

No. 86406

IN THE NEVADA SUPREME COURT

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Elizabeth A. Brown
Clerk of Supreme Court

Troy White,

Petitioner-Appellant,

v.

State of Nevada, et al.

Respondents-Appellees.

Petitioner-Appellant's Appendix
Volume 5 of 10

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Dated September 13, 2023.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Laura Barrera

Laura Barrera
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2023, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system.

Participants in the case who are registered users in the appellate electronic filing system will be served by the system and include:
Alexander G. Chen, Jonathan VonBoskerck, and Aaron D. Ford.

I further certify that some of the participants in the case are not registered appellate electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following person:

Troy White #1143868 High Desert State Prison P.O. Box 650 Indian Springs, NV 89070	Jaime Stilz Deputy Attorney General Office of the Attorney General 100 N. Carson St. Carson City, NV 89701
--	--

/s/ Kaitlyn O'Hearn

An Employee of the Federal
Public Defender, District of
Nevada

1 A Yes.

2 Q And what were you doing at the time around 5:30,
3 6:00 p.m.?

4 A Doing reports.

5 Q Is that part of your job?

6 A Yes.

7 Q Paperwork?

8 A Yes.

9 Q All right. At some point did an officer Jaeger and
10 Bray come and contact you?

11 A Yes, they did.

12 Q And what did they tell you?

13 A They told me that there was a man outside in our
14 sallyport that wanted to turn himself in for a homicide.

15 Q And at that point did you proceed with Officers Bray
16 and Jaeger to that sallyport in order to contact that person?

17 A I did.

18 Q And this is nearly three years ago. Do you think
19 you can identify that person today?

20 A I could try.

21 Q Okay. Showing you State's Exhibit 20. Do you
22 recall this being the individual that you contacted outside of
23 the building in the sallyport that day?

24 A Yes. That looks like him.

25 Q Would you recall now after seeing this photograph?

1 A Yes, I do.

2 Q Thank you. Did the person depicted in Exhibit 20

3 identify himself to you?

4 A Yes, he did.

5 Q Gave you his name?

6 A Yes.

7 Q And did he give you his name as Troy White?

8 A Yes.

9 Q Did you ask for his driver's license?

10 A I believe I did.

11 Q Did you ask him what was going on, why he was there?

12 A Yes, I did.

13 Q And what specifically did he tell you?

14 A He told me that earlier that morning he had shot his

15 estranged wife and her boyfriend.

16 Q In Las Vegas?

17 A Correct.

18 Q At that point after hearing that did you place him

19 in handcuffs?

20 A I did.

21 Q That's for your own safety as well for the safety of

22 the other officers in that facility that you were located at?

23 A Yes, everyone's safety.

24 Q Did Mr. White ever mention to you a vehicle that he

25 had traveled in to Yavapai County?

1 A Yes, he did.

2 Q And what kind of vehicle did he identify?

3 A It was either a gray or a silver 2008 Dodge Durango.

4 Q Did he mention whether there were any weapons inside
5 of that vehicle?

6 A Yes, he did.

7 Q What did he tell you?

8 A Said that there was a pistol in the spare tire
9 compartment in the car.

10 Q Did you ask him whether that pistol was the one that
11 he had used in the shooting that morning?

12 A I did.

13 Q And what did he tell you?

14 A He said, it was.

15 Q Did you ever proceed to that vehicle outside of the
16 facility you were at?

17 A Yes, I did.

18 Q Did you have a good look at it?

19 A Reasonably good, yes.

20 Q Do you think you'd remember it if I showed you a
21 picture of it?

22 A Yes.

23 Q All right. Showing you State's Exhibit Number 65.

24 A That's a Dodge Durango. I would know it if I saw
25 the license plate.

1 Q Okay. Let me get that. I'm showing you State's
2 Exhibit Number 66.

3 A Yes, that's the vehicle.

4 Q You can recognize it now because of the license
5 plate?

6 A Yes. I remember the license plate because it said,
7 USN, and I associated that with the United States Navy.

8 Q Okay. But really it also says us and pretty boys?

9 A Well, that's a way to look at it, too.

10 Q Okay. This is a rear view of that same vehicle,
11 sir?

12 A Yes.

13 Q Did you notice any, what we would call, evidence
14 tape or something of that nature on the vehicle?

15 A Yes.

16 Q And you can actually use that monitor and touch the
17 monitor and circle the evidence that you see.

18 A That seal's on the rear hatch and the door that you
19 can see.

20 Q Did you do that?

21 A Myself and Deputy Ethan Stover did.

22 Q And what's the reason for doing that?

23 A To make sure that no one gets in or out of the
24 vehicle, or removes anything, tampers with it while it's not
25 being watched. Just to make sure it's secure.

1 Q Do you know what happened to that vehicle after you
2 and Deputy Stover put those seals on the car?

3 A It was towed to the YCSO impound yard by a tow
4 truck. And Deputy Stover followed that vehicle while it was
5 being towed to our impound yard.

6 Q You yourself didn't follow it?

7 A No, I did not.

8 Q And this picture that you see depicted in Exhibit
9 65, is this the vehicle inside your secure tow facility?

10 A Yes, it is.

11 Q And it's locked?

12 A Yes.

13 Q And that's in order to prevent people from gaining
14 access to that vehicle?

15 A Correct.

16 Q After you met with Mr. White and he told you that he
17 had killed his -- shot his estranged wife and shot her
18 boyfriend did you --

19 MR. COFFEE: Can I get some clarification.
20 Permission to approach.

21 MR. ROGAN: Yes.

22 THE COURT: Can you approach, please.

23 (Bench Conference)

24 MR. COFFEE: I thought he was paraphrasing when he
25 said, estranged wife. Can we see if that's actually what he

1 said, or is that your words, estranged wife? I don't think
2 Troy used -- you get what I'm --

3 MR. ROGAN: [Inaudible].

4 (End of bench conference)

5 THE COURT: Okay.

6 BY MR. ROGAN:

7 Q Mr. Coffee wants me to ask you. Previously you used
8 the word "estranged wife." Is that the exact word that Mr.
9 White used to describe the person that he shot?

10 A I'm not sure if he used estranged or ex-wife. I
11 know that's what I put in my report, because they were
12 separated.

13 Q I see. So one of those types of words?

14 A Yes.

15 Q And, again, this is three years ago?

16 A Yes.

17 Q All right. So did you ever make contact with
18 detectives in the Las Vegas Metropolitan Police Department to
19 determine if in fact Troy White was wanted for a shooting?

20 A I did.

21 Q Do you remember the name of the office you spoke
22 with or detective that you spoke with?

23 A Not off hand I don't.

24 Q Okay. But did you confirm that in fact Troy White
25 was wanted for a shooting?

1 A Yes, I did.

2 Q And the shooting of his estranged wife and her
3 boyfriend?

4 A Yes, I did.

5 Q Were you asked to assist in the investigation of
6 that shooting?

7 A Not so much in the investigation, just in offering
8 the search warrant and possibly a physical characteristics
9 petition of Mr. White's person.

10 Q And did you do that?

11 A Yes, I did.

12 Q Did you wait -- did those detectives and other
13 persons from Las Vegas Metropolitan Police Department
14 eventually come to your location in Prescott, Arizona?

15 A Yes, they did.

16 Q Were you present when they arrived?

17 A Yes.

18 Q And did you observe or participate in any way in
19 their investigation of this case?

20 A The only thing I observed was one of their evidence
21 technicians searching Mr. White's person and collecting his
22 clothes and photographs of his person.

23 Q And did you yourself take any property off Mr.
24 White?

25 A I believe I took his car keys and his cell phone.

1 Q Did you turn those over to anyone from the Las Vegas
2 Metropolitan Police Department?

3 A No, I did not.

4 Q Who did you turn it over to?

5 A I turned them over to our Criminal Investigations
6 Lieutenant Tom Boelts.

7 Q At some point the vehicle that you see here in
8 Exhibit 65 was searched by those individuals from Las Vegas
9 Metropolitan Police Department?

10 A Yes.

11 Q Were you present for that search?

12 A No, I was not.

13 Q What about Lieutenant Boelts? Was he present for
14 that?

15 A He was present for that from my understanding.

16 Q Did you book the defendant Mr. White for the crimes
17 that he committed in Las Vegas?

18 A I booked him in for a homicide warrant. Yes, I did.

19 MR. ROGAN: I'll pass the witness, Your Honor.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. COFFEE:

23 Q You're now retired?

24 A Yes, sir.

25 Q How long did you serve?

1 A Fifteen years.

2 Q Fifteen years. You've investigated numerous cases?

3 A Yes, sir, I have.

4 Q In this case were you in the office when Mr. White

5 came in and said there'd been a shooting in Las Vegas, so that

6 he'd shot someone in Vegas, or were you called to the scene?

7 A I was in the office and he was outside in our

8 sallyport, probably 25 feet from where I was.

9 Q Were you one of the first people he had contact with

10 or did he have contact with other officers first?

11 A I believe I was the third person. I believe he had

12 had contact with Deputies Jaeger and Bray before me, because

13 they were the ones that contacted me.

14 Q Small community, you know each other?

15 A Fairly.

16 Q Know by site anyway. You may not go to each other's

17 house every weekend, but you know who Jaeger is?

18 A Yes.

19 Q And he's the gentleman that just left our courtroom

20 a few moments ago; yes?

21 A Yeah.

22 Q Now, there was some discussion about this word

23 "estranged." Do you remember that --

24 A Yeah.

25 Q -- a moment ago? Okay. And this has been over two

1 years at this point, almost three?

2 A Almost three, yes, sir.

3 Q You did a declaration for a search warrant in this
4 case; yes?

5 A Yes.

6 Q And a declaration for a search warrant is something
7 that you fill out so you can look through people's property?

8 A Correct. It's a statement for the judge.

9 Q Statement for the judge?

10 A Yeah.

11 Q You can't, on your own, just go search things
12 without a search warrant in general, or there might be
13 problems later because we have certain privacy rights; is that
14 fair?

15 A That's fair.

16 Q The Constitution says the government can't come into
17 your house and riffle through your stuff without a search
18 warrant. So you fill out an affidavit for a search warrant?

19 A Correct.

20 Q And in that affidavit for a search warrant you make
21 this one statement; yeah?

22 A Yeah.

23 Q It is important to be fair; yeah?

24 A Yeah.

25 Q It's important to be accurate?

1 A Yeah.

2 Q It's important to be complete?

3 A Yeah.

4 Q You know a judge is going to rely on that for making
5 a decision as to whether or not or a search is appropriate?

6 A Yeah.

7 Q Do you know the courts may rely on it later? You
8 may have to ask questions about it later like today; right?

9 A Yeah.

10 Q Okay. I want to talk to you about the search for a
11 moment if I might. There was a discussion about exactly what
12 White had said. Remember putting in the search warrant Mr.
13 White approached the two detention staff members and told them
14 he was wanted -- he wanted to turn himself in as he had shot
15 someone in Vegas that morning and he was wanted there? Do you
16 remember putting that in the search warrant?

17 A I may have. I have not seen that search warrant,
18 sir, since that day. But if I wrote it, that's what it says.

19 MR. COFFEE: Permission to approach.

20 THE COURT: You may.

21 BY MR. COFFEE:

22 Q And the point being the reason you write it is
23 because memory fails on occasion; right?

24 A Yeah.

25 Q Okay. Now, we can agree at that point he says,

1 "someone." He doesn't mention estranged wife. When talking
2 to the other officers he said, "I shot someone in Vegas." Is
3 that fair?

4 A That's fair.

5 Q Part of what goes into a search warrant is
6 conversation with other officers; right?

7 A Yes, collective knowledge.

8 Q Collective knowledge. And that's important, because
9 you may not have all the facts; is that right?

10 A That's correct.

11 Q You spoke with a Sergeant Scott from Las Vegas
12 Metro; is that right?

13 A I believe I did.

14 Q Okay. And you put in your search warrant that "he,"
15 and that means Sergeant Scott; right?

16 A Yes.

17 Q "He informed me that White had shot and killed --"

18 MR. ROGAN: Objection. Hearsay.

19 THE COURT: Overruled.

20 BY MR. COFFEE:

21 Q "He informed me that White had shot and killed his
22 estranged wife and wounded her significant male other."
23 That's what you wrote in your search warrant; right?

24 A That's correct.

25 Q So might it had been Officer Scott that informed you

1 that it was the estranged wife that was shot?

2 A I don't believe so. I think he may have confirmed
3 it.

4 MR. COFFEE: Permission to approach again.

5 THE COURT: You may.

6 BY MR. COFFEE:

7 Q Your search warrant's several pages?

8 A Yeah.

9 Q If I tell you no place in that search warrant does
10 it say Mr. White said he shot his estranged wife, Mr. White
11 called his wife estranged, ex-wife, nothing like that anyplace
12 in that search warrant, would you disagree with me?

13 A I wouldn't know. I haven't read the search warrant.
14 I have not seen it since that day, as I said.

15 Q Go ahead and read through it.

16 A Okay.

17 Q Having read through it does that refresh your
18 recollection as to whether or not anyplace in the search
19 warrant Mr. White actually called his wife estranged? Does it
20 mention it anyplace in the search warrant?

21 A No, it does not.

22 MR. COFFEE: Permission to approach.

23 THE COURT: Sure.

24 BY MR. COFFEE:

25 Q That's your signature; right?

1 A Yes.

2 Q And this is subscribed and sworn, meaning you swore
3 it was the truth?

4 A Yeah.

5 Q Okay. Very good. Thank you.

6 THE COURT: Redirect.

7 MR. ROGAN: Thank you.

8 REDIRECT EXAMINATION

9 BY MR. ROGAN:

10 Q Mr. Bentley, when you -- you've drafted numerous
11 search warrants in your career; correct?

12 A Many.

13 Q Many. All right. Now, is it your practice or the
14 practice of any other police officer in your jurisdiction to
15 state specifically in quotes what a person told you when you
16 draft a search warrant?

17 A Not typically.

18 Q It's a summary; isn't it?

19 A Correct. It's a report for the judge.

20 Q It's a report of probable cause?

21 A Correct.

22 Q Right?

23 A Yes.

24 Q And you don't have to detail the particular time,
25 location, or specifically what's said by a person in that

1 search warrant; right?

2 A Correct.

3 Q It's a summary?

4 A Correct.

5 Q It's a report?

6 A Correct.

7 Q And you've just reviewed that search warrant;

8 correct?

9 A Briefly and quickly, yes, sir.

10 Q Did you see quotation marks around the part where

11 you mentioned what Mr. White had told you?

12 A Not that I recall.

13 Q And if you had intended to specifically tell the

14 Judge what Mr. White had specifically said, you would have

15 used quotation marks; correct?

16 A Correct.

17 Q All right. Thank you.

18 THE COURT: Any recross?

19 RECROSS-EXAMINATION

20 BY MR. COFFEE:

21 Q Were you an English major?

22 A No.

23 Q Okay. Do you always use correct punctuation?

24 A No, I don't. No.

25 Q Okay. You did put this in your report, and this

1 doesn't relate to what Mr. White told the two other detention
2 officers. This relates to what he told you. Did you say the
3 following, "I walked outside and contacted Mr. White, and I
4 informed him who I was. He told me --" That would indicate
5 he told you something; right?

6 A It indicates that we had a conversation. Yes, sir.

7 Q Okay. "He told me he wanted to turn himself in as
8 he had shot someone." Right? That's not ex-wife, it's not
9 estranged wife, that he had shot someone in Las Vegas that
10 morning. That's what you wrote in your warrant that he had
11 told you directly; correct?

12 A That was what we talked, yes.

13 Q Okay.

14 A That he shot someone.

15 MR. COFFEE: Nothing further.

16 THE COURT: Anything further, Mr. Rogan?

17 MR. ROGAN: I think we're finished with this. Thank
18 you, Your Honor.

19 THE COURT: Thank you, sir. We appreciate your
20 time. Travel safely.

21 THE WITNESS: Thank you, Judge.

22 THE COURT: Have a nice day.

23 Counsel, we're going to take a short recess before
24 we go to your next witness so everybody can have their break
25 for a personal convenience.

1 During this recess you're admonished not to talk or
2 converse among yourselves or with anyone else on any subject
3 connected with this trial, or read, watch, or listen to any
4 report or commentary on the trial or any person connected with
5 this trial by any medium of information, including without
6 limitation, social media, text, newspapers, television or the
7 Internet or radio, or form or express any opinion on any
8 subject connected with the trial until the case is finally
9 submitted to you.

10 We'll see you in about 10 minutes.

11 (Jury recessed at 11:06 a.m.)

12 (Jury is not present)

13 THE COURT: Counsel, a couple issues outside the
14 presence. All three of our witnesses this morning have had
15 issues where they've refreshed their recollection with various
16 reports or declarations. Does anyone feel the need for any
17 portions of those to be redacted and either marked as an
18 exhibit or admitted?

19 MR. ROGAN: Your Honor, can we just get back to you
20 after the break. I need to review that search warrant.

21 THE COURT: That's fine.

22 MR. ROGAN: Okay.

23 THE COURT: And here's my next question. We had an
24 objection related to the tattoos and the issues related to the
25 accuracy of the report with Ms. Gavin, and is there anything

1 else you want to say about the objections other than what we
2 said at the bench or to say anything else?

3 MR. ROGAN: Your bench conferences are recorded;
4 right?

5 THE COURT: You are. But as I said on the first
6 day, it's not a perfect ability to transcribe accurately what
7 happens.

8 MR. ROGAN: Then just briefly for the record, Your
9 Honor, I objected both to relevance and foundation as Dr.
10 Gavin testified that tattoos are utilized in order to identify
11 a body that they can't otherwise identify. In this particular
12 case they didn't need tattoos to identify. So I objected as
13 to relevance. That was overruled because of the reason that
14 Mr. Coffee saw an error in the autopsy where she had written
15 the tattoo stated juicy jelly when it actually read juicy
16 Joey. Again, the State didn't think that that was relevant.

17 Additionally, Mr. Coffee also brought out the tattoo
18 that said, beautiful disaster. The State, again, objected as
19 to what the relevance of that had to the autopsy that was
20 performed by Dr. Gavin. And, again, that was overruled.

21 Court's indulgence.

22 THE COURT: I think you actually objected --

23 MR. ROGAN: And it was also --

24 THE COURT: -- to the relevance to the
25 identification, not to the autopsy.

1 MR. ROGAN: Yes, the relevance of the tattoo to the
2 autopsy.

3 THE COURT: Because that's an important -- okay.
4 Anything else?

5 MR. ROGAN: No, Your Honor.

6 THE COURT: Mr. Coffee, anything else?

7 MR. COFFEE: By the ruling. Thank you, Judge.

8 THE COURT: Okay. And the concern that I had and
9 the reason I allowed the witness to answer the question was
10 because she said, the identification was done by fingerprints.
11 The fingerprints are not an immediately result. So in order
12 for her to complete her work as she normally does she had to
13 document the tattoos. Anything else? All right. See you
14 guys in a few minutes.

15 (Court recessed at 11:09 a.m., until 11:15 a.m.)

16 THE COURT: Did you guys want to say something, or
17 are we waiting for the witness and the jurors?

18 MR. ROGAN: We were just waiting for the jurors, but
19 we had just wanted to say, didn't want to introduce anything
20 based upon the --

21 THE COURT: You don't have to tell me. All I've got
22 to do is make my record that I made the offer. And you guys
23 were either going to do your job or you're not. I'm just
24 doing my part.

25 (Pause in the proceedings)

1 (Jury reconvened at 11:19 a.m.)
2 THE COURT: Counsel stipulate to the presence of the
3 jury?
4 MS. MERCER: Yes, Your Honor.
5 MR. COFFEE: Yes.
6 THE COURT: And, again, if you have questions you
7 want to ask a witness during a testimony, those pads on the
8 front are for you to write those questions on.
9 Counsel, your next witness.
10 MS. MERCER: Wanda Wilson. May I approach your
11 Court, Your Honor.
12 THE COURT: You may.
13 WANDA WILSON, STATE'S WITNESS, SWORN
14 THE CLERK: Please be seated, and please state and
15 spell your name for the record.
16 THE WITNESS: Wanda Joy Wilson, W-I-L-S-O-N.
17 Joy, J-O-Y. Wanda, W-A-N-D-A.
18 THE COURT: Thank you, ma'am. And there's water in
19 that pitcher. There are M&Ms in the dispenser, and if you
20 need some coffee the marshal can get you some.
21 THE WITNESS: Thank you.
22 THE COURT: You may proceed.
23 MS. MERCER: Thank you, Your Honor.
24 //
25 //

1 DIRECT EXAMINATION

2 BY MS. MERCER:

3 Q Good morning, ma'am.

4 A Good morning.

5 Q Where do you currently reside?

6 A 316 Altamira Road --

7 Q Is that here in Clark County?

8 A -- Las Vegas, Nevada 89145.

9 Q Okay. And that's here in Clark County, Nevada;

10 correct?

11 A Yes, it is.

12 Q How long have you lived at that address?

13 A 42 years.

14 Q Are you the original owners of that home?

15 A Yes, we are.

16 Q Are you currently married?

17 A Yes.

18 Q Who is your husband?

19 A Robert A. Wilson.

20 MS. MERCER: Permission to publish, Your Honor.

21 THE COURT: You may.

22 BY MS. MERCER:

23 Q Ma'am, I'm publishing on the overhead State's

24 Exhibit 98. Does this appear to be an aerial image of your

25 neighborhood or more specifically the street that you reside

1 on? And if you need me to me to approach with you so you can
2 see it closer, let me know.

3 THE COURT: And, ma'am, you can see it on this
4 monitor, too. I'm not sure it's as good of quality, but --

5 THE WITNESS: Oh. I'm sorry. Oh. I'm sorry.
6 Okay. Yes.

7 BY MS. MERCER:

8 Q Okay. And you see where it's marked, 325 Altamira
9 right here?

10 A Yes.

11 Q Where would 316 be in relation to that address?

12 A It would be right on the corner of Altamira and
13 Barkentine.

14 Q Can you circle it for me, please. If you'd touch
15 that monitor --

16 THE COURT: Touch the monitor with your finger.

17 BY MS. MERCER:

18 Q Okay. So you're across the street and what, one or
19 two houses down?

20 A About two.

21 Q Okay. I want to direct your attention to July 27th
22 of 2012. On that date were you familiar with the family that
23 resided at that address of 325 Altamira?

24 A No.

25 Q Never had any contact with them at all?

1 A No.

2 Q Sometime shortly -- well, in the morning hours did
3 you go out to run some errands?

4 A I went out once, yes.

5 Q And where did you go?

6 A I went to pick up my grandnephew to bring him back
7 to my house to play with my grandson.

8 Q Were you watching your grandson at the time?

9 A Yes.

10 Q What time did you actually return to your house with
11 you grandnephew?

12 A That's questionable. It was probably around 11:30,
13 probably closer to 11:30.

14 Q Okay. So shortly before noon?

15 A Yes.

16 Q As you were driving up to your house did something
17 unusual happen?

18 A As I was driving up, that as I turned into my
19 driveway and turned the car off and opened my door I could
20 hear crying, a mournful crying and sobbing.

21 Q When you heard that crying and that mournful sobbing
22 that you were describing, did it sound like it was an adult or
23 a child?

24 A I took it as being a child.

25 Q And when you looked up were you able to see where

1 that crying was coming from?

2 A No. I looked to my left and I looked to my right,
3 and I said to the boys, I said, where is that coming from?
4 And we were all looking, and then as I turned back, a little
5 boy ran in front of my car and stopped. And then we got out
6 of the car, and he headed towards my grandson who was on the
7 passenger's side.

8 Q When you heard that crying, that sobbing, were you
9 already pulled into your driveway?

10 A Yes.

11 Q And you said your car was turned off?

12 A Yes.

13 Q So it was as you were getting out of the car that
14 you were able to see where the crying was coming from?

15 A As I opened the door.

16 Q You said that he ran towards which of the children?
17 I'm sorry.

18 A My grandson who was on the passenger's side of the
19 car.

20 Q When he approached the car did you make any contact
21 with him, any verbal contact?

22 A I just got out of the car and I said, what's the
23 matter?

24 Q What did he say to you?

25 A He said, help, please. He said, my dad just shot my

1 mother and her friend.

2 Q At the time that this was taking place was your
3 husband present?

4 A My husband was coming down the street, Altamira,
5 from the south and was pulling into the driveway. And he got
6 out of the truck, and I said to him, we've got to call 911. I
7 said, this boy said his dad just shot his mother and her
8 friend.

9 Q At that point what did the two of you do?

10 A I wanted to get into the house. I was a little
11 leery, so I wanted to get the children into the house. So we
12 went in and my husband proceeded to call 911.

13 Q What were you leery of?

14 A Well, when I hear a gun or anything like that, you
15 never know where they're at and where they have that gun.

16 Q So you were concerned that the boy's father might
17 still be in the vicinity --

18 A Exactly.

19 Q -- and might harm the child or one of you all?

20 A Right.

21 Q Once you go into the house -- did you take the
22 little boy with you?

23 A Oh yes.

24 Q Did you recognize this little boy at all?

25 A No.

1 Q When you saw the little boy was he fully clothed?
2 A No. All he had on was shorts.
3 MS. MERCER: Permission to publish, Your Honor.
4 THE COURT: You may.
5 BY MS. MERCER:
6 Q I'm showing you State's Exhibit 15. Is this the
7 little boy that ran up to you sobbing?
8 A Yes.
9 Q When you went into the home did either you or your
10 husband make a call to 911?
11 A My husband did.
12 Q Were you present when he made that call?
13 A Yes, I was.
14 Q Was this young man present when you made that call?
15 A Yes. We were all standing in the living room.
16 Q Was he still crying?
17 A Yes.
18 Q Did you later learn that this little boy's name was
19 J [REDACTED] W [REDACTED]?
20 A Yes. I asked his name.
21 Q At some point you got on the phone with the 911
22 operator, as well; correct?
23 A Towards the end I did, yes.
24 Q And that was just to find out whether you should
25 take this child back across the street where you saw police?

1 A I asked them. Yes, if I should take -- and she
2 said, no. And then about the same time as I was asking her
3 the police arrived. So I told her, I said, the police are
4 here now.

5 Q Did this child end up staying at your house --

6 A Yes.

7 Q -- for several hours?

8 A Yes, till 6:30 that night.

9 Q Did some of his siblings also come to your house?

10 A Yes. At one time I had all five of them.

11 MS. MERCER: Permission to publish again, Your
12 Honor.

13 THE COURT: You may.

14 BY MS. MERCER:

15 Q I'm showing State's Exhibit 16. Was this one of the
16 siblings that came to your house?

17 A Yes.

18 Q State's Exhibit 17.

19 A Yes.

20 Q State's Exhibit 18?

21 A Yes.

22 Q State's Exhibit 19?

23 A Yes.

24 Q Did the younger two children leave sooner than the
25 older three?

1 A Yes. I had no provisions, so they had called CPS,
2 and CPS arrived and took the baby girl and the, I believe he
3 was a three-year-old.

4 Q Okay. And looking at State's Exhibit 19, this is a
5 very small child, an infant; correct?

6 A Yes.

7 Q Wearing diapers?

8 A I'd say about seven or eight months.

9 Q Not eating solid food, obviously?

10 A I don't believe so. Although the -- J [REDACTED] had said
11 he had fed her some cereal that morning.

12 Q And looking at State's Exhibit 18, this child was
13 still in diapers, as well; correct?

14 A Right.

15 Q You didn't have diapers on hand or --

16 A I didn't. At one time I used to, but not now.

17 Q You said that the older three were at your house
18 till about 6:30 that evening?

19 A Yes.

20 Q While they were there you fed them and tried to
21 entertain them?

22 A Yes, I did.

23 Q You indicated that J [REDACTED], the first one that came
24 over, was sobbing when he arrived at your house?

25 A Yes.

1 Q Did he express any concern to you about his mother's
2 well being?

3 A Yes. Several times he asked if he could go back
4 over and check on her.

5 Q And did he know at that point whether or not she was
6 alive or deceased?

7 A No, he didn't.

8 Q These photographs are actually taken in your home;
9 correct?

10 A Yes.

11 Q We see some of your living room in the background of
12 that picture?

13 A Right.

14 Q Do you remember this little boy saying anything
15 about the reason that his father shot his mother when he was
16 sobbing and crying about it?

17 A Yes. He said that the reason his dad shot his
18 mother and the friend was because the mother was cheating with
19 the friend.

20 Q At some point while these children were still at
21 your house were you present when they were notified that their
22 mother passed?

23 A Yes.

24 Q Which of the children was it that were advised that
25 she'd passed?

1 A The three oldest.

2 Q So J [REDACTED] --

3 A J [REDACTED].

4 Q J [REDACTED] and J [REDACTED]?

5 A Yes.

6 Q When they were advised that their mother passed who

7 advised them that she passed, was it a family member?

8 A Well, the grandfather was there and the grandmother.

9 You know, I don't remember actually --

10 Q Okay.

11 A -- who told them.

12 Q When they were told, what was their reaction?

13 A Sobbing, crying.

14 MS. MERCER: Court's indulgence. I have no further

15 questions, Your Honor.

16 THE COURT: Cross-examination.

17 MR. LOPEZ-NEGRETTE: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. LOPEZ-NEGRETTE:

20 Q Mrs. Wilson?

21 A Yes.

22 Q You've lived at your home for quite a number of

23 years; haven't you?

24 A Yes, we have.

25 Q Before that day you hadn't had contact with your

1 neighbors --

2 A No.

3 Q -- from the son; correct?

4 A No.

5 Q But in the course of that morning you spoke with the

6 children; correct?

7 A Mostly J [REDACTED].

8 Q With J [REDACTED]?

9 A Yes.

10 Q And towards the end of the interview with police

11 they asked you if there was anything else that you remember

12 the might help the investigation; correct? Do you remember

13 that?

14 A Yes, I do.

15 Q And at one point you said that you remembered at one

16 point seeing a YESCO truck --

17 A Yes.

18 Q -- parked in front of the neighbor's house?

19 A Well, it wasn't directly, it was a little up from

20 the --

21 Q All right. And that would have --

22 A -- but it was still in front of the house. But I

23 mean it wasn't directly in front.

24 Q And that would happen on the weekends. You'd

25 remember seeing it?

1 A On the weekends, yes.

2 Q Thank you for your time.

3 A You're welcome.

4 THE COURT: Any further direct?

5 MS. MERCER: No, Your Honor.

6 THE COURT: Okay. Thank you, ma'am. We appreciate

7 your time. Have a nice afternoon.

8 THE WITNESS: Thank you. You, too.

9 THE COURT: Next witness.

10 MR. ROGAN: The State calls Robert Wilson.

11 May we approach with regard to scheduling.

12 THE COURT: You can.

13 MR. ROGAN: Thank you.

14 (Bench conference)

15 MR. ROGAN: We have a patrol officer who's also

16 going to testify this morning. He -- I called him a moment

17 ago. He's caught at a scene. He's going to be here in 20 to

18 25 minutes. So I think we'll probably get through this

19 witness, and if he's here we can start, but if he's still on

20 his way in won't be able to start.

21 THE COURT: I think we should finish this witness

22 and then break.

23 MR. ROGAN: Okay. Perfect.

24 MR. COFFEE: Sure.

25 THE COURT: Because it's 25 till.

1 MR. ROGAN: Okay.

2 THE COURT: Okay?

3 MR. ROGAN: Thank you, Your Honor.

4 (End of bench conference)

5 THE COURT: Sir, if you'll remain standing so we can

6 swear you in, please.

7 ROBERT ARTHUR WILSON, STATE'S WITNESS, SWORN

8 THE CLERK: Please be seated, and please state and

9 spell your name for the record.

10 THE WITNESS: Name is Robert Arthur Wilson,

11 W-I-L-S-O-N.

12 THE COURT: And, sir, there's water in the pitcher

13 there, and there are M&Ms in the dispenser if you should need

14 some.

15 THE WITNESS: Thank you.

16 THE COURT: You may proceed.

17 MR. ROGAN: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. ROGAN:

20 Q Good morning, sir. How are you?

21 A Good morning.

22 Q That lovely woman that just walked out the door, is

23 that your wife?

24 A Yes, it was.

25 Q And you live together on Altamira Road here in Las

1 Vegas, Clark County?

2 A Yes.

3 Q Showing you State's Exhibit 98. Does that appear to
4 be a depiction of your neighborhood, if you can see? And I'll
5 zoom in.

6 THE COURT: And, sir, you can use this monitor
7 here --

8 THE WITNESS: It appears to be, yes.

9 THE COURT: Sir, if you'd like, you can use this
10 monitor which may be easier to see.

11 THE WITNESS: Yes.

12 BY MR. ROGAN:

13 Q All right. And you can see that Altamira is
14 previously marked on the map there for you; right?

15 A Right.

16 Q Can you circle your house for us.

17 A Right here at the corner of Barkentine and Altamira.

18 Q You can actually -- oh. I see. It's around the
19 corner, so it's the one just above that mark?

20 A On the corner.

21 Q All right. You have a pool it looks like?

22 A Yes.

23 Q Okay. Would you recognize 325 Altamira if I showed
24 it to you?

25 A I'm familiar with it, yes.

1 Q State's Exhibit 26, is that 325 Altamira Road?

2 A Yes. When we moved into the neighborhood in 1973 we
3 had a friend that lived there.

4 Q So you've lived in that neighborhood for over 40
5 years?

6 A Forty-two years next month.

7 Q Did you know the family that lived at 325 Altamira
8 back in July of 2012?

9 A I did not.

10 Q Did you know other neighbors though?

11 A A neighbor across the street and to the north of us
12 at 313.

13 Q Okay. I want to talk to you about some events that
14 took place at 325 Altamira and at your residence on July 27th,
15 2012. Do you have a distinct memory of what took place on
16 that day?

17 A Fairly good memory.

18 Q We heard prior testimony that your wife was out
19 doing errands that morning. What were you doing?

20 A I had gone to a shop in Boca Park, and my wife had
21 gone to pick up our niece's grandson, and she had our grandson
22 with her. And as I was returning from Boca Park I was coming
23 down Aragon going east, and I turned onto our street,
24 Altamira, going north. And right at that moment I saw my wife
25 coming toward me and turn into our driveway. And right after

1 that I saw a young boy wearing nothing but shorts, I estimated
2 around eight or nine years old, came running out of his front
3 yard diagonally across Altamira toward our house.

4 Q Let me stop you right there, sir.

5 A Sure.

6 Q All right. So I'm showing you, again, States
7 Exhibit Number 98. You can see Aragon Street here down at the
8 bottom of the screen; correct?

9 A Yes.

10 Q All right. So you were driving eastward on that,
11 and then you turned left onto Altamira?

12 A Yes, Altamira ends -- I mean Aragon ends at
13 Altamira.

14 Q So you were traveling north?

15 A Yes.

16 Q And you saw your wife and her car traveling
17 southward towards you?

18 A Yes.

19 Q And it's at that point as you were traveling north
20 on Altamira that you saw that young boy run diagonally across
21 the street toward your residence?

22 A Yes.

23 Q Did you see whether he was coming from 325 Altamira?

24 A I didn't pay attention to the address at the time.

25 Q Okay. But you subsequently learned that he was

1 coming from that house?

2 A He came from my right, yes.

3 Q I see. All right. Showing you State's Exhibit
4 Number 15. Is this the young man that you saw on July 27th,
5 2012?

6 A It appears to be.

7 Q You can see --

8 A I don't remember exactly what he looked like from
9 nearly three years ago, but --

10 Q Of course. But you see here there's a young man --

11 A That's how he was dressed.

12 Q Okay. You remember this is how he's dressed?

13 A Yes.

14 Q And this is your house that this photograph was
15 taken? Is that yes?

16 A Yes.

17 Q Okay. Sorry. You have to answer out loud. After
18 you saw him, did you pull into your driveway?

19 A Yes, was just after he arrived at our address and
20 was standing by my wife's car I pulled a right. It was just
21 seconds later.

22 Q Okay.

23 A And she was getting out, and I could tell that
24 Jodey, and I know his name now is J [REDACTED], was very panicked and
25 crying. And I asked the wife, what's wrong? And she replied

1 that he said his father just shot his mother.

2 Q A moment ago when you were describing J [REDACTED] as being
3 very panicked you shook your arms. Was J [REDACTED] also shaking at
4 the time that you saw him, as you recall?

5 A He was crying and panicky and his arms going sort of
6 like so.

7 Q And you're shaking your arms as you said that?

8 A Yes.

9 Q Okay. So based upon what your wife told you what
10 did you do?

11 A We immediately took all the children inside,
12 including J [REDACTED]. She handed me the phone and said, we better
13 call 911.

14 Q And is that what --

15 A And I immediately dialed 911.

16 Q We've previously heard that 911 phone call. Have
17 you heard that 911 call since that day?

18 A Yes.

19 Q And that was your voice in that 911 call?

20 A Yes.

21 Q At some point did you -- were you asked to hand that
22 phone over to J [REDACTED] to explain to the 911 operator what
23 happened?

24 A Yes. I was just inside the front door when I made
25 the 911 call. And J [REDACTED] was crying so hard I had a hard time

1 hearing what the operator was saying. So I stepped just
2 outside the door and answered the questions that she asked me.

3 Q And after you handed that phone to young J [REDACTED] did
4 you have an opportunity to exit your house or somehow look at
5 325 Altamira to see if the police had arrived?

6 A I looked out the front door. I didn't go way
7 outside. I just looked out the front door.

8 Q And what, if anything, did you see occurring at 325
9 Altamira when you looked out the front door?

10 A I didn't see anything going on at 325.

11 Q Okay. Do you remember telling the police that you
12 saw a gray SUV back out of the driveway at 325 Altamira?

13 A I didn't see it back out.

14 Q Okay.

15 A I saw it drive by our door.

16 Q Ah. I see. All right. So you saw that car drive
17 by your door?

18 A Yes.

19 Q Traveling north from 325 Altamira?

20 A From that direction, yes.

21 Q Could you see how many people were in that car?

22 A I could see only one, but I couldn't tell if it was
23 a man or a woman.

24 Q All right. So presumably that's a driver? I'm
25 sorry. Can you answer out loud.

1 A Yes, the driver.

2 Q All right. Did you see whether that car was driving
3 -- at what rate of speed, could you tell?

4 A Well within the speed limits. Was not speeding.

5 Q Okay. Did you relate this information to the police
6 either through that 911 call or afterwards when they came to
7 your house and talked?

8 A Afterwards to the detective.

9 Q At some point other children were dropped off at
10 your house; correct?

11 A Yes. The police brought the other four children to
12 our house and asked if we could -- if they could stay there
13 until family services arrived.

14 Q And the children played in your house using your
15 grandson's toys?

16 A Yes. They were quite upset, of course. But after
17 they settled down they found the toys my grandson had and
18 shared with him, and they were -- they stayed fairly quiet.

19 Q And at some point they were informed that their
20 mother had passed?

21 A That was later on that evening.

22 Q Were you present when that happened?

23 A Yes.

24 Q Was it an emotional event for those children?

25 A It was quite emotional for them. The three were

1 sitting on our couch and their grandfather came, and he told
2 them that their mother had died. Of course there was a lot of
3 sobbing and crying. It was a sad time in their life.

4 MR. ROGAN: Thank you, sir.

5 No further questions for this witness.

6 THE COURT: Cross-examination.

7 CROSS-EXAMINATION

8 BY MR. COFFEE:

9 Q Real brief, Mr. Wilson. You helped out for several
10 hours?

11 A I'm sorry.

12 Q Oh. I'll speak up a little bit. You helped out for
13 several hours with the children?

14 A Yes. Yes, until that evening. I'm guessing
15 probably around -- around 6:00 or so.

16 Q It was the right thing to do?

17 A Oh yes. Yes.

18 Q And you said you'd stepped outside at some point
19 because you couldn't hear the 911 operator very well? The
20 child -- there was a commotion?

21 A It was when J [REDACTED] was crying.

22 Q J [REDACTED] was crying?

23 A Yes.

24 Q And it was when you were outside on the phone that
25 you saw the truck --

1 A No, no.

2 Q -- go by?

3 A Later.

4 Q Later?

5 A Yeah.

6 Q Okay.

7 A After we had hung up talking with the 911 operator.

8 Q That you saw the truck drive by?

9 A I saw the vehicle drive by.

10 Q Okay.

11 A I'm not -- I don't recall if it was a sedan or an

12 SUV, but it was light in color.

13 Q All right. Did you ever make eye contact with the

14 driver?

15 A No.

16 Q Do you know that -- do you know if Mr. White was

17 driving the vehicle that you saw drive by?

18 A I wouldn't have known, no.

19 Q You just saw a gray vehicle --

20 A I just saw there was a driver in there.

21 Q Okay. Didn't see where it came from?

22 A No.

23 Q Okay.

24 A It was traveling north on Altamira.

25 Q Okay. Thank you very much.

1 THE COURT: Any further direct?

2 MR. ROGAN: Not from the State, Your Honor.

3 THE COURT: Thank you, sir. We appreciate your
4 time. Have a very nice afternoon.

5 THE WITNESS: Thank you.

6 THE COURT: Ladies and gentlemen, we're going to
7 take our lunch recess at this time rather than starting
8 another witness right now.

9 During this recess you're admonished not to talk or
10 converse among yourselves or with anyone else on any subject
11 connected with this trial, or read, watch, or listen to any
12 report of or commentary on the trial or any person connected
13 with this trial by any medium of information, including,
14 without limitations, social media, text, newspapers,
15 television, the Internet and radio or form or express any
16 opinion on any subject connected with the trial until the case
17 is finally submitted to you. We'll see you at 1:15 outside
18 Courtroom 14A.

19 (Jury recessed at 11:43 a.m.)

20 THE COURT: Counsel, anything outside the presence?

21 MS. MERCER: No, Your Honor.

22 MR. LOPEZ-NEGRETE: No.

23 THE COURT: All right. See you at 1:15.

24 (Court recessed at 11:43 a.m., until 1:17 p.m.)

25 (Jury is not present)

1 THE COURT: How am I doing on jurors?
2 THE MARSHAL: They're present.
3 THE COURT: Go get them.
4 THE MARSHAL: Yes, Judge.
5 THE COURT: Is your witness here?
6 MS. MERCER: Yes.
7 MR. ROGAN: Yes.
8 THE COURT: Lovely.
9 (Pause in the proceedings)
10 (Jury reconvened at 1:18 p.m.)
11 THE COURT: Counsel, stipulate to the presence of
12 the jury.
13 MS. MERCER: Yes, Your Honor.
14 MR. COFFEE: Yes, Judge.
15 THE COURT: You may be seated.
16 Your next witness.
17 MR. ROGAN: Your Honor, the State calls Officer
18 Darren Martine.
19 THE COURT: Sir if you'll come forward, and please
20 remain standing when you get to the witness stand.
21 DARREN MARTINE, STATE'S WITNESS, SWORN
22 THE CLERK: Please be seated, and please state and
23 spell your name for the record.
24 THE WITNESS: It's Darren Martine. First name is
25 D-A-R-R-E-N, last name is Martine, M-A-R-T-I-N-E.

1 THE COURT: Thank you, sir. There's water there for
2 you.

3 THE WITNESS: Oh. Thank you.

4 THE COURT: If you need some coffee they can
5 probably get you some. There's M&Ms in the dispenser there.

6 MR. ROGAN: May I proceed, Your Honor.

7 THE COURT: You may.

8 MR. ROGAN: Thank you.

9 DIRECT EXAMINATION

10 BY MR. ROGAN:

11 Q Sir, how are you employed?

12 A I'm employed as a Police Officer II at the LVMPD.

13 Q And how long have you been a police officer with the
14 Las Vegas Metropolitan Police Department?

15 A It's coming up on 21 years.

16 Q Did you go through the academy here in Clark County?

17 A I did.

18 Q And have you been assigned to patrol your entire
19 career?

20 A That's a yes.

21 Q Currently what area commander -- what part of town
22 do you work in?

23 A It's the northwest area command.

24 Q Were you working out of the northwest area command
25 on July 27th, 2012?

1 A I was.

2 Q And is that area command patrol or cover the area of
3 Altamira Road, which is just north of Alta?

4 A That is correct.

5 Q On July 27th, 2012, were you dispatched to 325
6 Altamira Road in reference to a shooting that occurred there?

7 A I was.

8 Q Were there other officers who were also dispatched
9 to that home, as well?

10 A Yes.

11 Q And do you remember who they were?

12 A I remember a couple. It was Officer Matt O'Brian,
13 Officer David Horowitz and Officer Michelle Casper.

14 Q Were you one of the first officers to arrive on the
15 scene?

16 A I think I was number three or four.

17 Q Do you recall -- showing you Exhibit 27, do you
18 recall this being the residence located at 325 Altamira?

19 A Yes.

20 Q And at the time you arrived, clearly that crime
21 scene tape was not present. That's something that was put up
22 by you or other patrol officers later on; right?

23 A That is correct.

24 Q What's the first thing that you did when you arrived
25 at 325 Altamira?

1 A I came south in front of the house where those two
2 windows are, I can't really point, and then I approached up
3 the driveway to go to the front door. There was some kids out
4 in the driveway that I saw immediately. I think there was a
5 uniformed officer, too, out in the driveway. As I approached
6 I could see -- got up to the front door, the front door was
7 open. You could see more kids inside now of the residence.
8 So there's kids out in the driveway, there's kids inside the
9 residence. The kids looked extremely excited. I think some
10 were crying. I believe at that time I had directed Officer
11 Michelle Casper gather up all the kids and take the kids to a
12 neighbor's residence.

13 Q Now, sir, at this time the only information that you
14 know about what occurred at 325 Altamira is through your radio
15 communications; correct?

16 A That is true.

17 Q And what is the information that you had at the time
18 that you came upon 325 Altamira?

19 A Initially it was a young boy had gone to a
20 neighbor's house and told the neighbor that his father had
21 shot his mother. So a neighbor had called our communications,
22 and it goes from the call taker to the dispatcher to us. So
23 it was the call taker, the dispatcher, then to us, and then we
24 were dispatched.

25 Q So at the time that you arrive in the house did you

1 have any idea whether the potential shooter was still present?

2 A Yeah. Because the information, as it comes in, it's
3 not given to you all at one shot. It usually comes in pieces,
4 and usually the pieces are behind the curve. So the
5 information was being updated as officers are still going
6 there. And the updated information was, there was two
7 victims, possibly one of the victims is a friend. The
8 dispatcher was able to pull I believe prior events -- prior
9 event --

10 Q Okay. Stop right there. Let me just ask you this.
11 At the time did you know whether the shooter was still at that
12 house?

13 A Trying to remember going further, continuing on --
14 to address that question --

15 Q Well, let me ask you a different question. You're a
16 police officer, you come upon a house that apparently a
17 shooting had just taken place, for officer safety what is it
18 that you do when you first get there?

19 A Okay. I see where you're going with this. The
20 information, all we knew is that two people had been shot.
21 Didn't know if the person who did the shooting was still at
22 the scene. So I probably -- he was still there. There was no
23 information that he had left. Does that answer it?

24 Q All right. So did you enter the house and do what's
25 called clearing the house?

1 A Absolutely, yes.

2 Q And what is that?

3 A When we first get to there we -- we believe we had
4 at least two victims for sure, a possible shooting suspect who
5 is -- high probability still at the scene, no information that
6 he left. First duty is to make the scene safe, and that is to
7 go in and clear that for any potential suspects. And that was
8 the first and primary, and that's what we did.

9 Q Okay. So you and some other officers went room to
10 room --

11 A Correct.

12 Q -- and you looked to see if there was anyone there
13 that posed a threat to you or other persons?

14 A That would be clearing the residence, correct.

15 Q And that's called clearing the residence. And as a
16 result of that, you determined that there was no further
17 threat to yourself or other officers?

18 A True.

19 Q And based upon that you felt as though it was safe
20 enough to render aid to any victims that may be inside that
21 house?

22 A Yes.

23 Q All right. So when you entered the house you enter
24 through the front door?

25 A The front door.

1 Q And there is a living area and kitchen area kind of
2 off to your right --

3 A True.

4 Q Right?

5 A Yes.

6 Q And on your left there is a long hallway?

7 A Yes.

8 Q And that's where the bedrooms and what we've been
9 referring to as a craft room were located; correct?

10 A Yes.

11 Q All right. Showing you Defendant's Exhibit E. This
12 is the living room/kitchen area --

13 THE COURT: Sir, there's a monitor here right next
14 to you if that's easier.

15 THE WITNESS: Okay. Thank you.

16 BY MR. ROGAN:

17 Q It's the living area/kitchen area. There's nothing
18 in that room that needed your immediately attention; correct?

19 A Correct. That was cleared.

20 Q All right. Same thing for -- here's State's Exhibit
21 39, the living room area, nothing in there that needed your
22 immediate attention?

23 A No.

24 Q All right. I mentioned a hallway before. Showing
25 you State's Exhibit 41. That's the hallway leading towards

1 the bedroom areas of the house; correct?

2 A Correct.

3 Q All right. You went down that hallway at some

4 point --

5 A Yes.

6 Q -- all the way to the end? And on your left is one

7 bedroom and on your right is another room that's not used as a

8 bedroom but as a craft room; correct?

9 A Correct.

10 Q Was there anything in that master bedroom, on your

11 left-hand side, that needed your attention?

12 A Yes. There was a white male, he was down and

13 bleeding right inside the doorway.

14 Q Was there an officer there attending to that male?

15 A Yes.

16 Q And who was that?

17 A That was Officer Matthew, or Matt O'Brian.

18 Q And across the hall in the room that's not used as a

19 bedroom was there someone else injured?

20 A Yes.

21 Q And what did you see?

22 A I saw a white or hispanic female. She was laying on

23 her back, and she had an apparent -- it was apparent to me a

24 gunshot wound to chest. Didn't look like she was moving or

25 breathing, and she looked a little blue and discolored on her

1 skin.

2 Q Did you think that she was alive or did you think
3 that she was dead?

4 A I thought she was dead at that time.

5 Q Was there another officer attending to that female
6 at that point?

7 A Yeah. That was David Horowitz.

8 Q At some point did you attend to either of those two
9 individuals?

10 A I'm sorry. What was that?

11 Q Did you, yourself, attend to the medical needs of
12 either of those individuals?

13 A One, that would be the male.

14 Q I'm going to show you some pictures of that room
15 where the male was located; okay? Showing you State's Exhibit
16 Number 55. Does that appear to be the room where the male was
17 located?

18 A Yes.

19 Q Viewing it from the hallway?

20 A Yes.

21 Q All right. And you see the crib in there; correct?

22 A Yes.

23 Q All right. And showing you State's Exhibit Number
24 58. Do you see there, that is also from that master bedroom;
25 correct?

1 A Yes.

2 Q All right. There seems to be some apparent blood on
3 the floor as depicted in this exhibit; correct?

4 A Correct.

5 Q Is that where the male was located?

6 A Yes.

7 Q Can you describe for me the demeanor of that male
8 when you came in.

9 A He was sittted down, but he was sittted down with
10 standing, you know, torso up, obvious pain. He could see from
11 his vantage point out the door across the hallway into the
12 next room. And he was more concerned about the female. He
13 wanted us to go check on her. But she was already being
14 attended by Officer Horowitz. So I stayed with him and asked
15 him some questions.

16 Q You said that he was in obvious pain. Did you
17 notice any injuries or wounds to him?

18 A The male was -- lower torso, leg area, he was ridden
19 with blood. Right. We figured it was blood. I had asked him
20 if he'd been shot, and he said, a couple times in this area.
21 I just couldn't tell where because of all the blood.

22 Q Did he have any clothing on at the time?

23 A I believe he did, but I'm unsure of that.

24 Q Did paramedics subsequently arrive to attend to
25 these two individuals?

1 A Yes.

2 Q And did they come with all of their gear?

3 A Yes.

4 Q Did that include a gurney --

5 A Yes.

6 Q -- for each of the two victims?

7 A That is correct.

8 Q And there was multiple officers who were also in the

9 house; correct?

10 A Correct.

11 Q Now, at this point in time are you concerned with

12 the collection and preservation of evidence?

13 A No.

14 Q Or are you concerned with the victims of this

15 shooting?

16 A No. It's -- usually what happens is the

17 preservation of life is the first part. You preserve what you

18 can, but it's not the primary importance. The scene is called

19 dynamic. Dynamic means it's not static, it's changing. Once

20 the lives are cared for and taken care of then the second part

21 kicks in as to preservation of the scene.

22 Q Did you attempt -- you mentioned before that you

23 spoke with the male that was laying down there?

24 A I did.

25 Q He was able to speak to you?

1 A Yes.

2 Q Even though he was in pain?

3 A Yes.

4 Q Did you ask him who had shot him?

5 A I did.

6 Q And who did he say shot him?

7 A He said it was Troy.

8 Q Did he give you a last name at the time that you

9 recall?

10 A I cannot recall if he gave me a last name.

11 Q Did he identify how he knew Troy or how Troy was

12 related to him or to the female victim across the hall?

13 A Yeah. I asked him, well, who is Troy. And I

14 believe the male was Averman. He said that was the female,

15 the female across the hall who had been shot, that was her

16 husband.

17 Q Did he mention whether Troy lived at 325 Altamira?

18 A I asked that question. He said, he did not.

19 Q When you arrived at the scene did you notice any

20 cars in the driveway?

21 A I noticed one car, and that was the car in the

22 earlier picture that was up on the screen, the white car.

23 Q But at this point you know that there's an

24 individual by the name of Troy, related to the female victim,

25 who apparently shot these two individuals?

1 A That is true.

2 Q Do you communicate that information to someone?

3 A It was communicated, it was commuted via the radio.

4 I just don't remember if I did or somebody else did it.

5 Q That's fine. But it is communicated to other

6 officers?

7 A Absolutely.

8 Q And I presume the purpose is so that they could

9 locate the alleged perpetrator?

10 A Absolutely.

11 Q Did you follow up questioning, as you call him, Mr.

12 Averman --

13 A Averman I think. Aver or Averman?

14 Q -- right, with regard to the possible whereabouts of

15 Troy?

16 A I did. Mr. Averman said -- he told me he was able

17 to tell me that him and his wife had shared a car, and it was

18 a silver Dodge Durango. If it was not in the driveway then

19 Troy has the car. He did give out a license plate. I believe

20 it was a personalized plate, but I just can't recall was that

21 was.

22 Q You communicated that or another officer

23 communicated that over the radio, as well?

24 A Yes. That would have been updated.

25 Q At some point did you notice that there was another

1 person inside of the master bedroom where Mr. Averman was
2 laying?

3 A I did not. Mr. O'Brian or Officer O'Brian first
4 did. It was a baby in the crib.

5 Q I'm showing you, now on your screen, State's Exhibit
6 Number 55. Is that the crib where that child was located?

7 A Yes.

8 Q And did Officer O'Brian draw your attention to the
9 child in the crib?

10 A Yes, he did.

11 Q What did he say to you?

12 A He said, there's a baby here.

13 Q All right. And what did you do with that
14 information?

15 A Well, I told him I'm not good with kids, I don't
16 have kids. I know he has kids, and you take the baby, and he
17 picked the baby up and cradled the baby.

18 Q And took the baby somewhere else?

19 A Yes.

20 Q Now, I mentioned or asked you before whether
21 paramedics had subsequently arrived or at some point arrived.
22 After they arrived did you speak with a detective or other
23 officers who arrived to conduct an investigation into the --

24 A That was later in this incident, but yes.

25 Q And did you communicate to them what you'd observed

1 and what you had seen and what you had heard?

2 A Yes.

3 Q And you gave an actual tape-recorder interview with

4 one of the lead detectives on the case?

5 A I did.

6 Q Did you also mention to him any items of evidentiary

7 value that you might have seen inside the house?

8 A I did. I mentioned two shell casings.

9 Q That you'd seen?

10 A Yes.

11 Q Do you recall today where you'd seen them?

12 A Yes. If you can go back to the hallway shot.

13 Q Sure. Showing you State's Exhibit 41.

14 A If I remember correctly it was Officer Dave Horowitz

15 that when we first made entry into the residence to do a

16 clearing for potential suspects, he said watch out for this

17 shell casing. I think he's the one that pointed it out. And

18 if you're looking down the hallway at that photo it would have

19 been --

20 THE COURT: Sir, you can draw a circle on your

21 monitor on the picture.

22 THE WITNESS: Can I?

23 THE COURT: Hopefully it'll show up. I changed the

24 color to purple.

25 THE WITNESS: With my finger?

1 THE COURT: With your finger.

2 THE WITNESS: All right.

3 THE COURT: Like that old Monday Night Football
4 telestrator with Howard Cosell.

5 THE WITNESS: I want to say it was in this area on
6 the north side of the hallway. There was one shell case, and
7 the first one I noticed -- or he pointed out to me.

8 BY MR. ROGAN:

9 Q In what room did you notice any other shell casings
10 in there?

11 A That would have been where the female victim was
12 laying down, right as you looked in the room it was on the
13 carpet to the left.

14 Q And again, you mentioned before that your primary
15 concern was not the preservation of evidence, but that's some
16 information that you saw and felt fit to communicate to the
17 detectives?

18 A That was during the clearing for the potential
19 suspects and finding victims.

20 Q After the two victims were taken away by paramedics
21 did you stay at the scene to assist in the investigation in
22 any way?

23 A Yes.

24 Q What did you do?

25 A Well, initially we -- once the victims were taken

1 out of the residence we did what's called freeze the premises.
2 Everybody just backed out. And then as you saw in the
3 previous photo we secured the front of the residence with the
4 tape, and then we tried to canvas the neighborhood to see if
5 there's any witnesses to the incident. And then I, during all
6 this time, was making phone calls trying to find Troy's
7 employer. By now Mr. Averman told me he worked for YESCO. So
8 I was trying to call YESCO, his company, to find out where his
9 whereabouts were at this time.

10 Q And did you actually make contact with some persons
11 at YESCO?

12 A I did. I made contact with several people. I
13 recall a female from the HR, and then I think I spoke to the
14 vice president. I think his name, if I recall right, is
15 Joseph.

16 Q And you learned some information from them that you
17 communicated to detectives?

18 A I did.

19 Q Okay. You spoke to those two individuals at YESCO.
20 Were you able to contact Troy at YESCO at all?

21 A No.

22 Q He wasn't there?

23 A He was not there.

24 MR. ROGAN: Court's indulgence.

25 //

1 BY MR. ROGAN:

2 Q Officer, the entire time that you were there at the
3 scene were you wearing your uniform that you're wearing today?

4 A Yes.

5 Q Clearly identified as a police officer?

6 A Yes.

7 Q And were you in your police car?

8 A Yes.

9 Q Were you there -- were you by yourself driving that
10 car around that day, or were you with someone else?

11 A By myself.

12 MR. ROGAN: Pass the witness, Your Honor.

13 THE COURT: Cross-examination.

14 MR. COFFEE: Thank you.

15 Court's indulgence for just a moment.

16 (Pause in the proceedings)

17 CROSS-EXAMINATION

18 BY MR. COFFEE:

19 Q All right, Officer. You were out on patrol working
20 your shift?

21 A Yes.

22 Q And a call comes in from dispatch?

23 A Yes.

24 Q It is a high priority call?

25 A Yes.

1 Q A shooting?

2 A Yes.

3 Q When you get a high priority call and a shooting you

4 go, I'm not going to try to use police jargon, but you go

5 tactical essentially, right, you turn on your lights, you turn

6 on your sirens; is that fair?

7 A Not always, but in general. It depends on what the

8 situation is.

9 Q Thank you. With a shooting you turned on your

10 lights and sirens in this instance?

11 A On this one I believe I did.

12 Q Okay. And you got to the scene, how long from the

13 time that the call, you receive the dispatch, till you get to

14 the scene? And you don't have to be exact.

15 A I will say it was probably no greater than seven,

16 eight -- seven minutes, six, seven minutes, and no less than

17 three minutes.

18 Q Okay. Somewhere between three and seven minutes.

19 A I would say it's probably in the ballpark.

20 Q All right. Five minutes plus or minus a couple of

21 minutes. And there are already officers at the scene?

22 A I believe there was two or three ahead of me.

23 Q The first concern when you get on the scene in a

24 situation like this is safety --

25 A Yes.

1 -- is that fair?

2 A Yes.

3 Q For yourself; yes?

4 A Yes.

5 Q And safety for those that may be injured?

6 A Yes.

7 Q You weren't necessarily protecting a crime scene
8 like a CSA may be?

9 A That's not the primary importance at that time, yes.

10 Q On the other hand you're not purposely disturbing
11 things at a crime scene?

12 A That is true.

13 Q And in this instance, for example, were the shells
14 -- you were told as you came in that there were shells laying
15 some place?

16 A One, yes.

17 Q And you were told that so you didn't disturb it I
18 assume?

19 A Yes.

20 Q Because you know that even though you're concerned
21 about safety you know that somebody at some point may be
22 documenting where everything is?

23 A Yes.

24 Q You don't purposely move anything?

25 A As a general rule, yes.

1 Q And, again, if somebody needs safety --
2 A Yes.
3 Q -- or CPR or something, that would take priority
4 absolutely no question; right?
5 A Yes.
6 Q But you don't go and kick shells around for fun,
7 that kind of thing?
8 A No.
9 Q How many shells did you see total?
10 A I saw two.
11 Q Two. And I want to show you State's 25. And I know
12 it's been a while since you've been in the house, so if you
13 want to take a moment. Does this look like the front door to
14 the house?
15 A Yes.
16 Q And as you walk in, this is the hall that we're
17 talking about?
18 A Yes.
19 Q Number 5, is that about where the shell was that we
20 were talking about?
21 A I don't know. What is that there?
22 Q Which part?
23 A The part where you're pointing to.
24 Q Okay. Door, door, wall.
25 A Wall.

1 Q Another door, bedroom, craft room, we've heard
2 testimony.

3 A It was in that general area in here, yes.

4 Q All right. And the second shell you saw was right
5 inside the door of the craft room or someplace near there?

6 A Yeah. It was inside door to your left on the
7 carpet.

8 Q All right. In looking at this diagram, we'll zoom
9 in a little more, do you see the numbers 5 and 8?

10 A Yes.

11 Q Those are the approximate areas where the shells
12 were?

13 A Let me get my bearings here.

14 Q Sure. I need to go back out probably.

15 A Or back in a little bit.

16 Q You tell me.

17 A Okay. I would say there. I understand 5, but
18 number -- okay. Eight, that would be -- there's the door --
19 going into the door.

20 Q Correct.

21 A It was in that area. I thought it was more like to
22 the left, but it was in that general area. But if you move
23 the door, I thought it was just off to the left.

24 Q Fair to say that these are tense situations
25 particularly if you don't know a shooter's in the house?

1 A Yes.

2 Q You pay attention to everything the's going on; is
3 that fair? Well, you try to.

4 A You know, in this one, I'll be honest with you, this
5 one was a little unique.

6 Q Okay.

7 A It's not that every day that you have at least two
8 people down. One, that's probably okay, but when -- this was
9 a little more chaotic.

10 Q Okay.

11 A So talk about the tunnel vision, it really went from
12 here to here.

13 Q Okay. What's in front of you to make sure there's
14 not a threat someplace?

15 A The threat and the overwhelming of the whole scene.

16 Q All right. You did notice the shell on the ground?

17 A I noticed after the one was pointed out to me, and I
18 don't remember if I noticed the other one or somebody pointed
19 that out to me, but --

20 Q All right. Mr. Rogan just showed you a picture of
21 the hallway. Do you remember that?

22 A Yes.

23 Q That is State's 41. Is that how the hallway looked
24 hen you entered?

25 A It looks like it.

1 Q All right. You didn't notice a buildup of toys or
2 anything in the -- along the ground there?

3 A I don't remember.

4 Q Okay. Wouldn't be something you would purposely
5 move?

6 A Not intentionally, no.

7 Q Okay. Once you figure out that the scene is safe
8 you watch where you, let me see how to put this, once you
9 figure out that the scene is -- is secured the right word?

10 A Yes.

11 Q Okay. Once you figure out that the scene is
12 secured, then you start to be more concerned about preserving
13 evidence; is that fair?

14 A Yes.

15 Q And show you State's 38. That looks like the
16 picture looking out the hallway, the other direction?

17 A Yes.

18 Q And that's approximately what you saw when you came
19 in; is that fair?

20 A I would say yeah. I didn't -- when I came in I did
21 one of those shots to the right, because somebody had already
22 cleared that area. So I didn't pay too much attention, I went
23 down the hallway and went that way.

24 Q And this may be looking the other direction than you
25 came in from actually; right? You might --

1 A When you come in you can either look right or left.
2 So my focus, my jury time was to the left down the hallway.
3 Q Okay. The ER had not arrived; yeah?
4 A No.
5 Q You did speak to somebody who identified themselves
6 as Mr. Averman?
7 A Yes.
8 Q And Averman had told you that the female, her
9 husband had been the one that had done the shooting?
10 A Yes.
11 Q And the Durango, was it a Dodge Durango?
12 A Yes.
13 Q The Dodge Durango you said was shared. Just so
14 we're clear, it was shared between the husband and the wife,
15 not Averman and the wife; is that right?
16 A That's correct.
17 Q Okay. And there was a question, you gave a
18 voluntary statement, it was on tape?
19 A Yes.
20 Q And you were asked whether you had moved anything
21 purposely other than, for example, the child?
22 A Yes.
23 Q And you said, I didn't touch or move anything else
24 in the residence; is that right?
25 A Well, that's not right. That's not truly accurate

1 in the statement.

2 Q Okay.

3 A When we had the infant I picked up the baby bag in
4 the crib, and I go uh-o, and I put the baby bag back in the
5 crib. Anything -- I didn't touch anything else in the
6 residence.

7 Q Okay. But that's a good example of how particular
8 you are with moving things, because you don't know what's
9 important at a crime scene?

10 A Well, at that time, I'll be honest with you, with
11 the baby, picking up the baby, I'm like this has got to go.
12 Then I realize it's got to stay. So --

13 Q Understood. And that was because of a concern of
14 preserving evidence?

15 A The baby. Well, I picked up the bag for the baby
16 during the -- of now the victims -- I was getting the baby
17 out. It was a baby bag in the crib, not really thinking,
18 here's a baby -- obviously the baby's like really small, this
19 has got to go with the baby, because the baby's going to need
20 this and go, I think it's got to stay. Put the baby bag back.

21 Q Did you see any vehicles coming or going as you
22 approached the --

23 A No, I did not.

24 Q -- residence? Is that something you would watch
25 for?

1 A Oh, yeah.

2 Q Thank you for coming in for us, Officer.

3 THE COURT: Any redirect?

4 MR. ROGAN: Yes.

5 REDIRECT EXAMINATION

6 BY MR. ROGAN:

7 Q Officer, I think the point that Mr. Coffee and I are
8 both trying to make, just so we're 100 percent clear, is
9 things can get moved around at a crime scene that is, as you
10 described, dynamic --

11 A Yes.

12 Q -- fair to say?

13 A Yes.

14 Q And they can be moved around inadvertently,
15 accidentally?

16 A Absolutely, especially when you have the type of
17 scene that I was describing. And then you bring in medical, I
18 think AMR and FD was there, and there was quite a few of them.
19 We try to teach FD and AMR about the preservation of evidence,
20 but obviously their primary focus is the preservation of life.
21 So they don't see quite -- see things quite the way we do.
22 When they move something or touch something it may raise a
23 hair on my neck, and to them they really don't think too much
24 of it.

25 Q And if they're running into a house they can kick

1 something?

2 A Oh, yeah.

3 Q Those gurneys are pretty big. They can fit very
4 large people sometimes; yeah?

5 A Well, when you look at that hallway, and I remember
6 it's not really a big hallway --

7 Q And that's the point I want to make. It's a very
8 narrow --

9 A It was a very narrow -- two adults walking side by
10 side you're probably not going to feel very comfortable.
11 You're talking about, off the top of my head, between FD and
12 AMR I want to say minimum at one time at that house -- and
13 those -- going down that hallway -- and those two rooms was
14 probably five, six more with two gurneys.

15 Q And so I guess the ultimate question for you is
16 this. You can't be sure that things didn't get kicked around
17 or moved around that may have been important to the
18 investigation?

19 A Like I described at that point in time, it was --
20 that wasn't the primary importance.

21 Q Thank you, sir.

22 THE COURT: Anything else, Mr. Coffee?

23 MR. COFFEE: Just real brief.

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RECROSS-EXAMINATION

BY MR. COFFEE:

Q Try to put this in context real quick. Don't assume that things started in the place that they ultimately ended up, like shell casings; is that fair?

A I'm sorry.

Q You can't assume that things ended up in the place that they started before officers arrived?

A I would think that's accurate.

Q The flip side is you also shouldn't assume that it was moved, we just don't know?

A I could say we'd say that's true, too.

Q Okay. And you wouldn't move them on purpose?

A As a general rule, correct.

Q And with a shell casing particularly you wouldn't move them on purpose?

A That is correct.

Q And you can't say, for example, that the gurneys moved or kicked anything up or down that hallway, you just don't know?

A Yeah. That is a correct statement. We can say what could, but actually what happened, don't know.

Q But you can say that you saw the shell casings on the floor in the hallway before the gurney showed up?

A Yes, that is correct.

1 Q And they were in the same general area. And general
2 area, I know they may not be in the exact micro millimeter
3 position, but the same general area that they showed up in the
4 crime scene?

5 A That's correct.

6 Q Okay. Thank you.

7 THE COURT: Anything further, Mr. Rogan?

8 MR. ROGAN: No, Your Honor.

9 THE COURT: Thank you, sir. We appreciate your
10 time.

11 THE WITNESS: Thank you.

12 THE COURT: Have a very nice afternoon. Be safe.
13 Next witness.

14 MR. ROGAN: Your Honor, State is going to call
15 Detective Tate Sanborn.

16 THE COURT: Sir, if you'd remain standing when we
17 get you up to the witness stand so we can swear you in,
18 please.

19 TATE SANBORN, STATE'S WITNESS, SWORN

20 THE CLERK: Please be seated, and please state and
21 spell your name for the record.

22 THE WITNESS: Tate Sanborn, T-A-T-E
23 S-A-N-B-O-R-N.

24 THE COURT: Sir, there's water in that pitcher.
25 There are M&Ms in the dispenser. And if you need coffee I'm

1 certain the marshal can find you some.

2 THE WITNESS: Thank you.

3 THE COURT: You may proceed.

4 MR. ROGAN: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. ROGAN:

7 Q Sir, how are you employed?

8 A I'm a detective with the Las Vegas Metropolitan
9 Police Department.

10 Q Are you assigned to a particular unit?

11 A Yes. I'm currently assigned to the homicide
12 section.

13 Q You're a homicide detective?

14 A Correct.

15 Q How long have you been a homicide detective?

16 A Coming up on eight years.

17 Q Prior to that were you a detective anywhere else
18 within the Las Vegas Metropolitan Police Department?

19 A I held detective assignments in robbery, firearms,
20 auto theft, property crimes and the Viper Auto Theft Task
21 Force and a firearms investigation team, which was also a task
22 force.

23 Q How long have you been a police officer or a
24 detective with Metro?

25 A Just over 18 years.

1 Q You've had wide and varied experience within that
2 department?

3 A Yes.

4 Q I want to talk to you about a murder that took place
5 on July 27th, 2012, at 325 Altamira Road. Were you assigned
6 to participate in the investigation of that murder?

7 A Yes.

8 Q Were there other detectives who were assigned to
9 assist you in that investigation?

10 A Yes, my entire squad.

11 Q And how many detectives were on your squad at the
12 time?

13 A We have six permanent detectives, and I believe at
14 the time of this case we had one temporary detective who was
15 helping out.

16 Q And during the course of your investigation you
17 learned that the alleged perpetrator and one of the victims,
18 the female, the woman who died, shared a domestic
19 relationship?

20 A Correct.

21 Q Was this your first time that you've ever
22 investigated a domestic violence murder?

23 A No.

24 Q Are they quite common in Clark County?

25 A Yes, that's fair to say.

1 MR. COFFEE: Permission to approach.
2 THE COURT: Yep.
3 (Bench conference)
4 THE COURT: Since when did this get to be a domestic
5 violence murder?
6 MR. ROGAN: Domestic relationship. I'll rephrase
7 it.
8 MR. COFFEE: I'm also going to object to the -- I
9 know it's a murder investigation, and I don't have a problem
10 calling it that, but the conclusion that it's a murder, before
11 we submit it, is also an issue. A shooting, a killing, I
12 don't care.
13 MR. ROGAN: Shooting, killing.
14 MR. COFFEE: Yeah. Okay.
15 THE COURT: Okay.
16 MR. ROGAN: Thank you.
17 (End of bench conference)
18 THE COURT: If we could rephrase, please.
19 MR. ROGAN: No problem, Your Honor.
20 BY MR. ROGAN:
21 Q So they shared a domestic relationship?
22 A Yes.
23 Q And so you have investigated killings that occurred
24 between people who have shared a domestic relationship in the
25 past?

1 A Yes.

2 Q And it's fair to say because those types of cases
3 are not stranger killings, that there's unique circumstances
4 that you have to investigate and determine during the course
5 of your investigation?

6 A Correct.

7 Q And there's no difference here?

8 A No.

9 Q Because this was a domestic relationship?

10 A Yes.

11 Q Okay. Do you recall about what time you arrived at
12 325 Altamira?

13 A I believe the call in about 11:50, just before noon.
14 So we would probably have arrived there just after noon, maybe
15 12:30-ish.

16 Q You weren't the first detectives on the scene
17 though?

18 A Correct.

19 Q There are other detectives from the domestic
20 relationship unit that were there before you?

21 A Correct.

22 Q Now, is it fair to say that it was only after that
23 Echo Lucas-White, the female victim, had been declared dead
24 that the homicide unit would have been called out?

25 A Yes.

1 Q So when you arrived at 325 Altamira did yourself and
2 the other detectives there speak with either the responding
3 officers at the scene or those domestic detectives that had
4 been there?

5 A We received our initial briefing from the detectives
6 who had responded prior to the homicide section. And then
7 after that briefing we then interviewed all of the first
8 arriving officers.

9 Q If fact, sir, isn't it that you actually arrived at
10 about 1:45 p.m., because those other detectives had been
11 called out before?

12 A That's correct.

13 Q All right. Because your whole detective squad
14 actually arrived at scene do you split up the duties for your
15 investigation?

16 A Yes.

17 Q Is it fair to say that some people conduct witness
18 interviews?

19 A Correct. The majority of the detectives conduct the
20 witness interviews as well as the canvas of the neighborhood.

21 Q Okay.

22 A And then my partner or I would take the
23 responsibility of documenting the crime scene along with crime
24 scene analysts.

25 Q I see. Who was your partner at the time?

1 A Detective Travis Ivy.

2 Q So did you and Detective Ivy conduct an examination
3 of 325 Altamira?

4 A Yes.

5 Q And some other detectives split up the duties of
6 talking to various witnesses?

7 A Correct.

8 Q And some of those witnesses included Robert Wilson,
9 J [REDACTED] W [REDACTED], Herman Allen. Those are names of people that
10 were interviewed during the course of your investigation?

11 A Yes.

12 Q Just some of them?

13 A Yes.

14 Q Okay. Do you remember when you arrived on scene,
15 showing you State's Exhibit 27, was this the condition of 325
16 Altamira when you arrived?

17 A Yes.

18 Q And you noticed that there is a white vehicle parked
19 in front of the garage?

20 A Yes.

21 Q And did you or another officer, and I know you can't
22 see the license plate, run the registration of that vehicle?

23 A Yes, we did.

24 Q Do you recall now who that vehicle was registered
25 to?

1 A It was a Ford Escort, and it returned a Nevada DMV
2 to Joseph Averman.

3 Q Okay. Was there anything else of evidentiary value
4 that you noticed in that driveway or that was pointed out to
5 you as having evidentiary value?

6 A Yes.

7 Q What was that?

8 A There was a backpack that was left in the driveway
9 here. And inside of the backpack there was an empty gun
10 holster.

11 Q Showing you State's Exhibit 24. Is that the empty
12 gun holster you've just described?

13 A Yes.

14 Q And there was also just some loose change inside
15 that backpack; correct?

16 A Correct.

17 Q And that's essentially the extent of the contents of
18 that backpack?

19 A Yes.

20 Q And why was that holster important to your
21 investigation?

22 A Because at this point we believe we were looking for
23 an outstanding firearm.

24 Q Did you actually find a firearm at the scene?

25 A No.

1 Q Did you go inside that house at 325 Altamira?
2 A Yes.
3 Q And the two victims that you learned had been shot
4 were already -- had been removed and attended to by
5 paramedics?
6 A Correct.
7 Q And they'd already left the scene?
8 A Correct.
9 Q All right. So when you went in what was your goal?
10 A To gather as much evidence as we could to help
11 determine what took place inside the house prior to our
12 arrival.
13 Q Okay. And you were accompanied by a crime scene
14 analyst by the name of Tracy Branley now known as Tracy Kruse?
15 A Correct.
16 Q Okay. Did you observe the living room area as
17 depicted in Exhibit 39?
18 A Yes.
19 Q Was there anything of evidentiary value there that
20 you found that was important to your investigation?
21 A No. I believe that living room area was kind of
22 unremarkable as far as the case went.
23 Q And Defendant's Exhibit E, the kitchen area leading
24 into the living room area, same thing, unremarkable?
25 A Correct.

1 Q All right. These photographs on the wall as
2 depicted in Defendant's Exhibit A and B, unremarkable;
3 correct?

4 A Correct.

5 Q Not important to your investigation?

6 A Other than to establish the relationships.

7 Q Okay. At some point you went into a room that I
8 believe you and the other detectives began identifying as the
9 craft room?

10 A Correct.

11 Q And this was located down the end of the hallway on
12 the right-hand side?

13 A Yes.

14 Q And you went in there with CSA Branley or CSA Kruse?

15 A Correct.

16 Q And what, if anything, did you notice on the ground
17 there that was important to your investigation?

18 A In the craft room I believe we located articles of
19 clothing, which should have been removed during life saving
20 efforts by paramedics. There was also a cellular telephone I
21 believe -- actually, I believe there were multiple cellular
22 telephones recovered from that room.

23 Q Okay. Showing you State's Exhibit 47. Does this
24 appear to be a shot of that craft room from the hallway?

25 A Yes.

1 Q And those are depicted in there with the evidence
2 marker 7 through 11. Those are the clothing that were removed
3 by paramedics before you arrived?

4 A Correct.

5 Q State's Exhibit Number 52. Why was that important
6 to your investigation?

7 A This here was the shirt that appeared to be removed
8 from Ms. White or Lucas, and it's important to the
9 investigation because of the defects or holes that would be in
10 it.

11 Q And you can -- was this apparent to you that it had
12 been removed from her body by being cut off?

13 A Yes.

14 Q And you can see up here that the bands on the
15 shoulders, where it has been cut?

16 A Yes.

17 Q Okay. You also mentioned that there was a number of
18 cell phones. Do you remember how many cell phones were
19 recovered throughout the house?

20 A Throughout the house or just the craft room?

21 Q Just the craft room. Let's start there.

22 A I believe in the craft room there were two.

23 Q So there were several cell phones that were
24 recovered throughout the house though?

25 A I also remember seeing additional cell phones in the

1 room directly across the hall, as well.

2 Q State's Exhibit 54 though, what is depicted in that?

3 A That's a cell phone, a white Apple iPhone that was
4 recovered from the craft room.

5 Q Now, did that to you end up being the only cell
6 phone of evidentiary value in the course of your
7 investigation?

8 A Primarily, yes.

9 Q Did you determine whose cell phone that was?

10 A This phone belonged to the victim, Echo.

11 Q Echo Lucas?

12 A Lucas, yes.

13 Q Also known as Echo White?

14 A Correct.

15 Q All right. Did you seize that cell phone and
16 impound it as evidence?

17 A Yes.

18 Q And subsequent to your examination of the house and
19 whatever else you did that day, which we'll get into, did you
20 ask for that phone to be forensically examined by a division
21 of the Las Vegas Metropolitan Police Department?

22 A Yes, I did.

23 Q And the purpose of that was to determine the
24 contents of that phone?

25 A Correct.

1 Q Text messages, photos, things of that nature?
2 A Correct.
3 Q Across the hall from the craft room is the master
4 bedroom; correct?
5 A Yes.
6 Q And you took a look inside that master bedroom
7 during the course of your investigation?
8 A Yes.
9 Q Showing you State's Exhibit 55. What do we see
10 here?
11 A That's looking from the hallway almost directly
12 south right into the master bedroom. You see the baby crib
13 there, and a broken mirror beyond that. You can't really tell
14 in this picture, but there's a bullet hole in the wall that
15 exited out the south side of the house out toward the driveway
16 area.
17 Q Also, while you were in there did you observe the
18 area directly in front of the dresser depicted in 58?
19 A Yes.
20 Q And do you see the blood there depicted in front of
21 that dresser?
22 A Yes.
23 Q And was that identified to you as the location where
24 Joseph Averman, the other victim, had been laying?
25 A Yes.

1 Q At the time that you made entry did you see what's
2 depicted in State's Exhibit 59?

3 A Yes.

4 Q And was does that appear to you to be?

5 A I believe it was a shirt that was removed from Mr.
6 Averman by paramedics prior to our arrival.

7 Q And was that ceased as evidence?

8 A Yes.

9 Q And after it was ceased as evidence was it
10 photographed?

11 A Yes.

12 Q Showing you State's Exhibit 60. Is this a
13 photograph that was taken by crime scene analysts depicting
14 that shirt I guess as it should look?

15 A Yes.

16 Q And it's covered in blood, is it not?

17 A Yes, it is.

18 Q As the other detectives in your squad were
19 conducting interviews of the witnesses that we briefly
20 mentioned did they update you with the information that they
21 were learning?

22 A Yes.

23 Q And did you, based upon the information that you
24 were told, develop the name of a suspect in this case?

25 A Yes, we did.

1 Q And what name was that?

2 A Troy White.

3 Q And did you learn the relationship between Troy

4 White and Echo Lucas?

5 A Troy White was the estranged husband of the victim.

6 Q Did you learn whether Troy White was living there on

7 a full-time basis at 325 Altamira?

8 A I learned that he was not living there on a full-

9 time basis. He would stay there on the weekends only.

10 Q And so you knew at this point that Troy White

11 presumably had a firearm that he used to shoot Echo White and

12 Joseph Averman; correct?

13 A Yes.

14 Q Did you subsequently conduct an investigation to

15 determine whether Troy White had what's known as a carrying a

16 concealed weapon permit?

17 A Yes.

18 Q And what is a carrying a concealed weapon permit?

19 A It's a permit that's issued by the sheriff here in

20 Clark County to authorize someone to carry a weapon concealed

21 on their person not readily identifiable where someone else

22 may see the weapon. It's a permit to keep a gun hidden on you

23 basically.

24 Q All right. So you, for example, as a detective you

25 might carry a handgun hidden?

1 A Correct.

2 Q And do you have a CCW?

3 A I do not.

4 Q Because you're a law enforcement agent?

5 A Correct.

6 Q All right. But for us regular folks, we have to

7 have a CCW permit?

8 A Correct.

9 Q All right. And that's so I can put a gun inside my

10 coat pocket or stuff down the back of my pants and hidden by

11 my shirt?

12 A Anywhere where it's not readily identifiable.

13 Q Did Troy White have such a permit?

14 A No, he did not.

15 Q And there are -- a list of the permit holder is kept

16 by the Las Vegas Metropolitan Police Department?

17 A Yes.

18 Q He was not on that list?

19 A Correct.

20 Q After you learned the identity of the possible

21 shooter did you convey that information to other members of

22 the Las Vegas Metropolitan Police Department?

23 A We did. We sent out an ATL with Troy White's

24 information and also an update on the possible vehicle that we

25 believed he was driving at the time.

1 Q So an ATL. Is that what you said?
2 A Correct.
3 Q What does that mean?
4 A Sorry. It's an attempt to locate.
5 Q Does that mean that you notified other -- all the
6 other police officers in the county to be on the lookout for a
7 particular person?
8 A Correct.
9 Q Troy White?
10 A Yes.
11 Q And did you also learn the make and model and
12 license plate number of a car that he may be driving?
13 A Yes.
14 Q And that was a 2008 Dodge Durango?
15 A Correct.
16 Q All right. Later that day and during the course of
17 your investigation did you receive some sort of information
18 that Troy White had turned himself in?
19 A Yes, we did.
20 Q About what time was that?
21 A I believe it approximately 5:45-ish that afternoon.
22 we were still at the scene, so just before dark I believe.
23 Q So you had been on that scene for about four, four
24 and a half hours by the time that you learned that Troy White
25 may have turned himself in?

1 A Correct.

2 Q And where did you learn that he had turned himself
3 in?

4 A The call came through our dispatch from Prescott,
5 Arizona, that was the location where he had turned himself in
6 at.

7 Q Did you at some point drive down to Prescott,
8 Arizona?

9 A Correct. A little bit after receiving the
10 information that he was there, then my partner and I along
11 with a crime scene analyst responded to that location.

12 Q How long did it take you to get there?

13 A It's somewhere around the four hour range I would
14 guess.

15 Q And during the course of your investigation did you
16 learn that Troy White and Echo White had been members of a
17 religious sect called The Potter's House?

18 A Yes.

19 Q And does Prescott, Arizona have any significance for
20 that religious group?

21 A It ended -- yes, it did have significance. I
22 believe it was -- The Potter's House Church was founded there
23 by, and I can't remember the gentleman's name, but that was
24 the founding location of that church. And I believe it
25 occurred in the '70s, maybe 1970.

1 Q And did you also subsequently delve into the
2 religious beliefs of The Potter's House?

3 A Yes, because I wanted to learn if there was any
4 importance to turning yourself in in Prescott, Arizona versus
5 Las Vegas. So that's kind of how that came about. And then I
6 looked a little bit into The Potter's House organization
7 itself.

8 Q And what did you learn about the various roles in a
9 relationship between a man and a wife according to that
10 particular religious group?

11 A It seemed pretty strict organization where the woman
12 would remain subservient to the man, stay at home, raise the
13 kids type situation where the man would provide, go to work
14 and provide. And obviously they were not to live in a life of
15 sin such as drinking, smoking, tattoos were looked down upon.

16 Q And during the course of your investigation did you
17 learn that actually Troy White and Echo White abided by those
18 two different roles, meaning Echo White stayed at home with
19 the children while Troy White was the provider and worked?

20 A Yes.

21 Q Getting back to Prescott, Arizona though. You
22 mentioned that you went down, with CSA Branley was it, to
23 Prescott, Arizona?

24 A At the time Branley, yes. Tracy Branley.

25 Q And what was the purpose of going down there?

1 A Well, a couple of things we wanted to do. Obviously
2 we were still looking for evidence in our case. We were still
3 missing a firearm. We would obviously like the chance to talk
4 to Mr. White about what happened. And basically continue to
5 gather evidence at that location to help try and determine
6 what had happened here in Las Vegas.

7 Q And you eventually made it down there?

8 A Yes.

9 Q Did you conduct a search with CSA Branley or CSA
10 Kruse of the 2008 Dodge Durango that officers in Prescott,
11 Arizona had taken into custody?

12 A Yes, we did.

13 Q And did you find the firearm?

14 A Yes, we did.

15 Q And was that secured and impounded into evidence?

16 A Yes, it was.

17 Q After you returned to Las Vegas did you request any
18 testing to be done on that firearm?

19 A Yes.

20 Q And what testing did you request to be done?

21 A We requested that the gun be processed for latent
22 fingerprints, the presence of DNA, and then ballistically we
23 requested that the firearm be test fired and the test fired
24 cartridge cases be compared to the three cartridge cases that
25 we recovered at the crime scene. And as well, the bullets

1 that we recovered during the follow-up investigation, the one
2 from Echo and the one from the driveway at the scene be
3 compared to the firearm, as well.

4 Q Okay. So taking those one by one to test for
5 fingerprints and for DNA would be helpful to link that gun
6 perhaps to Mr. White?

7 A Correct.

8 Q And the firearm testing of -- the ballistics testing
9 would be helpful to link that gun as being the gun who
10 expelled the cartridges found at the scene of 325 Altamira?

11 A Correct.

12 Q Fair to say?

13 A Yes.

14 Q And you requested that be done and it was done?

15 A Yes.

16 Q And, in fact, while you were down in Arizona a
17 search warrant had been prepared by another officer to conduct
18 a search of Mr. White's person to obtain his DNA for later
19 comparison to that gun?

20 A Yes.

21 Q When you were down in Arizona did you take custody
22 of the personal property of Mr. Troy White?

23 A Yes.

24 Q Did you actually make contact with him, see him
25 there?

1 A Yes.

2 Q And do you see him here in Court today?

3 A Yes.

4 Q Can you -- if you need to stand up you can stand up,
5 but you could point him out for us and tell me what he's
6 wearing today.

7 A I can see him there. He's wearing I guess a dark
8 jacket with a white shirt and tie just behind the monitor from
9 me.

10 Q So the guy in the middle; right?

11 A In the middle, yes.

12 Q Thank you.

13 MR. ROGAN: Your Honor, could the record reflect the
14 identification of the defendant.

15 THE COURT: The record will so reflect.

16 MR. ROGAN: Court's indulgence.

17 BY MR. ROGAN:

18 Q And amongst the property that you found, he had a
19 wallet; right?

20 A Correct.

21 Q He had some keys, that you took into custody, to the
22 car?

23 A Correct.

24 Q All right. What, if anything, of evidentiary
25 importance did you find among his personal property?

1 A He had a bus pass in his property that was dated
2 27th, the day of the murder, as well as a Post-it type note
3 which contained information -- personal information about
4 Joseph Averman, a handwritten Post-it note with the
5 information about Joseph Averman on it.

6 Q Showing you State's Exhibit Number 95. This is
7 obviously a blown up version of that bus ticket; correct?

8 A Yes.

9 Q And does this bus ticket indicate the date and time
10 that it was purchased?

11 A Yes.

12 Q And what date and time was this bus ticket
13 purchased?

14 A July 27th at 10:32 a.m.

15 Q And did it have a particular time that it would
16 expire?

17 A Yes. It was a two-hour ticket and expired on July
18 27th, 2012, at 12:32 p.m.

19 Q And based upon the fact that he had this bus ticket
20 in his property and by then that you knew that he wouldn't
21 have a car, because the Durango was at 325 Altamira, what did
22 you conclude?

23 A That he never meant to take the bus out of there.
24 He never meant to leave there using the bus.

25 Q Or in other words he had to take the bus to get to

1 325 Altamira?

2 A Correct. He had to use this to get to the residence
3 and then with the two-hour access it appeared that he didn't
4 need it to leave the residence.

5 Q Did you subsequently I guess determine what bus
6 routes would take him from the residence where he was staying
7 with Herman Allen to 325 Altamira?

8 A Yes. I did some followup just with Internet
9 mapping-type stuff.

10 Q And did you learn how long it would take to get from
11 that location to the bus stop closest to 325 Altamira?

12 A Yes. From the residence where Troy White was
13 staying, which was 6255 West Trop., in an apartment there, to
14 the scene at Altamira was about an hour, 56 minutes. That's
15 combined walking and the bus route itself.

16 Q And the closest bus stop was actually on Alta, south
17 of Altamira?

18 A Yeah, just south of the neighborhood there on Alta.

19 Q So if I could use this map, State's Exhibit 100,
20 does this appear to be a map of Central Valley including the
21 northwest area of 325 Altamira?

22 A Yes.

23 Q I know you haven't seen this map before, so I'll
24 help you along here.

25 THE COURT: What's the exhibit number, counsel?

1 MR. ROGAN: It's 100.
2 THE COURT: Thank you.
3 MR. ROGAN: All right.
4 BY MR. ROGAN:
5 Q So you mentioned that Troy White was staying at 6255
6 West Tropicana; correct?
7 A Correct.
8 Q And that's identified on this map. Can you read it.
9 Is it difficult for you to read?
10 A It's kind of difficult to read. I can make out the
11 big streets, but some of the ones I'm not going to be able to
12 see the names on.
13 Q Okay. All right. So I'll zoom in there. You see
14 6255 West Tropicana identified?
15 A Correct.
16 Q And you also knew that Troy White worked at YESCO?
17 A Yes.
18 Q And that wasn't far from residence on West
19 Tropicana; right?
20 A Correct.
21 Q That was at 5119 Cameron?
22 A Yes.
23 Q All right. Now, Altamira is all the way up in the
24 northwest?
25 A Yes.

1 Q As you can see in this exhibit. And the bus route
2 that he would have had to take would have taken from either of
3 those two locations all the way up to 3255 Altamira [sic]?
4 A Yes.
5 Q And here is Exhibit 99. And you can see 325
6 Altamira depicted there; correct?
7 A Correct.
8 Q Where's Alta?
9 A Alta is this large east/west running street here.
10 Q And their bus stop on Alta is -- the bus stop is
11 located in the vicinity of Alta and Altamira?
12 A Yeah. It's like right -- somewhere in that area
13 there.
14 Q You also mentioned a piece of paper that you found
15 on -- or that was given to you as part of Troy White's
16 property?
17 A Yes.
18 Q Showing you State's Exhibit 94. Is this the front
19 and back of that piece of paper?
20 A Yes.
21 Q It's just on one exhibit, but it's actually the two
22 sides of the piece of paper?
23 A Correct.
24 Q All right. And you mentioned that there's some
25 information on there relating to Joseph Averman?

1 A Yes.

2 Q Can you point that out for the jury, please.

3 A Up here is written as PFC Joseph Averman, SS#
4 commonly for Social Security number. The number was there,
5 it's been blacked out. Army National Guard with a phone
6 number, his detachment. This Sergeant Lambert turned out to
7 be his boss I believe.

8 Q During the course of your investigation did you
9 learn that Joseph Averman was in the National Guard?

10 A Yes.

11 Q And this information pertains to his commanding
12 officer, Sergeant Lambert?

13 A Correct. His boss, yes.

14 Q As well as the other information that you just
15 mentioned.

16 MR. ROGAN: And for the record, Your Honor, the
17 Social Security number of Joseph Averman was blacked out.
18 It's been through stipulation of the parties.

19 THE COURT: Thank you.

20 BY MR. ROGAN:

21 Q There's some other information here, some other
22 scraps of information, something about Wells Fargo on this
23 piece of paper; correct?

24 A Yes.

25 Q Any of that have any evidentiary importance to you?

1 A Not the Wells Fargo, no.

2 Q Was it surprising to you that Troy White had Joseph
3 Averman's Social Security number?

4 A It was. I mean, the information contained there --
5 although we had learned that the relationship had been going
6 on for a certain period of time, so I would not necessarily be
7 too overwhelmed that he had information on Averman since
8 Averman spent time around his children. But to -- the
9 information contained on the piece of paper was kind of
10 concerning. I could see a name or a phone number on there,
11 something in case of an emergency, something like that, but
12 other information --

13 Q And while we're on the subject again of 6255 West
14 Tropicana, was there a search warrant executed at 6255 West
15 Tropicana, as well?

16 A Yes.

17 Q Were you present for that search?

18 A No, I was not. I was in Prescott.

19 Q Okay. So some other detectives did that while you
20 were heading down to Prescott?

21 A Yes.

22 Q Okay. Did you also execute or have executed a
23 search warrant for the Facebook records of the defendant, Troy
24 White?

25 A Yes.

1 Q And what was your reason for doing that?

2 A During the preliminary stages of the investigation
3 and reaching out to family members of Echo Lucas I had
4 received information about Troy White's Facebook page or him
5 having a Facebook page, and there was information on there
6 that maybe I should look at as far as part of the criminal
7 case.

8 Q Thank you, sir. And did you obtain all those
9 records from the Facebook Corporation in California?

10 A Yes, I did.

11 Q Was it a large 766-page report?

12 A Yes.

13 Q Did you look through it all?

14 A Yes.

15 Q Did you find some things of evidentiary value,
16 evidentiary importance?

17 A Yes.

18 Q Things that would delve into Mr. White's state of
19 mind?

20 A Correct.

21 Q I'm going to show you some examples. But first, do
22 you have a Facebook page?

23 A I do not, no.

24 Q Are you familiar with Facebook and what it does?

25 A Yes. Through my job, yes.

1 Q You often have to look into Facebook records of
2 people?

3 A Correct. Social media is very important to
4 investigations nowadays, so almost every case it plays a part
5 in.

6 Q Okay. Do you know what a status update is on
7 Facebook?

8 A Yes.

9 Q What is that?

10 A It's basically a post put on someone's Facebook wall
11 for their friends on Facebook to see, and it's basically just
12 -- it can be what they're feeling, how they're feeling that
13 day, what they're thinking about, or something that's
14 important to them. But they put it on their wall, their
15 friends see it, and then their friends are free to post
16 comments below it and --

17 Q Okay. And perhaps I'm taking --

18 MR. COFFEE: Permission to approach.

19 THE COURT: Yep.

20 (Bench conference)

21 MR. COFFEE: No problem with the Facebook post
22 coming in, obviously. We've been talking about it all the way
23 along. But if we start asking the officer what it proves to
24 him you've got a problem. And we came real close a minute ago
25 when you said, do you have something that's going to prove his

1 state of mind on Facebook. He can't testify as to what state
2 of mind it proves. If that would be -- now, there'd be a
3 legal conclusion. He can't give his opinion to that, that's
4 for the jury to decide.

5 THE COURT: No. But he can testify about something
6 that was of evidentiary value --

7 MR. COFFEE: Yes.

8 THE COURT: -- in determining the state of mind,
9 which was what the question was.

10 MR. COFFEE: I'm just making sure before we get
11 there.

12 THE COURT: But he -- I have concerns about you
13 asking questions, as an expert, about what [inaudible]. Now I
14 don't have a Facebook page, so I [inaudible] try to deal with
15 it.

16 MR. ROGAN: He elated that we wouldn't be bringing
17 in the custodian of records of Facebook.

18 THE COURT: I know.

19 MR. COFFEE: Yeah.

20 THE COURT: But do you really want the officer to
21 explain what a --

22 MR. ROGAN: I don't want everybody [inaudible].

23 MR. COFFEE: The other concern while we're at the
24 bench, and bring up the time --

25 THE COURT: How are you doing, Mr. Coffee?

1 MR. COFFEE: Good. The other concern that I've got
2 is he's a -- [unintelligible] got to see what he had to say,
3 which is coming real close to commenting on the right to
4 remain silent, because [inaudible]. The officer said, he went
5 into Facebook to see what Troy had to say about things, we
6 went to Prescott --

7 THE COURT: I didn't hear that.

8 MR. COFFEE: He did.

9 MR. ROGAN: I don't think that it is --

10 MR. COFFEE: That's why I didn't say anything at the
11 time, I didn't want to draw attention to it. I'm just
12 concerned about it, that's all.

13 THE COURT: Okay.

14 MR. ROGAN: Thank you for bringing it to our
15 attention.

16 (End of bench conference)

17 THE COURT: All right. With that clarification
18 could we have a basic, very, very superficial explanation, if
19 any, about Facebook.

20 MR. ROGAN: Okay.

21 BY MR. ROGAN:

22 Q So, Detective, it's fair to say that Facebook is a
23 social media where people can create accounts and put things
24 on the computer, put things on the Internet that they want the
25 world to see or other Facebook members to see?

1 A Correct.

2 Q And those can include status updates about they're
3 feeling and what they're thinking that people in the public
4 could see?

5 A Correct.

6 Q They can post pictures and things like that, too?

7 A Yes.

8 Q And there's also a method of personal communication
9 between one Facebook user and another Facebook user, kind of
10 like an email?

11 A Correct. Direct messaging back and forth.

12 Q That's all we need to know about Facebook right now.

13 A Okay.

14 Q All right. So this status update -- I want to show
15 you State's Exhibit Number 86. Did you find a couple status
16 updates that you found important to your investigation?

17 A Yes.

18 Q All right. Directing your attention to State's
19 Exhibit Number 86. Is there a status update on State's
20 Exhibit 86 from July 22nd, 2012?

21 A Yes.

22 Q All right. And next to it does it indicate the time
23 that that status update was made?

24 A Yes, 05:28:36 UTC, Universal Time Code.

25 Q What is Universal Time Code?

1 A It's just that, Universal Time Code, and it is
2 approximately seven hours ahead of us.

3 Q All right. So in order to actually get the exact
4 time here in Las Vegas that this posting was made you have to
5 subtract seven hours?

6 A Correct.

7 Q So 5:28 a.m. on July 22nd would actually be seven
8 hours before, so, if my math is right, it's 9:38 p.m. on the
9 21st; is that right?

10 A I believe so. We're going to have to go with your
11 math --

12 Q Or 10:28 the night before?

13 A I'd have to start counting on my fingers, but --

14 Q Okay. So thereabouts. It's the night before?

15 A Correct.

16 Q All right. What was the status update that Mr.
17 White posted on July 21st at about 10:00 p.m., 10:30 p.m.?

18 A Status update was, "I heard a quote." Quote, "Love
19 is like heaven but can burn like hell." "Hmm?"

20 Q And earlier in July, about three weeks before the
21 shooting and killing of Echo White and Joseph Averman, July
22 9th, 2012, did Troy White also update his status on Facebook?

23 A Yes.

24 Q Is that depicted there on State's Exhibit 86?

25 A Yes, just below first one right there.

1 Q And if we subtract seven hours from the UTC time
2 there we can see that it was posted at about 1:00 o'clock
3 p.m., one quarter past 1:00? You want to take my word for it?

4 A Yes.

5 Q Okay. All right. What was the status update that
6 he that he posted at that time and on that date?

7 A On this one here, could you move it to the left a
8 little bit or my left anyway. There you go. Status update
9 posted was, "Have you heard the quote, 'If you love someone
10 set them free, if they come back their yours, if not they
11 never were'? I like this version instead, 'If you love
12 someone set them free, if they don't come back hunt them down
13 and kill them!'" Followed by a "ha, ha, ha."

14 Q That's a way to communicate laughter through the
15 Internet?

16 A Yes.

17 Q A moment ago I also mentioned, and you also
18 mentioned, that there is methods of direct communication
19 between Facebook users?

20 A Yes.

21 Q And showing you State's Exhibit 89. Is this one of
22 -- a communication that was sent by Troy White to a woman
23 known as Lisa Piggott-Brown through Facebook?

24 A Yes.

25 Q And was that on July 18th at about 5:30 in the

1 morning?

2 A Yes.

3 Q And how do we know that Troy White was the author of
4 this Facebook communication?

5 A It lists here as the author and then the recipient.
6 So under author it says, Troy White, recipient, Lisa Piggott-
7 Brown.

8 Q And himself?

9 A And himself, yes.

10 Q Okay. And in this communication does he list what
11 telephone number that Troy White utilizes?

12 A Yes.

13 Q And he's in fact telling Lisa to give him a call at
14 that number?

15 A Correct.

16 Q That number is, sir, can you tell us.

17 A [REDACTED]-9121.

18 Q Showing you State's Exhibit 87. Did Troy White
19 communicate through Facebook with an individual by the name of
20 Tim Henderson on July 14th, 2012, two weeks before the death
21 of Echo White?

22 A Yes.

23 Q At about -- at sometime that day. Did you -- have
24 you read this Facebook message before?

25 A Yes.

1 Q And why was it important to you?

2 A There were a couple of sentences kind of through the
3 middle of the message there that were concerning to us due to
4 what had happened to Echo.

5 Q Okay. So in this message is he communicating that
6 he and Echo are separated?

7 A Yes.

8 Q And does he use some words to describe Echo and
9 presumably Joseph Averman here?

10 A Yes.

11 Q Approximately five or six lines down, do you see
12 where my finger's pointed?

13 A Yes.

14 Q What's the word that he uses to describe them? And
15 you can read that entire sentence actually.

16 A "The adulterers leave to continue in their sins."

17 Q Go ahead and continue, sir.

18 A "God is really helping me as a testimony. The whore
19 and whoremonger are still alive and I'm not in prison. No
20 joke intended."

21 Q Thank you. Later on does he indicate in the message
22 why he's not divorced from her?

23 A Yes.

24 Q What does he say?

25 A He says, "We are not divorced due to the cost."

1 Q Does he indicate to Mr. Henderson whether he wants
2 this information about a separation shared with anyone else?

3 A Yes.

4 Q What does he say?

5 A He says, "Please keep this private."

6 Q Why? What does he say?

7 A He says that it's humiliating to him.

8 Q And why is it humiliating? You can just continue
9 reading that line, sir.

10 A "Please keep this private. Like I said, it's
11 humiliating. I miss you a lot, Tim. You always made me
12 laugh. I really hope all is well with you."

13 Q He actually says here on this line, "I'm humiliated
14 that Echo would cheat on me with another backslider from The
15 Potter's House."

16 A Correct. Sorry.

17 Q That's fine. Does he indicate to you whether he
18 ever felt, in this message, that he ever felt bitterness and
19 hatred?

20 A Yes.

21 Q What does he say?

22 A "I am very, very, very hurt, and thanks to God
23 almost over the bitterness and hatred even toward the jackass
24 she is with."

25 Q But he still says it's humiliating later on?

1 A I'm sorry.

2 Q He still says it's humiliating to him though?

3 A Yes.

4 Q Okay. He also had another communication with Lisa

5 Piggott-Brown, several, on July 19th. Showing you State's

6 Exhibit 88. What is he communicating in State's exhibit 88 to

7 Lisa Piggott-Brown about his relationship with Echo?

8 A He basically tells her that he and his wife are over

9 and that they've been over for about five months, and they

10 consider themselves already divorced basically.

11 Q Does he indicate how long he believes that Echo had

12 been quote, unquote, "cheating" on him?

13 A He believes five to six months. Or he types five to

14 six months.

15 Q Does he indicate whether he's moving on from that

16 relationship?

17 A Yes. Would you like me to read the post?

18 Q Yes, please.

19 A Okay. "She does what she wants to. Head has been

20 doing -- she does what she wants to, head has been already

21 doing it for five to six months cheating on me, and I am now

22 just moving on as well and doing whatever I want. We are

23 totally done with our relationship."

24 Q Just a couple more, all right? State's Exhibit 90.

25 Communication with a woman by the name of Kimberly Parrott-

1 Lake on July 8th, 2012. Fifth line down starting with the
2 word "during," what does he communicate to Ms. Parrott-Lake?

3 A If you can move it a little to the left. Sorry.

4 Q Oh. I'm sorry.

5 A There you go. "During my weekend Echo disappears,
6 continuing in her sinful relationship with another. She calls
7 it moving on. I wish I could move on, as well."

8 Q And lastly, State's Exhibit 91. Communication on
9 July 27th, 2012, with -- again, with Lisa Piggott-Brown. It's
10 a long one, so I'm going to help you out here.

11 MR. COFFEE: Judge?

12 THE COURT: Yes.

13 MR. COFFEE: That's -- can we get the actual --

14 THE COURT: Do you want to approach the bench.

15 MR. COFFEE: Well, I don't think Mr. Rogan is going
16 to have an issue with it.

17 THE COURT: Thank you.

18 (Bench conference)

19 MR. COFFEE: It's actually the 26th. It's 27
20 [inaudible].

21 MR. ROGAN: No. I know. I'm getting to it.

22 MR. COFFEE: Okay.

23 MR. ROGAN: [Inaudible].

24 THE COURT: Thank you.

25 (End of bench conference)

1 BY MR. ROGAN:

2 Q That's listed as July 27th; correct?

3 A Yes.

4 Q That's the date of the murder?

5 A Yes.

6 Q And, in fact, if you look at the UTC time and you
7 subtract seven hours it's approximately 6:00 or 7:00 p.m. the
8 day before?

9 A On the 26th, correct.

10 Q And without having to read this entire statement is
11 it fair to say that he's communicating to Lisa Piggott-Brown
12 about a conversation that he had with Echo the previous day?

13 A Yes.

14 Q And in that conversation with Ms. Piggott-Brown he's
15 communicating that she said to him that she needed more time
16 away from him?

17 A Ultimately. I believe she also said she wanted him
18 back but not right now, that she needed more the away. And I
19 think that upset him or appeared to in the post anyway.

20 Q In the post it did?

21 A Yes.

22 MR. ROGAN: Okay. Indulgence.

23 BY MR. ROGAN:

24 Q Down at the bottom, approximately four lines up,
25 starting -- five lines up, starting with the word "And." Can

1 you read that to us in the record, please, all the way to the
2 bottom.

3 Q "And so she expects me to sit and wait till her time
4 is ready to come back. I said I love you and want you back,
5 but since you're not telling me why you can't come back now
6 and why you need time, or even how much time I told her, I
7 won't nor can I wait forever. I am going to continue where I
8 was in my life and move on. If and when you decide to come
9 back I'm still here then great. This is BS."

10 Q And what does BS mean to you?

11 A Bullshit.

12 MR. ROGAN: Court's indulgence.

13 THE COURT: Sure.

14 MR. ROGAN: Pass the witness, Your Honor.

15 THE COURT: Mr. Coffee, cross?

16 CROSS-EXAMINATION

17 BY MR. COFFEE:

18 Q We'll get back to the Facebook posts. But I want to
19 start with something else that had come up. The District
20 Attorney had something along the lines of there was nothing
21 remarkable or nothing of evidentiary value in the pictures on
22 the walls in the house. Do you remember that question?

23 A I do.

24 Q And you corrected him?

25 A Yes.

1 Q And you said, well they might be of evidentiary
2 value to establish relationships; is that fair?

3 A Yes.

4 Q And that is true, isn't it?

5 A Yes.

6 Q As a homicide investigator you are looking for
7 things to establish relationships to try to figure out and
8 backtrack and reconstruct a life to figure out what put a
9 person in the place of doing something like that; is that
10 fair?

11 A Correct. Correct.

12 Q Okay. You looked around the house. You looked for
13 pictures, and you saw the pictures that were shown to you a
14 moment ago of Troy White and Echo White?

15 A Yes.

16 Q And I want to show you Defendant's V.

17 THE COURT: V?

18 MR. COFFEE: V.

19 THE COURT: Thank you.

20 BY MR. COFFEE:

21 Q We talked about bus passes a moment ago. You can
22 see a bus pass up in the top right corner; right?

23 A Correct.

24 Q And there's also an ATM card here?

25 A Correct, Visa debit card, yes.

1 Q Visa debit card. Platinum Visa debit card; right?
2 A Yes.
3 Q From Wells Fargo?
4 A Yes.
5 Q And you were able to see Troy White and his wife
6 Echo on that card also; yes?
7 A Yes.
8 Q You looked for the Facebook postings --
9 A Yes.
10 Q -- yes?
11 A Yes.
12 Q You thought it might be important; yes?
13 A Correct.
14 Q You thought it might establish relationships; yes?
15 A Yes.
16 Q You looked for things that might establish, for
17 example, intent to kill?
18 A Correct.
19 Q When you looked through the Facebook -- Facebook's
20 one of those things where you can post pictures online; right?
21 A Yes.
22 Q You looked at the pictures that were posted online?
23 A Yes.
24 Q In Mr. White's account; yes?
25 A Correct.

1 Q You pull these pictures up after the shooting; yes?
2 A Yes.
3 Q There were a lot of pictures, maybe a hundred. Does
4 that sound close?
5 A That's fair, yes.
6 Q It's fair. It might be 80, it might be 120, there
7 were a lot of pictures; yes?
8 A Correct.
9 Q The vast majority of pictures were of Mr. White's
10 children or Mr. White and his wife; is that fair?
11 A Yes.
12 Q There were picture, after picture, after picture,
13 after picture, after picture, and we can go through if I've
14 put too many pictures in if you think, of Troy White and his
15 wife for example in Cancun; yes? Or at someplace, it looked
16 like a mexican vacation of some sort?
17 A Correct.
18 Q In the car?
19 A Lots in the --
20 Q Pictures in the car?
21 A Lots in the car, yes.
22 Q With the children; yes?
23 A Yes.
24 Q In fact, the Facebook postings looked primarily
25 focused on Mr. White and his family on Mr. White's Facebook.

1 Is that a fair characterization?

2 A Yes.

3 Q And there were a lot of pictures concerning Mr.
4 White and again, his family in general. We'll ask it just
5 that way at this point, meaning his children or his wife?

6 A Yes.

7 Q There was one -- there were a couple of odd pictures
8 like a dog that had got into a fight with a porcupine?

9 A Correct.

10 Q But again, in a shot from the top of a pole looked
11 like from a sign maybe from a YESCO truck, there was a picture
12 like that; right?

13 A I don't recall specifically, but there were other
14 pictures. I mean, there were a lot of pictures on there.

15 Q There were a lot of pictures, but that was a minor
16 amount of the pictures. The majority were family shots; is
17 that fair?

18 A Fair, yes.

19 Q Okay. Now, not only are the majority family shots,
20 you were looking for things that might be evidence against Mr.
21 White when you were going through Facebook; yes?

22 A Correct.

23 Q And you found a post a week before, it was a week
24 before, within a day, right, that said -- the T. S. Eliot
25 quote. "If you love something set it free, if it comes back

1 it was meant to be." Right?

2 A Yes.

3 Q And I like this version better, hunt it down and
4 killed essentially?

5 A Yes.

6 Q Okay. That was a week beforehand; yes?
7 Approximately.

8 A Approximately, yes.

9 Q And had you heard that saying before?

10 A I had, yes.

11 Q Okay. So it's a common saying that he had posted;
12 yes?

13 A Correct.

14 Q You've worked domestic situations before; yes?

15 A Correct.

16 Q It's not unusual for people going through a divorce
17 to post hateful things about their significant other is it?

18 A No.

19 Q You see it?

20 A Yes.

21 Q You've seen it in the past; yes?

22 A Yes.

23 Q This seemed to be one of those hateful things?

24 A Yes.

25 Q It wasn't hidden?

1 A No.

2 Q It was a public post; correct?

3 A That I don't know.

4 Q Let me ask you this. People had commented on it;
5 right? There were five or six comments underneath. Other
6 people had seen it?

7 A Correct.

8 Q Okay. So public at least for people that had access
9 to his Facebook page. And he may have to give them access,
10 but public in that sense; correct?

11 A Yes.

12 Q Not something that was hidden, not something that he
13 recorded on a secret note and hid under his mattress or
14 something like that?

15 A Correct.

16 Q Now, let's fast-forward to the day before the
17 shooting. Okay. There was another Facebook post; yes?

18 A Yes, the 26th. The night of the 26th, is that
19 your --

20 Q The night of the 26th, the one that we mentioned the
21 27th UTC time --

22 A Yes.

23 Q -- 26th actually. We're going to go through this in
24 just a moment. Prior to this being posted the post for point
25 said, I'm done with her, she's done with me. It's over. That

1 was to this Lisa person; yes?

2 A Correct.

3 Q In reading the context you could tell Lisa was
4 somebody that he knew from high school; is that accurate?

5 A Yes.

6 Q Been a high school friend of some sort; yes?

7 A Yes.

8 Q Okay. Let's go through this entire post that
9 happened the night before the shooting, okay? "You were
10 awesome --" It starts with that; right?

11 A Yes.

12 Q "A true friend --" Yes?

13 A Yes.

14 Q "Thank you. I'm going to tell you this because you
15 deserve it as someone who didn't cross any lines I didn't want
16 crossed, too." That's how it begins; yes?

17 A Yes.

18 Q Here it goes, "My Ex, which you know, we're still
19 actually married." That was true; right?

20 A Yes.

21 Q And that's what he said; yes?

22 A Yes.

23 Q "-- said to me yesterday --" So that would mean,
24 again subtracting our time, Thursday; yes?

25 A I would assume the 25th, yes.

1 Q The 25th. "My Ex said to me, I want it all back,
2 the family, the little things she missed about me and us."
3 That's what White had posted; right?

4 A Yes.

5 Q And, again, this was a week after that hunt it down
6 and kill it post; right?

7 A Yes.

8 Q Give or take?

9 A Yes.

10 Q "I want it all back, the family --" Yes?

11 A Yes.

12 Q And that was referring to what Echo had said to him;
13 right? Well, what he was claiming Echo said to him at least?

14 A Yes.

15 Q The little things she missed about me and us; yes?

16 A Yes.

17 Q The marriage; yes?

18 A Yes.

19 Q Everything back; yes?

20 A Yes.

21 Q "Wow." Yes?

22 A Yes.

23 Q He says he was shocked; right?

24 A Yes.

25 Q That he was mad?

1 A Yes.

2 Q Skeptical; right? "I was skeptical."

3 A Correct.

4 Q "I didn't and don't trust this until it happens."

5 Yes?

6 A Yes.

7 Q And, again, you had seen postings that indicated

8 that there was a -- there was talk of divorce at some point

9 and bad things going on in the relationship; is that fair?

10 A Yes.

11 Q "I don't trust it until it happens. I say that

12 because she says I want it all back, but, Troy you have to

13 give me time." Right?

14 A Yes.

15 Q Her time she said is to do what she has to do to be

16 able to come back; yes?

17 A Yes.

18 Q That was an indication of something that might have

19 been going on. You were talking about these Facebooks giving

20 an indication I think of state of mind may have been Mr.

21 Rogan's words; yes?

22 A Yes.

23 Q At this point when you're reading this it sounds

24 like, if Mr. Troy's being truthful on that, in fact, he thinks

25 he might be getting back together with his wife if she says

1 she wants to get back together; is that fair?

2 A Well, he says he's skeptical, but --

3 Q It sounds like he's hopeful; doesn't it?

4 MR. ROGAN: Your Honor, I'm going to object as to

5 speculation.

6 THE COURT: Overruled.

7 You can answer.

8 THE WITNESS: Through what we've read or the entire

9 posts? It's kind of misleading to speak of just the top half.

10 BY MR. COFFEE:

11 Q Absolutely. Let's go through the rest of it. Where

12 did we leave off? "I was skeptical. I didn't and don't trust

13 it until it happens." Correct?

14 A Correct.

15 Q "I say that because she says I want it all back, but

16 you, Troy, have to give me time." Her time she said. Needs

17 to do what she has to do to be able to come back; yeah?

18 A Yes.

19 Q "And I'm wondering and ask her, what do you mean?

20 You're willing to make it work, then come back now." Yes?

21 A Yes.

22 Q And that would be an indication that he wants her

23 back now; yeah?

24 A To me it sounds like -- with the question mark ahead

25 of it, what do you mean, you're willing to make it work, then

1 come back now, meaning he would say, if you want the
2 relationship back then come back now, why do you need the time
3 is what it appears to be.

4 Q Perfect.

5 A Correct.

6 Q Thank you. Well, why didn't you make things so you
7 could come back to me now before you told me; right?

8 A Correct.

9 Q In other words, why didn't you straight out --
10 straighten out your affairs before you told me you wanted me
11 back? Yes?

12 A Yes.

13 Q "Of course, I ultimately want my marriage back."
14 Yeah?

15 A Yes.

16 Q "For many reasons, but I'm shocked that she does. I
17 was moving on." Yes?

18 A Yes.

19 Q She had; yes?

20 A Yes.

21 Q I can assume that's referring to Averman; yes?

22 MR. ROGAN: Objection. To speculation again, Your
23 Honor.

24 THE COURT: Sustained.

25 //

1 BY MR. COFFEE:

2 Q Instead of assuming let me ask you this. You're a
3 trained metro detective; yes?

4 A Correct.

5 Q Mr. White posts the day before that she had moved
6 on; yes?

7 A Yes.

8 Q And, you know, the that Joe Averman was the
9 boyfriend of Echo White?

10 A Yes.

11 Q As a trained detective, when he's talking about her
12 moving on you assume that that's what that meant; right?

13 MR. ROGAN: Still speculation, Your Honor.

14 THE COURT: Sustained.

15 BY MR. COFFEE:

16 Q All right. "I was seriously almost over her." Yes?

17 A Yes.

18 Q "Honestly." Yeah?

19 A Yes.

20 Q Now, what -- "WTF," and we know what that stands
21 for; right? Kind of like BS, we all know what it means;
22 right?

23 A Correct.

24 Q And so, "She expects me to sit and wait until her
25 time is ready to come back." Yes?

1 A Can you make it -- sorry. It shrunk on me a little
2 bit.
3 Q Oh. My fault. My fault. I put my wrist down.
4 Thank you. "She expects me to sit and wait --" Yes?
5 A Yes.
6 Q " -- until her time is ready to come back." Yes?
7 A Correct.
8 Q "I said I love you and want you back." Yes?
9 A Yes.
10 Q And he claims to still be in love with her; yes?
11 A Yes.
12 Q But, "Since you're not telling me why you can't come
13 back now and why you need time, or even how much time -- I
14 told her, I won't nor can wait for ever." Right?
15 A Correct.
16 Q "I'm going to continue where I was in my life and
17 move on." Yes?
18 A Correct.
19 Q "And if and when --" "If and when you decide to
20 come back I'm still here --" Yeah?
21 A What's after here?
22 Q "Then great."
23 A Yeah. "If you decide to come back and I'm still
24 here then great."
25 Q Okay. We asked a question beforehand, and you said

1 it wasn't fair to take a look at just top half of the post?

2 A Correct.

3 Q Looking at the whole post he's skeptical about
4 whether she's coming back or not. He says that in the post;
5 yeah?

6 A Yes.

7 Q But he also tells her that he wants -- he also tells
8 his friend that he wants his marriage back; yes?

9 A Yes.

10 Q And he is I suppose somewhat confused?

11 MR. ROGAN: Object as to form of the question,
12 whether the post is confused.

13 THE COURT: Overruled.

14 THE WITNESS: I guess I don't understand. Is the
15 post confusing as the way it's written out, or when we read
16 it, or --

17 BY MR. COFFEE:

18 Q Yeah. Here's what I know. I want my marriage back,
19 but I don't know if I can trust her. It takes both positions;
20 yes?

21 A Correct.

22 Q "She says she needs time but won't tell me why."
23 Yes?

24 A Yes.

25 Q I'll be here waiting, but I may have to move on;

1 right?

2 A Well, he's going to continue to live his life and
3 move on, yes.

4 Q Okay. "If and when you decide to come back I'm
5 still here." Yeah?

6 A Yes.

7 Q You understand my question now as to whether or not
8 the post is somewhat confused?

9 A If it appears Mr. White was confused?

10 Q Yes.

11 A Yes.

12 Q And it appears the source of that confusion was his
13 wife, Echo White; is that fair?

14 A Correct.

15 Q You talked about pictures being able to establish
16 relationships; yes?

17 A Yes.

18 Q You had the opportunity to go through Echo White's
19 phone; yes?

20 A Correct.

21 Q Or have it forensically examined; is that fair?

22 A Yes.

23 MR. COFFEE: Permission to approach.

24 THE COURT: Sure.

25 (Bench conference)

1 THE COURT: Are you guys getting close to a break
2 time?

3 MR. COFFEE: Yeah.

4 MR. ROGAN: Yes. Why don't we take a break --

5 THE COURT: Would this be the time -- okay. Go
6 away.

7 Turn it off.

8 (End of bench conference)

9 THE COURT: Ladies and gentlemen, because it's about
10 our break time we're going to take a short recess rather than
11 watch me -- and talk to the attorneys.

12 During this recess you're admonished not to talk or
13 converse among yourselves or with anyone else on any subject
14 connected with this trial or read, watch, or listen to any
15 report of or commentary on the trial or any person connected
16 with this trial, by any medium of information including,
17 without limitations, social media, text, newspapers,
18 television the Internet or radio, or form or express any
19 opinion on any subject connected with the trial until the case
20 is finally submitted to you. We'll see you in about 10
21 minutes outside Courtroom 14A.

22 (Jury recessed at 2:53 p.m.)

23 THE COURT: And, sir, you can step down, too, if you
24 want.

25 THE WITNESS: Okay.

1 MR. ROGAN: Detective, you can just wait in
2 anteroom.

3 THE COURT: Okay. What did you want? You've got to
4 look at some exhibits?

5 MR. ROGAN: Just some exhibits --

6 MR. COFFEE: Exhibits.

7 THE COURT: What are the numbers, letters?

8 MR. ROGAN: May I approach to your clerk for Mr.
9 coffee.

10 THE COURT: Absolutely.

11 MR. ROGAN: Thank you.

12 THE COURT: You've got to put numbers, I mean,
13 letters. They're your proposed; right?

14 MR. COFFEE: Yeah.

15 THE COURT: Whether they get admitted or --

16 MR. COFFEE: Proposed for -- the Court's discretion
17 obviously.

18 THE COURT: Proposed. Whether they get admitted or
19 not is an entirely different issue. But I've got to have
20 letters on them.

21 MR. COFFEE: Right.

22 THE COURT: AA and BB?

23 THE CLERK: I mean, Y, Z, AA and BB.

24 THE COURT: Okay. You're going to do in double
25 letters now, not A, B. You're AA and then BB. Okay. So B

1 through BB.

2 THE CLERK: Actually, it's Y, Z, AA, BB.

3 THE COURT: Y through BB?

4 THE CLERK: Yes.

5 THE COURT: Okay.

6 MR. ROGAN: May I approach the bench, Your Honor, to
7 let you see these photos?

8 THE COURT: Sure. Absolutely.

9 MR. ROGAN: Thank you.

10 THE COURT: Okay. Are you guys ready for your break
11 now, or do you have something you want to tell me?

12 MR. ROGAN: We can take a break now. If you just
13 want to do those photos while we do that.

14 THE COURT: Well, so I'm looking at the photos, and
15 I'm not the source of all knowing of whether they'll be
16 admitted or not. Somebody has to lay a foundation, admit, and
17 then ask questions.

18 MR. ROGAN: Okay.

19 MR. COFFEE: If we give a quick proffer just so the
20 Court knows where we're going.

21 THE COURT: Uh-huh.

22 MR. COFFEE: The questions asked on direct
23 concerning whether or not photos on the wall, it seems
24 unremarkable, doesn't count much for evidence. The officer
25 corrected him and said, actually, photos can establish

1 relationships, et cetera. There were also questions about an
2 examination of an iPhone that was taken into custody. It was
3 Echo's iPhone. I don't think there's going to be any dispute
4 that the photos that have been presented to the Court came
5 from Echo's iPhone in part of the forensic search of Echo's
6 iPhone. I got those from the State and produced the --
7 furnished the copies.

8 MR. ROGAN: I don't recall those specific
9 photographs, but I'll take Mr. Coffee's word for it that
10 they're from --

11 THE COURT: Okay. So let's assume --

12 MR. ROGAN: -- the victim's iPhone.

13 THE COURT: -- because of his representation that
14 they're from the forensic examination that was done by the
15 State of the victim's iPhone.

16 MR. COFFEE: Yes. I was going to say. Our position
17 is simply they've talked about relevance of establishing
18 relationships. We've got the relationships of three people,
19 including of course Mr. White's perception of relationships.
20 This establishes the relationship with her and Averman. We've
21 talked about the phone. They are on the phone, I think they
22 are relevant to establish relationship. I think we've laid
23 the foundation with the officer. But that where we are at
24 with it. I knew the State might not like the photographs.
25 That's why I asked to approach rather than putting them up.

1 THE COURT: Okay. Well, you can't put them up till
2 they're admitted.

3 MR. COFFEE: Absolutely. But --

4 THE COURT: So if you want to ask the officer about
5 them that's certainly not going to bother me. One would
6 assume, since he had the victim's iPhone forensically examined
7 that he had taken a look at the pictures that were retrieved
8 from that forensic examination. He might be able to confirm
9 that he looked at them or not and he thought they were of
10 evidentiary value or not, and you can test that to whatever
11 extent you feel is appropriate.

12 MR. COFFEE: Very good. Thank you.

13 THE COURT: But that doesn't mean they're going to
14 be admitted.

15 MR. COFFEE: Understood.

16 MR. ROGAN: If I could just make a record of why I
17 don't think they should be admitted.

18 THE COURT: I didn't say they were going to be
19 admitted. He has to offer them first.

20 MR. ROGAN: I know. I know. I understand that.
21 But I just would like to point out to the Court that although
22 Mr. Coffee thinks they're relevant, the State does not think
23 that they're relevant for --

24 THE COURT: But it's not what you think or what he
25 thinks, it's what I think.

1 MR. ROGAN: I know. But I'd like to convey my ideas
2 on whether this is relevant or not to the Court so that they
3 can make an accurate determination. Mr. Coffee mentioned that
4 these photos -- photos are used to establish relationships,
5 and that may be very true. But we have to remember the source
6 of these photographs are from the victim's iPhone. What Mr.
7 Coffee I think is trying to say is that these photographs
8 effected the defendant's state of mind. He's seeing his wife
9 in these photographs. All of these photographs are with Echo
10 Lucas-White with her boyfriend, but they're on her phone. If
11 they're to affect the state of mind of the defendant they had
12 to have been seen by the defendant.

13 THE COURT: Well, they can -- wait. They can be
14 text messages to him, they can be posted on Facebook pages,
15 there's lots of ways they can be transmitted. And I haven't
16 heard the information from the detective that tells me any of
17 that stuff.

18 MR. ROGAN: All right.

19 THE COURT: Even the victim could show them on the
20 iPhone, too.

21 MR. ROGAN: Correct. And that's my point. I think
22 that that has to be shown in order for these photos to be
23 admitted. More than --

24 THE COURT: Well, but not to admission. I'm to
25 asking the officer and testing the relationship issue.

1 MR. ROGAN: Correct. Thank you.

2 MR. COFFEE: Understood. And at this point I'm not
3 representing that Mr. White has seen the photographs. If he
4 testifies I could certainly ask him concerning the photographs
5 and whether it effected him. But at this point we're not
6 offering them for that, we're offering it for the relationship
7 through the officer.

8 THE COURT: Well, you're not offering them yet;
9 right?

10 MR. COFFEE: Well, no. But when we do.

11 THE COURT: You're using them.

12 MR. COFFEE: Yes.

13 MR. ROGAN: And I don't think that these photos
14 would necessarily be needed to establish that relationship
15 given that they're prejudicial. There's one, in fact, of Echo
16 Lucas with her tongue in the mouth of Joe Averbman. I think
17 that's highly prejudicial. It's also confusing, because if he
18 didn't see them then why are they relevant. We can establish
19 that relationship through testimony. We don't need these
20 photos in order to do that. I think that given the fact that
21 it could confuse the jurors about the nature of this
22 relationship and what the defendant knew or saw about that
23 relationship and that it --

24 THE COURT: Okay. Wait. Given some of the
25 testimony we've had about the relationship, her having her

1 tongue in his mouth is not something that would surprise
2 anyone.

3 MR. ROGAN: I still think that it's highly
4 prejudicial given --

5 THE COURT: Well, that may be true.

6 MR. ROGAN: Okay.

7 THE COURT: But good evidence is always prejudicial.
8 Unfortunately I don't know if there's going to be a foundation
9 laid to convince me that given what the testimony is, that for
10 relationship purposes they're relevant. But I understand what
11 you're saying, counsel. And Mr. Coffee's having fun with
12 this, because, you know, he has to have something to do.
13 We'll have a short break maybe.

14 (Court recessed at 3:01 p.m., until 3:08 p.m.)

15 (Jury is not present)

16 THE COURT: How many more witnesses have you got
17 today?

18 MS. MERCER: Several.

19 THE COURT: Great. So in other words I'm not going
20 to run out of people today?

21 MS. MERCER: No.

22 MR. ROGAN: I sure hope not.

23 (Pause in the proceedings)

24 THE COURT: Ready?

25 THE MARSHAL: Yes, Judge.

1 THE COURT: Bring them on in.
2 (Jury reconvened at 3:10 p.m.)
3 THE COURT: Where's our witness, counsel?
4 MS. MERCER: In the anteroom.
5 THE COURT: Counsel stipulate to the presence of the
6 jury?
7 MR. COFFEE: Absolutely.
8 MS. MERCER: Yes, Your Honor.
9 THE COURT: Sir, I'd like to remind you, you're
10 still under oath.
11 THE WITNESS: Yes.
12 THE COURT: Mr. Coffee, you may continue your cross-
13 examination.
14 MR. COFFEE: Thank you.
15 BY MR. COFFEE:
16 Q When we had left off we were talking about
17 photographs and establishing relationships. Do you remember
18 that line of questioning?
19 A Yes.
20 Q And you testified on direct that photographs can be
21 used to establish relationships on occasion; yeah?
22 A Correct.
23 Q Can be used for identification; yes?
24 A Yes.
25 Q You had looked through Facebook and went through all

1 the photographs?

2 A Yes.

3 Q It was important, as a detective, because you didn't

4 want to miss anything?

5 A Correct.

6 Q And the State had talked to you about State's

7 Exhibit 54?

8 A Yes.

9 Q And that was an iPhone?

10 A Yes.

11 Q That was identified to Echo White?

12 A Yes.

13 Q There was a passcode to the iPhone; yes?

14 A Yes.

15 Q And that was something you got from Joe Averman;

16 right?

17 A Correct.

18 Q Like Facebook, did you review the information that

19 was found on the iPhone?

20 A Yes.

21 Q Did you look through the pictures that were found on

22 the iPhone to see if there was an indication of relationships

23 in those pictures, also?

24 A Yes.

25 Q Relationships between Mr. White And Echo White; yes?

1 A Correct.

2 Q And Mr. Averman and Echo White; yes?

3 A Correct.

4 Q I want to show you Defendant's Proposed Y. Do you
5 recognize that?

6 A Yes.

7 Q Is that one of the photos that was found on Echo
8 White's phone --

9 A Yes.

10 Q -- that shows the relationship between her and Mr.
11 Averman?

12 A Yes.

13 MR. COFFEE: Judge, at this point we would ask to
14 admit Defendant's Y.

15 MR. ROGAN: Your Honor, the State objects and would
16 ask permission to traverse the detective regarding that photo.

17 THE COURT: You may.

18 MR. ROGAN: Thank you.

19 VOIR DIRE EXAMINATION

20 BY MR. ROGAN:

21 Q Detective, the examination report that was conducted
22 on that iPhone took approximately a year to complete; did it
23 not? Or quite some time.

24 A A long time, yes.

25 Q And so by that time you had already known of the

1 relationship between Echo White -- between herself and between
2 Joe Averman; correct?

3 A Correct. We learned that, that day, on the 27th.

4 Q The photographs that were in the phone itself did
5 not assist you in any way in determining that relationship
6 because you already knew about them?

7 A Correct.

8 Q In detail?

9 A Correct.

10 MR. ROGAN: Court's indulgence.

11 BY MR. ROGAN:

12 Q And, again, these photos were on the private iPhone
13 of Echo Lucas-White?

14 A Correct.

15 Q And perhaps Joe Averman had access to it?

16 A Correct.

17 Q Do you know at all, sitting here today, whether any
18 of these -- this photograph was sent to either by text
19 transmission or shown to the defendant at all?

20 A I don't know, no.

21 MR. ROGAN: Nothing further, Your Honor.

22 THE COURT: The objection's overruled. It's
23 admitted.

24 (Defendant's Exhibit Y admitted)

25 MR. COFFEE: Thank you, Judge.

1 CROSS-EXAMINATION (Resumed)

2 BY MR. COFFEE:

3 Q And I want to show you Defendant's Y. This is a
4 photograph of Mr. Averman and Ms. White; yes?

5 A Correct.

6 Q And while there's some questions by the District
7 Attorney as to whether or not you'd established a relationship
8 a year previously you still looked at what was on the phone;
9 didn't you?

10 A Yes.

11 Q Because there might be something important on the
12 phone; is that fair?

13 A Yes.

14 Q And if you don't look you don't know; is that fair?

15 A Yes.

16 Q Let me give you another example. You went to
17 Prescott, Arizona?

18 A Yes.

19 Q And there was a phone that was recovered at the
20 Prescott location that had belonged to Mr. White; yes?

21 A Correct.

22 Q There was never a forensic examination done of that
23 phone; is that right?

24 A Correct.

25 Q And, again, as one of those things that we said

1 before, if you don't look you don't know so it's not
2 appropriate to speculate what might be on that phone?

3 A Correct.

4 Q It wouldn't be appropriate to speculate, for
5 example, the District Attorney asked some questions about
6 this, as to whether or not this photo had been sent, or if Mr.
7 White had seen the photo, we don't know.

8 A Correct. I don't know.

9 Q Is that fair?

10 A Correct.

11 Q Okay. And, in fact, there was no indication in the
12 iPhone, just so we're clear, that this photo had been sent to
13 Mr. White in the following report. Is that fair?

14 A Correct. There wasn't an indication that it had
15 been sent.

16 Q Okay. Now, Mr. Averman, in this photo, is wearing
17 an Army shirt; is that right?

18 A Yes.

19 Q And you had information that Mr. Averman had been a
20 member of the National Guard?

21 A Correct.

22 Q And there was some discussion about a yellow note.
23 Do you remember that?

24 A Yes.

25 Q And it was a commanding -- I think it was Mr.

1 Averman's name and Social Security number and information
2 relating to, you called it, a boss; right?

3 A Correct.

4 Q Actually, it wasn't his boss but his commanding
5 officer; right?

6 A I believe it was just the sergeant; correct?

7 Q Sergeant?

8 A Yes.

9 Q You're right, it wouldn't be an officer. Somebody
10 who seemed to be in charge of him in the military; is that
11 fair?

12 A Correct.

13 Q You are familiar with Nevada statutes I would
14 imagine, to some extent?

15 A Some of them, yes.

16 Q Okay. Adultery is not a crime in Nevada; is that
17 fair?

18 A Correct.

19 Q Do you know if it's a crime under the U.S. Military
20 Code?

21 A I do not.

22 Q Okay. Did you contact the officer to see if Mr.
23 White had recorded Mr. Averman for adultery with his wife?

24 A No, I did not.

25 Q You did have the name of the sergeant, you just

1 didn't follow up on that particular -- didn't think you needed
2 to?

3 A Correct.

4 MR. COFFEE: Okay. Permission to approach.

5 THE COURT: You may.

6 BY MR. COFFEE:

7 Q [Inaudible].

8 A Yes.

9 Q Okay. I want to show you Defendant's Proposed AA.
10 Do you recognize that?

11 A Yes.

12 THE COURT: AA?

13 MR. COFFEE: AA.

14 THE COURT: Thank you.

15 BY MR. COFFEE:

16 Q And is AA a picture that was also retrieved from
17 Echo Lucas's cell phone?

18 A Yes.

19 Q And we were talking about relationships. Do you
20 know whether or not Mr. Averman and Ms. Lucas had any children
21 in common?

22 A I don't believe they did, no.

23 Q There were five children in the house. They were
24 all -- well, biologically, three were Mr. White's and two were
25 from a previous relationship; is that fair?

1 A I believe so. I thought I had it the other way
2 around. Three from a previous relationship and two with Troy
3 White I believe. I could be wrong though.

4 Q Okay. If somebody else had testified previously in
5 the Courtroom that three children were biologically Mr.
6 White's you wouldn't have a reason to disagree with that?

7 A No. No.

8 Q Is that fair?

9 A Correct.

10 Q Again, none with Averman; correct?

11 A Correct.

12 MR. COFFEE: Move for admission of Defendant's AA.

13 MR. ROGAN: Your Honor, same objection as well as
14 duplicated.

15 THE COURT: Can I see it, please.

16 Mr. Coffee, can you bring Mr. Rogan with you to the
17 bench.

18 MR. COFFEE: Absolutely.

19 (Bench conference)

20 THE COURT: Okay. What's the relevance of this?
21 He's holding the baby.

22 MR. COFFEE: He's holding someone else's baby in
23 someone else's house. I have to show reasonableness of Mr.
24 White snapping. This is what's going on in his head --

25 THE COURT: But I don't have any evidence at all

1 that that photo was provided to Mr. White. I mean, if I had
2 something so I know it was texted to him, if you have the
3 phone to confirm that it was transmitted, you have it on a
4 Facebook post, that's a different thing. This is just off of
5 her phone. It's different than the relationship issue.

6 MR. COFFEE: It is off her phone. All right. If
7 the Court wants to rule at this point that's fine.

8 THE COURT: Well, at this time I'm telling you if
9 there's additional information --

10 MR. COFFEE: Understood.

11 THE COURT: -- you can provide.

12 MR. COFFEE: Fair enough.

13 MR. ROGAN: And we have that cell phone, and it was
14 coming in and could provide that information [inaudible].

15 (End of bench conference)

16 THE COURT: The objection is sustained on foundation
17 grounds at this time.

18 MR. COFFEE: Fair enough. Permission to approach
19 with Defendant's BB.

20 THE COURT: You may.

21 BY MR. COFFEE:

22 Q We talked about photographs establishing
23 relationships. Is Defendant's BB also from Echo Lucas's cell
24 phone?

25 A Yes.

1 Q And when we're talking about establishing
2 relationships that is --

3 MR. COFFEE: Well, we'll move for admission of
4 Defendant's BB.

5 THE COURT: Can I see BB, please.

6 MR. COFFEE: Absolutely.

7 THE COURT: Mr. Rogan, do you have any additional
8 objections?

9 MR. ROGAN: Nothing additional than what's been
10 mentioned before.

11 THE COURT: Okay. This one will be admitted.
12 (Defendant's Exhibit BB admitted)

13 BY MR. COFFEE:

14 Q And that is one of the photographs on -- from Echo
15 Lucas's phone that might be used to establish the nature of
16 the relationship between her and Mr. Averman; is that fair?

17 A Correct.

18 Q We don't know whether or not Mr. White saw these
19 photographs?

20 A Correct.

21 Q You did some investigation into Potter's House
22 Church?

23 A Yes.

24 Q Potter's House, just so we're clear, is a Christian
25 religion; yes?

1 A The basis?

2 Q Yes.

3 A Yes.

4 Q They may not believe exactly what you believe. They
5 may not believe exactly what I believe or anyone on the jury,
6 but they identify themselves as one of the Christian
7 religions; is that fair?

8 A Yes.

9 Q They are traditional; is that fair?

10 A Yes.

11 Q Meaning -- I think we've said this before, but a
12 woman stays home and takes care of the home and the men go out
13 and earn the money?

14 A Correct.

15 Q And adultery is frowned on in that religion I would
16 imagine?

17 A Yes.

18 Q You did some investigation as to the background of
19 Mr. White and Echo Lucas and church attendance; is that fair?

20 A Yes.

21 Q Is it fair to say in the last six weeks before the
22 shooting, or maybe the last couple months before the shooting,
23 that church attendance had fell off for both?

24 A Yes.

25 Q And Mr. White said he was embarrassed about the

1 situation with his wife; is that fair?

2 A Yes.

3 Q You mentioned something on direct about things that

4 the religion frowned on, one you said was tattoos?

5 A Correct.

6 Q Do you know if -- Mr. White actually was described

7 as having a tattoo; didn't they?

8 A Yes, he does.

9 Q There was a bullet that was located in the driveway.

10 You're familiar with that?

11 A Yes.

12 Q Were you the lead detective in this matter?

13 A Yes, my partner and I.

14 Q Your partner and I, and that is?

15 A Detective Travis Ivy.

16 Q Detective Travis Ivy. As a lead detective it is

17 your responsibility to see what gets tested and what doesn't

18 get tested to some extent; is that fair?

19 A Correct.

20 Q There used to be a sign, the buck stops here. The

21 buck kind of stops with you on a lot of these things; right?

22 A Yes.

23 Q Now, some of the things were fairly clear in regards

24 to this case. For example, there was a relationship between

25 Echo Lucas and Joe Averman. That was a clear fact in the

1 case; yeah?

2 A Yes.

3 Q That Mr. White had actually done the shooting, that
4 was a clear fact in the case?

5 A Yes.

6 Q That there had been talk of divorce, but perhaps
7 talk of reconciliation up closer to the time of the shooting.
8 That was pretty clear from the posts; yes?

9 A Yes.

10 Q One of the things that wasn't clear in the case is
11 how many shots were fired; is that fair?

12 A Correct.

13 Q The best estimate was three or four shots; is that
14 fair?

15 A Yes. I believe three.

16 Q Three shots, three shell casings that you could
17 tell; yes?

18 A Correct.

19 Q And three bullets that were ultimately accounted
20 for?

21 A Correct.

22 Q The problem with the count though has to do with
23 Averman's wounds, because he had three separate wounds;
24 correct?

25 A Correct.

1 Q One was a through and through in the arm, meaning it
2 went through the fleshy part of the arm and out; yes?

3 A Yes.

4 Q And it had not struck bone; is that fair?

5 A Correct.

6 Q And there were two that were on Averman's side
7 someplace?

8 A Yes.

9 Q Were those also through and through?

10 A I believe Averman held a bullet for a period of
11 time. I don't know if it had since been removed or not, but
12 my belief was they left one in at the hospital.

13 Q Okay. And there was a bullet retrieved from Echo
14 Lucas, of course. We've talked about that?

15 A Correct.

16 Q The bullet in the driveway, there was a bullet
17 recovered from the driveway; yes?

18 A Correct.

19 Q Was there any sort of forensic testing to say
20 whether or not that bullet had been one of the bullets that
21 struck Mr. Averman?

22 A No additional forensic testing. The bullet didn't
23 appear to have any blood or tissue on it. But no additional
24 testing beyond the ballistic testing of it.

25 Q Okay. For example, you might test for blood with a

1 substance called phenolphthalein as an example?

2 A That could be a possibility. I don't know if that's
3 the situation for testing it on a projectile, but that is one
4 of the tests we use to test for the presence of blood.

5 Q For presumptive tests for blood. Not necessarily
6 100 percent accurate, but it's one of the things that you use
7 to try to figure out what you've got going on; right?

8 A Correct.

9 Q Okay. There are other tests that can be done on
10 these bullets, on these shells, perhaps forensic testing; yes?
11 Biological material?

12 A Correct. Yes.

13 Q None was done in this case?

14 A No.

15 Q But there wasn't anything apparent necessarily?

16 A There was nothing visible or apparent on either the
17 wall or the projectile itself that indicated to us that we
18 needed to test it further for biological evidence.

19 Q Did you -- you conducted some field interviews; yes?

20 A Yes.

21 Q Did you interview Mr. Averman?

22 A I did not.

23 Q That would be someone else if you had questions
24 about that guy?

25 A Correct. Homicide Detective Kisner interviewed Mr.

1 Averman at the hospital.

2 Q All right.

3 MR. COFFEE: Permission to approach.

4 THE COURT: You may. So we're up to CC.

5 BY MR. COFFEE:

6 Q While the clerk is marking that. The home was in

7 Mr. White's name; is that right?

8 A I don't recall specifically.

9 Q The vehicle was in Mr. White's name?

10 A The vehicle I believe was registered to both.

11 Q The pictures on the wall were Mr. White and Echo

12 Lucas-White?

13 A Correct.

14 Q There were no pictures of Mr. Averman on the wall;

15 correct?

16 A Not that I observed.

17 Q And you look for that sort of thing; right?

18 A Yes.

19 MR. COFFEE: Permission to approach.

20 THE COURT: You may.

21 BY MR. COFFEE:

22 Q You talked about a yellow scrap of paper?

23 A Yes.

24 Q There was some additional handwritten notes that

25 were found; yeah?

1 A Yes.

2 Q Where were they found? Do you remember if it was at
3 the apartment of Herman Allen?

4 A I believe that's where this may have been located
5 was at Herman Allen's apartment.

6 Q Did that have any significance for you?

7 A Not really, no.

8 Q Were you looking for items to connect Troy White to
9 Herman Allen's apartment?

10 A Yes. Typically we look for some type item to
11 connect him there so we can establish some possessory interest
12 at the apartment.

13 Q Power bills, that sort of thing?

14 A Yes.

15 Q Mail?

16 A Yes. Also to confirm that we served the warrant on
17 the correct location, that it matched the address of the
18 search warrant itself.

19 Q And one of the things you look for and ask for in a
20 search warrant is those sorts of items to connect somebody to
21 that scene; right?

22 A Correct.

23 Q The photograph that I showed you, is that one of the
24 documents that might connect Troy White to Herman Allen's
25 apartment?

1 A Yes. I was not present at the search warrant at
2 Herman Allen's apartment though.

3 Q I understand.

4 A Okay.

5 Q But you've seen this?

6 A Correct. Yes.

7 Q And that is one of the things that might do that;
8 yes?

9 A Yes.

10 MR. COFFEE: Move for admission of --

11 THE COURT: CC.

12 MR. COFFEE: Defendant's CC.

13 MR. ROGAN: I would object on two grounds,
14 foundation and hearsay. And I can --

15 THE COURT: Can you approach, please.

16 MR. ROGAN: -- explain further.

17 THE COURT: Can I see CC, since I haven't seen it
18 yet.

19 MR. COFFEE: Sure.

20 THE COURT: Ms. Mercer, if you'd come up, please.

21 (Bench conference)

22 THE COURT: These are the questions from the jurors.

23 MR. ROGAN: Perfect.

24 THE COURT: [Inaudible].

25 MR. COFFEE: It says, "Cash to Echo," on the bottom.

1 MS. MERCER: It has what?

2 MR. COFFEE: It says, "Cash to Echo on the bottom."
3 That's the connection to Mr. White.

4 THE COURT: Well, I know that. You didn't have to
5 explain it. Did you look at this or do you want to look at
6 them while you're here?

7 MR. ROGAN: Sure. Sure.

8 THE COURT: That's why I called you all up here to
9 look at this while you're here.

10 MR. ROGAN: Oh. Okay.

11 THE COURT: Because he's getting close to done.
12 That's why I called Ms. Mercer to come up, too. Because this
13 is a process everybody gets to participate in.

14 MR. ROGAN: Unfortunately.

15 MR. COFFEE: I told you that was going to be a
16 problem.

17 THE COURT: When I rephrase many of them to say, do
18 you know --

19 MS. MERCER: All right. [Inaudible], talked to
20 Prescott officers who first encountered based on your
21 questioning this morning.

22 MR. COFFEE: Okay.

23 THE COURT: Kevin, can you come here.
24 When you guys are finished with the one that has 3
25 on it can I have it back.

1 MR. ROGAN: Sure.

2 THE COURT: First one that I'm not clear on the
3 number, Kevin.

4 MS. MERCER: Three what?

5 THE COURT: There's one that the juror number's not
6 very clear. It's not this one.

7 MS. MERCER: Yeah. That's [inaudible]. Yeah. He
8 has all that.

9 MR. ROGAN: [Inaudible].

10 MS. MERCER: I think that would be speculation I
11 think. He's the one that [inaudible].

12 THE COURT: I don't know which juror number it is.
13 Are there objections to any of these?

14 MR. ROGAN: They did a gun trace on the gun. He
15 knows where it was.

16 THE COURT: Did you object to any of these?

17 MR. COFFEE: I didn't see this one.

18 MS. MERCER: Yes, you did.

19 MR. COFFEE: Oh. That's one that I saw. Okay.
20 There was one that I didn't see.

21 MS. MERCER: That's --

22 THE COURT: Okay. Hold on.

23 MS. MERCER: No. No objection.

24 MR. COFFEE: No objection.

25 THE COURT: Did you figure out whose number that

1 should be? Any objection to this one?

2 MS. MERCER: Yes, because I don't think this
3 [unintelligible].

4 MR. COFFEE: [Unintelligible].

5 MS. MERCER: That would be speculation.

6 THE COURT: I can say, do you know, and then he will
7 tell us he either knows or not.

8 MR. COFFEE: Can I see it.

9 THE COURT: And all it's going to say is do you know
10 if the children were exposed to firearms. He's either going
11 to know or not. Okay?

12 MR. COFFEE: Sure.

13 THE COURT: Okay. [Unintelligible].

14 MS. MERCER: I can't remember what that one said.

15 THE COURT: Well, then take them up again.

16 MS. MERCER: I think he's asking what did Troy --
17 when the detective interviewed -- oh, interviewed the first
18 officer [unintelligible], what did the defendant say to that
19 [unintelligible].

20 MR. COFFEE: I don't think he can answer it.

21 MS. MERCER: He interviewed him.

22 MR. COFFEE: The detective?

23 THE COURT: Well then that's all we've got to say,
24 when you interviewed him what did he tell you. I'll just ask
25 it that way.

1 MR. ROGAN: He said, she needs help.

2 THE COURT: She needs help, did you ask [inaudible].

3 MR. COFFEE: But hold on. This is for the Yavapai

4 people, not for this officer. The problem --

5 THE COURT: Yavapai interviewed him.

6 MR. COFFEE: But the problem with that is he's

7 invoked his right to remain silent. That's the problem, yes.

8 THE COURT: [inaudible].

9 MS. MERCER: It's asking when the detective talked

10 to the Prescott officer that first encountered the defendant.

11 What did the defendant say to the Prescott officer based on

12 your questioning this morning.

13 MR. COFFEE: Yeah.

14 THE COURT: All of that's true. So we'll just ask

15 him if he asked the Prescott detective he needed help.

16 MR. COFFEE: Yeah.

17 THE COURT: I'm just going to ask this part.

18 MR. COFFEE: Oh.

19 THE COURT: Okay.

20 MR. ROGAN: [Inaudible]. Can you put like a

21 notebook or something --

22 MR. COFFEE: Oh. Sure.

23 MR. ROGAN: -- behind the picture?

24 MR. COFFEE: Sure.

25 THE COURT: Okay. Ready?

1 MR. ROGAN: No. The State's objecting to it on
2 foundation of grounds, and it's hearsay grounds, foundation.
3 We don't know whether this is actually the defendant's
4 writing, it hasn't been established that it is. Also, if it
5 is the defendant's writing it's hearsay, because we're
6 assuming it's offered for the truth of the matter asserted.
7 That is these items [inaudible].

8 THE COURT: So how's it different than the note you
9 put in?

10 MR. ROGAN: We stipulated to it.

11 THE COURT: Thank you, Mr. Rogan. Anything else?

12 MR. COFFEE: No.

13 THE COURT: Okay. I'm going to rule. Go away.

14 (End of bench conference)

15 THE COURT: Exhibit CC is admitted.

16 (Defendant's Exhibit CC admitted)

17 THE COURT: Ladies and gentlemen, thank you for your
18 patients. I took the opportunity to go through the jury
19 questions with counsel while you were up here.

20 BY MR. COFFEE:

21 Q Showing you what's been admitted as Defendant's CC.
22 That was a note that was found at Herman Allen's apartment
23 that you looked at later; yes?

24 A Correct.

25 Q And it lists a number of items. It appears to be a

1 list of bills; yes?

2 A Yes.

3 Q And it says, "Nevada Power, paid." Is that right?

4 A Where are you looking, up top left, Nevada Power?

5 Q Very top.

6 A It says, Nevada Power over here, and then Nevada

7 Power here -- oops. Are you referring to the little note next

8 to it?

9 Q Yes.

10 A I can't really read [unintelligible]. Pay Monday --

11 pay Mon. Pay Monday.

12 Q Okay. And a list of other household bills?

13 A Yes.

14 Q And of course consistent with Potter's House, Mr.

15 White was supposed to care for his family and pay for the

16 bill?

17 A Correct.

18 Q And there's also a note on the bottom about cash to

19 Echo, two and a hundred for fuel; is that right?

20 A Yes.

21 Q An Allstate and -- just looks like a list of bills

22 that a lot of people have; yes?

23 A Correct.

24 Q Echo was not employed; correct?

25 A Correct.

1 Q And you talked about Mr. Averman's boss. Mr.
2 Averman was in the National Guard, but he wasn't employed
3 either; was he?

4 A Correct.

5 MR. COFFEE: Nothing further. Thank you.

6 THE COURT: Sir, we have some questions from the
7 jurors. And I'm going to try and ask these in a way that
8 flow.

9 MR. ROGAN: Your Honor.

10 THE COURT: Yes.

11 MR. ROGAN: I'm sorry. Could I redirect.

12 THE COURT: You can, after I ask the questions --

13 MR. ROGAN: Okay. Thank you.

14 THE COURT: -- from the jury. Thank you.

15 So when you spoke to the detective from Prescott did
16 that officer tell you that Mr. White had said she needs help?

17 THE WITNESS: I do recall that statement. I'm
18 trying to think when I learned it, if it was when I was down
19 there or prior to my arrival. Is that the question or --

20 THE COURT: Well --

21 THE WITNESS: I learned it. I learned that
22 statement.

23 THE COURT: At some point in time did you inquire
24 who the "she" was?

25 THE WITNESS: I don't believe I clarified that

1 statement.

2 THE COURT: Okay. Do you know if the children were
3 exposed to firearms?

4 THE WITNESS: Other than this day?

5 THE COURT: Other than this day.

6 THE WITNESS: I do not know.

7 THE COURT: Do you know when the defendant joined
8 Facebook?

9 THE WITNESS: I can't recall off the top of my head.
10 It would be included in the Facebook records on the date that
11 the account was created. I just -- I don't recall it off the
12 top of my head.

13 THE COURT: On one of the notes that you had that
14 had the Social Security number that's now been redacted --

15 THE WITNESS: Correct.

16 THE COURT: -- it had the abbreviation PFC.

17 THE WITNESS: Yes.

18 THE COURT: Do you know what PFC means?

19 THE WITNESS: Yes.

20 THE COURT: What does it mean?

21 THE WITNESS: Private First Class. It's a rank in
22 the National Guard.

23 THE COURT: Do you know when the gun was purchased
24 by Troy White?

25 THE WITNESS: I do know relevant facts referenced

1 the gun. However, it was not purchased by Troy White.

2 THE COURT: Okay. Do you know when the bullets were
3 purchased?

4 THE WITNESS: That I do not know.

5 THE COURT: Okay. Mr. Rogan, you may redirect now.

6 MR. ROGAN: Thank you, Your Honor.

7 THE COURT: Sorry. I have a process I go through.

8 MR. ROGAN: I'm sorry. Was not aware of that.

9 MR. ROGAN: Court's indulgence.

10 REDIRECT EXAMINATION

11 BY MR. ROGAN:

12 Q Let me just start with the gun since that's where we
13 left off. Did you do what's called a gun trace or perform a
14 gun trace of the firearm?

15 A Yes.

16 Q And what is that?

17 A It's basically a records check of the firearm
18 through the ATF, since all pistols are sold through a federal
19 firearms licenseholder. There's pretty detailed records kept,
20 and if you conduct a trace on a weapon the ATF can usually
21 tell you where -- at least where and when that weapon was sold
22 and who purchased it at least the initial time. After they
23 change hands, maybe that first time, you might not get that,
24 but you'll get the initial sale.

25 Q And did you review that prior to your testimony

1 today?

2 A Yes.

3 Q And did you know who actually purchased that
4 firearm? If you need to look at the report I can bring it to
5 you.

6 A Correct. I don't want to misstate the name.

7 MR. ROGAN: Okay. May I approach the witness, Your
8 Honor.

9 THE COURT: You may.

10 BY MR. ROGAN:

11 Q Sir, showing you the gun-trace report that you
12 indicated you ran. If you could look in the bottom left-hand
13 corner and read that silently to yourself. Do you recall now
14 who is the listed purchaser of the firearm?

15 A Yes.

16 Q And who is that?

17 A Donald White.

18 Q And do you know the relationship between Donald
19 White and Troy White?

20 A I believe that's his father.

21 Q Okay. But you're not sure?

22 A I'm not 100 percent certain, no.

23 Q Okay. And does the gun-trace report also indicate
24 the date that firearm was purchased?

25 A It does.

1 Q And do you have a memory of that now after reading
2 it?

3 A Yes.

4 Q And what was the date that it was purchased?

5 A August 4th, 1997.

6 Q Does the gun-trace report indicate how that gun
7 moved from the hands of Donald Richard White into the hands of
8 Troy White?

9 A No, it does not.

10 Q Okay. Now, Mr. Coffee showed you a lot of
11 photographs and some photographs of Echo White and Joe Averman
12 together; correct?

13 A Yes.

14 Q And tends to show that they were in a relationship;
15 correct?

16 A Correct.

17 Q But you already knew that?

18 A Yes.

19 Q You didn't need those photographs in order to
20 determine that?

21 A No, I did not.

22 Q Did you know from your investigation on July 27th,
23 in fact, that Joe Averman was in an intimate relationship with
24 Echo White as of that date?

25 A Yes.

1 Q And those photographs did not add anything at all to
2 your knowledge of that, didn't help you at all?

3 A No.

4 Q You also saw some photographs -- you mentioned that
5 you saw a lot of photographs on Facebook; correct?

6 A Yes.

7 Q And Mr. Coffee mentioned that there's a lot of
8 photographs of the defendant with his children that you saw?

9 A Yes.

10 Q And the defendant with Echo that you saw?

11 A Yes.

12 Q And there's photographs of their children and the
13 family on the walls of the house that you saw?

14 A Yes.

15 Q Is it fair to say that when -- people don't put
16 pictures of themselves when they're arguing with their spouse?

17 A Correct.

18 Q They don't take pictures of that, they don't take
19 selfies with a selfie stick when they're arguing; right?

20 A Yes.

21 Q And they don't do that when they're disciplining
22 their children, for example, generally?

23 A That's fair.

24 Q And you certainly don't usually post them on
25 Facebook; right?

1 A Correct.

2 Q Or frame them and put them on your wall?

3 A Correct.

4 Q So knowing that, would you say that photographs that

5 are on Facebook and on the walls of a house give you any

6 indication about the nature of a relationship between a

7 husband and a wife whether it was good or whether it was bad?

8 A No, they do not.

9 Q Mr. Coffee also just showed you this note, this

10 written note, Exhibit CC that was recovered from Herman

11 Allen's house, and there's a bunch of notes on it; right? We

12 just saw it.

13 A Yes.

14 Q And that was collected during the search of Herman

15 Allen's house?

16 A I believe so, yes.

17 Q And you don't know actually who wrote that down?

18 A No, I don't.

19 Q Who wrote those things down. You don't know

20 actually whether these bills were paid?

21 A No.

22 Q But you knew there was an arrangement that the

23 defendant would pay for the bills at the house where Echo was

24 living with their five children?

25 A Yes.

1 Q Were you aware that there was this arrangement so
2 that the defendant would not have to pay child support to Echo
3 Lucas? It's okay if you weren't.

4 A I can't say that I recall knowing that information.

5 Q Mr. Coffee brought up that there's a little bit of
6 confusion about the number of bullets that were fired from the
7 defendant's gun inside 325 -- or the address at 325 Altamira
8 Road?

9 A Correct.

10 Q You knew that they had found three shell casings?

11 A Yes.

12 Q Three cartridge casings in the house?

13 A Yes.

14 Q That there was a bullet hole through a mirror that
15 -- and a bullet recovered just outside that hole in the
16 driveway?

17 A Yes.

18 Q But ultimately since no police officers were there
19 you don't know how many were actually fired?

20 A Correct.

21 Q And I think we've established that shell casings can
22 be kicked around in a scene?

23 A Yes.

24 Q And it's possible that some were lost or some were,
25 you know, between floor boards?

1 A Possible?

2 Q Possible.

3 A Possible, yes.

4 Q All right. You knew that Joseph Averman had three

5 bullet wounds that you could identify; correct?

6 A It's tough to say if you're actually referring to

7 each as a bullet wound and if they're related to one another

8 as opposed to just how many holes Mr. Averman had in him.

9 Q Well, that's the point that I want to get across

10 here.

11 A Okay.

12 Q Did you see Mr. Averman's injuries either through

13 photographs or by seeing Mr. Averman in the hospital himself?

14 A I believe the photographs were the only way that I

15 saw the injuries and then talking about it later with him.

16 Q All right. So you saw a hole in his arm that --

17 A Yes.

18 Q -- Mr. Coffee said was through and through; right?

19 A Yes. Perforated his arm, yes.

20 Q It's a perforating injury, straight through?

21 A Correct.

22 Q And you saw photographs of entrance wounds as you

23 recall, two of them, two holes in his abdomen?

24 A Two holes, I can't specify if they're entrance

25 wounds or not though.

1 Q Okay. I know you're not a doctor, forensic
2 examiner. But there were two holes in his abdomen?

3 A Correct.

4 Q And so what you were saying before, if I could just
5 summarize, is that you don't know whether Mr. Averman was
6 falling to the ground and that bullet went -- the through and
7 through shot went through his arm and into his abdomen. Is
8 that the point you're trying to make?

9 A Correct.

10 Q So you can't even tell by the number of shell
11 casings that are found or cartridge casings that are found, as
12 well as the number of holes in a person's body how many
13 bullets were actually fired?

14 A Correct. It's actually very, very difficult in a
15 dynamic scene, a dynamic crime scene where people are moving
16 and multiple shots are being fired. It's really tough to make
17 the relation sometimes between certain holes and as they pass
18 through the body. So very difficult sometimes.

19 Q All right. And given that you are trying to
20 apprehend the person who committed the offenses that occurred
21 at 325 Altamira, are you at all really concerned with whether
22 a bullet has any tissue or material on it?

23 A Only if I can see visibly that it had. If there
24 were blood visible on the wall where it passed through or even
25 tissue or blood visible on the bullet itself, then that's

1 something that we would have to pay attention to. However,
2 when you look at it and you don't see any tissue or blood on
3 it, then you don't become overly concerned with testing it for
4 bullet -- or blood or anything like that.

5 Q Was it important to you at all to test that bullet
6 for blood?

7 A No.

8 Q Would it have helped your investigation at all to
9 determine whether Mr. White murdered his wife and attempted to
10 kill Joseph Averman?

11 A No, it would not.

12 Q The Facebook posts, and I know we went over them
13 extensively, that you saw, that status update I believe -- I'm
14 sorry if I forget who it was that actually originated that
15 quote.

16 MR. COFFEE: T. S. Eliot.

17 MR. ROGAN: T. S. Eliot. Thank you. I didn't know
18 that.

19 BY MR. ROGAN:

20 Q Now, this quote that's on July 9th, 2012, it's
21 referencing that T. S. Eliot quote; right?

22 A Correct.

23 Q And Mr. Coffee asked you whether you had actually
24 ever seen that T. S. Eliot quote. "If you love someone set
25 them free --"

1 A Yes.

2 Q "-- if they come back to you then it's meant to be."
3 And you said that you had seen that before?

4 A Yes.

5 Q But have you ever seen anyone write, if they come
6 back to you -- or if -- I like this version instead, if you
7 love someone set them free, if they don't come back hunt them
8 down and kill them. Have you ever seen that before?

9 A I have, yes.

10 Q How many times?

11 A I can't say how many times. I believe I've seen it
12 as a bumper sticker.

13 Q Okay.

14 A I think that's how I -- in fact, I think that's how
15 I'm familiar with that saying.

16 Q All right. But not from any other prior
17 investigation?

18 A No. Not from -- no.

19 Q Right. But the point I want to make is Mr. Coffee
20 asked you that you went through that Facebook to look for
21 information that would prove intent to kill. Is this one of
22 those pieces of evidence that would prove to you or help you
23 understand whether the defendant had the intent to kill on
24 July 27th of 2012?

25 A Yes, it is.

1 Q Highly, in fact. Highly probable. Highly helpful
2 to you?

3 A Correct.

4 Q And with regard to that Facebook posting, that
5 communication on July 26th, with Lisa Piggott-Brown, the one
6 that Mr. Coffee extensively questioned you on. In that
7 communication the defendant is referencing a telephone call
8 that he had presumably with Echo White on the previous day,
9 July 25th, as you said?

10 A Correct.

11 MR. COFFEE: I'm going to object.

12 THE COURT: Can you approach and explain why.

13 MR. COFFEE: Permission to approach. Sure.

14 (Bench conference)

15 MR. COFFEE: [Inaudible].

16 THE COURT: We've read through it for a half hour.

17 Can you push the cough drops on top of me, please. Thanks.

18 MR. COFFEE: Here's the problem. He says it's a
19 telephone call. I think it was an in-person meeting based on
20 the other text.

21 MR. ROGAN: I think the objection is it assumes
22 facts not in evidence.

23 THE COURT: Well, can you rephrase it.

24 MR. ROGAN: I'll rephrase it.

25 MR. COFFEE: Thank you.

1 THE COURT: Okay.

2 MR. ROGAN: Thanks.

3 (End of bench conference)

4 THE COURT: Mr. Rogan, can you rephrase it, please.

5 MR. ROGAN: Sure.

6 BY MR. ROGAN:

7 Q From that message to Lisa Piggott-Brown it appears
8 as though that the defendant says that he has a conversation
9 with Echo White on July 25th?

10 A Yes.

11 Q We don't know whether that's by the phone or in
12 person or whatever?

13 A Correct.

14 MR. ROGAN: All right. And I cannot find that
15 conversation. If you'd give me just a minute, Your Honor.

16 BY MR. ROGAN:

17 Q Okay. And that's State's Exhibit 91. Would you
18 agree with the statement that there's two sides to every
19 story?

20 A Yes.

21 Q And based upon this little snippet, this one
22 communication, we have one person's side to a story; right?

23 A Yes.

24 Q There's nothing in your investigation that you found
25 that gives Echo's take on this alleged communication between

1 the defendant and her on July 25th?

2 A Correct.

3 Q Well, this is just his perspective?

4 A Yes.

5 Q And it could be totally wrong; right?

6 A Correct, it may be.

7 MR. ROGAN: Nothing further, Your Honor.

8 THE COURT: Any recross, Mr. Coffee?

9 RECROSS-EXAMINATION

10 BY MR. COFFEE:

11 Q There was discussion about cell phone communication
12 and text messages; yes?

13 A Correct.

14 Q And the District Attorney just said there's nothing
15 that might indicate her side of things. Do you remember that
16 question?

17 A Yes.

18 Q You actually do have quite a few texts from Echo to
19 Troy White; don't you?

20 A Yes. From her phone, yes.

21 Q From her phone. And the assumption, just like the
22 assumption with a Facebook where it says, Troy White, that he
23 wrote it, the assumption is that Echo White was involved in
24 some of the communications; is that fair?

25 A Yes.

1 Q You generated -- or had generated at your request a
2 thing called a lantern forensic report; correct?

3 A Correct.

4 Q And that is a cell phone report; yes?

5 A Yes.

6 Q And that indicates texts that were found on her
7 phone; is that right?

8 A Yes.

9 Q And one of the things that happens with this lantern
10 report is you can tell which texts are sent and which texts
11 are received; is that fair?

12 A Yes.

13 Q The yellow arrows going up into the right indicate
14 texts going out; yes?

15 A I'm not familiar exactly --

16 Q The green arrows?

17 A -- with that report, yeah.

18 MR. COFFEE: Permission to approach.

19 THE COURT: You may.

20 BY MR. COFFEE:

21 Q Let's see if we can figure this out.

22 A Yeah. Is this just a part of the report of the
23 report; correct?

24 Q Yes.

25 MR. COFFEE: Page 17, counsel.

1 BY MR. COFFEE:

2 Q Okay. That one would be incoming -- that would be
3 outgoing; right?

4 A Correct.

5 Q Okay. So, looking at the portion of the report we
6 just talked about, does that refresh your recollection as to
7 how we might indicate incoming and outgoing calls?

8 A Yes.

9 Q Outgoing calls, meaning calls that were sent from
10 Echo White are in green; is that right?

11 A Correct.

12 Q I want to start by talking about page 17 and what's
13 been admitted as Defendant's 85.

14 THE COURT: Thank you.

15 MR. COFFEE: State's 85. I'm sorry.

16 THE COURT: That's crooked, Mr. Coffee.

17 MR. COFFEE: Hmm?

18 THE COURT: That's crooked.

19 MR. COFFEE: Oh. I know. I've got to get to the
20 right spot.

21 THE COURT: Oh. Sorry.

22 BY MR. COFFEE:

23 Q On the 20th -- and, by the way, the Facebook posts,
24 before I forget, the Facebook posts I had said a week. It was
25 actually several weeks beforehand the T. S. Eliot quote to the

1 time of the shooting was actually several weeks; right?

2 A Correct. Was that posted on the 9th, July 9th?

3 Q July 9th.

4 A Correct.

5 Q And the shooting was on the 27th. So we've got 18

6 days. It was actually even more time than we talked about

7 before?

8 A Correct.

9 Q He was clearly frustrated on the 9th; yes?

10 A Yes.

11 Q Or he wrote something that you thought might

12 indicate he was frustrated; yes?

13 A Yeah. Absolutely, yes.

14 Q But we've also seen some indication that some things

15 might have happened to give him some hope in between, at least

16 in his mind; yes?

17 A From him, yes.

18 Q On the 20th there is, so you can see it, an outgoing

19 message at -- and this is actually in our time, PDT, that's

20 Pacific Daylight Time; right?

21 A Correct.

22 Q To Troy, and it says Troy there; yes?

23 A Yes.

24 Q From Echo, it says, "Can I call you?" Yes?

25 A Yes.

1 Q And that happens at, what is it, 1:30 in the
2 afternoon? And Troy answers, "Yes." Correct? Correct?

3 A Yes. With a "Yeah, Troy"?

4 Q Yeah.

5 A Yes.

6 Q And there's another text back, "Hey" a few moments
7 later from Echo's phone; yes?

8 A I can't see that far down.

9 Q Oh. I'm sorry.

10 A Yes. It appears to be an outgoing to Troy that
11 says, "Hey."

12 Q And things are in reverse order; correct? So we
13 have to go up the page to go forward in time?

14 A To get to the newest, most recent at the top?

15 Q Yeah.

16 A Correct.

17 Q Okay. Troy asked, "why" about the call, right, at
18 -- we don't have the time listed, I guess it's on the previous
19 page, 13:34. Is that accurate?

20 A That's the "Hey." That's the "Hey."

21 Q The "Hey" call?

22 A That's the "Hey" text.

23 Q Okay. The "why," okay, there's no time listed for
24 some reason. Don't know why; is that fair?

25 A Fair. Correct.

1 Q Okay. And there's an outgoing message from her
2 again on the 20th, "Because what I'm doing you hate it." Yes?
3 A Yes.
4 Q "Stop, please." Yes?
5 A Yes.
6 Q And he writes a pretty hateful message back; right?
7 A I can't see the whole thing, but I believe so, yes.
8 Q Talks about having a new vocabulary; right? Yes?
9 MR. ROGAN: Mr. Coffee, could you put the entire
10 message on the screen.
11 THE WITNESS: I can't see it.
12 BY MR. COFFEE:
13 Q I'm trying to.
14 A Oh. Sorry. Okay.
15 Q There we go. So "I have increased my vocabulary."
16 Do you see that part?
17 A Yes.
18 Q Okay.
19 A Okay. Skip the message in between to this one, yes.
20 "And so I've increased my vocabulary, Troy." Yes.
21 Q Understood. And I'm going to jump a little bit.
22 The jury -- this has been admitted. The jury is going to be
23 able to see all the text messages back and forth if they want
24 to. But for the sake of time rather than going through each
25 one we're going to go through a couple specifics; all right?

1 A Okay.

2 Q Okay. Very good. At 5:22 there is a message
3 incoming from Troy; yes?

4 A Yes.

5 Q "Don't fucking worry. I'm fucking done, Troy."
6 Right?

7 A Yes.

8 Q And that is to Echo White; yes?

9 A Correct.

10 Q And then there's an outgoing message from her at
11 11:30 that night. And what's it say?

12 A "Yeah, right."

13 Q And later on the 23rd there's a message from Troy at
14 4:32 p.m.; yes?

15 A Yes.

16 Q Says, "I hate you for choosing him over me." Yes?

17 A Yes.

18 Q And then Echo texted "Hey," at 10:15 that night;
19 right? Green arrow.

20 A Were they in Military Time or is that 10:00 --

21 Q PDT. Yeah, it's --

22 A Okay. 10:00 p.m.?

23 Q No, you're right. You're right. Good catch. 10:00
24 in the morning; right?

25 A Okay.

1 MR. ROGAN: Your Honor, can we approach.
2 THE COURT: You can, Mr. Rogan.
3 MR. ROGAN: Thank you.
4 (Bench conference)
5 THE COURT: Some of the times are in a.m., too, like
6 four.
7 MR. ROGAN: I was letting Mr. Coffee get to his
8 point, that this is a conversation that occurred on July 25th
9 that I was bring up on redirect. And here we are talking
10 about those conversations between the two of them on July 20th
11 and 23rd. I just kind of want to know where we're going here,
12 because I think we're beyond the scope of my redirect.
13 THE COURT: I think we're going through every single
14 message there was. [Inaudible].
15 MR. ROGAN: What's that? We're going to with
16 [unintelligible].
17 MR. COFFEE: I'm going to try not to. I just didn't
18 have it lined out. I didn't expect to it with this witness.
19 Some of the times we've moved quicker than we thought. You
20 said there's no indication that she wanted the relationship
21 back, nothing from her, and that's where I'm going.
22 MR. ROGAN: No. No. No. I said we didn't know
23 what she said.
24 THE COURT: Well -- but that's why he's going
25 through this process --

1 MR. ROGAN: Okay.

2 THE COURT: -- which is painful.

3 MR. ROGAN: But I'm just saying let's --

4 MR. COFFEE: I know.

5 MR. ROGAN: -- go up to July 25th.

6 THE COURT: And just -- no, he doesn't need to.

7 (End of bench conference)

8 THE COURT: Mr. Coffee, you can continue. But could

9 you please try and keep it steady when you put it on there.

10 MR. COFFEE: I will. And I'm going to blow these

11 up.

12 BY MR. COFFEE:

13 Q An outgoing message to Troy White, and, again, we

14 don't have a time at least not on the sheet; right?

15 A Correct.

16 Q With two smiley faces next to each other; yes?

17 A Yes. And then at 10:28:17 an outgoing message to

18 Troy White with broken hearts, several; yes?

19 A Yes.

20 Q And an outgoing message to Troy White at 10:32 from

21 Echo with no messages in between saying, "You don't want to

22 talk to me?" Right?

23 A Yes.

24 Q And at 10:42 an outgoing message from Echo, "Okay.

25 So I'm going to leave you alone." Yes?

1 A I can't see the left side. There you go. Yes,
2 outgoing, yes.

3 Q Outgoing; yes? A texted picture to multiple
4 recipients at 6:25 p.m.; yes?

5 A Yes.

6 Q And do you know if Troy White was one of those
7 recipients?

8 A I do not.

9 Q Okay. And then a question, "I thought you were
10 going to call me after prayer." That's outgoing to Troy White
11 at approximately 10:00 p.m.; right?

12 A Yes.

13 Q And then on the 24th, and we've talked about this
14 conversation that took place on 25th, on the 24th outgoing to
15 Troy White from Echo White, and it is at -- what time is that?

16 A 21:52. About 9:52 p.m.

17 Q "Any chance you would talk to me tomorrow?" Right?

18 A Yes.

19 Q And this is the last one we're going to talk about
20 for the time being at least. A few minutes later --

21 A I couldn't see for --

22 Q Also -- here we go.

23 A Okay. There you go. Outgoing.

24 Q Outgoing?

25 A 9:57.

1 Q 9:57, to Troy White?

2 A Yes.

3 Q "I am hoping, from a friendly perspective if at all
4 possible -- I know you don't owe me anything and I deserve
5 nothing, but if you would just hear me out one last time. I
6 would meet you somewhere or anything, any chance at all?"

7 A Yes.

8 Q You were asked questions about whether or not there
9 was any indication that Echo White was trying to maintain
10 contact or wanted contact with Troy White. Those text
11 messages might be an indication of that; yes?

12 A Yes.

13 Q Okay.

14 MR. ROGAN: May I proceed. One question.

15 THE COURT: Well, I'm not sure if he's done. I
16 think he's just making a note.

17 MR. ROGAN: Oh. I'm sorry.

18 MR. COFFEE: I'm just making a note.

19 BY MR. COFFEE:

20 Q The date of birth on -- you were saying the firearm
21 may have been purchased by Mr. White's father; is that right?

22 A Donald White.

23 Q And the date of birth of the person purchasing the
24 firearm was [REDACTED], 1936?

25 A Correct.

1 Q And that might be consistent with somebody that'd be
2 the appropriate age to be Mr. White's father?

3 A Correct. That as well as the city, San Diego.

4 Q And there was an indication that Mr. White's father
5 had lived in San Diego?

6 A Yes. And that Troy was from there I believe.

7 Q And that Troy was from there. There was no
8 indication that the firearm was stolen in any way?

9 A No. Not reported anyway.

10 Q Not reported anyway. And the purchase date on the
11 firearm was -- do you remember what it was?

12 A August 4th, 1997.

13 Q So years before this incident?

14 A Yes.

15 Q Thank you, Officer -- Detective. I'm sorry.

16 A No problem.

17 THE COURT: Any additional direct examination?

18 FURTHER REDIRECT EXAMINATION

19 BY MR. ROGAN:

20 Q Detective, based upon your investigation of
21 Facebook, of cell phones, do we have any of Echo's own words
22 as to what was said or discussed on July 25th, 2012, between
23 herself and the defendant, Mr. White?

24 A No.

25 THE COURT: Anything else. Mr. Coffee?

1 MR. COFFEE: Oh. Thank you, detective.

2 THE COURT: Thank you. We appreciate your time.

3 Have a very nice afternoon.

4 THE WITNESS: Thank you.

5 THE COURT: Your next witness.

6 MS. MERCER: Your Honor, may I see which witnesses

7 we have in the hallway so I can figure out which one to put on

8 today.

9 THE COURT: Yes, you can.

10 MS. MERCER: Thank you. Your Honor, the State's

11 next witness is Michael Montalto.

12 THE COURT: Mr. Montalto, if you'd come forward,

13 please. Remain standing when you get to my witness stand,

14 please.

15 MS. MERCER: May I approach your clerk, Your Honor.

16 THE COURT: You may.

17 MICHAEL MONTALTO, STATE'S WITNESS, SWORN

18 THE CLERK: Please be seated, and please state and

19 spell your name for the record.

20 THE WITNESS: Michael Montalto, M-O-N-T-A-L-T-O.

21 THE COURT: And, sir, there is water there in the

22 pitcher, and there are M&Ms in the dispenser if you should

23 need them.

24 MS. MERCER: May I proceed, Your Honor.

25 THE COURT: You may.

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DIRECT EXAMINATION

BY MS. MERCER:

Q Sir, where are you currently employed?

A YESCO sign company.

Q What is that?

A It's a --

Q What does it stand for?

A Young Electric Sign Company.

Q How long have you been employed there?

A Twenty-six years.

Q What is your current position?

A Assistant Service Manager.

Q What is the location of your actual office?

A 5119 South Cameron.

Q Can you give us the closest major cross streets.

A Trop and Decatur?

Q Okay. And how long have you been in the current position that you're holding?

A About six years.

Q I want to direct your attention to July 27th of 2012. At that time were you working with an individual by the name of Troy White?

A Yes.

Q Do you see that person in the Courtroom today?

A Yes.

1 Q Could you please point to him and identify an
2 article of clothing that he's wearing today.

3 A Black suit.

4 Q Okay. Which position is he seated in?

5 A Middle.

6 MS. MERCER: Your Honor, may the record reflect that
7 he's identified the defendant.

8 THE COURT: The record will reflect identification.

9 BY MS. MERCER:

10 Q Did you know the defendant through your employment
11 at YESCO?

12 A Yes.

13 Q How long did you work with him?

14 A Roughly five or six years.

15 Q Was there ever a time where the two of you worked
16 together on a daily basis?

17 A Yes.

18 Q Like side-by-side?

19 A Yes.

20 Q When was that?

21 A Give or take about four or five years ago before I
22 got into my position now.

23 Q Okay. And were you all -- did you all work in the
24 same truck every day?

25 A Yes.

1 Q Spent quite a bit of time together?

2 A Yes.

3 Q Okay. Back in July of 2012, what shift was he

4 working?

5 A I believe it was 5:00 to 1:30.

6 Q 5:00 a.m., till 1:30 p.m.?

7 A Yes, ma'am.

8 Q Were you in a supervisory position over him at that

9 time?

10 A Yes.

11 Q In the weeks leading up to July 27th of 2012, did

12 you notice a change in him?

13 A Yes.

14 Q And was one of those things that he would often come

15 into work early?

16 A Yes.

17 Q When he would come into work early what did he tell

18 you about why he was there?

19 A He couldn't sleep. You know, he -- yes. He

20 couldn't sleep.

21 Q Okay. And when we say that he was coming early,

22 what time of day was he coming in?

23 A Maybe an hour, maybe an hour and a half early. I

24 get to work at like 3:00 o'clock, and most of the crews start

25 at 4:00, so --

1 Q So then he would have been --
2 A -- anytime before then.
3 Q -- coming in about 3:30 or 4:00 a.m.?
4 A Yes.
5 Q Around that time were you aware of any problems that
6 he was having in his marriage?
7 A Yes.
8 Q Is this something that you all discussed?
9 A A little bit, yes.
10 Q Directing your attention to specifically July 27th
11 of 2012, did you get a phone call from the defendant early in
12 the morning on that date?
13 A I believe so, yes.
14 Q And that call came in at about 4:30 a.m.?
15 A Yeah, I believe so.
16 Q When he called you did he indicate that he'd gone
17 into work early again?
18 A Yes.
19 Q Did he also indicate to you that he needed to get
20 off work early?
21 A Yes.
22 Q When he asked to get off early that day what did you
23 tell him?
24 A As long as he got that particular job done it was no
25 problem.

1 Q So he did one job that you needed him to do and then
2 he was free to go?

3 A Yes.

4 Q Did he tell you why he went in early that day?

5 A I don't recall.

6 MS. MERCER: Okay. Court's indulgence, Your Honor.

7 THE COURT: Sure.

8 BY MS. MERCER:

9 Q Would it refresh your recollection if I showed you a
10 copy of the tape-recorded statement that you provided to the
11 police?

12 A Uh-huh.

13 MS. MERCER: Your Honor, may I approach the witness?

14 THE COURT: You may.

15 BY MS. MERCER:

16 Q And if you could just read it to yourself and let me
17 know when you're finished, please. Does that refresh your
18 recollection?

19 A Yeah.

20 Q Okay. And what was the reason he gave you for
21 coming in early that day?

22 A That he just wanted to get off early.

23 Q Did he indicate to you what time he'd gone into work
24 that day?

25 A I believe it was like 3:00 o'clock, 2:30.

1 Q Okay. And do you recall telling the detective that
2 interviewed you that he came in early because he couldn't
3 sleep, he was up all night?

4 A Uh-huh, yes.

5 Q Is that fair?

6 A Yes.

7 Q Prior to him leaving work that day did you have an
8 additional conversation with him?

9 A Yes, I did.

10 Q Because he'd stopped back by the office before he
11 left?

12 A Uh-huh, yes.

13 Q And that would have been about 7:45, 8:15 in the
14 morning?

15 A Yes.

16 Q When you had that conversation with him early that
17 morning what was his demeanor like?

18 A Real quiet, kind of -- you could see he was
19 depressed, kind of just real quiet.

20 Q Do you remember anything specific about the way that
21 his eyes appeared to you?

22 A Yeah. He seemed -- he came into my office, we
23 walked outside into the hallway, because there was a bunch of
24 people in my office, so me and him could just talk. And he
25 just seemed, when we were talking, just hollow, just kind of

1 not there, just kind of --

2 Q Distant?

3 A Yeah.

4 Q When you spoke to him that day, before he left the
5 office, what things were you discussing with him?

6 A Just at that point it was just general conversation,
7 and then we started talking about some family stuff and --

8 Q His family stuff --

9 A Yes.

10 Q -- to be specific? Did he indicate to you that they
11 were having marriage problems and she was cheating on him?

12 A Yes.

13 Q Do you recall him making any statement to you along
14 the lines of wanting to hurt them?

15 A Yes.

16 Q What was that statement that he made to you?

17 A I just want to kill them.

18 Q When he made that statement to you how did you
19 respond to him?

20 A Just kind of stepped back. I knew he was upset, so
21 I didn't -- I don't know, I was just kinda little shocked.

22 Q Did you try to calm him down?

23 A Oh, yeah, yeah.

24 Q What kinds of things did you say to him to try to
25 calm him down?

1 A I think we talked about the kids and making sure --
2 and taking of the kids and just if he want -- just stuff like
3 that. If he wanted to get out of, you know, go grab some
4 lunch and talk or something, I was there to listen.

5 Q Okay. So when he told you -- when he made that
6 statement, I just want to kill them, you directed him to focus
7 on his children and the need to care for his children?

8 A Uh-huh.

9 Q Did you offer to take him to lunch or do anything
10 else with him and continue talking?

11 A Yes, I did.

12 Q Did he accept that invitation or decline it?

13 A We didn't -- we didn't, so obviously it was probably
14 declined. But I didn't -- no, we didn't go to lunch or
15 anything like that.

16 Q How long do you think you spent speaking with him
17 prior to him leaving the office?

18 A Fifteen minutes, give or take, 10, 15 minutes.

19 Q At the time around that date of July 27th of 2012,
20 do you know how the defendant was getting to and from work?

21 A I believe he was walking.

22 Q Did he indicate to you that he was staying with a
23 friend that lived nearby?

24 A I believe so.

25 Q On July 27th of 2012, do you recall him carrying a

1 backpack with him?

2 A I do.

3 Q Were you shown a photograph of that backpack by the
4 detectives?

5 A Yes.

6 Q And did you identify the backpack in the photograph
7 as the one that he had at work that day?

8 A Yes.

9 MS. MERCER: Permission to publish, Your Honor.

10 THE COURT: You may.

11 And, sir, there's a screen here.

12 BY MS. MERCER:

13 Q I'm publishing State's Exhibit -- well, let me zoom
14 out. State's Exhibit 33. Is this the backpack that they
15 showed you a photograph of?

16 A Yes.

17 Q And that's the backpack that he had with him at
18 work?

19 A Yes.

20 Q Are weapons allowed on YESCO property?

21 A No.

22 Q No firearms?

23 A No.

24 Q Do employees at YESCO wear uniforms?

25 A Yes, they do.

1 Q Can you describe that uniform for me, please.

2 A I think at that time they were just black pants with

3 like a kind of -- kind of like a brownish looking mechanic's

4 shirt with a name tag on it, either YESCO or your name or

5 both.

6 Q Is it a button-up shirt or is --

7 A Yes, button-up.

8 Q -- it a -- a button-up shirt. Long sleeve, short

9 sleeve?

10 A It depends. It depends -- it was individual's --

11 either or.

12 Q Okay. Do you recall how long the defendant -- or

13 let me figure out how to phrase this. When you have

14 conversations with the defendant about him moving out of his

15 family residence did he indicate to you at what point he moved

16 out?

17 A I don't believe I ever talked to him about him

18 moving out. I found out he had moved out.

19 Q Okay. And when did you find that out?

20 A Probably a few weeks prior -- prior, give or take.

21 Q Did you find out how long he'd been out of that

22 residence?

23 A Huh-uh. I didn't.

24 Q If I showed you copy of the statement that you

25 provided to the detectives would that refresh your

1 recollection as to how long it had been since he moved out of
2 the residence?

3 A Uh-huh.

4 Q Was that a yes?

5 A Yes.

6 MS. MERCER: Your Honor May I approach the witness.

7 THE COURT: You may.

8 BY MS. MERCER:

9 Q If you could start reading here and then move on to
10 the next page, please. Did that refresh your recollection?

11 A Yeah, I didn't -- I wasn't 100 percent sure, but it
12 might have been that -- it might have been longer than what I
13 thought.

14 Q Okay. It was two to three months?

15 A Uh-huh.

16 MS. MERCER: Court's indulgence, Your Honor.

17 THE COURT: Sure.

18 BY MS. MERCER:

19 Q The last time that you saw the defendant that
20 morning was as he was walking off the property; correct?

21 A He was walking out of the B building where we were.

22 Q The B building?

23 A Yes.

24 MS. MERCER: No further questions, Your Honor.

25 THE COURT: Mr. Coffee, cross-examination.

1 MR. COFFEE: Thank you.

2 CROSS-EXAMINATION

3 BY MR. COFFEE:

4 Q Thanks for coming in for us Mr.?

5 A Montalto.

6 Q Montalto. I wanted to make sure I got the
7 pronunciation right. You recognized the backpack from the
8 T.V. news; is that right?

9 A Yes.

10 Q And you recognized that it might be a backpack that
11 you'd seen Troy with earlier?

12 A Yes.

13 Q Had Troy brought that backpack to work before?

14 A Honestly, I don't know.

15 Q Okay. You don't remember if he started bringing
16 that backpack from Herman Allen's house with him to work?

17 A Honestly, I don't know.

18 Q Okay. You were asked a question about timing and
19 moving out, and you said you weren't really sure about that;
20 yes?

21 A Yes.

22 Q And you looked at a copy of your voluntary
23 statement; yes?

24 A Yes.

25 Q And the question you were asked actually --

1 MR. COFFEE: Bottom of 14, counsel.

2 BY MR. COFFEE:

3 Q -- is when did it first start happening, the divorce
4 or him moving out, how long was that? That was actually the
5 question you were asked; right?

6 A Yes.

7 Q And you said it's been a couple of months, three
8 months; yeah?

9 A Yes.

10 Q Do you know if you're responding to how long there
11 had been marital problems or how long he'd moved out?

12 A I believe it was moved out. I mean, we didn't talk
13 on a regular basis family stuff, it was more work. So, give
14 or take, three months.

15 Q Okay. Might it have been that he'd had marital
16 problems for three months and you're not sure when he moved
17 out?

18 A Absolutely.

19 Q Okay.

20 A Yes.

21 Q And somebody else might a better reporter of that,
22 somebody more familiar with the situation might know better
23 when he moved out; is that fair?

24 A Yes.

25 Q Okay. You had known Troy for 10 years

1 approximately?

2 A Roughly, yes.

3 Q You had both worked together at YESCO; yes?

4 A Yes.

5 Q And you'd started on a truck together?

6 A Yes.

7 Q Meaning you were both going out working signs
8 together. You were on that assignment for about a year and a
9 half maybe?

10 A Yes.

11 Q And then you went and you were assigned with
12 somebody else. That's how they did things at YESCO?

13 A Yes.

14 Q It wasn't a permanent assignment or a permanent
15 partnership necessarily?

16 A No. We rotated [unintelligible] out.

17 Q Well, you were with him enough to get to know him a
18 little better?

19 A Yes.

20 Q He was a little religious, wasn't he?

21 A Yes.

22 Q Meaning he acted a little odd when you'd go to
23 coffee shops, for example?

24 A Yes.

25 Q Didn't like to watch T.V., that sort of thing?

1 A Yes.

2 Q And you thought that was a little strange?

3 A Yeah.

4 Q A little -- well, we'll just leave it a little odd.

5 And he talked about God a lot, carried a Bible with him quite

6 a bit; yes?

7 A Yes.

8 Q Now, at the time of the shooting he was 45 years

9 old; right? Forty-four, 45, do you remember telling that to

10 the police?

11 A Yeah. I believe so.

12 Q His wife was 28 or 29 at the time; right?

13 A Yeah, I believe so. Yes.

14 Q Okay. Now, YESCO, I think you described it as a

15 high-class construction job, but a construction job

16 nonetheless?

17 A Okay. Yeah.

18 Q Does that sound right?

19 A That's fair. Yeah.

20 Q Okay. And what you meant by that is there's still

21 construction workers at the worksite; is that right? You're

22 still fundamentally construction workers?

23 A Yes.

24 Q Did Troy bring his wife around the construction

25 sites?

1 A I think when they first got together she'd pick him
2 up --

3 Q Okay.

4 A -- and then after that I think she -- he made her
5 park across the street.

6 Q Made her park across the street?

7 A Yes.

8 Q And I think your speculation was to avoid catcalls,
9 that kind of thing?

10 A Probably, yes.

11 Q Because that happens at construction sites?

12 A Yes.

13 Q And he was protective of his wife?

14 A Okay. Yeah.

15 Q Is that fair?

16 A That's fair, yeah.

17 Q Okay. And I don't want to put words in your mouth.
18 Please, if for some reason you disagree with anything I say or
19 anything else, you stop us. Okay?

20 A Yes, sir.

21 Q Okay. Very good. Now, as far as work, he worked
22 overtime regularly; right?

23 A I believe so, yes.

24 Q You described him as one of those guys with five
25 kids you've kind have got to to make ends meet; yes?

1 A Yes.

2 Q And this comment about I wanted to kill them or I
3 want to kill them, it was out of sorts for Mr. White; is that
4 fair?

5 A Yes.

6 Q But you'd known him for 10 years; yes?

7 A Yes.

8 Q And you were asked by the detective if you got the
9 feeling that it was something that was going to happen or --
10 and you said, no, absolutely not --

11 A Correct.

12 Q -- correct?

13 A Yes.

14 Q Is that right?

15 A Yeah, I believe so.

16 Q You thought he was angry and blowing off steam, but
17 you didn't think he was going over to the house to hurt
18 somebody?

19 A No. Absolutely not.

20 Q You'd known him for 10 years?

21 A Uh-huh.

22 Q If you had thought that was the case at that point
23 you would have called authorities. You know how to do that?

24 A Absolutely, yes.

25 Q And you said he'd been swearing more lately. Is

1 that something you'd seen him do before?

2 A Yeah.

3 Q Is that right?

4 A Yes.

5 Q And you ended with, I just thought he was upset,
6 being frustrated or whatever it might be. That was the
7 description that you used to describe that comment that he'd
8 made; is that right?

9 A Yes.

10 Q Okay. He carried a work cell phone?

11 A Yes, sir.

12 Q And there was a passcode or pass number to that work
13 cell phone?

14 A Just to use it or for like tracking?

15 Q Well, let me ask you something. Take a look at the
16 bottom of 17, maybe you can help explain this to me. The last
17 paragraph. Does that make any sense?

18 A I think we were going to GPS the phone, if anything.

19 Q Okay.

20 A I believe that's what it was.

21 Q He had a work phone. You can GPS the phone as part
22 of YESCO's --

23 A Yes.

24 Q -- tracking to make sure --

25 A Yeah. It was --

1 Q -- your employee's on it?
2 A Yeah. It was called Telenav at that time.
3 Q Okay.
4 A Where you can track where guys had been throughout
5 the day.
6 Q All right. Did you ever actually give that passcode
7 to anyone?
8 A I did not, no. It would have went through the IT
9 department.
10 Q Okay. Herman Allen also worked at YESCO?
11 A I'm sorry.
12 Q Herman Allen also worked at YESCO? The friend that
13 he was staying at, was that a YESCO employee, also?
14 A I don't believe so.
15 Q Okay.
16 A Or at least I don't know him.
17 Q Okay. He got off early the day of the shooting; is
18 that right?
19 A Yes, sir.
20 Q But he came in early also; right?
21 A Yes, sir.
22 Q And he did all the work he was asked to do for that
23 day?
24 A Yes, sir.
25 Q Is this kind of, and I don't want to -- I'm trying

1 to think of the right way to describe this, but is YESCO one
2 of those jobs where you clock in and clock out, or is it you
3 do the job that you're assigned in the day? Does that make
4 sense?

5 A Yes, it does. No, we clock in and clock out.
6 Certain guys had certain schedules, certain properties they
7 needed to take care of.

8 MR. COFFEE: Thanks for coming in for us, Mr.
9 Montalto.

10 Pass the witness

11 THE COURT: Any redirect?

12 MS. MERCER: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. MERCER:

15 Q Sir, do you know -- you were asked some questions
16 about the defendant dropping his wife off down the street so
17 that she wouldn't be subjected to catcalling and looks from
18 other employees. Do you recall that question?

19 A Yes.

20 Q You don't actually know whether that was done out of
21 sense of protection or a sense of jealousy, do you?

22 A No, I do not.

23 Q In fact, when asked why he would do that, and you
24 told the detectives, well, in hindsight he was probably
25 jealous?

1 A Yeah. I believe so, yeah.

2 Q When was it that you learned that the defendant had

3 shot and killed his wife?

4 A A half hour, 45 minutes after he left the yard. The

5 police called.

6 Q Okay. So the same --

7 A The police called the shop?

8 A The same day?

9 A Yes, ma'am.

10 Q And is it safe to say that at that point you

11 realized the defendant was serious when he said, sometimes I

12 just want to kill these people?

13 A Yes.

14 Q No further questions.

15 THE COURT: Anything else, Mr. Coffee?

16 MR. COFFEE: Court's indulgence. No.

17 Thank you, Mr. Montalto.

18 THE COURT: Thank you, sir. We appreciate --

19 THE WITNESS: Thank you.

20 THE COURT: -- your time. Have a very nice

21 afternoon.

22 Next witness.

23 MS. MERCER: Your Honor, the State calls Marnie

24 Carter. And may I approach your clerk?

25 THE COURT: You may.

1 MARNIE CARTER, STATE'S WITNESS, SWORN

2 THE CLERK: Please be seated, and please state and
3 spell your name for the record.

4 THE WITNESS: My name is Marnie Carter,
5 M-A-R-N-I-E C-A-R-T-E-R.

6 THE COURT: Ma'am, there's water there. There are
7 M&Ms in the dispenser if you should need some.

8 THE WITNESS: Great. Thank you.

9 MS. MERCER: May I proceed, Your Honor.

10 THE COURT: You may proceed.

11 DIRECT EXAMINATION

12 BY MS. MERCER:

13 Q Ma'am, where are you currently employed?

14 A I am a forensic scientist in the Latent Print Unit
15 of the Las Vegas Metropolitan Police Department's Forensic
16 Laboratory.

17 Q How long have you been assigned to that unit?

18 A I have been a forensic scientist for eight years.

19 Q Prior to working in that unit did you have any other
20 experience as a fingerprint examiner?

21 A Not as a fingerprint examiner. Did do some
22 fingerprint work, I was a crime scene analyst with Metro for
23 about three and a half years.

24 Q Okay. So in total you have approximately 11 and a
25 half years with Metro?

1 A Correct.

2 Q Can you tell us a little bit about your educational
3 background and the training that you had to undergo in order
4 to become a fingerprint examiner.

5 A Yes. I have a bachelor's degree with a double major
6 in biology and chemistry. Prior to hiring on as a forensic
7 scientist, like I said, I was a crime scene analyst. So in
8 that capacity I got quite a bit of experience with photography
9 and processing and comparison, I mean, processing and
10 developing of latent prints, evidence packaging and recovery
11 and things like that. And then after about three and a half
12 years in March of 2007 I tested and promoted into the lab as a
13 forensic scientist trainee in the latent print unit. Went
14 through an 18 month rigorous training program to qualify me to
15 do independent casework as a forensic scientist to do latent
16 print comparisons. Not so much the field work anymore, but
17 now actually processing and recovering latent prints,
18 comparing latent prints, analyzing them to see if they're of
19 value for comparison, comparing them to known people and then
20 running any unidentified prints into our AFIS databases.

21 So after that, in December of 2009, I was eligible
22 to test to become a certified latent print examiner, passed
23 that test, so I'm certified with the International Association
24 for Identification. I have taught different course work and
25 latent prints to our own department as well as in Utah and

1 Phoenix, in Arizona.

2 In January of 2013, I became published. And my
3 first article, I did an article called Palm Prints, that's in
4 the Encyclopedia of Forensic Science, and I'm proficiency
5 tested annually. So --

6 Q Okay. And do you also undergo yearly continuing
7 education?

8 A We do. We have things that we have to maintain,
9 which most of it is our proficiency tests that are done every
10 year.

11 Q And have you testified in the Eighth Judicial Court
12 regarding fingerprint examinations before?

13 A Yes, I have.

14 Q How many times have you done that?

15 A I think this is my 10th.

16 Q Have you testified at any preliminary hearings or
17 Grand Jury proceedings within the County of Clark?

18 A Yes, I have.

19 Q How many times have you done that?

20 A It's eight or nine for Justice Court and I think
21 five or six for Grand Jury, I forget the number --

22 Q Okay. Ms. Carter, I want to direct your attention
23 to some examinations that you completed in this specific case.

24 A Okay.

25 Q The forensic request is a request to have someone

1 like you examine evidence as initiated; correct?

2 A Yes.

3 Q And that's done by a detective that's assigned to

4 the case typically?

5 A Usually, yes.

6 Q In this case you received a request from a Travis

7 Ivy; correct?

8 A Yes, I did.

9 Q And that was under Event Number 120727-1826?

10 A Yes, it was.

11 Q Specifically, you were asked to look at a 9

12 millimeter semiautomatic handgun bearing Serial Number

13 T0833791?

14 A I don't have the serial number memorized, but I'll

15 trust that it's correct, unless you want me to look at my

16 report, but --

17 Q I'll show you the firearm in a second.

18 A Okay.

19 Q And you were asked to look at a magazine and twelve

20 9 millimeter cartridges, a magazine and nine 9 millimeter

21 cartridges, and one 9 millimeter cartridge that was packaged

22 by itself; correct?

23 A That's correct.

24 Q Can you explain for the jurors what a latent

25 fingerprint is.

1 A So a latent print, on the skin of our fingers and
2 palms also, and the soles of our feet and our toes, we have
3 specialized skin called friction ridge skin. Basically it's
4 raised ridges. Those ridges have patterns and they have
5 features that are unique to each individual. It's similar to
6 a rubber stamp. If I -- or it would take some sort of matrix
7 of oil or sweat and touch a surface, I'll leave an impression
8 of those ridges on that surface. That impression that's left
9 there is called a latent print. Latent by definition means
10 there, present, but not readily visible. So we can enhance it
11 with lighting, different lighting techniques, or powders to
12 stick to those residues, or some chemicals that allow us to
13 see those. So ideally what we're trying to do is visualize
14 that latent print so I can compare it.

15 Q And are there certain factors that influence whether
16 or not a latent print is actually left behind?

17 A Yes.

18 Q What are those factors?

19 A We have factors, basically five that we talk about.
20 One is the skin itself. So if the skin is damaged in some
21 sort of way or if it's covered with a glove or something,
22 obviously the skin's not going to leave a latent print. Then
23 that matrix, that residue that I was talking about, if the --
24 again, similar to a rubber stamp, if the ink's dry I can press
25 that stamp on that ink pad all day long and I'm not going to

1 leave an impression. So if I don't have some sort of residue
2 on my skin I'm not going to leave an impression there, so the
3 residue matters.

4 The surface itself matters. If the surface is
5 really porous, if it's very -- if it's highly textured, things
6 like that can affect it. If it's nice and smooth and clean,
7 generally it's a better surface for latent prints. How it's
8 touched matters. If I take a nice -- even an ideal surface
9 and I press too hard I can obliterate that ridge detail, when
10 I can just, you know, make it where it's not valuable for an
11 examiner to compare. If I move it around and slide it and do
12 things like that, so how it's touched matters.

13 And then also time, how much time and the conditions
14 that occur after the latent print is left. So if it's left
15 out in the sun for, you know, three years on the outside of a
16 car, might not have great chances of developing that latent,
17 you know, afterwards. If it was just yesterday inside an
18 environment, might be a little bit better. If it was wiped or
19 left out in the humidity in the rain, so those environmental
20 factors play into -- come into play also.

21 Q Okay. You mentioned that the surface of an object
22 will affect whether or not a latent print is left behind?

23 A It can, yes.

24 Q With regards to firearms, are you typically
25 successful in developing usable latent prints?

1 A No.

2 Q When I say usable, what do I mean?

3 A Of value for comparison is what you mean I think.
4 I'm assuming that's what you mean.

5 THE COURT: Objection, speculation.

6 THE WITNESS: Sorry.

7 THE COURT: Okay.

8 BY MS. MERCER:

9 Q Why is it that firearms don't typically yield good
10 results for you?

11 A There's some factors. Again, this would be just my
12 opinion, every firearm's different. But generally those
13 surfaces that are on firearms have -- they have some coatings
14 on them that are manufactured in ways that they don't want
15 oils and things to stick to firearms. I mean, you know, a
16 firearms manufacturer doesn't want to make a gun that's going
17 to rust right away. So they spray them with different
18 chemicals, there's some polymers on some of the guns, these
19 plastic things that -- plastic coatings that don't really
20 allow things to adhere to them. Often times those areas that
21 are handled in a conventional way to handle a gun are
22 textured. They're textured so we don't drop it easily, so
23 those textured surfaces, again, affect whether a latent print
24 is left. Also, if -- sometimes there's military coatings,
25 there's bluing, there's all kinds of different things that

1 just inhabit -- or inhibit the residue from sticking which
2 would allow us to develop the latent print.

3 Q How successful are you typically with recovering
4 latent prints from a live cartridge, an unfired round?

5 A Very poor, successfully. Not very successful at
6 all. We actually did a study at our lab, too, and the results
7 -- we did a two-year study with -- we looked at the -- of our
8 -- of about 3,000 cartridges, live cartridges that were
9 analyzed, and it was 0.16 percent of those we developed a
10 latent on, so it was so low. We actually have a policy now
11 that we do not process cartridges.

12 Q A sample limits policy?

13 A Correct. Yes.

14 Q What about fired rounds?

15 A Fired rounds is also very low.

16 Q And are fired rounds also subject to that sample
17 limit policy?

18 A It is, yes.

19 Q Meaning you won't test fired rounds either?

20 A Correct.

21 Q Is the same true for DNA?

22 A Yes, as far as I know they do not process those.

23 Q Is that because during the firing process things
24 like oils and DNA are destroyed?

25 A I would assume for DNA. DNA does not like high

1 temperatures, and, you know, obviously a firearm -- firing a
2 firearm those temperatures get extremely hot. So I think
3 that's what inhibits DNA. I'm not a DNA analyst, but those
4 same factors kind of come into play for fingerprints also.
5 But it's also just that surface, it's a small -- a small
6 surface like that it's -- it doesn't -- it's not really
7 optimal for enough of a latent print for us to compare.

8 Q Okay. Directing your attention to your examination
9 of the nine millimeter semi automatic handgun.

10 MS. MERCER: Your Honor, permission to publish.

11 THE COURT: You may.

12 BY MS. MERCER:

13 Q I'm placing on the overhead State's Exhibit 96.
14 This indicates that Item Number 5, black Taurus PT92C 9
15 millimeter semiautomatic handgun with Serial Number T0833791;
16 correct?

17 A Yes.

18 Q And if we look at the bottom of this label is your
19 name and the chain of custody?

20 A Yes, it is.

21 Q And your P number, 8179?

22 A Yes, it is.

23 Q Is there also some blue tape on this box that we
24 would expect to find those -- your P number on?

25 A Yes, there would be.

1 Q Along with the first initial of your first name and
2 the first initial of your last name?

3 A Correct.

4 Q And I believe it's here on the side of the box.

5 MS. MERCER: May I approach, Your Honor.

6 THE COURT: You may.

7 BY MS. MERCER:

8 A Yes. So that's mine there, and then I probably put
9 it on both sides, also.

10 Q Okay. So it's the first --

11 A Yeah, the top one there.

12 Q -- blue tape underneath the red tape on the side of
13 the box. How did you go about processing that firearm for
14 latent fingerprints?

15 A The first process is just a visual examination, so
16 I'll take the ambient light or a lamp or a flashlight and
17 actually look for -- look around the firearms for any visible
18 latent prints that I might see. So that's the first step is a
19 visual examination.

20 Q When you did that visual examination were you able
21 to see anything?

22 A I did not see anything.

23 Q What did you do next?

24 A The next step is cyanoacrylate fuming, which is a
25 fancy name for Super Glue, so those residues, again, that are

1 on our skin, if you -- you've gotten Super Glue on your
2 fingers -- if you've ever had, you know, it turns to just this
3 hard white plastic, well, that's exactly what it does to that
4 residue. So we put it in a chamber with controlled humidity
5 and controlled heat and some Super Glue on a little heating
6 element, and those fumes actually stick to the residue if
7 there's anything there. So that's the Super Glue fuming.

8 Q When you did the Super Glue fuming were you able to
9 develop any usable latent prints?

10 A No usable latent prints, no.

11 Q Were you able to develop some rich detail?

12 A Yes.

13 Q But that's not enough for you to make an
14 identification; correct?

15 A Correct.

16 Q Did you do anything else?

17 A Yes. So after that we do a fluorescent dye stain.
18 So a dye stain called Rhodamine 6G, which those -- the carrier
19 -- the chemical carrier that's actually in there softens that
20 residue from the Super Glue, penetrates it a little bit, and
21 stains it so that we can look at it with a ultimate light
22 source and try to visualize those latents.

23 Q Did that yield any better results for you?

24 A It did not.

25 Q Did you follow those same steps for the magazine --

1 for both of the magazines that were submitted for your
2 examination, Items 6 and 7?

3 A Yes, I did.

4 Q Did any of those steps work as to those two
5 magazines?

6 A For comparison quality prints, no, they did not.

7 Q You were able, once again, to develop some rich
8 detail but nothing that you can make an identification from?

9 A That's correct.

10 Q Did you examine the actual cartridges that were in
11 those -- or with the magazines?

12 A I did not.

13 Q Did you examine the one cartridge that was packaged
14 by itself?

15 A No.

16 Q Why didn't you examine those cartridges?

17 A Because of our sample limitations policy.

18 MS. MERCER: Court's indulgence, Your Honor.

19 THE COURT: Sure.

20 MS. MERCER: Pass the witness.

21 THE COURT: Mr. Coffee, how long is your cross?

22 MR. COFFEE: Two minutes.

23 THE COURT: Two minutes or less.

24 MR. COFFEE: Put me on the clock.

25 THE COURT: You're on the clock.

1 CROSS-EXAMINATION

2 BY MR. COFFEE:

3 Q Low success rate finding fingerprints on firearms in
4 general; yes?

5 A Yes.

6 Q Extremely low success rate finding fingerprints on
7 shells?

8 A On cartridges?

9 Q Cartridges, yes.

10 A Yes. At least in our study, correct.

11 Q And because of that, your results weren't
12 necessarily surprising?

13 A Correct.

14 Q But you went through the trouble of doing these
15 tests?

16 A On the firearm and magazine, yes.

17 Q Yes. And how much time did you put in?

18 A Probably three hours.

19 Q Okay. Thank you. Nothing further.

20 THE COURT: Anything else?

21 MS. MERCER: No, Your Honor.

22 THE COURT: Thank you, ma'am. We appreciate your
23 time.

24 THE WITNESS: Okay. You're welcome.

25 THE COURT: Ladies and gentlemen, we are going to

1 take our recess for the weekend now. We will start Monday at
2 10:30. Please remember, next Wednesday, April 15th, we will
3 not be in session. So if you have planning to do about stuff
4 you need to do at work, April 15th is a really good day to do
5 that if you don't have other plans with the IRS.

6 During this recess you're admonished not to talk or
7 converse among yourselves or with anyone else on any subject
8 connected with this trial or read, watch, or listen to any
9 report of or commentary on the trial or any person connected
10 with this trial or by any medium of information, including
11 without limitation, social media, text, newspapers,
12 television, the Internet and radio, or form or express any
13 opinion on any subject connected with the trial until the case
14 is finally submitted to you.

15 We will see you Monday at 10:30. Have a nice
16 weekend.

17 (Jury recessed at 4:43 p.m.)

18 THE COURT: Okay. We had a couple of issues that we
19 need to talk about outside the presence of the jury. The
20 first one has to do with several individuals who refreshed
21 their recollection this afternoon with statements and/or
22 reports. If you would like to have any portions of those
23 admitted, please let me know Monday morning at 10:00-ish when
24 you get here.

25 MR. ROGAN: Thank you.

1 MR. COFFEE: Very good.

2 THE COURT: And the second issue is we had a
3 discussion at the bench a couple of times about the series of
4 photographs that Mr. Coffee chose to admit that went from Y to
5 BB, and then we had a separate discussion with Exhibit CC.
6 While we discussed the relevance issues and I made a
7 determination on a case-by-case basis whether to admit the
8 documents, we don't have a record that is clean. So is there
9 anything else you would like to add related to any of those
10 particular items of evidence?

11 MR. ROGAN: If I may, Your Honor. With regard to
12 Item CC, the State objected on foundation as well as hearsay.
13 Foundation being that there was no way to establish that that
14 actual document was written by the defendant, Troy White, no
15 handwriting comparison, et cetera, that was done, no one that
16 witnessed him write that. Additionally, it would also have
17 been hearsay being used to prove the truth of the matter
18 asserted as to its contents, in fact, that he gave money to
19 Echo White or that he paid the bills, et cetera, et cetera,
20 et cetera. That was the reason that we objected to it. It
21 was --

22 THE COURT: And the very intelligent question I
23 asked you at the bench was how is this different than the
24 Post-It note that was admitted with the Social Security number
25 that is now redacted and obscured, and you said, because it

1 was stipulated. Anything else?

2 MR. COFFEE: No.

3 THE COURT: Anything else on any of them?

4 MR. COFFEE: Just real briefly, Judge. The
5 detective was taken out of order today. Yesterday I had a
6 conversation with Ms. Mercer. There's a piece of physical
7 evidence that hasn't been brought into the Courtroom yet, it's
8 a holster. I asked Ms. Mercer if I can get some investigator
9 over. I was told that we would get the holster into the
10 Courtroom before the end of the trial. Because the
11 detective's been taken out of order I'm not sure when that's
12 going to happen. I'm willing to work any way to get that
13 done, but I think there was an agreement to bring it in
14 yesterday. I just want to make sure that it happens at some
15 point.

16 MR. ROGAN: I'll work with Mr. Coffee over the
17 break, and we'll figure that out, Your Honor.

18 THE COURT: Okay. So we'll get the holster and it
19 won't be an issue. Did you like my objection to your
20 question, speculation --

21 MS. MERCER: I did.

22 THE COURT: -- what you were thinking when you asked
23 that. The witness even did the objection for you. Anything
24 else, counsel?

25 MR. COFFEE: Just real quickly. There were four

1 exhibits that we offered, two were admitted. There is one
2 that I haven't offered at this point. I just misplaced it at
3 some point during my examination. That happens. I think we
4 made the point with one of the other photographs. The other
5 photograph is Joe Averman holding a baby. If it becomes
6 relevant with another witness we may re-offer it. At this
7 point it's not been admitted.

8 THE COURT: Well, and I did tell you that I would be
9 happy to consider it but I needed some additional foundational
10 evidence related to that particular piece of evidence.

11 MR. COFFEE: Understood.

12 MR. ROGAN: Thank you, Your Honor.

13 THE COURT: Anything else? Have a lovely weekend.
14 See you Monday at 10:15.

15 Ms. Mercer, travel safely.

16 MS. MERCER: Thank you.

17 MR. COFFEE: Thanks, Judge.

18 (Court recessed at 4:47 p.m., until the following
19 Monday, July 13th, 2015, at 10:15 a.m.)

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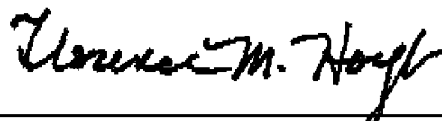
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Las Vegas, Nevada 89146**



FLORENCE M. HOYT, TRANSCRIBER

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