:

14 Q So just to be clear, development of a print at a  
15 location like this doesn't necessarily mean that an  
16 identification will be made; correct?

17 A That's correct.

18 Q And when these lifts are taken, what was the habit  
19 and practice at Metro, back then, to preserve them so that  
20 somebody could take a look at 'em later? I mean, you didn't  
21 just pull the piece of tape off and throw it in a file; right?  
22 You did something with it.

23 A Each -- each piece of tape is adhered to a card.  
24 And on that card I have the event number, my P number, the

1 vehicle information, the location of the card -- of the tape.  
2 And then you won't see it, but on the back of the cards, it  
3 was our practice to diagram the area. So if I had -- so what  
4 the picture showed, the -- the photograph showed, there would  
5 be, like, a rough sketch on the back with a series of numbers.  
6 And then that number would be identified on the front of the  
7 card as to the location.

8 Q So there would be a fingerprint card -- and say the  
9 one from the center window is 56. There would be a sketch on  
10 the back of that card that looked like the front of the  
11 window, and it would show the approximate location that you  
12 retrieved that from, the original piece of evidence; fair?

13 A Yes. And then the cards all would go in an  
14 envelope. And on the envelope it would have my name, P  
15 number, the event number, the victim's name, the address  
16 location, the -- the vehicle information. All of that  
17 information would be available as well.

18 And then the envelopes were generally sealed for the next  
19 person to look at the -- the cards would be a latent print  
20 examiner. I'm trying to remember back in 2005 if we were  
21 sealing the envelopes. I'm not sure that we were sealing the  
22 envelopes at that time. But before I retired, we were sealing  
23 everything. So --

24 Q You mean back in 2000?

1           A     I said -- I said 2005. I meant 2000. Sorry.

2           Q     And at that time and that stage of your career, it  
3 was not your responsibility to compare those lifts that you  
4 retrieved to any known individuals; right?

5           A     No.

6           THE COURT: Ms. Kollins, I apologize. Can the  
7 parties approach real quickly?

8           [BENCH CONFERENCE BEGIN]

9           THE COURT: Sorry. They need me in the back for a  
10 quick minute (indiscernible) something. So we need to take  
11 ten minutes (indiscernible) take care of it. Sorry.

12          UNIDENTIFIED: Okay.

13          THE COURT: (Indiscernible) it's urgent. So we're  
14 just going to take a quick break.

15          MS. LUZAICH: Okay. Do we think we're gonna get to  
16 Angela today or should I just tell her tomorrow?

17          MS. KOLLINS: Ms. Brotherson can't come back  
18 tomorrow. So if we don't finish her today, I'm gonna have to  
19 move her to Wednesday.

20          THE COURT: How long is she?

21          MS. KOLLINS: She shouldn't be that long.

22          MS. LUZAICH: No? Okay.

23          THE COURT: Yeah, we'll get -- we'll get to her.

24          MS. LUZAICH: Okay.



1 THE COURT: Yeah.

2 MS. KOLLINS: (Indiscernible)

3 MR. GILL: Just (indiscernible) gonna have to go  
4 tomorrow. Is there -- gonna be able to stop at, like, 4:30.

5 THE COURT: 4:30?

6 MR. GILL: Yes. (Indiscernible)

7 THE COURT: Yeah.

8 MS. KOLLINS: (Indiscernible)

9 MS. LUZAICH: Yeah.

10 THE COURT: No.

11 MS. LUZAICH: Oh, are we starting at 9:00?

12 THE COURT: Thirty.

13 MR. GILL: 9:30.

14 MS. LUZAICH: Can we -- oh, 9:30 okay. I was going  
15 to ask for 9:30. Thank you.

16 MR. GILL: Thank you, Your Honor.

17 MS. KOLLINS: I was loving 10:00 to noon. Sorry.

18 [BENCH CONFERENCE END]

19 THE COURT: Okay. I apologize. I have to take a  
20 quick recess to handle something in the back.

21 Please remember during this recess to not discuss or  
22 communicate with anyone, including fellow jurors, in any way  
23 regard the case or its merits either by voice, phone, e-mail,  
24 text, internet, or other means of communication or social

1 media. Please do not read, watch, or listen to any news,  
2 media accounts, or comments about the case; do any research,  
3 such as consulting dictionaries, using the internet, or using  
4 reference materials.

5 Please do not make any investigation, test a theory of  
6 the case, recreate any aspect of the case, or in any other way  
7 attempt to learn or investigate the case on your own. And  
8 please do not form or express any opinion on this matter until  
9 it's formally submitted to you.

10 I will see you in 15 minutes, at 3:20.

11 THE MARSHAL: All rise.

12 [RECESS AT 3:04 P.M.; PROCEEDINGS RESUMED AT  
13 3:39 P.M.]

14 [IN THE PRESENCE OF THE JURY]

15 THE MARSHAL: All rise.

16 THE COURT: All right. Welcome back, everyone.  
17 Thank you. Please be seated.

18 We're on the record in State of Nevada versus  
19 Justin Porter, C174954. Mr. Porter is present with Mr. Gill  
20 as well as Mr. Goodwin. Both Chief Deputies, Ms. Luzaich as  
21 well as Ms. Kollins, are present on behalf of the State.

22 We'll continue on with the witness's testimony.

23 Ms. Kollins.

24 I apologize, Ms. Kollins. Do both parties stipulate to

1 the presence of the jury?

2 MS. KOLLINS: Yes, Your Honor.

3 MR. GILL: Yes, Your Honor.

4 THE COURT: All right. Thank you.

5 Ms. Kollins.

6 REDIRECT EXAMINATION (Resumed)

7 BY MS. KOLLINS:

8 Q We left off when we were talking about the latent  
9 print recovery in Marlene Livingston's car; fair?

10 A Yes.

11 Q Okay. Aside from that, did you also process the  
12 interior of that vehicle?

13 A Yes, I did.

14 Q Any items of interest that you found and retrieved  
15 and preserved?

16 A I was told this was a follow-up from a sexual  
17 assault, robbery, and a recovered stolen vehicle. But that  
18 the vehicle wasn't the scene of the sexual assault. But  
19 unable to determine what might be physical evidence, I looked  
20 for anything that would be potential evidence.

21 So I recovered napkins, tissue, cigarettes, a drink  
22 bottle of Wild Pepsi, Cherry Pepsi that were throughout the  
23 vehicle. On the right -- on the left-hand floor board, I  
24 referred one napkin and one white tissue. On the bench

1 seat -- the front seat was a bench seat with an arm rest -- I  
2 recovered eight more napkins. On the right front floor board,  
3 I recovered one and a half cigarettes. One were labeled More,  
4 M-O-R-E. And on the left rear floor board, I recovered a  
5 partially empty bottle of Pepsi, Wild Cherry.

6 Those items were recovered in the event of stereological  
7 testing, looking for DNA, possible semen on the tissue, the  
8 napkins, DNA from the cigarettes and from the Pepsi bottle.

9 Q Fair to say this has been quite a few years ago,  
10 22 years; correct?

11 A That's correct.

12 Q And did you bring some notes with you today?

13 A I -- I'm sorry. I brought my report.

14 Q Okay. Notes. Report. If you find it necessary to  
15 refresh your recollection for one of the items that you don't  
16 remember, could you please just let me know so I can let  
17 Defense counsel know?

18 A Sure.

19 Q Thank you.

20 And those items were -- that you just discussed -- the  
21 tissue, the cigarettes, the wild cherry bottle -- those were  
22 all individually packaged and impounded into evidence at Metro  
23 property?

24 A That's correct.

1 Q And that same kind of preservation method would go  
2 for those latent prints as well, those would also go to the  
3 evidence vault at Metro; correct?

4 A That's true. And -- and I did -- recovered latent  
5 prints from the inside of the vehicle as well.

6 Q You also processed a scene regarding a victim by the  
7 name of Joni Hall; is that correct?

8 A Yes.

9 Q And Joni Hall's address was 624 North 13th Street,  
10 apartment E. Does that sound familiar?

11 A Yes.

12 Q And that would have been on June 7th of 2000;  
13 correct?

14 A That's correct.

15 Q And I kind of gave it away in the address. But this  
16 was an apartment; correct?

17 A Yeah, it was a first floor, two-bedroom.

18 Q Showing you what's been admitted as State's 255,  
19 does that look familiar?

20 A Yes.

21 Q Is that the residence of Joni Hall?

22 A Yes, it is.

23 Q As it appeared back in 2000; correct?

24 A That's correct.

1 Q And State's Admitted 256. Is that just a closer up  
2 of the address and showing it as apartment B?

3 A That's correct.

4 Q And State's 257, see it like that (indiscernible)  
5 that way. That's just the front door, showing some damage  
6 just at the entry; correct?

7 A That's correct.

8 Q When -- part of documenting the entry to that scene,  
9 did you notice anything about the deadbolt or the door jamb  
10 or anything like that?

11 A The door had been forced up -- forcibly opened by --  
12 looked like kicking or by a kick near the locking mechanism.  
13 And the deadbolt actually left the door and was discovered  
14 inside the apartment on the sofa, like a love seat. And then  
15 debris from the door itself was on the interior floor.

16 Q Showing you what's been admitted as State's 258, is  
17 that a close-up photograph of the disruption or destruction of  
18 the door at Joni Hall's residence?

19 A That's correct. You can see, up at the top, where  
20 the dead bolt assembly, part of it's missing. The part that  
21 was on the face of the door is -- is -- was discovered inside  
22 the apartment.

23 Q Okay. So, generally, where I'm indicating right  
24 here (indicating), there's a dead bolt that's in there and

1 that's missing; correct?

2 A That's correct.

3 Q And that was discovered on a sofa just inside the  
4 doorway?

5 A Yes.

6 Q Showing you State's Admitted 259, what are we  
7 looking at there?

8 A Well, we're looking at love seat and -- and in the  
9 center lower portion, you can see the -- part of the deadbolt  
10 assembly.

11 Q (Indicating) and I'm --

12 A That's it.

13 Q That's it. It's the brass and silver metal piece.  
14 In the center of the photo?

15 A Right. And you can actually see the screw -- I  
16 mean, it -- it was forcibly removed.

17 Q Now, just, generally, what information were you  
18 given as to what had occurred inside Joni Hall's apartment at  
19 the hands of her rapist?

20 A I was told that by -- the --

21 MR. GILL: And, Your Honor, I -- I'm going to object  
22 to the form of that question. Maybe we could rephrase it?

23 THE COURT: Yeah. So I'm gonna sustain as to the  
24 form. But rephrase, please.

1 BY MS. KOLLINS:

2 Q Had you been given information as to what had  
3 occurred inside Ms. Hall's apartment that caused her to report  
4 being a victim?

5 MR. GILL: And, again, same objection. Hearsay.

6 THE COURT: So that just calls for a yes-or-no  
7 answer. So I'm going to overrule. Your answer to that is  
8 what?

9 THE WITNESS: My answer is, when I arrived, I met  
10 with detectives and police officers who told -- gave me,  
11 basically, a blow-by-blow of what had happened.

12 BY MS. KOLLINS:

13 Q Okay. And when you received that information, does  
14 that cause you to kind of make a map around the crime scene of  
15 what you're gonna look at and what you're gonna document and  
16 what you're gonna try to retrieve?

17 A That's correct.

18 Q Okay. So in this case, what did you do?

19 A In this instance we documented the damage to the  
20 door. We looked for footwear impression. I say "we" because  
21 of the nature of the crime, my supervisor, for that night,  
22 responded with me. And we brought certain equipment to look  
23 for potential semen, hairs, fibers, physical evidence of  
24 sexual assault.



1           And we also can use that light source -- it was called an  
2   Omnichrome. It's actually just a bright light with a filter,  
3   but it's -- it's invaluable. It's an invaluable tool to look  
4   for specific types of evidence. And you can use it for more  
5   than just looking for semen. You can use it to look -- as a  
6   light source for a footwear impression.

7           So we -- we examined the door to see if we could develop  
8   a footwear impression. We didn't see anything that was of  
9   useable value. We could tell it had been kicked, but we  
10   didn't see an impression that was recoverable. Use that same  
11   light source to examine a sofa, carpeted floor in the living  
12   room, where the assault had reportedly taken place.

13          I was also provided information that the suspect had  
14   touched or tried not to handle but touched certain areas and  
15   certain places. So I recovered a drink cup from the kitchen  
16   sink. It was an NFL cup. I took that back to the lab. A  
17   curling iron was used. I'm not sure what the purpose of the  
18   curling iron was, but I was requested to recover that as well,  
19   so I did.

20          And then I processed cabinet doors in the kitchen, a  
21   bedroom door, and door knobs. The door to -- the entry door  
22   that was kicked, I processed that as well. We're still  
23   looking for footwear. So I was -- I processed the floor --

24           MR. GILL: Your Honor, can we approach?

1 THE COURT: Sure.

2 [BENCH CONFERENCE BEGIN]

3 MS. KOLLINS: I'm gonna stop her right now.

4 MR. GILL: Okay. And then the footwear. I just

5 wanted to ask about the footwear. Is she gonna be like --

6 MS. KOLLINS: No.

7 MR. GILL: Okay. It's just essentially something

8 she did.

9 MS. KOLLINS: Yes.

10 MR. GILL: Okay.

11 MS. KOLLINS: We discussed not discussing it, but

12 apparently she forgot.

13 MR. GILL: Okay.

14 THE COURT: Okay.

15 MR. GILL: That was my only --

16 THE COURT: (Indiscernible) okay. Got it.

17 MR. GILL: Thanks.

18 [BENCH CONFERENCE END]

19 THE COURT: Go ahead and continue, Ms. Kollins.

20 MS. KOLLINS: Thank you.

21 BY MS. KOLLINS:

22 Q And I'm sorry. I'm gonna ask you --

23 A It is okay.

24 Q -- some questions about that because you gave us a

1 whole bunch of information.

2 A Okay.

3 Q So in terms of learning about what transpired in  
4 that apartment, did you learn that the suspect had accessed or  
5 ventured into the kitchen area?

6 A Yes.

7 Q Showing you State's Admitted 260, is that kind of an  
8 overall of the kitchen of Joni Hall's apartment?

9 A Yes.

10 Q And showing you State's Admitted 261, kind of  
11 standing at the other direction of the kitchen, facing out.

12 A Towards the dining area, yes.

13 Q Yes. And you said there was some information that  
14 the suspect had used a cup?

15 A That he had -- he had asked for water and -- and  
16 actually handled a drink cup.

17 Q Okay. And where was that cup located in the  
18 residence?

19 A The dining room -- in the -- I'm sorry. Kitchen  
20 sink.

21 Q Showing you State's Admitted 262, does --

22 A That's it.

23 Q Was -- that's it.

24 And for the record, that's the cup?

1           A     That's the cup.

2           Q     Within the kitchen sink within Joni Hall's  
3 apartment; correct?

4           A     That's correct.

5           Q     And 263.

6           A     It's a close-up of the cup.

7           Q     And you -- you mentioned that you retrieved that  
8 cup, preserved it, and took it back to the lab and processed  
9 it; is that correct?

10          A     That's correct.

11          Q     And you processed it for fingerprints?

12          A     Yes, and then -- well, at that time, what we could  
13 do is try to preserve the area for recovery of saliva, you  
14 know, potential DNA, and then process the right foot of the  
15 cup for fingerprints.

16          Q     And the same processing -- processing procedures, is  
17 that -- is that a phrase? The same process that you used to  
18 look at the vehicle, you would use to dust that cup and used  
19 the same kind of lifting mechanisms to retrieve any prints;  
20 fair?

21          A     That's correct. Because it was a smooth surface.

22          Q     Showing you 264, State's Admitted 264, is that a  
23 picture of that cup kind of in mid process of you obtaining  
24 lifts?

1           A     Yes. You can see the tape -- is -- is -- this the  
2 two-and-a-half- or two-inch tape that I discussed earlier.  
3 And I numbered the lifts so I could put that information on  
4 the lift card for comparison purposes.

5           Q     And the lifts shown there in this photo are lifts 1  
6 and 2 --

7           A     That's correct.

8           Q     -- relevant to this crime scene; fair?

9           A     Correct.

10          Q     Okay. You mentioned that the sex acts that occurred  
11 in here -- received information given to you was that they  
12 occurred in the living room near a sofa; is that fair?

13          A     That's correct. I was told that a condom was  
14 fashioned out of Saran wrap and that the -- that the act  
15 happened in the living room. And although we didn't know we  
16 would be able to find semen or hair or, you know, fibers, we  
17 still utilized the light kit to search the area.

18          Q     Okay. And showing you State's Admitted 265, is that  
19 just an overall picture of the living room area?

20          A     That's correct.

21          Q     And you had mentioned, earlier, a curling iron. Do  
22 you see that curling iron that you mentioned depicted in that  
23 picture?

24          A     It's on the sofa.

1 Q Okay. And you said that you processed at least  
2 around that sofa for any bodily fluids or any -- any evidence  
3 that might be available from the carpet area; correct?

4 A That's correct. We used the Omnichrome light source  
5 to search for possible semen, hair, and/or fibers. I did  
6 recover some fiber.

7 Q Some --

8 A But no hair, no semen.

9 Q Okay. And showing you 267, State's Admitted 267, do  
10 those cones within that picture document where you attempted  
11 to find either bodily fluids or hairs or fibers?

12 A Well, that would indicate where evidence was  
13 recovered. And since I recovered only fibers, that would be  
14 the locations of recovered fiber.

15 Q Did you -- that curling iron, did you process that  
16 for fingerprints?

17 A Yes, I did.

18 Q Showing you State's 268, do you recognize that  
19 picture?

20 A Yes.

21 Q And what's in 268?

22 A It's a latent print, tape number 2, recovered --  
23 it's where I applied powder and was -- developed a  
24 fingerprint, taped it -- it was number 2 on that particular

1 item. It's the -- that's the curling iron from the sofa.

2 Q And just to reiterate, the recovery of a print does  
3 not necessarily mean that it is sufficient to use for  
4 identification; correct?

5 A That's true.

6 Q Okay. And showing you State's Admitted 269, same  
7 curling iron fingerprint on different side?

8 A Yes.

9 Q Okay. On that sofa, if you recall earlier, there  
10 was a gold, almost like tin-looking object. Do you know what  
11 I'm referring to?

12 A Yes.

13 Q And what was the relevance of that gold tin object?

14 A It was require -- it was requested that I process it  
15 for prints, that it had been handled by the suspect. And  
16 because of the nature of the surface -- the surface had many  
17 facets. It was, like, molded. It was like a metal but  
18 molded. It had a lot of -- I would say facets.

19 Because of that, when you process it, you aren't able to  
20 recover the print with tape because the surface is not smooth.  
21 So I used a material that we use for tool marks, actually --  
22 it's called Mikrosil -- to recover that -- those prints. And  
23 then the Mikrosil's taken back to the lab and photographed and  
24 inversed. Because when you lift the print with the -- with

1 the material like that, you're looking at the reserve image.

2 Q So I'm showing you what's admitted 270 -- yes, 270.  
3 And the gold tin and the surface that you just described, is  
4 that depicted in this photograph?

5 A Yes, it is.

6 Q And it's -- it's next to the curling iron; is that  
7 fair?

8 A That's correct.

9 Q And -- are those -- does that fairly reflect the  
10 location that you found those items in?

11 A That's where they were when I got there.

12 Q Okay. And you mentioned the process -- it's kind of  
13 a reverse lift process, where you put a compound -- because of  
14 the nature of the surface of that gold -- I'll -- I'll call it  
15 a tin; correct?

16 A Correct.

17 Q Showing you State's 272, do you recognize what's  
18 depicted there?

19 A Yes.

20 Q What is that?

21 A That's the Mikrosil that happens to be white. Comes  
22 in different colors: Brown, black, white. For fingerprint --  
23 well, I use it for recovering fingerprints from a facet, a  
24 soft surface, I use the white because then the black --



1 there's a contrast. When you use the powdered black, you  
2 recover it with a white material.

3 And the reason it's reversed is because I'm peeling it --  
4 I'm peeling the print right off the surface. And so it's --  
5 it's -- it's the opposite. When I lift it with a piece of  
6 tape, we're actually viewing it through the tape, so it --  
7 does that make -- does that make sense?

8 Q So this is kind of like crime scene analyst  
9 Play-Doh; right? Sort of? Kind of?

10 A I --

11 Q Right? Is that fair?

12 A Yes.

13 Q Showing you 273, same thing?

14 A Yes.

15 Q You mentioned that the suspect that entered  
16 Ms. Hall's home had used Saran wrap to cover his penis during  
17 the sexual assault; is that fair?

18 A That -- that's correct.

19 Q Did you learn where that was discarded?

20 A I was told that it had been flushed down the toilet.

21 Q Did you ever find that Saran wrap?

22 A No.

23 Q Did you look in the restroom of that apartment?

24 A And I processed for fingerprints in that area. But

1 we searched for semen because, being removed and then put --

2 MR. GILL: And -- I'm sorry Miss -- I'm gonna object  
3 at this point. A lot of the questions are -- are being,  
4 essentially, avoided and then a narration takes place. And  
5 I -- I've let it go on --

6 THE COURT: So nonresponsive?

7 MR. GILL: It's nonresponsive.

8 THE COURT: Sustained in that regard.

9 BY MS. KOLLINS:

10 Q Did you process the restroom? Bathroom?

11 A Yes.

12 Q Showing you State's Admitted 271. Does that look  
13 like a picture of the -- like, overall picture of Ms. Hall's  
14 restroom?

15 A Yes.

16 Q And did you find any discarded Saran wrap in that  
17 bathroom?

18 A No, I didn't.

19 Q Did you find any evidence of semen in that bathroom?

20 A No.

21 Q Did you use a light source in that bathroom?

22 A Yes, we did.

23 Q Okay. So looked but not successful; fair?

24 A Correct.

1 Q Thank you.

2 Did you learn that some items were taken from Ms. Hall's  
3 home?

4 A Yes. I'm sorry. I had to think for a minute.

5 Q I -- I apologize. That just distracted me.

6 A No, it's okay.

7 Q Did you learn that some items were taken from  
8 Ms. Hall's home?

9 A Yes. Prior to responding to her apartment, I was  
10 requested to go to an -- a location about a block -- about a  
11 half a block from her house -- her apartment. At the corner  
12 of 14th and Bonanza there was a stroller, two Albertsons bags,  
13 and a child's toy. I think it was -- I'm not sure what it  
14 was. Like a mini suitcase or a -- a bag. Anyway, so I went  
15 there first and I recovered those items. They were reported  
16 stolen from her apartment.

17 Q Showing you State's Admitted 274, is that the  
18 stroller?

19 A Yes, it is.

20 Q And you went to that location independent of  
21 processing her home?

22 A Yeah, prior to her apartment, I recovered these  
23 items. It was a Detective Jackson was waiting, standing by,  
24 guarding the evidence. And then I put it -- locked it up in

1 my vehicle, take back to the lab for processing.

2 Q And showing you State's Admitted 275, just a closer  
3 shot of that same stroller?

4 A Yes.

5 Q When that stroller was recovered, was that later  
6 processed as well?

7 A Yes.

8 Q And when I say "processed," you looked for  
9 fingerprints on that?

10 A Correct.

11 Q Were you successful of getting any lifts off that  
12 stroller?

13 A No.

14 Q What about the Albertsons bags? Were those  
15 processed as well?

16 A I processed everything I took back to the lab, and I  
17 did not recover usable fingerprints.

18 Q So when you say you processed everything you took  
19 back to the lab, you're just talking about from that sidewalk  
20 scene; right?

21 A Yes.

22 Q Okay. So the -- the Albertsons bags, the stroller,  
23 and the child's toy, you were not successful of finding the  
24 prints; correct?

1           A     That's correct.

2           Q     But that is not the case with the curling iron and  
3 the drinking cup; correct?

4           A     Correct.

5           Q     Okay. All right. Give me one moment, ma'am.

6           You were also asked to process a scene regarding the  
7 Zazueta family; is that correct?

8           A     That's correct.

9           Q     And that was a little different than  
10 Marlene Livingston and Joni Hall in that there was not a  
11 sexual assault; is that fair?

12          A     I was told it was a robbery.

13          Q     Okay.

14          A     And an assault.

15          Q     A physical assault as opposed to a sexual assault.

16          A     Correct.

17          Q     What details of that event were you privileged to  
18 when you arrived? What did you know?

19          A     When I arrived, robbery detectives and general  
20 assignment detectives and police officers were present. And I  
21 was told that the -- that there was a shooting and that the  
22 suspect had left the apartment through a window, jumped  
23 through a broken window. So there was quite a bit of blood.  
24 And -- and the direction that he took off. I'm trying to

1 remember which direction it was. He jumped off of a balcony.

2 Anyways, so there was -- there were blood droplets.

3 There were droplets on the sidewalk; there were blood droplets  
4 on the balcony; there were blood droplets on the steps, which  
5 were cement that led up from -- from the downstairs to the  
6 second floor. It was -- the scene as actually three-bedroom  
7 second-story -- the second floor apartment in this  
8 Cedar Village apartment complex.

9 Q Okay. So you had learned that there had been a  
10 suspect in the -- in an altercation and discharge of a firearm  
11 and kind of a unique exit -- exit path of the perpetrator by  
12 jumping out the window and off the second story; fair?

13 A Correct.

14 Q And was that address, if you recall, 2850 Cedar  
15 Avenue, apartment H 229?

16 A Yes, it was.

17 Q And we're talking about June 9th of 2000; correct?

18 A That's correct.

19 Q Show you State's Admitted 230. Do you recognize  
20 what's depicted there?

21 A Well, it's the breezeway between the apartments and  
22 then the staircase on the right leading up to -- oh, I can't  
23 tell which apartment number that is. It -- it's basically an  
24 overall view of the exterior portion of the scene.

1 Q Okay. And did you also photograph the exterior  
2 right outside the door on the second floor?

3 A Yes, I did.

4 Q Showing you State's 229. Does that put that into  
5 perspective?

6 A Yes, you can see -- is it okay if I use this?

7 You can see that the window's missing. There -- part of  
8 the blind is extended outside the window and then there's  
9 broken glass over the air conditioning unit and all over the  
10 balcony in this -- and the chair.

11 Q Showing you State's 228.

12 A It's just a close-up view.

13 Q Close-up view --

14 A Of the broken window.

15 Q -- of the same --

16 A And the glass.

17 Q And I don't want to change the exposure on that  
18 because then we'll be sitting here all day (indiscernible) so  
19 that it's focused.

20 Did you also document the inside of the apartment, just  
21 for its overall -- overall location of everything?

22 A Yes, I did.

23 Q Showing you State's Admitted 214. Do you recognize  
24 what's depicted in that picture?

1           A     That's a picture from inside the living room towards  
2 the -- the entry door.

3           Q     And the window that was used to exit the apartment,  
4 you can't see it in that picture; correct?

5           A     No.

6           Q     It's kind of out -- would it be outside the frame to  
7 the right?

8           A     I believe so.

9           Q     Showing you what's been admitted as 215, do you  
10 recognize that picture?

11          A     Yes, that's the window. You can see the blind  
12 that -- well, you can see part of it was exposed outside the  
13 window here. And then there's broken glass on the window  
14 sill.

15          Q     Okay. Now, this was a multi-bedroom apartment;  
16 correct?

17          A     Yeah, it was a three-bedroom.

18          Q     I'm sorry?

19          A     It was a three-bedroom.

20          Q     And there was one bedroom that was a master bedroom  
21 and then a secondary bedroom also shared by adults; is that  
22 fair?

23          A     Yes. Yes.

24          Q     Thank you. Sorry. I was just trying to get right



1 part of my stack here, ma'am.

2 Showing you what's been admitted as 221. Would that be  
3 at least looking from the foot of the bed to the right of the  
4 master bedroom?

5 A Yes.

6 Q And it's kind of got that plaid wall paper. And  
7 would that be the south wall of the master bedroom?

8 A I may have to refer to my notes on this one. I was  
9 thinking it was east for some reason. Is that okay?

10 Q Yes.

11 THE COURT: Yeah, of course.

12 BY MS. KOLLINS:

13 Q If it would reflect -- refresh your recollection to  
14 do so.

15 A I believe it's the east wall.

16 Q Okay. So my error in question. I apologize.  
17 So the plaid wall is the east wall of the master bedroom.

18 A Well, that's reflected be -- and the reason I know  
19 that is because there was a bullet hole in that wall.

20 Q Okay. We'll get there.

21 A Okay. Sorry.

22 Q I'm sorry for sending you on the south track instead  
23 of the east track.

24 Showing you State's Admitted 222, kind of a better

1 picture of the overall master bedroom?

2 A That's the picture of the bed. Sometimes when you  
3 get into these apartments, they're small. Limited by the view  
4 of the camera lens. So it's, like, stat. Your -- you're  
5 trying to take pictures of four corners and four sides of the  
6 room --

7 MR. GILL: And, again, Your Honor, objection as to  
8 nonresponsive.

9 THE COURT: Sustained.

10 THE WITNESS: Sorry.

11 THE COURT: It's okay.

12 BY MS. KOLLINS:

13 Q So you -- I kind of gave you an overall of the  
14 apartment -- or at least the master bedroom and the entryway.  
15 Did you have contact with someone at that location that had  
16 become injured by whoever had entered that apartment?

17 A Yes, I did.

18 Q And what was that person's name?

19 A Guadalupe Lopez.

20 Q Showing you State's Admitted 231. Is that  
21 Guadalupe Lopez?

22 A Yes, it is.

23 Q And that's how he looked back in June of 2000;  
24 right?

1           A     Yes.

2           Q     Okay. And Guadalupe also had some injuries; right?

3           A     Yes.

4           Q     And did you document those by photography?

5           A     Yes, I did.

6           Q     Showing you State's 232, what are we looking at  
7 there?

8           A     The top of his head. He has a laceration on the top  
9 of his head.

10          Q     And did you also have occasion to photograph a  
11 grazing gunshot wound suffered by Guadalupe?

12          A     Well, he had injuries to both hand and to his right  
13 leg. I'm not sure which was -- probably the leg. I don't  
14 remember. I'm sorry.

15          Q     That's okay. Showing you State's 235.

16          A     That's his leg.

17          Q     And you took that photograph?

18          A     Yes, I did.

19          Q     Okay. And you said some injuries to his hands as  
20 well; correct?

21          A     That's correct.

22          Q     And showing you 234.

23          A     Yeah.

24          Q     Does that appear familiar to you?

1           A     Yes.

2           Q     And what is that?

3           A     That's blood -- he has blood to his hands and a  
4     small lass -- some small lacerations to his fingers. Here  
5     (indicating).

6           Q     And is that his right hand?

7           A     Yes, it is.

8           Q     And then showing you State's Admitted 233, is that  
9     Guadalupe's left hand?

10          A     Yes, it is.

11          Q     And what are we seeing there?

12          A     A laceration to his thumb.

13          Q     Now, in -- aside from looking at the overall  
14     condition of the apartment and the window and documenting  
15     Guadalupe's injuries, did you also recover some physical  
16     evidence from the scene?

17          A     Yes, I did.

18          Q     Okay. I'd like to kind of start with you in the  
19     hallway. Was there a hallway in that apartment?

20          A     Yes.

21          Q     And -- showing you State's Admitted 236, what are we  
22     seeing there?

23          A     We're seeing a photograph from one end of the short  
24     hallway to the other.

1 Q Okay.

2 A And --

3 Q And why is that significant?

4 A Well, because at the bottom of --

5 Q There.

6 A There. The floor -- this piece of furniture's like  
7 a desk. Near this desk -- and there's a doorway here  
8 (indicating) that goes into the master bedroom -- I recovered  
9 a cartridge case.

10 Q And showing you what's been admitted as State's 237,  
11 is that kind of at the foot of that same piece of furniture?

12 A Yes. The cone just indicates -- is show -- is the  
13 direction -- showing the cartridge case, which is, like, right  
14 here (indicating).

15 Q Which is right where?

16 A Where the -- my arrow -- is it the -- the tip of  
17 the -- of the cone, there's a cartridge case there.

18 Q And did you document that with a little bit closer  
19 shot, State's Admitted 238?

20 A Yes.

21 Q Okay. So that's a cart -- cartridge casing that you  
22 found outside the master bedroom near that desk in the hallway  
23 area; correct?

24 A That's correct.

1           Q     All right.  So as we move into the master bedroom,  
2 did you also recover some items of interest in the master  
3 bedroom?

4           A     I recovered two additional cartridge cases of the  
5 same size and stamp.

6           Q     Okay.  So as we looked at the master bedroom,  
7 towards that east wall where the plaid was --

8           A     Yes.

9           Q     Do you know what I'm talking about?  
10 Did you find something significant on one side of that  
11 bed or the other?

12          A     There was -- there was a cartridge case on the floor  
13 between -- I have to see the photos.

14          Q     Sure.

15          A     There's a television and a closet down at the  
16 foot -- and then along the east wall there were two cartridge  
17 cases.  One was along the east wall and the other one was in  
18 the -- at the foot of where the closet and the television was  
19 on a stand.

20          Q     Okay.  So I'm going to show you some overall  
21 pictures.  Give me just a moment.

22          A     Okay.

23          Q     This is State's Admitted 239.  So are you talking  
24 about the space between that bed and that wall right there?

1           A     No.

2           Q     No?

3           A     I'm sorry.

4           Q     Okay.

5           A     It -- well, it probably is, but -- it looks like  
6 I've taken a picture -- when I do four corners and four sides  
7 of each room, that's -- looks like that's the shot showing  
8 that directionality. The --

9           Q     Okay. Let me ask a question --

10          A     The cartridge would be -- the cartridge would be  
11 between the bed and this wall over here, but it'd be along the  
12 east wall. Did I say east? Yeah.

13          Q     So there was something else significant near the  
14 television. But there's something between the bed and the  
15 wall too; correct?

16          A     That's correct.

17          Q     Okay. So showing you State's Admitted 242, is that  
18 the space between the bed and the wall?

19          A     Yes.

20          Q     Okay. And what significant is found there?

21          A     Well, the orange cone indicates the directionality  
22 towards an additional cartridge case.

23          Q     Okay. And so as we look at the bedroom in 239, are  
24 we talking about the far side of the -- oh, I'm sorry. The

1 far side of the bed over here on the floor (indicating) --

2 A Yes.

3 Q -- is that where that was taken?

4 A I think so. It's hard to tell from this photograph.

5 Q Well, not from this photograph, but can you tell  
6 from this photograph?

7 A Yes. So I'm -- so I'm assuming is -- the window's  
8 above the cartridge case. Does that make sense? But I --

9 Q And -- and that's what I'm assuming. Maybe I'm just  
10 not asking it the right way.

11 A Okay.

12 Q Did you take a closer picture of that cartridge  
13 casing?

14 A Yes.

15 Q Showing you what's admitted State's 243. Is that a  
16 closer picture of that cart -- cartridge casing?

17 A Yeah. It's a small caliber. It was a cartridge  
18 case with a head stamp. Just the letter "F" for "federal."  
19 They were -- the three cartridge cases were all the same.  
20 Size and head stamp.

21 Q So if -- if that, you said, is located approximately  
22 under the window in that bedroom, then is -- at the end of  
23 where that window sits, was there a television?

24 A Yes, there was.



1 Q Showing you State's Admitted 240. Is that the  
2 television?

3 A Yes.

4 Q And the same window where the other cartridge was  
5 found?

6 A Correct.

7 Q Was anything of significance found at or near this  
8 television?

9 A Well, on the floor between the television and the  
10 closet door, on the left, there was a cartridge case on -- on  
11 the carpeted floor.

12 Q Showing you State's Admitted 241, is that a copy --  
13 is that a close picture of the cartridge casing that was  
14 recovered between that TV stand on the carpeted floor --

15 A Yes.

16 Q -- under the closet?

17 A Yes, it is. It's the same small caliber, head  
18 stamped F for "federal" cartridge case.

19 Q Thank you, ma'am.

20 Now, you also had some -- at least some items of interest  
21 with regard to the wall over the master bed -- master bedroom  
22 (indiscernible); is that correct?

23 A Yes.

24 Q And what of interest was on that wall?

1           A     Well, we were looking for bullets and we found a  
2 hole on the wall through the -- that perforated the wall  
3 paper. About five feet up from the floor, next to the bed.

4           Q     Showing you State's Admitted 244.

5           A     That's it.

6           Q     Does that depict the hole -- the bullet hole?

7           A     Yes, it's right here (indicating). I put a scale to  
8 show size. You can see there's a small circular hole right  
9 there (indicating).

10          Q     And State's 245.

11          A     And that's a --

12          Q     Closer picture of that same --

13          A     Yes.

14          Q     -- bullet hole?

15          A     That's correct.

16          Q     And 246 --

17          A     We --

18          Q     -- really close?

19          A     Yeah. We attempted to recover the bullet but it  
20 exited. It went through the wall and out. 'Cause this was an  
21 exterior wall.

22          Q     Okay. So there was no projectile or anything  
23 recovered from that.

24          A     No. No.

1           Q     Anything in with -- anything that struck you or --  
2 4:00 o'clock. I can't talk.

3           Anything that caught your interest regarding the  
4 mattress?

5           A     We found a perforated hole through the top of the  
6 mattress, the sheets, and then when we moved the top mattress,  
7 we found a bullet between the mattress -- like on top of the  
8 box springs.

9           Q     Showing you State's Admitted 247. Does that show  
10 your ruler to scale for the bullet hole in the mattress?

11          A     That's correct.

12          Q     And showing you State's Admitted 248. Does that  
13 show that bullet hole close up?

14          A     Yes.

15          Q     Okay. And you said it was through and through to  
16 the box spring; is that correct?

17          A     It went through -- it traveled through the bedding,  
18 the mattress, and -- and partially tore into the box springs.  
19 But it was obvious -- when we pulled the mattress back, we  
20 found it.

21          Q     Okay. Showing you State's Admitted 249, is that  
22 where it lodged in the box spring?

23          A     That's correct.

24          Q     And showing you State's 250, is that a closer up of

1 that same projectile that was lodged in the box spring?

2 A Yes.

3 Q Now, did you find one more projectile in that  
4 apartment?

5 A We found another bullet, it was lodged in the  
6 carpet. It had actually perforated the carpet and tore  
7 through the pad. And -- and hit the -- the floor, which is --  
8 looks like cement. It's a second floor apartment. So  
9 whatever the material they used for -- for the undercoating  
10 for the floor, the bullet was there.

11 Q And in what room was this?

12 A The master bedroom.

13 Q Okay. Showing you State's 251. Do you recognize  
14 what's in 251?

15 A Well, it's the --

16 Q Oops.

17 A -- bottom of the carpet. Sorry.

18 Q Sorry about that.

19 A So what we have here is the carpet has been pulled  
20 back. My scale shows the surrounding area. This is the  
21 bullet hole (indicating). And then -- that perforated the  
22 carpet. And then if you could go further this direction,  
23 you'll see where it tore through -- you can see it tore  
24 through the pad. And it's off the -- it's not in the photo.

1 Q And showing you 252, it kind of tore through  
2 whatever that flooring material is; is that correct --

3 A Right.

4 Q -- (indiscernible) --

5 A So it's some kind of cement-like material. And so  
6 when the bullet hits something like that, it shreds -- it --  
7 and the material that the bullet's made out of is relatively  
8 soft. So when the bullet went through the carpet, through the  
9 pad, and hit that cement-like medium, it -- it deformed the  
10 bullet. But that's -- this is a bullet right here.

11 Q And all of the bullets and the shell casings that  
12 we've discussed, those were all preserved by you,  
13 individually, impounded into evidence at Metro.

14 A That's correct.

15 Q And I -- I need to go back for just a moment because  
16 I forgot to ask you. Did you process two items in that  
17 apartment for prints?

18 A Yes, I did.

19 Q Do you recall what those were?

20 A The door knob to the interior door that was kicked  
21 and then the television. The screen of the television. There  
22 was a disturbance to the screen of the television, so I  
23 fingerprint processed that as well. And -- and I processed  
24 other areas. But those are where I recovered fingerprints.

1 Q And showing you State's Admitted 253, does that  
2 depict your processing of the -- the door knob?

3 A Yes.

4 Q And you mentioned the television, where the screen  
5 had been disrupted.

6 A Yes. But did I say kicked?

7 Q You said "disrupted."

8 A Disrupted. Thank you. Because this door wasn't  
9 kicked.

10 Q I don't think I said "kicked."

11 A No, I -- I thought I did 'cause -- I -- I just want  
12 to make sure that I didn't misspeak --

13 Q No.

14 A -- because the -- a door was kicked, but it was the  
15 previous scene. This door, there was no disturbance as far as  
16 a footwear impression or -- or the door being kicked.

17 Q Okay.

18 A I processed it because we believed he had touched  
19 the handle.

20 Q Okay. And you mention something that caught your  
21 attention on the television screen that caused you to process  
22 the television screen for latent prints; correct?

23 A Yes. Just fresh dirt disturbance.

24 Q And showing you admitted State's 254, does that

1 appear to fairly and accurately depict the processing of that  
2 television that night in the Zazueta apartment?

3 A Yes.

4 MS. KOLLINS: Your Honor, I do not have any more  
5 questions.

6 THE COURT: Okay.

7 MS. KOLLINS: (Indiscernible)

8 THE COURT: Mr. Gill.

9 MS. KOLLINS: Sorry.

10 MR. GILL: I don't need those lists, Stacy. So if  
11 you want to --

12 MS. KOLLINS: You want to wait -- you want me to  
13 wait?

14 MR. GILL: Yeah. That's fine.

15 MS. KOLLINS: Okay.

16 CROSS-EXAMINATION

17 BY MR. GILL:

18 Q Good afternoon. How are you?

19 A Fine. Thank you.

20 Q So in 2000, you were a crime scene analyst; correct?

21 A That's correct.

22 Q And later in your career, you -- you did examine  
23 prints; is that right?

24 A I went over to the latent print section and I worked

1 in there for one year.

2 Q Okay. Towards the end of your (indiscernible) time.

3 A Toward -- towards the end of my career.

4 Q Okay. So -- and I'm just gonna ask some general  
5 questions. Essentially in this series, you did three crime  
6 scenes; is that fair?

7 A That's correct.

8 Q Processed three crime scenes?

9 A Yes.

10 Q And when you arrive at each one -- or any one that  
11 you've done throughout your career, which I'm assuming is in  
12 the hundreds or thousands; correct?

13 A Thousands.

14 Q Thousands. And you are told information by  
15 detectives or officers; is that correct?

16 A Yes.

17 Q And you rely on that information in doing, kind of,  
18 whatever you're going to do; is that fair?

19 A Yes.

20 Q Whether -- is that a "yes"? I'm sorry.

21 A Yes, it is.

22 Q So whether that's collect prints, latent prints, you  
23 know, trying to recover blood, trying to recover shell  
24 casings, you name it, you'll -- you'll process it; correct?



1           A     Yeah, my investigation is based on the information  
2 provided.

3           Q     Okay. So when you arrive, it's -- it's after the  
4 crime has occurred; correct?

5           A     Correct.

6           Q     Whatever crime you're investigating.

7           A     Correct.

8           Q     And detectives, investigators, whatever is out there  
9 say, "Hey, this is what we think you should look at"; right?  
10 I mean, I know I'm simplifying it, but --

11          A     Include -- to include this.

12          Q     Okay.

13          A     Yeah. Because it is never just what they tell you  
14 to do. I mean, very seldom. Unless I'm working on a specific  
15 search warrant, where they're looking for something specific,  
16 then -- then my search can be narrowed to that.

17          Q     Okay.

18          A     But when I respond to a crime scene, if it's good  
19 information and it helps me -- it helps -- it helps assist me  
20 in -- my portion of the investigation.

21          Q     Okay. But at -- at the time -- and, again, I'm just  
22 speaking general still -- you don't know, necessarily, a  
23 suspect's name; right?

24          A     No.

1 Q You might know an alleged victim's name; correct?

2 A Hopefully.

3 Q Right.

4 A Yes.

5 Q I mean -- and in these -- I'll narrow it down a  
6 little bit. In these three situations, you -- you were at a  
7 person's residence or processing their vehicle; correct?

8 A That's correct.

9 Q So in these three you were given a name?

10 A Yes.

11 Q And that -- that name is included in -- in not only  
12 your report but any prints you might pull or anything like  
13 that; correct?

14 A That's correct.

15 Q But again, still information that you're relying on  
16 from others, meaning detectives, investigators, or officers.

17 A Absolutely.

18 MR. GILL: Nothing further, Your Honor.

19 THE COURT: Any redirect on that?

20 MS. KOLLINS: No.

21 THE COURT: Anything from the jurors?

22 Ma'am, thank you so much for your testimony. Please  
23 don't share with anyone else involved in the case. You are  
24 excused. Appreciate you being here.

1 THE WITNESS: Thank you.

2 MS. KOLLINS: May we approach?

3 THE COURT: Yeah.

4 [BENCH CONFERENCE BEGIN]

5 MS. KOLLINS: And I think (indiscernible) --

6 MS. LUZAICH: What?

7 MS. KOLLINS: -- (indiscernible)

8 MS. LUZAICH: Okay. Yeah. We can start her. We

9 won't -- we won't finish Angela, I don't think. But we'll

10 start her.

11 MR. GILL: Up to you guys.

12 MS. LUZAICH: It is her.

13 THE COURT: Yeah, just start her.

14 MS. LUZAICH: Yeah.

15 THE COURT: We can see how far we get.

16 MS. LUZAICH: Yeah.

17 MR. GILL: Okay.

18 [BENCH CONFERENCE END]

19 MS. KOLLINS: State calls Angela Smith-Porter --

20 Porter-Smith.

21 THE MARSHAL: And if you can step up there, remain

22 standing and raise your right hand so the clerk can swear you

23 in.

24 ///

1                   ANGELA D. SMITH-PORTER,  
2     [Having been called as a witness and being first duly  
3     sworn testified as follows:]

4                   THE WITNESS:   Yes, ma'am.

5                   THE CLERK:    Thank you.   Please have a seat.

6                   THE WITNESS:   Yes, ma'am.

7                   THE CLERK:    Will you please state and spell your  
8     first and last name for the record.

9                   THE WITNESS:   Okay.   My name is Angela D.  
10    Smith-Porter.   S-M-I-T-H, P-O-R-T-E-R, A-N-G-E-L-A, D.

11                  THE COURT:    Okay.

12                  THE CLERK:    Thank you.

13                  THE COURT:    Thank you.

14                  All right.    Ms. Luzaich.

15                  MS. LUZAICH:   Thank you.

16                                  DIRECT EXAMINATION

17    BY MS. LUZAICH:

18                  Q     Good afternoon, Mrs. Porter.   How are you?

19                  A     Doing fine.

20                  Q     I'm glad to hear that.   I -- I know this is  
21    difficult, so I want to make it as easy as possible.

22                  A     Fine.

23                  Q     Do you see your son in the courtroom today?

24                  A     I'm sorry.   I have spots in my eyes, but I -- he

1 over there somewhere.

2 Q Do you recognize him?

3 A I have spots in my eyes. I said he's over there.

4 Q Well, you said he's over there somewhere.

5 A Oh, yeah.

6 MR. GILL: Your Honor, we'll stipulate that  
7 Mr. Porter's sitting next to me.

8 THE WITNESS: Thank you, sir.

9 MS. LUZAICH: Thank you. Thank you.

10 THE WITNESS: Thank you, ma'am.

11 THE COURT: Yeah.

12 BY MS. LUZAICH:

13 Q Mrs. Porter, how many children do you have?

14 A I have five children. I had six.

15 Q And do your children live here and elsewhere?

16 A I have a child that's in Chicago, my oldest son.  
17 And I have a son here. I have a daughter here. And my other  
18 daughter's there somewhere. And I live with my grandchildren.

19 Q Okay. That's your daughter sitting --

20 A That's my daughter.

21 Q -- right back there? Thank you.

22 Before you lived in Las Vegas, where did you live?

23 A I lived in Chicago. I lived in the suburbs of  
24 Chicago.

1 Q Were you born and raised in Chicago?

2 A I was born in Memphis, Tennessee.

3 Q Oh.

4 A And I was raised in Memphis and Chicago. 'Cause  
5 they're only 900 miles apart.

6 Q Okay. Where were most of your -- most, if not all,  
7 of your children born?

8 A In Chicago.

9 Q And did your children grow up pretty much in  
10 Chicago?

11 A Yes.

12 Q Do you recall around when you moved to Las Vegas?

13 A Yes, I moved here in 1998, in November.

14 Q Okay. And when you moved here to Las Vegas, who did  
15 you move here with?

16 A I stayed here with Dorothy Frazier, which was my  
17 aunty.

18 Q Okay.

19 A And we stayed by Showboat.

20 Q And is that Frazier, F-R-A-Z-I-E-R?

21 A Yeah, I'm not good at spelling. I'm sorry.

22 THE COURT: That's okay.

23 BY MS. LUZAICH:

24 Q No worries.

1 Was there a time that you were married to George Porter?

2 A Yes.

3 Q And was --

4 A We was 21 years.

5 Q You -- you were married for 21 years?

6 A Yes.

7 Q Were you living in Chicago the whole time that you  
8 and he were married?

9 A Yes.

10 Q And would he be Justin's father?

11 A Yes.

12 Q Did --

13 A He's all my children's father.

14 Q Oh, okay. I'm sorry about that. I didn't mean  
15 anything by that.

16 A I'm sorry.

17 Q Did he move here to Las Vegas with you?

18 A No.

19 Q Are you since remarried?

20 A Yes.

21 Q Who are you married to?

22 A I'm married to Sergo Prevost. He's Haitian.

23 Q Okay. Can you spell --

24 A Haitian American.

1 Q Can you spell that?

2 A S-E-R-G-O, P-R-E-V-O-S-T, like the Prevost bus.

3 Q Okay.

4 THE WITNESS: Is that okay?

5 THE COURT: Yeah.

6 THE WITNESS: Yes, ma'am.

7 BY MS. LUZAICH:

8 Q Where is he now?

9 A He's in Santo Domingo. We go on vacation a lot.  
10 And he had -- he -- he -- he went to see his children.

11 Q Okay. When did he go to see his children?

12 A He left last week.

13 Q Last week. Do you remember what day of the week he  
14 left?

15 A Um --

16 Q Not sure?

17 THE COURT: Today's Thursday, if that gives you any  
18 help.

19 THE WITNESS: Give me one minute. I'm trying to  
20 think --

21 BY MS. LUZAICH:

22 Q If you don't remember, that's okay.

23 A I don't remember. But --

24 Q Okay.



1           A     -- he left last week.

2           Q     And had he had plans to leave on that day for a  
3 while?

4           A     Well, we planned -- we planned on leaving.

5           MR. GILL: Your Honor, can we approach?

6           THE COURT: Sure.

7           [BENCH CONFERENCE BEGIN]

8           MR. GILL: He -- he's (indiscernible).

9           MS. LUZAICH: Yes.

10          THE COURT: He's what?

11          MR. GILL: He was subpoenaed by the State, but I  
12 think she's trying to get through -- and correct me if I'm  
13 wrong. She's trying to get through him [sic] that he left the  
14 jurisdiction while under subpoena.

15          MS. LUZAICH: No, I am not.

16          THE COURT: Oh, what are you --

17          MR. GILL: So --

18          THE COURT: What's -- what's the reference?  
19 (Indiscernible)

20          MS. LUZAICH: Well, I would have called him as a  
21 witness if he had been here. So that's all.

22          MR. GILL: Okay.

23          THE COURT: That's good.

24          MS. LUZAICH: Yeah. No. No. No. I have no

1 nefarious intent.

2 MR. GILL: I know.

3 THE COURT: Remind me, though, once we're done  
4 today, the jurors would like to know the dates of the  
5 preliminary hearing transcripts that we read for both Ms. Case  
6 and Ms. Livingston.

7 MS. KOLLINS: I'll send you a preliminary hearing  
8 outline to your e-mail that tells you who's on what date.

9 THE COURT: Okay. Yeah. And then I'll be able to  
10 read it to them.

11 MS. KOLLINS: Yeah.

12 THE COURT: That was one of our questions.

13 MS. KOLLINS: Okay. And I'll share it with --

14 THE COURT: Thanks.

15 MR. GILL: Thank you. Sorry.

16 [BENCH CONFERENCE END]

17 THE COURT: All right. Ms. Luzaich.

18 MS. LUZAICH: Thank you.

19 BY MS. LUZAICH:

20 Q And, Mrs. Porter, had he had that -- or  
21 Mrs. Prevost --

22 A Mm-hmm. Yes.

23 Q -- had he had that trip planned for quite some time?

24 A Yes.

1 Q I mean, it was not a last minute thing?  
2 A Over a year.  
3 Q Okay. And do you know when he's coming back?  
4 A He's supposed to be back next week.  
5 Q Next week.  
6 A I can't say for sure because he's out of the  
7 country. And being out of the country, he had to take a COVID  
8 test. So I guess he would be isolated for a while, being out  
9 of the United States.  
10 Q Okay. And do you know if he were to come back next  
11 week, what day he was planning to come back?  
12 A Well, we -- he really didn't say -- and I don't want  
13 to lie.  
14 Q Okay. Okay. Okay.  
15 So when you moved here, you said you were first staying  
16 with your aunty --  
17 A Yes.  
18 Q -- Dorothy Frazier?  
19 A Yes.  
20 Q And was Sergo with you then?  
21 A No.  
22 Q Was Justin with you then?  
23 A Yes.  
24 Q Who -- who specifically did come with you?

1           A     It was me, my oldest daughter, my daughter, and  
2 Justin, and two of my grandchildren.

3           Q     Okay. And when you say that Dorothy Frazier is your  
4 aunty, you grew up with her.

5           A     Yes.

6           Q     Did she also come from Chicago?

7           A     Um, to be truthful with you, she came from Arkansas  
8 'cause they -- they went different places. They went to  
9 Hot Springs, Arkansas, or something. And somehow they ended  
10 up in Vegas.

11          Q     Okay. So from Chicago to somewhere to here.

12          A     Right.

13          Q     Does she have children?

14          A     Yes.

15          Q     And does she have a son?

16          A     Yes.

17          Q     Is her son close to your son?

18          A     Very. They were very close. Very close.

19          Q     Like, they grew up together?

20          A     Yes. They change clothes, they share clothes, they  
21 shared beds, they shared a lot of things.

22          Q     Okay. And is his name Kristopher Deloney?

23          A     Yes.

24          Q     And that's Kristopher, K-R-I-S-T-O-P-H-E-R?

1           A     I'm sorry. Please don't ask me to spell.

2           Q     You don't know?

3           THE COURT: That's okay.

4           MS. LUZAICH: I won't. I was more doing that for  
5 the court recorder.

6           THE COURT: For the court recorder, yeah. That's  
7 okay.

8           THE WITNESS: Thank you.

9           MS. LUZAICH: And Deloney, D-E-L-O-N-E-Y, for the  
10 court recorder.

11          THE WITNESS: Thank you.

12 BY MS. LUZAICH:

13          Q     How old is Kristopher Deloney compared to your son?

14          A     I really don't know because, um, I barely know when  
15 Justin was born. So less long Kristopher. But I know they  
16 are in -- close in -- they're very close there -- they almost  
17 look alike, if you'd see 'em.

18          Q     Okay. Is Kristopher younger than Justin?

19          A     I'm not 100 percent sure.

20          Q     Okay.

21          A     I think Justin is younger.

22          Q     Okay. Do you remember Justin's date of birth?

23          A     Justin was born December 12, 1981, or '2. I have  
24 six kids. Please help me.

1 Q And how many grandkids?

2 A I have 19 grandchildren. I have five great, but one  
3 died in December of this year -- of last year.

4 Q I'm so sorry about that.

5 And could Justin's birthday be December 13th of 1982?  
6 Does that sound right?

7 A That sound right.

8 Q Okay. Thanks.

9 So Justin and Kristopher, you said, were really good  
10 friends --

11 A Yes, ma'am.

12 Q -- they look alike, they share clothes, things like  
13 that. When -- do you -- well --

14 A Yes, ma'am.

15 Q Do you recall talking to police about your son in  
16 the year 2000?

17 A I remember them stopping me and asking me questions.  
18 And I also remember they were asking me so many questions.  
19 And at that state of mind I was in, I can't remember  
20 everything we talked about. Bits and pieces --

21 Q Okay.

22 A -- I can remember.

23 Q Did I -- did -- did you and I talk just a few  
24 minutes ago?

1           A     Yes, ma'am.

2           Q     And did I give you a copy of a transcript of the  
3 conversation that you had with the police?

4           A     Yes, ma'am. And some of it, I looked at it, was  
5 correct and some of it -- being as nervous as I was, I did get  
6 some stuff wrong.

7           Q     Okay.

8           A     Especially where I lived at and how long I had been  
9 living there.

10          Q     Okay. So you were mistaken about some things?

11          A     [Witness nods head.]

12          Q     Okay.

13          A     Very so.

14          Q     Well, do you remember telling the police that Justin  
15 had lived -- and I'm sorry. Was the conversation that you had  
16 with the police on August 11th of 2000?

17          A     Mm-hmm.

18          Q     Does that sound right? Don't remember?

19          A     No, ma'am.

20          Q     How about if I show you a copy of the transcript --

21          A     No, I looked at what you gave me, but --

22          Q     -- would that refresh your memory?

23          A     I looked at what you gave me. And some of -- like I  
24 told you, I've been trying to kind of replay it over -- it's

1     been 22 years and --

2           Q     I understand.

3           A     -- (indiscernible) you know I'm old. I don't mean  
4     that.

5           Q     No, you're not.

6           A     You know what I'm saying.

7           THE WITNESS: I can't remember everything,  
8     Your Honor.

9           THE COURT: That's okay.

10          BY MS. LUZAICH:

11          Q     Of course. But if I showed you a copy of the  
12     transcript you looked at, with the date on it, would that  
13     refresh your memory as the date of the conversation you had?

14          A     To be truthful with you, ma'am, I don't think so  
15     'cause I was trying to do it out there.

16          THE COURT: You can just read it into the record,  
17     Ms. Luzaich.

18          THE WITNESS: Thank you.

19          MS. LUZAICH: Okay.

20          THE COURT: That will save us the steps --

21          MS. LUZAICH: Will you accept my representation --

22          THE COURT: Yeah.

23          MS. LUZAICH: -- that the transcript says that the  
24     conversation you had was on August 11th of the year 2000 at



1 12:06 a.m.

2 THE WITNESS: In the morning?

3 BY MS. LUZAICH:

4 Q Yes.

5 A If that's what the transcript said, I can't -- you  
6 know.

7 THE COURT: Okay.

8 MR. GILL: And Your Honor, we'll stipulate that  
9 that's what the transcript says.

10 THE COURT: Okay. Perfect.

11 MS. LUZAICH: Thank you.

12 THE WITNESS: Thank you, sir.

13 BY MS. LUZAICH:

14 Q And do you recall telling them, when you had that  
15 conversation, that Justin had lived with you since January of  
16 2000?

17 A Jan -- Justin has lived with me when we first moved  
18 there in 1990 -- in 1998. And him and my husband didn't get  
19 along. So to keep the confusion down in the house, my son  
20 lived on Decatur. So he was living with my -- he was -- he  
21 was coming from my house on the weekend 'cause I didn't work  
22 on weekends. He would stay at his sister house that lived on  
23 Pecos. And he had a brother. So he wasn't specifically --  
24 everywhere.

1 Q Okay. But he lived with you --

2 A Right.

3 Q -- from January 2000 until August, when you had that  
4 conversation; is that accurate? He would stay with his  
5 brother and sister --

6 A Right.

7 Q -- prior to that. But come January, was he living  
8 with you?

9 A Not every day.

10 Q Okay.

11 A Not every day. Because I worked 24/7.

12 Q Okay.

13 A And which means I wasn't home the majority of the  
14 time 'cause I'm a workaholic, like I told you.

15 Q Right.

16 A So, therefore, the majority of the time he was  
17 either with his sister, his brother, or somebody. You see  
18 what I'm saying? So I --

19 Q Did you -- did you also tell the police that he  
20 stayed quite often with your Aunty Dorothy Frazier?

21 A Yeah, he did. That's the reason why I say he -- he  
22 wasn't with me all the time.

23 Q Okay. While he was with you, were you concerned  
24 about him staying late at night?

1           A     Well, by me not being there, every mother's gonna be  
2 concerned about their child, but I had to work.

3           Q     No, of course. But were you concerned about him  
4 being out late at night?

5           A     Yes. Every mother would be, yes.

6           Q     And were you aware that he was hanging out --

7           A     Not --

8           Q     -- out late at night?

9           A     -- at -- not at first. Not at first 'cause I -- not  
10 at first because just -- I have rooms in my house. And the  
11 fact of the matter is, when I'm there, he's there. Now, I  
12 can't say what happened when I'm not there. But just to keep  
13 it plain, when -- half the time I'm not there. So, therefore,  
14 I can't say I know where he at, at all times.

15          Q     Okay. Did you tell the police that you were  
16 concerned because he was staying out late at night?

17          A     Right. Because I had heard.

18          Q     Oh, okay. So you were aware, you just didn't see it  
19 yourself.

20          A     Right. Because like I say, when I'm at home, if I'm  
21 gone -- when I get off of work, I would go get Justin if he --  
22 you know, wherever he was, I would go get him.

23          Q     Okay.

24          A     And spend time with him on my off days.

1 Q Did Justin have a nickname?

2 A Um, they gave him a nickname. I'm sorry. I never  
3 gave him a nickname. His name is Justin Dupree Porter  
4 (phonetic).

5 Q Okay.

6 A And I call him Justin.

7 Q But did his friends call him by something else?

8 A They called him many names. I did know some that  
9 called him "Jug," some that call him this and this and this,  
10 you know.

11 Q But some people called him "Jug"?

12 A If that's what the transcript say because I don't be  
13 around -- I don't be around his friends --

14 THE COURT: She --

15 THE WITNESS: -- like that.

16 THE COURT: Just so we're clear, because she said it  
17 a little bit differently when she first started her answer,  
18 she said, "I know that some of them call" --

19 THE WITNESS: Some of them call him --

20 THE COURT: -- "some of his friends call him Jug."  
21 I don't know if you were able -- I don't know if you heard  
22 that.

23 THE WITNESS: Yeah.

24 THE COURT: 'Cause she said "Jug" really fast.

1 THE WITNESS: Right.

2 MS. LUZAICH: Yeah.

3 THE COURT: But she did acknowledge.

4 MS. LUZAICH: Right. And I was just reiterating  
5 that. And then she said, no, that's not the case.

6 THE WITNESS: No. No. I'm sorry. Very sorry.  
7 Please forgive me. No, what I was saying is that I've heard  
8 them call him Justin, or Jug.

9 BY MS. LUZAICH:

10 Q You have heard friends call him Jug?

11 A Yeah, friends.

12 Q Okay.

13 A Yeah.

14 Q Yeah. You said that he and your husband weren't  
15 getting along. And that's Sergo; correct?

16 A Right.

17 Q Was that from the beginning or just when you moved  
18 out here?

19 A Well, I didn't meet him until I moved out here. But  
20 when we started going together, that's when I found out we had  
21 a problem. Because he said Justin was spoiled.

22 Q Okay. Spoiled?

23 A Very spoiled.

24 Q Are all of your children spoiled?

1 A Yes.

2 Q And your grandchildren?

3 A Very.

4 Q Okay. You would buy, I assume, Justin clothes and  
5 things of that nature?

6 A Yes, ma'am. I bought Justin clothes every week.  
7 You know, I -- you know, he's my baby. He was the last one.  
8 And I worked. And his dad worked for Ford Motor Company for  
9 35 years. So we were considered middle class. So just -- I  
10 gave Justin money every day. I made sure he had everything  
11 that he needed. You know, he didn't want for anything,  
12 between me and his dad. And that's all can say. I would buy  
13 him the best.

14 Q Okay. When --

15 A I wore the best.

16 Q When you would buy him clothes, what kind of clothes  
17 would you buy him?

18 A Name brands. Name brand shoes. At that time  
19 Michael Jordan. He had to have all the --

20 Q Saucony?

21 A -- new -- yeah.

22 Q Do you remember a Saucony pair?

23 A Who?

24 Q Saucony?

1           A     Look, name brand, you know.  Name brand.  
2           Q     Okay.  
3           A     'Cause that's what they wore back then.  
4           Q     FUBU clothing?  
5           A     Everything.  
6           Q     F-U-B-U, FUBU?  
7           A     He did not wear cheap clothes, as he would tear 'em  
8 up, okay?  
9           Q     Okay.  So he dressed nice.  
10          A     Very.  
11          Q     And he was clean-cut?  
12          A     Very.  
13          Q     And he spoke well?  
14          A     Very.  
15          Q     Articulate?  
16          A     As much as possible.  
17          Q     Did -- would he go back and visit his dad in  
18 Chicago?  
19          A     I sent him -- we had an agreement through the  
20 divorce is that he would get Justin on the -- on the --  
21 during -- after school so that -- you know, I could get that  
22 break from my kids.  I would send my daughter too.  So that I  
23 could work as much as I wanted to.  
24                THE COURT:  "After school" meaning the summer?

1 THE WITNESS: You know, summer break.

2 THE COURT: Okay.

3 THE WITNESS: Every summer that I was here, which  
4 was only two summers.

5 THE COURT: Got it.

6 THE WITNESS: It was only two summers we were here  
7 that he got (indiscernible) his dad.

8 BY MS. LUZAICH:

9 Q Okay.

10 A That was 1999 and 2000.

11 Q Okay. So in the summer of 2000, you sent him back  
12 to his dad; correct?

13 A Yes, I did.

14 Q And was that in August -- I mean, in July of 2000?

15 A It was after school. Whatever -- you know,  
16 'cause -- now they get out certain days -- and then it was  
17 June, I think. They got out of school at the beginning of  
18 June or -- the end of May, going into June.

19 THE COURT: Okay.

20 BY MS. LUZAICH:

21 Q Okay. And when you would send him back, how would  
22 you send him?

23 A Well, it -- I would send him Greyhound.

24 Q On -- buy him a bus ticket?



1           A     I would buy him a bus ticket. I would drop him off.  
2     And his dad would pick him up. The majority of the time I  
3     would probably go with him. But this particular time, I was  
4     working so I couldn't go. So he had to go by himself.

5           Q     Okay.

6           A     Usually we drive down there. That's a three-day  
7     trip.

8                   MS. LUZAICH: Can I get this marked next in -- oop.  
9     Kristen, you've changed. Can I get this marked next in order?

10          And may I approach the witness?

11                THE COURT: Yep.

12                MS. LUZAICH: Thank you.

13   BY MS. LUZAICH:

14          Q     Ms. Porter, I'm going to show you State's Proposed  
15     Exhibit 285.

16          A     Mm-hmm.

17          Q     Does that look like a bus ticket to you?

18          A     Yeah.

19          Q     And can you see the date on the bus ticket?

20          Can I give you a hand?

21          A     Thank you.

22          Q     Oh, well, first, is it -- no. No. I'm gonna go  
23     from the top to the bottom. Is this a ticket for Justin,  
24     although it doesn't quite say --

1 A No. No. That --

2 Q -- just --

3 A No, that -- that -- no. I got the ticket. It would  
4 say "Justin." It wouldn't say Gustos (phonetic) or whoever  
5 the people there.

6 Q Okay. Did you give your husband money to get the  
7 ticket?

8 A What husband? The one (indiscernible).

9 Q Uh-huh.

10 A I wouldn't -- I -- I'm gonna have to worry about  
11 that one because I don't think he would buy Justin a ticket,  
12 even if I had gave him the money.

13 Q Do you remember --

14 A So you gonna have to get me on that one.

15 Q -- telling the police that you gave -- or he gave  
16 you money and you bought the ticket -- or you gave him  
17 money -- sorry about that -- and he bought the ticket?

18 A I can't remember that. 'Cause I -- I can't see him  
19 misspelling his name.

20 Q Well, is it possible that the person who typed the  
21 name misspelled it and not your husband?

22 A I can't say. But I know his name is Justin and I  
23 don't remember my husband buying a ticket. I'm not saying  
24 that he didn't, but I'm just saying that when he get ready to

1 go out of town --

2 Q Okay. Well --

3 A -- that was strictly on me.

4 Q -- would you agree with me that this is a ticket  
5 from Las Vegas to Chicago? Sorry. From Las Vegas -- from  
6 Las Vegas to Chicago; is that right?

7 A No, 'cause what they do is they give you several  
8 tickets. They give you a ticket from here and halfway, middle  
9 somewhere you -- you give 'em another ticket.

10 Q Okay. Does it say -- does this say from Las Vegas  
11 to Chicago?

12 A That's what it says, but that --

13 Q And then does it also say, here, Las Vegas, Nevada,  
14 to Denver and then Denver to Chicago?

15 A Yeah. It'll say something like that.

16 Q Okay. And is the date on the ticket July 13th of  
17 2000, arrive -- leaving at 9:00 p.m. Is that what that  
18 says --

19 A Yeah, that's what it says.

20 Q -- leaving Las Vegas --

21 A Yes, ma'am.

22 Q And then it says leaving Denver to Chicago on  
23 July 14th at 2:15?

24 A That's what this say.

1 Q Okay.

2 A Yes, ma'am.

3 Q And does it say that it was paid for with a

4 Master Card?

5 A Okay.

6 Q Does it?

7 A That's what it says.

8 Q And does it say "Porter"?

9 A Yeah, but --

10 Q And then does it say G-U-S-T-I-N --

11 A Gustin.

12 Q -- instead of J-U-S-T-I-N?

13 A True.

14 MS. LUZAICH: Move it into evidence.

15 MR. GILL: I didn't --

16 THE COURT: Mr. Gill?

17 MR. GILL: No objection, Your Honor.

18 THE COURT: Okay. That'll be admitted.

19 [STATE'S EXHIBIT 285 ADMITTED.]

20 BY MS. LUZAICH:

21 Q So that was July 13th. You would agree with me

22 there.

23 A Okay. That's what the ticket said.

24 Q Now, prior to July 13th of 2000 --

1           A     Yes, ma'am.

2           Q     -- did the police bring Justin home to you and talk  
3 to you about potentially giving what's called a buccal swab  
4 sample, a sample of his DNA?

5           A     No, I thought that someone called me on the phone  
6 and they told me that they had my son. And we were -- he  
7 was -- she was like, I want to do a swab or something, she  
8 said. And she says, "Is it okay with you?"

9           And I was like, "Let me speak to Justin." And I say,  
10 "Justin, what's going on?"

11          Justin like, "Mama" --

12          MS. LUZAICH: Well, objection. Hearsay.

13          THE WITNESS: I'm sorry.

14          MS. LUZAICH: And not responsive.

15          THE COURT: That's okay. So there are just certain  
16 evidentiary rules which why she's objecting. So she has to  
17 ask you, like, very specific questions.

18          THE WITNESS: Yes, ma'am. Okay.

19          THE COURT: So I'm going to strike that answer. And  
20 then, Ms. Luzaich, if you wanted to rephrase or maybe a more  
21 specific question.

22          MS. LUZAICH: I am looking for the transcript.

23 BY MS. LUZAICH:

24          Q     Do you remember when you spoke to the police that

1 August that you told them that police officers brought him  
2 home to you -- oh --

3 A No, I said -- they dropped him off and he came in  
4 the house. Because once I asked could I come. She said,  
5 oh -- oh, I can't say. I'm sorry, ma'am. I don't want to  
6 disrespect you.

7 THE COURT: No, that's okay. So she's just going to  
8 find specific portions in your statement and then --

9 THE WITNESS: Yes, ma'am.

10 THE COURT: -- when she does, she'll bring it to you  
11 or she'll read it to you, whichever way.

12 MR. GILL: And, Ms. Luzaich, reading is -- reading  
13 is fine.

14 MS. LUZAICH: I'm sorry?

15 MR. GILL: I won't objection to you reading some of  
16 the portions.

17 MS. LUZAICH: Okay. I will -- sorry. I wrote it  
18 down and -- not where I thought.

19 BY MS. LUZAICH:

20 Q All right. I'm going to go back -- sorry -- for one  
21 second to the ticket. Do you remember saying -- talking about  
22 Justin going back to his dad's in Chicago when you were asked,  
23 "And do you know how you paid for the ticket for him to go?"

24 MR. GILL: What pay --

1 BY MS. LUZAICH:

2 Q The answer was, "I paid cash. My husband went to  
3 get the ticket. I don't know if he used his credit card or  
4 not, but I know that I gave him money to go get it."

5 THE COURT: Page number --

6 MR. GILL: And what --

7 THE COURT: -- please?

8 MR. GILL: -- page?

9 MS. LUZAICH: Page 8. Sorry about that.

10 MR. GILL: Thank you.

11 THE COURT: Thank you.

12 Does that sound familiar to you, ma'am?

13 THE WITNESS: No, ma'am. I'm sorry.

14 THE COURT: That's okay. If that's what it says,  
15 though, in the statement --

16 THE WITNESS: Okay.

17 THE COURT: -- do you have any reason to disagree  
18 with it?

19 THE WITNESS: Because I -- we both had credit cards.  
20 I have a credit card. He got me a credit card. Then we had  
21 two of the same credit cards. So I don't remember him  
22 purchasing the ticket (indiscernible).

23 THE COURT: Yeah. No. No, we understand that. I  
24 think what Ms. Luzaich is just asking you is that, you know,

1 when you -- when you were talking to the detective, it was  
2 recorded, and then later it was transcribed and taken down --

3 THE WITNESS: Right. Right.

4 THE COURT: -- so what she's just saying is, is  
5 that's what the -- the transcription -- the transcribed  
6 statement says that you said. Do you have any reason to  
7 disagree?

8 THE WITNESS: I -- I -- I disagree because --

9 THE COURT: Oh, okay.

10 THE WITNESS: I'm sorry.

11 THE COURT: Because of the Master Card situation --

12 THE WITNESS: Right.

13 THE COURT: -- that you both had? Okay.

14 THE WITNESS: Because she's saying that I have cash.  
15 And if I had -- I -- I can distinctly remember, you know,  
16 purchasing. So I don't know which time she, you know, she --  
17 which -- I'm confused about that part.

18 THE COURT: Okay.

19 BY MS. LUZAICH:

20 Q Okay. Well, do you remember telling the police, "He  
21 took the Greyhound. He just left from downtown in the main  
22 street over there. He had to be on" -- and I'm sorry. I'm  
23 still on page 8 -- "he had to be on a bus by 9:10, so I put  
24 him on the bus myself."



1 Do you remember that?

2 A I remember telling them that. But when the police  
3 stopped me, Justin was already in Chicago. So I wouldn't have  
4 told 'em --

5 Q Right.

6 A -- that he was on the bus, you know. 'Cause when --  
7 when I talked to Justin, the officer called me, I called  
8 Justin, and he was at his dad's house when -- when the  
9 detectives talked to him. He was already there. And I talked  
10 to him on the phone. And I asked them, did they want to talk  
11 to Justin --

12 Q Mrs. Porter --

13 A -- so that's --

14 Q -- can you answer the questions that are asked --

15 A Yes, ma'am.

16 Q -- please? Thank you.

17 So when the police asked you about that, did you tell 'em  
18 that he left, he had to be on the bus downtown at 9:10 at  
19 night?

20 A If you say it's in the script, ma'am, I -- I can't  
21 refuse that, but --

22 Q Well, it's not a script. It's a transcript.

23 A Right. Because I keep telling you, at that time, I  
24 was so nervous, I was just talking because I didn't know what

1 was going on. And they never told me. So when they was  
2 asking me questions, being fearful, ma'am, ain't no telling  
3 what I'm gonna say.

4 Q What do you mean "fearful"?

5 MR. GILL: Judge, can we approach?

6 THE COURT: Sure.

7 MR. GILL: Very sorry.

8 [BENCH CONFERENCE BEGIN]

9 MR. GILL: I know she's not being cooperative at  
10 all. I just want to be careful that she doesn't talk about  
11 (indiscernible).

12 THE COURT: She knows not to; right?

13 MR. GILL: I --

14 MS. LUZAICH: I don't know the answer to that.

15 THE COURT: What?

16 MS. LUZAICH: I don't know the answer to that. I  
17 mean --

18 MR. GILL: She doesn't know the answer to that.

19 MS. LUZAICH: I mean, I don't know if she knows not  
20 to. But I -- I'm not going anywhere near that.

21 THE COURT: Well, I know. But she can't go --

22 MR. GILL: No, I know. I know.

23 MS. LUZAICH: Yeah.

24 THE COURT: (Indiscernible)

1 MR. GILL: (Indiscernible)

2 MS. LUZAICH: How about if we come back tomorrow --

3 MR. GILL: Yeah.

4 MS. LUZAICH: -- and she can stay here and you can

5 admonition her that. And just to answer the questions and not

6 to talk to you.

7 THE COURT: I don't know what's going on there.

8 MS. LUZAICH: She wants to tell you what she wants

9 to tell you.

10 THE COURT: Yeah.

11 MR. GILL: Well, I -- and -- the transcript that

12 we're referencing speaks for itself.

13 THE COURT: No, I know.

14 MR. GILL: So, like, I don't want to -- a situation

15 where we bring in another transcript, but --

16 MS. KOLLINS: She (indiscernible) testify

17 (indiscernible).

18 MR. GILL: Okay. We can do that (indiscernible).

19 Thank you.

20 [BENCH CONFERENCE END]

21 THE WITNESS: Yes, ma'am.

22 THE COURT: We are going to call it a day. So we're

23 going to come back tomorrow morning at 9:30.

24 Please remember during this recess not to discuss or

1 communicate with anyone, including fellow jurors, in any way  
2 regard the case or its merits either by voice, phone, e-mail,  
3 text, internet, or other means of communication or social  
4 media. Please do not read, watch, or listen to any news,  
5 media accounts, or comments about the case; do any research,  
6 such as consulting dictionaries, using the internet, or using  
7 reference materials.

8 Please do not make any investigation, test a theory of  
9 the case, recreate any aspect of the case, or in any other way  
10 attempt to learn or investigate the case on your own. And  
11 please do not form or express any opinion regarding the case  
12 until it's formally submitted to you.

13 I will see you back tomorrow morning at 9:30. Thank you  
14 very much.

15 And if you'll just stay.

16 THE MARSHAL: All rise.

17 UNIDENTIFIED JUROR: Did you say 9:30?

18 UNIDENTIFIED JUROR: 9:30?

19 THE COURT: Yes.

20 UNIDENTIFIED JUROR: 9:30?

21 THE COURT: Yep.

22 UNIDENTIFIED JUROR: 9:30 in the morning.

23 THE COURT: And so we'll take a lunch tomorrow.

24 [OUTSIDE THE PRESENCE OF THE JURY]

1 THE COURT: Okay. So we just wanted to go over  
2 something with you that we weren't sure anyone had said  
3 before. So -- yeah. The -- this jury doesn't know anything  
4 about the murder charges.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: And so -- and they're not going to know  
7 anything about it. Because that was already tried --

8 THE WITNESS: Yes, ma'am.

9 THE COURT: And the idea is, is if they know that,  
10 then they're prejudiced; right? They -- they know "oh, my  
11 gosh, there was a murder. He was convicted of the murder."  
12 So they don't know anything about that. So just -- and I'm  
13 not saying that you did, because you didn't.

14 THE WITNESS: (Indiscernible)

15 THE COURT: But don't say anything at any point in  
16 time about murder charges or he was a suspect for a murder or  
17 anything --

18 THE WITNESS: No, ma'am.

19 THE COURT: -- like -- the word "murder" will not  
20 come out.

21 THE WITNESS: No, because she told me -- I'm sorry,  
22 Your Honor.

23 THE COURT: It's okay.

24 THE WITNESS: She told me the -- their --

1           THE COURT:   Invest -- or their --  
2           THE WITNESS:  Investigator say that this was  
3 strictly about --  
4           THE COURT:   Perfect.  The original charges.  
5           THE WITNESS:  Yes, ma'am.  
6           THE COURT:   Perfect.  
7           THE WITNESS:  Okay.  
8           THE COURT:   And then --  
9           THE WITNESS:  Yes, ma'am.  
10          THE COURT:   So when the State is done asking their  
11 questions --  
12          THE WITNESS:  Yes, ma'am.  
13          THE COURT:   -- then your son's -- Mr. Porter's --  
14 attorney will have the opportunity to ask you questions.  
15          THE WITNESS:  Yes, ma'am.  
16          THE COURT:   So sometimes when a witness is answering  
17 questions, they answer the question, but they want to get more  
18 information out; right?  
19          THE WITNESS:  Right.  
20          THE COURT:   Which is totally normal.  
21          THE WITNESS:  No, because she told me to tell the  
22 truth.  
23          THE COURT:   Yeah.  
24          THE WITNESS:  The young lady.  And I'm just trying

1 to get to the truth.

2 THE COURT: I get you. One hundred percent.

3 THE WITNESS: So I'm gonna try to just --

4 THE COURT: Yeah.

5 THE WITNESS: -- stay right there.

6 THE COURT: (Indiscernible) narrow it down a little  
7 bit --

8 THE WITNESS: Yes, ma'am.

9 THE COURT: -- right?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: So, like, if she asks you a yes-or-no  
12 question, just say "yes" or "no."

13 THE WITNESS: Say "yes" or "no." And, see, that's  
14 what I didn't know what to do. And I appreciate you taking  
15 the time out, Your Honor --

16 THE COURT: No. No. No. No. No.

17 THE WITNESS: -- to letting me know --

18 THE COURT: That's okay. It's hard -- this's a  
19 difficult situation.

20 THE WITNESS: Thank you.

21 THE COURT: And I understand that for you --

22 THE WITNESS: Yes, ma'am.

23 THE COURT: -- right?

24 So just focus on the question --

1 THE WITNESS: Yes, ma'am.

2 THE COURT: -- answer it. If Mr. Gill thinks that  
3 there's more to that question --

4 THE WITNESS: Yes, ma'am.

5 THE COURT: -- then when he gets up, or Mr. Goodwin,  
6 whichever one is doing the questions --

7 THE WITNESS: Yes, ma'am.

8 THE COURT: -- then he'll say -- you know, he'll  
9 follow up.

10 Now, let's go back and talk about that credit card. So  
11 you both had credit cards; right? So you're not sure -- you  
12 don't think your husband would buy the bus ticket -- you know  
13 what I mean? Like, he'll shore things up for you.

14 THE WITNESS: Thank you. I appreciate it. I  
15 appreciate it.

16 THE COURT: But each of them -- each of them have  
17 different jobs.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: So when either one is asking you  
20 questions, just try to focus on the exact question and answer  
21 that question. And, to be honest with you, it'll be better  
22 for you because you'll be out of here a lot faster --

23 THE WITNESS: Ah, please. Thank you. I appreciate  
24 it.



1 THE COURT: -- right?

2 THE WITNESS: I'm so tired.

3 THE COURT: Yeah.

4 THE WITNESS: Okay, then. And thank you so very  
5 much because I've never been in this situation before.

6 THE COURT: I totally understand.

7 THE WITNESS: So thank you for having patience with  
8 me.

9 THE COURT: So come back tomorrow morning at 9:30 --

10 THE WITNESS: Yes, ma'am.

11 THE COURT: -- and we'll get this wrapped up, okay?

12 THE WITNESS: Thank you. Yes, ma'am.

13 THE COURT: All right.

14 [DISCUSSION OFF THE RECORD]

15 [Hearing concluding at 5:00 p.m.]

16 \*\*\*\*\*

17 ATTEST: I do hereby certify that I have truly and  
18 correctly transcribed the audio/video proceedings in the  
19 above-entitled case to the best of my ability.

20  
21   
22 ALLISON SWANSON, CSR NO. 13377  
23 CERTIFIED SHORTHAND REPORTER  
24 FOR THE STATE OF CALIFORNIA

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CLARK COUNTY, NEVADA

Defendant (s) .

)  
)  
) CASE NO. C174954-1  
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) DEPT. NO. VI  
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RECORDER'S TRANSCRIPT OF HEARING:  
JURY TRIAL - DAY 6

ADAM L. GILL  
CHARLES R. GOODWIN

AA 1366

I N D E X   O F   W I T N E S S E S

PLAINTIFFS' WITNESSES:

DAY      PAGE

ANGELA SMITH-PORTER

DIRECT EXAMINATION BY MS. LUZAICH                      6              7

CROSS-EXAMINATION BY MR. GILL                              6              28

REDIRECT EXAMINATION BY MS. LUZAICH                      6              34

MICHAEL CALAREO

DIRECT EXAMINATION BY MS. LUZAICH                      6              36

CROSS-EXAMINATION BY MR. GOODWIN                      6              49

FRANCIS RUMBAUGH (Read by KASSANDRA ACOSTA)

DIRECT EXAMINATION BY MS. KOLLINS                      6              56

CROSS-EXAMINATION BY MR. GILL                              6              85

REDIRECT EXAMINATION BY MS. KOLLINS                      6              97

RECROSS-EXAMINATION BY MR. GILL                              6              98

CLARENCE RUMBAUGH (Read by Corey Hallquist)

DIRECT EXAMINATION BY MS. KOLLINS                      6              102

CROSS-EXAMINATION BY MR. GILL                              6              112

RICKEY WORKMAN

DIRECT EXAMINATION BY MS. LUZAICH                      6              121

CROSS-EXAMINATION BY MR. GOODWIN                      6              148

I N D E X   O F   W I T N E S S E S (continued)

PLAINTIFFS' WITNESSES:

DAY      PAGE

MICHAEL CASTANEDA

DIRECT EXAMINATION BY MS. KOLLINS      6      166

CROSS-EXAMINATION BY MR. GILL      6      187

REDIRECT EXAMINATION BY MS. KOLLINS      6      194

RECROSS-EXAMINATION BY MR. GILL      6      195

BRANDON ALBRIGHT

DIRECT EXAMINATION BY MS. KOLLINS      6      197

CROSS-EXAMINATION BY MR. GOODWIN      6      211

REDIRECT EXAMINATION BY MS. KOLLINS      6      231

RECROSS-EXAMINATION BY MR. GOODWIN      6      234

FURTHER REDIRECT EXAMINATION BY  
MS. KOLLINS      6      236

LIST OF EXHIBITS

PLAINTIFFS' EXHIBITS:

DAY PAGE

Exhibit 286	6	42
Exhibit 287	6	42
Exhibits 289-321	6	126
Exhibits 322-336	6	126
Exhibits 337-358	6	179

1 Las Vegas, Nevada, Friday, September 9, 2022

2 [Case called at 9:44 a.m.]

3 \*\*\*\*\*

4 [IN THE PRESENCE OF THE JURY]

5 THE MARSHAL: All rise.

6 THE COURT: Good morning, everybody. And welcome  
7 back. Please be seated.

8 We're on the record in State of Nevada versus  
9 Justin Porter, C174954. Mr. Porter is present with  
10 Mr. Goodwin as well as Mr. Gill. Both Chief Deputy District  
11 Attorneys, Ms. Kollins as well as Ms. Luzaich, are present on  
12 behalf of the State.

13 Do the parties stipulate to the presence of the jury?

14 MS. KOLLINS: Yes, Your Honor.

15 MR. GILL: Yes, Your Honor.

16 THE COURT: All right. So, ladies and gentlemen,  
17 yesterday we had a question in regards to when Ms. Case and  
18 Ms. Livingston testified at those hearings. So I wanted to  
19 give you those dates now. So in regards to Ms. Case, Ms. Case  
20 testified on November 2nd of 2000 and November 6th of 2000.  
21 Ms. Livingston testified on November 13th of 2000. So all  
22 three days in November of 2000.

23 All right. State, next witness, please.

24 MS. LUZAICH: Angela Porter is still on the stand,

1 Your Honor.

2 THE COURT: Okay. Thank you.

3 MS. LUZAICH: Or is still in the middle of  
4 testimony.

5 THE COURT: Yes.

6 Come on up, ma'am. Yeah.

7 THE WITNESS: Yes, ma'am.

8 THE MARSHAL: And, again, she's gonna have to  
9 re-swear you. So if you don't mind stepping up there --

10 THE WITNESS: Yes, sir.

11 THE MARSHAL: -- remain standing and raise your  
12 right hand.

13 THE WITNESS: Yes, sir.

14 THE MARSHAL: And help yourself to water, if you  
15 need some.

16 THE WITNESS: Yes, sir.

17 ANGELA SMITH-PORTER,  
18 [Having been called as a witness and being first duly  
19 sworn testified as follows:]

20 THE WITNESS: Yes, I do.

21 THE CLERK: Please be seated, stating your full  
22 name, spelling your first and last name for the record.

23 THE WITNESS: Yes, ma'am. My name is  
24 Angela D. Smith-Porter. S-M-I-T-H, P-O-R-T-E-R, A-N-G-E-L-A,

1 D.

2 THE COURT: All right. Ms. Luzaich.

3 MS. LUZAICH: Thank you.

4 DIRECT EXAMINATION (Resumed)

5 BY MS. LUZAICH:

6 Q Good morning, Mrs. Porter. How are you?

7 A Fine.

8 Q Did you get a good rest last night?

9 A No, ma'am.

10 Q Little bit of rest?

11 A Yes, ma'am.

12 Q Okay. We were talking yesterday about a few  
13 different things.

14 A Yes, ma'am.

15 Q One of them was a -- a buccal swab that was taken  
16 from your son.

17 A Yes, ma'am.

18 Q And you, I believe, correct me if I'm wrong, said  
19 that you did not see the detective, you only spoke to the  
20 detective on the phone.

21 A I don't know if it was a detective, but I thought it  
22 was an officer.

23 Q Okay. A police officer.

24 A Right.



1 Q Um --

2 A And they call me on the phone. I don't know if I  
3 was at work, but I -- when they called me, I was -- I -- that  
4 I was -- I can't remember. I can't remember where I was.

5 Q Okay.

6 MS. LUZAICH: May I approach the witness?

7 THE COURT: Yeah.

8 BY MS. LUZAICH:

9 Q I'm going to show you State's Exhibit 181.  
10 Ma'am, is that your signature?

11 A Yeah. (Indiscernible)

12 Q Okay. I --

13 A What?

14 Q I'm gonna show you on the big screen.

15 A Thank you.

16 Q Just so everybody can see it. There's a screen in  
17 front of you --

18 A The "D" isn't -- oh, I'm sorry. The "D" is not how  
19 I spell my name. I'll show you my license.

20 Q That's okay.

21 All right. Would you agree with me that it says, at the  
22 top -- maybe I should make it bigger and then I'll just move  
23 it. Is that big enough? Can you read it or should I make it  
24 bigger?

1 A No. You should make it bigger, but --

2 Q You want me to make it bigger?

3 A -- I don't remember seeing this. This is a consent  
4 to search.

5 Q Okay. So you would agree with me that this is a  
6 Las Vegas Metropolitan Police Department consent to search;  
7 correct?

8 A To search. It -- I -- that's what I'm --

9 Q (Indiscernible) --

10 A I'm sorry. This is consent to search --

11 Q Can you --

12 A -- 'cause they came in -- like I explained to you  
13 yesterday --

14 Q Ms. Porter --

15 A -- I never seen them.

16 Q -- can you please answer my questions?

17 THE COURT: Just one sec. Okay.

18 BY MS. LUZAICH:

19 Q Okay. So would you agree with me it says on it,  
20 "Las Vegas Metropolitan Police Department consent to search";  
21 correct?

22 A To search.

23 Q And it's dated June 13th of 2000.

24 A That's what it says. That's what your --

1 Q And does it say "Justin Porter"?

2 A Mm-hmm.

3 Q Is that a "yes"?

4 A Yes, ma'am.

5 Q And is that written in his handwriting?

6 THE COURT: His -- I'm sorry. "His" being Justin?

7 MS. LUZAICH: Yes.

8 THE WITNESS: Yeah. I don't know.

9 BY MS. LUZAICH:

10 Q Okay. And Angela Smith, hyphen, Porter, is that

11 your handwriting?

12 A The "D" is missing.

13 Q Okay. But is that your handwriting?

14 A I don't know. I'm being truthful with you.

15 Q Okay.

16 A If the script say so, I guess it is.

17 Q It's not a script; it's a document.

18 A Yes, ma'am.

19 Q Um --

20 A I'm sorry.

21 Q That's okay. And it says on it, "DNA buccal swab of

22 Justin Porter." Does it not?

23 A Yes, ma'am.

24 Q And I assume you don't recognize that handwriting.

1           A     Uh, of which one are you talking about, ma'am?

2           Q     Where it says "DNA buccal swab."

3           A     Yeah, I see it.

4           Q     Okay. You rec -- you do not recognize that

5     handwriting; correct?

6           A     No.

7           Q     And then it says that "the officers are authorized

8     by me to take from the above listed location items and I've

9     been advised that anything they take may be presented in court

10    as evidence." Right?

11          A     That's what that says.

12          Q     "I further advise that I do not have to consent to

13    this search and have the right to an attorney present."

14    Correct?

15          A     That's what that --

16          Q     It says right there?

17          A     -- says.

18          Q     And then is that your handwriting signature?

19          A     No, ma'am. I --

20          Q     Is it your handwriting?

21          A     That's not how I write.

22          Q     Okay. In 2000, was that your handwriting?

23          A     That was 20-something --

24          Q     And Justin's.

1           A     -- years ago. I'm not -- I don't -- I don't know.  
2 I'm being truthful. I don't know. Because --

3           Q     Okay. So --

4           A     -- this is -- I -- I'm confused because it say  
5 "search." That's what I'm confused about.

6           THE COURT: Ms. Luzaich, I think that the breakdown  
7 in the communication is that "search" and "DNA," to her, mean  
8 two different things.

9           MS. LUZAICH: Right. I -- which is why I explained,  
10 on here it says that they want to collect a DNA buccal swab of  
11 Justin Porter; correct?

12           THE WITNESS: I'm trying to do what you're  
13 talking -- I don't remember seeing this form.

14 BY MS. LUZAICH:

15           Q     Okay. But would you agree with me that your name  
16 and your son's name and your signature and your son's  
17 signature are on it, along with his birth date?

18           A     I can't say that's his signature. I -- I can't say.

19           Q     Okay.

20           A     I can't say.

21           Q     So there were two different times that there was  
22 contact with the police about this. They came to your home  
23 and searched it with a search warrant on another day; correct?

24           A     The day they stopped me, yes, ma'am.

1 Q And that was in August of 2000 --

2 A Yes, ma'am.

3 Q -- correct?

4 And, specifically, that was on August 10th of 2000;  
5 correct?

6 A Yes, ma'am, if that's what the thing say.

7 Q And you were living at 208 North 13th Street;  
8 correct?

9 A At that time, yeah.

10 Q Yes. In apartment number 3; correct?

11 A I don't know.

12 Q Okay.

13 A Because that wasn't my apartment.

14 THE WITNESS: I'm not disagreeing, Your Honor. I  
15 just --

16 MS. LUZAICH: Ma'am --

17 THE WITNESS: -- know that's the apartment.

18 MS. LUZAICH: -- there's -- there's no question  
19 pending.

20 BY MS. LUZAICH:

21 Q On August 10th of 2000, you had two different  
22 contacts with the police, would you agree with that?

23 A Yes, ma'am.

24 Q There was one when they actually searched and took a

1 tape-recorded statement of you. And that was after midnight  
2 into the 11th; correct? And that's what we talked about  
3 yesterday. Your statement was given at six minutes -- or  
4 started at six minutes after midnight on the 11th. Remember,  
5 we talked about that yesterday? Do you not remember that?

6 Here, I'm going to show you the statement --

7 A Thank you.

8 Q -- that we looked at yesterday.

9 A Be --

10 Q I'm not trying to be difficult, Mrs. Porter.

11 A And I'm not trying to be difficult. I'm trying to  
12 think. Because when I -- when they stopped me, it was  
13 daytime.

14 Q And I'm coming to that.

15 A Okay.

16 Q But you gave a statement -- correct? --

17 A They --

18 Q -- August 11th at 20 -- six minutes after midnight.

19 A That was the day they searched the house.

20 Q To search the house. And they stopped you earlier  
21 that day, during the daytime --

22 A Yes.

23 Q -- and you had a conversation. You and your  
24 husband -- and I'm sorry. I think I pronounced his name wrong

1 yesterday. How do you say his name?

2 A Sergo.

3 Q Sergo? You and your husband Sergo had a  
4 conversation with two detectives when they stopped you. Would  
5 you agree with that?

6 A Which -- which time?

7 Q During the day.

8 A Yeah, we had a conversation.

9 Q Okay.

10 A But it was -- oh, I --

11 Q And they talked to you about the fact that they were  
12 planning to search your home --

13 A No.

14 Q Showing you State's Exhibit 183.

15 A They asked me could they search my home and I had  
16 nothing to hide so --

17 Q Right. Oh, oh, I'm sorry. They -- they --

18 A That --

19 Q -- asked you. And showing you State's Exhibit 183.

20 A Mm-hmm.

21 Q Is this a -- an other consent to search card?

22 A Um, I'm trying to --

23 Q It's not the one we -- no, I'm just saying, is it an  
24 other consent to search form? It's not the one we talked



1 about a minute ago -- correct? -- it's a different one.

2 A I don't know 'cause I didn't sign this and I didn't  
3 see that. That's not my name on it. I'm not trying to be  
4 difficult. You told me to tell the truth and that's what I'm  
5 doing.

6 Q Right. I'm just -- I'm trying to ask you a  
7 question. Can you answer the question that I ask you --

8 A Yes, ma'am.

9 Q -- is this a consent to search card and it's, then,  
10 the one we just looked at. Would you agree with that?

11 A I don't know. 'Cause I'm telling you, I didn't see  
12 this.

13 THE COURT: She -- so --

14 BY MS. LUZAICH:

15 Q I didn't ask you if you saw it. I'm asking you, is  
16 this a different consent to search card?

17 A From what? I'm -- please forgive me.

18 Q I'm going to show you on -- I'm just going to show  
19 you on the big screen.

20 MR. GILL: Well, can we -- I don't know if that's  
21 been admitted yet.

22 THE WITNESS: Help me, please.

23 THE COURT: Wait. Hold on.

24 Has that been admitted, Ms. Luzaich?

1 MS. LUZAICH: Yes.

2 THE WITNESS: Okay, then.

3 MS. LUZAICH: Oh, I'm sorry.

4 MR. GILL: Can we approach real quick?

5 [BENCH CONFERENCE BEGIN]

6 MR. GILL: Can I just look at it? I --

7 (indiscernible)

8 THE COURT: Huh?

9 MR. GILL: Like, I -- I know what we're trying to do

10 because we don't have Sergo. But if she doesn't know and --

11 and even refreshing it, I don't know that it --

12 THE COURT: (Indiscernible)

13 MS. LUZAICH: I was just gonna ask her, is it her

14 husband's name and signature --

15 MR. GILL: I know.

16 MS. LUZAICH: -- and the date is the 10th. I mean,

17 I can get in through Barry Jensen.

18 MR. GILL: Yeah.

19 MS. LUZAICH: I'm just -- she's being --

20 MR. GILL: I know. I know.

21 MS. LUZAICH: -- intentionally difficult. I'm

22 sorry.

23 MR. GILL: I know.

24 MS. LUZAICH: She has her agenda --

1 THE COURT: You -- I mean, she can --  
2 (indiscernible) --

3 MS. LUZAICH: I mean, can I -- it's -- Barry's gonna  
4 testify. Can I get it in through her? I mean, Judge, just  
5 'cause I want to --

6 THE COURT: I mean --

7 MS. LUZAICH: -- show them.

8 THE COURT: So -- unless they're stipulated to, she  
9 is not -- I mean, it's hearsay; right? I don't think there's  
10 any exception. She's not laying a foundation. She's not -- I  
11 think you can show it to her.

12 MS. LUZAICH: Well, it's not hearsay 'cause it's  
13 not --

14 THE COURT: Right.

15 MS. LUZAICH: -- offered for the truth.

16 THE COURT: What's the document for?

17 MS. LUZAICH: It's just --

18 THE COURT RECORDER: Watch the microphone.

19 MS. LUZAICH: Well, the fact that they spoke to her  
20 earlier -- well, she said they -- she spoke to them during the  
21 day. And this is the 10th. So it's the day before, but  
22 during the day. And it's her husband's signature. And he  
23 signed a consent to search.

24 THE COURT: So what I'm saying is, is ask her all

1 the questions about it and then bring it in with Barry. I  
2 mean, I don't understand --

3 MS. LUZAICH: Okay. That's fine.

4 MR. GILL: Yeah. Sorry.

5 MS. LUZAICH: No. No.

6 [BENCH CONFERENCE END]

7 BY MS. LUZAICH:

8 Q Okay. State's Proposed 183 --

9 A Yes, ma'am.

10 Q -- is that your husband's name?

11 A Yes, ma'am.

12 Q Is that his handwriting?

13 A Yes, ma'am.

14 Q And is that his signature?

15 A Wait a minute. Hold on.

16 Q I'm sorry. I don't mean to upset you. I really  
17 don't.

18 A Yeah.

19 Q That's his signature? Okay.

20 A (Indiscernible)

21 Q Okay.

22 A I told you I have, like, circles in my eyes.

23 Q That's okay. And the date on it is 8/10 --

24 A Yes, ma'am.

1 Q -- 2000; is that correct?

2 A Yes, ma'am.

3 Q Okay. Thank you.

4 So you spoke to the detectives earlier in the day and  
5 then they came back later that night with a search warrant.  
6 Would you agree with that?

7 A When they came to my home -- when they stopped us  
8 and they went to the home, they made me stay outside and they  
9 waited for the search warrant.

10 Q Right. But that was later that day, late at night;  
11 is that correct?

12 A They -- they never left us.

13 Q Okay. You left them, though. Would you agree with  
14 that? That you went to do some things?

15 A They did not let us back in the home.

16 Q Did you speak to them earlier in the day and they  
17 talked about whether or not there would be a consent to  
18 search? Would you agree with that?

19 A I can't remember.

20 Q And then the detectives were getting a search  
21 warrant and you and your husband went to do some errands.  
22 Would you agree with that?

23 A Yes, we went to sign the -- the papers 'cause I  
24 purchased a home.

1 Q Okay. So that was August 10th into August 11th.

2 A Yes, ma'am.

3 Q When Justin gave a -- well, would you agree that he  
4 gave a buccal swab? I understand you don't remember the  
5 signatures and stuff. Would you agree that he gave one?

6 A I don't know.

7 Q So you're saying you weren't present when he -- do  
8 you know what a buccal swab is?

9 A No, ma'am.

10 Q Okay. It is when they take a long Q-tip and they  
11 rub it on the inside of your mouth --

12 A I don't --

13 Q -- and then put it in a box.

14 A I don't remember.

15 Q And you don't remember doing that -- or letting --  
16 or standing there while it was being done.

17 A No, ma'am.

18 Q Okay. Well, would you agree that the piece of paper  
19 says it was done on June 13th of 2000?

20 A That's what your script say, yes. I mean -- I'm  
21 sorry.

22 THE COURT: Document.

23 THE WITNESS: I'm sorry.

24 THE COURT: That's fine.

1 BY MS. LUZAICH:

2 Q And -- and, Mrs. Porter, the only reason I keep  
3 saying it's not a script, because a script sounds like I --  
4 I've written out everything that everybody has to say. And  
5 that's not what I do. You understand that; right? I ask  
6 questions and I try to elicit information.

7 A Yes, ma'am --

8 Q Would you agree with that?

9 A -- (indiscernible) understand. This is the first  
10 time I ever been through this. For me to misquote you, I'm  
11 sorry. But I just saying what I -- I -- I hear.

12 Q Okay. Do you recall telling the police that shortly  
13 before that -- that buccal swab, the consent to search that  
14 you don't recall being there for, that -- that Justin was  
15 injured?

16 A Him and his girlfriend had got in a fight and I  
17 went and got him.

18 Q Okay. That's not what I asked you. Do you remember  
19 telling the police that, before the buccal swab, Justin was  
20 injured?

21 A I don't remember.

22 Q Do you remember telling them it looked as if he fell  
23 on the ground?

24 A I don't remember.

1 Q Okay. I'm sorry. I'm looking in your statement.

2 A Yes, ma'am.

3 Yes, ma'am.

4 Q Okay. Would you agree that this is the same  
5 statement that we've talking about? Angela D. Porter Smith;  
6 right?

7 A I -- I've never seen this script till you gave it to  
8 me. So I never seen any of this here. So --

9 Q Would you agree that this is the same document that  
10 we were looking at yesterday?

11 A That's the same document that you gave me yesterday,  
12 yes, ma'am.

13 Q And that we were looking at in court when we were  
14 talking to the jury?

15 A Yes, ma'am, if that's what you (indiscernible).  
16 Yes, ma'am. (Indiscernible)

17 Q What -- I just don't understand why you keep saying  
18 if that's what I say.

19 A Because I've never seen this before until you gave  
20 it to me. So I have to go on, ma'am, what you gave me. Not  
21 trying to be funny. But --

22 Q Okay.

23 A -- if I --

24 Q So are you trying -- I mean, are you trying to say



1 that this is not an actual statement that you gave to the  
2 police?

3 A I can't say that. Ma'am, I can't say that.

4 Q Do you remember --

5 A I can --

6 Q -- talking to the police?

7 A I remember talking to the police 22 years ago.

8 Q Okay.

9 A So for --

10 Q And do you remember them [sic] had a tape recorder?

11 A Ma'am, I don't -- 22 years ago, ma'am.

12 Q I understand. How many times has the police  
13 searched your home?

14 A They search my home one time.

15 Q Okay. And you don't remember the -- what happened  
16 the one time they searched your home?

17 A They came -- I sat inside, ma'am. They made me and  
18 my husband sit outside.

19 Q Right. And they talked to you --

20 A And they went in the house --

21 Q -- outside.

22 A They -- they were very limited to me about what they  
23 were saying.

24 Q I'm not asking what they were saying, I'm just

1 asking about what you were saying.

2 A They didn't allow me to say anything.

3 Q Okay. Is this --

4 A This was said -- I was in his car when this was  
5 taken.

6 Q Okay.

7 A So that's when you say certain things, I'm trying to  
8 hook that up with what I can remember.

9 Q Okay. So you remember talking to them twice that --  
10 once during the day when you got stopped and once at your home  
11 when they searched it.

12 A I remember --

13 Q Would you agree with that?

14 A -- talking -- yes, ma'am.

15 Q Okay.

16 A Yes, ma'am.

17 Q So do you remember telling them in the car that he  
18 was injured on his butt?

19 Here. Look. Did you say that?

20 A No, ma'am.

21 Q Okay. Does it say here that you said that?

22 A I never looked at Justin's butt. I'm sorry.

23 Q Um --

24 A Yeah, read it.

1           Q     The question is, "At some point shortly before  
2 Justin left, did you know that -- notice that he had an  
3 injury?"

4           A     Was your answer, "Yeah, the neighbor told me that they  
5 had seen a car hit him."

6           Q     Did you -- do you remember that?

7           A     No, ma'am.

8           Q     Okay. But did you -- does this indicate that that's  
9 what you said?

10          A     I remember -- I -- I vaguely remember something  
11 about a car. When you -- when you said that, that tripped --

12          Q     Okay. And was your answer then, "And that Jug  
13 didn't tell me. Once the neighbor told me, I confronted  
14 Justin" --

15          A     And I did.

16          Q     He didn't want you worrying about him.

17          A     That's true. Never wants me --

18          Q     And you said, "And it looked" -- sorry. "I looked  
19 at the -- it looked like as if you had fell on the ground and  
20 scraped your butt because it had a scab on it, and I went and  
21 bought him Neosporin" --

22          A     Yeah.

23          Q     -- "to put on it."

24          A     Yeah. But I didn't look at -- at your butt. I --

1 he had shorts.

2 Q Okay.

3 A So he just raised it up.

4 Q Okay.

5 A Okay.

6 Q But you told the detectives that it looked like he  
7 had --

8 A It looked --

9 Q -- fallen on the ground and scraped his butt.

10 A Well, I -- yes, ma'am.

11 Q And that was shortly before he gave the buccal swab  
12 that you don't remember to the detectives -- or to the police.

13 A Well, I'm not saying they didn't give to him. I'm  
14 just saying that I wasn't there when they gave it to him.

15 Q Okay. But the injury that you observed was shortly  
16 before the buccal swab was given; is that correct?

17 A I don't know the days.

18 MS. LUZAICH: I pass the witness.

19 THE COURT: Mr. Gill?

20 MR. GILL: Thank you, Your Honor.

21 Lisa, can I have the -- of the --

22 MS. LUZAICH: The buccal?

23 MR. GILL: The statement.

24 MS. LUZAICH: Oh, her statement?

1 MS. KOLLINS: Here. I have two.

2 MR. GILL: Thank you.

3 CROSS-EXAMINATION

4 BY MR. GILL:

5 Q Ms. Smith-Porter, how are you? About --

6 A Okay.

7 Q -- ready to be done with this?

8 A Yes, sir.

9 Q I just have a few questions.

10 A Yes, sir.

11 Q I want to talk real quick about the last line of  
12 questions --

13 A Yes, sir.

14 Q -- with the injuries.

15 A Yes, sir.

16 Q Did you, at any point -- were you told by one of  
17 your neighbors or anyone else that their -- Justin had been in  
18 a car accident?

19 A They -- she brought it up and I can remember -- I  
20 can't remember everything. But the neighbor next to me told  
21 me, "I seen your son" --

22 MS. LUZAICH: Objection. Hearsay.

23 THE COURT: Sustained.

24 ///

1 BY MR. GILL:

2 Q Did any -- without saying what they said, did anyone  
3 tell you?

4 A Yes, sir.

5 Q Okay. And is that why you treated the injuries the  
6 way you did?

7 A Yes, sir.

8 Q And he didn't let you look at -- Justin didn't let  
9 you -- let you look at his --

10 A No.

11 Q -- butt, excuse me, but --

12 A No.

13 Q -- you didn't see it, you just had heard and that's  
14 why you treated.

15 A Yes, sir.

16 Q Okay. Now, I want to talk to you about Mr. Deloney.  
17 You remember your testimony from yesterday?

18 A Yes.

19 Q Can you give a physical description of Mr. Deloney,  
20 back in 2000?

21 A Ooo, he was young. He was tall.

22 Q How tall do you think?

23 A They so close in similarity -- sorry if I'm saying  
24 anything. Until you --

1 Q And when --  
2 A -- you thought --  
3 Q And I'm sorry. When you say "they," Justin and Kris  
4 was close?  
5 A Yeah.  
6 Q Okay. So the question was, how tall do you think he  
7 was? Do you have an estimate?  
8 A No, sir.  
9 Q Okay. In relation to Justin, how tall was he at the  
10 time?  
11 A Just a tinch.  
12 Q A tinch taller or shorter?  
13 A Yeah.  
14 THE COURT: Which one? Taller or shorter?  
15 THE WITNESS: Taller. He's as tall -- a little  
16 taller than Justin.  
17 THE COURT: Okay.  
18 THE WITNESS: 'Cause --  
19 MR. GILL: Okay.  
20 THE WITNESS: -- he was slim (indicating).  
21 BY MR. GILL:  
22 Q Okay.  
23 A I'm sorry.  
24 Q And is he African American?

1           A     Yes.

2           Q     What was his age at the time? Do you recall?  
3     Kris's, not Justin's.

4           A     I don't know. 'Cause I think he might be a year  
5     older than Justin.

6           Q     But within a year or two; is that fair?

7           A     Right. Justin -- Justin, at that time, was --  
8     what? -- 16, 17. And Kris had to be, like, maybe 18, 17.  
9     They -- I'm sorry because I didn't -- because --

10          Q     Okay. And that's -- that's fine. You -- you think  
11     they were very close in age, whether it's one or two years  
12     apart. Is that fair?

13          A     Mm-hmm. One, two -- I don't know, ma'am [sic].

14          Q     And I'm not trying to trip you up, Ms. Smith-Porter.  
15     I just --

16          A     No, I'm being truthful.

17          Q     -- want to -- I just want to confirm your answer.  
18     One or two years; is that fair?

19          A     Yeah.

20          Q     Yes?

21          A     [Witness nods head.]

22          Q     And you also mention that you were concerned about  
23     Justin being out because you worked a lot. You remember that  
24     statement?



1           A     Yeah.

2           Q     And -- and you did work nights?

3           A     I worked nights, days -- I'm a bus driver. So my --  
4 my run was different times 'cause we bidded on it. So I  
5 might work this -- this six months this way and that six months  
6 that way. But it was never the same.

7           Q     And back in 2000, you don't necessary -- the summer  
8 of 2000, you don't necessarily remember what shift you were  
9 on; is that right?

10          A     Um, probably Charleston.

11          Q     I mean -- "shift" meaning time of day that you were  
12 working.

13          A     Ah, (witness shakes head).

14          Q     You do not remember?

15          A     Huh-uh.

16          Q     And that's a "no."

17          A     No, sir. No.

18          Q     Thank you.

19          A     No.

20          Q     And with -- you also had mentioned to Ms. Luzaich,  
21 yesterday, that when you were home, you make sure Justin was  
22 home.

23          A     I would -- well, I would pick him up on my off days  
24 and -- 'cause -- I don't know if I could say this. But I was

1 picking him up at his girlfriend house or my son's house or my  
2 daughter's house when I get off from work on the days that I  
3 work days.

4 Q So he was with you --

5 A The majority of the time.

6 Q Okay. When you were not working?

7 A When I was not working, which was very -- like I  
8 say, very seldom.

9 Q Okay. Now, the -- it's fair to say -- and I know  
10 Ms. Luzaich was asking you questions this morning that you --  
11 you spoke to detectives or officers at some point; correct?

12 A Yes, sir.

13 Q And that was in August of 2000?

14 A Yes, sir, that's --

15 Q And -- and -- do you remember giving a statement?

16 A I remember giving a statement, but I can't -- and  
17 not lie, exactly everything that I said.

18 Q And that's because it was 22 years ago.

19 A It was 22 years ago and my mind was a lot better  
20 than it is now. I'm 64.

21 Q Okay. But you do -- again, you do remember talking  
22 to them --

23 A Pieces. Bits and pieces. I did talk to 'em twice.  
24 Once when they stopped me in the car, right in the -- when

1 they made me -- asked me to get in the car, could they talk to  
2 me. So that was twice.

3 Q Okay. And -- and, again, the statement that you  
4 were shown, do you -- do you doubt that you gave a statement?

5 A I gave a statement. But to be 100 percent positive  
6 of what I said, I have to go on what she -- what they said I  
7 said.

8 Q Okay. And that's -- and that's all we're asking.  
9 Because it was recorded; correct?

10 A I was -- I was asked questions.

11 Q Okay.

12 A And I only answered the questions to the best of my  
13 knowledge, when they asked me.

14 Q And that was back in 2000, again.

15 A Yes.

16 MR. GILL: Nothing further, Your Honor. Thank you.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION

19 BY MS. LUZAICH:

20 Q Would it surprise you to know that Kristopher  
21 Deloney is three years younger, or two years younger than  
22 Justin?

23 A No, 'cause like I explained before to you, is that  
24 I'm not sure about their ages because they were cousins and

1 they -- we all grew up -- they grew up together. So as far as  
2 actually knowing how old he is, I wouldn't know that.

3 Q Okay.

4 A But what I would know is that they hung together.  
5 And they was at my house all the time. Him and other friends.  
6 Because I was the fun house. Which mean I ate -- I kept food  
7 in the house.

8 Q Okay. But he was also elsewhere a lot?

9 A Right. But if you -- Kris has always been taller.

10 THE COURT: Has been what? Oh, taller?

11 Is that a "yes"?

12 THE WITNESS: He's tall.

13 THE COURT: Okay.

14 BY MS. LUZAICH:

15 Q Okay. But younger.

16 A But younger.

17 Q Two years younger.

18 A And I didn't know that. You telling me something  
19 that I didn't know.

20 Q Oh, okay. Thank you.

21 MR. GILL: Nothing on that, Your Honor. Thank you.

22 THE COURT: Any questions from the jurors?

23 All right, ma'am. Thank you so much.

24 THE WITNESS: Okay. I appreciate it.

1 THE COURT: Please don't -- please don't share your  
2 testimony with anyone else involved in the case since it's  
3 ongoing.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: But you are excused. Thank you.

6 THE WITNESS: Yes, ma'am.

7 And thank you guys very much. I appreciate it.

8 THE COURT: State?

9 MS. LUZAICH: Sergeant Calarco.

10 THE MARSHAL: If you could step up there, remain  
11 standing, and raise your right hand so the clerk can swear you  
12 in.

13 THE WITNESS: Okay.

14 MICHAEL CALARCO,  
15 [Having been called as a witness and being first duly  
16 sworn testified as follows:]

17 THE WITNESS: I do.

18 THE CLERK: Please be seated, stating your full  
19 name, spelling your first and last name for the record.

20 THE WITNESS: Yeah. My name is Michael Calarco,  
21 M-I-C-H-A-E-L. Last name is Calarco, C-A-L-A-R-C-O.

22 DIRECT EXAMINATION

23 BY MS. LUZAICH:

24 Q Good morning, sir. How are you employed?

1           A     Good morning, ma'am. I am a sergeant with the  
2 Las Vegas Metropolitan Police Department.

3           Q     How long have you been with Metro?

4           A     Including my cadet time, over 20 years.

5           Q     Okay. So let's start from the beginning. When you  
6 say including your cadet time, what is a cadet?

7           A     So a cadet is a -- well, was a position that we had  
8 that was essentially report takers. They were civilian  
9 positions from the ages of 18 to 21. You would hire on and,  
10 essentially, when you hit 21, you would do a brief background,  
11 psychological, and you would go to the police academy. So --

12          Q     For how long were you a cadet?

13          A     From 18 to 21.

14          Q     And when you turned 21, did you then go to the  
15 academy and become an officer?

16          A     So I was actually in the Marine Corps., reserves  
17 too --

18          Q     Oh, sorry.

19          A     -- and it was right at 9/11. So I was activated for  
20 a year, year and a half, and I was deployed.

21          Q     Thank you for your service.

22          A     And when I came back, went into the police academy.

23          Q     And when you went to the police academy, did you  
24 then come out and begin your duties as a patrol officer?

1           A     Yes, ma'am.

2           Q     So the difference between a cadet and a patrol  
3 officer, one, is that's a civilian employee. And a patrol  
4 officer, obviously, is sworn.

5           A     Correct.

6           Q     Cadet does not carry a gun; would that be correct?

7           A     That's correct.

8           Q     But a police officer would.

9           A     Correct.

10          Q     For how long were you an officer before you became a  
11 sergeant?

12          A     I was an officer for about 11 years.

13          Q     And when did you become a sergeant?

14          A     Sergeant in 2015.

15          Q     And what are your duties as a sergeant?

16          A     Right now I have a field training squad. It's -- in  
17 a Patrol Area Command, Spring Valley Area Command. So I have  
18 a squad of nine field training officers, and we currently have  
19 six new officers -- well, actually five new officers and a  
20 cadet that we're training. So I have the regular patrol  
21 duties to supervise their patrol squad of the entire area  
22 command and then also supervise the FTOs, or field training  
23 officers, and the new officers.

24          Q     So has Metro always used cadets as -- as you

1 described what you did?

2 A No. So there was -- when I was a cadet, there  
3 was -- I don't know how long before that we had cadets. I  
4 would say roughly ten years or so. And then it went away for  
5 a while. We started a program called PSRs, which is Patrol  
6 Service Representatives. And there was -- it was almost the  
7 exact same position, however there was no, like, time frame.  
8 There was no age restriction. So they could -- we had PSRs  
9 that have been on for over 20 years now.

10 So -- we use them. But we just brought -- this is  
11 actually the first cadet class that we brought back that I  
12 have one of the guys on my squad sense probably ten years ago  
13 or more.

14 Q So in order to be a cadet when you were, what did  
15 you have to do? Did you have to go through classes? Become  
16 certified? What did you do?

17 A To become a cadet?

18 Q Yes.

19 A So there -- so become a cadet, you have to go  
20 through the same type of testing process. There's a  
21 background investigation, there's a psychological -- or  
22 actually, no, we did not do psychological. There's a  
23 polygraph. And then we went through a -- a cadet academy,  
24 which is an abbreviated academy that focuses on all cadet type



1 stuff, which would be the reports, the traffic accidents,  
2 responding, and kind of how to -- how to deal with traffic  
3 accidents. And then we would go through a -- an abbreviated  
4 field training program, which focus on the same type of  
5 duties.

6 Q Okay. So when you actually became a cadet and were  
7 working, after you'd been through the academy, what did you do  
8 on a daily basis?

9 A On a daily basis I would -- I would respond to  
10 report-type calls. Most of 'em were non-violent, like  
11 burglaries. I would recover stolen vehicles, take stolen  
12 vehicle reports. Sometimes there were violent crimes. I  
13 would go to and then help out the officers and take reports  
14 for those. That was the majority of my day-to-day operations.

15 When I wasn't doing anything like reports, I would look  
16 for stolen cars maybe parked somewhere, stuff like that.

17 Q Okay. And you would -- when you responded to a  
18 scene, would you then fill out the report.

19 A Correct.

20 Q Would you talk to witnesses so that -- well, let me  
21 rephrase.

22 In the report that you did, what kind of information --  
23 bless you -- would you include?

24 A I would include all the same information as if a

1 police officer was doing it. So it would be the location,  
2 time, suspect, witnesses, victims, the details of what  
3 happened. Just like a regular police officer would do. It  
4 was the same information that would go into the reports.

5 Q And when you say the details of what happened, is  
6 that kind of what's called a "narrative"?

7 A Yes, ma'am.

8 Q How would you get the information for a narrative?

9 A It would be talking to the victims, witnesses, or  
10 anybody else that might have pertinent information.

11 Q Okay. So on -- oh, and sorry. When were -- like,  
12 what period of time were you a cadet?

13 A From 1999 to 2001.

14 Q All right. So on April 12th of 2000, did you work  
15 as a cadet?

16 A Yes, ma'am.

17 Q Did you respond to the scene of a burglary/robbery  
18 at 436 North 12th Street?

19 A I did, yes.

20 Q And were you -- did I already ask you this? I'm  
21 sorry. Were you assigned to a particular area?

22 A You didn't ask me. It was --

23 Q Oh.

24 A -- Downtown Area Command, I was assigned to.

1           Q     What -- does Downtown Area Command have a certain  
2 area that they --

3           A     We've -- we've restructured --

4           Q     -- handle?

5           A     -- the area commands, but back then it was -- it  
6 was -- it was very similar to what it is now. I don't know  
7 the actual cutoffs. But, I mean, right now, where we're at is  
8 Downtown Area Command. And it went, I want to say, Eastern  
9 might have been the east boarder. I want to say maybe Owens,  
10 Lake Mead was the north boarder. South boarder, Sahara --  
11 I -- I'm not 100 percent sure. But it was right around there  
12 is, like, the Downtown Area Command.

13          Q     Okay. And you -- when you responded to that scene,  
14 did you speak with two individuals named Francis Rumbaugh and  
15 Clarence Rumbaugh?

16          A     Yes, ma'am, according to my report, I did.

17               MS. LUZAICH: I have State's Proposed Exhibits 286  
18 and 287, photographs that I believe will be entered by  
19 stipulation.

20               MR. GILL: Correct.

21               THE COURT: Okay. Those will be admitted. And you  
22 can publish if necessary.

23               MS. LUZAICH: Thank you.

24               [STATE'S EXHIBITS 286 and 287 ADMITTED.]

1 BY MS. LUZAICH:

2 Q So you went to 436 -- uh, 436. Sorry about that.  
3 Oh, yeah, 436 North 12th Street. And showing you 286, is that  
4 the apartment door? Does it appear --

5 A Um, it does appear to be that door, yes, ma'am.

6 Q And four -- 287, the actual door to enter the  
7 apartment?

8 A It does appear to be that.

9 Q Okay. But you would agree it was an apartment;  
10 right?

11 A Yes.

12 Q And you spoke to individuals named Florence --  
13 Florence. Francis and Clarence Rumbaugh. And you got a -- or  
14 did you -- sorry -- get a description from them of what had  
15 occurred?

16 A According to my report, yes, I did.

17 Q Okay. Now -- I mean, how many scenes have you  
18 responded to since 2000?

19 A I -- thousands.

20 Q Okay. You don't remember every single scene;  
21 correct?

22 A Correct.

23 Q But you did generate a report at or near the time;  
24 correct?

1           A     Yes.

2           Q     Now, do you know, would another police officer  
3 necessarily have been there?

4           A     Not every single time. Most of the time, on violent  
5 crimes, we do have an officer that would show up with me and  
6 just kind of make sure that everything was secure, see if they  
7 can help out with locating crime scene witnesses, stuff like  
8 that. But as soon as it would be static, it would probably be  
9 just myself.

10          Q     Okay. And you would indicate in your report, also,  
11 kind of why you were there. You know, items stolen, something  
12 like that?

13          A     Yes, ma'am.

14          Q     And did you indicate in your report that there was  
15 items stolen?

16          A     I did.

17          Q     And do you remember what you wrote or what was  
18 stolen?

19          A     Not at all.

20          Q     Would it refresh your recollection to look at the  
21 report?

22          A     Yes, ma'am.

23                I reviewed it.

24          Q     And what items did you indicate were stolen?

1           A     So, initially, I indicated there -- looks like \$40  
2 of some type of denomination of cash and then there was also a  
3 watch that looks like I put that it was taken. But I think  
4 they -- there's some handwritten notes on here that it wasn't  
5 actually taken.

6           Q     And would you also indicate what type of entry was  
7 made into the apartment?

8           A     Entry into the apartment, I would have to look at my  
9 narrative real quick.

10          It's forced entry. It says forced entry, through the  
11 door.

12          Q     And do you also indicate kind of suspect actions in  
13 your report?

14          A     Yes. You want me to read it from the narrative or  
15 the MO portion --

16          Q     The MO portion.

17          A     Okay. The MO portion, I put in there that there was  
18 forced entry. Someone was hit during the act. Move victim's  
19 location. Pulled, grabbed victim. And that the suspect had  
20 concealed their face.

21          Q     Under "crimes against property" --

22          A     Yeah, I actually saw that. The property, there was  
23 an additional one that I put. I put \$40 and then there was  
24 also \$80 that I missed, property number one.

1 Q Okay. What about under "crimes against property,"  
2 on page 2, "suspect actions"?

3 A Suspect action was bodily force, selective and  
4 (indiscernible), wiped prints, cut phone cord.

5 Q Now, do you know, as a cadet -- actually, as a  
6 cadet, would you enter the apartment and walk through as well?

7 A Once I knew that it was safe, yes. Yes, ma'am. And  
8 when I'm doing my report, I'm -- it's just as if an officer  
9 was in there and just kind of establishing what had happened,  
10 if there's any evidence. We might need to get prints, stuff  
11 like that.

12 Q Okay. So when you write "forced entry," that --  
13 would that be because you observed something?

14 A Yes, ma'am.

15 Q And when you write "cut phone cord," would that be  
16 because you observed something?

17 A Yes, ma'am.

18 Q Okay. Then on June 9th of 2000, did you also  
19 respond to a scene at 2850 Cedar Avenue?

20 A Yes, ma'am, according to that report, I did.

21 Q Apartment 229?

22 A Yes, ma'am.

23 Q Does that sound familiar? And did you -- do you  
24 speak Spanish?

1           A     I do not.

2           Q     Were there individuals there who spoke Spanish?

3           A     I believe, according to the report, there was.

4           Q     Okay. So did you speak to one individual, a man  
5 named Guadeloupe Lopez?

6           A     According to the report, yes, ma'am.

7           Q     Okay. And were there two Spanish-speaking ladies  
8 that were there, Beatriz and Laura Zazueta?

9           A     Again, according to the report, yes.

10          Q     Okay. Showing you State's Exhibit 230, an  
11 apartment. You recall going to an upstairs apartment, based  
12 on the fact that the apartment number was 229?

13          A     I mean, based on the report and the -- that most  
14 "two" numbers are upstairs, yes.

15          Q     Okay. And then State's Exhibit 214, apartment  
16 209 -- 229 --

17          A     229.

18          Q     -- sorry.

19          A     Yes, ma'am.

20          Q     And do you recall there being broken glass on the --  
21 State's Exhibit 229 -- on the outside?

22          A     According to the report, yes, ma'am.

23          Q     So, again, would -- do you recall what you had  
24 indicated in this case about entry and things missing?



1           A     I would have to reference the report.

2           Q     Would it refresh your recollection to review the  
3 report?

4           A     Yes, ma'am.

5           Q     So does it indicate you responded to a burglary and  
6 robbery with deadly weapon?

7           A     Yes, it does.

8           Q     And lists the victims that I just described;  
9 correct?

10          A     That's correct.

11          Q     Does it indicate what, if anything, was stolen?

12          A     Um, I'd have to look to see the property that was  
13 taken. It says \$200 US currency was taken.

14          Q     Okay. And does it indicate whether a weapon was  
15 used?

16          A     It does. There was a firearm that was used.

17          Q     Did -- did it indicate -- well, you said that a  
18 firearm was used. Would you have walked around the apartment  
19 to see evidence of that, before you actually put it in your  
20 report?

21          A     Yes, I would.

22          Q     And did it indicate anything that happened to the  
23 individuals?

24          A     According to the narrative portion, there was a

1 struggle involving the victim and there were some shots, three  
2 shots that were fired. It looks like someone was also pistol  
3 whipped with a handgun.

4 MR. GILL: Just for the record, Your Honor, he's  
5 reading from the report at this point.

6 MS. LUZAICH: Oh, sorry.

7 THE COURT: Okay.

8 MS. LUZAICH: I didn't realize.

9 THE COURT: That's okay.

10 BY MS. LUZAICH:

11 Q And would you have called out a Spanish-speaking  
12 officer to speak to the individuals who don't speak Spanish --  
13 or who don't speak English? Sorry about that.

14 A I would.

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

16 THE COURT: Mr. Gill?

17 MR. GILL: It'll be Mr. Goodwin, Your Honor.

18 THE COURT: Oh, Mr. Goodwin.

19 CROSS-EXAMINATION

20 BY MR. GOODWIN:

21 Q Good morning, officer. How are you?

22 A Good morning, sir. Good. How are you.

23 Q Good. Thank you.

24 So just a quick question -- just couple questions

1 (indiscernible) quick.

2 This happened some time ago?

3 A Twenty-two years ago-ish.

4 Q And you said a couple different times "according to  
5 my report."

6 A That's correct.

7 Q So nothing in this really stuck out to you; correct?

8 A Not at all.

9 Q And you may have done hundreds of these calls?

10 A As a cadet?

11 Q As a cadet.

12 A Yes.

13 Q And --

14 A Yes, sir.

15 Q Okay. So when you went to these scenes, nothing  
16 stuck out to you?

17 A Nothing on these two are sticking out to me, no.

18 Q No --

19 A I can't say that there's others that wouldn't. But  
20 these two did not.

21 Q Okay. And when you're looking at the report and  
22 you're seeing things like the cut telephone cord and things  
23 like that, now, would you be taking your report prior or after  
24 the crime scene analyst would come?

1           A     Um, I mean, it depends upon how many officers there,  
2 if there was a need to preserve some type of the crime scene,  
3 if I was able to bring my report in there. It all depends.

4           Q     Okay.

5           A     But I would wait to finish it for ID or CSA to be  
6 done because I -- I would usually put in there, ask them if  
7 they -- they got prints or something like that.

8           Q     Okay. And just a couple questions. When the call  
9 would come in, the police would respond. Would you be the  
10 first contact with the people or would -- would an officer --  
11 I mean, you said sometimes you came along. But in situations  
12 like this, would you be the person responded and directed  
13 anybody or would you just be speaking to, say, the victims?

14          A     Like I said, it depends if there was a clear  
15 indication that there was no suspect there, there would be  
16 times where I could be the first one. But a majority of the  
17 times, especially with violent calls, I would not be the first  
18 one that would respond.

19          Q     Okay. So it's likely that you did not -- you were  
20 not the first person to respond to this scene?

21          A     I -- I have no clue.

22          Q     And in those instances when you would respond with  
23 another officer, was the officer doing the talking and you  
24 were recording and they were directing or were you the person

1 doing the speaking?

2 A It would -- it would go both ways. I mean,  
3 sometimes I would jump in there and I would start interviewing  
4 and they would be looking around. I mean, it -- it all  
5 depended. There wasn't a certain way we did it every single  
6 time.

7 Q Okay.

8 A But, ultimately, I would be filling out the report.  
9 So I would probably be the one talking the most so I could get  
10 information for myself and ask clarifying questions.

11 Q Sure. And just one section on that, the -- the  
12 modis operandi, the MO section, that's just -- and I'm sorry.  
13 You don't have to review it.

14 A Oh.

15 Q Just some clarification. That's not saying that --  
16 I mean, that's just saying that this is the method that was  
17 used in this instance; correct?

18 A That is correct.

19 Q It's not suggesting any sequence or anything like  
20 that.

21 A Not -- no, sir.

22 Q Okay.

23 MR. GOODWIN: No further questions, Your Honor.

24 THE COURT: Redirect?

1 MS. LUZAICH: No, nothing. Thank you.

2 THE COURT: Anything for this witness, ladies and  
3 gentlemen?

4 Sir, thank you so much for being here. Please don't  
5 share your testimony with anyone else involved in the case  
6 since it's ongoing, but you are excused. Thank you.

7 THE WITNESS: Thank you, ma'am.

8 MS. KOLLINS: May we approach?

9 THE COURT: Yeah.

10 MS. KOLLINS: Thank you.

11 [BENCH CONFERENCE BEGIN]

12 MS. KOLLINS: We're just waiting for my  
13 (indiscernible) we thought he would be here by now. Otherwise  
14 I have someone to read on their way down.

15 MR. GILL: And I have a client who has to potty.

16 THE COURT: Okay. (Indiscernible) not gonna be  
17 long, is he?

18 MS. KOLLINS: No.

19 THE COURT: So we'll do Workman really quick.

20 MR. GILL: Thank you.

21 [BENCH CONFERENCE END]

22 MS. LUZAICH: I'm just looking for photos, Judge.  
23 I'm sorry.

24 THE COURT: No worries.

1 MS. LUZAICH: Judge, can we take a ten-minute break?

2 THE COURT: We just discussed that at the bench.

3 We're gonna do Workman and then we're gonna take a break.

4 Okay. We're gonna take a recess at this point in time.

5 Please, during this recess, do not discuss or communicate  
6 with anyone, including fellow jurors, in any way regard the  
7 case or its merits either by voice, phone, e-mail, text,  
8 internet, or other means of communication or social media.

9 Please do not read, watch, or listen to any news, media  
10 accounts, or comments about the case; do any research, such as  
11 consulting dictionaries, using the internet, or using  
12 reference materials.

13 Please do not make any investigation, test a theory of  
14 the case, recreate any aspect of the case, or in any other way  
15 attempt to learn or investigate the case on your own. And  
16 please do not form or express any opinion regarding the case  
17 until it's formally submitted to you.

18 We'll have our 15-minute break at this point in time.

19 Thank you.

20 THE MARSHAL: All rise.

21 [RECESS AT 10:35 A.M.; PROCEEDINGS RESUMED AT  
22 10:52 A.M.]

23 [OUTSIDE THE PRESENCE OF THE JURY]

24 [DISCUSSION OFF THE RECORD]

1 THE MARSHAL: All rise.

2 [IN THE PRESENCE OF THE JURY]

3 THE COURT: All right. Thank you, everyone.

4 Welcome back.

5 We're on the record on State of Nevada versus  
6 Justin Porter, C174954. Mr. Porter's present with Mr. Gill as  
7 well as Mr. Goodwin. Both Chief Deputy District Attorneys,  
8 Ms. Luzaich as well as Ms. Kollins, are present on behalf of  
9 State.

10 Do the parties stipulate to the presence of the jury?

11 MS. KOLLINS: Yes, ma'am.

12 MR. GILL: Yes, Your Honor.

13 THE COURT: All right. Next witness, please.

14 MS. KOLLINS: Your Honor, the State would be reading  
15 in the testimony of Francis Rumbaugh.

16 THE COURT: Okay.

17 MS. KOLLINS: And I've provided the Court with a  
18 copy and Defense counsel. We will be doing that through  
19 Kassandra Acosta today.

20 THE COURT: Okay. Ms. Acosta, if you could come up,  
21 please. And for your notes, ladies and gentlemen, let me get  
22 the date of the actual hearing for Ms. Rumbaugh so you can put  
23 it in your notes.

24 All right. Francis Rumbaugh was on October 16th of 2000.



1 All right. Would you please stand and raise your right  
2 hand. And we're going to swear you in as a reader, so you can  
3 use your real name.

4 KASSANDRA ACOSTA,  
5 Was first duly sworn to read the answers in the transcript  
6 to the best of her ability:

7 MS. ACOSTA: Yes.

8 THE CLERK: Please be seated, stating your full  
9 name, spelling your first and last name for the record.

10 MS. ACOSTA: Kassandra Acosta, K-A-S-S-A-N-D-R-A.  
11 Acosta, A-C-O-S-T-A.

12 MS. KOLLINS: And then, Ms. Rumbaugh was also sworn  
13 in at the proceeding.

14 THE COURT: Yes. So Ms. Rumbaugh was sworn in, just  
15 like you've seen all the other witness sworn in. Raise --  
16 rose her -- she raised her right hand and swore to tell the  
17 truth.

18 And then, Ms. Kollins, on behalf of Ms. Lowry.

19 MS. KOLLINS: Thank you.

20 [TRANSCRIPT READING BEGIN]

21 DIRECT EXAMINATION

22 BY MS. KOLLINS:

23 Q Ms. Rumbaugh, how old are you?

24 A Seventy-nine.

1 Q And what is your birth date?

2 A April the 11, 1921.

3 Q Ms. Rumbaugh, I'd like to direct your attention to  
4 April 12th of this year, 2000, where did you live on that  
5 date?

6 A 436 North 12th Street, Las Vegas, here.

7 Q And did that home have a number or letter attached  
8 to it to identify it?

9 A Yes, B.

10 Q And you said that -- that was in Clark County,  
11 Las Vegas?

12 A Yes.

13 Q And could you describe your home for us, what it  
14 looked like?

15 A It's a one-bedroom with a living room and a  
16 bathroom.

17 Q And is it a single-story residence?

18 A Yes, it is.

19 Q And on April 12th of this year, did anyone else live  
20 with you at that address?

21 A Yes, my husband.

22 Q And what's his name?

23 A Clarence.

24 Q Now, I'd like to direct your attention to

1 approximately 11:25 p.m. that evening. Were you home?

2 A Yes, we were.

3 Q And when you say "we," you're referring to?

4 A My husband and I.

5 Q Was anyone else there with you?

6 A No.

7 Q What were you doing?

8 A Eating cake and ice cream and watching TV.

9 Q Okay. And in that -- in what room of your home were  
10 you doing that?

11 A The living room.

12 Q And did something unusual occur at about that time?

13 A Yes, I heard a loud noise at the screen. And it was  
14 somebody breaking in. And we had it latched and they broke in  
15 and lifted up the latch and busted in -- and bursted in.

16 Q When you say your screen, where was the screen  
17 located?

18 A Um, on the front door.

19 Q So it was a screen door?

20 A Yes.

21 Q And what about your front door at that time was --

22 A It was -- it was open.

23 Q Okay. Were there any other things in your apartment  
24 that were open?

1           A     No.

2           Q     Okay.

3           A     Oh, yes, the -- the windows.

4           Q     Okay.

5           A     The two windows.

6           Q     So the front door was open and the screen door

7 was --

8           A     Closed and latched.

9           Q     Okay. And you said you heard some noise.

10          A     Yes.

11          Q     And what kind of noise was it?

12          A     It was just, uh, when you heard the breaking in, in

13 the screen.

14          Q     And then what's the next thing that happened?

15          A     Then this person bursted in. And it started -- and

16 I started to scream "help, help." And he said for me to shut

17 up. And he run and shut the two windows and shut the door.

18 And then he rushed over to the cabinet where I had the knife

19 laying when I cut the cake. And he took that and cut my cord

20 on the telephone.

21          Q     And you said you had a knife out that you had cut

22 the cake with?

23          A     Uh-huh.

24          Q     Can you describe that knife for us?

1           A     It was a pairing knife, about six inches long with a  
2 black handle.

3           Q     And you said he cut the cord to the phone?

4           A     Yes.

5           Q     Where was your phone located?

6           A     It was sitting on the kitchen table.

7           Q     And after -- after he cut the phone cord, then what  
8 happened?

9           A     Then he -- well, he threw me over to the couch.

10          Q     And how -- how did that happen? Where you were and  
11 where was he?

12          A     I was standing up in front of my reclining chair and  
13 then he ran over and grabbed me by the arm. I still have the  
14 mark there where it keeps coming up and thumping.

15          Q     Okay. Your -- you're touching your wrist area?

16          A     The wrist, yes. Mm-hmm.

17               [TRANSCRIPT READING END]

18          MS. KOLLINS: Court.

19          THE COURT: Oh, sorry. Again, I always forget about  
20 that.

21               [TRANSCRIPT READING BEGIN]

22          THE COURT: She's in the -- the left wrist for the  
23 record.

24          MS. KOLLINS: Thank you.

1 THE WITNESS: And I had -- had black-and-blue marks  
2 from my shoulder down to my elbow.

3 THE COURT: The left shoulder?

4 THE WITNESS: Yes.

5 THE COURT: She's indicated on the record.

6 THE WITNESS: Uh-huh. And -- yeah.

7 BY MS. KOLLINS:

8 Q So you said that he -- he came over to you, he  
9 grabbed you.

10 A And then he -- and then -- and threw me over towards  
11 the couch.

12 Q Okay.

13 A And that's when I got all that bruising.

14 Q On your left arm?

15 A Yes.

16 Q Okay. When he threw you, where did you land?

17 A On the cushion of the couch.

18 Q Did your whole body land on the couch or did part of  
19 you land somewhere else -- someplace else?

20 [TRANSCRIPT READING END]

21 MS. KOLLINS: Excuse me. Correction.

22 [TRANSCRIPT READING BEGIN]

23 THE WITNESS: No, it -- I -- I landed all on the  
24 couch.

1 BY MS. KOLLINS:

2 Q And when he came over and he grabbed your wrist,  
3 where was the knife?

4 A In my right hand. He grabbed me by his left.

5 Q Okay.

6 A And pulled me.

7 Q Describe this person that came into your home that  
8 night.

9 A Well, he had a red handkerchief over, across his  
10 face. I never saw his face.

11 Q What part of his face did the red handkerchief  
12 cover?

13 A All. Like that, from his nose down.

14 MS. KOLLINS: May the -- may the record reflect that  
15 the witness took her hand and put it up to the middle of her  
16 nose and indicated from there down; is that correct?

17 THE COURT: Yes.

18 THE WITNESS: Yes. Uh-huh.

19 THE COURT: The record will so reflect.

20 BY MS. KOLLINS:

21 Q And you said it was a red handkerchief?

22 A Yes, it was.

23 Q And how was it that that handkerchief stayed on his  
24 face?

1           A     He just held it, like this, with his hand.

2           Q     I see.  When, um, when he grabbed you, you said with  
3 his left hand and he had the knife in his right hand, how did  
4 the handkerchief stay on at that point?

5           A     He still just had the handkerchief -- the knife in  
6 one hand and hanky over his face with the other hand.

7           Q     And -- but how did he grab you with his left hand  
8 and throw you?

9           A     He must have -- with -- I really don't really,  
10 really remember.  But it just -- but it must have been with  
11 the one with the knife and pulled me.

12          Q     Okay.

13          A     Because everything he touched in the house, he  
14 touched with the corner of that knife.

15          Q     Okay.  And you were -- you were describing him.  You  
16 said he had the red handkerchief.  What else can you tell us  
17 about him?

18          A     That's pretty much about all.

19          Q     What race was he?

20          A     He was dark.

21          Q     Okay.  And, um, when you say "dark," do you mean he  
22 was a black mean?

23          A     Yes.  Uh-huh.

24          Q     And what age?



1           A     I -- I thought about 30, 35, someplace in there. He  
2 was awfully strong.

3           Q     Okay. Anything about his clothes that you can tell  
4 us, the clothes that he had on?

5           A     No, I don't remember. But my hand -- but my husband  
6 said he did, so --

7           Q     Okay. And after -- after he threw you on the couch,  
8 then what happened?

9           A     Then he went after my husband.

10          Q     Where was your husband?

11          A     He was in front of his reclining -- recliner,  
12 standing. And then he got to wrestling with him and threw him  
13 down on the floor. And when he threw him down on the floor,  
14 he notice his wallet in his back pocket. And he said he  
15 wanted the money.

16          Q     Okay. And --

17          A     And then my husband, he took his wallet out. And  
18 before he could even reach in there to take the money out, he  
19 reached in and took the money.

20          Q     And where was your husband at that point when the  
21 Defendant reached in and took money out of his wallet?

22          A     He was -- he had gotten up off the floor and was  
23 standing in front of his chair.

24          Q     Okay. Now describe for me -- let's back up a little

1 bit. Describe for me. You said he came after your husband.  
2 What interaction did he have with your husband? What happened  
3 between him and your husband?

4 A Just wrestled him and threw him to the floor.

5 Q Threw him to the floor? Okay.

6 A Uh-huh.

7 Q And then --

8 [TRANSCRIPT READING END]

9 MS. KOLLINS: I'm sorry.

10 [TRANSCRIPT READING BEGIN]

11 BY MS. KOLLINS:

12 Q And then was your husband able to get up?

13 A Yes.

14 Q Okay.

15 A Uh-huh.

16 Q And tell us about the man taking the money out of  
17 the wallet.

18 A He just reached over. My husband went to reach,  
19 pull the money out, and he just threw -- and he just threw  
20 his -- pushed his hand away and grabbed it from -- grabbed it  
21 himself.

22 Q Do you know how much money he took?

23 A Yes. He took \$81.

24 Q And did your husband have anything else in his

1 wallet, like identification or a credit card?

2 A Yes, he had that. But all he was interested in, I  
3 guess, was the money.

4 Q Okay. And what did this -- what did this man do  
5 with the money once he took it from your husband?

6 A Put it in his pants -- in his pants pocket.

7 Q Okay. What was the next thing, then, that happened?

8 A Then he wanted a gun.

9 Q How did you know that?

10 A He asked if I had a gun and I said no. So he made  
11 us go into our bedroom.

12 Q How did he make you go into your bedroom?

13 A He -- just pointing the knife at us and said, "Go,  
14 come in here."

15 Q Okay.

16 A And then he went through all my closets.

17 Q Okay. Let me back you up. Why did you go into your  
18 bedroom?

19 A Because he told us to.

20 Q Okay.

21 A Yeah.

22 Q And once you and you --

23 [TRANSCRIPT READING END]

24 MS. KOLLINS: Excuse me.

1 [TRANSCRIPT READING BEGIN]

2 BY MS. KOLLINS:

3 Q And once you and your -- you and your husband went  
4 in the bedroom also?

5 A Mm-hmm. We both had to go in.

6 Q And when you got into your bedroom, what part of  
7 your bedroom were you then in? Where?

8 A Just standing right beside the bed.

9 Q And where was --

10 A Because it's not that big of a room.

11 Q And then where was your husband?

12 A Right standing beside me.

13 Q And then the man, what -- what did he do?

14 A And then he started to go through the cupboards.

15 Q Okay.

16 A And, uh --

17 Q How did he do that? How did he go through the -- go  
18 through them?

19 A With the knife. And then he went over to the desk  
20 where we have cups that we have change, where we put nickels,  
21 dimes, and quarters when we -- when we got them. And we had  
22 them throw -- throwed in there. And then he went over there  
23 to get the money.

24 And he picked up all the cups and then, when he seen the

1 pennies, he goes, "Oh, pennies." And he threw that cup back  
2 on the -- on there. And then when he took the change, the  
3 nickels and the quarters, and stuck them in his pockets. And  
4 then he took another hanky, while he held this one, and he  
5 wiped those containers off.

6 Q Where did the other hanky come from?

7 A His pocket.

8 Q Okay.

9 A Yeah.

10 Q And what did it look like?

11 A I really didn't pay that much attention to it.

12 Q The cups that you said you kept your change in, the  
13 cup that had the pennies in it, what kind of cup was that?

14 A It -- it's a cup that they have at the casinos,  
15 El Cortez.

16 Q Okay.

17 A Those cups, when you put out your money and take it  
18 up to exchange it for the cash.

19 Q Okay.

20 A It was that kind of cups.

21 Q And what was the cup made of?

22 A Plastic.

23 Q And the cup that had the nickels and quarters in it,  
24 what kind of cup -- what kind of cup was --

1           A     El Cortez cups.

2           Q     And was that plastic as well?

3           A     Yes, it was.  Mm-hmm.

4           Q     Now, when you were talking about the man going  
5 through the cupboards, you were kind of indicating, you said  
6 he did it with the knife.

7           A     The tip of the knife.  He take -- he had the knife  
8 in his hand and he just take the knife and pulled.  Because  
9 it's just a sliding door is what it is.

10          Q     Okay.

11          A     And he would slide the door with that.

12          Q     And did -- he did --

13          A     Because it was look -- because he was looking for  
14 this gun.

15          Q     And how do you know that?

16          A     Because he said so.

17          Q     What did he say?

18          A     He kept saying, "You got a gun.  You got a gun."  
19 And I kept telling him, no, we didn't have such a thing.

20          Q     What else did he say when he was in the bedroom with  
21 you?

22          A     Well, that was about it.  And then whenever he was  
23 ready to go, he tried to go out our big sliding door that  
24 he -- that we have there.  And it only opened so far.  And so

1 when he opened it, I told him he'd never get out that way  
2 because that's all the further it opened.

3 And so he said, "I have to go out this other way then."  
4 And I said yes. So he made us stay in the bedroom, shut --

5 Q How --

6 A -- shut the door and then he went across the living  
7 room there to the -- where the door was and went out. I --  
8 and which way he went, I don't know, because he made us stay  
9 in the bedroom.

10 Q The sliding door that you're talking about, where's  
11 that located in your home?

12 A It's in our bedroom. It's a big, long sliding glass  
13 door.

14 Q Okay. And you said you can't get out through that  
15 door?

16 A Right.

17 Q You said he made you stay in the bedroom. How is it  
18 that he made you stay in the bedroom?

19 A He just went to the door and he said, "Now you stay  
20 here till I get out." And then he shut that door. And then  
21 he -- I heard him go across the living room and open up the  
22 other door and go out. And he also shut that door when he got  
23 out also.

24 Q During the -- during the entire time that this man

1 was in your apartment, what other kinds of things did he say  
2 to you or talk about?

3 A Well, he -- teasing my husband about sex life. And  
4 I just said to him, I said, "You're getting awfully personal,  
5 aren't you?" And then he never said another word about it.  
6 So that was it.

7 Q When you say he was teasing your husband, what did  
8 he say to your husband?

9 A Um, "Wouldn't you like to" and -- I don't like to  
10 say the words that he said.

11 Q Okay.

12 A It was nasty.

13 Q And with all due respect, I understand that. But I  
14 do have to ask you what exactly he said. Can you tell us?

15 A Well, he called -- he called it mother --

16 Q Can you spell it?

17 A F-U-C-K-E-R.

18 Q Okay.

19 A And he said, "How long has it been, sir?" And he  
20 had him around the neck with his arm when he was doing all  
21 this.

22 And I just looked at him and said, "You're getting pretty  
23 personal, aren't you?" And he just stopped.

24 Q Okay. Now, um, so he called your husband that name



1 and then he said how long has it been. How did you know what  
2 he was referring to?

3 A When he said the mother --

4 Q Okay.

5 A I just took it to be that so --

6 Q So what did you think he was referring to?

7 A Sex.

8 Q And you said he had his arm around your husband's --

9 A Neck.

10 Q Okay. And where were he and your husband located?

11 A Right inside of the bedroom door, where we all was  
12 at because it's not really that big.

13 Q So this happened after he moved you into the  
14 bedroom?

15 A Yes. Yes.

16 Q Were you frightened while he was there?

17 A Yes, I was.

18 Q How long did you stay in your bedroom? How did you  
19 know or how was it that you thought he left your home?

20 A Well, I had my ear up against the door. And when I  
21 heard the door shut out there, I made a beeline out there to  
22 get it locked.

23 Q Okay. And the, um -- how many phones did you have  
24 in your apartment?

1           A     Just the one.

2           Q     And that was the one with the cut cord?

3           A     Yes.

4           Q     And so you said you made a beeline for the door and  
5 you locked it?

6           A     Yes.

7           Q     And then what did you do?

8           A     Then we waited a few seconds. And then we went over  
9 to my daughter's house. She just lives right across the  
10 street, up the hill a couple ways. You know, a couple houses.  
11 And went over there to her and then she called 9-1-1 for us.

12          Q     Okay. And how did you get to your daughter's?

13          A     We walked.

14          Q     You walked?

15          A     Mm-hmm. It's just, like, across the street a couple  
16 of houses.

17          Q     Okay. You described for us a bump that you still  
18 have on your --

19          A     Yes.

20          Q     -- wrist?

21          A     Right here. It comes up and you can feel it  
22 thumping.

23          Q     And you said that you had bruises down your left  
24 arm?

1           A     Yes. But they're cleared up. They were about two  
2 weeks clearing up.

3           Q     Did you have any other injuries?

4           A     No.

5           Q     The pairing knife, did the man take that with him or  
6 leave it behind?

7           A     No, he took it with him. He must have because I  
8 have never been able to find it.

9           Q     Okay. And --

10          A     And, also, I had a pair of sharp scissors lying on  
11 my stand that was, like, for cutting thread and stuff. They  
12 were missing. And I still haven't found them this day. And  
13 it was lying -- lying on my side -- my stand.

14          Q     Okay. Um, aside -- you talked about the \$81 from  
15 your husband's wallet, the change from the El Cortez cup, your  
16 pairing knife. Um, you said that you're also missing a pair  
17 of sharp scissors?

18          A     Yes.

19          Q     Is there anything else --

20          A     No.

21          Q     -- that --

22          A     No.

23          Q     -- you saw him take or you are missing?

24          A     No. Uh, I thought he had taken my watch, but later

1 I found where he had laid it on the stand. And I left -- and  
2 left it.

3 Q Did you see him actually look at your watch or  
4 handle your watch?

5 A Yes.

6 Q Okay.

7 A Took it out of my jewel case.

8 Q And -- and did he say anything when he was doing  
9 that?

10 A No, he just said I didn't have much.

11 Q He told you --

12 A Yes. And I said it's because I'm allergic to  
13 jewelry. I can't wear them. So that's -- this was a lapel  
14 watch that he had take -- that he had taking [sic] and, um --  
15 but I -- but as I said, he must have took it out of his pocket  
16 and laid it on another stand because I found it later.

17 Q Okay. Was there any other jewelry that he handled  
18 and he left?

19 A No.

20 Q Or he looked at or left?

21 A He just moved it around with a pairing knife.

22 Q When he was going through the cupboards and asking  
23 about a gun, um, what parts of your house did he look through?

24 A That would be just the bedroom.

1 Q Did he look through the kitchen or the living room  
2 at all?

3 A No, not -- no, I don't think so.

4 [TRANSCRIPT READING END]

5 [DISCUSSION OFF THE RECORD]

6 MS. KOLLINS: Your Honor, the State's Proposed 1  
7 through 5, there's a stipulation for the admission of those,  
8 as they mirror what's in the prelim transcript. So if I could  
9 publish --

10 THE COURT: Yes.

11 MS. KOLLINS: Thank you.

12 [TRANSCRIPT READING BEGIN]

13 MS. KOLLINS: Okay. Your Honor, may I approach the  
14 witness?

15 THE COURT: Yes.

16 MS. KOLLINS: I'm going to show the witness what's  
17 been marked as State's Proposed Exhibits 1 through 5. And I  
18 believe Defense counsel has seen these photographs.

19 MR. GILL: That's correct, Judge.

20 THE WITNESS: Well, I'll have to get my glasses out.

21 MS. KOLLINS: Okay.

22 THE WITNESS: Oops. Going to poke my eye out.

23 BY MS. KOLLINS:

24 Q I'm going to show you what's been marked for

1 purposes of identification as State's Proposed Exhibit 1. Do  
2 you recognize what's in that photograph?

3 A Yeah. That's my front door.

4 Q Okay. And is that an accurate picture of your front  
5 door?

6 A Yes, it is.

7 Q And is that an accurate picture of your front door  
8 on April 12th of 2000 when this happened?

9 A Yes, it is.

10 MS. KOLLINS: Move for the admission of State's  
11 Proposed 1.

12 THE COURT: Any objection?

13 MR. GILL: No objection.

14 THE COURT: Okay.

15 BY MS. KOLLINS:

16 Q I'm showing you what's been marked as State's  
17 Proposed Exhibit 2. Do you recognize what's in that  
18 photograph?

19 A Yes, that's my -- that's my number of our house and  
20 the letter on our front door.

21 Q That fairly and accurately depict your front door?

22 A Yes, it is.

23 Q On April 12th of 2000?

24 A Yes, it is.

1 MS. KOLLINS: I'll move for the admission of State's  
2 Proposed 2.

3 THE COURT: Any objection?

4 MR. GILL: No, Your Honor.

5 THE COURT: Okay. It'll be admitted.

6 BY MS. KOLLINS:

7 Q Going now to show you what's been marked as State's  
8 Proposed Exhibit 3. Do you recognize what's in that  
9 photograph?

10 A Yes, that's the upper part of -- it looks like of  
11 our screen.

12 Q Could you hear her?

13 MR. GILL: I did not.

14 BY MS. KOLLINS:

15 Q Go ahead, a little louder.

16 A Okay. The upper part of our screen door.

17 Q And is that a fair and accurate picture of your  
18 screen door on April 12th of 2000?

19 A Yes, it is.

20 Q And is there anything about your screen door that  
21 was different than it had usually been?

22 A Well, that's -- that's where the lock was.

23 Q Is there a lock missing?

24 A Well, actually, he punched a hole in it.

1 Q Oh, okay. So there's a hole there in your screen  
2 door?

3 A Yes.

4 Q And that wasn't there before?

5 A No, it wasn't.

6 Q Before that night when this man came in?

7 A No.

8 MS. KOLLINS: I'm going to move for the admission of  
9 State's Exhibit 3.

10 MR. GILL: No objection.

11 THE COURT: Okay. That'll be admitted.

12 BY MS. KOLLINS:

13 Q State's Proposed Exhibit 4, do you recognize what's  
14 in that photograph?

15 [TRANSCRIPT READING END]

16 THE COURT: Would you mind zooming a little bit --

17 MS. KOLLINS: Sure. Sure.

18 THE COURT: -- Ms. Kollins, if you could. Sorry.  
19 It's just so hard to see from this (indiscernible).

20 There go. Thank you.

21 [TRANSCRIPT READING BEGIN]

22 BY MS. KOLLINS:

23 Q State's Proposed Exhibit 4, do you recognize what's  
24 in that photograph?



1           A     Yes, that's the container that, uh, where -- where  
2 he had our money. See, the El Cortez.

3           Q     And do those -- does that fairly and accurately  
4 depict the containers on April 12th of 2000?

5           A     Yes, it is.

6           Q     Now, where are they located in this picture?

7           A     They look like they're upside down on my bed maybe?

8           MS. KOLLINS: Okay. I'd move for the admission of  
9 State's Proposed 4.

10          THE COURT: Any objection?

11          MR. GILL: Your Honor, do you mind if we see that  
12 photo very quickly?

13          THE COURT: No problem.

14          MR. GILL: Thanks. Thanks, Theresa.

15 BY MS. KOLLINS:

16          Q     Mrs. Rumbaugh, this -- this photograph, is that an  
17 El Cortez cup furthest to the right?

18          A     Yes, mm-hmm.

19          Q     And then next to it is what?

20          A     That looks like the El Cortez cup also.

21          Q     And there's another --

22          A     Oh.

23          Q     Do you know what that object is at the far left of  
24 this picture?

1           A     Yeah, it looks like another cup.

2           Q     But it could be --

3                     [TRANSCRIPT READING END]

4           MS. KOLLINS: I'm sorry.

5                     [TRANSCRIPT READING BEGIN]

6 BY MS. KOLLINS:

7           Q     Okay.

8           A     But it could be maybe -- may be a Western one.

9           Q     Okay.

10          A     Okay.

11          Q     So how many El Cortez cups with change in it did you

12 have?

13          A     It was either two or three, I don't remember.

14          Q     Okay. And what -- you said you had only pennies?

15          A     Had -- and one had pennies and one had nickels and

16 one had quarters.

17                     [TRANSCRIPT READING END]

18          MS. KOLLINS: Okay. And I'm sorry. I misread that

19 question. If I could just read that over?

20                  THE COURT: Yeah.

21                     [TRANSCRIPT READING BEGIN]

22 BY MS. KOLLINS:

23          Q     Okay --

24                     [TRANSCRIPT READING END]

1 MS. KOLLINS: If we can just go back. Ms. Acosta, I  
2 apologize.

3 [TRANSCRIPT READING BEGIN]

4 BY MS. KOLLINS:

5 Q Okay. And what -- you said one had only pennies.

6 A And one had pennies and one had nickels and one had  
7 quarters.

8 Q And did you have cups with other casino names on  
9 them?

10 A Yes. We had Western and the El Cortez ones there.  
11 So --

12 Q And did the man -- you said the man left the  
13 pennies?

14 A Mm-hmm.

15 Q Did he take money from the Western cup as well as an  
16 El Cortez cup?

17 A I don't know. I don't remember.

18 Q Okay.

19 A I just know they were there and he had dumped them.

20 Q Okay.

21 A And then he took another hanky and wiped them.

22 Q Okay.

23 A And I don't know if he wiped them all, but I seen  
24 him wiping some.

1 MS. KOLLINS: Okay. I'm gonna move for the  
2 admission -- did I move for 4?

3 MR. GILL: You did. No objection.

4 MS. KOLLINS: Okay.

5 THE COURT: Okay. That'll be admitted.

6 BY MS. KOLLINS:

7 Q I'm going to show you what's been marked as State's  
8 Proposed Exhibit 5. Do you recognize what's in that  
9 photograph?

10 A Yes, this is on my dresser. This is my powder and  
11 this is a container for the powder and this is just a can  
12 that's sitting there with nothing in it.

13 Q And that does --

14 A And this is a little, um, um, chest where we put  
15 money in. But it has a lock. So -- so it wasn't opened.

16 Q Okay.

17 A And this is a little container that my granddaughter  
18 made me. It's like a little chest where I just put -- put  
19 little things in it on my dresser.

20 Q So you indicated that towards the front of the  
21 dresser is a little box and that's locked?

22 A Yes. Mm-hmm. And that's where my husband puts  
23 money in sometimes.

24 Q Did the man get into that box also?

1           A     No, because it was locked.

2           Q     And behind it you said is a chest that your  
3 granddaughter made you?

4           A     Yes, mm-hmm. It's -- it's just for looks, I guess.

5           Q     Okay. And to the left is also --

6           A     Oh, this is my jewel case.

7           Q     Okay.

8           A     Right here. And my granddaughter used to live --  
9 and this's hers on the top.

10          Q     And did the man take anything out of your jewel  
11 case?

12          A     Yes, he took that watch and just moved the rest of  
13 my jewelry around with the knife.

14          Q     Okay. And does this picture fairly and accurately  
15 depict your -- your dresser area in your --

16          A     Yes, it is.

17          Q     -- bedroom on April 12th of 2000?

18          A     Yes, and this is the mirror above.

19          Q     Okay. Thank you.

20               MS. KOLLINS: I move for the admission of State's  
21 Proposed 5.

22               THE COURT: Any objection?

23               MR. GILL: No.

24               THE COURT: It'll be admitted.

1 BY MS. KOLLINS:

2 Q Mrs. Rumbaugh, this man that came into your home, is  
3 he someone that you know -- that you knew?

4 A No.

5 Q And is he someone that you consented to have in your  
6 home that -- that night?

7 A No.

8 Q Thank you, Mrs. Rumbaugh.

9 MS. KOLLINS: I'm gonna pass the witness.

10 THE COURT: Mr. Brown, will you be doing it?

11 MR. GILL: Thank you, Judge.

12 CROSS-EXAMINATION

13 BY MR. GILL:

14 Q Good morning, Ms. Rumbaugh.

15 A Good morning.

16 Q Ms. Rumbaugh, I'm a Defense attorney. I had a few  
17 questions I'd like to ask you as well. Is that all right?

18 A Okay. That's fine with me.

19 Q Thank you. Do you recall giving the police any kind  
20 of statement where they had the tape recorder sitting out?

21 A Yes.

22 Q Did you give them one?

23 A Yes, I did.

24 Q Okay. And did you review that statement at all?

1           A     I read it over before I signed it.

2           Q     Okay. So you actually saw that statement as well;  
3 right?

4           A     Yes. Yes.

5           Q     Okay. Ma'am, when you spoke to the police and you  
6 gave them that recorded statement, was that the third time  
7 that you'd spoken to them about what happened to you and your  
8 husband?

9           A     It could have been. I don't -- I don't really  
10 remember.

11          Q     Okay. But you recall that you did speak to them a  
12 few times; right?

13          A     Yes, I did.

14          Q     And when you went to your daughter's house after  
15 this instance -- incident, did you talk to your daughter about  
16 what had -- what happened?

17          A     Yes, and she called 9-1-1 right away.

18          Q     All right. And did you tell your daughter some of  
19 the things that you could remember about what happened?

20          A     Yes.

21          Q     Okay. And do you know whether the police spoke to  
22 your daughter as well?

23          A     Yes, she was right there.

24          Q     Okay. So your recollection is that the police did

1 talk to your daughter?

2 A Yes.

3 Q Okay. Ma'am, do you -- do you have any recollection  
4 how old you thought this person -- let me start over again.

5 Do you remember what you told the police about how old  
6 this person was that went into your house?

7 A Yes, I thought he was around 30, 35 years old.

8 Q Okay. Do you have any recollection telling the  
9 police that you thought he was in his mid 20s?

10 A It was my husband, I think, that said that.

11 Q I see. So your husband thought he was in his mid  
12 20s. Okay.

13 Do you have any rec -- recollection what you told the  
14 police with about how tall this person was?

15 A No.

16 Q Did they ask you?

17 A I don't remember.

18 Q Okay. Did they ask you how much this person  
19 weighed?

20 A I don't remember that either.

21 Q Okay.

22 A It's been so long since it happened.

23 Q Oh, that's fine. Of course. I understand.

24 Do you have any recollection telling the police that this



1 person had a thin build?

2 A No, I don't.

3 Q Okay. And you don't recall telling the police that  
4 this person was dark skinned.

5 A I think I did tell them that.

6 Q So you did tell them he was dark skinned.

7 A Yeah.

8 Q Was that in response to the policeman asking you to  
9 describe this person?

10 A I think so.

11 Q Okay. And of course the policeman asked you what  
12 this person was wearing.

13 A Yes, but I didn't see it.

14 Q Okay. So in response to the policeman asking you  
15 specifically what the person was wearing, you weren't able to  
16 tell the police.

17 A No.

18 Q So no shirt color.

19 A No, because my vision is -- is kind of --

20 Q I understand. Of course I understand.

21 No trouser colors, nothing like that.

22 A I -- I didn't, but my husband did.

23 Q Okay. Fair enough.

24 Ma'am, you mentioned that the -- the three cups that you

1 had in your -- in your home at the time, one of them had  
2 pennies and then the other one had --

3 A Nickels and quarters.

4 Q And quarters. You don't have any dimes?

5 A Well, he might have thrown some in with the  
6 nickels. I don't really know because that's -- that was his  
7 territory.

8 Q You mean your husband.

9 A Yes.

10 Q Oh, I see. So these three cups of money actually  
11 belonged to your husband?

12 A Right.

13 Q I see. Okay.

14 A Right.

15 Q As you sit here today, ma'am, you can't really give  
16 us any more information that you've already given the police  
17 about what this person looked like; is that right?

18 A That's correct.

19 Q Okay. Did you ever go down to the detention center  
20 to do something that we call a lineup? Nothing like that?

21 A No, I didn't.

22 Q Okay. The District Attorney asked you a question  
23 about when this person that was in your home was holding on to  
24 your wrist. Do you remember that?

1           A     Yes.

2           Q     Okay. And the District Attorney brought up an  
3 interesting point, that you know for sure that this person was  
4 holding some kind of handkerchief against his mouth; is that  
5 so?

6           A     Yes.

7           Q     It wasn't tied back there, was it?

8           A     No, it wasn't.

9           Q     Okay.

10          A     It was held with him.

11          Q     And my guess is, is that he was holding that  
12 handkerchief against his mouth with his left hand?

13          A     Yes.

14          Q     And do you know that to be a fact?

15          A     Yes.

16          Q     Okay.

17          A     Yeah.

18          Q     And you also told us that he had in his right hand  
19 the pairing knife so that he -- pairing knife that he picked  
20 up from your house; correct?

21          A     Right.

22          Q     Okay. Now, he didn't walk in with a pairing knife,  
23 did he?

24          A     No, he didn't.

1 Q Okay. And despite how it might have happened, you  
2 know for a fact that at some point he did hold on to your  
3 wrist; is that so?

4 A Yes.

5 Q And the only explanation that you have is that he  
6 must have done it with the right hand that he was holding the  
7 knife in; correct?

8 A Yes.

9 Q Okay. Ma'am, I was a little surprised to hear you  
10 say this morning that he threw you onto the couch. Do you  
11 remember telling us that?

12 A Mm-hmm.

13 Q Did you actually tell that to the police when they  
14 first came to talk to you?

15 A I don't know.

16 Q You don't recall whether you told them that?

17 A No. No.

18 Q Now, obviously we don't have any -- the copy of the  
19 statement you gave police, but let me ask you this --

20 A Mm-hmm.

21 Q -- do you recall telling the police, when they had  
22 the tape recorder, that he threw you to the couch? Do you  
23 recall that?

24 A I don't remember. I just said maybe he threw me

1 across the room. So I don't really remember.

2 Q Okay. So even having given the statement and then,  
3 according to your testimony, having reviewed the statement, as  
4 you sit here today, you still have no recollection whether you  
5 told the police that he threw you to the couch.

6 A No, I don't.

7 Q Okay. Ma'am, when this person that was in your  
8 house grabbed you and threw you to the couch, can you give us  
9 an idea of how far you were thrown?

10 A I'd say from here, maybe over there.

11 Q Over to there would be about where I'm standing  
12 or --

13 A Yes, about there.

14 MR. GILL: That's about ten feet, Judge. Do you  
15 agree?

16 THE COURT: Yes.

17 MR. GILL: Okay.

18 THE COURT: I would say at least ten feet.

19 MR. GILL: Okay.

20 THE COURT: Do you agree?

21 MS. KOLLINS: That's fine, Judge. Sure.

22 BY MR. GILL:

23 Q So, ma'am, your testimony is that he threw you by  
24 the wrist approximately ten feet.

1           A     Yes, he just -- he -- he pulled me around and let me  
2 go.

3           Q     Okay.

4           A     And that's because I was hollering "help."

5           Q     You think the reason why he threw you like that is  
6 because you were hollering "help"?

7           A     Yes.

8           Q     Okay.

9           A     Yes.

10          Q     Do you have any recollection telling the police  
11 about these sharp scissors that turned up missing?

12          A     No, because I didn't know it at the time.

13          Q     Okay.

14          A     That they were missing when they were -- when they  
15 were there.

16          Q     I see.

17          A     It was whenever I went to go to use them that I  
18 couldn't find them.

19          Q     I see. So as far as you know, the police might  
20 have -- might have no idea that there's a pair of scissors  
21 missing; is that right?

22          A     Right. Right.

23          Q     And it could be because you misplaced those scissors  
24 at all.

1           A     No.

2           Q     Okay.

3           A     Because I always kept them there because that's  
4 where I sewed and knitted and things like that.

5           Q     Okay. Now, the money that was in your husband's  
6 pocket, do you personally know how much money he had in his  
7 wallet?

8           A     No, I don't. But I heard him tell.

9           Q     Okay. All right. So you as you sit here today,  
10 other than what other people have told you, you have no idea  
11 how much money was in his pocket.

12          A     No, because I don't go through his wallet.

13          Q     I understand. And of course the money that's in his  
14 wallet, is that his money?

15          A     Yes, it is.

16          Q     And the money in those cups is his money too; right?

17          A     Yeah.

18          Q     Okay.

19               MR. GILL: Court's indulgence just for a second,  
20 Your Honor.

21               THE COURT: Okay.

22 BY MR. GILL:

23          Q     Ma'am, I don't want to bear -- embarrass you again,  
24 but the District Attorney did ask you some questions about

1 some statements that were made to you by this person that was  
2 in your house.

3 A Yes.

4 Q And those statements, I guess, were directed  
5 directly at your husband; is that right?

6 A Yes, they were.

7 Q Did you tell the police about those statements?

8 A Yes, we did.

9 Q You did tell them about that?

10 A Yes.

11 Q Okay. And other than those statements that he made,  
12 do you recall anything else that this person said to you or  
13 said to anybody that you overheard while he was in your house?

14 A No, because once he said that and I said "you're  
15 getting a little bit personal," he just clammed up then.

16 Q So anything else was said --

17 A No.

18 Q -- to the best of your recollection?

19 A No.

20 Q All right. Let me review with you just a couple  
21 items that I suspect were probably in your house. Do you own  
22 a radio?

23 A Yeah.

24 Q And that's in your house?



1           A     Yes.

2           Q     And do you own, like, a portable television?

3           A     Yes.

4           Q     Do you and your husband own any stereo-type  
5 equipment, things like that?

6           A     Yes, we do.

7           Q     And --

8           A     We have a microwave and everything. He never  
9 touched a thing.

10          Q     Never touched anything else?

11          A     No.

12          Q     Okay. So as we sit here today, the only thing that  
13 you know that was taken from your house was what we'll  
14 describe as a pairing knife; is that correct?

15          A     That's right.

16          Q     So money from your husband's wallet, but we don't  
17 know personally how much money was in there; right?

18          A     Yes.

19          Q     Okay. And then some change that was in those three  
20 cups; correct?

21          A     Yes.

22          Q     Okay. One more question, ma'am. When the police  
23 came, after your daughter called them, you told the police  
24 that you thought this person had taken the watch; is that

1 correct?

2 A Yes. Right. And I later told them that I had found  
3 it.

4 Q Yes, ma'am. Now this watch that we're talking  
5 about, is it the wrist watch?

6 A No, it's a lapel.

7 Q Oh, it's a lapel watch.

8 A Yes.

9 Q Okay. And do you remember how many days later  
10 you -- you actually called the police back and told them "I  
11 found my -- my little watch"?

12 A No, I don't know how many days because it was a  
13 couple of days later that I did find it.

14 Q Okay. All right. Ma'am, thank you very much.

15 A Sure.

16 MR. GILL: Thank you, Judge.

17 MS. KOLLINS: Just a few questions.

18 REDIRECT EXAMINATION

19 BY MS. KOLLINS:

20 Q Mrs. Rumbaugh, what was it about this man that led  
21 you to think that he was about 35?

22 A I don't know. Just his build and all, I guess.

23 Q And -- okay. And do you have some vision  
24 difficulties?

1           A     Yes, I do.

2           Q     And can you tell us what they are?

3           A     I can't see from my left side at all.

4           Q     And is that from the left side of each eye?

5           A     Yes.  Mm-hmm.  I can see straight ahead and off to  
6 the right.

7           Q     And what is that a result of?

8           A     A stroke.

9           Q     And when was that?

10          A     Um, that was in '95.

11                MS. KOLLINS:  Thank you.  I have no additional  
12 questions.

13                THE COURT:  Anything else?

14                MR. GILL:  Very briefly, Judge.

15                         RE CROSS-EXAMINATION

16 BY MR. GILL:

17           Q     Ma'am, so if -- if what I'm saying is true, the only  
18 reason that you believe this person was in his 30s was because  
19 of his build; is that right?

20           A     Right.  Right.

21           Q     Okay.  And just the way he acted, you know, I mean  
22 like a man about that age --

23                       [TRANSCRIPT READING END]

24           MR. GILL:  Oh, I'm sorry.

1 [TRANSCRIPT READING BEGIN]

2 BY MR. GILL:

3 Q Okay.

4 [TRANSCRIPT READING END]

5 MR. GILL: My apologies. That was my mistake.

6 [TRANSCRIPT READING BEGIN]

7 THE WITNESS: And -- and just the way he acted. You

8 know, I mean, like a man about that age.

9 BY MR. GILL:

10 Q Okay.

11 A He was strong and this and that.

12 Q So you -- in all fairness, you don't know if the

13 person was in his 20s or his 30s.

14 A No, I don't.

15 Q And the person could have been in his 40s as well.

16 A Yes, but I don't believe so.

17 Q But you don't believe so.

18 A No.

19 Q Okay. Was he taller than me?

20 A No, he was about maybe your height.

21 Q Okay. Was he heavier than me?

22 A No.

23 Q No. Okay.

24 MS. KOLLINS: Can we state for the record how tall

1 Mr. Abood is?

2 MR. GILL: I don't know.

3 MS. KOLLINS: And how much he weighs.

4 THE COURT: I think he knows how tall he is and  
5 about how much he weighs.

6 MR. GILL: 5-10 and a half, Judge.

7 THE COURT: And what about the weight?

8 MR. GILL: Oh, about 185.

9 THE COURT: Is that a confession?

10 MR. GILL: On a good day, Your Honor.

11 Ma'am, thank you again. Thank you.

12 THE WITNESS: Okay.

13 THE COURT: Thank you for your testimony. Please  
14 remain outside and do not discuss your testimony with anyone  
15 else.

16 THE WITNESS: Okay.

17 [TRANSCRIPT READING END]

18 THE COURT: Thank you, Ms. Acosta.

19 Are we reading the other one next or --

20 MS. LUZAICH: That's what we're talking about.

21 THE COURT: Oh, okay.

22 MS. LUZAICH: If we do that, can we still do Workman  
23 and then break for lunch?

24 THE COURT: Yeah.

1 MS. LUZAICH: Okay.

2 MS. KOLLINS: We'll be reading Clarence Rumbaugh.

3 And that will be read by Corey Hallquist.

4 THE COURT: Okay. Sounds good.

5 And Clarence Rumbaugh testified on October 16th of 2020.

6 MS. KOLLINS: Of 2000.

7 THE COURT: Oh, sorry. Yeah. It's really hard  
8 to -- for me to say "2000."

9 Sir, would you please raise your right hand?

10 Thank you.

11 COREY HALLQUIST,

12 Was first duly sworn to read the answers in the transcript  
13 to the best of his ability:

14 MR. HALLQUIST: I do.

15 THE CLERK: Please be seated, stating your full  
16 name, spelling your first and last name for the record.

17 MR. HALLQUIST: My name is Corey Hallquist,  
18 C-O-R-E-Y. Last name H-A-L-L-Q-U-I-S-T.

19 THE COURT: All right. So Mr. Rumbaugh was sworn in  
20 by the clerk before the hearing and then Ms. Kollins for  
21 Ms. Lowry.

22 [TRANSCRIPT READING BEGIN]

23 ///

24 ///

DIRECT EXAMINATION

BY MS. KOLLINS:

Q Mr. Rumbaugh, how old are you?

A Eighty-four.

Q And what is your birthday?

A July 19, 1916.

Q And, Mr. Rumbaugh, I'd like to direct your attention to April 12th of this year. Where were you living on that date?

A At 436 North 12th.

Q And is there a letter associated with that home?

A Apartment B.

Q And who did you live there with?

A My wife.

Q And did anyone else live there?

A Not at that time, no.

Q Approximately 11:25 p.m. that night, what were you doing?

A We just had -- we just finished a few munchies and we were watching television.

Q And could you just describe for us a bit about how your home is laid out, the rooms and such?

A Well, there's actually just two large rooms and they're separated into four small ones.

1 Q And what would those rooms be?

2 A There is a kitchen, dining room, bedroom, and bath.

3 Q Where were you eating your munchies and watching TV?

4 A In the living room.

5 Q And could you describe the condition of your front  
6 door at that time as you were sitting there watching TV?

7 A It was locked and the screen door -- the main door  
8 was open.

9 Q Okay.

10 A For ventilation.

11 Q And did something unusual happen at that time?

12 A Yes, a hole appeared in the screen and a hand came  
13 in and opened the door.

14 Q And once that hand opened the door, then what  
15 happened?

16 A Then he came in and wanted, um, our money and a gun.

17 Q Can you describe the person that came into your  
18 home?

19 A The only thing that was outstanding about him was  
20 the fact that he was about six feet tall. And I figured he  
21 was young, 20s or old teens. And he had white tennis shoes  
22 on. That's all I noticed.

23 Q So you noticed it was a male?

24 A Yes.



1 Q And you said young 20s, late teens.

2 A Yes.

3 Q And white tennis shoes.

4 A Right.

5 Q Did you notice the race of this man?

6 A Yes. He was African American.

7 Q And besides his shoes, was there anything about his

8 clothing that you recall?

9 A No, I don't recall right now. No.

10 Q And were you able to see his face?

11 A No, he had a red bandana over his face, to his eyes.

12 Q And once this man came into your apartment, then

13 what happened?

14 A Well, he -- he, um, knocked me down and momma and

15 threw her onto the couch. And he went around opening doors

16 and drawers, and he found a pairing knife in the kitchen. He

17 took it and cut the phone line, and he used that to open and

18 close the doors from there on.

19 Q The phone with the phone line, where was that phone

20 located in your home?

21 A That was in the kitchen.

22 Q And you said that he knocked you down?

23 A Yes.

24 Q And how did that happen? How did he do that? What

1 happened?

2 A I don't recall.

3 Q Did he put his hand on you?

4 A Oh, yes.

5 Q And where were you knocked to?

6 A Onto the floor.

7 Q And did you have any injuries or bruises?

8 A Just bruises.

9 Q And where were the bruises?

10 A Um, mostly on my back.

11 Q And you said -- what did he do --

12 [TRANSCRIPT READING END]

13 MS. KOLLINS: Sorry. Correction. Excuse me.

14 [TRANSCRIPT READING BEGIN]

15 BY MS. KOLLINS:

16 Q And you said -- what did he do to your wife that you  
17 saw?

18 A Pardon?

19 Q You said he did something to your wife.

20 A Yes, he, uh, grabbed her by the arm and -- and  
21 forced her around that way and bruised the arm quite badly.

22 Q Now, once the man came into your apartment, um, did  
23 the front door to your apartment remained [sic] open?

24 A I believe it did, yes.