

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

2
3 **No. 85782**

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Elizabeth A. Brown
Clerk of Supreme Court

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 IX**

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1 Defense counsel previously.

2 BY MS. LUZAICH:

3 Q If you could look at these real quick and tell me if
4 you recognize them -- oh, sorry -- if you recognize what they
5 depict.

6 A Okay. This one is my door.

7 Q Okay. And that is --

8 A Leading to my apartment.

9 Q Proposed Exhibit 152, that appears to be the front
10 door to the apartment that you were living at that time?

11 A Yes.

12 Q Does it appear to be in the same condition in that
13 picture as it was after these events occurred?

14 A Yes.

15 Q And Proposed Exhibit 151?

16 A That's the front of my apartment.

17 Q Okay. Just a little bit back --

18 A Uh-huh.

19 Q -- from the door area?

20 Does this appear to be in the same position as after
21 these events occurred?

22 A Yes.

23 Q 150.

24 A Is the damage on the door where the dead bolt --

1 Q Kind of a picture of your door from right inside
2 your apartment showing -- sorry -- the side of the door?

3 A Yes.

4 Q Does that appear to be in the same condition as
5 right after these events?

6 A Yes.

7 Q And 149?

8 A Is where I thought we found -- or I found where the
9 actual lock part of the dead bolt was laying on my love seat.

10 Q Okay. And that appeared to be in the same
11 positioning --

12 A Mm-hmm.

13 Q -- and condition as when you saw it there?

14 A Yes.

15 [TRANSCRIPT READING END]

16 MS. LUZAICH: I'm sorry. I lost my place. Position
17 and --

18 MR. GILL: 148.

19 MS. MOORS: 148.

20 [TRANSCRIPT READING BEGIN]

21 BY MS. LUZAICH:

22 Q 148.

23 A Is my couch where the tin and the curling iron are
24 on, laying on the couch.

1 Q Okay. And that appears to be in the same
2 positioning and condition as when they were left there by the
3 Defendant?

4 A Yes.

5 Q 147?

6 A Is the cup that he drank the Kool-Aid out of.

7 Q Okay. Is that -- well, appears to have some
8 piece -- piece of plastic and powder all over it, little
9 plastic has little numbers on that. I'm assuming those
10 weren't there in your house; right?

11 A No.

12 Q Other than that, does that appear to be the cup and
13 the condition it was in?

14 A Yes.

15 Q And 146.

16 A Is the stroller.

17 Q And seems to be sitting in a driveway area on a
18 street. Were you ever notified that that had been recovered?

19 A When I was at the hospital, they said that they had
20 found the stroller on the street behind me.

21 Q And does that photograph appear to be -- to
22 accurately depict your stroller?

23 A Yes.

24 MS. LUZAICH: I move for the introduction of State's

1 Proposed Exhibits 146 through 152, please, Judge.

2 THE COURT: Any objection?

3 MR. GOODWIN: No, Judge.

4 THE COURT: It'll be admitted.

5 [TRANSCRIPT READING END]

6 MS. LUZAICH: And I'm sorry. I probably should have
7 done this earlier. Showing you State's 146. Is [sic] that
8 the stroller on the street. And then 147, the cup with
9 powder. 148, the love seat with the curling iron and tin.
10 149, the dead bolt on the sofa. 150, the dead bolt -- door,
11 dead bolt knob. 151, the front door area. And 152, just the
12 front door -- oops. Sorry about that -- with the letter.

13 [TRANSCRIPT READING BEGIN]

14 MS. LUZAICH: And with that, I would pass the
15 witness.

16 THE COURT: Okay. Mr. Abood.

17 CROSS-EXAMINATION

18 BY MR. GOODWIN:

19 Q Good morning, Ms. Hall.

20 A Good morning.

21 Q Ms. Hall, prior to your testimony this morning, did
22 you have occasion to speak to either of the
23 District Attorneys?

24 A Yeah.

1 Q And -- I beg your pardon?

2 A It was Doug Herndon that I had spoke to.

3 Q Did you speak to him this morning?

4 A No.

5 Q When did you speak to him?

6 A About two weeks ago.

7 Q And did Mr. Herndon tell you that the person who did

8 these things to you would be in court today?

9 A Yes, he did.

10 Q Did he tell you where this person would be sitting?

11 A No.

12 Q Did you talk to anybody over at Victim Witness

13 Assistance?

14 A Yes.

15 Q And did they help you deal with the fact that the

16 person who did these things to you would be in court today?

17 A They did state that he would be in the courtroom --

18 Q Did they --

19 A -- with me.

20 Q Did they give you any more specifics, where he's

21 going to be in the courtroom?

22 A No.

23 Q Did anybody tell you what this person might be

24 wearing?

1 A No.

2 Q What about the detective? When was the last time
3 you spoke to any detectives or police officer -- officers?

4 A It's been well over a month ago.

5 Q Did anybody notified you when this person was
6 apprehended?

7 A Yes.

8 Q Who notified you?

9 A Mike Caseas (phonetic), Detective Love's partner. I
10 don't remember what his last name is, but his name is Mike.

11 Q Okay. And did he call you and tell you that?

12 A He left a message on my answering service, where I
13 was living at that time.

14 Q And what was the message that he left you?

15 A That he needed me to call him. They needed to talk
16 to me and ask me a couple of questions.

17 I got home and I called him on the number that he gave me
18 to call him on. He did ask me my full name, my address, my
19 phone number. And that's when they had told me that the
20 person that they believed had did these things to me were --
21 was apprehended.

22 Q And did he give you any details as to why he thought
23 this person was the person?

24 A That they found matching fingerprints.

1 Q Okay. So he called you and notified that they
2 caught somebody and that this person had matching fingerprints
3 to what?

4 A To the fingerprints that they had found in my
5 apartment.

6 Q Okay. And then, after that, the Victim Witness
7 Assistance people and Mr. Herndon told you that this person
8 would be in court?

9 A When we met before the subpoena -- when the subpoena
10 was given to me, they set up an appointment for me to come in
11 and speak with Doug. And that's when he asked me to go
12 through the events of what had happened at the apartment. And
13 he did let me know that the person who had done this, or
14 allegedly done this would be in the courtroom.

15 Q Okay. Now, other than hearing from detective -- was
16 it Castaneda? Castaneda?

17 A Yeah.

18 Q Okay. Other than hearing from the detective that
19 they caught this person who they think did this to you, did
20 you hear it on the news?

21 A I had heard when I was -- yeah, I had watched the
22 news.

23 Q When did you first discover on the news that they
24 had apprehended this person that you believed did this to you?

1 A When they had him in court, brought back from that,
2 he was expedited back from Chicago that they had it on the
3 news. I didn't really watch it that well. I had caught the
4 tail end of it. I did get something off an internet -- the
5 internet about the case.

6 Q Let me focus specifically on the news first. Then
7 I'll talk to you about the internet.

8 A Uh-huh.

9 Q Did you actually see this person on the news?

10 A Yes, I did.

11 Q And the person that you saw portrayed on the news is
12 the same same person that's sitting here today?

13 A Yes.

14 Q And it's the same person that you recall or were to
15 believe they got fingerprints from in your apartment?

16 A Yes.

17 Q Okay. What about the newspaper, Ms. Hall? Do you
18 subscribe to the Review Journal?

19 A No, I don't.

20 Q Do you subscribe to The Sun?

21 A No.

22 Q And did you make any efforts to get the newspapers
23 after this person was apprehended?

24 A I had -- no, not after he was apprehended.

1 Q But at some time you were telling us you did get on
2 the internet?

3 A Yes. Actually, it was not me who got on the
4 internet. It was my mother who had gotten on the internet and
5 pulled the article off the internet, since I hadn't been
6 watching the news because of the hours that I work. I don't
7 get home -- I didn't get home in time to watch the news. And
8 if I did, it was at the tail end of the news.

9 Q Yes, ma'am. Now, these articles that your mother
10 was able to procure from the internet, they also had his
11 picture on the article, didn't they?

12 A They had the sketch drawing.

13 Q The sketch drawing?

14 A A sketch drawing that had been done by -- not me.

15 Q But somebody else?

16 A Yes.

17 Q Did you ever retrieve an article, or did anybody
18 ever retrieve an article for you from the internet that
19 included --

20 A No.

21 Q -- a photograph?

22 A No.

23 THE COURT: That was no? I can't hear you.

24 THE WITNESS: No.

1 MR. GOODWIN: Thank you, Judge.

2 BY MR. GOODWIN:

3 Q So the only likeness that you actually saw was the
4 one that you saw on the TV?

5 A Uh-huh.

6 Q Okay. Now, when you read these articles that were
7 retrieved for you, you came to realize that there were a
8 number of other victims out there as well; is that right?

9 A Yes.

10 Q Did the police talk to you about the fact that there
11 were other victims also?

12 A They did let me know that there was other victims in
13 the case. That there had been an ongoing case for several
14 months before he was ever apprehended, though. That they
15 believe this is the same person going around doing this.

16 Q So the police told you. Would it be Detective
17 Castaneda who told you this?

18 A No, Detective Love.

19 Q Okay. So Detective Love actually told you that this
20 person that they think did it to you also did it to a number
21 of other people.

22 A Yes.

23 Q Did she go into any details to what this person had
24 done to other people?

1 A She did not go into detail. All she told me was
2 that there were other sexual assault victims. Other than
3 that, that's all I can remember her stating. That there was
4 other sexual assault victims and other things that are leading
5 to the case.

6 Q And she made it clear to you that she believed that
7 this person that did it to you was the same person who
8 victimized other people?

9 A Yes.

10 Q Okay. Let me talk to you very quickly about the
11 description you gave police prior to this person ever being
12 apprehended.

13 A Uh-huh.

14 Q My understanding is that you are 5-foot-6 and
15 Stacy Foot (phonetic), who's you're roommate, is 5-foot-8?

16 A About 5-8, 5-9, yes.

17 Q Okay. 5-8 or 5-9. And knowing that, you put this
18 person's height at about 5-7 or 5-8; is that right?

19 A Yes.

20 Q So it is fair to say that this person's height was
21 somewhere between your height and your roommate's height?

22 A Yes.

23 Q No shorter than you?

24 A No shorter.

1 Q No taller than your roommate?

2 A No. Yes.

3 Q Okay. And you put his weight at 170 pounds?

4 A Yes.

5 Q And when it comes to the weight, is it fair to say
6 that you're giving your best estimation because this person
7 was really wearing very baggy jeans.

8 A Yes.

9 Q So could it be that the person weighed between 155
10 and maybe up to 190?

11 A Yes.

12 Q Okay. Now, you know that this person had black
13 hair; is that correct?

14 A Yes.

15 Q How long was his hair? Do you have any idea?

16 A I don't know. He had the stocking cap on. I gave
17 an estimate that maybe it was short hair, but I couldn't
18 really tell because of the stocking cap.

19 Q So the stocking cap -- is it fair to say that the
20 stocking cap had the effect of essentially making the hair
21 look short, although you're not really sure if it was short?

22 A Yes.

23 Q Do you agree with the statement I made?

24 A Yes.

1 Q Okay. And, again, the stocking cap gave you the
2 impression that this person was clean-shaven?

3 A I couldn't see that because it was fitting on his
4 face that I could not see facial hair coming through the
5 nylon.

6 Q So you -- I mean, this person may have had facial
7 hair, but it's something that you couldn't see because the
8 nylon; is that right?

9 A Yes.

10 Q Okay. Now, you also told the police that this
11 person had normal teeth?

12 A I couldn't tell.

13 Q Okay. And what about his complexion?

14 A He didn't -- I was -- it wasn't a light complexion,
15 but he wasn't -- I could tell that he was somewhat of a medium
16 to dark complexion.

17 Q Okay. What I just now asked you about the
18 complexion, did you take a second to look over at my client,
19 didn't you?

20 A Yeah.

21 Q Okay. Now, would it surprise you if you told the
22 police that he actually had a dark complexion?

23 A No.

24 Q Wouldn't surprise you?

1 A Uh-huh.

2 Q Okay.

3 THE COURT: Is that a "yes" or "no"?

4 THE WITNESS: Yes, no?

5 MR. GOODWIN: I think she said no, Judge.

6 THE WITNESS: Okay.

7 MS. LUZAICH: No, it wouldn't surprise you?

8 THE WITNESS: No.

9 BY MR. GOODWIN:

10 Q Now, there were a couple times when there was light
11 in the apartment; is that right?

12 A Yes.

13 Q And with the light on in the apartment, you told the
14 police that you didn't notice any tattoos, you didn't notice
15 any scars; is that right?

16 A Exactly.

17 Q Okay. Now, this person had a manly voice, according
18 to your testimony, is that so?

19 A Yes.

20 Q Now, when you say "a manly voice," was it a deep
21 voice?

22 A I can't -- I can't remember back that far. I know
23 it wasn't like he was going through puberty, the change or
24 anything. He -- it was a -- it was -- I don't know how to

1 explain it. It --

2 Q Was it deeper than my voice?

3 A No.

4 Q I'm not going through puberty either.

5 A No. No. No.

6 Q It wasn't?

7 A No.

8 Q Okay.

9 MR. GOODWIN: The Court's indulgence for just a
10 second.

11 THE COURT: Okay.

12 BY MR. GOODWIN:

13 Q Do you recall the detective asking you about his
14 voice? He said, "Is his voice soft? Is it loud?" Do you
15 remember him asking you that?

16 A Not really.

17 Q Okay. Did you describe his voice when the detective
18 asked you to clarify what you meant by "manly"? Did you
19 describe it as a deep voice or did you agree that it was a
20 deep voice?

21 A I -- I can't remember. I had -- it was --

22 Q That's all right.

23 A It was the same morning that --

24 Q That's totally fine. You did give the police a

1 statement, didn't you?

2 A Yes, I did.

3 Q And do you remember it was a recorded statement?

4 A Yes, I did.

5 MR. GILL: Going to approach very quickly, if you
6 don't mind, Your Honor.

7 THE COURT: Okay.

8 MS. LUZAICH: Page?

9 MR. GOODWIN: Page 7.

10 BY MR. GOODWIN:

11 Q Ma'am, I'm going to show you what's been provided to
12 me as a copy of your voluntary statement. Would you quickly
13 look it over and, you know -- specifically, I want to refer
14 you to page 7. Could you just look at page 7 and let me know
15 if that refreshes your memory at all?

16 A Okay.

17 Q Thank you.

18 Now, does this sound familiar to you when you read this?

19 A Yes, it does.

20 Q Okay. Now, let me ask you again, do you remember
21 now telling the detective that it was a manly voice; is that
22 right?

23 A Uh-huh. Yes.

24 Q Okay. And the detective asked the question, "Was it

1 kind of a deep voice, is that what you're saying?"

2 And was your answer, "Yes, you know."

3 A Yes.

4 Q Okay. Does that refresh your memory?

5 A Yes, it does.

6 Q Okay. When you spoke to the police and when --
7 again, when he was asking you your description of this
8 individual --

9 A Uh-huh.

10 Q -- do you recall using the words that he was very
11 dark complected?

12 A I don't remember using those exact words.

13 Q Again, would this statement refresh your memory?

14 A Yes, it would.

15 MR. GOODWIN: Looking at page 19, Doug.

16 If you don't mind, Your Honor, I'll approach very
17 quickly.

18 THE COURT: That's fine.

19 BY MR. GOODWIN:

20 Q I'll give you your statement again. And I'm going
21 to refer you to page 19. That's -- I got to get rid of this
22 statement --

23 [TRANSCRIPT READING END]

24 MR. GOODWIN: I'm sorry. There's back and forth

1 between --

2 THE COURT: Yeah. That's okay. Just -- I'll --
3 we'll go to the next page.

4 [TRANSCRIPT READING BEGIN]

5 BY MR. GOODWIN:

6 Q I'm going to refer you to -- in fact, I'm going to
7 point to an area in the center of page 19 and you can go ahead
8 and read this area right here and let me know when you're
9 done.

10 A Okay.

11 Q Thank you.

12 Again, ma'am, let me ask you, when the police officer
13 asked you about this man's complexion, did you use the words
14 that he was very dark complected?

15 A Yes, I did.

16 Q Okay. And, in fact, you also told the detective
17 that he had fairly large eyes.

18 A Yes.

19 Q And that his eyes were almost black.

20 A Yes.

21 Q Now, you wouldn't describe his eyes as a light
22 brown, would you?

23 A No.

24 Q They were clearly black?

1 A Yeah.

2 Q Okay. And, in fact, the stocking cap that he put
3 over his face, the eye part portions were cut out; right?

4 A Yes.

5 Q So you could actually see those eyes?

6 A Yes.

7 Q Okay. You also -- you told us today that this
8 person asked you if he could take the TV and the radio?

9 A He asked me if he could take the stereo.

10 Q The stereo?

11 A Yes.

12 Q And you told him no?

13 A Yes, I did.

14 Q And is it fair to say that if this person was
15 extremely violent or if he was really scary or something along
16 those lines, you probably wouldn't have had the nerve to say
17 no?

18 A No. I only said it because he asked. But if he was
19 to take it forcefully, he would have taken it anyways.

20 Q Okay. And at that point he told you, "All right.
21 Well, I'm leaving the radio but I'm taking the TV"?

22 A Yeah.

23 Q And did you get the impression that this person was
24 almost bargaining with you?

1 A Not really.

2 Q Now, your roommate's name is Stacy Foot, isn't it?

3 A Yes.

4 Q And you are -- let me ask you, are you aware that
5 she also spoke to the police about this?

6 A Yes.

7 Q And did she talk to you about what she told the
8 police?

9 A Not really.

10 Q Did she ever tell you that she saw a man that
11 evening?

12 A She had told me after this had happened. I went
13 back to my apartment, grabbed some clothing, went and stayed
14 with my mom for a night. And then I went and stayed at a
15 friend's house for a couple of nights. I did not go back to
16 the apartment for about a week after this had happened.

17 During that time that I did speak to my roommate over the
18 phone, she did say that she noticed somebody around the
19 apartment that fit the description that I had given to the
20 police while they were at the house earlier that day. And
21 that they had walked up a sidewalk in between my building and
22 the neighboring building that was in between the apartments
23 and then turned around and walked away.

24 Q Did she tell you the description of this person that

1 she saw?

2 A She said this person that she saw was a black male,
3 that he had braids.

4 Q That his hair was braided?

5 A His hair, yes.

6 Q Yes, ma'am.

7 A And that's all that she had said.

8 Q Did she tell you that -- that she thought this
9 person was about 150 pounds?

10 A No.

11 Q Okay. But she did tell you that his hair was
12 braided?

13 A Yes.

14 Q Okay. Did she describe the clothing that this
15 person was wearing?

16 A No, she didn't.

17 Q Okay.

18 A Not that I can remember.

19 Q Okay.

20 MR. GOODWIN: Excuse me for just a second, ma'am.

21 BY MR. GOODWIN:

22 Q Do you have any -- was this stocking cap that this
23 person had, was it your stocking cap?

24 A No, it wasn't.

1 Q And did you have any idea or can you tell us what
2 color this -- first of all, these are like nylon stockings for
3 women; right?

4 A Yes.

5 Q Okay. And do you know I know a little bit about
6 these. That they come in different shades, don't they?

7 A Yes.

8 Q Do you have any recollection as to what --

9 A I would say it was a white or a cream nylon.

10 Q Cream-type nylon?

11 A Yes.

12 Q So even with that over his face, your opinion was
13 that he was very dark complected?

14 A I was telling by his -- because he had on short
15 sleeves, his arm complexion --

16 Q Okay.

17 A -- also.

18 Q All right. And these short sleeves that he had on,
19 they -- short arms also?

20 A No, they came down to, I'd say about his elbow and
21 his arm.

22 Q Okay. Is it -- is it fair for me to say that having
23 been told that this person who did these things to you would
24 be in court today, that that sort of helped you identify this

1 person?

2 A Not really.

3 Q Okay.

4 THE COURT: I'm sorry. The answer is "not really"?

5 THE WITNESS: Not really.

6 MR. GOODWIN: Thank you, Ms. Hall.

7 THE WITNESS: Yes.

8 MR. GOODWIN: Thanks, Judge.

9 THE COURT: Any redirect?

10 MS. LUZAICH: Briefly, Judge. Thank you.

11 REDIRECT EXAMINATION

12 BY MS. LUZAICH:

13 Q Ms. Hall, when Ms. Foot talked to you about this man
14 that she had seen around your apartment complex prior to the
15 invasion of your home and assault of you, did Ms. Foot give
16 you an indication as to what time of day it was that she saw
17 the subject?

18 A No, she just said earlier on that day.

19 Q On the day of June 6th?

20 A Yes.

21 Q Okay. So we're talking about the day prior to the
22 early morning when you were assaulted.

23 A Yes.

24 Q And when was it, if you recall, that you and

1 Ms. Foot had this conversation?

2 A Uh --

3 Q I'll tell you what, let me put it to you this way:
4 Was it after you talked to the police and gave your taped
5 statement?

6 A Yes.

7 Q Regardless of how the Defendant went about asking
8 and/or taking your property, did you give him permission at
9 all to take the TV and CD player?

10 A No. Actually, I told him to take whatever he
11 wanted. Just to go --

12 Q Okay.

13 A -- while he was in my house.

14 Q And Counsel just asked you a question about whether
15 or not the weight you gave the police, 170 pounds, was your
16 best estimate.

17 A Yes.

18 Q And you said it was. Was your -- the height you
19 gave your best estimate as well?

20 A Yes.

21 Q Could the person have been an inch or two taller or
22 shorter?

23 A Yes.

24 Q When you ID'd the Defendant in court, did you ID him

1 because either myself or a Victim Witness Advocate told you
2 that the person charged would be here?

3 A No.

4 Q Did you ID him because you saw some sketch drawing
5 off an internet article?

6 A No.

7 Q Why did you ID him?

8 A Because the description I gave, to my best
9 knowledge, is the person who is standing or sitting in the
10 courtroom.

11 Q Are you comfortable in your belief that the person
12 sitting over there is the person that assaulted you?

13 A Yes, I am.

14 Q Did you get a good enough look at his face, even
15 though he was wearing a nylon, to, in fact, give the police a
16 sketch drawing of yourself [sic]?

17 A Yes.

18 [TRANSCRIPT READING END]

19 MS. LUZAICH: Or not of your --

20 [TRANSCRIPT READING BEGIN]

21 BY MS. LUZAICH:

22 Q A sketch drawing yourself?

23 A Yes.

24 Q Okay.

1 MS. LUZAICH: I have nothing further, Judge.

2 THE COURT: Mr. Abood, anything else?

3 MR. GOODWIN: Very quickly, Judge. I know I keep
4 telling this, Your Honor.

5 RECROSS-EXAMINATION

6 BY MR. GOODWIN:

7 Q Ms. Hall, would you recognize Stacy's handwriting if
8 I showed it to you?

9 A Somewhat.

10 MR. GOODWIN: Mind if a approach, Your Honor?

11 THE COURT: No.

12 MR. GOODWIN: Any objection, Mr. Herndon?

13 [TRANSCRIPT READING END]

14 THE COURT: And then go to 132, line 11.

15 [TRANSCRIPT READING BEGIN]

16 BY MR. GOODWIN:

17 Q Ma'am, you testified a few minutes ago --

18 A Uh-huh.

19 Q -- that it was earlier in the day that your
20 roommate --

21 A I don't know exactly if -- it could have been dark
22 outside or what. My roommate does smoke and she smokes out --
23 was smoking outside the apartment. She did not state if it
24 was during the day, like around 4:00 o'clock in the afternoon

1 or later on that night. I -- she did not state that at all
2 with me.

3 Q So when you said "earlier in the day" --

4 A Not --

5 Q -- you weren't trying to suggest it was daytime.

6 A Yeah.

7 MR. GOODWIN: Thank you. That's really all I wanted
8 to do, Judge.

9 THE COURT: Okay.

10 BY MR. GOODWIN:

11 Q Ma'am, most of the time -- and I think you testified
12 that this person was in your place for about 45 minutes?

13 A Uh-huh.

14 Q And is it fair to say that the great majority of
15 that time, the lights were, indeed, not on?

16 A There was a light on in one of the rooms, either the
17 kitchen or the bathroom, on at the time he was in my apartment
18 most of the time.

19 Q Okay.

20 A When he sexually assaulted me, no lights were on.

21 Q Okay. So that one light that was on in either the
22 kitchen or the bathroom, that's the only light that you're
23 referring to?

24 A Yes.

1 Q That allowed you to really get a clear view of what
2 was going on.

3 A Yes.

4 Q Okay. And then, of course, the description that you
5 gave was a description based on what you could see through a
6 stocking cap?

7 A As far as facial features, yes.

8 Q Okay. Thank you again, ma'am.

9 THE COURT: Anything on that, Mr. Herndon?

10 MS. LUZAICH: No, thank you, Judge.

11 THE COURT: All right. Thank you for your
12 testimony.

13 [TRANSCRIPT READING END]

14 THE COURT: You are free to go, Ms. Moors.

15 State?

16 MS. LUZAICH: One second, Judge. Sorry.

17 THE COURT: It's all right.

18 MS. KOLLINS: May I?

19 THE COURT: Yeah.

20 MS. KOLLINS: State calls Jeri Dermanelian.

21 THE MARSHAL: If you can step up there, remain
22 standing, and raise your right hand so the clerk can swear you
23 in.

24 ///

1 JERI DERMANELIAN,
2 [Having been called as a witness and being first duly
3 sworn testified as follows:]

4 THE WITNESS: Yes.

5 THE CLERK: Please be seated.

6 Will you please state your name and spell it for the
7 record.

8 THE WITNESS: It's Jerry, J-E-R-Y, Dermanelian,
9 D-E-R-M-A-N-E-L-I-A-N.

10 THE CLERK: Thank you.

11 MS. KOLLINS: May I?

12 THE COURT: Yeah.

13 DIRECT EXAMINATION

14 BY MS. KOLLINS:

15 Q Good afternoon, Ms. Dermanelian. How are you?

16 A Good.

17 Q What is your profession?

18 A I'm a sexual assault nurse examiner.

19 Q How long have you been a sexual assault nurse
20 examiner?

21 A A little over 14 years.

22 Q And do you practice that profession here in
23 Las Vegas?

24 A I do.

1 Q And where do you practice?

2 A Out of University Medical Center.

3 Q How long have you practiced out of University
4 Medical Center?

5 A Fourteen years.

6 Q Okay. Did you work last night?

7 A I did.

8 Q Okay. Can you explain to the ladies and gentlemen
9 of the jury generally how a sexual assault exam works.

10 A Sexual assault exam, patient comes in, they have
11 options as to which type of exam they can have done.
12 Generally, they come in -- many different ways. They can come
13 in through the front door. They can come in by ambulance.
14 They can come in through the pediatric emergency department.
15 They can come in through trauma, resuscitation. They can come
16 with in law enforcement. They can come in by the ambulance.
17 There's a lot of entry ways.

18 Once they're identified that they're a sexual assault
19 victim, they're going to be triaged, which means they're going
20 to be sorted by the nurse that's in the triage area of the
21 emergency department. And the nurse that's on call will be
22 contacted and asked to come in, if they're not already there,
23 and talk to the patient about their choices, which type of
24 exam they'd like.

1 Q When you began your career 14 years ago as a sexual
2 assault nurse examiner, did someone here locally train you?

3 A Yes.

4 Q And who was that?

5 A Linda Evert (phonetic) and Marian Adams (phonetic).

6 Q And Linda Evert has retired.

7 A Yeah.

8 Q Yes. And Ms. Adams has passed away; correct?

9 A Yes.

10 Q Okay. And trained by these individual, is there
11 kind of a protocol that was developed at UMC and that you
12 continue to use today?

13 A Yes.

14 Q And can you describe kind of how those examinations
15 work, after the patient has arrived and made a choice about --
16 let's say if they've made a choice to have a full exam, how
17 one of those exams might work.

18 A So a medical history would be taken after the
19 patient designates that they want a full sexual assault kit to
20 be collected, consent to sign. Their medical history
21 generally is taken: Height, weight, allergies, medicines,
22 past medical history, surgeries, and whatnot. Then the
23 narrative of the event would be taken: What happened, how
24 were they sexually assaulted.

1 And once the kit is opened, then there's gonna be
2 questions asked specifically regarding what type of
3 penetration took place, was there physical assault. There's
4 gonna be DNA swabs taken from the sexual assault kit. In
5 general, you're gonna do an oral swab, a buccal swab, on the
6 side of the cheeks, swab underneath the nails. For females,
7 you're gonna do, with a speculum exam, you'll take swabs from
8 the vagina and the cervix. And then, anally, you'll take
9 swabs from the anus. And then anal scope may or may not be
10 used to take swabs from the rectum.

11 Photographs of some nature will be taken: Head to toe
12 photos, genital photos, vaginal wall, cervical
13 (indiscernible), anal, and rectal photographs. Blood would be
14 drawn; urine would be obtained. There would be medications
15 administered, prevention of pregnancy medications called
16 emergency contraceptive medications can be offered.
17 Antibiotics would be administered and labs would be sent.

18 As well as, generally, a culture or a urine for gonorrhea
19 and chlamydia. The patient has other medical needs, they'll
20 be addressed. And they may have the -- the SANE nurse may
21 work in conjunction with the emergency physicians.

22 Q So that entire process that you just described, from
23 the narrative through the physical exam, including the gyne --
24 gynecological exam, that would all be documented and kind

1 of -- bad question. I'm sorry. 3:00 o'clock's my witching
2 hour. I can't speak. So let me start that over.

3 All of that would be documented and memorialized, all of
4 the process that you just described; correct?

5 A Yes.

6 Q Okay. And let's talk about sexual assault kit most
7 specifically. Those kits would come in -- and always have
8 come, no matter, you know, as far back as you know, come in a
9 sealed condition.

10 A Yes.

11 Q Okay. So they're just a box that contains a bunch
12 of fresh cotton swabs and envelopes for nail scrapings and
13 everything; correct?

14 A Yes. Yes.

15 Q And when you perform or utilize the contents of one
16 of those sexual assault kits, you store each one of those
17 swabs back in the box individually and you seal it; correct?

18 A Correct.

19 Q And that's habit and practice; right?

20 A Yes.

21 Q And why do you, at the -- at UMC, or specifically
22 take -- doing this exam, why do you ensure the integrity of
23 that sexual assault kit?

24 A It's just part of the legal process. You want to

1 make sure that you maintain the chain of custody for all --
2 each and every individual DNA sample that you take.

3 Q And you were trained in that fashion by Ms. Adams
4 and Ms. Evert?

5 A Yes.

6 Q And part of your training and experience with them
7 included practical training. In other words, observing while
8 they were doing exams or assisting them in conjunction with
9 examinations they were doing.

10 A Yes.

11 Q And that's specifically true of Ms. Adams; correct?

12 A Yes.

13 Q Okay. And in -- unless a person declined a full
14 sexual assault kit -- and by "full kit" I mean all the -- all
15 the swabbings, was it Ms. Adams' practice to always take a
16 swab and, you know, always to do -- here I go again.
17 Apologize. Let me start that question over. Thank you.

18 Was it Ms. Adams' practice to seclude and preserve those
19 swabs and maintain their chain of custody?

20 A Yes.

21 Q And if -- in your experience with Ms. Adams, how
22 would she document that a sexual assault kit came from a
23 particular individual on a particular day?

24 A Well, the kit has information that she fills out.

1 On the outside of the package there'd be a kit number. There
2 would be the patient's name that she would apply onto the kit.
3 The date of the exam, where the exam was done, and then law
4 enforcement agency, and then the law enforcement agency event
5 number, and then signature would occur with the kit.

6 Ultimately, once the kit was entirely processed and ready
7 to be finally sealed, there's a evidence tape that's placed on
8 the outside of the kit and the initials and date are put on
9 them.

10 Q Okay. And once those kits were completed in that
11 fashion and secured with evidence tape, there's a locker at
12 UMC that they're deposited into and then ultimately retrieved
13 by law enforcement before they ever were tested; correct?

14 A That'd be the crime lab law enforcement people would
15 come pick up the kits, yes.

16 Q Are you familiar with a series of examinations that
17 were done in 2000 and are here at our request?

18 A Yes.

19 Q Okay. Specifically, I'm referring to a series of
20 women that were brought to you by Las Vegas Metropolitan
21 Police Department, either referred to you or brought to you as
22 part of -- as part of a series of sexual assaults.

23 A Yes.

24 Q Are you familiar -- yes.

1 A Yeah.

2 Q The victim by the name of Teresa Tyler, with an
3 associated event number of 0002012429, did you familiarize
4 yourself, basically, with her report in preparation for today?

5 A I read the report.

6 Q Okay. Back in 2000, this was a portion of UMC
7 called Fast Track, where exams were taken; is that correct?

8 A Yes.

9 Q And part of the items deposited along with
10 Ms. Tyler's swabbings were a -- a towel taken by law
11 enforcement and included in her kit; is that correct?

12 A I'm not sure if it was included in the kit, but it
13 would have been placed in a paper bag.

14 Q And apologize. My misspeaking. Included in the --
15 the collection of all of the evidence that was impounded.

16 A Yes.

17 Q Okay. It would not have been included within the
18 sexual assault kit.

19 A No, there wouldn't be enough room.

20 Q And I'm sorry. I misspoke. Thank you.

21 Are you also familiar with event number regarding a
22 Leona Case, 000307-0141, wherein a sexual assault kit was
23 performed?

24 A Yes.

1 Q Okay. And are you aware if swabs were taken in that
2 case?

3 A Yes.

4 Q Okay. Taken and preserved?

5 A Yes, in the kit.

6 Q Okay. And -- and impounded?

7 A Yes, ma'am.

8 Q Okay. And in these last two cases we -- we
9 discussed, nothing out of the ordinary with either one of
10 those exams, in terms of process?

11 A No, ma'am.

12 Q Okay. Thank you.

13 And regarding a Ms. Ramona Leva with event number
14 000325-2971, did she also receive a sexual assault examination
15 at UMC?

16 A Yes.

17 Q And are you aware, based on your review, whether a
18 sexual assault kit was taken in that case?

19 A Yes.

20 Q And were swab -- was a full kit taken in that case?

21 A I'd have to look at the paperwork. One of the kits
22 looked like there was oral swabs taken. Whether or not --

23 Q Would it refresh your recollection to look at her
24 report?

1 A Yeah.

2 Q Do you have it with you, ma'am?

3 A I do.

4 MS. KOLLINS: And Mr. Gill has it and he knows what
5 we're referring to.

6 MR. GILL: It's on my laptop, Your Honor.

7 THE COURT: Sounds good.

8 THE WITNESS: Please give me the name again.

9 BY MS. KOLLINS:

10 Q Ramona Leva.

11 A Thank you.

12 That appears to have a kit completed.

13 Q Okay. Okay. And a completed kit would necessarily
14 include vaginal swabs -- correct? -- based on the habit and
15 practice at UMC?

16 A Yes.

17 Q Okay. And that was taken on March 25th of 2000?

18 A Yes.

19 Q Thank you. Referring you to a Marlene Livingston,
20 her event number 000404-0324, being April 4th of 2000, did she
21 also receive a sexual assault examination at UMC?

22 A Yes.

23 Q And does it appear that a full kit was taken in that
24 case?

1 A Yes.

2 Q And are you refreshing your recollection by
3 reviewing your report?

4 A Yes.

5 Q Or the reports on file at UMC.

6 A Yes.

7 Q Okay. And in that case, anything unusual about the
8 process or the collection and preservation of that buccal
9 swab -- or excuse me -- that vaginal swab and that sex kit?

10 A There was nothing unusual about that process.

11 Q Okay. And I don't think I asked you for Ms. Leva.
12 Anything outstanding or unusual in the collection or
13 preservation of that sexual assault kit?

14 A No.

15 Q Turning your attention to Joni Hall, event number
16 000607-0313. That would have been on June 7th of 2000. Did
17 she also receive a sexual assault kit?

18 A She did.

19 Q And was that at UMC?

20 A Yes.

21 Q And that was a full exam, with all the swabbings
22 that we've discussed?

23 A Yes.

24 Q Anything unusual in the collection, retrieval, or

1 preservation of any of those items in that sexual assault kit
2 that you noticed?

3 A No.

4 MS. KOLLINS: Pass the witness, Your Honor.

5 THE COURT: Mr. Gill.

6 MR. GILL: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. GILL:

9 Q Ms. Dermanelian --

10 A Yes, sir.

11 Q I get that okay?

12 A Yes, sir.

13 Q Just real quick, you have been at UMC for 14 years;
14 correct?

15 A I was also there for 30 years as a registered nurse.
16 So in year 2000 I was probably the charge nurse in the ER at
17 the time, when Marian and Linda were the sexual assault nurse
18 examiners working out of the trailer.

19 Q Okay. So -- and the trailer is the trailer kind of
20 in the back that -- that these exams are performed in;
21 correct?

22 A Correct.

23 Q And you worked under or alongside Miss -- I'm
24 sorry -- Ms. Evert and Adams.

1 A Correct.

2 Q And in 2000, you don't have an independent
3 recollection of these --

4 A No.

5 Q -- do you?

6 A No.

7 Q And when I say "these," I was kind of gesturing
8 towards those reports that you've been review -- reviewing.

9 A Correct.

10 Q And you simply reviewed them for today's purposes to
11 see if there's any discrepancies, I think is what Ms. Kollins
12 was saying?

13 A Correct.

14 Q What would discrepancies be? Like, what are you
15 looking for?

16 A Not necessarily discrepancies, but whether there was
17 a kit performed.

18 Q Okay. And -- and in each of the instances, there
19 were kits performed; correct?

20 A Correct.

21 Q And -- but, again, you don't recall seeing these,
22 your name's not on any of the reports; correct?

23 A No, sir.

24 Q It's -- it's Ms. Kirby (phonetic), Ms. Adams,

1 Ms. Evert.

2 A Correct.

3 MR. GILL: Nothing further, Your Honor. Thank you.

4 MS. KOLLINS: I have no redirect.

5 THE COURT: Okay. Anything from the jury for
6 Ms. Dermanelian?

7 Ms. Dermanelian, thank you so much for your testimony.
8 Please don't share with anyone else involved in the case, but
9 you are excused and free to go. Appreciate you being here.

10 THE WITNESS: Thank you.

11 MS. KOLLINS: May I approach, Your Honor?

12 THE COURT: Yep.

13 [BENCH CONFERENCE BEGIN]

14 MS. KOLLINS: I guess I should have slowed that
15 drastically down.

16 THE COURT: (Indiscernible) that you can come up
17 here and tell me you're done with witnesses?

18 MS. KOLLINS: 'Kay, I won't tell you.

19 THE COURT: (Indiscernible) you guys, I don't think
20 we've been to 5:00 ever.

21 MS. LUZAICH: In the beginning.

22 MS. KOLLINS: So we --

23 THE COURT: Huh?

24 MS. LUZAICH: In the beginning.

1 MS. KOLLINS: Here's the thing, these crosses are
2 like three minutes long. I mean, you know --

3 MR. GILL: It's my fault.

4 MS. KOLLINS: -- you're planning witnesses -- no,
5 it's not your fault --

6 MR. GILL: I know.

7 MS. KOLLINS: -- but, I mean --

8 THE COURT: Can you just (indiscernible) line 'em
9 up.

10 MS. LUZAICH: I know, but it's Barry. That's --

11 MR. GILL: Yeah, we're still on pace for tomorrow.

12 MS. LUZAICH: Yeah.

13 THE COURT: Who -- so who's tomorrow?

14 MS. LUZAICH: Barry.

15 MS. KOLLINS: Barry Jensen.

16 THE COURT: That's it.

17 MS. LUZAICH: And we're still trying to get
18 Russ Pulium (phonetic), one of the crime scene guys. But he's
19 checking with his heart surgeon, blah, blah --

20 THE COURT: So we have one witness tomorrow.

21 MS. KOLLINS: Two.

22 THE COURT: Barry and (indiscernible).

23 MS. LUZAICH: Maybe -- well, him if we can get him.

24 MS. KOLLINS: Yeah.

1 MS. LUZAICH: 'Cause I'm trying to at least now work
2 BlueJeans.

3 THE COURT: All right. Well --

4 MS. LUZAICH: But then I -- we rest after Barry.

5 THE COURT: Um --

6 MR. GILL: Maybe we can discuss this if you let the
7 jury go. It's just scheduling for (indiscernible).

8 MS. KOLLINS: Well, I don't believe
9 (indiscernible) --

10 THE COURT: Yeah, we're (indiscernible) now.

11 MS. LUZAICH: Yeah, after they leave. That's fine.

12 MS. KOLLINS: But (indiscernible).

13 MR. GILL: No.

14 MS. KOLLINS: Okay.

15 MR. GILL: When did you --

16 MS. LUZAICH: I didn't have changes.

17 MR. GILL: When did you send them?

18 MS. LUZAICH: Last week.

19 MR. GILL: Like --

20 MS. LUZAICH: No.

21 MR. GILL: Oh.

22 MS. KOLLINS: Maybe over the weekend.

23 MR. GILL: Oh, yeah. Yeah. Yes.

24 MS. LUZAICH: Yeah.

1 THE COURT: All right. Let me let them go. So
2 tomorrow, if we only have -- if we only have Barry and
3 (indiscernible) I'm probably going to bring them in at 1:00,
4 then. Because I don't really --

5 MS. KOLLINS: You have calendar or not?

6 THE COURT: I don't really love the idea of bringing
7 (indiscernible) testimony in regards to him. I'd rather
8 (indiscernible) you want us to just have a whole day at 11:30
9 to 5:00.

10 MR. GILL: Okay.

11 THE COURT: So (indiscernible) 1:00 and then we --
12 we can look at, you know, preliminary (indiscernible)
13 instructions or whatever.

14 MR. GILL: Okay.

15 MS. KOLLINS: I'll e-mail you the set I've created
16 (indiscernible).

17 MR. GILL: Okay. Right now, no additions.

18 MS. KOLLINS: I didn't address him testifying.

19 MR. GILL: Oh, okay.

20 [BENCH CONFERENCE END]

21 THE COURT: All right. So it looks like tomorrow we
22 have -- the State has one to two witnesses and then they're
23 going to be resting their case-in-chief. So it'll be a
24 shorter day tomorrow. So we're not going to come in until

1 1:00 o'clock.

2 Please remember, during this recess, not to discuss or
3 communicate with anyone, including fellow jurors, in any way
4 regard the case or its merits either by voice, phone, e-mail,
5 text, internet, or other means of communication or social
6 media. Please do not read, watch, or listen to any news,
7 media accounts, or comments about the case; do any research,
8 such as consulting dictionaries, using the internet, or using
9 reference materials.

10 Please do not make any investigation, test a theory of
11 the case, recreate any aspect of the case, or in any other way
12 attempt to learn or investigate the case on your own. And
13 please do not form or express any opinion regarding the case
14 until it's formally submitted to you.

15 We will see you tomorrow afternoon at 1:00 o'clock. Have
16 a nice evening. Thank you.

17 THE MARSHAL: All rise.

18 [OUTSIDE THE PRESENCE OF THE JURY]

19 THE COURT: All right. So, Mr. Porter, the State is
20 almost resting. So the law says that I need to make sure that
21 you have a full acknowledgement and understanding of your
22 rights. So I'm going to read those to you right now, okay?

23 Under the Constitution of the United States and under the
24 Constitution of the State of Nevada you cannot be compelled to

1 testify in this case.

2 Do you understand that?

3 THE DEFENDANT: Yes, ma'am.

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

11 Do you understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: If you choose not to testify, the Court
14 will not permit the Chief Deputy District Attorney to make any
15 comments to the jury because you have not testified.

16 Do you understand that?

17 THE DEFENDANT: Yes, ma'am.

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

24 Do you have any questions about these rights?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: You further are advised -- you are
3 further advised that if you have a felony conviction and more
4 than ten years has not elapsed from the date you have been
5 convicted or discharged from prison, parole, or probation,
6 whichever is later, and the Defense has not sought to preclude
7 that from coming before the jury and you elect to take the
8 stand and testify, the Chief Deputy District Attorney, in the
9 presence of the jury, will be permitted to ask you the
10 following: Number one, have you been convicted of a felony;
11 number two, what was the felony; and, number three, when did
12 it happen. However, they will not be permitted to get into
13 any other further details, other than those things.

14 Do you understand those?

15 THE DEFENDANT: Can you say that one more time, the
16 first part, after the ten years and all that?

17 THE COURT: Yeah. So if you testify and there is a
18 felony that you have been convicted of within the last ten
19 years or you're still on probation or parole for, the State
20 can ask you three questions: Number one, have you been
21 convicted of a felony; number two, in what state; and, number
22 three, in what year.

23 MR. GILL: So --

24 THE COURT: Oh, sorry. What -- have you been

1 convicted of a felony? Yes. What felony? The -- you know,
2 the name of the felony. And when.

3 THE DEFENDANT: Uh-huh.

4 MR. GILL: So just so the Court and Mr. Porter are
5 clear, if he does opt to take the stand, they would be able to
6 ask him about the murder conviction from this case.

7 THE COURT: Right. So then they would --

8 MR. GILL: Second degree, I'm sorry.

9 THE COURT: Yeah. So then they would get to say,
10 "Have you been convicted of a felony?" And then you would --
11 you would say -- or you could say, yes, in -- was it 2001?

12 MR. GILL: 2009.

13 THE DEFENDANT: '9.

14 THE COURT: Oh.

15 MS. LUZAICH: Was it '9, really?

16 THE COURT: Yes, in 2009.

17 "What was the conviction for?"

18 "Second degree murder."

19 But was that the only conviction or --

20 MR. GILL: Second degree murder with --

21 MS. LUZAICH: With use of a deadly weapon.

22 MR. GILL: -- with use.

23 THE COURT: With deadly weapon?

24 MS. LUZAICH: Yes.

1 THE COURT: But there was no burglary or --

2 MS. LUZAICH: That -- he was not convicted of the
3 burglary and the attempt robbery.

4 THE COURT: Okay. All right. So -- and then let --
5 let's say you -- which I don't know how you would answer that.
6 I don't know if you'll testify. But let's say you said, no.
7 Like, no, I wasn't convicted. Then this --

8 THE DEFENDANT: That'd be a lie?

9 THE COURT: Right. And then the State would come up
10 with a judgment of conviction that said that you were
11 convicted and then they would impeach --

12 THE DEFENDANT: I have no planning on lying, ma'am.

13 THE COURT: Oh, yeah. No. I know. It's just
14 really important that you have the opportunity to ask
15 questions and that you understand, like, if you say this, this
16 is what happens. If you say this, this is what happens;
17 right?

18 THE DEFENDANT: Right.

19 THE COURT: Because I don't want you to ever be
20 surprised by any of that.

21 THE DEFENDANT: Well, you know, Adam -- my counsels
22 will let me know if any mistakes I make --

23 THE COURT: Yeah.

24 THE DEFENDANT: -- (indiscernible) let me know.

1 THE COURT: Yeah. Yeah. Any questions about any of
2 that?

3 THE DEFENDANT: See, like that.

4 THE COURT: Any questions about any of that?

5 THE DEFENDANT: Uh, no. No. So -- so far, no,
6 thank you.

7 THE COURT: Okay. All right. So as far as
8 scheduling purposes, tomorrow, we have what we believe to be
9 one witness for sure, maybe two witnesses. Then the State
10 will rest.

11 And then if the Defense were to present any evidence or
12 the Defendant were to testify, we would do that on Thursday at
13 11:30. Depending on how long that goes, we'll probably be --
14 we'll be dark or -- and/or do jury instructions on Thursday
15 afternoon or Friday, close on Monday.

16 MR. GILL: Thank you, Your Honor. And just -- your
17 JEA was kind enough to get me in touch with the lieutenant so
18 that I can see Mr. Porter tomorrow night.

19 THE COURT: Okay.

20 MR. GILL: Thank you.

21 THE COURT: Perfect. And then -- obviously, that
22 doesn't take into account if the State -- if Defense did put
23 on a case, the State could have and would have the right to
24 present a rebuttal case if they wanted to. So we could, you

1 know, put that into the schedule as well.

2 Other than that, anything else?

3 THE DEFENDANT: What was that part? That
4 (indiscernible).

5 MR. GILL: I'll explain that to you. We can go off
6 record. I can explain that.

7 THE COURT: Okay. Mr. Gill's gonna explain to you
8 about rebuttal, if you were to testify --

9 THE DEFENDANT: Oh.

10 THE COURT: -- if you were to present any witnesses,
11 they could then present more witnesses.

12 THE DEFENDANT: All right.

13 THE COURT: All right. That's it.

14 [Hearing concluding at 3:41 p.m.]

15 *****

16 ATTEST: I do hereby certify that I have truly and
17 correctly transcribed the audio/video proceedings in the
18 above-entitled case to the best of my ability.

19 
20 ALLISON SWANSON, CSR NO. 13377
21 CERTIFIED SHORTHAND REPORTER
22 FOR THE STATE OF CALIFORNIA
23
24

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STATE OF NEVADA,)
)
Plaintiff(s),) CASE NO. 01C174954
)
vs.)
) DEPT. NO. VI
PORTER, JUSTIN D.,)
)
Defendant(s).)
)

RECORDER'S TRANSCRIPT OF HEARING:
JURY TRIAL - DAY 9

For the Plaintiffs: STACY L. KOLLINS
ELISSA LUZAICH

For the Defendants: ADAM L. GILL
CHARLES R. GOODWIN

AA 2013

I N D E X O F W I T N E S S E S

PLAINTIFFS' WITNESSES:

DAY

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1 Las Vegas, Nevada, Wednesday, September 14, 2022

2 [Case called at 1:10 p.m.]

3 *****

4 [OUTSIDE THE PRESENCE OF THE JURY]

5 THE COURT: We are on the record. State of Nevada
6 versus Justin Porter, C174954. Mr. Porter is present with
7 Mr. Goodwin as well as Mr. Gill. Both Chief Deputy District
8 Attorneys, Ms. Luzaich as well as Ms. Kollins, are present on
9 behalf of the State.

10 We are outside the presence of the jury.

11 MS. LUZAICH: Your Honor, the State and the Defense
12 have entered into stipulation regarding some exhibits. So
13 exhibits -- State's Proposed 425 through 430 pertain to
14 Ramona Leva's incident.

15 MR. GILL: And that's correct, Your Honor. I have
16 reviewed and we will stipulate to their admission.

17 THE COURT: Okay. Those will be admitted.

18 [STATE'S EXHIBITS 425-430 ADMITTED.]

19 MS. LUZAICH: State's 430 -- proposed 431 through
20 438 pertain to Marlene Livingston.

21 MR. GILL: Same, Your Honor. There are photos
22 depicted and I've reviewed and have no objection.

23 MS. LUZAICH: State's Proposed Exhibit 439 is a map
24 of the incidents.

1 MR. GILL: I know Ms. Luzaich will -- we'll
2 stipulate, Judge. She -- she created this map, just --
3 just --

4 MS. LUZAICH: Yes.

5 MR. GILL: And I think she'll make that clear on the
6 record.

7 But it is a map. It does depict all of the addresses of
8 the scenes that were investigated by the task force. So --

9 THE COURT: Okay.

10 MS. LUZAICH: And it's just for location. I mean,
11 it's a current 2022 satellite thing. But it's just for the
12 location.

13 MR. GILL: Correct.

14 THE COURT: Okay. Got it.

15 [STATE'S EXHIBITS 431-438 and 439 ADMITTED.]

16 MS. LUZAICH: And then finally -- no, not finally.
17 Sorry. Uh-oh. Oh, never mind. Sorry. 440 and 441 are two
18 of the Defendant's statements. The Defendant gave three
19 statements to the Metro police. One was an interview that
20 talked about the series. That is proposed Exhibit 441.

21 Mr. Gill gave me a -- I asked him to give me a copy of
22 the transcript and to cross out exactly what he wanted
23 redacted. And rather than argue anything, I just redacted
24 everything that he wanted redacted.

1 THE COURT: Okay.

2 MS. LUZAICH: And we have -- if you could, as a
3 Court's exhibit, mark the transcript in full with redactions.

4 THE COURT: Okay. That'll be marked in Court's
5 next.

6 MS. LUZAICH: That's for 441 that --

7 THE COURT: So what number will that be next?

8 MS. LUZAICH: Court's Exhibit.

9 THE COURT: -- Kristen, on Court's?

10 THE CLERK: Court's exhibit will be Court's Exhibit
11 Number 20.

12 MS. LUZAICH: Okay.

13 THE CLERK: For --

14 MR. GILL: This transcript here.

15 THE COURT: All right. So --

16 MS. LUZAICH: The transcript that coincides with
17 State's Exhibit 441.

18 THE COURT: Which is the interview on what date?

19 MR. GILL: 8/12/2000.

20 THE COURT: Okay.

21 THE DEFENDANT: Excuse me. Just -- I -- one
22 question.

23 THE COURT: Uh-huh.

24 THE DEFENDANT: I haven't even went over their, the

1 redacted part of the section. Because I wanted everything to
2 come in. So --

3 MR. GILL: And -- and --

4 THE DEFENDANT: -- let 'em know. But my lawyer said
5 he -- he -- he -- he understood that --

6 MR. GILL: I'll -- I -- I can speak to that --

7 THE DEFENDANT: Yeah.

8 MR. GILL: -- Justin, if you let me.

9 THE DEFENDANT: Yeah, I just want -- I don't know,
10 'cause I wanted --

11 MR. GILL: There's --

12 THE DEFENDANT: -- you know, 'cause I wanted to get
13 whole understanding of what was being done.

14 MR. GILL: And -- and they will. But they're not
15 going to get information --

16 THE DEFENDANT: Okay.

17 MR. GILL: -- regarding the murder.

18 THE DEFENDANT: Okay.

19 MR. GILL: Or uncharged acts. That's what's been
20 redacted.

21 THE DEFENDANT: Okay. --

22 MR. GILL: Meaning -- for instance, Odyssey Pizza?

23 THE DEFENDANT: Yeah.

24 MR. GILL: You're not charged with that in this

1 trial. It's not --

2 THE DEFENDANT: Right.

3 MR. GILL: -- coming in through this --

4 THE DEFENDANT: Right. Okay.

5 MR. GILL: -- transcript. And same with anything --

6 THE DEFENDANT: Okay. That's -- that's what --

7 MR. GILL: -- related to the (indiscernible)

8 THE DEFENDANT: -- (indiscernible)

9 MR. GILL: And you can -- you're more than welcome
10 to look through this.

11 THE DEFENDANT: Okay. Do they have any extra copies
12 to the side that I can receive before --

13 MR. GILL: I can --

14 THE DEFENDANT: -- we -- so I can look at myself
15 (indiscernible).

16 MR. GILL: I can get you one, yeah.

17 THE COURT: Mm-hmm.

18 MR. GILL: So, again, I'll approach again.

19 THE COURT: Perfect. Thank you.

20 MS. LUZAICH: And we can pull those yellow tabs off.

21 THE CLERK: Is this with redactions or without?

22 MS. LUZAICH: With redactions.

23 THE CLERK: Did you want me to have this copy with
24 all this?

1 MS. LUZAICH: You can take all the tabbies off. I
2 just haven't had time.

3 THE CLERK: I just want to make sure. Okay.

4 MS. LUZAICH: The tabs were just so my IT person
5 knew exactly what to take out.

6 And then, finally, State's Proposed Exhibit -- well,
7 okay. So there was a second interview on that same day. And
8 this pertained to the murder. I am not marking it, I am not
9 offering it. That is not gonna be spoken about at all.

10 THE COURT: Okay.

11 MS. LUZAICH: Then there was a third interview on
12 August 13th. And that pertained to the incident involving
13 Joni Hall on June 7th. And that's State's Proposed
14 Exhibit 440, a separate disc. And the other transcript that
15 Mr. Gill looked at and everything that he wanted taken out, I
16 did take out. And I would ask that that be marked as -- the
17 transcript be marked as Court's 21, to coincide to State's
18 Exhibit 440.

19 THE COURT: Okay.

20 MR. GILL: And that's all correct, Your Honor.

21 THE COURT: Okay.

22 MS. LUZAICH: Oh, and I'm sorry. I guess I would
23 move 440 and 41 into evidence.

24 MR. GILL: And just to be clear, the -- your -- your

1 IT person redacted the statements --

2 MS. LUZAICH: Yes.

3 MR. GILL: -- out --

4 MS. LUZAICH: Yes.

5 MR. GILL: -- coinciding with the transcript.

6 MS. LUZAICH: Yes.

7 MR. GILL: No objection, Your Honor.

8 THE COURT: Okay.

9 [STATE'S EXHIBITS 440 and 441 ADMITTED.]

10 MS. LUZAICH: And then, lastly, the original bus
11 ticket that was obtained from George Porter is State's
12 Proposed 442. It's just the original.

13 MR. GILL: And -- and I believe a copy was already
14 admitted.

15 MS. LUZAICH: It was.

16 THE COURT: Yeah.

17 MR. GILL: So I'm not gonna object to the originals.

18 THE COURT: Okay.

19 MS. LUZAICH: And with that, it'll be smoothly
20 during testimony. Thank you, Judge.

21 [DISCUSSION OFF THE RECORD]

22 THE MARSHAL: All rise.

23 [IN THE PRESENCE OF THE JURY]

24 THE COURT: All right. Welcome back, everybody.

1 We are on the record in State of Nevada versus
2 Justin Porter, C174954. Mr. Porter is present with Mr. Gill
3 as well as Mr. Goodwin. Both Chief Deputy District Attorneys,
4 Ms. Luzaich as well as Ms. Kollins, are present on behalf of
5 the State.

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

7 MS. LUZAICH: Yes, Your Honor.

8 MS. KOLLINS: Yes, Your Honor.

9 THE COURT: All right. State, next witness.

10 MS. LUZAICH: State calls Barry Jensen.

11 THE MARSHAL: Please step up there. Remain standing
12 and raise your right hand so the clerk can swear you in.

13 BARRY JENSEN,
14 [Having been called as a witness and being first duly
15 sworn testified as follows:]

16 THE WITNESS: Yes, I do.

17 THE CLERK: Please be seated.

18 Will you please state your name and spell it for the
19 record.

20 THE WITNESS: My name's Barry Jensen. It's
21 B-A-R-R-Y, J-E-N-S-E-N.

22 THE CLERK: Thank you.

23 MS. LUZAICH: Thank you.

24 ///

DIRECT EXAMINATION

BY MS. LUZAICH:

Q Good afternoon, sir. Are you retired?

A I am.

Q What are you retired from?

A I'm retired from the Las Vegas Metropolitan Police Department.

Q How long have you been with met -- or had you been with Metro?

A Approximately 28 years.

Q When you retired from Metro, where did you retire from?

A I retired from the Homicide Unit.

Q How long were you part of the Homicide Unit?

A I was in homicide for approximately 16 years.

Q And prior to being in the Homicide Unit, where were you at Metro?

A I was assigned to the Sexual Assault Detail.

Q For how long were you with the Sexual Assault Detail?

A Just over three years.

THE COURT: God bless you.

MS. LUZAICH: Bless you.

///

1 BY MS. LUZAICH:

2 Q And prior to that?

3 A I was in Narcotics, prior to Sexual Assault, for
4 four or five years and -- and patrol the rest of the time.

5 Q Okay. So you worked different areas of the bureau,
6 as well as patrol.

7 A Yes.

8 Q In your time in Sexual Assault, did that cover the
9 year 2000?

10 A Yes, it did.

11 Q And while you were in the Sexual Assault Division,
12 how was it set up?

13 A We were in a bullpen area. We worked day shift,
14 primarily. You had partners but you -- but you weren't
15 100 percent, you know -- like -- like in Homicide, we --
16 you -- you had a partner and you did everything. In -- in
17 Sexual Assault, sometimes your partner's unavailable, he
18 didn't want to do the call out or whatever so you would do it
19 on your own.

20 Q Okay. So was there a -- a number of detectives who
21 worked Sexual Assault?

22 A Yes.

23 Q Approximately how many in that time frame?

24 A I believe there was eight of us.

1 Q Okay. Was there also a sergeant?

2 A Yes.

3 Q And while you were working in sexual assault area,
4 how might calls get assigned to you?

5 A We took -- everybody took a turn -- there was a
6 board that kept track of everything. So you were on call
7 for -- I -- I believe you were on call for a week at a time.
8 And any -- any calls that came in after your shift was over,
9 you would be assigned those calls. And then -- and then the
10 next person was what we called the bucket list. So he -- any
11 phone calls that came in, he would handle.

12 Q And if -- well, you said that you were primarily day
13 shift. Would you sometimes get called out as well?

14 A Yes.

15 Q Would you often get called out as well?

16 A Yes.

17 Q Would a call come to you directly from a victim or
18 how would it get to you?

19 A No, a call would come to us from our sergeant, who
20 would be notified by patrol officers or a patrol sergeant that
21 a sexual assault detective was needed.

22 Q Okay. And in the 2000-ish time frame, did you work
23 with detective Debbie Love?

24 A Yes.

1 Q Detective Mike Castaneda?

2 A Yes.

3 Q Detective Kirk Sullivan?

4 A Yes.

5 Q Do you recall who else?

6 A Dennis Derfy (phonetic), Kirk -- or Rick -- Thomas,

7 Derk Thomas. I don't recall if Shelly Horton was there at the

8 time or not.

9 Q Okay. It was 22 years ago.

10 A Yes.

11 Q That's fair.

12 At the time that you were -- that we're talking about,

13 were Detective Love and Detective Castaneda partners?

14 A Yes, they were.

15 Q And did you have a partner?

16 A I did.

17 Q Who was that?

18 A I worked with Kirk Sullivan.

19 Q Okay. So were there calls that you got and worked

20 with him as well as calls that you got and worked without him?

21 A Yes.

22 Q And were there calls that he got and worked with you

23 as well as calls that he got and worked without you?

24 A Yes.

1 Q Did there come a time in March of 2000 that you
2 learned that he was involved with a call involving a lady
3 named Ramona Leva?

4 A Yes.

5 Q And did he, as far as you know, go to the scene and
6 deal with what occurred at Ramona Leva -- Leva's apartment?

7 A Yes, he did.

8 Q Was that apartment at 600 East Bonanza?

9 A Yes.

10 Q Apartment 144?

11 A I believe so, yes.

12 Q Showing you State's Exhibit 245. Oopsy. Make it
13 smaller.

14 And, here, before I -- it says 144; correct? That's the
15 apartment?

16 A Yes. Yes.

17 Q There is some small handwriting on here. Tell me,
18 what's that?

19 A That is a crime scene analyst sticker. It has
20 her -- the -- the crime scene analyst's initials, and I don't
21 really recall what the other numbers -- the numbers between
22 her initials are her P number. And I don't recall what the
23 other numbers are.

24 Q So when you say the numbers between her initials are

1 the P numbers --

2 A Yes, her personnel --

3 Q -- so would that be --

4 A -- number.

5 Q What is the letters and the numbers?

6 A It looks like --

7 Q Do I need to make it bigger?

8 A I don't know if you can. Looks like four -- 4712?
9 I don't think you can make it big enough for my eyes.

10 Q Okay.

11 THE COURT: She -- she can read in the document.

12 BY MS. LUZAICH:

13 Q Could it be J4742C?

14 A Yes.

15 Q And who is JC crime scene analyst?

16 A That would have been Jenny Carr.

17 Q Okay. And in addition, you said you don't know what
18 the number is in the middle. But the number on top, what's
19 that?

20 A That's the event number.

21 Q What's an event number?

22 A When a call comes out it -- it generates an event
23 number for the police department. And everything with that
24 call goes under that event number. And -- and in this --

1 in -- at that time it was the year, the month, the day, and
2 then four numbers signed to that behind the day.

3 Q So in here, where it's 000325, the year 2000,
4 March 25th; is that right?

5 A That's correct.

6 Q And then the 2,971st call of the day?

7 A Yes.

8 Q And then anything that was done pertaining to
9 Ramona Leva's case would then be kind of tracked under that
10 event number?

11 A Yes.

12 Q Okay. So you learn that he went to Ramona Leva's
13 apartment and there was a crime scene analyst there,
14 Jenny Carr.

15 A Mm-hmm.

16 Q Did you learn how the entry was take --
17 accomplished?

18 A Yes, the suspect kicked the -- the front apartment
19 door in.

20 Q Sorry. Showing you State's Exhibit 426. What do we
21 see?

22 A That is a common result of a door being kicked open.

23 Q And then 427. Oopsy, upside down. Sorry.

24 A It's the same thing. You can see where the -- the

1 door around the lock has been fractured open.

2 Q And then 428. Is that the -- I mean, the other part
3 of the lock? The other part of the door where the lock --

4 A Yes.

5 Q -- goes in?

6 A That's -- that's the -- the latch side of the door.

7 Q That's it. I knew there was a word there.

8 So there was a door kick at that location. And because
9 y'all worked together, did you also learn of the suspect
10 description?

11 A Yes, we did.

12 Q What was the suspect description?

13 A It was a black male -- I -- I don't remember the
14 exact description. But it -- it was a very common.

15 Q Was there something about a red bandana?

16 A Yes, he had a red bandana over his face.

17 Q Okay. Did you also learn that Ms. Leva's vehicle
18 had been taken?

19 A Yes.

20 Q Showing you State's Exhibit 429. Was it a Buick
21 Skylark?

22 A It was.

23 Q And did you also learn that the car was located the
24 next day in the area of 1601 Marlin Avenue?

1 A Yes.

2 Q And the license plate was -- showing you 430 -- 657
3 (indiscernible) -- or sorry --

4 A KMC.

5 Q -- KMC?

6 A Yes.

7 Q So was Detective Sullivan working that case while
8 you guys are partners?

9 A Yes.

10 Q Shortly thereafter, on April 4th of 2000, did you
11 learn about an event involving a lady named
12 Marlene Livingston?

13 A Yes, I did.

14 Q And did you get called out on that event?

15 A I did.

16 Q When you got called, do you know around what time of
17 day it was?

18 A Oh, I -- I don't recall offhand.

19 Q Somewhere around the vicinity of maybe 3:30 in the
20 morning?

21 A Yes.

22 Q Like, late --

23 A Early morning --

24 Q -- middle of the night?

1 A Early morning, yes.

2 Q And where did you go when you got the call?

3 A I went to UMC for the sexual assault exam.

4 Q Was -- where, back in 2000, were sexual assault
5 exams handled?

6 A They were handled the UMC Hospital. I -- I believe
7 there was a trailer in -- in the parking lot.

8 Q The Fast Track trailer?

9 A Yes.

10 Q And Marian Adams and Linda Evert, back then, were
11 doing the sexual assault exams; is that correct --

12 A Yes, they were.

13 Q -- the nurses?

14 Showing you State's Exhibit 431. Is this -- or sorry.
15 Who is this?

16 A That is Marlene Livingston.

17 Q Okay. Now, that is not Marlene Livingston in the
18 hospital. Would you agree with me?

19 A That's correct.

20 Q Did you see her come to court and testify at a
21 preliminary hearing a few months later?

22 A Yes, I saw her in the courthouse.

23 Q And is that how Marlene looked when she came to the
24 courthouse?

1 A Yes.

2 Q Okay. How old was Marlene at the time?

3 A I believe she was 72.

4 Q And when you spoke with her, did you learn what had
5 occurred at her place?

6 A I did.

7 Q And, like, overall, what had occurred?

8 A She said she was standing in her bedroom and she
9 heard her front door being forced open, or kicked open and she
10 looked and there was a -- a black male with a stocking or
11 something over his face. He held a knife in his right hand
12 and was demanding money and jewelry, I believe.

13 Q Okay. Did she give you a little more of a
14 description of him?

15 A Yes, she did. But I'd have to refresh my memory.

16 Q Did you generate -- or were reports generated at or
17 near the time of the incident?

18 A Yes.

19 Q Would it refresh your recollection to review
20 reports?

21 A Yes.

22 Q One moment.

23 MS. LUZAICH: May I approach?

24 THE COURT: Yes.

1 THE WITNESS: Yeah, she described him as a black
2 male in his 20s, 5-foot-10, 160 pounds.

3 BY MS. LUZAICH:

4 Q Did you learn what had happened to her?

5 A Yes, I did.

6 Q What had happened to her?

7 A She said the suspect told her to bend over and
8 when -- when she did, she -- she said she was wearing a
9 menstrual pad at the time. And he -- he said something like
10 "never mind." And then she said that he put his penis in her
11 mouth.

12 Q When she was describing this for you in the
13 hospital, what was her demeanor like?

14 A If I recall, she was very -- obviously, she was
15 upset. People handle it differently. But -- but she was very
16 matter of fact.

17 Q Okay. And she was able to describe it for you --

18 A Yes.

19 Q -- coherently --

20 A Yes.

21 Q -- I guess should be my -- was my point.

22 Did she also describe that something was taken from her?

23 A Yes, she did.

24 Q What was taken from her?

1 A She said that he demanded money. She gave him some,
2 but he took the rest out of her purse. He -- the suspect took
3 a gold ring and her car.

4 Q Was that a 1991 Dodge Dynasty?

5 A It was.

6 Q Bearing a plate 728ENB.

7 A Yes.

8 Q Did you -- what did you do after you spoke with
9 Ms. Livingston?

10 A Well, after I spoke with her, she gave me some
11 details of, you know, the -- the -- this assault took place in
12 her bedroom on her bed. And she described a blanket that was
13 covering her bed. I called the crime scene analyst and -- and
14 they said they didn't take it.

15 I -- I went down to her apartment -- I don't know if it
16 was -- if it was later that day -- I -- I think it was in that
17 morning. Went down to the apartment. I took the blanket, put
18 it in a -- in a bag and I took it to the crime scene analyst's
19 office.

20 Q Okay. So you went to her apartment, you said?

21 A Yes. Yes.

22 Q Showing you State's Exhibit 432. What are we
23 looking at?

24 A That is a picture of the apartment complex of the

1 building that she lived.

2 Q 433.

3 A It's a close-up. It shows the -- the apartment's
4 upstairs.

5 Q So hers was an upstairs apartment.

6 A That's correct.

7 Q And is that it where the crime scene tape is?

8 A It is.

9 Q Showing you State's 434. Is that just a close-up of
10 the apartment?

11 A Yes.

12 Q And then you mentioned that she said that the door
13 had been kicked in. Showing you 435. What does that appear
14 to be?

15 A Again, that's the common result of someone kicking a
16 door.

17 Q Sorry. 436. You went inside the apartment;
18 correct?

19 A I did. I did.

20 Q And what do we see here?

21 A This is the piece of the door frame that is propped
22 up against the wall.

23 Q And when you say "against the wall," do you mean,
24 like, under the window?

1 A Under the window -- the window blinds.

2 Q Okay. And can you show -- there's a mouse in front
3 of you. Can you show us where on the door that the door frame
4 came from?

5 A I believe it came from, like, right up in here
6 (indicating) on this side of the door, about.

7 Q Okay. And then showing you up close, 437.

8 A Up here, yeah (indicating). From right in here, the
9 upper part of the door jam or door frame (indicating).

10 Q And then 438.

11 A And that's the piece of wood that was missing and
12 the latch (indicating).

13 Q And then all the splinters around it.

14 A Yes.

15 Q Did you also learn that Marlene's vehicle had been
16 recovered?

17 A I did.

18 Q When was it recovered?

19 A It was recovered the next day, I believe.

20 Q And do you recall where it was recovered?

21 A Yeah, 19th and Sunrise.

22 Q And would you have sent a crime scene analyst there
23 as well to photo seal it and tow it to the tow yard?

24 A To the crime lab, I believe.

1 Q Sorry about that. Yes, that's what I meant. To the
2 crime lab. Thank you.

3 A Yes.

4 Q Sorry. And would you have had a crime scene analyst
5 go through, photograph, and try to print the vehicle while at
6 the crime lab?

7 A Yes.

8 Q And was that Debbie Brotherson?

9 A Yes, it was.

10 Q So at the time that you were aware of these two
11 events, was there anything about them that kind of caught your
12 mind -- your eye?

13 A Yeah. The -- the -- the door kick was -- was
14 similar, the suspect description was similar, I -- I believe a
15 knife was used in both of them. And -- and the area of where
16 they happened.

17 Q And vehicles were taken in both of them.

18 A And -- and vehicles were taken.

19 Q Okay. Now, you had mentioned that you worked with
20 Detectives Love and Castaneda. Were you aware of -- well, let
21 me -- let me step back one second. In the area that you
22 worked, the physical space that you worked, was it kind of an
23 open area?

24 A Yeah. Well, you had cubicles, but we were open.

1 Q And did you often talk amongst each other about
2 cases?

3 A Yes.

4 Q Kind of roundtable things.

5 A Yes.

6 Q Were you aware of cases that they had been working
7 on that were kind of similar in nature?

8 A Yes, we became -- I became aware of that and they
9 became of mine.

10 Q Okay. So by the time you are handling Ramona -- or,
11 well, you and Detective Sullivan are handling Ramona Leva and
12 Marlene Livingston, you are aware of a case involving
13 Teresa Tyler from February 1st; is that right?

14 A That's correct.

15 Q And her incident was at 2895 East Charleston;
16 correct?

17 A Yes.

18 Q And then Leona Case as well, on March 7th of 2000?

19 A Yes.

20 Q At 2900 East Charleston.

21 A That's correct.

22 Q And are those two relatively close to yours?

23 A Yes.

24 Q Your two, the Leva and Livingston. Sorry.

1 A Yes.

2 Q Did there come a time that you also learned from
3 robbery detectives that things were happening similar in
4 nature that did not include sexual assaults?

5 A Yes, we did.

6 Q Do you recall who -- which robbery districts, if
7 any, you were in communication with?

8 A I remember Laura Andersen.

9 Q Okay. And did Detective Andersen kind of start
10 working with you and Detective Love and Castaneda and Sullivan
11 and --

12 A Yes.

13 Q -- kind of put all your cases together?

14 A Yes.

15 Q Did you learn that Detective Andersen was handling a
16 case of Clarence and Francis Rumbaugh, April 12th of 2000?

17 A I did.

18 Q That was at 436 North 12th Street; correct?

19 A Yes.

20 Q And Leroy Fowler on June 6th of 2000?

21 A Yes.

22 Q That was at 1121 East Ogden; correct?

23 A Yeah. Yes.

24 Q And then on June 9th of 2000, Guadeloupe Lopez and

1 Laura and Beatriz Zazueta at 2850 East Cedar?

2 A That's correct.

3 Q So by then, we had heard a little bit from
4 Detective Love, Detective Castaneda and as well as
5 Detective Andersen that a task force was set up?

6 A Yes.

7 Q Showing you State's Exhibit 439. And, here, we'll
8 make this a lot bigger. What are we looking at?

9 A That --

10 Q Oh, it's upside down. Sorry.

11 A Yeah. That's all right.

12 That's like a crime scene map of -- of the downtown area
13 where these -- the robberies and the sexual assaults were
14 happening.

15 Q Okay. And I'm gonna start at -- sorry -- at
16 2895 East Charleston, the first one, Teresa Tyler. Can you
17 see that on the bottom?

18 A Yes.

19 Q Can you, with the mouse, just circle it?

20 A Uh --

21 THE COURT: If you hit -- is the tool bar in your
22 way?

23 THE WITNESS: Yes.

24 THE COURT: -- or no?

1 So if you go to the very far right and just hit those
2 little arrows, the tool bar will recede to the corner.

3 Are you there yet?

4 There you go.

5 BY MS. LUZAICH:

6 Q Do I need to make it bigger, detective?

7 A No, you can pull it up. But -- but I believe -- I
8 believe that's the dot for it there (indicating).

9 Q For Teresa Tyler at 2895 --

10 A Oh --

11 Q -- East Charleston. That was --

12 A -- I'm sorry. I'm sorry.

13 Q -- the first one --

14 A I'm sorry.

15 Q -- correct? On the very first --

16 A Yes, right here (indicating).

17 Q And then the second one about -- what? -- four weeks
18 later on March 7, 2900, East Charleston, Leona Case?

19 A Yes. (Indicating)

20 Q The third one on March 25th, Ramona Leva?

21 A And she was at --

22 Q 600 East Bonanza.

23 A Yes, Bonanza. Right here (indicating).

24 Q And then number four, Marlene Livingston, on

1 April 4th about -- what? -- two weeks after Ms. Leva?

2 A Yes, that's on Clifford.

3 Q Sorry. That's right. On Clifford.

4 A I'm trying to get my -- I'm trying to get my
5 bearings here.

6 Q And just so that we're clear --

7 A Yes, it's right here (indicating).

8 Q -- as we're looking at this map, does each red
9 bubble have a street address and name next to it?

10 A Yes. Yes, street address and name. Yes.

11 Q So where the little arrow is right now, it says
12 "2301 Clifford," hyphen, "Livingston"; correct?

13 A That's correct.

14 Q So that's where Marlene -- Marlene Livingston was
15 living; correct?

16 A Yes.

17 Q And then the next one in time, the fifth one, the
18 Rumbaugh's, on 436 North 12th Street on April 12th, eight days
19 after Ms. Livingston?

20 A Yes (indicating).

21 Q The sixth one, Leroy Fowler, on June 6th, maybe
22 seven weeks later at 1121 East Ogden.

23 A Yes (indicating).

24 Q Then the seventh one, Joni Hall, on June 7th at

1 624 North 13th Street.

2 A Yes, that's -- I'm sorry. I'm trying to find my
3 13th street. Yes --

4 Q Do you want me to make it bigger?

5 A No, I --

6 Q 624 North 13th Street?

7 A Oh, 624.

8 THE COURT: The coloring on our monitors is
9 really -- the -- the writing, it, like, blends in --

10 THE WITNESS: It blends in.

11 THE COURT: -- really bad with the houses on ours.
12 I think it might be easier for you to see, Ms. Luzaich. But
13 to us, we can't see it.

14 THE WITNESS: Oh, you make it -- don't do that.

15 BY MS. LUZAICH:

16 Q Does that help?

17 A Right about -- okay. Yeah. Right up here
18 (indicating).

19 Q Okay. And then the last one was on June 9,
20 three days later -- oh, wait. No. Sorry. Wait, that was --
21 oh, Ogden. Sorry. I was looking at the wrong one. Didn't I
22 just say Leroy Fowler at 1121 Ogden?

23 A Yes.

24 Q Okay. Sorry. I pointed -- I pulled the wrong way.

1 A Did you want to say Fowler?
2 Q Yeah, Fowler at Ogden. Sorry about that.
3 A This (indicating).
4 Q And then -- oh, and then Joni Hall. I'm sorry. I'm
5 just --
6 A Joni Hall's up here (indicating).
7 Q Yes, at top.
8 A (Indiscernible)
9 Q And then the last one was Guadeloupe Lopez and the
10 Zazuetas at 2850 East Cedar.
11 A Yes. Again, I'm having trouble finding the street.
12 Q Probably 'cause I --
13 A Right -- yes, right here. 285 -- (indicating) 2850?
14 Q Right. Okay.
15 A Yes.
16 Q And is this all -- oopsy. Wrong way -- in what we
17 heard called the Downtown Area Command?
18 A Yes.
19 Q So it's an area of, like, approximately how big?
20 A Oh, I couldn't -- I couldn't guess. I mean, I want
21 to say it goes from --
22 Q Oh, here. How about at least on the map --
23 A Okay.
24 Q -- does it go from Las Vegas Boulevard --

1 A Yes.

2 Q -- to the west?

3 A Past the -- past Mojave --

4 Q Mojave --

5 A Yeah.

6 Q -- to the east?

7 A Yes. Bonanza and Charleston.

8 Q Okay. And everything we've just talked about is

9 kind of contained within, pretty much, that area --

10 A Yes.

11 Q -- would you agree?

12 A Yes.

13 Q So while the task force is working on all of this,

14 kind of what are they doing?

15 A They are really saturating the area with patrol

16 officers, detectives. And they're looking for suspects

17 that -- that kind of fit the description that's -- that we

18 have. Around early morning hours and -- and late night hours.

19 Q And while they're saturating the area, what are they

20 trying to do?

21 A They're -- they're trying to identify people, either

22 through field interview cards, photographs, in some cases they

23 took DNA samples. Things like that.

24 Q And anyone matching the general description.

1 A Yes.

2 Q Did there come a time that you learned that
3 Detective Love obtained a buccal swab from somebody named
4 Justin Porter?

5 A I did.

6 Q Showing you State's Exhibit 181, do you recognize
7 Detective Love's handwriting anywhere on here?

8 A Yes, I do.

9 Q Where do you recognize her handwriting?

10 A Through -- through most of the report. She -- she's
11 got a pretty distinctive handwriting.

12 Q Okay. So does it appear to you that the date,
13 6/13/2000, would be hers?

14 A Yes.

15 Q Does it appear to you that the file number would be
16 hers?

17 A Yes.

18 Q Now, here it says "file number." Is that also an
19 event number?

20 A Yes, it is.

21 Q So what is this particular event number?

22 A That's gonna be the event that's attached to her
23 contact with Justin Porter.

24 Q Okay. So it's not attached to any Ramona Leva or

1 Joni Hall or Rumbaugh or -- it's not attached to any of that
2 just --

3 A No, it's not attached to any of those crimes.

4 Q Just the fact that she obtained a buccal swab?

5 A Yes.

6 Q So Justin Porter, at this time, was not a target.

7 A No.

8 Q They weren't looking for him.

9 A No.

10 Q He just matched the description.

11 A Yes.

12 Q Then there's handwriting that says -- I mean, you
13 can always disagree with me, if you want. I apologize --
14 "Justin D. Porter" and "Angela Smith-Porter." Would you agree
15 with that?

16 A I do.

17 Q Does that look like Debbie Love's handwriting?

18 A No, that doesn't.

19 Q And then at the bottom, where it says "signature,"
20 does either -- there's -- would you agree there's two
21 signatures there?

22 A There is. Well, there's --

23 Q Does --

24 A -- a signature and a printed name.

1 Q Okay. Does either one of them look like
2 Detective Love's handwriting?

3 A No.

4 Q And on the bottom, where it says "witness," does
5 that look like Detective Love's handwriting?

6 A Yes.

7 Q Okay. So does it appear that, based on this event
8 number, it was specifically June 13th of 2000 and kind of
9 early in the morning, since it's only the 245th call of the
10 day.

11 A Yes.

12 Q As opposed to Marlene Livingston, who at, like, 3:30
13 in the morning was a much bigger number.

14 A Yes.

15 Q So that's when she obtained the buccal swab. Would
16 you agree with that?

17 A Yes.

18 Q Did you also learn, within a few weeks of that, that
19 the lab had obtained a match between two items of evidence in
20 your series?

21 A Yes, I did.

22 Q Do you recall what those were?

23 A Yes, they -- they matched DNA found on a white towel
24 from Teresa Tyler, from her -- her case, to vaginal swabs from

1 Leva's case.

2 Q Okay. So -- I mean, it's not like Teresa's DNA was
3 on Leva's case. It was the semen --

4 A It -- the semen was matched as coming from the same
5 person.

6 Q Okay. So the semen on Teresa Tyler's towel was the
7 same person as the -- that left the semen in Ramona Leva's
8 vaginal swabs?

9 A That's correct.

10 Q And based on that -- I mean, was that kind of the
11 first big break in the case?

12 A Yes. At least we knew we had a connection.

13 Q Okay. And by then, in July, had you discovered
14 something else about the series?

15 A Yes, there -- there came a time where we -- we found
16 that the series ended.

17 Q Okay. And about when did it appear to you that it
18 ended?

19 A Some time shortly after -- after -- I think after
20 Debbie got her buccal swab on the 13 --

21 Q Or could it have been before she got the buccal
22 swab?

23 A It -- it could have been.

24 Q The last --

1 MR. GILL: Objection as to -- objection.
2 Speculation.

3 THE COURT: Sustained. Unless he knows or you want
4 to rephrase.

5 MS. LUZAICH: Okay. Let me rephrase.

6 THE WITNESS: Okay.

7 BY MS. LUZAICH:

8 Q Of all these incidents that we've discussed, is the
9 first one February 1st of 2000?

10 A Yes.

11 Q And is the last one June 9th of 2000?

12 A Yes.

13 Q And would you agree that's before June 13th, when
14 Justin Porter's buccal swab was obtained?

15 A That's correct.

16 Q Okay. Did you learn, also, that on August 10th
17 Detective Love got a phone call from the crime lab that DNA
18 actually matched to a person?

19 A Yes, we did.

20 Q And who was the person that it matched to?

21 A It came back to Justin Porter.

22 Q And once you, the collective you, received that
23 information, what started happening?

24 A Well, at that point we started -- we had to pick up

1 the game and we had to look for Justin Porter. We started --
2 I believe we started to do search warrants for his -- his
3 house where he lived with his mother.

4 Q And do you know what that address is?

5 A 203 North 13th Street, Apartment 3?

6 Q Could it be 208 North 13th Street?

7 A I'm sorry. 208 North 13th Street.

8 Q And is that on our map?

9 A Yes, it is.

10 Q Can you show us where on our map it is?

11 A Right here (indicating).

12 Q So kind of in the center of all of these events?

13 A Yes.

14 MR. GILL: Objection, Your Honor. That's testimony.

15 THE COURT: Ask the question, please. Sustained.

16 BY MS. LUZAICH:

17 Q Okay. Where is it in relation to all of the events
18 we've been discussing?

19 A It's in the Downtown Area Command. Very close in
20 proximity to all of the crimes we've been investigating.

21 Q Okay. And I'm sorry. I'm going to go back for one
22 second also. We talked about the fact that Ramona Leva's
23 vehicle was located at 1601 Marlin.

24 A Yes.

1 Q Can you point to that?

2 A That's gonna be -- I'm sorry. Marlin. I don't know
3 if I can find it, to be honest with you.

4 Q Is there a bubble that says 1601 Marlin?

5 A I'm looking -- oh, right here (indicating). Yes.
6 Okay. Yes.

7 Q Okay. So that's where Ramona Leva's vehicle was
8 found --

9 A Yes.

10 Q -- correct?

11 A Yes.

12 Q And that is -- oh, I don't know how close to
13 Justin Porter's home.

14 A It looks to be maybe within a mile, mile and a half.

15 Q Okay. And in addition, Marlene Livingston's vehicle
16 was found, you mentioned earlier, at 19th and Sunrise?

17 A Yes.

18 Q And where's that?

19 A That's right here (indicating).

20 Q Okay. So, again, in our same area --

21 A Yes.

22 Q -- correct?

23 All right. So writing a search warrant for his home, was
24 there also an effort to make contact with his family or

1 anybody who knew him?

2 A Yes, while we were preparing the search warrant
3 we -- we had people watching the apartment.

4 Q Which apartment?

5 A Sorry. Justin Porter's mom's apartment at 208 North
6 13th Street, number 3.

7 Q Okay. And you were aware that Detective Love had
8 been to that apartment --

9 A Yes.

10 Q -- when she obtained the buccal swab from the
11 Defendant?

12 A That's correct.

13 Q And we looked at that consent to search, that it
14 appeared her -- the Defendant -- or sorry -- Justin Porter and
15 his mother signed?

16 A Yes, he did.

17 Q So you said you had somebody stop Angela Porter?

18 A Yes, when they left the house, we -- we had people
19 conduct a vehicle stop.

20 Q And when was that?

21 A When we did the search warrant, I -- I believe on
22 the 10th. I don't really recall the time of day. It was in
23 the evening hours, I believe.

24 Q Okay. If somebody earlier testified that it was

1 around 11:00 o'clock at night, does that sound --

2 A Yes. Yeah, that's about right.

3 Q Okay. And when the vehicle was stopped, did you
4 have contact with the individuals in the vehicle?

5 A Yes, I did.

6 Q Who was in the vehicle?

7 A Angela Porter and Sergo Prevost.

8 Q Okay. Was it you by yourself or anybody with you?

9 A No, Detective Andersen was with me.

10 Q Who, if anyone, did you specifically talk with?

11 A I spoke with Sergo Prevost.

12 Q What was your understanding as to his relationship
13 to Justin Porter?

14 A He would be Angela's husband, and he would be
15 Justin Porter's stepfather.

16 Q Okay. And did you tell Mr. Provost [sic] anything
17 about what was going on?

18 A I believe he told him that we were investigating
19 some crimes involving Justin and we were wanting to get
20 consent to search his apartment.

21 Q Okay. Did you get consent to search his apartment?

22 A Yes, we did.

23 Q Was Mr. Provost [sic] cooperative?

24 A Yes, he was. He -- he provided a key to the

1 apartment.

2 Q Showing you State's Exhibit 1 -- oh, sorry.

3 MS. LUZAICH: May I approach?

4 THE COURT: Yeah.

5 BY MS. LUZAICH:

6 Q Showing you State's Proposed Exhibit -- oops.
7 State's Proposed Exhibit 183. I can't see either. Do you
8 recognize this?

9 A Yes, that's a consent to search card.

10 Q And how do you recognize it?

11 A It's my handwriting and -- and it's got a date and
12 the event number and my name on it. And also Sergo Prevost's
13 name.

14 Q Okay. And you say event number -- well, and did you
15 fill this out and did Mr. Provost [sic] sign it at the time
16 you were contacting him on August 10th?

17 A Yes.

18 MS. LUZAICH: Move it into evidence.

19 THE COURT: Mr. Gill?

20 MR. GILL: No objection, Your Honor.

21 THE COURT: It'll be admitted.

22 [STATE'S EXHIBIT 183 ADMITTED.]

23 MS. LUZAICH: Thank you. May I publish?

24 THE COURT: Yes.

1 BY MS. LUZAICH:

2 Q All right. Would you agree that it says "Las Vegas
3 Metropolitan Police Department consent to search"?

4 A Yes.

5 Q And where it says "date," whose handwriting is that?

6 A That's mine.

7 Q And what is the date that you wrote?

8 A 8/10 of 2000.

9 Q And under "event number," there are two numbers
10 there, would you agree?

11 A Yes.

12 Q What are those two numbers?

13 A Zero -- do you want me to tell you the number or
14 tell you what they are?

15 Q Both.

16 A Okay. The number 000201-2429 is an event number
17 related to, I believe, Teresa Tyler's.

18 Q Okay.

19 A And the event number 0003252971 is an event number
20 related to Leva's --

21 Q And --

22 A -- sexual assault case.

23 Q And that's because that was the two DNA hits --

24 A That -- that's correct.

1 Q -- that came to him --
2 A Yes.
3 Q -- is that correct?
4 A Yes.
5 Q And where it says "Sergo Prevost," whose handwriting
6 is that?
7 A That would be Sergo's.
8 Q And it talks about being informed and right to
9 refuse and it says "related to the investigation of" -- what
10 does it say?
11 A It says "robbery, burglary, and sexual assault."
12 Q Whose handwriting is that?
13 A That's mine.
14 Q And voluntarily consent to the search of the
15 address. Who wrote the address?
16 A I did.
17 Q And signature, who signed that?
18 A The signature is Sergo Prevost and the witness is
19 mine.
20 Q Okay. And he signed it in your presence; correct?
21 A Yes, I did -- or he did.
22 Q You said he also gave you a key to the apartment?
23 A Yes.
24 Q If he gave you consent and a key to the apartment,

1 why were you obtaining a warrant?

2 A We'd already started to get the search warrant
3 before we had contact with them. And it -- it was -- I don't
4 know, in the process of being done so, we decided to wait.

5 Q Have you ever had a situation where somebody gives
6 you consent, even signs it, and then comes into court and says
7 "I didn't do that."

8 A Yes.

9 Q Is a warrant the safer way to go, basically?

10 A Yes.

11 Q So you said that you spoke with him and this is what
12 he did. Did somebody speak with Mrs. Porter?

13 A Yes.

14 Q Who was that?

15 A I think that was Detective Andersen.

16 Q And as you spoke to Mr. Prevost and she spoke to
17 Mrs. Porter, were you guys together? Apart? How did that
18 work?

19 A We were apart.

20 Q Why's that?

21 A Well, I don't want him knowing what -- what she --
22 what he's saying and -- and -- and him knowing what -- or her
23 knowing what he's saying. Does that make sense?

24 Q Okay. So you're trying to keep 'em separate --

1 A You're trying to keep 'em separate so -- so the
2 information doesn't get confusing.

3 Q Okay. And he tells you what he knows and she tells
4 you what she knows.

5 A That's correct.

6 Q Okay. Once you had this -- and I'm sorry. Was
7 this -- were these conversations recorded?

8 A Yes, they were.

9 Q The --

10 A Oh, no. No. I'm sorry. They were not.

11 Q Okay. So the ones earlier were not recorded?

12 A Right.

13 Q And once you had these conversations, had you
14 physically obtained the warrant yet?

15 A No, we had not.

16 Q So what did you do pertaining to Mr. Prevost and
17 Mrs. Porter?

18 A They were on their way to -- I think they said a
19 real estate transaction. And we -- we just let 'em go.

20 Q Okay. Were they told that they can't come back?

21 A No.

22 Q Were they told that they had to come back?

23 A No.

24 Q Were they told anything about coming back --

1 A No.

2 Q -- at that point?

3 A No, they were not.

4 Q Did there come a time that they did come back?

5 A Yes.

6 Q And do you know about how much later that was?

7 A It wasn't that much later. I want -- like a quarter
8 to 12:00.

9 Q Okay. So maybe an hour --

10 A Yeah.

11 Q -- or less?

12 A Yes.

13 Q And when they came back, had you received the
14 warrant yet?

15 A No.

16 Q Were you still at the residence?

17 A Yes.

18 Q And because you had not received the warrant, were
19 you inside the residence? Were you out? Where were you?

20 A We were outside the residence.

21 Q And -- I'm sorry. My hair's in my eye.
22 And when they got back, what happened?

23 A When they got back, we told them that they could go
24 in, but we didn't want them to, you know, move everything

1 or -- or touch any of -- of Justin's properties. And I
2 believe that's when we interviewed them.

3 Q Okay. So you told them that they could go inside
4 the residence?

5 A Yes, we went in with them.

6 Q Had you told -- you didn't make them sit outside.

7 A No.

8 Q You said earlier that when you had stopped them, you
9 told them something about you were investigating crimes that
10 Justin may have committed. Did you have any further
11 discussion with them about why you were there or what you were
12 looking for?

13 A Not that I recall.

14 Q Okay. But you did, at least, briefly explain to
15 them.

16 A Yes.

17 Q And you said that once they got back and you were
18 inside, they were actually interviewed?

19 A Yes.

20 Q And that was on tape?

21 A Yes.

22 Q And was Mr. Prevost still cooperative?

23 A Yes, he was.

24 Q As you -- did you participate in -- oh, I'm sorry.

1 And you said around 11:45, is that when the interview was?

2 A I believe so, yes.

3 Q Search warrant still not obtained.

4 A No, but it's -- it's getting close, yeah.

5 Q Okay. Did there come a time that you did get a
6 search warrant --

7 A Yes, I believe --

8 Q -- signed?

9 A -- I was shortly after midnight.

10 Q Okay. And when you obtain a warrant, how does that
11 process work?

12 A The -- the detective writes out the place to be --
13 the place to be searched, what you're searching for, a
14 description of -- of the premise. And then in your affidavit
15 you put your probable cause, your reasons why you want to
16 search the -- the property. And then that is taken to a judge
17 who reads it and approves it and signs it or doesn't approve
18 it.

19 Q Okay. So you, the collective you, have to actually
20 type all of that up.

21 A Yes.

22 Q And it's not just one --

23 A Right --

24 Q -- document?

1 A Yeah, several pages.

2 Q And we're talking about 10:00, 11:00, 12:00 at
3 night. Do you actually have to go find a judge?

4 A Yes, you do.

5 Q And maybe wake one up?

6 A Yes.

7 Q And then the judge has to read it through --

8 A Yes.

9 Q -- and either, you know, say yay or nay.

10 A That's correct.

11 Q And does the judge physically sign it in the
12 presence of a police officer?

13 A Yes.

14 Q At the time the warrant is physically signed in the
15 presence of the police officer, is that when you are able to
16 conduct your search?

17 A That's correct.

18 Q All right. So you said a little after midnight?

19 A I believe so.

20 Q And did you participate in the search?

21 A I did.

22 Q And did you find some items that you were looking
23 for?

24 A We found some clothing and some shoes, yes.

1 Q Okay. Didn't find a gun.

2 A Did not find a gun.

3 Q Were you expecting to find a gun?

4 A We were hoping to find a gun.

5 MR. GILL: Objection, Your Honor.

6 THE COURT: No, I think -- I mean, he knows what his
7 expectations were or his hopes. So the answer of "yes, we
8 were hoping" will stand. It's overruled.

9 BY MS. LUZAICH:

10 Q Do suspects often keep weapons after crimes?

11 A Yes, they do.

12 Q Once you were -- well, showing you State's
13 Exhibit 338, do you recognize this?

14 A Yes, I do.

15 Q What's that?

16 A That is Justin Porter, Angela Porter, and
17 Sergo Prevost's apartment.

18 Q 339?

19 A That's it from another corner, showing the address.

20 Q Okay. And then 340, the number of the door;
21 correct?

22 A The -- yes, it's the number of the door.

23 Q Where, essentially, did you find Justin Porter's
24 articles that you were looking for?

1 A In a, like, a hallway closet. Or -- or a hallway
2 shelf area.

3 Q Showing you 341.

4 A Yes.

5 Q And 342. Is that the area you're talking about?

6 A Yes, it is.

7 Q 343, again, the shelf?

8 A Yes, that's the closet area.

9 Q And then 344.

10 A And that's a baggy with some -- some shoes and other
11 things on -- on the bathroom floor.

12 Q And 347, some more items?

13 A Some more items in the hallway.

14 Q Now, while you are searching, physically, how do you
15 go about it?

16 A Well, in this case I believe that Sergo had told us
17 that -- it's a one-bedroom apartment. And -- and he said that
18 Justin keeps his things in -- in a hallway closet area. So we
19 kind of knew where -- where we had to look. So we focused
20 there. We at any time -- I don't think we searched the entire
21 house.

22 Q Okay. So showing you -- did you toss their
23 apartment?

24 A No.

1 Q Showing you State's 354. Where's this?
2 A That's the living room.
3 Q 355.
4 A That's -- I believe that's another angle of the
5 living room.
6 Q 356.
7 A That's standing in the living room, looking out the
8 front door.
9 Q I'm sorry. And finally 358.
10 A That's the sofa in the living room.
11 Q Okay. So you didn't do any damage to the apartment.
12 A No.
13 Q You didn't throw things around.
14 A No.
15 Q Did you leave it, essentially, the way you found it,
16 other than the items that you took?
17 A Yes.
18 Q So once you have all of these items and you've been
19 to the house -- oh, I'm sorry. Did you leave anything with
20 Mrs. Porter?
21 A Yes, I left her my business card.
22 Q And what information is on your business card?
23 A My name; the detail that I work at, Sexual Assault,
24 at the time; and my desk phone number; a fax number; and I

1 don't recall if my cell number was on that at the time.

2 Q Okay. So contact information.

3 A Yes.

4 Q Once you finished serving the search warrant, what
5 did do you next?

6 A Well, I probably went home and went to sleep for a
7 little while.

8 Q Okay.

9 A But --

10 Q After you rested, what did you do next --

11 A After --

12 Q -- pursuant to the case?

13 A After that we start -- I started typing up an
14 affidavit for an arrest warrant.

15 Q With the intent that what would happen?

16 A With the intent that we would locate Justin and be
17 able to arrest him on the warrant.

18 Q Did you learn from Mr. Prevost or Mrs. Porter where
19 Justin Porter was?

20 A Yes, they said that he went to Chicago and staying
21 with his father.

22 Q Okay. And did you learn when he left for Chicago?

23 A We -- I don't think I learned the -- the exact date.
24 But it was sometime in mid to early July.

1 Q Okay. And did they give you information, little
2 more specific than just his father?

3 A Yeah, they gave us his father's name, George. I --
4 I don't recall the name right now. But I don't -- I don't
5 remember if he gave us an address or --

6 Q Or a phone number?

7 A -- a phone number.

8 Q Okay. So you were typing up the warrant. Was
9 anybody doing anything that pertained to Chicago?

10 A Yes. Detective Mike Castaneda had been in a class
11 and he'd made some contact with -- with law enforcement in
12 Chicago. So he contacted the Chicago law enforcement and
13 asked for some help to locate Justin Porter and -- and get him
14 arrested on the warrant.

15 Q Did there come a time that you were typing the
16 warrant and something happened?

17 A Yes.

18 Q What?

19 A Well, I got a phone call from Justin Porter.

20 Q Okay. How do you know that it was Justin Porter?

21 A He identified himself.

22 Q Okay. Do you remember what he said?

23 A Yeah, he -- he said -- he'd left me three -- three
24 voice messages on my phone and that his -- his mom had given

1 him my number, and she told him to call me. He said that he
2 heard that some people were saying that he committed some
3 crimes out here in Las Vegas, and he didn't commit any of the
4 crimes. And we -- we talked about that.

5 He -- he said he thought he knows somebody that did
6 commit some crimes, and he knew 'em as "Duke." I asked him if
7 he'd been willing to talk to me when he came back. He said he
8 was gonna be back on August 18th, I believe. And he -- you
9 know, he -- the way I understood it, he was willing to sit
10 down and talk with us.

11 Q In fact, did he say something specific towards that?

12 A I don't remember specifics. I'm sorry.

13 Q Okay. Do you recall what time that was, that you
14 had the conversation with him?

15 A It was about 11:00 o'clock in the morning.

16 Q And I'm sorry. You said that there were messages,
17 but you talked to him personally; correct?

18 A I talked to him personally that day.

19 Q He called you?

20 A Yes.

21 Q Did there come a time that day that you learned that
22 Chicago had actually arrested him -- or sorry -- Chicago
23 police had actually arrested him?

24 A Yes, it was some time later that evening.

1 Q When that information came through to all of you,
2 then what happened?

3 A Well, then we -- we had a line up things through our
4 department to fly to Chicago and -- so we had to line up, you
5 know, who -- who's going. We had to line up air -- airfare,
6 or air traffic and -- and try to line up hotel rooms to stay
7 there. And then, of course, contact the -- the Chicago
8 authorities and -- and get ready to try to interview
9 Justin Porter at the time.

10 Q Okay. And so you went.

11 A I did, yes.

12 Q Who else went?

13 A Detective James LaRochelle and Sergeant
14 Lori Crickett.

15 Q When you went to Chicago, do you know around when it
16 was that you got there?

17 A I want to say we arrived at around two --
18 2:00 o'clock in the afternoon on the --

19 Q Vegas time or Chicago time?

20 A I don't recall. I think it was Chicago time.

21 Q Okay. And by now is it the 12th?

22 A Yes.

23 Q When you arrived in Chicago, where'd you go?

24 A We went to, I believe it was called Area 4, their

1 precinct where -- like we -- we have the Downtown Area
2 Command, their Area 4, they were responsible for the area that
3 Justin Porter was taken into custody from.

4 Q Okay. So you went to a police station?

5 A Yes.

6 Q And did you speak with some of the detectives from
7 the police station?

8 A Yes, we did.

9 Q Specifically, did you talk to Detective Sam Cirone
10 and learned that he had been the one that went to the home and
11 arrested --

12 A Yes, we did.

13 Q -- Justin Porter?

14 And did he describe for you the circumstances behind
15 which he found Justin Porter?

16 A I -- he said he was --

17 Q You don't have to tell me what, but did he tell you?

18 A Yes, he did.

19 Q Okay. And then did you and Detective LaRochelle
20 actually interview -- well, come into contact with
21 Justin Porter?

22 A Yes, we did.

23 Q And did you conduct an interview?

24 A Yes, we did.

1 Q When you were attempting to interview him, did you
2 advise him of his rights?

3 A Yes, we did.

4 Q How'd you do that?

5 A We have a card that has your -- the Miranda rights
6 on them. And I had Justin Porter read that card to me.

7 MS. LUZAICH: I would move the rights of persons
8 card, proposed 84 [sic], in. I believe there's no objection.

9 MR. GILL: No objection.

10 MS. LUZAICH: 184. Sorry.

11 MR. GILL: Correct. No objection.

12 THE COURT: All right. Those will be admitted. You
13 can publish.

14 [STATE'S EXHIBIT 184 ADMITTED.]

15 MS. LUZAICH: Thank you.

16 BY MS. LUZAICH:

17 Q Showing you -- really teeny. I will make it big --
18 State's Exhibit 184. What is that?

19 A That is the rights of a person arrested card that
20 Justin Porter read to me.

21 Q Describe for me how that went about.

22 A We -- we -- he was brought into an interview room,
23 which was probably 8-foot-by-10-foot or 12-foot. We sat at a
24 table. We -- we talked to -- to him just a little bit to, you

1 know, make sure he was Justin Porter and this. And I handed
2 him -- I -- I told him I needed to advise him of his rights.
3 And I -- I gave him his -- the card and I asked him if he
4 could read. And he said yes. And I said, "Can you read that
5 card to me?" And he did.

6 Q The entire card?

7 A Yes.

8 Q Clearly. Read it clearly?

9 A He -- he stumbled through some of it, but it was --
10 he read it all right.

11 Q Okay. And there is a spot on it where it says "date
12 and time"; is that correct?

13 A That's correct.

14 Q Whose handwriting is that under date and time?

15 A I believe that's mine.

16 Q And what's the date?

17 A It is 8/12 of 2000 at 1700 hours.

18 Q What does it say under 1700 hours?

19 A I'm not sure. Oh --

20 Q Does it say "Chicago time"?

21 A "Chicago time." Yes, Chicago.

22 Q Okay. So in -- in people time, is that 5:00 o'clock
23 Chicago time?

24 A Yes.

1 Q And in Vegas time, is that --
2 A 3:00 o'clock.
3 Q 3:00 o'clock. Okay. So that's your handwriting.
4 Then it says signed; is that correct?
5 A Yes.
6 Q Who's handwriting is that?
7 A That's Justin Porter's.
8 Q And underneath date and time -- oops -- it says
9 "officer."
10 A Yes.
11 Q Who's that?
12 A That's my name.
13 Q B. Jensen and your P number?
14 A Yes. Right.
15 Q And then J. LaRoche, that's who's with you;
16 correct?
17 A Yes, that's correct.
18 Q So you have had him read this to you. Did you tape
19 record your interview with him?
20 A I -- I tape-recorded the interview. I did not -- we
21 had a conversation before that.
22 Q That was my next question. Was there any
23 conversation before the tape started?
24 A Yes.

1 Q Tell me about that.

2 A We sat down -- after -- after he read the Miranda
3 card and said -- said he understood it, we -- we told him what
4 we wanted to do. We said we want to talk about some crimes
5 that were committed and kind of go in order. And -- and
6 that's what we did.

7 We talked about, I believe, the Teresa Tyler sexual
8 assault, Ramona Leva's sexual assault, and
9 Marlene Livingston's sexual assault. And -- and, you know, he
10 provided details to those.

11 And then after -- after the -- the conversations with him
12 about that, then we explained to him that we're going to turn
13 on a tape recorder and we're going to go over everything that
14 we just went over and -- and he said okay.

15 Q And did you, in fact, do that?

16 A Yes, we did.

17 Q Did you provide us with a copy of that interview?

18 A Yes, I did.

19 MS. LUZAICH: Your Honor, that is State's Exhibit --
20 oops -- 441.

21 THE COURT: Okay.

22 MS. LUZAICH: I would ask for permission to publish.

23 THE COURT: And I believe that this one has been
24 in -- stipulated into --

1 MS. LUZAICH: Correct.

2 THE COURT: -- is that right, Mr. Gill?

3 MR. GILL: That's correct, Your Honor.

4 THE COURT: Okay. So --

5 MR. GILL: With -- yes.

6 THE COURT: Okay.

7 MS. LUZAICH: Okay. I'm sorry. Knocked me off

8 again and I have to get back on. Oopsy. Do I need to --

9 THE COURT RECORDER: No, you should (indiscernible)

10 [DISCUSSION OFF THE RECORD]

11 [The recording was played for the jury.]

12 MS. LUZAICH: That's what it was doing to me before,

13 knocking me out.

14 Judge, did you want to break?

15 THE COURT: We -- we can take one if you need one

16 with IT issues.

17 MS. LUZAICH: Well, now it says no internet. Oh,

18 you can't see it up there. I'll try to connect again. One

19 second.

20 It won't let me -- well, I mean, I'm getting back on. It

21 just keeps kicking me off (indiscernible).

22 It says no internet. Oop.

23 [The recording was played for the jury.]

24 MS. LUZAICH: You want to take a break?

1 THE COURT: Yeah. We're gonna take our 15-minute
2 recess at this point.

3 Please remember during this recess to not discuss or
4 communicate with anyone, including fellow jurors, in any way
5 regard the case or its merits either by voice, phone, e-mail,
6 text, internet, or other means of communication or social
7 media. Please do not read, watch, or listen to any news,
8 media accounts, or comments about the case; do any research,
9 such as consulting dictionaries, using the internet, or using
10 reference materials.

11 Please do not make any investigation, test a theory of
12 the case, recreate any aspect of the case, or in any other way
13 attempt to learn or investigate the case on your own. And
14 please do not form or express any opinion regarding the case
15 until it's formally submitted to you.

16 It is 3:05. We'll see you at 3:20. Thank you.

17 THE MARSHAL: All rise.

18 [RECESS AT 3:04 P.M.; PROCEEDINGS RESUMED AT
19 3:23 P.M.]

20 [IN THE PRESENCE OF THE JURY]

21 THE COURT: All right. Welcome back, everybody.
22 Please be seated.

23 We're on the record in State of Nevada versus
24 Justin Porter, C174954. Mr. Porter is present with Mr. Gill

1 as well as Mr. Goodwin. Both Chief Deputy District Attorneys,
2 Ms. Luzaich as well as Ms. Kollins, are present on behalf of
3 the State.

4 Retired Detective Jensen is still on the stand. He
5 remains under oath.

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

7 MS. LUZAICH: Yes, Your Honor.

8 MR. GILL: Yes, Your Honor.

9 THE COURT: All right. Ms. Luzaich.

10 MS. LUZAICH: Thank you.

11 BY MS. LUZAICH:

12 Q Detective Jensen, we just listed to the interview
13 between yourself and doctor -- doctor. Sorry -- Detective
14 LaRochelle and Justin Porter. Once you had concluded that
15 interview, what did do you?

16 A We -- the detectives and -- and the sergeant, we
17 kind of roundtabled and -- and ended for the day. The Chicago
18 cops that we were working with, they -- they drove us to the
19 hotel. We got settled in for the night and got up and went
20 back to work some time later that -- that morning or -- or
21 afternoon.

22 Q Okay. When you say "went back to work," what do you
23 mean?

24 A Oh, I'm sorry. We went back to the -- to the Area 4

1 command. And I knew we had to do one more interview with --
2 with Justin, and Detective LaRochelle wanted to go to his
3 father's house so that, you know, we had to kind of get with
4 the Chicago police to take us to different places.

5 Q Okay. So did Detective LaRochelle go to Mr. Porter
6 Senior, George Porter's house?

7 A Yes, he did.

8 Q And did he obtain anything from him?

9 A Yes, he -- Mr. Porter had the original -- or a copy
10 of the bus ticket that -- that Justin Porter used to go from
11 Vegas to Chicago.

12 MS. LUZAICH: May I approach?

13 THE COURT: Yes.

14 BY MS. LUZAICH:

15 Q Showing you State's Proposed Exhibit 442, is this
16 the original of the bus ticket?

17 A Yes, it is.

18 Q And that's what George Porter gave to Detective
19 LaRochelle?

20 A Yes.

21 Q And then you gave to us?

22 A Yes.

23 Q Thank you.

24 MS. LUZAICH: I move it into evidence.

1 MR. GILL: No objection Your Honor.

2 THE COURT: Okay. That'll be admitted. You can
3 publish if you'd like.

4 [STATE'S EXHIBIT 442 ADMITTED.]

5 BY MS. LUZAICH:

6 Q And you said you needed to do one more interview
7 with Justin Porter. Why is that?

8 A Um, well, when we were changing tapes and Detective
9 LaRochelle was asking a question, he -- he kind of went into
10 his portion of -- of the interview and -- and we kind of
11 skipped over one that I wanted to talk about yet. And -- but
12 we -- you know, after -- after a while, we just forgot about
13 it for the night. So I wanted to go back and talk to him
14 about another case.

15 Q Okay. So did you go back and tape record him again?

16 A Yes, we did.

17 Q And, again, was that at the Chicago Police
18 Department or the police station?

19 A Yes, it was the same building, same interview room.

20 Q And I should have asked you earlier, when you and
21 Detective LaRochelle were interviewing him the first day, when
22 you went into the interview room with him, were you wearing
23 clothing that at least indicated that you were police
24 officers?

1 A Yes, we -- I -- we had our badge and I think -- I
2 think the Chicago guys -- we had to wear one of their patch --
3 not a patch, but some type of identification card.

4 Q Okay. So the individual you were interviewing knew
5 that you were police officers.

6 A Yes.

7 Q Did you have guns with you in the interview room?

8 A I don't -- I don't believe so. I didn't take a gun
9 back to Chicago.

10 Q So, then, that's easy. You did not have a gun with
11 you.

12 A I -- I didn't. I don't recall if Jim had a gun on
13 his waist or not.

14 Q Okay. They don't allow guns in their interview
15 rooms, do they?

16 A I -- I don't recall. I don't know.

17 Q Okay. We listened to the interview. Did he appear,
18 physically, to you, to be cooperative?

19 A Yes.

20 Q And calm?

21 A Yes.

22 Q When you went back the second day, it was you and
23 who?

24 A It was myself and Sergeant Lori Crickett.

1 Q Did you -- you didn't have a gun, you said. Did
2 detective -- Sergeant Crickett have a gun?

3 A I don't recall.

4 Q Okay. And was his demeanor similar the same -- the
5 second day?

6 A Yes.

7 Q You said you recorded that interview as well?

8 A Yes, we did.

9 MS. LUZAICH: I have State's Exhibit 440 that I
10 would ask permission to publish.

11 THE COURT: Mr. Gill.

12 MR. GILL: I believe --

13 MS. LUZAICH: It's in evidence.

14 MR. GILL: I believe it is, Judge.

15 THE COURT: Oh, sorry. Yeah, that one is already
16 in. That was stipulated in.

17 MS. LUZAICH: Permission to publish?

18 THE COURT: Yes.

19 MS. LUZAICH: Thank you.

20 BY MS. LUZAICH:

21 Q And you provided us with that interview as well;
22 correct?

23 A Yes, I did.

24 [The recording was played for the jury.]

1 MS. LUZAICH: (Indiscernible) it won't let me in.
2 I got it.

3 [The recording was played for the jury.]

4 THE COURT: Ms. Luzaich, (indiscernible) for a
5 minute?

6 How many of you can hear the words that are --

7 UNIDENTIFIED JUROR: Cannot understand.

8 UNIDENTIFIED JUROR: Really, a couple of words.

9 THE COURT: Yeah, that's what -- I'm trying to --
10 trying to hear it but I'm not able to hear it.

11 So you will -- it's a 17-minute long interview. You will
12 have it back in the jury deliberation room where you'll be
13 able to play it for its entirety and you'll be able to hear
14 it. I don't --

15 MR. GILL: Judge, can we approach?

16 THE COURT: Yeah.

17 [BENCH CONFERENCE BEGIN]

18 MR. GILL: I'm sorry. I was just gonna suggest, on
19 this one, if the transcript goes back, I mean, is that
20 where -- where you're headed?

21 THE COURT: So I think that they'll be able to --

22 MR. GILL: Play it?

23 THE COURT: -- play it like your computer --

24 MS. LUZAICH: And hear it without the sound system.

1 THE COURT: Yeah.

2 MS. LUZAICH: Yeah.

3 THE COURT: But --

4 MS. LUZAICH: It does sound better.

5 MR. GILL: Oh, okay.

6 THE COURT: -- in here --

7 MS. KOLLINS: Do you want to try to play it through

8 the computer into a microphone?

9 THE COURT: We can try it.

10 MS. KOLLINS: Instead of doing it --

11 THE COURT: We can try that. Otherwise, what I was

12 thinking of is you can do a Q and A with him in regards to

13 what this statement is about and then send them back. You

14 know, I would encourage them to, just like all the other

15 evidence, to view (indiscernible) I don't know what else to do

16 because it's maxed out on the system.

17 MS. KOLLINS: Do we have two copies of it?

18 MR. GILL: We do, but it -- the way it's -- that's

19 what I was gonna address. The way it's, quote-unquote,

20 "redacted" is literally -- I wanted Lisa to be able to see

21 what I was scratching off. So it's literally just a line.

22 You can still read every bit of the statement.

23 THE COURT: Yeah.

24 MS. LUZAICH: Yeah, we're not sending it back. We

1 just want to (indiscernible).

2 MR. GILL: Oh, I did give a copy to Stacy.

3 MS. LUZAICH: Yeah.

4 MR. GILL: And then I've got the Court's original.

5 MS. LUZAICH: Of the --

6 MR. GILL: Yeah.

7 MS. LUZAICH: -- the second one also?

8 MR. GILL: Yes.

9 MS. LUZAICH: Oh, okay.

10 THE COURT: So what were you thinking?

11 MS. LUZAICH: Just read it now and then send back
12 the --

13 THE COURT: The only problem with that is, is like
14 what (indiscernible) something that is crossed out.

15 MS. LUZAICH: It's clear.

16 THE COURT: What?

17 MS. LUZAICH: It's clear what's out.

18 THE COURT: Is it?

19 MS. LUZAICH: Oh, yeah.

20 MR. GILL: Oh, yeah, it is. I'm just saying it's
21 clear what's crossed out. It's just, also, you have the
22 ability -- if you were to give the whole thing to the jury --

23 MS. LUZAICH: Right. Which is why I didn't ask --

24 MR. GILL: -- you would be able to read every word.

1 MS. LUZAICH: -- to send the transcript --
2 THE COURT: Yeah. Yeah. Yeah. Of course.
3 MS. LUZAICH: -- back. Yeah.
4 MS. KOLLINS: He knows, too, what -- you know.
5 MR. GILL: Stuff that's crossed out, I'm assuming
6 his been --
7 MS. LUZAICH: Okay. Yeah.
8 MR. GILL: -- talked to about it's --
9 MS. LUZAICH: Yeah.
10 MR. GILL: -- (indiscernible)
11 THE COURT: I mean. That's fine if you want to do
12 it as a reader situation because we're having audio issues.
13 MS. LUZAICH: Are you okay with that?
14 All right. Then I'll just --
15 MR. GILL: And I'll just (indiscernible).
16 MS. LUZAICH: -- I'll ask that on the record.
17 THE COURT: Okay.
18 [BENCH CONFERENCE END]
19 THE COURT: So we're trying to figure out how to
20 rectify the situation 'cause, obviously, the detective is here
21 right now -- right? -- and when you go back into the
22 deliberation room he won't be there. So I think it is, you
23 know, the State's preference and Defense preference that you
24 have the opportunity to hear and ask him questions.

1 So what we're going to do is similar to those other
2 witnesses that -- where we've had where the witness is
3 deceased, where we've had, you know, question, answer,
4 question, answer. We're just going to do that now.

5 So Ms. Luzaich is going to act like she's the Detective
6 Andersen, then retired Detective Jensen is going to ask -- act
7 like he's Mr. Porter.

8 THE WITNESS: Oh, okay. I don't even get to play
9 me?

10 THE COURT: You don't even get to play you.

11 MS. LUZAICH: Can I start from the beginning, Judge?

12 THE COURT: What did you say?

13 MS. LUZAICH: Can I start from the beginning?

14 THE COURT: Yeah.

15 So, yeah, you'll read --

16 MS. LUZAICH: Okay. So detective --

17 THE COURT: -- you don't read you.

18 THE WITNESS: Okay.

19 THE COURT: You read Mr. Porter.

20 MS. LUZAICH: Yeah. Can I leave out the secretary
21 (indiscernible) Detective B. Jensen part?

22 THE COURT: Yeah. Yeah. Just get to the Q and A,
23 please. Thank you.

24 MS. LUZAICH: Thank you.

1 BY MS. LUZAICH:

2 Q And Detective Jensen, just for the record, you did
3 also have the transcribe -- the tape transcribed and provided
4 a transcript to the State and the Defense; correct?

5 A Yes, I -- yes, I did.

6 Q Okay. So you started with -- I'm on page 2.

7 [TRANSCRIPT READING BEGIN]

8 BY MS. LUZAICH:

9 Q Justin, do you know this statement's being recorded?

10 A Yes, sir.

11 Q Is that okay with you?

12 A Yes.

13 Q Okay. Justin, we talked earlier about, uh, about
14 this gal that you met at the 7-Eleven store --

15 A Mm-hmm.

16 Q -- on or about June 7th of this year, do you
17 remember her?

18 A Yes, a white girl, heavyset, like --

19 Q Do you --

20 A -- brownish -- I mean, like gold-ish hair.

21 Q Okay. Blond?

22 A Yeah, blond.

23 Q Do you remember what kind -- what color her eyes
24 were?

1 A Mm-mmm. Uh, when -- when I'm talking to a female, I
2 really don't look at their eyes.

3 Q Where did you meet her at?

4 A Uh, she was, like, coming out of the 7-Eleven and I
5 was, like, like, coming from down -- up the street and that's
6 when I had saw her. You know, I was talking to her, like --
7 like, I was telling you, like, when I meet a female, you know,
8 my attention is to persuade them to see how I really act and
9 the stuff that I like, I, like, talk about to females is,
10 like, some stuff that you wouldn't tell your wife. And that
11 was what --

12 [TRANSCRIPT READING END]

13 MR. GILL: Your Honor --

14 THE WITNESS: -- "she'd like to hear."

15 MR. GILL: -- that -- that was a "would tell your
16 wife."

17 THE COURT: Would tell your --

18 MR. GILL: Not "would not."

19 THE WITNESS: Oh, I'm sorry.

20 [TRANSCRIPT READING BEGIN]

21 THE WITNESS: And the stuff that you would tell your
22 wife. And that was what she'd like to hear.

23 BY MS. LUZAICH:

24 Q Give me an example of what you'd tell a female.

1 A Like, "Excuse me, miss. Like, uh, can I talk to you
2 for a minute?" Female, "Excuse me, miss. You're looking
3 pretty -- pretty three and I'm a" -- "excuse me. Do you have
4 a boyfriend?" Or something like that.

5 They say yes or they either say no, understand. If they
6 say no, then I know they looking for somebody. They say,
7 yeah, it's probably they looking for somebody, but a
8 possibility, you know. They just looking for love mark here,
9 there. Then that's it.

10 Q Just like a one-night stand?

11 A Yeah, something like that.

12 Q Okay. Is there a possibility that they're not
13 looking for anything at all?

14 A Yeah, maybe. It -- it could be, but maybe it could
15 not be. It's not telling what's in a woman's mind these days.

16 Q Uh, with this gal, what did -- what did she say when
17 you asked her if she had a boyfriend?

18 A She said, yeah. She told me he in California right
19 now. And when she tell you okay, her man in California, like,
20 they see something about this man they like. They -- they --
21 and they don't necessarily have to be with this man, but they
22 want something from that man, maybe, you know, love. Want
23 some sex or something like that, to be honest.

24 Q And did you get this gal start up --

1 [TRANSCRIPT READING END]

2 MS. LUZAICH: Sorry.

3 [TRANSCRIPT READING BEGIN]

4 BY MS. LUZAICH:

5 Q Did you and this gal start up a conversation?

6 A Yes.

7 Q And what happened after your conversation?

8 A Uh, we was -- we was walking, like, back towards --
9 down the street 'cause, uh, a -- I asked her for her phone
10 number and she was, like, uh, "I ain't got one." You know.
11 But it's a -- a possibility that -- a possibility she could or
12 could not have one.

13 Q Mm-hmm.

14 A Um, we went down, uh, the street -- we went down the
15 street so I was -- oh, yeah. So we're going down the street,
16 and she showed me where she lived and -- and I think it was
17 the -- the 12, the -- the third building I remember, but I
18 know it was -- her apartment is right here by the little
19 walkway.

20 Q Okay.

21 A And once I walked her halfway, we were still
22 talking. She told me -- she was telling me stuff about she's
23 got a baby, she pregnant with one, and she got a roommate
24 that's a woman that got two other kid or -- if I'm correct.

1 It was like, "Okay. I'll stop by." So I went home -- so I
2 went home.

3 Q What did she say when you said you'd stop by?

4 A She was like, "Yeah. Cool. Come by."

5 Q Okay. And did you go back to her place later that
6 night?

7 A Yes, I did.

8 Q Do you know what time it was?

9 A I can't recall the time.

10 Q Was it early in the morning or --

11 A Well, yeah, night like -- like between early at
12 night but, like, you know, like -- uh, I can't really say.
13 But I say night, I saying dark.

14 Q Was it after midnight?

15 A I really can't say 'cause I was -- wasn't looking at
16 the time. I wasn't paying attention.

17 Q Okay. So what happened when you went back to her
18 apartment?

19 A Um, I went back to her apartment. I was knocking on
20 the door but didn't nobody come -- didn't nobody come to it.
21 So you put your foot against the door like bang, bang, bang,
22 know, like if it was -- like if I was in the room where I
23 couldn't hear -- where I couldn't nobody hear me I'd --

24 Q Right.

1 A -- have to hit the door or something -- hit the door
2 for somebody to hear me. I did one of that with the door -- I
3 did one of that with [sic] the door had opened.

4 Q Was -- was the door damaged when you got --

5 A Yes, it was. It was already damaged. When I was
6 about to come in, she was coming out of her room.

7 Q Which room was that, do you know?

8 A It was across from the bathroom.

9 Q Was it her bedroom?

10 A Yeah, she said it was.

11 Q Okay.

12 A 'Cause she didn't want me to go in the other --
13 'cause I was about to go in the other room to see what was in
14 there, but she was like, "No, that's my roommate's room." So
15 like, okay. Okay -- like, okay, we -- she come out of her
16 room. When she came out of her room, she kind of, like, sat
17 on the couch with me 'cause she said her child was in the back
18 room sleeping. So it was like, all right. Cool.

19 Q Did she tell you how old her child was that was
20 asleep in the back room?

21 A Probably. I think. I think it was, like, maybe two
22 or three years old.

23 Q What happened while you guys were sitting on the
24 couch?

1 A We was talking about things, interesting things.

2 Q Like what?

3 A Uh, like --

4 Q What was interesting?

5 A What I found interesting was that she was telling me
6 about, again, how her boyfriend was in California and all that
7 and such and such. Uh, her life is so skippy and I wasn't --
8 I wasn't really trying to hit at her.

9 So I asked her, you know, um, it was something like --
10 something I asked her. I don't quite remember. But I
11 remember asking her, like, when it happened. And when -- and
12 then we were sitting there talking for, like, at least maybe
13 an hour or 45 minutes, something like that.

14 Then I kind of got tired with all that. I knew she
15 wanted -- I knew what she wanted, and I knew what I wanted.
16 So, you know -- so my goal was to --

17 Q What do you think she wanted?

18 A Basically, I didn't know what she wanted. You know,
19 what a woman wants until you try to see, you know. What's
20 into the mood. So when I kissed her, the neck, you know what
21 I'm saying?

22 Q Mm-hmm.

23 A That gives a woman vibrating feelings that
24 wouldn't -- that I want some. But at the same time, you know,

1 it could be, you know, just out hanging if she really wants.

2 Q Mm-hmm. Did she seem to be angry when you -- after
3 you kissed her?

4 A No, she was fine with it.

5 Q And -- and then you -- you're saying your goal was
6 to do something. What was your goal?

7 A To get some. I ain't telling no story.

8 Q Okay. And when you say "get some," you mean sex?

9 A Yes, sir.

10 Q Before you guys started sitting down on the couch
11 and talking, did she fix you something to drink?

12 A Some Kool-Aid.

13 Q Do you know what -- what flavor it was?

14 A I know it was red. But, you know, red, grape,
15 chair -- I mean, uh, cherry; right?

16 Q Okay.

17 A Wasn't grape. Sorry about that. Berry or cherry.

18 Q Okay.

19 A That's what I think it was.

20 Q And did you drink it --

21 [TRANSCRIPT READING END]

22 THE WITNESS: Oh, I'm sorry.

23 [TRANSCRIPT READING BEGIN]

24 THE WITNESS: Think -- think that's what it was.

1 BY MS. LUZAICH:

2 Q And did you drink it?

3 A Yes, I did.

4 Q What kind of glass did you drink it?

5 A I think it was a cup.

6 Q Okay. So then you guys sit down on the couch and
7 you're talkin'. Were you watching television or anything?

8 A Mm-hmm.

9 Q Was the TV on?

10 A No, the TV wasn't on.

11 Q Okay. Then you kissed her on the neck?

12 A Yeah.

13 Q What happened after that?

14 A Then that's when we got into it a little bit. She
15 didn't want to be on the couch 'cause the couch being squeaky.

16 Q Mm-hmm.

17 A So we got on the floor.

18 Q Okay. Did you wear a condom?

19 A Yes, I did.

20 Q Lifestyle --

21 A Mmm, my stepfather, he always keeps a -- a whole
22 bunch of 'em in a bag behind the dryer -- or behind the
23 dresser -- behind his little dresser.

24 Q Did he give 'em to you or did you take 'em?

1 A He give 'em to -- he give 'em to me. He would even
2 tell me to give 'em -- he would even tell you he gave 'em --
3 he give 'em to me.

4 Q When you -- when you had sex with this girl, did she
5 give you oral sex?

6 A No, but I want you to -- I want you call to her.

7 [TRANSCRIPT READING END]

8 MS. LUZAICH: That's close. Can you --

9 [TRANSCRIPT READING BEGIN]

10 THE WITNESS: No, but I -- what -- I -- what you
11 call to her.

12 BY MS. LUZAICH:

13 Q You went down on her?

14 A Yeah.

15 Q Did you -- did you put your tongue in her vagina?

16 A No. You -- see, you just don't put your tongue in
17 no vagina.

18 Q Okay. What did you do?

19 A We -- well, see, my girlfriend told me once before,
20 but I never did it on her 'cause was too afraid to see what
21 she thinks -- what she think about me and what -- and want to
22 be with her.

23 Q Right.

24 A But with this girl, it was like, you know, whatever.

1 And you open this and there's a little tongue.

2 Q Uh-huh. So you just rubbed your tongue on the
3 outside of her vagina?

4 A On the little pearly tongue.

5 Q On the little pearly tongue piece. Okay.

6 Did you separate the labia, the lips?

7 A Yeah, you spread them open.

8 Q Then did you put your penis in her vagina?

9 A First we did that, then I did that.

10 Q Okay. First you put your penis in her vagina.

11 A Yeah, but, um, I didn't think I, you know, made a --
12 'cause I had a little rubber on.

13 Q Mm-hmm.

14 A But you know how, uh, rubber is.

15 Q Yeah.

16 A You know 'cause they let you know maybe if
17 there's -- if there's love and leaking into something like
18 that.

19 Q Okay. Um, after you guys got done having sex, what
20 happened? Did she say something that made you angry?

21 A I mean, me, just personally, women can, period,
22 can -- they can do some stupid stuff. But it was to the point
23 where she was like -- she didn't want no more. She had a man
24 and stuff like that. And all of that. It's just like, you

1 know, when you -- like I was telling you. When you get you
2 a -- a woman on the side, then you get a woman on this side,
3 the woman on -- the woman that you want, you want to find is
4 the one that -- that's willing to spend money on you.

5 Q Right.

6 A 'Cause, you know, you don't want to be spending
7 money on this woman, but that's how I think 'cause I'm young
8 and that's what, basically, these -- these days females is
9 doing to males and males is doing to females.

10 Q You think they're just in there -- you think they're
11 in there just for the -- just to see what they can get out
12 of --

13 A Yeah.

14 Q -- the relationship?

15 A Whatever they can get out of the relationship,
16 basically put it like that.

17 Q Did she give you anything out of this relationship?

18 A Um, kind of like gave me -- but at the same time it
19 was like giving it. The same time it was, like, just, you
20 know -- like, okay. Just tripping and stuff like -- like
21 scared, like, I didn't know what I was thinking of, you know,
22 I'm not --

23 [TRANSCRIPT READING END]

24 THE WITNESS: Hold on.

1 [TRANSCRIPT READING BEGIN]

2 THE WITNESS: You know, I'm not no scary person.

3 BY MS. LUZAICH:

4 Q We talked earlier about sometimes you would snap,
5 you get --

6 A Yeah.

7 Q Sometimes the woman get a -- say something that
8 makes you angry and you snap and you don't recognize what you
9 did.

10 A Mm-hmm.

11 [TRANSCRIPT READING END]

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

13 THE COURT: Yeah.

14 [BENCH CONFERENCE BEGIN]

15 MR. GILL: I know he's trying, but it -- it's not
16 entirely accurate, what he's reading.

17 THE COURT: Is it --

18 MR. GILL: The last "why," was simply a "why," not
19 "yeah." And --

20 THE COURT: Oh.

21 MR. GILL: And -- I -- I've let it go because it's
22 not necessarily gonna -- like, when he says "yeah" and it's
23 not "yeah," I have to object.

24 THE COURT: Yeah. Of course.

1 MS. LUZAICH: All right. You want to go back?
2 MR. GILL: So -- and I -- just -- and I get that
3 he's just -- we have to do this --
4 THE COURT: Doing his best, right.
5 MR. GILL: -- because -- because of the situation --
6 THE COURT: Yeah. I don't have it in front of me,
7 you know, so I can't make sure that it's -- so I'm just gonna
8 have to rely on you two. So (indiscernible) wrong, you just
9 say, "Please, just read it again."
10 MS. LUZAICH: Well, I did before -- I didn't
11 notice --
12 MR. GILL: I know he's trying. I know --
13 MS. LUZAICH: -- I didn't notice the "yeah."
14 MR. GILL: I know he's trying. I know --
15 THE COURT: Thank you.
16 MR. GILL: -- but the last one was the
17 (indiscernible).
18 MS. LUZAICH: I'll go back to that. Yeah.
19 THE COURT: All right.
20 MR. GILL: Yeah. Thank you.
21 THE COURT: Thank you.
22 [BENCH CONFERENCE END]
23 BY MS. LUZAICH:
24 Q Detective Jensen, I'm gonna go back a question. I

1 think I missed something. The middle of the page.

2 [TRANSCRIPT READING BEGIN]

3 BY MS. LUZAICH:

4 Q We -- we talked earlier about sometimes you would
5 snap, you get --

6 A Why --

7 Q Sometimes the women get a -- say something that make
8 you angry and you snap and you don't realize you did.

9 A Mm-hmm.

10 Q Did you become angry on this one?

11 A Yeah, 'cause it was a -- a point of like I'm saying,
12 I'm trying to use you, but at the same time I'm thinking "you
13 want to use me 'cause you don't want to be used."

14 [TRANSCRIPT READING END]

15 MS. LUZAICH: 'Cause I?

16 [TRANSCRIPT READING BEGIN]

17 THE WITNESS: 'Cause I don't want to be used.

18 BY MS. LUZAICH:

19 Q Okay.

20 A And I had one girl that ever used me before. And --
21 and that's because, you know, my -- totally my heart went out
22 to her and now that my heart is sucked back in, you know, it
23 ain't going nowhere no more. It's just been cold in that --
24 in this game.

1 As what I mean by cold as not trying to use the
2 termination of -- you know, this is a thug way of talkin'.
3 This is just a -- a player. Uh, I'm not gonna tell you no
4 story. You ask my momma, she'll tell you. Well, he have so
5 many girls calling and I see so many girls around him. But
6 when I'm at home -- at the house, you know, I go see the -- I
7 go see girls, but girls don't come to my house because they
8 all live right down the street.

9 Q When you left this -- this girl's apartment, what
10 did you take with you?

11 A Mmm, the CD player and the TV, but the TV had fell.
12 At first I -- I -- I was -- I was kind of --

13 Q How -- how did you carry the TV and the CD player
14 out of the apartment in?

15 A A stroller.

16 Q A baby stroller?

17 A Yeah.

18 Q Okay. And then you told me earlier, uh, that you --
19 that you dropped the TV?

20 A Yeah.

21 Q And you knew it wasn't -- did you think it was gonna
22 work after that?

23 A I thought, but then after you look at it and see all
24 the insides, it was busted up and all that, then you just give

1 up that.

2 Q What did you do with it?

3 A Threw it in the garbage can right there.

4 Q How about the CD player? What did you do with the
5 CD player?

6 A I kept it. But I was -- I was using it, but at the
7 same time I let somebody else use.

8 Q Who did you let use it?

9 A My girl.

10 Q Nell?

11 A Yes.

12 Q What did you do with the baby stroller?

13 A I left that at the -- on the side of the can.

14 Q Okay. Did you have a knife or -- or when you
15 snapped did you take a knife?

16 A No, sir, I did not.

17 Q Threaten the girl?

18 A No, I did not.

19 Q When you left the house, was she -- did she seem
20 upset?

21 A She was, like, it -- it won't seem like she wasn't
22 upset, but at the same time it kind of, like, she was --
23 'cause, you know, this is somebody she don't know from chicken
24 scratch. I mean, you don't know a person from chicken

1 scratch, you know? You -- you scared. Like, sometimes people
2 look at me like, you know, he might not be scared of this.
3 But the whole time, they don't know that I'm scared of that.

4 Q Scared of what?

5 A Like -- like what's going on now. I'm scared of
6 this. You know what I'm saying? 'Cause, um, I feel that if I
7 try to lie, it ain't gonna do nothing but make it worse. And
8 by me telling the truth, you know what I'm saying, it might
9 be, like, oh, yeah, you know, once we got to court and all --
10 all of that he -- he's crazy and he just such and such. But
11 then -- but when -- when the truth really hits you, go ahead.

12 Q Let me ask you a question, Justin. When the -- the
13 statements you've given us today and yesterday, have you been
14 telling the truth?

15 A Yes, I have.

16 Q Okay.

17 A I would have no reason to lie.

18 Q All right.

19 A And I would say that I told you in the courtroom.

20 [TRANSCRIPT READING END]

21 THE WITNESS: I'm sorry.

22 [TRANSCRIPT READING BEGIN]

23 THE WITNESS: And I -- I would say what I told you
24 in the courtroom.

1 MS. LUZAICH: Okay. Secretary, this will be the end
2 of the statement. Date and time of the statement is
3 8/13/2000, approximately 15:25 hours, Nevada time, 17:25 hours
4 Illinois time. Same people present during the statement.

5 [TRANSCRIPT READING END]

6 THE COURT: Thank you.

7 MS. LUZAICH: Okay.

8 BY MS. LUZAICH:

9 Q So that was the statement that he gave you the
10 second day, on August 13th; correct?

11 A Yes.

12 Q And that was pertaining to Joni Hall?

13 A That's correct.

14 Q After -- oops. Sorry.

15 After you took the statement from him, that one, what did
16 you do?

17 A We regrouped and -- and went over everything that we
18 had and -- and I believe we were going back to Vegas in the
19 morning.

20 Q So by the time you had finished there, you,
21 Detective LaRochelle and Sergeant Crickett were at least
22 comfortable that you had what you needed and were heading back
23 to Vegas.

24 A Yes.

1 Q Now, when you got back to Vegas, you couldn't bring
2 him with you; is that correct?

3 A That's correct.

4 Q Did you arrange for extradition to get him from
5 Chicago here?

6 A Yes, we did.

7 Q And that's a legal process; correct?

8 A Yes.

9 Q And not because he was being uncooperative or
10 anything like that.

11 A That -- that's correct.

12 Q Just a normal process.

13 A Yes.

14 Q That was in August of 2000; correct?

15 A Yes.

16 Q Then in -- on November 15th of 2000, did you testify
17 at a preliminary hearing in this case?

18 A I did.

19 Q And did you identify Justin Porter there?

20 A Yes, I did.

21 Q Was the person that was in court that day the same
22 person that you talked to in Chicago?

23 A Yes, he was.

24 Q Did you also testify at a hearing, an evidentiary

1 hearing in 2000?

2 A Yes, I did.

3 Q Sorry, 2004.

4 A Yes, in 2004.

5 Q 2004. Sorry about that.

6 And again, did you identify Justin Porter?

7 A Yes, I did.

8 Q And was it the same person that you had seen at the
9 preliminary hearing and at the -- in Chicago?

10 A Yes.

11 Q Thank you very much.

12 MS. LUZAICH: I pass the witness.

13 THE COURT: Mr. Gill.

14 MR. GILL: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. GILL:

17 Q Mister -- Detective Jensen. I'm sorry. You were
18 working Sex Assault in 2000?

19 A Yes.

20 Q You first started working on, was it the Livingston
21 case? The --

22 A Yes, it was Marlene Livingston.

23 Q And you were primary on that one?

24 A Yes.

1 Q And that came about through the assignment process
2 that you guys had at the time?

3 A Yes.

4 Q And then I think you mention that you -- the next
5 case that you worked on was assisting on Leva, Ramona Leva.

6 A I -- I didn't really -- I didn't do a lot of
7 assisting. That was -- I worked with Kirk Sullivan and we
8 talked about the case.

9 Q Okay. And Sullivan, at the time, was your partner.

10 A Yes.

11 Q And you had described this kind of cubicle -- I
12 don't want to call it a farm, but your cubicles were set up in
13 an open area.

14 A Yes.

15 Q And that's kind of where some of the information was
16 shared between the cases.

17 A Yes.

18 Q Now, at the time -- and, again, the time being when
19 you're working on Marlene Livingston --

20 A Mm-hmm.

21 Q -- Sullivan's working on Leva, you became familiar
22 with the Teresa Tyler case.

23 A Yes.

24 Q As well as Leona Case.

1 A Yes.

2 Q Do you -- and -- and I know you had listed some of
3 the detectives that -- that you worked with. And I'll just
4 kind of list what you mentioned was Love, Castaneda, Sullivan,
5 Thomas. You recall anybody else?

6 A Dennis Derfy.

7 Q Derfy. I'm sorry.

8 Now, do you know -- and I know it's been 22 years -- who
9 was working on Livingston with you?

10 A I was working on Livingston all myself.

11 Q Okay. Do you know who was working on the Rumbaugh
12 matter?

13 A I do not.

14 Q Okay. And do you -- Joni Hall?

15 A I -- I can't say for sure.

16 Q Okay. And -- and -- and, again, I'm just gonna ask
17 you the last three, but Ramona Leva was?

18 A Kirk Sullivan.

19 Q Okay. And then the Zazueta/Lopez matter?

20 A I -- I don't recall.

21 Q Okay. And that was a robbery; right?

22 A Yes.

23 Q So it would have been somebody from the Robbery
24 Detail?

1 A Yes.

2 Q And then lastly, the Leona Case case.

3 A Yes.

4 Q Do you recall who was working on that?

5 A No.

6 Q Okay. Now, the -- sorry.

7 MR. GILL: Court's indulgence.

8 The consent to search, did you put everything back up
9 there?

10 MS. LUZAICH: I did.

11 MR. GILL: Okay. Court's indulgence. I just want
12 to grab the consent to search.

13 BY MR. GILL:

14 Q Now, detective, you -- you testified regarding the
15 consent to search at the Angela Porter, Sergio Prevost house?

16 A Yes.

17 MR. GILL: And can we get the Elmo, please, De'Awna?

18 THE COURT RECORDER: Nope, the back --
19 (indiscernible) there you go.

20 BY MR. GILL:

21 Q And this is that consent to search card; correct?

22 A Yes.

23 Q And that's State's 183. You -- you had testified
24 that you -- you went and got this; correct?

1 A Yes.

2 Q "This" being the consent to search?

3 A Yes.

4 Q And you spoke to Sergo?

5 A Yes, I did.

6 Q And then was it Sullivan that spoke to Angela or

7 somebody else?

8 A It was Detective Andersen that spoke to Angela.

9 Q Laura Andersen.

10 A Yes.

11 Q And, again, you separated.

12 A Yes.

13 Q And that's so there's no cross contamination, if you

14 will, of the testimony or of the statement.

15 A Right.

16 Q And you -- you -- you were given a key and -- and

17 essentially given permission to search the -- the residence;

18 correct?

19 A Yes.

20 Q They had to go somewhere.

21 A Yes.

22 Q And that was a real estate transaction?

23 A I -- that's what I remember, yes.

24 Q Okay. Somewhere. Some errand.

1 A Yes.

2 Q And what time was this when you guys first
3 arrived --

4 A I don't recall.

5 Q -- do you recall?

6 A I don't recall.

7 Q I'm sorry. I didn't mean to talk over you. You
8 don't recall.

9 A I do not.

10 Q Okay. But at some point they left for 45 minutes or
11 an hour --

12 A Yes.

13 Q -- and came back.

14 A Yes.

15 Q You still waited for the search warrant.

16 A Yes.

17 Q And that's, again, the search warrant for the
18 Angela Porter, Sergo Prevost residence.

19 A Yes.

20 Q Now, you -- you were there when the -- when the
21 search warrant came back.

22 A Yes.

23 Q And when I say "came back," can you describe that?

24 A I believe we just -- we got a phone call saying that

1 the search warrant had been signed by a judge.

2 Q Okay. And was it Michael Castaneda who was --
3 Detective Castaneda --

4 A Yes.

5 Q -- who drew that up?

6 A Yes, it was.

7 Q Would it -- would it have been him that called you
8 to let you know it was good to go?

9 A I don't remember who he called. I don't remember
10 getting a call, but I know we got notified that the search
11 warrant had been signed.

12 Q Okay. And is that common procedure that somebody
13 would call you if you were at the scene?

14 A Yes.

15 Q And then you were present when -- you as well as who
16 went to the apartment? Do you recall?

17 A I -- no, me and Detective Andersen were there for
18 sure. I -- I don't recall who else.

19 Q You don't recall if Love was there? Anybody else?

20 A I don't.

21 Q Okay. But you were for sure there?

22 A Yes.

23 Q And you -- you know, and -- just going back a little
24 bit. The reason that you guys even, you know, moved -- I

1 think you moved this quickly or -- or you began ramping things
2 up was because you got a DNA hit; correct?

3 A That's correct.

4 Q And then everything kind of started from there with
5 the search warrant application?

6 A Yes.

7 Q And this search.

8 A Yes, that's correct.

9 Q And then, at the time, was it your opinion -- and --
10 and maybe the task force's opinion, if you can speak to that,
11 that one person committed these crimes?

12 A Uh, I believe we were looking at one person, yes.

13 Q And -- and before the DNA hit, you didn't know which
14 person that you might be looking for.

15 A That's correct.

16 Q But even then, you thought it was one person doing
17 this series; is that fair?

18 A If I believe so, yes.

19 Q Okay. And when I talk the series, those that I
20 listed earlier: Livingston; (indiscernible); Hall; Leva;
21 Zazueta, slash, Lopez; and Case.

22 A Yes.

23 Q Okay. And when you went to search the Porter
24 residence, after you got a search warrant --

1 A Mm-hmm.

2 Q -- were there specific items that you were looking
3 for? Do you recall?

4 A There were specific items. I -- I don't recall what
5 they were -- what -- what Mike had listed on the search
6 warrant.

7 Q And Mike being Mister -- Detective Castaneda.

8 A Detective Castaneda.

9 Q He would have listed out in that application --

10 A Yes.

11 Q -- kind of what you might find.

12 A I -- I knew we were looking for clothing, tennis
13 shoes, you know, I -- I know a knife was used on -- on some, a
14 gun was used on some. I'm sure that he would have listed
15 things like that in the search warrant.

16 Q Okay. And, now, as far as you just mentioned, gun
17 was used on some. Do you recall any others besides the
18 Zazueta matter --

19 A No, I don't.

20 Q That was the one that --

21 A Yes.

22 Q Okay. And did you recover a gun?

23 A We did not.

24 Q Did you recover a knife?

1 A No.

2 Q Did you recover any of those bandanas or scarfs that
3 were described?

4 A No, we did not.

5 Q And what about nylon stockings?

6 A No.

7 Q But you did recover, you said, shoes, I think, a
8 shirt, and shorts?

9 A Yes.

10 Q And those were recovered?

11 A Yes.

12 Q From the Porter residence, Angela Porter residence.

13 A Yes, they were.

14 Q And then -- so after that -- that was the 10th --
15 correct? -- of August?

16 A Yes.

17 Q And then I believe, and correct me if I'm wrong,
18 your testimony was the following day you received these
19 voicemails?

20 A Yes.

21 Q And those were from Justin Porter?

22 A Yes, they were.

23 Q And the prior night, you testified to Ms. Luzaich
24 that -- that you had given a business card; is that correct?

1 A To -- to his mother, yes.

2 Q And that had various contact information.

3 A Yes, it did.

4 Q Couldn't recall if it was your cell on there or not.

5 A That's correct.

6 Q But he didn't call your cell; correct?

7 A He did not.

8 Q He called the work phone?

9 A Yes.

10 Q And at -- at this point in time and, again, 22 years
11 ago, do you recall the -- the times of those voicemails?

12 A I don't recall the time of the voicemails.

13 Q Okay. But you do recall there were three?

14 A Yes.

15 Q And then when -- when you got to your desk, were --
16 were there three on the machine, if you will?

17 A I don't recall if -- if they -- if -- I think there
18 was something that flashes that tells us you have a voicemail.
19 But I can't say that I listened to 'em right away.

20 Q Okay. So they could have been sitting there for a
21 minute --

22 A Yes.

23 Q -- while you're doing other tasks?

24 A Yes.

1 Q All right. And that was in the afternoon of the
2 11th, late morning of the 11th?

3 A I would say late -- early, late morning.

4 Q Okay. And I think on direct you said approximately
5 11:00 a.m.

6 A That's when we had a physical phone call from him.

7 Q Okay. So you would have heard the voicemails
8 before.

9 A Yes.

10 Q Did you then call him or did he then call you again?

11 A He called me every time.

12 Q Okay. And, again, on your work phone.

13 A Yes.

14 Q Your desk phone.

15 A [Witness nods head.]

16 Q And was there anyone present, besides you, when the
17 phone call came in?

18 A There -- there may have been people around me, but
19 the phone call was just me talking on the receiver. I don't
20 remember if there -- I mean, I -- I know I didn't have a group
21 of detectives hovering around me --

22 Q Gotcha.

23 A -- going "what's he saying?" you know?

24 Q Okay. But there might have been people around you?

1 A There might have been people around me.

2 Q And it wasn't a -- you didn't put it on speaker.

3 A I did not.

4 Q It was just the receiver?

5 A Yes.

6 Q Okay. Now, he told you, at this point, that he was

7 gonna return a -- a -- almost exactly a week later?

8 A That's correct.

9 Q And I think he said his dad had bought him a bus

10 ticket or told you that?

11 A Yes.

12 Q And that it was the 18th of August of 2000.

13 A Yes, it was.

14 Q Now, at this point -- and I know we're -- we're

15 bouncing just a little bit. But at this point of the phone

16 call, was the arrest warrant drafted, ready to go?

17 A I think I was in the process of just finishing it

18 up.

19 Q And you were the author of that?

20 A Yes, I was.

21 Q So different from the search warrant of

22 Angela Porter's place where Castaneda drafted it. You drafted

23 the arrest warrant.

24 A Yes.

1 Q Or the affidavit that goes along with it.

2 A Yes.

3 Q Okay. And at this point when you spoke to him --
4 "him" being Mr. Porter -- did you mention anything about how
5 he's gonna be arrested or you're gonna pick him up? Anything
6 like that?

7 A I did not.

8 Q Did -- did the conversation -- was -- was it just
9 that you wanted to speak to him?

10 A Yes.

11 Q More so than what you were conversing on the phone.

12 A That's correct.

13 Q Did you happen to mention if you were gonna go see
14 him in Chicago? Anything like that?

15 A I does not.

16 Q Did you mention that you were preparing this arrest
17 warrant?

18 A I did not.

19 Q Now, later, I believe, and correct me if I'm wrong,
20 later on the 11th of August 2000, you were informed that he --
21 Justin was, in fact, arrested in Chicago.

22 A Yes.

23 Q And do you recall who -- who informed you?

24 A I'm not sure. I think it was Mike Castaneda.

1 Q Okay.

2 A Detective Castaneda.

3 Q And is it fair to say, detective, that Castaneda,
4 Love, Sullivan, they're all kind of working with you at this
5 point --

6 A Yes.

7 Q -- August 11th of 2000.

8 A Yes.

9 Q So one of those three, likely Castaneda, informed
10 you that there was an arrest in Chicago.

11 A Yes.

12 Q And -- and, again, you had testified on direct that
13 Castaneda made the contact with Chicago; correct?

14 A That's correct.

15 Q And then travel arrangements were made.

16 A Yes.

17 Q And that was for you, Crickett, and LaRochelle.

18 A That's for -- that's -- yes.

19 Q Okay. And just the three of you; right?

20 A Just the three of us.

21 Q Okay. And then you arrived the following evening?
22 Afternoon?

23 A Afternoon of the 12th, we arrived at Chicago.

24 Q And I'm not gonna ask you to do the math with the

1 central time --

2 A Thank you.

3 Q -- or daylight or whatever. So afternoon in
4 Chicago.

5 A Yes.

6 Q Of the 12th of August of 2000?

7 A Yes.

8 Q And how did that go? Were you met at the airport by
9 detectives from Chicago? How -- how did you -- how were you
10 greeted, if you will?

11 A Yeah, we -- we were met at -- at -- at the airport
12 by three -- two Chicago detectives.

13 Q And do you recall their names by chance?

14 A I don't.

15 Q Was it -- it wasn't Kato, was it?

16 A It was not Kato.

17 Q Was Cirone there?

18 A No.

19 Q Okay. So somebody different than those two
20 detectives.

21 A Yes.

22 Q And they -- they then took you to precinct 4, is
23 that the name that they gave it?

24 A Area 4, I believe.

1 Q Area 4. So when did you first meet Detective Kato?

2 A I don't recall.

3 Q Okay. Was it possibly at the substation?

4 A It -- it was at the police station. So some time
5 after, you know, two -- 2:00, 3:00 o'clock in the afternoon.

6 Q Okay. So while you're traveling there, before
7 meeting Detective Kato, did you have any conversations about
8 the case with the two detectives from Chicago that picked you
9 up?

10 A No.

11 Q And were you discussing it at all with Crickett and
12 LaRochelle, if you recall?

13 A No.

14 Q You were not.

15 A No.

16 Q Now, when you -- and -- and you met Kato at some
17 point.

18 A Yes.

19 Q And you don't recall when; is that fair?

20 A That's correct.

21 Q Just some time that day?

22 A Yes.

23 Q Did you meet anybody else? Did you meet Cirone?

24 A I -- I don't recall. I'm sure I did, but mostly

1 in -- in passing.

2 Q Okay. And -- and you were at least aware that
3 Cirone was present for the arrest.

4 A Yes.

5 Q And were you aware whether or not Kato had spoken to
6 Mr. Porter?

7 A Yes, I was.

8 Q And he told you that.

9 A Yes.

10 Q And, again, is it the same day -- and I'm not gonna
11 ask you for the time. Just some time that day?

12 A If it was, it was early that morning when he was
13 taken into custody.

14 Q Okay. Well, let me ask you this: Was it prior to
15 you interviewing Mr. Porter?

16 A Yes.

17 Q You had that conversation with Kato.

18 A Yes.

19 Q Now, did he mention anything about the -- the
20 discussion he had with Mr. Porter?

21 A No.

22 MS. LUZAICH: Can we approach?

23 THE COURT: Sure.

24 [BENCH CONFERENCE BEGIN]

1 MR. GILL: Just (indiscernible).
2 MS. LUZAICH: (Indiscernible) go into the
3 (indiscernible).
4 MR. GILL: Okay. We'll stay --
5 THE COURT: What was it?
6 MR. GILL: We're not gonna -- because we don't have
7 Kato and because he confessed to many other things --
8 MS. LUZAICH: Well, I -- I was just trying to make
9 it clean. And I did not ask the Chicago -- he -- he made a
10 full confession to Chicago as well.
11 THE COURT: He did what?
12 MS. LUZAICH: He made a full confession to Chicago
13 as well.
14 THE COURT: Ah.
15 MR. GILL: Which --
16 MS. LUZAICH: And then he confessed --
17 MR. GILL: Okay.
18 MS. LUZAICH: -- to Barry and LaRochelle.
19 MR. GILL: I'll skip ahead.
20 MS. LUZAICH: But I was just trying to clean and not
21 bringing in Chicago.
22 MR. GILL: I'll -- I'll skip it.
23 THE COURT: Okay.
24 MS. LUZAICH: Chicago is not recorded. That's why.

1 MR. GILL: Correct.

2 THE COURT: Got it.

3 [BENCH CONFERENCE END]

4 BY MR. GILL:

5 Q Now, at some point, detective, you guys do sit down
6 for that first interview; correct?

7 A Yes, we do.

8 Q "You" being Crickett, LaRochelle, yourself.

9 A Just me and Jimmy LaRochelle.

10 Q For that first one.

11 A Yes.

12 Q And that was on the 12th; correct?

13 A Yes.

14 Q Now, did you kind of a -- I don't want to call it a
15 preinterview, but you spoke to Mr. Porter before turning on
16 the tape recorder.

17 A That's correct.

18 Q And somewhat common; is that correct?

19 A Yes.

20 Q And why do you do that?

21 A That was the -- the common practice back in the day.
22 You do that to get the -- get the person that you're
23 interviewing talking to see what kind of information he --
24 he's going to be able to provide you. And -- and, you know,

1 what information he's got off his head.

2 Q So before doing that, do you Mirandize him?

3 A Yes.

4 Q And you mentioned that you had him read that card;
5 correct?

6 A I did.

7 Q And I'm showing you 184 and that's the -- that's the
8 Miranda -- that's a copy of the Miranda card that you had
9 Mr. Porter sign.

10 A Yes, that's correct.

11 Q You also had him read it?

12 A Yes.

13 Q And you testified that he -- he had some trouble
14 with some of the words.

15 A Yes, like -- like I had trouble with his statement.

16 Q Okay. So you previously -- in this case, you just
17 read Mr. Porter's statement --

18 A Yes.

19 Q -- and Ms. Luzaich played you.

20 A Right.

21 Q And your recollection was he was just having trouble
22 reading, not understanding; is that fair?

23 A That's correct.

24 Q And I don't want to put words in your mouth.

1 A No. No.

2 Q But he read it kind of slowly and deliberately?

3 A Yes.

4 Q Do you recall which words he might have stumbled
5 upon?

6 A I -- I do not.

7 Q But did you ask him if he needed any of the words
8 defined?

9 A No.

10 Q Did -- did it seem like he did?

11 A No.

12 Q And then after he read it, did you read it back to
13 him, do you recall?

14 A I don't recall.

15 Q Now, as part of that -- and -- and if it's okay I'll
16 call it the "preinterview." Is that also to kind of establish
17 rapport with the -- with the person that you're interviewing?

18 A Yes, it is.

19 Q And did you feel like you did that, accomplished
20 that with Mr. Porter?

21 A I think so.

22 Q And it was -- I mean, we heard the first one, the
23 first interview from the 12th.

24 A Mm-hmm.

1 Q We were able to listen to that. And was it a
2 friend -- would you describe it as friendly?

3 A I would describe it as non-confrontational.

4 Q Okay. Non-confrontational. And is "relaxed" a fair
5 word?

6 A Yes.

7 Q And that's from both you and Mr. Porter; correct?

8 A That's correct.

9 Q And LaRoche was -- was present at some point.

10 A Yes.

11 Q Now, you don't tape the preinterview; right?

12 A I did not.

13 Q And that's not -- I think you described, that's kind
14 of to get rid of some of the stuff that you -- you're just not
15 going to go into on the taped portion.

16 A Well, anything that we -- we talk about on the
17 preinterview, we're gonna talk about on the -- on the recorded
18 interview.

19 Q So you are doing -- in that preinterview, you're not
20 just establishing rapport with the subject, you're also
21 getting some facts.

22 A Yes.

23 Q And those facts are reviewed once the tape
24 recorder's turned on.

1 A Yes.

2 Q And now, we -- we did listen to the recording from
3 the 12th and we read the recording from the 13th.

4 A Yeah.

5 Q There were two; correct?

6 A Yes.

7 Q And during the Teresa Tyler portion, did you provide
8 Mr. Porter with some of the facts, almost to refresh his
9 recollection?

10 A I -- I think with her it -- she was the girl that he
11 met from the Showboat. And that -- that's how I kind of
12 refreshed his mind with that.

13 Q Okay. So you -- you -- you had given him that
14 information --

15 A Yes.

16 Q -- and then he spoke about it.

17 A Yes.

18 Q Now, did you ask him on that one if -- if he took
19 any money? Do you recall that?

20 A I -- yeah, I did. I think I asked him if he took
21 money.

22 Q Or if he was given any money.

23 A Right.

24 Q You asked both; right?

1 A Yes.

2 Q And what was his response?

3 A He said no.

4 Q And then you asked as well if he used a knife?

5 A Yes.

6 Q Do you recall his response?

7 A I don't recall it.

8 Q Now, from the actual interview on the 12th, the one

9 that we listened to and had -- had a good recording of --

10 A Yes.

11 Q -- did you generate any kind of report from that?

12 A I did not.

13 Q Okay. And did you generate a report from the

14 following day's interview, the 13th one we read?

15 A I did not. Other than to have those recordings

16 transcribed.

17 Q Oh, and -- and, obviously, there are transcriptions

18 of that --

19 A Yes.

20 Q -- yeah. And you had a chance to review them.

21 A Yes.

22 Q Now, did you -- you -- you provided kind of that

23 Showboat information on the Teresa Tyler.

24 A Yes.

1 Q Do you recall if you provided him any information on
2 Leona Case?

3 A I think Leona Case -- I don't recall what we -- how
4 we reminded him of her.

5 Q Maybe that -- you -- maybe asking him if he had seen
6 her any time prior?

7 A Yes, I think so.

8 Q Okay. And -- and then on Marlene Livingston, did
9 you do the same thing?

10 A I -- I asked him, I said, do you -- she lived close
11 to the Showboat. And I said, "Do you remember an older lady
12 that lived near the Showboat?" And -- and he said yes.

13 Q So older lady and Showboat got him talking?

14 A Yes.

15 Q And what about Ramona Leva? Did you provide any --
16 any cues to him on Ramona Leva that you recall?

17 A Not that I recall -- uh, I think she's the one from
18 the 7-Eleven.

19 Q Would that -- might -- maybe be Joni Hall.

20 A Oh, I'm sorry. Yeah. I don't recall the clue I
21 gave him for -- for Ramona Leva.

22 Q Okay. So Joni Hall was potentially 7-Eleven and
23 boyfriend in California; correct?

24 A Yes.

1 Q And then LaRochelle did most of the questioning on
2 the Zazueta/Lopez matter; right?

3 A Yes, he did.

4 Q Throughout these -- these two days of interviews,
5 did he ever mention any of the victim's by name?

6 A No.

7 Q Do you -- did you ask him if he knew any of their
8 names?

9 A I don't recall.

10 Q As for the -- the Leva matter, when you were
11 questioning Mr. Porter, he -- he denied any knowledge of that;
12 correct?

13 A Yes.

14 Q Did you end up asking him about it on the taped
15 portion?

16 A I don't recall.

17 Q So if -- if -- and if you recall, would he have
18 denied it maybe during the preinterview and then you wouldn't
19 ask him? Is that something that -- that likely happened or --

20 A No, if -- if he denied it on the preinterview, we'd
21 ask him about it on the recorded interview and have him deny
22 it.

23 Q Okay. Just to get that denial.

24 A Yes.

1 Q And then, you -- you did go back -- right? -- the
2 next day and ask questions about Joni Hall; right?

3 A Yes, we did.

4 Q And -- and why didn't you ask any questions about
5 Joni Hall the first day?

6 A Okay. It -- it's gonna sound kind of weird, but
7 when I was interviewing him and then, towards the end, when I
8 asked Detective LaRochelle if he had any other questions --
9 or -- he changed the tape, he kind of took over the interview
10 and started asking him about the robbery. And -- and I just
11 forget about asking about Joni Hall. And so at the end of the
12 day, when we're talking, we realized that we skipped
13 Joni Hall.

14 Q And "we" being you and --

15 A Me, Lori Crickett and -- and Detective LaRochelle.
16 So, you know, we put our game plan for the next day together,
17 where LaRochelle was gonna go with Chicago PD to
18 Justin Porter's dad's house and Lori and I would do other
19 things and then go interview Justin again.

20 Q Did you guys originally plan to go back or did you
21 go back just for the Joni Hall statement? Do you recall?

22 A I don't recall.

23 Q But -- you -- when you booked your travel plans, did
24 you also book when you'd leave? Does that make sense? Like

1 your --

2 A We -- we booked -- we booked a three-day travel,
3 just in case.

4 Q Okay. So you -- you didn't -- had another day.

5 A Right. Right.

6 Q Now back to this -- and I'm showing, again, 184,
7 which is the Miranda. When you first started recording, did
8 you -- you had him read it into the record? Or onto the
9 recording?

10 A No.

11 Q And then -- but you did have him read it prior to
12 that.

13 A On the second one?

14 Q No. No. No. I'm sorry, sir --

15 A On -- on the first --

16 Q -- on -- on the first one.

17 A -- on the 12th. Yes, I had him read it prior to the
18 recording.

19 Q Okay. And then on the 13th, you -- you reminded him
20 that he was still Mirandized; is that right?

21 A I don't know if we did or not --

22 Q Okay.

23 A -- but -- but we continued to talk to him.

24 Q And, again, Ms. Luzaich asked you if -- if he knew

1 who you were, and -- and he did.

2 A Yes.

3 Q And -- and he had called you.

4 A Yes.

5 Q Correct?

6 A Yes.

7 Q Prior. Two days prior -- or a day or two prior.

8 Now -- and then he obviously waived those rights when
9 you -- when you had him read the Miranda card; correct?

10 A That's what I understood.

11 Q And agreed to talk to ya.

12 A Yes.

13 Q Now, and just want to focus ya on Teresa Tyler for a
14 moment.

15 A Okay.

16 Q Did he mention any kind of speech impediment? Do
17 you recall that in the statement?

18 A Yes.

19 Q And did you ever have a chance to interview
20 Ms. Tyler or see --

21 A I -- I did not.

22 Q Or speak to her at all?

23 A I did not.

24 Q Other detectives maybe?

1 A Yes.

2 Q Were you aware of this speech impediment?

3 A No.

4 Q And then you -- you also -- I think I asked you this
5 previously. You asked him a couple of times if he took any
6 money from Ms. Tyler and he said no?

7 A That's correct.

8 Q And he wasn't given money.

9 A That's correct.

10 Q And then he also admitted to meeting her at least a
11 day prior to whenever the allegations occurred.

12 A Yes.

13 Q Now, on Leona Case, did you give him the address or
14 describe kind of where Ms. Case lived?

15 A I don't recall.

16 Q Would it have been kind of near his sister? Do you
17 recall that?

18 A Oh, yes. We -- that's how we -- we refreshed his
19 memory. We said it was where his sister lived in the
20 apartment complex. She lived in the same apartment complex.

21 Q Okay. And then he told you and -- and Detective
22 LaRochelle that he had met her about three days prior.

23 A Yes.

24 Q And they had, quote-unquote, "gotten together

1 before."

2 A That's correct.

3 Q And that -- that included at least making out, maybe
4 not sex.

5 A Correct.

6 Q But there was some physical contact a few days
7 prior.

8 A Yes.

9 Q And then it was this three days later or so, the day
10 of the alleged crimes, that he asked to use the phone.

11 A Yes.

12 Q And he went back over to her house; right?

13 A Yes, he did.

14 Q And then you asked him about Ms. Case, if he hit her
15 in the face.

16 A Yes.

17 Q And he said he did not; correct?

18 A That's correct.

19 Q And he -- you asked if they had sex --

20 A Yes.

21 Q -- and he admitted that they did.

22 A Yes, he did.

23 Q But he all -- but you also asked about oral and he
24 said no to the oral.

1 A That's correct.

2 Q He -- he admitted to stabbing her; correct?

3 A Yes.

4 Q I think he said it was accidental and twice.

5 A Yes.

6 Q And back -- as far as the sex goes, it was vagina
7 sex only; correct?

8 A That's what he says.

9 Q That's what -- and, again, I'm sorry. This's
10 what -- that's what his statement was to you in the interview.

11 A Yes.

12 Q Now, there was also discussion about this smoke
13 detector in Leona Case's house. Do you recall that?

14 A I do.

15 Q Do you recall anything about that during the
16 preinterview on August 12th?

17 A Yes.

18 Q And what do you recall, detective?

19 A On -- on the preinterview he told us that the smoke
20 alarm -- or smoke detector went off so he took the -- he just
21 took the batteries out of it. But we -- we've known from
22 talking with other detectives that the smoke detector was --
23 was broken. And I said, "Come on. You -- you did more than
24 just take the batteries out." And I -- and I believe he said,

1 yeah, he -- he may have done a little something to it or
2 something like that.

3 Q And that was prerecording; right?

4 A Yes.

5 Q Now, moving on to Marlene Livingston. Did -- did he
6 happen to mention to you that he -- he did not -- he had not
7 met Ms. Livingston prior to the date?

8 A I think he said that he may have seen her before in
9 the area.

10 Q But they had not --

11 A But -- but he had not met.

12 Q Okay. And then you asked him about did he carry the
13 knife to her door. Do you recall that?

14 A Yes, I do.

15 Q And what did he say?

16 A He said no.

17 Q And then you also asked if he picked up a knife once
18 he was in the apartment. And what did he say to that?

19 A He said no.

20 Q And then he couldn't recall if he cut the phone
21 cord; is that right?

22 A That's correct.

23 Q You asked him about the phone cord and he said "I
24 don't recall."

1 A That's right.

2 Q But he admitted to taking her car; correct?

3 A Yes, he did.

4 Q So some of the -- as far as Ms. Livingston goes, he
5 made admissions to some things, didn't recall others, and then
6 denied some things; is that fair?

7 A That's correct.

8 Q You also asked him, at some point, about shoes.

9 A Yes.

10 Q And he said -- he started with "I only own Nikes."
11 And I think it was LaRochelle who said, "What about Saucony?"

12 A Right.

13 Q And he admitted to having some Sauconys, but he
14 loaned them out at some point.

15 A Yes, and -- and he got 'em back.

16 Q And he got 'em back.

17 A Yes.

18 Q And those are the same Saucony that you found at
19 the house.

20 A I think so.

21 Q Okay. But those were the -- are you assuming that
22 those were the ones that were loaned out or do you know?

23 A I'm assuming they're the ones loaned out, but I
24 don't know. He only had one pair of Sauconys, so --

1 Q Okay. Did you find any Nikes in there?

2 A I did not.

3 Q And as far as, like, photos, did you take any photos
4 with you to Chicago of any of the alleged victims?

5 A I don't believe so.

6 Q Okay. And -- and if you didn't take them, then you
7 wouldn't have shown him any; correct?

8 A That's correct.

9 MR. GILL: Court's indulgence.

10 Nothing further, Your Honor. Thank you.

11 Thank you, detective.

12 THE WITNESS: Thank you.

13 THE COURT: Redirect?

14 MS. LUZAICH: No.

15 THE COURT: Questions from the jurors?

16 [DISCUSSION OFF THE RECORD]

17 [BENCH CONFERENCE BEGIN]

18 [DISCUSSION OFF THE RECORD]

19 THE COURT: So (indiscernible) question
20 (indiscernible).

21 MS. KOLLINS: Mm-hmm.

22 THE COURT: So Adam's gonna go tonight to talk to
23 him. For some reason he changes his mind or (indiscernible).

24 MS. LUZAICH: He's not gonna.

1 MR. GILL: And that's --

2 MS. LUZAICH: You know, and I always thought I was
3 eternal optimist. Adam, you may beat me on this one.

4 THE COURT: Will you check (indiscernible) when you
5 go back to sit down.

6 MR. GILL: Yeah. Yeah. Yeah. Of course.

7 THE COURT: And then --

8 MR. GILL: Of course.

9 THE COURT: -- (indiscernible) just let me know
10 that -- kind of change what we do tomorrow.

11 MR. GILL: Yeah.

12 MS. KOLLINS: And I sent you -- 'cause I added a
13 couple of instructions --

14 THE COURT: Yeah, I saw that.

15 MS. KOLLINS: -- and I sent you the final set
16 (indiscernible).

17 MR. GILL: And when did you want to finalize those,
18 Judge? Tomorrow at some point?

19 THE COURT: Probably, yeah.

20 Thank you.

21 (Indiscernible)

22 MS. KOLLINS: (Indiscernible) when he stated
23 (indiscernible).

24 MR. GILL: That kind of misstates it 'cause he

1 doesn't say that (indiscernible).

2 MS. LUZAICH: Yeah.

3 MR. GILL: I don't think that --

4 THE COURT: Well, I was -- yeah (indiscernible) --

5 MR. GILL: No, I --

6 MS. LUZAICH: I'm telling you, we need to get rid of
7 this guy. He's not paying attention --

8 MR. GILL: (Indiscernible)

9 MS. LUZAICH: -- to the trial at all.

10 THE COURT: (Indiscernible) 'cause he
11 (indiscernible) that's the thing --

12 MR. GILL: He pays enough attention.

13 THE COURT: -- (indiscernible) attention and writes
14 notes at the time. But then when we get these questions, I'm
15 like, did I miss that? So what do you do?

16 MR. GILL: The only thing is (indiscernible) house.
17 That's it.

18 THE COURT: They what?

19 MR. GILL: They didn't find the gun at the Porter
20 residence. That's it.

21 THE COURT: But --

22 MS. KOLLINS: How does he get the gun inside Kris's
23 house?

24 THE COURT: How -- right.

1 MS. LUZAICH: It wasn't.

2 MS. KOLLINS: I know. I mean --

3 THE COURT: But I think that's, like, a pertinent
4 point we need to clar --

5 MS. LUZAICH: I know. But there's no testimony
6 about that. That's why I have no idea where he got that.

7 THE COURT: (Indiscernible)

8 MS. LUZAICH: No.

9 MS. KOLLINS: He said (indiscernible) -- Kris was
10 his cousin.

11 THE COURT: Yeah.

12 MS. LUZAICH: Yeah.

13 MR. GILL: And then we cut everything else out.

14 MS. LUZAICH: And that he had nothing to do with
15 this.

16 MS. KOLLINS: (Indiscernible)

17 MS. LUZAICH: Yeah. And that --

18 THE COURT: What was that?

19 MS. LUZAICH: -- Kris had nothing to do with this.

20 MR. GOODWIN: (Indiscernible)

21 MS. KOLLINS: Yeah, and Kris had nothing to do with
22 this.

23 THE COURT: So --

24 MS. LUZAICH: Any of this.

1 THE COURT: -- should we --
2 MR. GILL: Should we just ask that? If Kris -- you
3 know --
4 MS. LUZAICH: I think we need to just get rid of the
5 juror.
6 THE COURT: Do you want me to say, just to Juror
7 Number 10, there was -- there -- at no point was --
8 MR. GILL: Kris was not involved.
9 THE COURT: What?
10 MR. GILL: The testimony was that Kris is not
11 involved.
12 MS. LUZAICH: Kris is not involved at all.
13 MR. GILL: So can --
14 THE COURT: But he said that.
15 MS. KOLLINS: Yeah. Yeah. In his interview. He
16 said Kris was not involved.
17 MR. GILL: Yeah --
18 THE COURT: But what -- did he --
19 MR. GOODWIN: He did.
20 THE COURT: Did he say specifically --
21 MS. LUZAICH: Yeah.
22 MR. GILL: He specifically said -- and I can find
23 the page --
24 MS. LUZAICH: Yeah.

1 MR. GILL: -- maybe just read that back.

2 THE COURT: So why don't we do this: I'm just gonna
3 say -- instead of asking this question --

4 MR. GILL: You want me to just find the --

5 THE COURT: -- I'm gonna ask the attorneys to do
6 some follow-up with you because this -- this question has --
7 was not supported by any evidence.

8 MR. GILL: Let's find that page --

9 THE COURT: And then turn it over to you.

10 MR. GILL: -- maybe just reread it.

11 MS. LUZAICH: I don't know how we're gonna find it.
12 Okay.

13 [BENCH CONFERENCE END]

14 THE COURT: Okay. So the attorneys are going to do
15 some follow-up because this question was not supported by the
16 statements. So this has never come into evidence. So they're
17 gonna ask some clarification to the detective to clear it up.
18 So I'm sorry. Did the State want to start or Mr. Gill? I
19 didn't -- that specifically.

20 MR. GILL: If we can have the Court's indulgence --

21 THE COURT: Sure.

22 MR. GILL: -- I'll at least find -- and I can ask
23 the question if --

24 MS. LUZAICH: Go ahead.

1 MR. GILL: All right.

2 RECROSS-EXAMINATION

3 BY MR. GILL:

4 Q Detective -- and you were -- you had mentioned that
5 LaRoche kind of took over at some point towards the end of
6 the interview on the 12th?

7 A Yes.

8 Q And that's the 12th of August of 2000.

9 A Yes.

10 Q And I'm gonna show you page 52 of that statement.
11 And if you can just read the portion -- and it's not
12 numbered --

13 MR. GILL: The lines aren't numbered, Judge.

14 THE COURT: That's okay. Just go ahead and point it
15 to him.

16 BY MR. GILL:

17 Q If you could just -- to refresh your recollection --

18 A You want me to start here?

19 Q Start -- no. Start with "was."

20 A Okay. "Was your" --

21 Q Not -- not read it out loud. Just to yourself.
22 It's okay. I'll ask you --

23 A Sorry.

24 Q You're fine.

1 Does that refresh your recollection?

2 A Yes.

3 Q So LaRochelle asked him if -- if his cousin Kris was
4 involved in any of the crimes. Do you recall that?

5 A I do.

6 Q And what was Justin's response?

7 A No.

8 Q No, he was not involved.

9 A That's correct.

10 Q Thank you.

11 THE COURT: Anything, State?

12 MS. LUZAICH: No, Judge.

13 THE COURT: All right. Detective, thank you so
14 much. Please don't share testimony with anyone else involved
15 in the case as it is ongoing, but you are excused. We
16 appreciate you being here.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: Thank you.

19 State, did you want to check the exhibits list?

20 MS. LUZAICH: Yes, I was -- I was just waiting until
21 he --

22 [BENCH CONFERENCE BEGIN]

23 THE COURT: (Indiscernible)

24 MR. GILL: You can read body language.

1 THE COURT: Yeah. Uh-huh. Yes. It was pretty
2 clear from here.

3 MR. GILL: Okay.

4 THE COURT: Okay.

5 MR. GILL: And I don't -- I know --

6 THE COURT: Yeah. That's fine. So --

7 MR. GILL: What time tomorrow? 11:00?

8 [BENCH CONFERENCE END]

9 MS. LUZAICH: Your Honor, at this time --
10 Your Honor, at this time State rests presentation of its
11 case-in-chief.

12 THE COURT: Okay. All right. So the State has
13 rested their case-in-chief at this point in time. We'll
14 resume the trial tomorrow at 11:00 a.m. Though, I have a
15 criminal calendar in the morning, but we've shortened it up.
16 That starts a little bit before 9:30, so we should be done by
17 11:00 o'clock and then continue the trial.

18 So please remember during this recess not to discuss or
19 communicate with anyone, including fellow jurors, in any way
20 regard the case or its merits either by voice, phone, e-mail,
21 text, internet, or other means of communication or social
22 media. Please do not read, watch, or listen to any news,
23 media accounts, or comments about the case; do any research,
24 such as consulting dictionaries, using the internet, or using

1 reference materials.

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

7 Have a nice night. I will see you tomorrow morning at
8 11:00 a.m. Thank you very much.

9 THE MARSHAL: All rise.

10 [OUTSIDE THE PRESENCE OF THE JURY]

11 THE COURT: All right, guys. So as in regards to
12 scheduling -- we can go off De'Awna. We're just talking about
13 scheduling.

14 [Hearing concluding at 4:34 p.m.]

15 *****

16
17 ATTEST: I do hereby certify that I have truly and
18 correctly transcribed the audio/video proceedings in the
above-entitled case to the best of my ability.

19
20
21 
22 ALLISON SWANSON, CSR NO. 13377
23 CERTIFIED SHORTHAND REPORTER
24 FOR THE STATE OF CALIFORNIA

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STATE OF NEVADA,)
)
 Plaintiff(s),) CASE NO. 01C174954
)
 vs.)
) DEPT. NO. VI
 PORTER, JUSTIN D.,)
)
 Defendant(s).)

I N D E X O F W I T N E S S E S

DEFENSE'S WITNESSES:

DAY

PAGE

JUSTIN PORTER

DIRECT EXAMINATION BY MR. GILL

10

16

CROSS-EXAMINATION BY MS. LUZAICH

10

33

REDIRECT EXAMINATION BY MR. GILL

10

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1 Las Vegas, Nevada, Thursday, September 15, 2022

2 [Case called at 11:32 a.m.]

3 *****

4 [OUTSIDE THE PRESENCE OF THE JURY]

5 [DISCUSSION OFF THE RECORD]

6 THE COURT: All right. We're on the record in State
7 of Nevada versus Justin Porter, C174954. Mr. Porter is
8 present out of custody with Mr. Gill present on his behalf.
9 Both Chief Deputy District Attorneys, Ms. Luzaich as well as
10 Ms. Kollins, are present on behalf of the State. We're
11 outside the presence of the jury.

12 Mr. Gill -- good morning, Mr. Porter.

13 THE DEFENDANT: Good morning.

14 THE COURT: Mr. Gill --

15 MR. GILL: Your Honor --

16 THE COURT: -- I know Defendant is having --
17 starting their case-in-chief. Is there anything that you
18 wanted -- any housekeeping matters you wanted to discuss?

19 MR. GILL: Judge, I was able to speak for a couple
20 hours with Mr. Porter last night --

21 THE COURT: Right.

22 MR. GILL: -- thank you to your staff --

23 THE COURT: Yeah.

24 MR. GILL: -- for helping arrange that.

1 We did talk about his right to testify and how that right
2 is his and his alone. Mr. Goodwin was present, as well as my
3 investigator. It was our opinion, and it has been, that --
4 that he not. But, obviously, it's not our call, it's his
5 call. And he is, I believe, choosing to testify this morning.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Is -- okay. So, Mr. Porter, like we've
8 spoken about, like I explained to the jury when it was
9 prospective jury panel, and like I explained to you, you are
10 the only person that can make that decision -- right? --
11 whether or not you should testify. And so at this point in
12 time you're choosing to exercise that right; is that correct?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And you had the opportunity to discuss
15 this with Mr. Gill and Mr. Goodwin. You understand that it is
16 against their advice but, again, this is your choice and
17 you're choosing to make that decision; correct?

18 THE DEFENDANT: Against my attorney's advice, I --
19 I'm gonna testify.

20 THE COURT: Okay.

21 THE DEFENDANT: And not only that, I feel that I'm
22 being forced because of the outcome of the -- the whole
23 situation in the court with, you know, my statement coming in,
24 so I have to testify. So upon that point, yes, ma'am.

1 THE COURT: Well, so I just --

2 MR. GILL: And if I can articulate that a little
3 bit, Judge.

4 THE COURT: Yeah.

5 MR. GILL: I think -- and, Mr. Porter, correct me if
6 I'm wrong.

7 THE DEFENDANT: Right.

8 MR. GILL: The testimony that's been entered so far
9 in the trial is -- is what he thinks he needs to rebut; is
10 that fair, Mr. Porter?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: So they heard certain portions and you
13 feel like, well, that put me in a position where I need to
14 explain the whole story; is that fair? Or other portions of
15 it.

16 THE DEFENDANT: That as -- that as well. And like I
17 say, due to the outcome of all the proceedings that we've been
18 going through, dealing with the -- the statement and all that,
19 that's -- that's one of the -- the reasons why.

20 THE COURT: Okay.

21 MR. GILL: And, Judge, I just -- and I -- I think
22 Mr. Porter will understand, I -- I kind of take exception to
23 the word "forced."

24 THE COURT: Yeah. Which is what I did.

1 MR. GILL: Because I don't want the --

2 THE DEFENDANT: I'm not saying my lawyer's forcing

3 me. Not by no chance am I saying my lawyer forcing me.

4 THE COURT: No, I know. But the word "forced" is

5 just, legally, a difficult word for all of us.

6 THE DEFENDANT: Okay.

7 THE COURT: What -- what you're saying -- what

8 Mr. Gill is saying is --

9 THE DEFENDANT: What -- no -- and -- and no part of

10 my attorney --

11 THE COURT: I know.

12 THE DEFENDANT: -- that I feel that my lawyer's

13 forcing me.

14 THE COURT: I know.

15 THE DEFENDANT: I'm just saying to the whole outcome

16 of the court progresses and all that.

17 THE COURT: Right.

18 THE DEFENDANT: That I feel that I'm compelled to

19 have to.

20 MR. GILL: He feels it's necessary; is that fair?

21 THE DEFENDANT: Yes.

22 THE COURT: Right. Yeah.

23 THE DEFENDANT: Is it necessary? Okay.

24 THE COURT: You feel like it's necessary --

1 THE DEFENDANT: Right.

2 THE COURT: -- because of what the jury has heard
3 thus far --

4 THE DEFENDANT: Yeah.

5 THE COURT: -- you feel like it puts you in a
6 position where you need to speak.

7 THE DEFENDANT: Like I say, also that and a bunch of
8 the other stuff that I -- you know, with the motions that I've
9 been filing and stuff. So on top of that as well, ma'am.

10 THE COURT: Okay.

11 MR. GILL: And we'll talk about those next, I
12 believe. The -- the prior rulings, especially as it pertains
13 to Detective Kato.

14 THE COURT: Okay. Let's go to Kato.

15 MR. GILL: So my understanding is Mr. Porter will --
16 would like to testify as to his dealings with Detective Kato,
17 who is the Chicago detective, the first Chicago detective to
18 speak with him. And that testimony would include certain
19 threats made by Detective Kato, specifically this --
20 essentially two main threats: One that he would throw him in
21 the docks and -- and then he provide a meaning of what that
22 means.

23 THE COURT: Okay.

24 MR. GILL: Docks, D-O-C-K-S.

1 THE COURT: Yeah.

2 MR. GILL: And also that he was threatened to be hit
3 with a -- a phonebook, a telephone book.

4 THE COURT: Okay.

5 MR. GILL: So those are the two specific threats. I
6 don't know if I've articulated them earlier, but I know that
7 there has been rulings in the case and throughout the trial
8 we've been especially careful because Kato also asked him
9 about the murderer charges, which we've painstakingly kept out
10 of this trial because it was previously tried in 2009.

11 THE COURT: Right.

12 MR. GILL: Obviously when he takes the stand I will
13 elicit his conviction for that 2009 case. But Mr. Porter
14 would like to discuss the dealings with Detective Kato. And I
15 would obviously limit it to the sex assault matters that the
16 State has presented.

17 THE COURT: State?

18 MS. LUZAICH: Okay. Well, if he's going to talk
19 about Kato forcing him, I have several issues that arise.
20 One, this has been litigated. We did an extensive hearing in
21 front of Judge McGroarty. Everybody testified about
22 everything that occurred and Judge McGroarty ruled that his --
23 his confession was voluntary.

24 The jury in the murder also got to make the decision on

1 voluntariness and found that it was voluntary. Kato most --
2 and it wasn't -- when he says Kato was the first, Kato and
3 Cirone were together the whole time. So --

4 MR. GILL: And I -- I apologize.

5 MS. LUZAICH: -- Kato and Cirone in the apartment,
6 Kato and Cirone in the room. And Kato talked mostly to him
7 about the murder. So if he wants to talk about Kato forcing,
8 he's opening the door to the fact that the murder was part of
9 this series, one.

10 Two, that a jury convicted of it, as opposed to a plea.
11 And that they determined, the Court and the jury determined
12 that his statement was voluntary.

13 THE COURT: So I'm trying to think about it in the
14 rationale of --

15 MR. GILL: And if I could just respond.

16 THE COURT: Yeah.

17 MR. GILL: I'm sorry to interrupt, Your Honor.

18 THE COURT: Of course.

19 MR. GILL: Obviously, there would be limits to the
20 direct testimony. And those limits would be only discussing
21 the matters that have been discussed for the last two weeks:
22 The sexual assaults and robberies that we've -- we're on trial
23 for this time.

24 So with that, I think I can limit it without necessarily

1 opening up the whole entire door. That -- that's the last.

2 THE COURT: I understand.

3 MR. GILL: Thank you, Your Honor.

4 THE COURT: So, obviously, this Court always -- not
5 always, but deals with motions to suppress statements, you
6 know, on a weekly or monthly basis. And I'm unaware of any
7 case law where it says that just because the judge ordered it
8 to be voluntary, the jury then gets to know that information.

9 Because if you think about it, we give the instructions
10 to the jury and they're to assess the voluntariness of the
11 confession, even if the Court has upheld it as voluntary;
12 right? They still get the instruction.

13 And I've never seen it in any case law or any case where
14 the prosecutor then gets to argue to the jury "well, the judge
15 already said it was voluntary." Because, as you can imagine,
16 I mean, that -- to jurors who are lay witnesses and don't deal
17 with us every day; right? That -- that's very heavy to them
18 to say, "The judge already found this as voluntary."

19 So I -- I don't see any reason why this jury would get to
20 know that another judge found it voluntary or I found it
21 voluntary and a previous jury found it voluntary.

22 Mr. Porter, not knowing exactly what you're going to say
23 and what you're going to talk about Miss -- Detective Kato
24 coming after you, are you going to talk about his questions

1 about the murder?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: You are just going to talk about his
4 treatment of you in the hearing?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: All right. So you -- and you recognize
7 that the murder is going to come in now --

8 THE DEFENDANT: Uh, yes, ma'am.

9 THE COURT: -- the -- the conviction --

10 THE DEFENDANT: Yes, ma'am. Yes.

11 THE COURT: -- and the time and --

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: So they're already going to know about
14 that. So I don't think that the jury gets to know that a
15 previous judge found it voluntary and a jury found it
16 voluntary. I do think that they get to know that Kato was
17 discussing that murder during that time period and those sex
18 assaults at that time period, at the same time. But it
19 doesn't get to go any further than the fact beside that. But
20 just that the officers were questioning him about that as
21 well.

22 MR. GILL: Thank you, Your Honor.

23 MS. LUZAICH: I'm sorry. I'm trying to -- the --
24 when they discussed -- when Chicago interviewed him, they

1 talked about Hall on June 7th. And he remembered that. They
2 talked about Livingston on 4/4. He remembered that. Did he
3 not recall Teresa Tyler? They talked about an uncharged act.
4 Well -- yeah.

5 THE COURT: So, wait. So what's your point?

6 MS. LUZAICH: Well, I mean, it -- it puts me in a
7 difficult position because I can't rebut what he says.

8 THE COURT: You can't rebut what he says about Kato?

9 MS. LUZAICH: Yeah. Well, yes.

10 THE COURT: Well, you can, in rebuttal; right?

11 MS. LUZAICH: You think I could get a detective from
12 Chicago here this afternoon?

13 THE COURT: No, but I think you can get him via
14 audio/video on Monday.

15 MS. LUZAICH: Oh.

16 THE COURT: Or -- or Cirone. I mean, he was there
17 the whole time. I don't --

18 MS. LUZAICH: Okay. So the Court --

19 THE COURT: -- does --

20 MS. LUZAICH: The Court would approve audio/video?

21 THE COURT: Yeah. I mean --

22 MR. GILL: And I wouldn't object to that,
23 Your Honor. Under these circumstances, obviously.

24 MS. LUZAICH: Okay.

1 THE COURT: All right. So, Mr. Porter, this trial,
2 this whole time you have been completely respectful. You
3 know, before this we -- you and I have had a couple issues;
4 right?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And I know some time -- I know that
7 you're very passionate; right? And so when you get passionate
8 about something, you get frustrated very easily and upset. So
9 all I'm asking you to do is just to do your best to stay calm
10 throughout this process --

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: -- because, as you can imagine --
13 right? -- it gets frustrating when you're cross-examined --

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: -- right?

16 So you have a right to testify. I completely respect
17 that right. I just want to make sure that everybody stays
18 calm and collected because it only -- at the end of the day,
19 it only hurts you if you lose it in front of the jury, and I
20 don't want to that happen.

21 THE DEFENDANT: My -- my lawyer explained it to me.

22 THE COURT: Okay. So we're on the same page?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Perfect. All right. Let's bring 'em

1 in, please.

2 MR. GILL: Thank you, Your Honor.

3 THE COURT: I'm just getting my glasses.

4 MS. LUZAICH: Oh, and I'm sorry.

5 THE COURT: What?

6 MS. LUZAICH: So the fact of the murder does get
7 to -- I mean, the murder --

8 THE COURT: Yeah.

9 MS. LUZAICH: -- come -- that it's part of the
10 series comes in.

11 THE COURT: Yeah, that they were -- I said that they
12 were investigating it at the same time as they were
13 investigating everything else.

14 MR. GILL: Just not the detail is what she said.

15 MS. LUZAICH: Right.

16 THE MARSHAL: All rise.

17 [IN THE PRESENCE OF THE JURY]

18 THE COURT: Good morning, everyone. Welcome back.

19 We are on the record in State of Nevada versus
20 Justin Porter, C174954. Mr. Porter is present with Mr. Gill.
21 Both Chief Deputy District Attorneys, Ms. Luzaich as well as
22 Ms. Kollins, are present on behalf of the State.

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

24 MS. LUZAICH: Yes, Judge.

1 MR. GILL: Yes, Your Honor.

2 THE COURT: All right. Ladies and gentlemen, if you
3 remember last -- or yesterday afternoon, the last time we were
4 here, the State had rested their case-in-chief. So we are now
5 moving into the Defendant's case-in-chief.

6 Mr. Gill.

7 MR. GILL: Your Honor, the Defense calls Mr. Porter.

8 THE COURT: Mr. Porter, go ahead and come on up,
9 sir.

10 THE MARSHAL: Just remain standing.

11 THE CLERK: Raise your right hand.

12 JUSTIN PORTER,

13 [Having been called as a witness and being first duly
14 sworn testified as follows:]

15 THE WITNESS: Yes, ma'am.

16 THE CLERK: Please be seated.

17 And will you please state your name and spell it for the
18 record.

19 THE WITNESS: Justin D. Porter, J-U-S-T-I-N,
20 D-U-P-R-E-E, P-O-R-T-E-R.

21 THE CLERK: Thank you.

22 THE COURT: Thank you.

23 Mr. Gill, whenever you're ready, sir.

24 MR. GILL: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. GILL:

Q Justin, have you ever been convicted of a felony?

A Yes, sir.

Q And what was that felony?

A Second degree murder with the use of a deadly
weapon.

Q And do you recall the year that you were convicted?

A 2009.

Q And was that after a trial?

A Yes, sir.

Q Taking you back to August 11th of 2000, how old were
you at the time?

A Seventeen years old.

Q And do you recall being arrested on that date?

A Yes, sir.

Q And where were you when you were arrested?

A I was living with my father at the time.

Q Okay. Where -- what city?

A Chicago, Illinois.

Q And who else lived -- was it just you and your
father?

A It was me, my two stepsisters and my stepmother.

Q Okay. And where did you sleep in this apartment --

1 was it an apartment?

2 A It was an apartment, three-bedroom apartment.

3 Q Okay. And where did you sleep?

4 A I slept on the couch.

5 Q Okay. And where was the couch located?

6 A In the living room.

7 Q And in relation to the front door, is the living
8 room -- would it be the first room you walk into or --

9 A You have to step in, like, a small hallway, then
10 make a -- it's a right. And then that's the living room. So
11 it's -- you could basically almost see the living room from
12 right there.

13 Q Okay. And -- and you -- you said on the -- the
14 morning of your arrest, of August 11, 2000, you were asleep?

15 A Yes, sir.

16 Q Okay. And then do you recall the officers from --
17 coming into that apartment?

18 A Yes, sir.

19 Q And can you describe how they found you?

20 A I was -- I was laying on the couch sleeping where --
21 you know, 'cause I don't have no room. That's exactly where I
22 was, on the couch.

23 Q And that's where you slept and --

24 A That's where I slept.

1 Q And you had been out there that summer for a couple
2 of months.

3 A Yes, sir.

4 Q Now, when the officers -- do you recall what the
5 officers did when they -- when they first approached you or
6 spoke to you?

7 A I think one of 'em walked up to me and -- and
8 really, like, basically grabbed me. And they had they -- they
9 guns drawn. So --

10 Q Okay. Were you cooperative with the arrest?

11 A Yes, sir.

12 Q And then eventually they -- did they place you in a
13 squad car?

14 A Yes, sir.

15 Q And where did they take you from there?

16 A I'm assuming the precinct because --

17 Q Was it a police station?

18 A Yeah, police station.

19 Q And then what happened when you got into the police
20 station?

21 A They placed me in the room and they handcuffed me to
22 a bar, or like a bench where I sat on, they had me there in
23 the room. I don't -- you know, it was just a room with no
24 windows, nothing. And I was handcuffed on the -- a bar on the

1 bench (indicating).

2 Q Were your feet handcuffed?

3 A No, sir.

4 Q So you were -- you were kind of motioning that your
5 right wrist --

6 A Yeah, my right wrist.

7 Q -- was handcuffed -- sorry. And just so we don't
8 talk over one another.

9 Your right wrist was handcuffed to a bar on the table?

10 A Yes, sir. On -- on like a pole on a wall
11 (indicating).

12 Q Okay. And that was -- that was the only thing. It
13 wasn't your feet or anything else. It was just the one
14 connection on the wrist.

15 A Yes, sir.

16 Q Now, do you recall being interviewed?

17 A Five minutes -- maybe five to ten minutes later, the
18 detective come in.

19 Q Which detective was that?

20 A I believe it was Kato.

21 Q And did he ask you questions -- well, what did he
22 ask you?

23 A It was the first thing he said when he sat down. He
24 looked at me --

1 MS. LUZAICH: Objection. Hearsay.

2 THE WITNESS: Well --

3 THE COURT: Miss -- just one second.

4 Mr. Gill, your response?

5 MR. GILL: And there's going to be some elicited
6 responses and the exception is effect on the listener.

7 THE COURT: Overruled. Go ahead.

8 THE WITNESS: He looked at me. Sat down and looked
9 at me and told me, "You know how we do in Chicago."

10 BY MR. GILL:

11 Q And what did you take that to mean?

12 A I know what goes on in Chicago.

13 And then he told me he would use phonebooks to beat me so
14 he wouldn't leave no marks. And then he told me, "You know
15 we'll take you to the docks. And we'll kill you."

16 Q So he uttered the words he'd kill you?

17 A Yeah.

18 Q And --

19 A Then he said, after that, then he was like, "You
20 know you can go home," basically.

21 Q Okay. So --

22 A Then you --

23 Q Where are you from, Justin?

24 A I'm from Chicago, Illinois.

1 Q So when -- when he said to you, "You know how we do
2 things in Chicago," what did you take that to mean?

3 A I know how they -- they -- they do things in
4 Chicago. Chicago PD, they -- they don't play no games. I
5 don't know about Las Vegas PD that much. But I know Chicago
6 PD, they don't play games.

7 Q Okay. And did you know this prior to the arrest?

8 A Yes, sir.

9 Q And at the time you -- you did reside in Las Vegas;
10 correct?

11 A Yes, sir.

12 Q Okay. How long had you resided in Las Vegas?

13 A Uh --

14 Q Prior -- and I'm sorry. But prior to August 11th of
15 2000.

16 A I can't really too much say. I know that, for sure,
17 we moved out here in '98 and I go back for the summertime and
18 I come back. And then I went back the last time and that
19 was --

20 Q So -- and I'm sorry. But you moved to Las Vegas
21 from Chicago in 1998?

22 A Yeah, 1998.

23 Q Okay. And you were about, approximately 15 years
24 old then?

1 A Yes, sir.

2 Q Okay. So you moved from Chicago to Las Vegas when
3 you were approximately 15.

4 A Yes, sir.

5 Q An then you also said he told you, you could
6 potentially go home?

7 A Yeah. I -- I don't -- I didn't understand that at
8 first. I didn't -- too much didn't understand that part.

9 Q Was he recording this that you're aware of?

10 A No, sir.

11 THE COURT: Sorry. One second. No, he wasn't
12 recording it or, no, you're not aware?

13 THE WITNESS: I --

14 MR. GILL: I'm sorry. That was a poor question.

15 THE WITNESS: I don't believe it was being recorded.

16 THE COURT: Okay. Thank you.

17 Mr. Gill?

18 BY MR. GILL:

19 Q And he didn't tell you it was being recorded --

20 A No, sir.

21 Q -- is that right?

22 Now, did he have anything with him while he was
23 questioning you?

24 A He had some papers.

1 Q Do you know what those papers were?

2 A Huh-uh, no, sir.

3 Q Now, at some point after this, you did talk to Metro
4 detectives; correct?

5 A Yes, sir.

6 Q And that include Barry Jensen, who we heard from
7 yesterday.

8 A Yes, sir.

9 Q Detective LaRochelle.

10 A Yes, sir.

11 Q And then a Detective Crickett, Lori Crickett.

12 A I can't -- I just know it was two men.

13 Q And there -- was -- did they have a female with
14 them?

15 A I believe so.

16 Q Was she present for the entire interviews?

17 A I don't think so.

18 Q Now, I want to talk about Teresa Tyler first. And
19 that incident date is February 1st, 2000. Did you sleep with
20 Teresa Tyler?

21 A No, I never did.

22 THE COURT: Sorry. I apologize to interrupt,
23 Mr. Gill. When we use the term "sleep," are we talking about
24 literal --

1 MR. GILL: And I'll get -- I'll get there, Judge.

2 THE COURT: Thanks.

3 BY MR. GILL:

4 Q Did you ever have sex with Teresa Tyler?

5 A No, sir.

6 Q Did you have sex with anyone who -- who's a relative
7 of Teresa?

8 A I met her sister. It was her sister. Me and her
9 sister messed around a couple of times. That's -- that's it.

10 Q So you've been to that apartment.

11 A Several times.

12 Q And -- and -- to be specific, prior to
13 February 1st, 2000.

14 A Yes, sir.

15 Q And you said you had sex with her sister?

16 A Right.

17 Q Do you recall when that was?

18 A I can't recall.

19 Q Was it prior to February 1st, 2000?

20 A It could have been, around that time, yes, sir.

21 Q And did you have sex with her sister -- do you
22 remember her sister's name? I'm sorry.

23 A I can't -- time has passed. I didn't know her name
24 like that. We was just using nicknames at the time. And I --

1 Q So --

2 A -- can't even remember her name like that. But I
3 could say, I -- if I see her now, she -- she know who I am and
4 I know who she is.

5 Q But you don't recall her name?

6 A But I don't recall her name.

7 Q And where in the -- was it in the apartment that you
8 had sex with the sister?

9 A It was the bathroom.

10 Q Of the apartment?

11 A Of the bathroom -- apartment.

12 Q And why did you have sex in the bathroom?

13 A Because it was a bunch of us there. It was a -- it
14 was -- we used to go hang out her apartment sometimes, just
15 hanging out, drinking and stuff like that. And that's how
16 that happened. Because it was a bunch of us over there.

17 Q Did you ever see Teresa Tyler when you were over
18 there?

19 A Yeah, I seen her a couple of times.

20 Q Okay. Now I'm going to move forward in time to
21 March 7th of 2000. Do you know a Leona Case?

22 A No, sir.

23 Q Did you ever go to Leona Case's apartment?

24 A I never went to her specific apartment.

1 Q And what do you mean by that?

2 A My sister live in those same apartments. My sister
3 lived on the -- on the -- in the first building on the third
4 floor, top. And then she end up moving to the back of the
5 building somewhere. So I would go over there, periodically
6 see my nieces and my nephews and my sister.

7 Q So is it multiple buildings within the complex?

8 A Yes, sir.

9 Q And you're saying your sister lived in a different
10 building.

11 A Yes, sir.

12 Q So you've been to the complex.

13 A Yes, sir.

14 Q And you have not -- I'm sorry. Just to reiterate,
15 you haven't been to her -- Leona Case's apartment.

16 A No, sir. I've never been to her apartment.

17 Q Okay. So did you light the apartment on fire?

18 A No, sir.

19 Q Did you ever have sex with Leona Case?

20 A No, sir.

21 Q And that's March 7th of 2000 or any other time.

22 A No, never.

23 Q Did you ever meet her before March 7th of 2000?

24 A Never met her before.

1 Q And did you meet her on March 7th of 2000?

2 A No, sir.

3 Q Did you ever tie her up with a phone cord or any
4 other kind of cord?

5 A No, sir, never.

6 Q Lock her in her bathroom?

7 A No, sir, never.

8 Q Did you ever punch or hit her?

9 A No, sir, never.

10 Q And did you ask to use her phone at any time?

11 A No, sir, never.

12 Q Moving forward to March 25 of 2000, did you ever go
13 to the Ramona Leva apartment?

14 A Not -- huh?

15 Q Ramona Leva?

16 A Not that -- not -- no. No. Not that day. Not that
17 day. I never -- never went to her apartment.

18 Q And when you say "that day," are you talking about
19 March 25th of 2000?

20 A Yes, sir. Never, never -- that day specifically.

21 Q Have you been to her apartment prior to that?

22 A Not really to her apartment 'cause the area we -- we
23 lived in, a bunch of us, we all moved around in that area. We
24 all go places in that area. So pertaining how you perceive

1 that, I've been in the area.

2 Q You've been in the area. But the question was, have
3 you been in Ramona Leva's apartment?

4 A No, sir.

5 Q Did you ever have sex with Ramona Leva?

6 A Not that day. I never -- I never touched her.
7 Never.

8 Q And I'm talking any day, Justin.

9 A No. No, sir. No, sir.

10 Q And then I'll ask, specifically, March 25th of 2000.

11 A Oh, no, sir. No, sir.

12 Q And did you take any money from her?

13 A No, sir.

14 Q Now moving on to April 4th of 2000,
15 Marlene Livingston. Did -- were you in her apartment on
16 April 4th of 2000?

17 A Marlene Livingston?

18 Q Yes.

19 A Didn't you just ask that one?

20 Q That was Ramona Leva.

21 A Oh, I --

22 Q Did we need to go back?

23 A Yeah. No. You said -- say their name again.

24 Q This -- I'm asking now about Marlene Livingston

1 of --

2 A Oh, no. No, sir. No.

3 Q And -- and, again, I'll rephrase the question so the
4 record's clear.

5 A Right.

6 Q You ever been in Marlene Livingston's apartment?

7 A No, sir.

8 Q Were you in her apartment on April 4th of 2000?

9 A No, sir.

10 Q Did you ever take her car?

11 A No, sir.

12 Q You ever take money from Marlene Livingston?

13 A No, sir.

14 Q Did you ever have sex with her?

15 A No.

16 Q And "her" being Marlene Livingston.

17 A No, sir.

18 Q Did you ever try to have sex with her?

19 A No, sir.

20 Q Now, you've heard -- we've heard testimony as well
21 about April 12th of 2000, Francis and Clarence Rumbaugh. Did
22 you ever go to their apartment?

23 A No, sir.

24 Q Did you ever cut the screen of their screen door?

1 A No, sir.

2 Q Did you ever take a knife into the Rumbaugh's
3 apartment?

4 A No, sir.

5 Q Did you ever pick up a knife inside of their
6 apartment?

7 A No, sir.

8 Q Did you take money from them?

9 A No, sir.

10 Q Did you make sexual comments to them?

11 A No, sir.

12 Q And did you throw either of them to the ground?

13 A No. I wouldn't do -- no.

14 Q And moving, again, forward to June 6th of 2000,
15 Leroy Fowler. You recall his testimony, Justin?

16 A Yes, sir.

17 Q You ever seen him before in your life?

18 A No, I don't believe so.

19 Q At any other -- at any other court hearings?

20 A I believe I have.

21 Q So he's testified previously, is that when you've
22 seen him?

23 A Yes, sir.

24 Q Now, did you ever enter his apartment?

1 A No, sir.

2 Q Did you have a struggle with him and be chased out
3 of his apartment with a chair?

4 A No, sir.

5 Q Now, moving ahead a day, June 7th of 2000, did you
6 ever meet Joni Hall at a 7-Eleven?

7 A No, I never met her at a 7-Eleven.

8 Q Did you ever meet her, period?

9 A Yeah, I met her before around there, around the
10 area.

11 Q Okay. So you're familiar with Joni Hall?

12 A Yes.

13 Q Did you spend time with her a few days -- I think it
14 was three days prior to June 7th of 2000?

15 A No, sir. I just seen an area, like I was saying.

16 Q And did you ever enter her apartment?

17 A No, sir.

18 Q Did you ever force entry on June 7th of 2000?

19 A No, sir.

20 Q Whether it's by kicking or pushing in a door.

21 A No, sir.

22 Q And did you ever have sex with Joni Hall?

23 A No, sir.

24 Q Did you have sex with Joni Hall on June 7th of 2000?

1 A No, sir.

2 Q Now, you did give detectives a description of
3 Joni Hall's apartment. Do you recall that, when we listened
4 to the tape yesterday?

5 A Yes, sir.

6 Q How were you able to do that?

7 A Well, the detectives had pictures and they were
8 showing me pictures when they was asking me questions and
9 telling me stuff, they were showing me pictures.

10 Q So you were able to describe the furniture?

11 A I don't -- I believe -- I don't really too much
12 believe so. But I know when I see the picture, I would
13 remember things and I'd be able to regurgitate it to them, the
14 best I could.

15 Q And you're talking about the tape Barry -- was
16 played when Barry Jensen was (indiscernible).

17 A Yes, sir.

18 Q Now, the Zazueta and Lopez apartment, did you enter
19 that apartment on June 9th of 2000?

20 A No, sir.

21 Q Did you do so with a gun?

22 A No, sir.

23 Q Did you shoot Guadalupe Lopez?

24 A No, sir.

1 Q Whether accidental or on purpose?
2 A No, sir.
3 Q Did you demand money?
4 A No, sir.
5 Q And I think it was Laura Zazueta that the money was
6 demanded from. Did you demand money from her?
7 A No, sir.
8 Q And I'll get that name correct for the record.
9 Yeah, Laura Zazueta. You never demanded money from her?
10 A No, sir.
11 Q Did she ever give you money?
12 A No, sir.
13 Q Did you run out of that apartment and jump through a
14 window?
15 A No, sir.
16 Q Did you jump off the balcony of that apartment
17 complex?
18 A No, sir.
19 MR. GILL: Nothing further, Your Honor. Thank you.
20 THE COURT: State?
21 MS. LUZAICH: Thank you.
22 CROSS-EXAMINATION
23 BY MS. LUZAICH:
24 Q All right. So you said that you went to your

1 father's home in Chicago and you were there August 11th of
2 2000 when the police came in; correct?

3 A Yes, ma'am.

4 Q And you said you'd been there a couple of months?

5 A You can roughly say a couple of months.

6 Q Well, roughly a couple months?

7 A I mean --

8 Q Three months? Four months?

9 A I mean, since it's been 20 -- 22 years ago, I can't
10 specifically give you the specific time that I entered my
11 father apartment and --

12 Q Okay. Well, in the last 22 years, have you ever
13 reviewed anything to do with this case?

14 A I'm -- my lawyers, them gave me some paperwork to
15 oversee, to see -- look over.

16 Q Okay. What paperwork did they give you?

17 A I -- took me approximately some years to be able to
18 get it, but I can't recall the actual -- what it was all that
19 they gave me.

20 Q You had every single piece of paper generated
21 pursuant to this case, didn't you?

22 A No, I didn't, ma'am.

23 MR. GILL: Judge, can we approach?

24 THE COURT: Yep.

1 [BENCH CONFERENCE BEGIN]

2 MR. GILL: I don't want to be accused of not giving
3 him dis -- and I know that's not what we're doing.

4 THE COURT: Right.

5 MR. GILL: Is it okay if I make -- I've given him
6 everything.

7 THE COURT: Yeah.

8 MR. GILL: And it's --

9 MS. LUZAICH: And so did Curtis and Joe. And we
10 know that because he's been filing motions from jump.

11 THE COURT: Right.

12 MS. LUZAICH: Which I'm gonna get in to.

13 MR. GILL: So what I don't want it to appear like is
14 that I didn't give him --

15 MS. LUZAICH: I won't say you.

16 MR. GILL: I know. I know you're not. But I'm just
17 saying, the record might read that Mr. Gill hasn't given him
18 everything for this trial. And that's completely untrue.

19 THE COURT: Yeah.

20 MR. GILL: So I don't know how to rectify that or
21 how you want me to --

22 MS. KOLLINS: Is there a court order?

23 MS. LUZAICH: Because that is a lie. I mean, he's
24 just --

1 MS. KOLLINS: Well, she can take judicial notice if
2 there's an order in there that says everything was turned --
3 was supposed to be turned over to him.

4 MR. GILL: I don't know what there is --

5 THE COURT: Was there -- is there one?

6 MS. LUZAICH: Yeah, I don't know that there was.

7 MR. GILL: -- though. No, I don't think -- I
8 haven't seen one, but --

9 MS. LUZAICH: But Joe and Curtis made numerous
10 representations that they gave him everything. He's filed
11 motions --

12 THE COURT: (Indiscernible)

13 MS. LUZAICH: Oh, I will.

14 THE COURT: Yeah.

15 MR. GILL: Okay.

16 THE COURT: That's fine.

17 MR. GILL: And, again, I just, for the record, I
18 just want to --

19 THE COURT: Yeah.

20 MR. GILL: I think I made it clear --

21 THE COURT: For the record --

22 MR. GILL: -- that I've provided --

23 THE COURT: -- Mr. Gill has made clear that he's
24 provided full discovery to his client.

1 MR. GILL: Thank you.

2 MS. LUZAICH: Okay.

3 [BENCH CONFERENCE END]

4 BY MS. LUZAICH:

5 Q Okay. So you are maintaining that you don't -- you
6 haven't had every piece of police reports, statement,
7 fingerprint report, DNA report, pursuant to this case?

8 A No, my -- my lawyer -- my previous lawyers told me
9 that they wouldn't give me nothing like that because people
10 usually take it --

11 MS. LUZAICH: Okay. Well, objection. Hearsay.

12 THE WITNESS: Okay. Well --

13 THE COURT: So just --

14 MS. LUZAICH: Move to strike.

15 THE COURT: -- and -- sustained.

16 THE WITNESS: No, ma'am.

17 THE COURT: Just -- thank you.

18 BY MS. LUZAICH:

19 Q During the course of this case and litigation,
20 you've had several different attorneys, have you not?

21 A Yes, ma'am.

22 Q In the beginning, up through and including the
23 murder conviction, you had two public defenders -- or sorry --
24 two attorneys named Joe Abood and Curtis Brown; correct?

1 A Yes, ma'am.

2 Q And they gave you all of the police reports,
3 statements --

4 A No, they didn't.

5 Q No?

6 A No, ma'am.

7 Q Who was your attorney after that? Jeff Maningo and
8 Ryan Basher were your attorneys after that; correct?

9 A I believe also Howard Brooks.

10 Q I haven't gotten there yet.

11 A Oh.

12 Q And Jeff Maningo and Ryan Basher were your
13 attorneys?

14 A Right. I never received any paperwork from
15 Jeff Maningo at all.

16 Q I didn't say you did, did I?

17 A Oh, sorry. No, ma'am.

18 Q You were in court when Joe Abood and Curtis Brown
19 represented to more than one judge that they had given you
20 everything.

21 A No, they didn't. I could tell you --

22 Q That's not what I asked you.

23 A Oh.

24 Q You were in court when they represented, as officers

1 of the court, to the judge that they had given you everything.

2 A I -- I was in court, but at that time -- I don't
3 remember that time.

4 Q Okay. Have you been in court for pretty much every
5 court appearance?

6 A Some court appearance I was not allowed to come in
7 the courtroom, if you remember that.

8 Q Was there a time that you were being slightly
9 difficult?

10 A No.

11 Q No?

12 A I wasn't being slightly difficult. I was just
13 trying to speak up for my -- myself, ma'am.

14 Q No. No. No.

15 A You know --

16 Q That's not what I meant. When you said you weren't
17 allowed to come to court, wasn't there times that you were
18 being a little bit difficult?

19 MR. GILL: Objection. Relevance.

20 THE WITNESS: No. You can call it --

21 THE COURT: Sustained. It's okay. We're gonna move
22 on. We're gonna move on.

23 THE WITNESS: Yeah.

24 MS. LUZAICH: Okay.

1 BY MS. LUZAICH:

2 Q In fact, there have been -- okay. You remember me
3 from the beginning; right?

4 A Oh, of course, I met you Ms. Lisa.

5 Q Okay. And there have been, by my count, maybe seven
6 different judges that have handled this case through the
7 years?

8 A Well, I don't have control over the judges, who they
9 give me.

10 Q Oh, no. No. No. I -- I -- I agree with that. You
11 don't. But would you agree that about seven different judges
12 have handled aspects of this case over the years?

13 A Yeah, but I don't know how they go about taking
14 judges or removing judges. But, yeah, you're right.

15 Q Is there a reason that you're just not answering my
16 questions?

17 A No, I -- I'm saying you're right, I had about seven
18 different judges --

19 Q Okay.

20 A -- but I just not in control of moving judges and
21 bringing judges.

22 Q I didn't say that you were, did I?

23 A Yes, ma'am, I -- I apologize. I'm sorry about that.

24 Q Okay. And numerous motions were litigated by

1 Joe Abood and Curtis Brown. Would you agree with that?

2 A Yes, ma'am.

3 Q With more than one judge.

4 A Yes, ma'am.

5 Q One of them was the voluntariness of your
6 confession.

7 A Yes, ma'am.

8 Q And at that -- and that hearing went on for many
9 months. Would you agree with that? Just because of
10 scheduling.

11 A I -- yeah --

12 Q Not continuously for many months --

13 A Oh, okay.

14 Q -- but a court date here, a court date there;
15 correct?

16 A Yeah. Yeah.

17 Q Christian Kato came out here and testified; correct?

18 A I believe so.

19 Q You believe so? You were sitting there when he
20 testified, didn't you -- weren't you?

21 A Okay. Yes, ma'am.

22 Q Okay. Sam Cirone came out here and testified?

23 A I'm not -- I'm not familiar with his name.

24 Q Well, he testified last week -- maybe this week.

1 A Okay. Oh, the guy that was sitting up here. Yes,
2 ma'am.

3 Q Okay. He testified at that hearing too; correct?

4 A Yes, ma'am.

5 Q So 2004; correct?

6 A I'm not for sure that date, specific dates, but --

7 Q Okay.

8 A -- if you say it then, yes, ma'am. I --

9 Q Well, do you have any reason to disagree that it was
10 2004?

11 A I'm not disagreeing. I'm just saying I -- I'm -- I
12 can't be specific on a date. But if you say it's that day,
13 ma'am, it's that day.

14 Q Okay. But Detective Jensen also testified at that
15 hearing?

16 A I believe so, yes. Yes, ma'am.

17 Q Couple doctors testified at that hearing.

18 A I can't say for sure, but if that's what you say,
19 yes, ma'am.

20 Q Well, did your attorney call two different
21 psychologists or --

22 A Yes, ma'am. Okay.

23 Q -- psychiatrists?

24 A Now -- yeah. When you said "doctors," you put it in

1 a range of a bunch of people.

2 Q Okay. Okay. I will be more specific. Your
3 attorneys called two different psychological-type doctors;
4 correct?

5 A Yes, ma'am.

6 Q And the State called another psychological-type
7 doctor.

8 A Yes, ma'am.

9 Q And did you testify at that hearing?

10 A I believe so. Believe so.

11 Q Okay. And did you testify that Christian Kato
12 forced you --

13 A Uh, I --

14 Q -- like you did today?

15 A Yes.

16 Q And did Christian Kato testify that he did not?

17 A Of course. That's what people gonna say when they
18 know they did something like he did and then try to --

19 Q Oh, you mean --

20 A -- he got --

21 Q -- like people say like, you know, something that
22 you did?

23 A Well --

24 Q Similar?

1 A If that's what you feel, ma'am.

2 Q Okay. And Sam Cirone also testified that
3 Christian Kato never threatened you; correct?

4 A You say that name again?

5 Q The other detective, the one that testified here --

6 A Uh-huh.

7 Q -- he also testified that Christian Kato did not
8 threaten you; correct?

9 A I believe he said he wasn't in the room, ma'am,
10 when -- when --

11 Q Oh, really?

12 A Yeah.

13 Q That's what you think?

14 MR. GILL: Objection. Argumentative.

15 MS. LUZAICH: Okay. That's what you're saying.

16 THE COURT: Sustained.

17 THE WITNESS: I -- I don't want to be --

18 THE COURT: It's okay. Go ahead.

19 THE WITNESS: Yes. Uh --

20 BY MS. LUZAICH:

21 Q That's your position, that Sam Cirone testified he
22 wasn't in the room?

23 A No, that's not my -- I'm not saying it's my
24 position. I'm just saying, if he wasn't in the room, then he

1 saying whatever he said could not be true.

2 Q Well, don't you remember that Kato and Cirone were
3 in the room together the whole time?

4 A No, I thought it was Cunningham. Detective
5 Cunningham. The one that --

6 Q Cunningham was there too --

7 A Yeah.

8 Q -- some of the time, would you agree?

9 A You could -- I -- if that's what it is, yes, ma'am.

10 Q Okay.

11 A I don't know about the other -- other police
12 officer, the other detective, but I do know for sure that
13 Kato.

14 Q Okay. You said that, in the apartment, they came at
15 you with guns drawn and grabbed you; correct?

16 A Yes, ma'am.

17 Q Well, they were apprehending --

18 A When I opened my eyes.

19 Q -- what they thought was a murder suspect. Wouldn't
20 you go with guns drawn?

21 MR. GILL: Objection. Argumentative. Speculative
22 and irrelevant.

23 THE COURT: Speculative and irrelevant, sustained.

24 ///

1 BY MS. LUZAICH:

2 Q Well, were you a murder suspect at the time?

3 A If they say I was, then obviously I had to be.

4 Q Isn't that what you were being questioned about, the
5 murder and the sexual assaults and the robberies --

6 A Yes, ma'am.

7 Q -- and the home invasions --

8 A Yes, ma'am.

9 Q -- right? So --

10 A Yes, ma'am.

11 Q -- you were a murder suspect and a -- and a
12 rapist -- or a sexual assault suspect and a robbery suspect;
13 correct?

14 A Yep.

15 Q All of those events involved weapons; correct?

16 A Yes, ma'am.

17 Q And most -- mostly knives; right?

18 A According to what they say, yes, ma'am.

19 Q Okay. And the murder and the last home
20 invasion/robbery were both guns; correct?

21 A According to what they say, ma'am. I'm not for sure
22 if that's the layout of everything. But if that's what they
23 say, then that's what they say.

24 Q Okay. But you were convicted of that murder.

1 A Yes, ma'am.

2 Q Um --

3 A But that don't mean I did the murder.

4 Q Jury said you did, didn't they?

5 A Yeah, that's because I didn't never have an
6 opportunity to testify like I was supposed to. I mean --

7 Q [Laughing]

8 A -- if I had told the truth --

9 MR. GILL: And, Your Honor --

10 THE WITNESS: -- from the beginning --

11 MR. GILL: -- I'm -- I'm gonna object to the State
12 laughing at this point.

13 MS. LUZAICH: Can we approach?

14 THE COURT: Sustained.

15 Yes.

16 [BENCH CONFERENCE BEGIN]

17 MR. GILL: Judge, I get it, but laugh at him while
18 he's on the stand.

19 THE COURT: Move over. Can't hear.

20 MS. LUZAICH: Sorry. But he just testified that he
21 got convicted because he didn't get to --

22 THE COURT: Testify.

23 MS. LUZAICH: -- testify. So he just opened the
24 door to all the facts of the murder too. 'Cause he got

1 convicted because he committed the murder, in addition to
2 confessing to it.

3 THE COURT: Mr. Gill?

4 MR. GILL: Judge, I -- I prepped him. I limited my
5 direct examination, understanding -- and you admonished him
6 regarding talking about Kato and what that would open up.

7 MS. LUZAICH: But it also opens up the door to his
8 attorneys --

9 MR. GILL: I'm not --

10 THE COURT: (Indiscernible)

11 MS. LUZAICH: Oh, I'm sorry.

12 MR. GILL: But I -- I think Ms. Luzaich is skilled
13 enough and experienced enough that she -- she can get him to
14 open the door to anything she wants him to at this point.
15 He's being nonresponsive to a lot of the questions and I
16 haven't lodged objections. She's -- she's doing a proper
17 direct -- or cross -- excuse me -- where she's eliciting no
18 responses and he's giving her a lot more. So there's not much
19 more I can do than object to the structures of the questions,
20 as well as the, you know, the laughing at him when he gives
21 responses.

22 THE COURT: Right.

23 MS. LUZAICH: So just to (indiscernible) but -- and
24 my questions were not heading towards anything --

1 MR. GILL: No. No. No. I didn't say that. I -- I
2 said --

3 MS. LUZAICH: -- like that.

4 MR. GILL: -- the -- the responses are what --

5 THE COURT: Right.

6 MR. GILL: And I would obviously --

7 MS. LUZAICH: But here --

8 MR. GILL: -- love a time out where I could remind
9 him regarding testifying. But we went over all that at length
10 last -- the last evening.

11 THE COURT: Okay.

12 MS. LUZAICH: But he's basically saying that he was
13 for -- he was forced to not testify. So that opens the door
14 to the fact that his attorneys recommend that he not testify
15 and that this attorney -- well, I mean --

16 MR. GILL: Yeah, I think -- I think it --

17 THE COURT: No, don't say that.

18 MR. GILL: Not me.

19 MS. LUZAICH: But he's testifying against advice of
20 counsel.

21 THE COURT: But, you know, I mean, the responses --
22 or -- I mean, I think you can (indiscernible) and say you had
23 an opportunity to get up in that last trial and testify,
24 especially now that he said he didn't have an opportunity to

1 be heard. And -- so I think you can go there. I don't
2 think --

3 MS. KOLLINS: You and your op -- you and your
4 attorneys made that choice at that time, didn't you?

5 THE COURT: (Indiscernible)

6 MR. GILL: And I think you can ask him about the
7 advice given, as long as we're not getting into, like,
8 details --

9 THE COURT: Well --

10 MR. GILL: -- yet.

11 THE COURT: -- you know, there is some level of
12 attorney/client -- he's -- he's gonna blurt it out. He's
13 gonna say, no, attorneys (indiscernible) or something like
14 that. You know what I mean?

15 MS. KOLLINS: Well, by saying I was prevented --

16 THE COURT: Yeah.

17 MS. KOLLINS: -- he's essentially opening -- he's
18 essentially waiving privilege by saying "I was prevented" --

19 THE COURT: Well, I just want to hear what he says.
20 Like, how -- how (indiscernible) you know what I mean?

21 MS. KOLLINS: Right.

22 THE COURT: I don't know what he's gonna say because
23 he's kind of a loose canon.

24 MS. KOLLINS: Yeah.

1 THE COURT: So I don't know what his response is to
2 that question.

3 MS. KOLLINS: Right. You're right. But I mean, he
4 seems to be insinuating "I was prevented by my lawyers."

5 THE COURT: That's what I think, but I'm not sure.

6 MS. LUZAICH: Okay. Now, we all know that he
7 physically went after Joe Abood.

8 THE COURT: Yes, but no way --

9 MR. GILL: What's the relevance of him --

10 MS. LUZAICH: Well, no, I'm -- I'm not there.
11 But --

12 THE COURT: Oh.

13 MS. LUZAICH: -- if he goes -- gets anywhere near
14 there -- because when he says he was prevented, who knows what
15 he's gonna say.

16 THE COURT: Let's just hear what he says.

17 [BENCH CONFERENCE END]

18 THE COURT: Ms. Luzaich.

19 MS. LUZAICH: Thank you.

20 BY MS. LUZAICH:

21 Q So the last thing you said was that you got
22 convicted of murder because you didn't get to testify.

23 A No --

24 Q That is exactly what you just said.