

**No. 86694**

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IN THE NEVADA SUPREME COURT

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Clerk of Supreme Court

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**John Seka,**

Petitioner-Appellant,

**v.**

**State of Nevada, et al.**

Respondents-Appellees.

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**Petitioner-Appellant's Appendix**  
**Volume 3 of 15**

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Dated October 4, 2023.

Respectfully submitted,

Rene L. Valladares  
Federal Public Defender

*/s/ Jonathan M. Kirshbaum*

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Jonathan M. Kirshbaum  
Assistant Federal Public Defender



## CERTIFICATE OF SERVICE

I hereby certify that on October 4, 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 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:

John Joseph Seka, #69025 High Desert State Prison P.O. Box 650 Indian Springs, NV 89070	
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/s/ Kaitlyn O'Hearn  
An Employee of the Federal  
Public Defender, District of  
Nevada

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT

FEB 14 2001

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THE STATE OF NEVADA,

Plaintiff,

vs.

JOHN JOSEPH SEKA,

Defendant.

SHIRLEY B. PARRAGUIRRE, CLERK  
BY JUDY NORMAN

DEPUTY

No. C159915  
Dept No: XIV COPYREPORTER'S TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE DONALD M. MOSLEYVOLUME IIFebruary 13, 2001  
2:45 p.m.  
Department XIV

## APPEARANCES:

For the State:MR. EDWARD KANE  
MR. TIM FATTIG  
Deputy District AttorneysFor the Defendant:MR. KIRK KENNEDY  
MR. PETER CHRISTIANSEN  
Attorneys-at-Law  
Deputy Public DefenderReported by:  
Joseph A. D'Amato  
Nevada CCR #17

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1 THE COURT: Thank you, Ms. Clerk.

2 Ladies and Gentlemen, what I will now read  
3 is intended to serve as an introduction to the trial of  
4 this case. It is not a substitute for the detailed  
5 instructions on the law, which I will give to you at the  
6 close of the case and before you retire to determine your  
7 verdict.

8 This is a criminal matter commenced by the  
9 State of Nevada, which I may sometimes refer to as the  
10 State, against John Joseph Seka. The case is based on  
11 the Information which has been read to you by the clerk.

12 You should distinctly understand that the  
13 Information is simply a charge and that it is not, in any  
14 sense, evidence of the allegations it contains.

15 The Defendant has pled not guilty to the  
16 Information. The State, therefore, has the burden of  
17 proving each of the essential elements of the Information  
18 beyond a reasonable doubt.

19 The purpose of this trial is to determine  
20 whether the State will meet that burden.

21 It is your primary responsibility as  
22 jurors to find and determine the facts. Under our system  
23 of criminal procedure you are the sole judge of the  
24 facts.

25 You are to determine the facts from the

1 testimony you hear and other evidence, including exhibits  
2 introduced in Court. It is up to you to determine the  
3 inferences which you feel may be properly drawn from the  
4 evidence.

5 The parties may sometimes present  
6 objections to some of the testimony or other evidence.  
7 At times, I may sustain such objections or direct that  
8 you disregard certain testimony or exhibits.

9 You must not consider any evidence to  
10 which an objection has been sustained or which I've  
11 instructed you to disregard.

12 If you cannot hear a witness, please raise  
13 your hand as an indication. You are informed that you  
14 may, if you wish, take notes during the trial.

15 You are admonished that no juror may  
16 declare to a fellow juror any fact relating to this case  
17 which is within his or her own knowledge and if any juror  
18 discovers during the trial or after the jury has retired  
19 that he or she or any other juror has personal knowledge  
20 of any other fact in controversy in this case he or she  
21 shall disclose such knowledge to me in the absence of the  
22 other jurors.

23 This admonition means during the course of  
24 the trial that if you were acquainted with the facts of  
25 the case or one of the witnesses and you've not

1 previously told me of this relationship you must then  
2 disclose that fact to me.

3 You communicate to the Court through the  
4 bailiff. You are admonished, additionally, that you're  
5 not to visit the scene of any of the acts or occurrences  
6 made mention of during this trial unless specifically  
7 directed to do so.

8 Does counsel wish to invoke the  
9 Exclusionary Rule?

10 MR. KENNEDY: Your Honor, defense would do  
11 that.

12 THE COURT: Do you concur?

13 MR. KANE: Yes, Your Honor.

14 THE COURT: We'll proceed on that basis.

15 Ladies and Gentlemen, we're going to take  
16 a recess. We're going to have to take care of some  
17 procedural matters, scheduling witnesses and that sort of  
18 thing. I'm going to ask that you return here at 3:30.  
19 That gives you about 45 minutes.

20 If you want to take a walk - - is it still  
21 raining outside - - perhaps not. As you choose, we'll  
22 take that time. I'd ask you to be back here at 3:30.

23 Let me read to you the admonition as is  
24 required by law.

25 (Whereupon, the Court admonished the

1 jury.)

2 THE COURT: Again, I'll see you back in  
3 the hallway. Look for the bailiff please about 3:30.

4 Court is in recess.

5 (Recess taken.)

6 THE COURT: The continuation of C159915,  
7 State of Nevada versus John Joseph Seka. Let the record  
8 reflect the presence of the Defendant, his counsel, Mr.  
9 Christiansen and Mr. Kennedy, Mr. Kane and Mr. Fattig  
10 present for the State.

11 Will counsel stipulate that all members of  
12 the jury are present and properly seated?

13 MR. KANE: Yes, Your Honor.

14 MR. KENNEDY: Yes, Your Honor.

15 THE COURT: Your opening remarks, Mr.  
16 Kane?

17 MR. KANE: Thank you, Your Honor.

18 Ladies and Gentlemen, the judge has  
19 already told you and he will tell you several more times  
20 during the trial that the remarks of counsel are not  
21 evidence.

22 When, what I'm about to tell you is what I  
23 would believe the government's evidence will show at  
24 trial. Whether or not the evidence bears out what I say  
25 is up for you to determine.

1                   So you may be thinking if this is in  
2 evidence why do we have to sit here and listen to it?

3                   There are a couple of practical reasons  
4 for it. First and foremost, to present even a simple  
5 story in perfect chronological order, one witness at a  
6 time, is a difficult thing to do.

7                   A witness may know a little a little about  
8 the beginning of the case and something about the end and  
9 there may be 17 other witnesses who come in between, but  
10 that's not the way we call witnesses.

11                  We call them one at a time, ask them all  
12 the questions that we have for them and then we excuse  
13 them from the rest of the trial.

14                  So by its nature the way we present  
15 evidence to you means it gets kind of chopped up and so  
16 an overview like this of the case may be helpful to you  
17 as you go through in seeing where particular items of  
18 evidence or particular witnesses fit into the grand scope  
19 of things.

20                  The other reason in every case why an  
21 opening statement is useful is we're not allowed to abuse  
22 witnesses the way we're allowed to abuse you people.

23                  What I mean by that is you're here for the  
24 whole trial. You just sit around and spend a lot of time  
25 waiting and it would be nice, frankly, from my point of



1 view, if we could have all the witnesses, put them in a  
2 room somewhere and we would have them stay there for the  
3 two weeks we're in trial and every time we need one we  
4 haul them out and put them in front of you and we send  
5 them home.

6                   Unfortunately, life doesn't work that way.  
7 Some witnesses don't even live in Nevada and they have to  
8 travel from out of state. We can't always present the  
9 witnesses in the best order we would like to.

10                   Witnesses will be called out of order and  
11 you'll wonder "Why are they telling us this now instead  
12 of at a more logical point?"

13                   Again, there's a lot of reasons for that  
14 point. Hopefully, this opening statement will help you  
15 fit everything in.

16                   In this case, in particular, as opposed to  
17 cases, in general, there is a good reason for an opening  
18 statement and maybe one that's longer than the five or 10  
19 minutes that I usually do and that's that this is a  
20 complicated situation.

21                   You already know that there are two  
22 homicides that are alleged. They happened, we allege, in  
23 neighboring business premises, but you have two separate  
24 crime scenes.

25                   There are two businesses, one next door to

1 each other. In addition, the bodies of the two victims  
2 were found in two other locations. One alongside a  
3 highway here in Nevada, one alongside a highway just over  
4 the state line in California.

5 So all of the police officers - - not all  
6 of them, but some of the police officers who processed  
7 every one of those scenes are going to come in here and  
8 tell you what they saw, what they did and they are going  
9 to bring items of evidence in from each of those scenes  
10 and put them in front of you to help you make your  
11 decision.

12 So because of the complicated factual  
13 nature of the case maybe this opening statement will help  
14 you a little bit.

15 With that in mind, back in 1998 there was  
16 a business operating here in town, one of many heating,  
17 ventilation and air conditioning businesses, HVAC's, they  
18 are called for short. This one was called Sinergi,  
19 S-i-n-e-r-g-i.

20 It operated out of offices at 1933 Western  
21 here in Las Vegas. The partners in Sinergi were a  
22 Japanese businessman named Takeo Kato and Peter Limanni.

23 John Seka, the Defendant, worked at  
24 Sinergi as an employee of Mr. Limanni's.

25 When the business started out Mr. Kato

1 spent a lot of time here and was an active participant in  
2 the business. Throughout the course of 1998 the business  
3 started to fade.

4 They weren't doing as well, didn't frankly  
5 need all of the vehicles that they had. Their inventory  
6 was going down. They were behind in their rent.

7 It got so bad that towards the end of  
8 November of 1998 the property of the business was being  
9 pawned at local pawn shops just to generate some cash to  
10 keep them going.

11 Mr. Kato made it plain he wanted out of  
12 the business and that Sinergi as it was was going to  
13 fold. So Mr. Limanni and the Defendant, Mr. Seka, made  
14 some plans to resurrect the business in a different form.

15 What they were doing was taking the  
16 premises at 1933 Western and converting part of it into a  
17 cigar room. They are really kind of fashionable now and  
18 were coming into vogue back then.

19 They were going to have a humidor and a  
20 big back room where cigars were stored and they had a lot  
21 of lumber and construction tools in the premises because  
22 they were handling a lot of this remodeling themselves.

23 You're going to hear some testimony from  
24 Jennifer Harrison who will be one of our first witnesses.  
25 She was Peter Limanni's girlfriend during this period of

1 time.

2 She had a lot of chances to observe Mr.  
3 Limanni, to observe the Defendant, observe the  
4 relationship between the two of them.

5 The relationship wasn't everything that  
6 you'd hope it would be and it seldom is when you have a  
7 business that's going bad.

8 Always worries about money. Mr. Limanni  
9 seemed to delight in putting Mr. Seka down, had him  
10 performing the most menial tasks at his beck and call,  
11 referred to him - - and I'm using his words - - as his  
12 nigger.

13 On repeated occasions, he accused Mr.  
14 Seka, in Ms. Harrison's presence, of coming on to Ms.  
15 Harrison and having designs on his girlfriend.

16 They weren't getting along. They weren't  
17 getting along personally. They weren't getting along in  
18 a business sense.

19 November 4th of 1998 was the last day that  
20 Jennifer Harrison saw Peter Limanni alive. They spent  
21 the evening watching a video, just hanging out.

22 The next day, November 5, which was a  
23 Thursday, she went - - she, being Jennifer Harrison - -  
24 went to 1933 Western looking for Mr. Limanni and he  
25 wasn't there. She couldn't find him.

1                   Mr. Seka was there, had a girl there with  
2 him, said that he didn't know where Pete was. There was  
3 a room that Mr. Limanni used inside of the premises on  
4 Western where he would sleep and she got into that room  
5 and she didn't find Mr. Limanni there.

6                   She did find every pair of shoes that he  
7 owned, which she thought was a little odd, and she found  
8 a cartridge on the floor which she thought was a little  
9 odder, but she wasn't able to locate Mr. Limanni.

10                  You're going to hear some testimony from  
11 Mike Cerda. He's the property manager over at the  
12 premises on Western Avenue and he managed a number of  
13 units there, including the one that Sinergi was housed  
14 in.

15                  He will tell you that to his recollection  
16 the last time he saw Mr. Limanni was on Friday, November  
17 6th, and at that time the rent was due or was past due  
18 from the 1st of the month and Mr. Cerda asked about it  
19 and Mr. Limanni produced a big roll of bills, couple of  
20 thousand dollars, and was going to pay the rent, but said  
21 to Mr. Cerda "Will you let me have until after the  
22 weekend? There is a big cigar show out at Cashman Field.  
23 I think I can pick up some money there and I'll pay you  
24 the rent on Monday the 9th."

25                  He didn't.

1 Mr. Cerda never saw Mr. Limanni again.

2 And once the rent wasn't paid on the 9th, he commenced  
3 eviction proceedings and legal steps were being taken to  
4 terminate Sinergi from the business premises on Western.

5 That's where things stood in the first  
6 week of November of 1998. On November 16, something  
7 apparently unrelated happened.

8 A fella named Mike Stanish, a construction  
9 worker who was doing some work out at the Mandalay Bay,  
10 was driving from Mandalay Bay to Sloan, Nevada. That's  
11 where they did their dumping of construction debris.

12 As he was on his way he saw something off  
13 to the side of the road that looked like a body to him.  
14 He didn't have a phone with him so when he got to the  
15 site he told a friend of his, Jeff Lowrey, about it and  
16 Jeff Lowrey called 911 and meanwhile the two of them went  
17 back to the scene and sure enough it did turn out to be a  
18 body.

19 It was a body lying face down in a  
20 shallow, not even a grave, but just a shallow scoop in  
21 the dirt with some lumber placed in an odd kind of  
22 latticework over it.

23 Mr. Lawrey and Mr. Stanish sort of stood  
24 by the side of the road and they called to this  
25 individual, hoping it was somebody that had passed out.

1                   There was no movement and they figured he  
2 wasn't alive and they stepped back and didn't disturb  
3 anything, waited for the police to get there.

4                   When the police did get there they found a  
5 dead body of a black male. He had no identification on  
6 him of any kind, so he was initially booked as a John  
7 Doe.

8                   And when police do that they try to do  
9 something that will associate that particular John Doe  
10 with the location or circumstances in which he was found  
11 and since he was found with this lumber stacked on top of  
12 him he was given the name of John Lumber Doe in the  
13 police reports.

14                   The only thing in the way of personal  
15 effects that John Lumber Doe had on him was a slip of  
16 paper in his pant's pocket. The slip of paper said  
17 429-5957 and the name Jack.

18                   The police figured logically enough that  
19 that was a phone number and so they ran the phone number  
20 and it came back to Sinergi, at 1933 Western, to an  
21 employee named Jack.

22                   That really is where the investigation of  
23 John Lumber Doe's demise stood at the close of November  
24 16th.

25                   Next morning, November 17th, Rick Ferguson

1 who is another one of the business owners in that  
2 shopping center where Sinergi was, he owns a trophy shop,  
3 noticed that the store front at 1929 Western, that is  
4 right next door to Sinergi, looked like it had been  
5 broken into.

6 There was broken glass, there was what  
7 appeared to be blood on the ground. There was plenty to  
8 make him suspicious so he called 911 and asked the police  
9 officers to come out there and check it out.

10 A couple of patrol officers you'll hear  
11 from, Officer Kroll, Officer Noguez, came out there to do  
12 an investigation. They could see the broken glass and  
13 what appeared to be blood.

14 They went around back and checked a big  
15 dumpster, one of those big green dumpsters out back,  
16 figuring that was a logical place to look. The dumpster  
17 was empty.

18 In fact it looked like everything had just  
19 been picked up because there was nothing in it but the  
20 paper that adheres to the bottom and becomes part of the  
21 dumpster itself.

22 they continued their investigation and  
23 while they were looking around the Defendant arrived at  
24 the business premises at 1933 Western and so they talked  
25 to him a little bit.



1 Early on in talking to him they noticed  
2 that there was a knife, nothing awful or formidable, like  
3 a penknife or jackknife, but also a bullet standing up on  
4 a desk in 1933 Western.

5 And so for their safety they handcuffed  
6 Mr. Seka so they could ascertain that there weren't any  
7 weapons around there. And once that was done they  
8 released him, but they continued questioning him.

9 He basically said he didn't know anything  
10 about what happened next door, that his business partner,  
11 Pete Limanni, wasn't around and hadn't been around since  
12 about November 5th and he thought he might be up in Lake  
13 Tahoe, but didn't really know where he was.

14 The patrol officers called Dave Ruffino, a  
15 crime scene analyst, to come out and start processing the  
16 scene at 1929. He came out and started making his  
17 observations and collecting evidence.

18 It occurred to him, not because he was  
19 involved in the John Lumber Doe case but because police  
20 officers discuss each others cases, that he had heard  
21 about a homicide victim discovered the previous day who  
22 had a slip of paper which returned to 1933 Western, and  
23 here he was at 1929 Western, so he added two and two  
24 together and knew that he had something and called  
25 homicide detectives.

1           The homicide detectives came out and they  
2 started doing their processing of the crime scene which  
3 is a little more intensive than what's done by the patrol  
4 officers.

5           Before the homicide detectives arrived in  
6 1929 Western Mr. Ruffino had found a lot of what appeared  
7 to be blood. Some of it looked like something had been  
8 dragged through it.

9           He found a cap, found a cheap bracelet  
10 that had just been thrown off to one side and found a  
11 jacket with three bullet holes in it.

12           That was significant to him, because the  
13 body of John Lumber Doe recovered the day before had  
14 three bullet wounds in it.

15           So when the homicide detectives get there  
16 and with all this information in their possession they  
17 commence their investigation and one of the first things  
18 they want to do is talk to Mr. Seka, which they do, and  
19 one of the other things that they want to do is to  
20 re-check the scene, so they called the same patrol  
21 officers, Nogues and Kroll, back to the scene and they  
22 interview them about what they did in terms of  
23 investigating the scene and Nogues and Kroll tell them  
24 they checked the dumpster out back and it's empty.

25           The homicide detectives say "Go check it again"

1 and they do. And the dumpster which had been empty an  
2 hour or two before is now about six inches deep with  
3 stuff and the stuff, after they search, turns out to be  
4 clothing with Peter Limanni's name in it, personal  
5 effects and correspondence with Peter Limanni's name on  
6 them, and a scientific testing willing later bear out  
7 cards and items of identification with Peter Limanni's  
8 blood on them.

9 At this point the police know that they  
10 are really dealing with something and they want to take a  
11 more formal statement from the Defendant, Mr. Seka.

12 They take him down to headquarters and  
13 although he is not under arrest, and they tell him that,  
14 they advise him of his Miranda Rights and they take a  
15 taped statement from him and you'll have a chance to hear  
16 that during the course overs trial.

17 In the course of that statement the  
18 Defendant says several things. One of the things that he  
19 says is that the phone number [REDACTED] 5957 found in John  
20 Lumber Doe's pocket is his phone number.

21 In fact, he's got the cellphone on him and  
22 he shows it to the officers and they look and it's his  
23 phone number. He says he has no idea who John Lumber Doe  
24 is or what happened to him.

25 John Lumber Doe happens to be a black man

1 so the police asked Mr. Seka are there any black people  
2 employed at Sinergi or who are around Sinergi doing  
3 business?

4 He says "The only person that I've seen  
5 like that is a guy called Seymour - - that's what I call  
6 him, kind of a homeless guy. He's done some work around  
7 here in the past, but I haven't seen him for about a  
8 month."

9 In processing the crime scene detectives  
10 recover from a waste basket in 1933 Western, in the  
11 offices of Sinergi, a couple of beer bottles. One of  
12 them has the Defendant's fingerprints on it; one of them  
13 has John Lumber Doe, who is later identified as Eric  
14 Hamilton.

15 Eric Hamilton's fingerprints are on it.

16 So the person that hadn't been there for a  
17 month or so left his fingerprints on a beer bottle found  
18 in a trash can on November 17th.

19 The police make a few more recoveries of  
20 items of evidence while they are talking to Mr. Seka,  
21 down at headquarters. They are starting to find the  
22 stuff that was out in the dumpster.

23 In 1933 Sinergi they find a bullet hole in  
24 a couch. They move the couch. The bullet went all the  
25 way through the couch and lodged in the hall and there is

1 a corresponding hole in the wall behind the couch.

2 At this point they are about at the end of  
3 their interview and the Defendant sort of sits back in  
4 his chair and says "So are you gonna arrest me or what?"

5 And the police officers say to him "Well,  
6 we've been instructed by the District Attorney that until  
7 we finish processing the crime scene and see what the  
8 forensic evidence is, no, you're not going to be placed  
9 under arrest."

10 He says "You guys are really scaring me  
11 now. You better arrest me or take me home."

12 So they take him back to 1933 Western so  
13 he can go home and so he can close up the business.

14 When he gets to 1933 Western the first  
15 thing he wants to do is take a Toyota pickup truck that's  
16 connected with the business and leave and go to dinner in  
17 that.

18 Well, they tell him he can't do that  
19 because they have noticed what appears to be blood in  
20 that truck and it later turns out to be the blood of Eric  
21 Hamilton, John Lumber Doe.

22 Additionally, testing of the tire  
23 impressions of that vehicle show that the rear tire of  
24 the Toyota leaves a similar tread to that left right at  
25 the gravesite of Eric Hamilton, right where somebody

1 would park a truck if they were going to slide him off  
2 the tailgate and into that shallow desert grave.

3 When they tell him he can't take the  
4 Toyota, there's still two vans parked outside. Those are  
5 business vans belonging to Sinergi. They are both white  
6 vans, but one of them is a plain white van and one of  
7 them has Sinergi markings and symbols and phone numbers  
8 all over it. It's like a rolling billboard.

9 Mr. Seka approaches to take the marked van  
10 home with him and the police officers think that's odd  
11 and so they ask can they take take a look around inside.

12 They look around inside and find what  
13 appears to them to be blood that has been partially wiped  
14 off and that is later identified through DNA testing as  
15 that of Pete Limanni.

16 So they let Mr. Seka leave, because they  
17 have been instructed not to arrest him pending the  
18 forensics and they would give him the unmarked plain  
19 white Sinergi van to leave in.

20 He tells them he will be back after dinner  
21 to lock up the business premises and also to take care of  
22 the dog. The dog is Peter Limanni's dog.

23 He's got a little dog that Jennifer  
24 Harrison said was devoted to, never goes anywhere without  
25 it. He would even bring it on dates to her apartment,

1 much less would leave town and go on a trip without it,  
2 but the dog is in the business premises.

3 Mr. Seka says "I'll come back to lock up  
4 the business, make sure everything is secure and to take  
5 care of the dog."

6 The next time the police see him is about  
7 four months later when he's arrested in the State of  
8 Pennsylvania on these charges and then he's returned back  
9 here for trial.

10 Never comes back to the business, abandons  
11 the business, abandons the vehicles. He does - - and I  
12 will give him credit - - have the courtesy before he  
13 leaves town to call Mike Cerda and ask him to take care  
14 of the dog, which Mr. Cerda does, until the dog can be  
15 turned over to Mr. Limanni's family members.

16 The police continue their search of 1933,  
17 both during Mr. Seka's statement and afterwards and up  
18 inside a false ceiling, not a false ceiling, but one of  
19 these hanging ceilings, they push up one of the tiles and  
20 look around inside and find a bunch of things.

21 Some are cartridges. One of them is a  
22 wallet containing Peter Limanni's driver's license,  
23 Social Security card, birth certificate and his credit  
24 cards hid in up in the ceiling at 1933 Western.

25 On November 17 an autopsy is performed on

1 the body of John Lumber Doe. His fingerprints are taken  
2 and he's finally identified as Eric Hamilton.

3 The autopsy shows he died of multiple  
4 gunshot wounds.

5 On December 23, 1998, Peter Borden is  
6 driving along a road in California called Nipton Road and  
7 he's just barely over the state line from Nevada into  
8 California and he sees what appears to him to be a body,  
9 but it's being tugged at by dogs or other animals in the  
10 desert.

11 So he calls the police and the San  
12 Bernardino County Sheriff's Office responds to the scene.  
13 You'll hear not only from Las Vegas Metropolitan Police  
14 Department police officers, but from those officers from  
15 San Bernardino who went out and processed that scene.

16 They will tell you what they found was a  
17 body that had been ravaged both by exposure and animals  
18 out there and wasn't instantly recognizable. There were  
19 a few things they could see.

20 One is that the body appeared to have  
21 suffered multiple gunshot wounds. Another is that the  
22 body appeared to have a number of tatoos, a map of Italy  
23 on his calf, an eagle on his arm.

24 Jennifer Harrison will tell you that those  
25 are tatoos that Peter Limanni had. One of the officers



1 who was out at the scene, Jeff Smink, who is now a  
2 criminalist with the Las Vegas Metropolitan Police  
3 Department, but at that time worked for the San  
4 Bernardino Sheriff's Department, knew that this body  
5 would have to be identified and what he did - - and it  
6 was cold out there so it took a while - - he injected  
7 water into the best remaining finger he could find which  
8 was a thumb print of this individual and injected the  
9 water so that he could get a good print and eventually  
10 did.

11 That print was what enabled the police to  
12 positively identify that individual found in the desert  
13 on December 23 was Peter Limanni.

14 Peter Limanni was autopsied on December 29  
15 by Doctor Steve Frankel of the San Bernardino County  
16 Medical Examiner's Office and you'll hear him testify  
17 here.

18 He will tell you that at least 10 wounds  
19 were found on the body of Mr. Limanni, two apparent  
20 gunshot wounds to the left side of the rib cage, a  
21 non-penetrating gunshot wound to the base of the skull,  
22 an apparent gunshot wound to the left of that wound, but  
23 also in the skull, an apparent gunshot wound above the  
24 left ear in the skull, an apparent gunshot wound located  
25 right on the top of the skull and an indented skull

1 fracture on the top of the skull, a small hole on the top  
2 of the skull, an apparent gunshot wound in the right  
3 temple and an apparent gunshot wound in the left  
4 shoulder.

5 He will also tell you that a total of nine  
6 bullets or fragments were recovered from Mr. Limanni's  
7 body. No weapon has ever been recovered, but you will  
8 hear testimony by a firearms expert about the recovered  
9 shells and about the cartridges that I've already  
10 mentioned were found both in 1929 Western and 1933  
11 Western.

12 You'll also hear from a DNA analyst with  
13 the Las Vegas Metropolitan Police Department, David  
14 Welch.

15 MR. KENNEDY: Objection. May we approach?

16 THE COURT: Yes, you may.

17 (Discussion off the record.)

18 THE COURT: Proceed, please.

19 MR. KANE: Additionally, in terms of  
20 forensic evidence, as I've already mentioned to you  
21 you'll hear fingerprint evidence and Fred Boyd is the Las  
22 Vegas Metropolitan Police Department fingerprint expert  
23 that you'll hear from.

24 He also will testify about some tire  
25 tracks. I just want to briefly outline that to you.

1                   Again, he will say that he examined tire  
2 impressions left right by Eric Hamilton's body and he  
3 found those tire impressions to be consistent with the  
4 right rear tire of the 1998 Toyota pickup truck, the one  
5 that Mr. Seka attempted to leave 1933 South Western in  
6 the day after the discovery of Mr. Hamilton's body.

7                   He will tell you that the track was - - if  
8 you back the truck up and dumped the body off the back of  
9 it you'd expect to find it.

10                  He will also tell you that the lumber that  
11 was found in the kind of latticework over the body of  
12 John Lumber Doe, who we later came to find was Eric  
13 Hamilton, appeared to be similar to lumber that was used  
14 in the smoke shop renovation at 1933 Western.

15                  It had some bar code markings on it and  
16 some of the ends were painted green or orange, but it  
17 appeared to be very similar and because of that Mr. Boyd  
18 processed the wood itself to see if he could raise latent  
19 fingerprints from the wood that covered the body of Eric  
20 Hamilton.

21                  And he discovered the fingerprints of  
22 Peter Limanni and of the Defendant, John Seka, on a  
23 couple of those pieces of wood, identifying them as  
24 boards from the business there at 1933 South Western.

25                  Finally, after all of that forensic

1 evidence, you will hear from a witness called Tom  
2 Creamer. Tom Creamer is a Sad Sack.

3 I'm not going to tell you he is not. He's  
4 a real sad individual. He's got a drinking problem.  
5 He's been treated for that drinking problem.

6 He received psychiatric treatment, but  
7 he's an old friend of the Defendant, John Seka, and he's  
8 one of the people that saw John Seka while he was back in  
9 Pennsylvania after he left Las Vegas here after being  
10 questioned by the police department.

11 He discussed what had happened to Mr.  
12 Limanni several times, that is Mr. Seka discussed it  
13 several times with Mr. Creamer. And Mr. Creamer will  
14 tell you that at one time Mr. Seka denied shooting Mr.  
15 Limanni or knowing anything about John Lumber Doe or Eric  
16 Hamilton, but that on another occasion when they were in  
17 an argument John Seka said to Tom Creamer "Don't make me  
18 do to you what I did to Pete Limanni."

19 And yet on another occasion Tom Creamer  
20 asked John Seka "Did you really kill people, kill Pete  
21 Limanni?"

22 His response was "Yeah, I plugged him and  
23 he was gurgling so I had to plug him again."

24 After you hear all that evidence, the  
25 State is going to be asking you to return a verdict of

1 guilty on charges of First Degree Murder and robbery,  
2 both of Peter Limanni and Eric Hamilton.

3 Thank you.

4 THE COURT: Thank you, Mr. Kane.

5 Does defense counsel wish to make an  
6 opening statement at this time or reserve your right?

7 MR. KENNEDY: I will at this time.

8 THE COURT: Proceed, please.

9 MR. KENNEDY: Ladies and Gentlemen, you  
10 heard in the jury selection process about having an open  
11 mind and how there are always two sides to every story.

12 Certainly we all, as Americans, went  
13 through that back in November and December with our  
14 recent election and two different viewpoints, two  
15 different parties thinking they had won the election.

16 In the end only one could be right.

17 In this case your perception of the  
18 evidence, of the testimony from the State - - and whether  
19 the defense presents evidence or not, your perception of  
20 that and how to assess that evidence, how to weigh it,  
21 how to determine whether it should be given any weight at  
22 all or all the weight in the world is very important.

23 That's your role here, because you are the  
24 Triers of Fact. You're the 12 people who get to decide  
25 this case and see whether the State of Nevada has proven

1 these charges of murder and robbery with use of a deadly  
2 weapon.

3 This case will be noteable for a number of  
4 things. It will be not noteable for the weight it  
5 obviously lacks. There will be no testimony from any  
6 eye-witnesses.

7 Actually that's not uncommon. No murder  
8 weapon. You'll find that the State's case will present  
9 evidence and there will be no clearly defined sequence of  
10 events as to how these two murders occurred.

11 I think it can be said clearly that two  
12 individuals were murdered, Eric Hamilton and Peter  
13 Limanni. That is unquestioned.

14 The question is how did that happen?

15 Who did it; who was involved?

16 You'll hear evidence that Peter Limanni  
17 and Jack Seka were friends. In early April 1998, Peter  
18 Limanni received an investment from some Japanese  
19 investors in California to start this Sinergi business,  
20 these heating and air conditioning business in Las Vegas.

21 He received a hundred thousand dollars in  
22 April of 1998 to set up this business and to start it.  
23 Jack Seka hooked up with him, they became friends. He  
24 was a worker in this business, an associate of his.

25 They lived in the same place. This office

1 at 1933 Western was actually their home as well.

2 They lived and worked out of this location  
3 for many months leading up to Mr. Limanni's disappearance  
4 in November of 1998.

5 They had a number of plans together.  
6 You'll hear testimony how the business really slowed down  
7 and actually was bordering on failing towards the latter  
8 part of 1998 and they thought of different ideas.

9 You'll hear evidence that they went to  
10 Lake Tahoe and Peter Limanni leased a property there in  
11 order to start up a heating business. There was also  
12 talk about starting up a cigar business in Lake Tahoe.

13 As you heard the State say there is a  
14 cigar humidor at this office at 1933 Western and that was  
15 a business that Peter Limanni was going to get into due  
16 to the failure of this heating and air conditioning  
17 service here in Las Vegas.

18 One thing that you'll note is that from  
19 the testimony of Mike Cerda - - and Mr. Kane alluded to  
20 that - - he will testify that on November 6th, which was  
21 a Friday, that Peter Limanni did show up with a wad of  
22 cash, two to three thousand dollars, and said "I'll be in  
23 on Monday, the 9th, with the money."

24 From the 6th, on, no one knows what  
25 happened to Peter Limanni. We do know and you'll hear

1 testimony that on either the morning of the 5th or the  
2 morning of the 6th, that Peter Limanni got up early and  
3 left that office location with an unknown individual.

4 He left 1933 Western and you'll hear that  
5 from some of the State's witnesses as well.

6 But what had happened to him between  
7 November 6th and December 23, 1998, wherein his body was  
8 found in California, that's a big mystery.

9 Certainly there's no evidence presented by  
10 the State as to how he was indeed murdered, how he ended  
11 up in the desert with approximately 10 shots to his body  
12 and head.

13 Eric Hamilton is an individual that came  
14 to Las Vegas in 1998 from California. You'll hear  
15 evidence he had a drug problem, that he used cocaine and  
16 there will be testimony he came to Las Vegas in order to  
17 get a fresh start in order to get back to California and  
18 was brought here by some of his family and relatives.

19 His body - - and it's important to think  
20 about this when you're looking at evidence, because of  
21 the charges of Eric Hamilton is robbery with use of a  
22 deadly weapon - - when his body was found - - and you'll  
23 see photographs of this - - he had a large diamond ring  
24 on his right hand, if I'm not mistaken, and it wasn't  
25 just a small diamond. It was a large nugget ring with



1 several diamonds on its face.

2 I'm sure you'll see a photograph of that.  
3 That was found upon his body.

4 You'll also hear testimony that at the  
5 murder site, the site where his body was believed to have  
6 been found, 1929 Western, next door a gold bracelet was  
7 found on the ground.

8 There may be some testimony and indeed  
9 questions whether or not that bracelet was his. That's  
10 certainly something to think about in relation to the  
11 robbery with use of deadly weapon charge.

12 We believe that Eric Hamilton may have  
13 been an individual known as Seymour who came around the  
14 property of 1933 Western in the latter part of 1998.

15 He was an African/American individual who  
16 was hired by Mr. Limanni to do some clean up work, a  
17 homeless individual who came there looking for some side  
18 jobs. You'll hear testimony he did some clean up work  
19 around the property.

20 There's another element to this case and  
21 it will become clear as the witnesses progress over the  
22 next several days that there was what we call a darker  
23 side to Peter Limanni.

24 Darker side in the sense that some things  
25 were going on in his own life that called into question

1 his business practices and things that he was doing.

2 He owed a hundred thousand dollars to  
3 these Japanese, one of the Japanese individuals. An  
4 investor named Takeo Kato I believe should be here to  
5 testify that he did indeed, along with another Japanese  
6 friend, loan Peter Limanni a hundred thousand dollars and  
7 by October their investment was gone.

8 They were out a hundred thousand.

9 I believe the testimony will show that one  
10 of the Japanese individuals was enforced to petition or  
11 file for bankruptcy as a result of this. So you're going  
12 to hear testimony that Peter Limanni had basically wasted  
13 away a hundred thousand dollars in the span of five or  
14 six months on this Sinergi business.

15 You'll also hear testimony that Peter  
16 Limanni bragged to others that he could easily disappear  
17 at a moment's notice and obtain false ID and become a new  
18 person.

19 You'll hear how he approached Mr. Kato,  
20 told him about the business failing. They were upset;  
21 they want their money back and told them that - - about  
22 this cigar business and that he wanted to get into and  
23 would you invest in that?

24 There's even some question about how would  
25 they finance it? He proposed to them, Mr. Limanni did,

1 that he could get a false ID and obtain a new line of  
2 credit, assume a new identity.

3 That's a factor to consider.

4 You'll also hear that in October '98 Mr.  
5 Kato came to Las Vegas. Sinergi had three vans and one  
6 Toyota pickup that were leased by the Japanese - - that  
7 were owned by the company, but were leased by Mr. Kato.

8 He was very upset on the trip and he will  
9 state that. He told that to the police as well. All he  
10 could do to salvage something was to drive one of those  
11 vans back in late October '98.

12 He took one of the vans back and wasn't  
13 able to return to pick up any other vehicles before  
14 everything happened. This is late October 1998.

15 Mr. Limanni disappears the first week of  
16 November 1998, so we're talking about a week or two time  
17 span.

18 Certainly you will hear evidence that  
19 there are a lot of people that were either upset with Mr.  
20 Limanni or that he owed money to. And he disappears on  
21 the 6th.

22 This case - - and it will require your  
23 attention, because I know it's not a simple case. We're  
24 going to be here possibly for a couple weeks. It will be  
25 easy to at times get distracted and think about things

1 going on in your own life.

2 Certainly as far as my client is  
3 concerned, he has a lot on the line and we certainly  
4 would hope that you would be able to maintain your focus  
5 and to listen to all the evidence carefully.

6 This story, I kind of liken it to a  
7 mystery novel, to a classic Who Dunnit?

8 And you people are the critics. You're to  
9 decide whether the State has proven Who Dunnit or who is  
10 the perpetrator of this crime.

11 I think what you'll see is it's like a  
12 poorly written mystery novel. This novel will lead you  
13 in many different directions. You'll hear from a cast of  
14 characters. There will be plot, a theme, but the thing  
15 that's missing is the cohesiveness to it.

16 You'll find the evidence presented will  
17 lack an ability to tie itself in. It will be in all  
18 different directions.

19 Like a bad mystery novel at the end of the  
20 story it comes to a conclusion, but you're left  
21 scratching your head going "This doesn't make sense. How  
22 did we get to this point?"

23 We think this is just that case. We --  
24 the defense, my co-counsel and I, believe that the  
25 State's case will be - - will arrive at a conclusion, but

1 it will leave you scratching your head.

2 It will leave you wondering how do we get  
3 to this point based on what's been presented in the last  
4 couple of weeks? We believe that when this case is  
5 concluded the mystery will still exist.

6 The mystery of who killed Peter Limanni  
7 and who killed Eric Hamilton will remain unsolved.

8 Whether that's right or wrong, the fact of  
9 the matter is if they can't prove that, then you have a  
10 duty that you need to abide by. I would submit it on  
11 that.

12 Thank you, very much.

13 THE COURT: Thank you, counsel.

14 First witness from the State, please.

15 MR. KANE: Michael Cerda.

16  
17 MICHAEL CERDA,  
18 called as a witness herein, was sworn by the clerk of the  
19 court, was examined and testified as follows:  
20

21

22 EXAMINATION

23 BY MR. KANE:

24 Q. Would you state your name and and spell  
25 your last name for the record?

1 A. Michael Cerda, C-e-r-d-a.

2 Q. By whom are you employed?

3 A. Nevada Properties.

4 Q. How long have you worked for them?

5 A. Approximately three years.

6 Q. I want to talk to you about 1998.

7 Were you managing certain properties for  
8 Nevada Properties during that year?

9 A. Yes.

10 I just started working for them as a  
11 manager, property manager.

12 Q. And included among those properties were  
13 there locations at 1933 and 1929 Western Avenue here in  
14 Las Vegas, Clark County, Nevada?

15 A. Yes. It's part of a large complex there.

16 Q. How many properties - - separate offices  
17 were you administering at that complex?

18 A. Five and a yard in the back.

19 Q. Do you remember the addresses of them?

20 A. Yes, 1921, 1925, 1929 and 1935 and 37.

21 Q. Is there also a 1933?

22 A. And 1933.

23 Did I forget that one?

24 Q. Yes.

25 What was 1933 during the year of 1998?

1           A.    It originally started as Sinergi, Sinergi  
2 Air Conditioning.

3           Q.    Who operated that business?

4           A.    There was two partners, it was Takeo Kato  
5 and Peter Limanni.

6           Q.    And when was the Sinergi air conditioning  
7 business opened?

8           A.    May 6 of '98.

9           Q.    And was there a lease?

10          A.    Yes.

11          Q.    For what term?

12          A.    Two years. .

13          Q.    What were the monthly payments?

14          A.    Eight twenty-five.

15          Q.    Did they vary at all with income or  
16 anything else or was that a fixed amount?

17          A.    No. It was a statutory 825.

18          Q.    How were they at making that monthly rent?

19          A.    At first they were fine and then towards  
20 the latter part of - - it was just before October they  
21 started getting a little late, but it wasn't real late.

22                   They were past the five-day due.

23          Q.    Was there anybody working at Sinergi from  
24 May through November of 1998 besides Takeo Kato and Peter  
25 Limanni?

1           A.    They had some other employees there.  I  
2 didn't know them all, but they had other employees there,  
3 yes.

4           Q.    Did you know a man named John Seka?

5           A.    Yes.

6           Q.    What did he do at Sinergi?

7           A.    I wasn't sure if he was employed on a  
8 full-time basis, but I knew he was a friend of Peter  
9 Limanni's.

10          Q.    On how many occasions did you see Mr.  
11 Seka?

12          A.    Four or five.

13          Q.    Is he present in court?

14          A.    Yes.

15          Q.    Point to him and tell me what he's  
16 wearing.

17          A.    He's sitting in front of me with a  
18 sweater, brown and grey sweater.

19               MR. KANE:  May the record reflect  
20 identification of the Defendant, Your Honor?

21               THE COURT:  It may.

22 BY MR. KANE:

23           Q.    I want to talk to you specifically about  
24 the last time you ever saw Peter Limanni.

25               Do you recall the date?



1           A.     The exact date I'm not quite sure, but it  
2 was towards the first part of the month, after the 5th,  
3 because they were still late on the rent and I had talked  
4 to him regarding it.

5                     He said to come on down and pick it up.  
6 He was going to have it for me.

7           Q.     Do you recall the day of the week?

8           A.     It seemed to me it was on Friday.

9           Q.     If I tell you that November 6th was a  
10 Friday, you have no reason to quarrel with that?

11          A.     No.

12          Q.     Where did this conversation take place  
13 between you and Mr. Limanni?

14          A.     In front of the unit that he occupies,  
15 1933.

16          Q.     About what time of the day was it?

17          A.     It must have been around - - I'm really  
18 not sure. It was around noon, close to noon, maybe  
19 10:30.

20          Q.     Was there anyone else present at any time  
21 during the conversation except for you and Mr. Limanni?

22          A.     I saw a girl come out of the building.  
23 Peter had said Hi to her and she was leaving.

24          Q.     Did she participate at all in your  
25 conversation?

1 A. No, she didn't.

2 Q. Would you relate to the jury the  
3 conversation that you had with Mr. Limanni?

4 A. He asked me that if it was possible to  
5 delay making the monthly payment, because he was going to  
6 be involved in a show at Cashman Field, a cigar show.

7 I told him he was already late. He was  
8 going to have to pay the late fee.

9 I told him if he'd pay it on Monday that  
10 would be fine.

11 Q. Was Mr. Limanni, as far as you know, in  
12 possession of any money while you were talking to him?

13 A. He displayed some money that he could pay  
14 the rent with right now. I was going to write a receipt.  
15 He had cash.

16 He had to have had over the amount of the  
17 rent which was 825 and it looked like a large sum of  
18 money. I would say it had several hundreds rolled up and  
19 I would say between two and \$3,000.

20 Q. And yet he asked you if he could wait to  
21 pay until Monday?

22 A. Yes.

23 Q. What was the reason again?

24 A. He wanted to use the cash for a show he  
25 was involved in at Cashman Field. He wanted to use it

1 for purchasing, I guess, retail items to sell.

2 Q. Did you receive the money on Monday?

3 A. No, I didn't.

4 Q. Did you you ever see Mr. Limanni again?

5 A. No.

6 Q. Did you attempt to contact Mr. Limanni to  
7 collect that money?

8 A. Yes.

9 Q. What did you do?

10 A. I called him on Monday morning. When I  
11 had no response I went to the shop and issued a five-day  
12 notice, posted it on the door, because there was no  
13 response.

14 I knocked on the door. The dog, Jake, was  
15 barking. I saw the dog and I walked around the back and  
16 saw a truck in the back.

17 I thought he was there, but apparently he  
18 wasn't so I just posted it.

19 Q. After you posted the five-day notice did  
20 you have any conversation with the Defendant, Mr. Seka?

21 A. Later in the afternoon I got a call from  
22 John Seka.

23 Q. And was there anyone else on the phone, at  
24 least as far as you know, except for Mr. Seka and  
25 yourself?

1 A. No.

2 Q. Would you tell the jury about that  
3 conversation?

4 A. Just that John had called to say he  
5 received the notice. He was going to pay the rent. He  
6 was looking for Peter Limanni. He wasn't around.

7 He had the check, but he would take care  
8 of the rent.

9 Q. Did you ask Mr. Seka where Mr. Limanni was  
10 at that time?

11 A. I asked, but he didn't know where he was.  
12 He said he didn't know where he was.

13 Q. Did you ever receive the rent from Mr.  
14 Seka, either?

15 A. No, I didn't.

16 Q. Did you ever see Mr. Seka after that time?

17 A. Yes, I did.

18 Q. When did you next see him?

19 A. It was on a Wednesday, I think it was  
20 Wednesday afternoon, the same week, which would be - -

21 Q. I'll tell you Monday was the 9th, so that  
22 would have been the 11th?

23 A. If Monday was the 9th that would have been  
24 the 11th.

25 Q. Where did you see him?

1 A. At the shop at 1933.

2 Q. And about what time of the day?

3 A. It was in the afternoon.

4 Q. Did you have a conversation with him at  
5 that point?

6 A. I just saw him pull up in the parking lot  
7 at that time. I was there with the - - some police  
8 officers that were investigating, I thought, a break-in  
9 over at 1929.

10 Q. So this time that you saw him was the day  
11 that the police were there investigating the break-in?

12 A. Yes.

13 Q. You mentioned the dog Jake.

14 A. Yes.

15 Q. Did there come a time when Mr. Seka asked  
16 you to take care of the dog?

17 A. Yes.

18 Q. When was that in relation to these  
19 incidents we're talking about?

20 A. It was Wednesday night, late Wednesday  
21 night.

22 Q. Is that that same day that the police were  
23 out there?

24 A. Yes.

25 Q. And how did he contact you?

1 A. By phone.

2 Q. And again, as far as you know, the only  
3 two people on the phone were you and him?

4 A. Yes.

5 Q. Tell the jury what that conversation was.

6 A. It was related to the dog and he asked if  
7 I would look after it, possibly take care of it. He  
8 would be gone for a while and that he wanted me to make  
9 sure that the building was secured and locked up.

10 I told him I had already done that.

11 Q. Between that conversation and today had  
12 you ever seen Mr. Seka again?

13 A. I don't think so. I don't think so, no.

14 Q. When all of this came up in November of  
15 1998 what was, if you know, the relationship of Mr. Takeo  
16 Kato to the business?

17 A. He was actually the front man, the  
18 financier. He applied for the application for the unit.

19 He made out the application, filled the  
20 lease agreement out and participated in the operation for  
21 about a month and a half.

22 Q. As of November 1998 was he still  
23 participating in the business or trying to get out of it?

24 A. He was trying to get out.

25 Q. How do you know that?

1           A.    He mailed me a letter asking that - - he  
2           wanted a release from his guarantor position of the lease  
3           and I told him he couldn't do that.

4           Q.    Finally, were you aware of a conversion of  
5           part of the business at 1933 Western to a smoke shop or  
6           cigar room?

7           A.    Made a request, yes.

8           Q.    Who made the request?

9           A.    Peter Limanni.

10          Q.    And what did you tell him in response to  
11          the request?

12          A.    I told him that so long as he continued to  
13          pay the rent and it was basically on time that I would  
14          allow it, provided he made his modifications and applied  
15          for the proper permits from the city.

16          Q.    During the period of time when the police  
17          were there - - on the day that the police were there  
18          doing their investigation did you see the police talking  
19          to Mr. Seka?

20          A.    Yes, yes.

21          Q.    Was that in 1933 Western, his business  
22          office?

23          A.    Yes, it was.

24          Q.    Were you in the office at any point during  
25          their interview?

1 A. Yes.

2 Q. And what, if anything, did you see unusual  
3 while you were there in the office?

4 A. Well, first of all, I didn't have a key to  
5 get in and they wanted to inspect to see if there's any  
6 damage on the inside of that unit because it was next to  
7 1929.

8 When John approached the unit, he came up.  
9 I saw him and I asked him for a key to get inside because  
10 I told him the police would like to check the inside. He  
11 gave me the key, because they had apparently changed the  
12 locks on the front door.

13 I had a key to the front door. It didn't  
14 work. He gave me a key, we opened it in, went inside.  
15 They wanted to check the inside, the back unit in there.

16 He went with them and allowed them to go  
17 inside.

18 Q. Did you see anything that attracted your  
19 attention on the desk or in any area inside of 1933  
20 Western?

21 A. In the - - past the first office in the  
22 foyer when I was standing in the doorway I saw the police  
23 were making a glance around and they saw something on the  
24 table. I looked over at the same time and we saw it was  
25 a bullet on top of the one of the tables standing up by



1 him.

2 Q. Do you own or use firearms yourself?

3 A. Yes.

4 Q. What kind of firearms have you used?

5 A. .357 Magnum.

6 Q. And in relationship to .357 Magnum  
7 ammunition what did this look like?

8 A. It looked like a .38 special or .357  
9 round.

10 Q. Did you see what happened to it  
11 eventually, whether Mr. Seka took it or the police took  
12 it, or what happened to it?

13 A. No. It remained on top of the desk.

14 Q. For as long as you saw it?

15 A. Yes.

16 MR. KANE: Nothing further, Your Honor.

17 Tender the witness.

18 THE COURT: Cross-examination.

19 MR. CHRISTIANSEN: Thank you.

20 May I retrieve the lecturn?

21 THE COURT: You may.

22

23

24

25

## EXAMINATION

BY MR. CHRISTIANSEN:

Q. Good afternoon. My name is Pete Christiansen. I represent Mr. Seka.

You've met me before, haven't you?

A. Yes.

Q. I caused a subpoena to be issued on your your business about two weeks ago?

A. Yes.

Q. In response to that subpoena I asked you to provide me all the lease documents for this strip mall there on Western Avenue that I think has five or six separate businesses?

A. Yes.

Q. Just so we have an idea, how big are each one of these businesses?

A. The the larger one at 1921 is about 2,000 square feet, maybe three. It has a warehouse in the back.

Q. Let's talk about the two we're thinking about which is 1929. How big is that?

A. They are all 1,225.

Q. 1,225 square feet?

A. I'm sorry, yes.

Q. The same for 1933?

1 A. Yes.

2 Q. If I asked you to draw on that piece of  
3 paper how these go could you do that to show the jury how  
4 the various businesses front to Western?

5 A. Yes.

6 MR. CHRISTIANSEN: Your Honor, may I have  
7 the witness do that for me me, please?

8 THE COURT: That will be fine.

9 BY MR. CHRISTIANSEN:

10 Q. Let me hand you a black marker and ask you  
11 to draw the street of Western and maybe the direction of  
12 north and then lay out how The Strip mall works, if you  
13 would, please.

14 A. This is Western here. The driveway here  
15 and the beginning of the complex is here, it goes across  
16 like this and back.

17 This is not to proportion, but this is is  
18 1921.

19 Q. Just so the record is clear, that is the  
20 southern most - -

21 A. This is the northern most.

22 Q. The northern most business of an L-Shaped  
23 complex, with the largest one, that being 1921 Western?

24 A. Right. Here is 25, 29, 33 and 37.

25 Q. Just for the record, you're drawing these

1 various numbers going south and they get greater by a  
2 number of two every time.

3 It goes 1921, 23, 25?

4 A. Twenty-one.

5 Q. I'm sorry, 21 - - I can't read it.

6 A. Twenty-one, 25, 29, 33 and 37. These all  
7 have front doors here.

8 Q. Those front doors are facing west towards  
9 Western?

10 A. Yes.

11 Q. What is behind or just to the east of this  
12 complex that you were the manager of back in 1998?

13 A. Back here is the railroad tracks, and  
14 there is a yard back here.

15 Q. Was there a dumpster behind there  
16 anywhere?

17 A. I think we had one or two dumpsters.  
18 There was one back here.

19 Q. Just so the record is clear, would you  
20 write, put a D next to that little box you've placed  
21 behind 1933 Western or to the east of 1933 Western?

22 A. (Witness complied with request of  
23 counsel.)

24 Q. Just so the jury has some common sense, is  
25 there some type of prominent building or sign around

1 there that people could use as a landmark, something  
2 across the street?

3 A. Well, the only thing that I can think of  
4 is there's Cheetas down the street here, but that was  
5 about 500 feet south.

6 Q. This is somewhere between Oakey Avenue and  
7 Sahara Avenue on Western; is that accurate?

8 A. Yes, yes.

9 Q. You can sit back down, Mr. Cerda, if you  
10 would.

11 Mr. Cerda when you were negotiating the  
12 lease as part of your duties you were given credit  
13 applications and information on this Takeo Kato; is that  
14 correct?

15 A. Yes.

16 Q. You were not given anything on Peter  
17 Limanni?

18 A. Right. Peter had all the licensing with  
19 the air conditioning and heating.

20 Q. And Peter wasn't the guarantor on the  
21 note?

22 A. No.

23 Q. Correct?

24 A. No.

25 Q. There came a time when Mr. Kato had some

1 concerns that you related to Mr. Kane about being the  
2 guarantor; is that accurate?

3 A. Yes.

4 Q. In fact he sent you a letter in October  
5 1998 asking to be taken off of the guarantor status?

6 A. Yes.

7 Q. And just so everybody is - - understands,  
8 what's your understanding of being a guarantor on one of  
9 your properties in a lease agreement?

10 A. They guarantee that the lease would be  
11 completed, the two-year lease period, that they would be  
12 guaranteeing payment.

13 Q. So if Sinergi had gone out of business,  
14 Takeo Kato would have been still been on the hook for 825  
15 dollars a month for two years?

16 A. Yes.

17 Q. And did your company release him from his  
18 position as a guarantor?

19 A. No.

20 Q. It's your understanding that at this time,  
21 in October of 1998, the business has gone into a  
22 downturn, Mr. Limanni and Mr. Kato's business?

23 A. Yes.

24 Q. Mr. Kato is no longer there?

25 A. Yes.

1 Q. Mr. Kato in fact takes back one of the  
2 vans about this time; is that true?

3 A. I don't know the status of any of the  
4 vans.

5 Q. Fair enough.

6 Did you notice the number of vans that  
7 were parked out in front of the business decreasing over  
8 time?

9 A. Yeah, at times, yes. I noticed they were  
10 there parked and every once in a while I would see one of  
11 them missing or gone.

12 I wasn't quite sure how many was out there  
13 at any one time.

14 Q. Did you later receive in your capacity as  
15 a property manager for this complex a notice of  
16 bankruptcy on behalf of Mr. Kato?

17 A. Yes.

18 Q. And you or your company was listed as a  
19 creditor?

20 A. Yes.

21 Q. And can you explain your - - do you have  
22 an understanding of - - he went into bankruptcy and you  
23 were a creditor?

24 A. Yes.

25 Q. And so you couldn't collect from him?

1 A. Yes.

2 Q. The bankruptcy stayed those proceedings?

3 A. Right.

4 Q. Did you have an understanding if it was  
5 this business failure that forced him into bankruptcy?

6 A. I'm not quite sure. I just know he went  
7 BK. He filed for bankruptcy.

8 We were listed as a creditor and by that  
9 time we had re-rented the complex so the loss had been  
10 minimized.

11 Q. That bankruptcy came sometime after you  
12 received the October letter saying - - from Mr. Kato  
13 saying "Please take me off as a guarantor."?

14 A. Yes.

15 Q. When the lease was entered into between  
16 Sinergi and Mr. Kato and yourself or your business were  
17 you given some type of financial statements for Sinergi?

18 A. Yes.

19 Q. Did you ever check those financial  
20 statements out to see whether they were true and  
21 accurate?

22 A. They seemed to be accurate.

23 We had run a credit check on Mr. Kato and  
24 we felt, because of his financial status, individually,  
25 we could grant the lease.



1 Q. I want to be clear.

2 You were looking to Mr. Kato for the  
3 guarantee of this lease payment and never to Mr. Limanni?

4 A. No.

5 Q. At this time in late 1998, October,  
6 November, December, 1998, there was another building  
7 within this complex or another room within this complex  
8 being rented out as a boiler room or telemarketing room,  
9 correct?

10 A. I wasn't sure exactly what it was, but it  
11 was telemarketing.

12 Q. Do you know whether any individuals that  
13 worked there were indicted in the federal system?

14 A. No.

15 Q. Was it closed down at some point?

16 A. Yes.

17 Q. In fact they rented that office and paid a  
18 bunch of money up front and then closed down sometime  
19 within the time frame that they had paid in advance?

20 A. Yes.

21 We had a lease agreement with an attorney  
22 in New York and because of his distance we requested more  
23 money up front.

24 Q. When is rent due or under the lease  
25 agreements between yourself and Sinergi when was rent due

1 during the month?

2 A. On the 1st.

3 Q. So when you see Mr. Limanni on the 6th, if  
4 that's the Friday you saw him, he's five days overdue  
5 with rent?

6 A. One day actually. We give them until the  
7 5th.

8 Q. So they take the statutory five-day late  
9 time before you try to go out and post a five-day notice  
10 you told these folks about?

11 A. Yes.

12 Q. And Mr. Limanni asked you not to do that  
13 day, correct?

14 A. Yes.

15 Q. He pulled out of his pocket a wad of cash?

16 A. Yes.

17 Q. He said he would be back and pay you on  
18 Monday?

19 A. He was going to pay me right then and  
20 there. I was going to accept the money and he asked  
21 afterwards "Do you think I could hold off? Since I'm  
22 late, I can go ahead and pay on Monday, over the  
23 weekend."

24 Q. It wasn't you saying to Mr. Limanni "Hey,  
25 why don't you hold off until Monday?"

1 He asked you for the favor?

2 A. Yes.

3 Q. His justification was that he had to go do  
4 some type of cigar show?

5 A. Yes.

6 Q. Was there a cigar show at Cashman Field  
7 that week?

8 A. I don't know. I'm not sure if there was  
9 or not.

10 Q. Did you ever see any proof from him that  
11 he entered or had anything to do with the cigar show that  
12 weekend?

13 A. Nothing except there was some scattered  
14 cigars after we entered, after the five-day notice was  
15 completed.

16 Q. And that would have been the 17th or a  
17 couple weeks later on?

18 A. Yes.

19 Q. When the police officers were there?

20 A. It would be after that.

21 Q. You posted the five-day notice sometime  
22 during the week. If the 6th is when you see Mr. Limanni,  
23 it would have been sometime during the week of the 9th;  
24 that is accurate?

25 A. It was the Monday, that Monday, whenever

1 it was. It was the 6th.

2 Q. The 9th?

3 A. Right.

4 Q. And in response to that my client, Jack  
5 Seka, called you and told you that he didn't know where  
6 Mr. Limanni was, correct?

7 A. Yes.

8 Q. He thought they were going to make good on  
9 the rent?

10 A. Yes.

11 Q. Correct?

12 A. Yes.

13 Q. And that never came to be; is that  
14 accurate?

15 A. Yes.

16 Q. There was a brown truck, Toyota pickup  
17 owned by this business; is that correct?

18 A. I don't know if it was owned by the  
19 business, but it was used there.

20 Q. Do you know who owned all the vans and the  
21 truck in question?

22 A. No.

23 Q. You never got to see who was on the lease?

24 A. No. On the truck and vans I suspected it  
25 was Mr. Kato.

1 Q. This truck they had back then, it was kept  
2 clean, correct?

3 A. It appeared to be clean.

4 Q. And that's what you told the police back  
5 when they interviewed you in your taped statement on  
6 November 17, 1998?

7 A. 17th. That would have been a Wednesday.  
8 It was the following Wednesday, I mean after the five  
9 day, so it would have been 9, 10, 11 - -

10 Q. If I show you, might that help your  
11 recollection?

12 A. Sure.

13 MR. CHRISTIANSEN: May I approach the  
14 witness?

15 THE COURT: Yes.

16 MR. CHRISTIANSEN: I'm showing him the  
17 statement, counsel.

18 THE WITNESS: I know I gave a statement.  
19 I didn't know it was that date.

20 BY MR. CHRISTIANSEN:

21 Q. It was on a Wednesday; is that accurate?

22 A. Yes.

23 Q. If the 17th was the following Wednesday,  
24 that would comport with your memory?

25 A. Yes.

1 Q. In that statement you told the police the  
2 truck was kept clean, correct?

3 A. Yes.

4 Q. And that - - in that statement you also  
5 told the police that at the time Mr. Limanni showed you  
6 the cash and asked the favor, on the 6th, that he had a  
7 blonde-headed, I think you said a shapely, blonde-headed,  
8 nice looking gal?

9 A. She came out of the building, yes.

10 Q. I think you told Mr. Kane she wasn't part  
11 of the conversation, but she was with him?

12 A. No, no.

13 Q. Was he wearing shoes when you saw him on  
14 the 6th?

15 A. I can't recall if he was or not.

16 Q. Now, this is wintertime.

17 Did you notice a guy walking around  
18 barefooted?

19 A. Wouldn't seem logical, but we have nice  
20 weather here.

21 Q. I want to tell you - - talk to you about  
22 the time when when Mr. Seka pulls up to the business on  
23 the 17th of November.

24 You've already told the jury, in response  
25 to Mr. Kane's questions, that you asked Jack for a key to

1 the building; is that correct?

2 A. Yes.

3 Q. That's a key to 1933, just so I'm  
4 specific?

5 A. Yes.

6 Q. Jack then gives you the key to 1933  
7 Western and you let the police officers in?

8 A. There was a key inside. I don't know if  
9 there was was a key inside that I received.

10 I'm not sure who opened the door to get  
11 inside. We entered all at the same time.

12 Q. You just can't remember if you unlocked  
13 the door or if Jack unlocked door?

14 A. I can't remember that.

15 Q. Once you go inside, the police officers  
16 appear to look around, they see a bullet and they - - a  
17 penknife of some type and they handcuff Jack while they  
18 look around the inside of the building?

19 A. Yes.

20 It was just the one officer that I can  
21 remember that went inside. We went inside together, all  
22 three of us.

23 Q. Were these uniformed officers?

24 A. Yes.

25 Q. In black and whites?

1 Q. I think so.

2 Q. Do you remember how many patrol cars were  
3 there?

4 A. There was more than one patrol car when we  
5 entered the building, yes.

6 Q. Did the officers that were with you - - do  
7 you remember the names either being Kroll or Nogues?

8 A. I can't remember their names.

9 Q. Fair enough. Been a couple of years.  
10 Did the officer that went inside with you  
11 ever go on to the back door of that building?

12 A. Not when I entered with them. I didn't go  
13 all the way in the back.

14 I stayed in the foyer and door area.  
15 He might have gone out the back door, but I didn't see  
16 him go out.

17 Q. How long was he out of your eyesight?

18 A. Not very long.

19 Q. Long enough to go out the back yard and  
20 search the dumpster and the area?

21 A. I didn't see.

22 Q. When was the first time you saw anybody  
23 from the Las Vegas Metropolitan Police Department behind  
24 on the east side of 1933 by that dumpster?

25 A. It was after - - it was late, because I



1 had left the site and they had asked me to be on call to  
2 come back and lock it up if I needed to.

3 They called me. I was at Bible study on  
4 Wednesday nights. It must have been after 8:30, 9:00  
5 o'clock when he called and I returned to the site to lock  
6 it up.

7 When I returned - - I don't know for what  
8 reason - - I went around the back. There was two  
9 officers in the back searching the trash bin.

10 Q. This would have been sometime around the  
11 time you gave this taped statement?

12 A. I think so, yes.

13 Q. So if the taped statement indicates that  
14 you had gave it at 2135, military time, I think that's  
15 about 9:30 real person time?

16 A. Right.

17 Q. So that would have been - - comported to  
18 your memory, correct?

19 A. Yes, it would.

20 Q. And prior to you going back to Western to  
21 secure the premises Jack called you on the phone, didn't  
22 he?

23 A. No. It was after I got home that evening.

24 Q. What did he ask you to do when he called  
25 you on the phone?

1           A.    He said that he was going to be gone for a  
2 while and that if I could take care of the dog and make  
3 sure I would feed it or pick it up.

4                   I looked after the dog.

5           Q.    At any point did Jack say to you any  
6 version of events other than what you've told the jury  
7 that he didn't know where Mr. Limanni was?

8           A.    No. He insisted he didn't know where he  
9 was.

10          Q.    And prior to you giving the statement to  
11 the police officers and even as we sit here today you're  
12 not friends the Jack Seka, are you?

13          A.    No.

14                   Well, I know Jack and I've talked to him.  
15 He was a friendly person. I'd call him a friend if I saw  
16 him, talked to him.

17          Q.    You didn't know his name, last name when  
18 you gave the statement to the police?

19          A.    I honestly don't think I knew his last  
20 name.

21          Q.    Everything you've testified here today is  
22 to the best of your recollection, even though it's three  
23 years out?

24          A.    Yes.

25                   MR. CHRISTIANSEN: Thank you. Pass the

1 witness.

2 THE COURT: Re-direct?

3 MR. KANE: Two things to clear up.

4  
5  
6 RE-EXAMINATION

7 BY MR. KANE:

8 Q. When you got to the business on the day  
9 when the police were there?

10 A. Yes.

11 Q. Who got their first?

12 Were the police there when you got there  
13 or the other way around?

14 A. No. I was there first.

15 At 1929, at the break-in, I was there  
16 first. We called the police and then they arrived.

17 Q. Then the police arrived?

18 A. Yes.

19 Q. You had mentioned that at one point Mr.  
20 Kato stopped coming around the business?

21 A. Yes.

22 Q. About when was that?

23 A. I would say towards the end of June, maybe  
24 July, beginning of July. You know, I didn't see him.

25 I saw him on a regular basis the first

1 month, maybe month and a half he was there full-time.

2 Q. Between the end of July and the events  
3 we've been talking about and the end of November 1998 did  
4 you ever see Mr. Kato at the business?

5 A. I think once.

6 Q. And when was that in relation to what  
7 we're talking about, that first or second week of  
8 November?

9 A. It was - - he had come down to talk to  
10 Pete about something and he come in the office and asked  
11 me - - he said he was unhappy with the arrangement. He  
12 wanted to try and make arrangements to get out.

13 I told him at that time I couldn't do it.

14 Q. What I'm trying to get clear on is when  
15 was that in relation to these events in November?

16 A. I would say in August.

17 Q. A couple of months before?

18 A. Yes.

19 Q. That was the last time you saw Mr. Kato at  
20 the premises at 1933 Western?

21 A. I saw him afterwards when he came back up  
22 after.

23 Q. Right. I mean between - -

24 A. No.

25 Q. - - that date and the date the police were

1 there that was the last time you had seen him?

2 A. Yes.

3 MR. KANE: Nothing further.

4 THE COURT: Anything further?

5

6

7

RE-EXAMINATION

8 BY MR. CHRISTIANSEN:

9 Q. Mr. Cerda, did Mr. Limanni ever tell you  
10 he had one of these Sinergi businesses or heating and air  
11 conditioning businesses in other cities?

12 A. I think so.

13 Q. Did he ever give you a card indicating a  
14 Paulsborow area, Williamstown area business?

15 A. I got some documents back in the file that  
16 had other locations. I think Arizona some place.

17 MR. CHRISTIANSEN: May I approach the  
18 witness?

19 THE COURT: You may.

20 BY MR. CHRISTIANSEN:

21 Q. In response to my subpoena you gave me a  
22 photocopy on the top that has Peter Limanni's name on a  
23 business card with locations and phone numbers in  
24 Paulsborow and Williamstown; is that correct?

25 A. Yes.

1 Q. Did you keep that in the regular course of  
2 your business?

3 A. Yes.

4 Q. Is that something Peter Limanni gave to  
5 you?

6 A. Yes.

7 Q. And so that leads you to believe he had  
8 this business in other areas - -

9 A. Yes.

10 Q. - - of the country prior to starting up  
11 with you?

12 A. Yes.

13 MR. CHRISTIANSEN: Judge, move for the  
14 admission of Defense Proposed Exhibit A.

15 THE COURT: Any objection?

16 MR. KANE: No objection.

17 THE COURT: It is received. Thank you.

18 MR. CHRISTIANSEN: Nothing further.

19 Thank you, Mr. Cerda.

20 THE COURT: You may step down.

21 Counsel approach, please.

22 (Discussion off the record.)

23 THE COURT: Ladies and Gentlemen, we will  
24 adjourn for the evening. Let me read to you the  
25 admonition as is required by the law.

1 (Whereupon, the Court admonished the  
2 jury.)

3 THE COURT: Let me, if I may, add one  
4 thing to that. When you go home it is likely that a  
5 family member or friend might well ask you "What happened  
6 in Court today?"

7 It's a very natural question. You don't  
8 come to Court every day. Please refrain from discussing  
9 it with them. Not only is it very definitely the law,  
10 but perhaps more importantly it's just fair.

11 If you were the prosecutor or if you were  
12 the Defendant you would want a decision made by the jury  
13 based on what happens here in Court, not what someone's  
14 neighbor thinks or their husband or son. You see the  
15 situation.

16 Relatively soon, in a very short time,  
17 you'll be able to discuss this with anyone you'd care to.  
18 Please resist the temptation of discussing it because my  
19 experience has been once you start talking about it,  
20 maybe things that seem innocuous, it leads to another  
21 question and pretty soon you're talking about things that  
22 really you shouldn't be. Please keep that in mind.

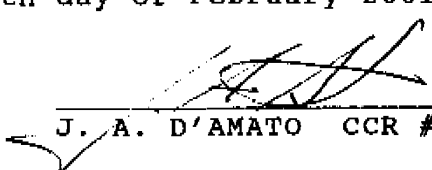
23 Small thing to ask. We will resume at  
24 1:00 o'clock tomorrow. Be here punctually because we  
25 can't start until we're all assembled.

1 If there's anything to discuss, counsel,  
2 outside the presence of the jury before we begin tomorrow  
3 I would ask you to see me before 1:00 o'clock.

4 Court is adjourned.  
5  
6  
7  
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9  
10  
11  
12

13 (4:50 p.m.)  
14  
15  
16  
17  
18  
19  
20  
21

22 ATTEST that this is a true and complete transcript of the  
23 proceedings held, DATED this 14th day of February 2001.

24   
25 J. A. D'AMATO CCR #017





I N D E XWITNESSES ON BEHALF OF THE STATE: PAGE**GILES SHELDON GREEN, M.D.**

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1 LAS VEGAS, NEVADA. WEDS., FEBRUARY 14, 2001, 1:00 P.M.

2 \* \* \* \*

3

4 THE COURT: The continuation of  
5 C159915, State versus John Joseph Seka. The record will  
6 reflect the presence of the defendant; his counsel,  
7 Mr. Christiansen and Mr. Kennedy; Mr. Kane and Mr. Fattig  
8 present for the State. The record will further reflect  
9 the absence of the jury.

10 Mr. Christiansen, you have a motion?

11 MR. CHRISTIANSEN: Yes, Your Honor.  
12 Yesterday during opening statements Mr. Kane mentioned  
13 DNA, and eventually mentioned the name of a Mr. David  
14 Welch who works for the Las Vegas Metropolitan Police  
15 Department Forensic Laboratory.

16 And at that time during openings and  
17 contemporaneous with the mentioning of that name, we  
18 objected. We approached the bench, and off the record  
19 spoke to Your Honor about the lack of notice as required  
20 by NRS 174.234, inasmuch as the State had failed to give  
21 us notice of this expert and his CV as required 21 days  
22 prior to trial.

23 So I first ask the Court that it deem the  
24 objection timely and appropriate at the time. We are  
25 making a record of it now so we didn't interrupt

1 proceedings yesterday.

2           The issue in the case, really, is whether  
3 the Court should preclude David Welch from testifying on  
4 behalf of the State. We've impaneled the jury, we've had  
5 one witness testify already. I was provided Mr. Welch's  
6 CV either last night by Mr. Kane, or this morning. It was  
7 at my office when I got there this morning. I don't know  
8 if he faxed it to me last night.

9           And his CV shows that he has a Masters in  
10 Forensic Chemistry and a Bachelors in Biology. We were  
11 given this afternoon when we came to trial the  
12 Supplemental Notice of Expert Witness, which does comport  
13 to the referenced statute, and that notices David Welch to  
14 testify.

15           Now, I have had possession of Mr. Welch's  
16 reports done in connection with this case. I've had one,  
17 I think in March of 2000, and then about a week or ten  
18 days ago Mr. Kane and I met up at the homicide office with  
19 Detective Thowsen. I noticed that I didn't have a second  
20 report, and Mr. Kane provided that report to me at the  
21 time.

22           However, had I known and been notified that  
23 Mr. Welch was going to testify, had he been listed on the  
24 witness list, even a nonexpert witness list, I would have  
25 retained an expert of my own to examine the forensic

1 evidence in this case.

2           It becomes quite important, Your Honor, if  
3 you just sort of breeze over the reports done by these  
4 purported experts. In every DNA test I've looked at in  
5 trials I've done the results are, if they're a positive  
6 result, astronomical numbers.

7           In other words, they say the chance of it  
8 not being a certain individual's blood or DNA is one in  
9 some-odd billion or trillion, numbers that are very  
10 amazing and impress a jury, surely.

11           However, if the Court just briefly glances  
12 through Mr. Welch's reports, he has such numbers as one in  
13 17,200, and one in 88,000, which I can tell the Court  
14 seems no more DNA evidence -- no more beneficial than the  
15 old-fashioned blood typing, and far less scientific than  
16 DNA evidence.

17           So there is definitely fruit and fodder to  
18 be had with Mr. Welch, who expectedly is going to come in  
19 here and stand up and say: I know the blood found in the  
20 back of the truck was Peter Limanni's -- or Eric  
21 Hamilton's, and I know the blood found in the back of the  
22 van was Peter Limanni's.

23           We are put at a severe downside and having  
24 our hands tied, and being expected to review a CV of a  
25 purported expert in a day, or a week for that matter, when

1 our legislature has mandated that they give us 21 days.

2           The statue in question is mandatory. It's  
3 not a "may" statute, it says "shall." The State or the  
4 Court shall -- and it gives the Court the discretion.  
5 Subsection 3A says, "The Court shall prohibit an  
6 additional witness from testifying if the Court determines  
7 that the party acted in bad faith by not including the  
8 witness on written notice required by Subsection 1.

9           I am not suggesting that Mr. Kane or  
10 Mr. Fattig intentionally tried to hide things from us or  
11 hide the ball; however, we are in a death penalty case  
12 where the most severe penalty is being sought by the State  
13 of Nevada.

14           And we are at a disadvantage now having to  
15 review a Curriculum Vitae, as well as questionable reports  
16 and results in a matter of days, when we should have had a  
17 matter of 21 days at minimum as required by statute.

18           So I would ask that the Court preclude David  
19 Welch from testifying in this case. It's clearly within  
20 your authority to do that. The statute allows you to do  
21 that. The State can put their witnesses on and continue  
22 through the case without his testimony.

23           And it was no failure on the part of the  
24 Defense that we were not notified of the State's intention  
25 to use David Welch as an expert in this case.

1 THE COURT: Thank you. Response?

2 MR. KANE: Your Honor, I would ask  
3 permission to file the Supplemental Notice of Expert  
4 Witness in open court?

5 THE COURT: Very well.

6 MR. KANE: And I just want to make a  
7 record on the issue of good faith. If the Court will take  
8 a look at the Notice of Expert Witnesses that we did file  
9 in this case, you'll see that every crime scene analyst is  
10 listed as an expert witness, people who just go out and  
11 pick up evidence, bring it into court and say: Yeah,  
12 that's my signature on the evidence bag. They're all  
13 listed as experts.

14 In other words, in our unit every effort is  
15 made to list everybody who could conceivably be thought to  
16 give an expert opinion. In homicide cases especially, all  
17 of the reports aren't done at the beginning of the case.  
18 Reports dribble in from time to time, especially reports  
19 of forensic examination.

20 For that record, I have never believed that  
21 the open file policies instituted by our office is the  
22 most effective means to make sure that needed information  
23 gets into the hands of the Defense.

24 I've got my own policy, and my own policy  
25 which I implement in every case, and did in this case, was

1 to make my file available to the Defense at any time. As  
2 we get close to a firm trial date -- and the Court well  
3 knows that usually several trial dates are set in a  
4 homicide case, and finally you get one where you know it's  
5 pretty much going to go.

6 And as you get close to that date, it has  
7 always been my policy, and I did it in this case, told  
8 Defense counsel: Please, come to my office, go over my  
9 file page by page to make sure that there's nothing that  
10 I've got here that you haven't got. That was done within  
11 the last two to three weeks.

12 After that, Mr. Christiansen told me that he  
13 wanted to go to homicide and take a look at the homicide  
14 detective's file just to make double sure that I had  
15 everything the homicide detective had, and that  
16 Mr. Christiansen had everything that I had.

17 We did that and we spent a couple of hours  
18 with the homicide detective one afternoon.

19 Mr. Christiansen pulled out several pages of reports. I  
20 think they were all reports of forensic examination, one  
21 by Torrey Johnson, one by Mr. Welch.

22 I asked the detective who was running the  
23 copies of those reports to run extra copies just so I  
24 would know what was alleged to have been missing. And  
25 when I got back to my office after the conference with the



1 homicide detective, I compared the extra reports that  
2 Mr. Christiansen had requested with the reports in my  
3 file, and they were all duplicates of things that were in  
4 my file.

5 Now, David Welch did do two separate  
6 reports. He did an original report which Mr. Christiansen  
7 has indicated he received back in March of 2000. And then  
8 he did a supplemental report.

9 Now, I suspect that in going through my file  
10 what happened was, they were viewed as duplicates of the  
11 same report, and that's why Mr. Christiansen wound up  
12 without one.

13 All of this being said, there has been  
14 absolutely no bad faith here. Mr. Christiansen and I have  
15 made reference from time to time in a joking manner about  
16 there's going to be DNA evidence at the trial since that  
17 original report was turned over in March of 2000.

18 There's been no effort here to hide  
19 anything, and it certainly wouldn't be in my interest to  
20 hide anything. The only thing that they got at the last  
21 minute was his CV. And his CV is his CV. It's where he  
22 went to school, what his experience is, the courts in  
23 which he is qualified.

24 I know what the statute says, and I think I  
25 know why the statue is there, so that neither side in the

1 middle of trial will come out of left field with some  
2 witness that no one has ever heard of, testifying in an  
3 issue that is unforeseen, and all of that investigation  
4 has to be done in the middle of trial.

5 This is a witness testifying in an issue  
6 that the Defense has known would be an issue since at  
7 least of March 2000 when they received the first report.  
8 And the only thing that was turned over at the last minute  
9 right at the eve of trial was the CV. And the only reason  
10 that happened is, I didn't know they hadn't gotten it.

11 I will admit that all of the formal  
12 discovery procedure does not excuse my responsibility for  
13 complying with statutory requirement, and we blew it. He  
14 should have been listed as an expert witness in that  
15 notification, and he wasn't.

16 But the only situation in which the statute  
17 addresses exclusion of the witness's testimony is where  
18 the Court makes a finding that the State has acted in bad  
19 faith. That didn't happen here.

20 So the remedy should be, if the Defense  
21 needs a day or something to get an expert here to attack  
22 either Mr. Welch's conclusions or his CV, they should be  
23 allowed that, but Mr. Welch should be allowed to testify.

24 THE COURT: Mr. Kane, of your  
25 knowledge, do you know how many times, if at all,

1 Mr. Welch has been recognized as an expert in any court  
2 system that is comparable to this court on the DNA matter?

3 MR. KANE: He was been recognized as an  
4 expert on DNA matters on approximately ten occasions.

5 THE COURT: In what system?

6 MR. KANE: In our court system.

7 THE COURT: Was there something more,  
8 Mr. Christiansen?

9 MR. CHRISTIANSEN: Judge, only to point  
10 out to the Court that there is something more that a CV  
11 brings in terms of if you're trying to defend a case. And  
12 the best example I can give is, about three years ago  
13 there was a defense expert who traveled around the country  
14 testifying about methamphetamine labs.

15 And a Prosecutor in this jurisdiction in the  
16 federal system did a background check on this Defense  
17 witness's -- expert witness, he testified in multiple  
18 jurisdictions as an expert. They did a background check  
19 on him and found that he had a felony conviction in Texas,  
20 and had served some prison time at a point in time when on  
21 his resume he was supposedly attending some graduate  
22 school some place else.

23 And so every time I get a CV and get a  
24 notice that somebody is going to testify as expert, my  
25 staff is meticulous about calling every place this

1 gentleman purportedly, or woman purportedly was in terms  
2 of their education and their experience, and verifying  
3 this.

4 That is a time-consuming effort, and it's  
5 one which I will not be allowed to undergo in this process  
6 because of the late notice given, not comporting to the  
7 statute regarding Mr. Welch.

8 THE COURT: Thank you. All right.  
9 Today is Wednesday. Mr. Kane, when will you conclude your  
10 case in chief?

11 MR. KANE: Your Honor, I expect to  
12 conclude next Tuesday or Wednesday, however --

13 THE COURT: You realize Monday is a  
14 holiday?

15 MR. KANE: Right. However, Mr. Welch  
16 is leaving town Saturday morning. He also has a doctor's  
17 appointment at 3:15 on Friday. So it had always been my  
18 plan to call him tomorrow.

19 And as far as his CV, I don't challenge the  
20 Defense's right to look into it. If they find out that  
21 he's a felon or spent some time in prison, I've known Dave  
22 for about 20 years, we can strike his testimony and give  
23 whatever instruction we need to the jury. That's not  
24 going to happen.

25 But if they need some time to check his

1 qualifications, I certainly think we'll be finished with  
2 our evidence by Tuesday or Wednesday, and if a day or so  
3 is needed to get an expert in here on behalf of the State,  
4 I'm not going to raise an objection to that.

5 THE COURT: All right. The attendant  
6 circumstances do not amount, in my judgement, to bad faith  
7 on the part of the Prosecution. I think we have more of  
8 an oversight than anything else.

9 Having said that, it would be my intention  
10 not to strike the testimony, but to try and cure or avert  
11 any disadvantage that might be suffered by the Defense.

12 Now, I asked the question of you, Mr. Kane,  
13 not to determine when your man would testify, but to get  
14 some idea as to when the Defense would be calling a  
15 counter to this if, in fact, they elect to do so. And I  
16 would estimate maybe Thursday of next week or, perhaps,  
17 Friday. Is that in the ball park, Mr. Christiansen?

18 MR. CHRISTIANSEN: That sounds to me to  
19 be correct. As I indicated to the Court in chambers after  
20 I got the CV yesterday, last night and this morning I've  
21 been in contact with an individual I've used in  
22 California. I sent her just as I was leaving office, I  
23 was faxing her all of the relevant information.

24 I'm hopeful that I can speak to her tonight  
25 or tomorrow morning. Since we only have the afternoon

1 trial schedule, that gives me some flexibility in the  
2 morning to talk to her to try and prepare for  
3 cross-examination of Mr. Welch and, hopefully, get her  
4 here Thursday or Friday of next week.

5 She told me she was free at some point next  
6 week. I could tell the Court tomorrow when we come in at  
7 1:00 o'clock what day I can have her here. She's not far,  
8 Judge. She's only in LA, so it's an hour flight if, in  
9 fact, I intend to use her.

10 The only problem I potentially see is -- if  
11 Mr. Kane has known David Welch for 20 years, I doubt I'm  
12 going to find that he was in prison in Texas or anything  
13 of that nature. If I did uncover something as dramatic as  
14 that, I would reserve my right to recall him in my case in  
15 chief, and expose whatever problems with his CV I discover  
16 in the next week, even after he is done testifying.

17 MR. KANE: And, Judge, as one final  
18 accommodation, since this is my fault. If it turns out  
19 that Mr. Christiansen's witness is only available let's  
20 say Tuesday, and I am still in the middle of the State's  
21 case, I have no objection to interrupting that and allow  
22 her to be called out of turn, so we don't lose her  
23 testimony.

24 THE COURT: Well, that's certainly  
25 understood. And I think it's safe to indicate the Court

1 is going to accommodate this situation on the part of the  
2 Defense in any way that is feasible. And I think the  
3 State will agree with that as well.

4 MR. KANE: Yes, Your Honor.

5 THE COURT: Any else outside the  
6 presence of the jury, counsel?

7 MR. CHRISTIANSEN: No, sir.

8 MR. KANE: No, Your Honor.

9 THE COURT: Mr. Bailiff, please.

10 (Whereupon, the jury entered the courtroom.)

11 THE COURT: Ms. Clerk, would you call  
12 the roll of the jury, please.

13 THE CLERK: Paul Kanala?

14 JUROR KANALA: Here.

15 THE CLERK: June Craig?

16 JUROR CRAIG: Here.

17 THE CLERK: Antonina Clark?

18 JUROR CLARK: Here.

19 THE CLERK: Jamila Pierson?

20 JUROR PIERSON: Here.

21 THE CLERK: Timothy Thomas?

22 JUROR THOMAS: Here.

23 THE CLERK: Laura Williams?

24 JUROR WILLIAMS: Here.

25 THE CLERK: Daniel Brown?

1 JUROR BROWN: Here.  
2 THE CLERK: Shari Custard?  
3 JUROR CUSTARD: Here.  
4 THE CLERK: Trudy Reeves?  
5 JUROR REEVES: Here.  
6 THE CLERK: Scott Saunders?  
7 JUROR SAUNDERS: Here.  
8 THE CLERK: Monta Hafen?  
9 JUROR HAFEN: Here.  
10 THE CLERK: Barbara Kwiatkoski?  
11 JUROR KWIATKOSKI: Here.  
12 THE CLERK: Michelle Pro?  
13 ALTERNATE JUROR PRO: Here.  
14 THE CLERK: Eric Zuck?  
15 ALTERNATE JUROR ZUCK: Here.  
16 THE CLERK: Your Honor, the panel is  
17 present.  
18 THE COURT: Very good. Good afternoon,  
19 ladies and gentlemen. The State may call their first  
20 witness of the day.  
21 MR. KANE: Dr. Giles Sheldon Green,  
22 Your Honor.  
23 / / /  
24 / / /  
25 / / /



1 Whereupon,

2                   GILES SHELDON GREEN, M.D.,  
3 was called as a witness by the State, and having been  
4 first duly sworn, was examined and testified as follows:

5

6                   DIRECT EXAMINATION

7 BY MR. KANE:

8           Q       Sir, would you please state your name and  
9 spell your last name for the record.

10          A       Giles Sheldon Green, G-r-e-e-n.

11          Q       Sir, by whom are you employed?

12          A       I am employed by Clark County as a coroner  
13 in the Medical Examiner Department.

14          Q       And are you a Medical Doctor, sir?

15          A       I am.

16          Q       Would you briefly summarize for the ladies  
17 and gentlemen of the jury your educational and  
18 professional background.

19          A       Okay. I received my degree of Doctor of  
20 Medicine from the University of Oregon School of Medicine  
21 in Portland in 1959. I served one year of internship at  
22 St. Mary's Hospital in San Francisco. And then one year  
23 of postgraduate training or residency training in the  
24 field of obstetrics also at St Mary's.

25                   At the end of that year I had changed my

1 field of interest to pathology, and spent the next two  
2 years in postgraduate training in pathology at  
3 St. Joseph's Hospital, also in San Francisco.

4 I then moved to Houston, Texas, and spent  
5 the next three years in postgraduate training in pathology  
6 at the University of Texas, M.D. Anderson Hospital.  
7 Following that I was appointed on the staff of Anderson  
8 Hospital as Assistant Pathologist and Assistant Professor  
9 of Pathology in the University of Texas system.

10 I remained on the staff there for  
11 approximately two years, and in the fall of 1968 I joined  
12 the Harris County Medical Examiners Department, which also  
13 is in Houston. I served with that department for  
14 approximately seven years, first as Assistant Medical  
15 Examiner, and later as Deputy Chief Medical Examiner.

16 Finally, I moved here to Las Vegas in 1975  
17 to join the Clark County Coroner Medical Examiner  
18 Department, and I've been here ever since. I have a  
19 license to practice medicine here in Nevada, of course. I  
20 have held active licenses in both Texas and California,  
21 which I no longer pay exorbitant rates for.

22 I'm certified by the American Board of  
23 Pathology in fields of anatomic pathology, clinical  
24 pathology, and forensic pathology. And I'm a  
25 member -- I'm not going to bore you with the list

1 here -- but member of most of the professional  
2 organizations in North America which deal with the  
3 problems of forensic pathology, and the forensic science  
4 in general.

5 Q You've used the term forensic pathology,  
6 Doctor. Would you explain what that is to the ladies and  
7 gentlemen of the jury.

8 A Forensic pathology is a subspecialty of the  
9 general field of pathology, and it deals with the medical  
10 part of the investigation of sudden, unexpected, or  
11 violent death.

12 Our job is to examine the remains of those  
13 who were found dead here in our community, and to  
14 determine why they died, what the circumstances were, and  
15 what really happened, and what really went on there.

16 Many of these cases are natural deaths. We  
17 have an enormous number of natural deaths which we look  
18 at. And there are many that are violent deaths. We must  
19 look at all of those, whether these are accidents, or  
20 suicides, homicides, or a body that's found and nobody  
21 knows what happened. They're all ours.

22 Q Do your duties with Clark County Coroner's  
23 Office include performing autopsies on the bodies of  
24 persons who die under suspicious circumstances?

25 A Yes, sir.

1           Q       Do your duty also include forming opinions  
2 as to the cause and manner of the deaths of those persons?

3           A       Yes, sir.

4           Q       And, finally, do your duties include  
5 testifying about those opinions and conclusions in court?

6           A       Yes.

7           Q       Have you previously qualified as an expert  
8 in the field of forensic pathology before any courts in  
9 the State of Nevada?

10          A       Many times, yes.

11          Q       At all levels of trial courts?

12          A       From the Grand Jury or Justice Courts or  
13 District Courts, and in the federal courts as well.

14          Q       And I won't ask you how many times, but  
15 starting in what year?

16          A       I suppose the first time was about 1976 in  
17 Texas, and most of the court appearances there were in the  
18 District Court. And I suppose over the years between  
19 Texas and Nevada and the scattering of other states, a  
20 thousand times or more.

21                   MR. KANE: Your Honor, I would tender  
22 the witness for voir dire on his expert qualifications.

23                   MR. CHRISTIANSEN: I don't have any  
24 questions for Dr. Green.

25                   THE COURT: The doctor is recognized as

1 an expert in his general field. Proceed.

2 Q (By Mr. Kane) I want to direct your  
3 attention to November the 17th of 1998, Doctor, did you  
4 perform an autopsy on that date on the body of a person  
5 who was later identified to you as Eric Hamilton?

6 A Yes, I did.

7 Q Now, at the time you performed the autopsy,  
8 he had been booked as a John Doe; is that correct?

9 A That is correct.

10 Q Is it part of your practice, Doctor, to have  
11 photographs taken in the course of the autopsy?

12 A Yes. The photographs which you have  
13 undoubtedly were taken by one the people from the Police  
14 Department Crime Lab. I think that was Mr. McPhail. They  
15 handle virtually all the photography. We are now doing  
16 more photography in-house than we used to, but at that  
17 time we weren't doing very much.

18 MR. KANE: May I approach, Your Honor?

19 THE COURT: You may.

20 Q (By Mr. Kane) I only want to show you one  
21 photograph, what's been marked for the purposes of  
22 identification as State's Proposed Exhibit 1. Is that a  
23 picture of the person who was identified to you, at least  
24 back on November the 17th, as John "Lumber" Doe?

25 A Yes. I'm not sure the date that he

1 was -- it must have been the 17th, because that's the date  
2 of the autopsy. But he was found on the 16th, and we  
3 didn't know then who he was.

4 Q Understood. And does this fairly and  
5 accurately depict the way he looked on November 17th of  
6 1998?

7 A Yes. May I make one comment here? In the  
8 picture there is a rectangular piece of heavy paper which  
9 we prepare for identification purposes for the  
10 photographers. And this one says John Doe, but it also  
11 says John, quote, "Lumber" Doe.

12 The reason for that is, that when he was  
13 found there was some pieces of fresh-thrown lumber either  
14 on or near the body.

15 MR. KANE: Offer State's Exhibit 1,  
16 Judge.

17 MR. KENNEDY: No. Objection.

18 THE COURT: It is received. Thank you.

19 Q (By Mr. Kane) Would you briefly outline the  
20 procedure that you employed in performing this autopsy for  
21 the benefit of the ladies and gentlemen of the jury?

22 A The procedure is quite standard and quite  
23 routine. We first review all of the information that is  
24 available about a particular case. We have our own  
25 investigators who go to the scene of death, collect as

1 much information as they can about the person, get him  
2 identified, if possible, and give us a word picture of  
3 what the situation looked like.

4           They file a written report that we have  
5 available the next morning. And, also, in cases which  
6 involve police officers, detectives, and so on, we often  
7 have a lot of conversation about the case, and they often  
8 can fill in blank spots that were not possible to fill in  
9 at the time that our investigator was there.

10           So we try to find out as much as we can  
11 about the individual in question, basically, so that we  
12 know what questions we have to answer.

13           We then examine the body externally. My  
14 routine is to start at the top of the head and work my way  
15 all the way down, using a handheld tape recorder so that  
16 as I look at the body and various features of it, I'm  
17 dictating my findings. And by the time I'm through  
18 looking, I'm through talking. It's all on tape.

19           The body then is opened and we have a chance  
20 to look at the various organs and structure of the chest  
21 and abdomen as they lie together in their normal  
22 relationships. And we're looking for anything out of the  
23 ordinary, any abnormal, evidence of injury, disease  
24 malformation, whatever may be unusual.

25           Finally, each of the various vital organs is

1 removed and they are examined by the pathologist, in this  
2 case myself, weighed, measured, findings dictated. And  
3 when you finally get through with all this, hopefully we  
4 have a good idea of what happened to this person, some  
5 idea of who he is or she is. And we know more about the  
6 circumstances of death than we did when we started.

7 Now, this is just a basic routine. We may  
8 go on to do other things. We often will do toxicologic  
9 studies. We, our own department, does not do them. These  
10 are performed by Associated Pathologist Laboratories here  
11 in town. They have undoubtedly the best toxicology  
12 laboratory between Los Angeles and Salt Lake.

13 Particularly in cases where there may be  
14 evidence or suggestion of violence, we like to have the  
15 toxicology studies. We want to know if the person was  
16 intoxicated, did he have drugs, legal or illegal in his  
17 system. This may have a bearing down the line somewhere  
18 on our findings.

19 Q Doctor, would you tell the jury, please,  
20 what were your significant observations during your  
21 external examination of the body of the person we've been  
22 referring to as John Lumber Doe?

23 A The most significant findings consisted of  
24 three gunshot wounds. One bullet struck the back about  
25 midchest area, a couple inches to the left of the midline



1 of the back. We found that this had gone through and had  
2 exited the right upper chest just below the collar bone,  
3 and right next to the breastbone.

4 A second bullet had struck the left flank  
5 area just above the hip bone going from left to right, a  
6 little bit back, and exiting out the right buttock.

7 And the third had gone through the back side  
8 of the right thigh. This was a fairly short flesh wound,  
9 did not strike any vital organs.

10 Minor findings which may or may not have any  
11 great significance, there was a little laceration of the  
12 skin of the right wrist, actually just above the wrist  
13 joint an inch or so; a little abrasion or scraping injury  
14 on the ball of the thumb.

15 We had a few little nicks on the left-hand,  
16 and some little areas where the skin looked like it had  
17 been blistered, like on the left elbow. What had caused  
18 that, I have no idea. They were quite small, but it  
19 looked like an area that you get if you burn yourself with  
20 blisters, and the top layer of skin comes off.

21 Q Doctor, as to the minor wound on the wrist,  
22 if I told you that there was a bracelet found at the crime  
23 scene, would that wound be consistent with somebody  
24 tearing a bracelet from the wrist?

25 A Possibly.

1           Q       Would you next describe for the ladies and  
2 gentlemen of the jury the significant observations you  
3 made during your internal examination of John Lumber Doe's  
4 body?

5           A       Okay. The significant internal findings  
6 were related to a gunshot wound hitting the back and  
7 coming out of the front of the chest. And the one that  
8 hits the left flank goes on through to exit the right  
9 buttock.

10                   The one hitting the back, obviously back to  
11 front, drifting in a left-to-right direction so that it  
12 actually crossed the centerline of the chest. It came up  
13 through the midline structures of the chest, did not  
14 actually enter either side of the chest, either space  
15 occupied by the lung.

16                   But in doing this, it hit and chipped the  
17 sixth thoracic vertebra; then lacerated the descending  
18 aorta, the major artery that carries blood from the heart  
19 to the rest of the body; hit, I think, the left main stem  
20 bronchus; and, finally, came through and came out next to  
21 the breastbone.

22                   The injury to the aorta and also to the  
23 pulmonary artery, this is a lethal nonrepairable lesion.  
24 There simply isn't time to get a person to the hospital.

25                   The wound in the flank had gone into the

1 abdomen coming left to right, very slightly downward, and  
2 a little bit front toward back. It perforated about four  
3 loops of intestine, going posteriorly hit the left femoral  
4 iliac artery just below where it branches out to the aorta  
5 that supplies the banks.

6 And that's a good sized vessel too. It's, I  
7 would say, about the diameter of my pen would be very  
8 close to it. So it's a big artery.

9 MR. KANE: May the record reflect the  
10 doctor was holding up what appeared to be a fairly  
11 standard-sized ballpoint pen. Go ahead, Doctor.

12 THE WITNESS: Following that it crossed  
13 the pelvic soft tissues and went through the right pelvic  
14 bone and on out. This also was a potentially lethal  
15 lesion, because an artery that size the person is going to  
16 bleed internally, bleed rapidly, which he did.

17 We had at least a liter, perhaps a little  
18 more than a quart of blood in the abdominal cavity. So he  
19 had bled very profusely from that injury, as well as  
20 internally from the injury of the chest.

21 The wound to the right thigh, not a major  
22 injury.

23 Q Doctor, was there any way for you to tell  
24 from your examination the order in which these wounds were  
25 inflicted?

1           A           I don't think we can. The fact that the  
2 wound going through and hitting the artery down on the  
3 pelvis had done a lot of bleeding, suggests that it  
4 probably came before the shot to the chest. Because the  
5 shot to the chest disrupted the aorta which supplies blood  
6 on down. And it would seem reasonable that he could not  
7 have bled as much from the lower wound as he did if that  
8 came after the wound to the chest.

9                       Now, this makes good sense. I would admit  
10 there's a little bit of speculation here, but I think it's  
11 reasonable.

12           Q           Doctor, as a result of your external and  
13 internal examination of this body, did you arrive at an  
14 opinion as to the cause of death?

15           A           Yes.

16           Q           What is that opinion?

17           A           Death was a result of the gunshot wound to  
18 the chest and abdomen.

19           Q           Did you arrive at an opinion as to manner of  
20 death?

21           A           I did.

22           Q           What is that opinion?

23           A           My conclusion was that this was a homicidal  
24 injury.

25           Q           Were the injuries consistent, in your

1 opinion, with death by natural causes?

2 A No.

3 Q Were the injuries consistent, in your  
4 opinion, with self-inflicted injuries?

5 A There was no evidence of self-inflicted  
6 injury at all.

7 Q Doctor, did you also have this body  
8 subjected to the toxicological testing that you were  
9 describing earlier?

10 A Yes.

11 Q And what were the results of it?

12 A There was small amount of alcohol in the  
13 bloodstream, a .02 percent. He had some cocaine, most of  
14 which had been metabolized into its by-product. I don't  
15 think he had anything else. Let me check to be certain of  
16 that. No, that was it. We found the cocaine in the  
17 bloodstream also present in his urine.

18 Q And when you say that most of it had  
19 metabolized, could you just explain that to the jury?

20 A Well, the drug, as most drugs do, breaks  
21 down and little pieces of it are removed from the molecule  
22 by various actions of the body. And the product of that  
23 process is called a metabolite. The unaltered drug is  
24 what we call apparent drug.

25 In this case, he had maybe ten percent

1     apparent drug, and 90 percent or more of the metabolite.

2             Q       And what, if anything, are you able to  
3     conclude from that?

4             A       Considering that he was found, as I recall,  
5     at about 6:00 o'clock in the morning of the 16th, the  
6     amount of change in the drug would suggest a period of  
7     hours prior to his death, probably sometime on the  
8     preceding day.

9             Q       That he had actually ingested the cocaine?

10            A       Yes.

11                   MR. KANE:  Nothing further.  Pass the  
12     witness, Your Honor.

13                   THE COURT:  Cross-examination?

14                   MR. CHRISTIANSEN:  Thank you, Judge.

15

16                   CROSS-EXAMINATION

17     BY MR. CHRISTIANSEN

18             Q       Good afternoon, Dr. Green.

19             A       Good afternoon.

20             Q       Dr. Green, you told the jury about three  
21     gunshot wounds that you examined on John Lumber Doe, who  
22     was later identified to be Eric Hamilton; is that  
23     accurate?

24             A       Correct.

25             Q       Now, all three of those were

1 through-and-through wounds, entrance and exit wounds?

2 A That is correct.

3 Q So what that means is, that the bullet came  
4 in, one in the back, one in your hip area, and one in the  
5 thigh, and then exited as various points?

6 A That is correct. There was no bullet left  
7 in the body.

8 Q And, Doctor, I've questioned you in a number  
9 of cases, and you have somewhat of an interest in bullets  
10 and guns, if I recall?

11 A I have some working knowledge there.

12 Q Would a bullet exiting the leg of the injury  
13 you saw of Mr. Hamilton have enough force to go through a  
14 glass and possibly break the glass window?

15 A It certainly could.

16 Q You talked about this wrist injury, and that  
17 was -- I forgot which wrist you told us.

18 A A little nick on the right wrist.

19 Q When you say nick, there was no, like, rope  
20 burn or rub burn?

21 A No, no. This was a very superficial linear  
22 injury, whether it was made by a cutting instrument, or  
23 just something with a relatively sharp corner. And it's  
24 maybe an inch long. It doesn't even go through the full  
25 thickness of the skin.

1           Q       So if I told you what the State believes to  
2 be the crime scene there was a bunch of broken glass or  
3 broken window that a body appeared to be drug through, any  
4 of that glass could have caused such an injury by poking  
5 or cutting?

6           A       I would expect glass to do more than what we  
7 found.

8           Q       Mr. Kane asked you about the bracelet, and  
9 could ripping the bracelet off cause such an injury. Did  
10 any police officer, crime scene analyst, District  
11 Attorney, investigator bring you a bracelet and say:  
12 Here, Dr. Green, you're the expert here, take a look and  
13 see if this matches up to that injury on the wrist?

14          A       Not that I recall.

15          Q       And you could have done that, right?

16          A       I certainly could have looked at it and said  
17 something like: Yeah, it probably could have. I can't  
18 prove that it did.

19          Q       But say, for example, the bracelet was two  
20 centimeters thick, and the cut was two centimeters thick,  
21 you would have said: Hey, they're consistent, something  
22 of that nature?

23          A       Probably.

24          Q       And nobody asked you to do that?

25          A       Not that I recall, no.



1           Q       And so when you told Mr. Kane that it could  
2 have happened, as you sit here today you really don't know  
3 that that bracelet had anything whatsoever to do with that  
4 injury on that gentleman's wrist?

5           A       No, I don't.

6           Q       Similarly, as you sit here today, can you  
7 tell the jury in what position Mr. Hamilton was when he  
8 was shot? Was he standing, sitting, laying down?

9           A       No. All we can say is that the relationship  
10 between the shooter and the victim changed between shots.  
11 One of them was hitting him in the back, the next one  
12 comes and hits him from the left side.

13          Q       Can you tell --

14          A       Or another one, which is the sequence I'm  
15 not going to get into any more detail than I already have.

16          Q       Dr. Green, can you tell these folks in the  
17 jury that it was just one gun that fired the rounds that  
18 went into this gentlemen and then subsequently exited?

19          A       Not having the ammunition; no, I can't.

20          Q       Could it have been more than one gun,  
21 correct?

22          A       Possible.

23          Q       And then there's no way for you to say it's  
24 more likely there was one gun, or it's more likely it was  
25 two guns?

1           A       Well, the probability it would be one. Two  
2 is uncommon, to say the least.

3           Q       Uncommon based upon years of doing  
4 homicides?

5           A       Yes.

6           Q       But not uncommon because you don't know the  
7 facts of how this gentleman was shot, correct?

8           A       I wasn't there. I didn't see it.

9           Q       Okay. Now, the Ethinyl found in the system,  
10 that's the test you told these folks was done by APL,  
11 correct?

12          A       Yes.

13          Q       And those results showed cocaine in  
14 Mr. Hamilton's system?

15          A       Yes.

16          Q       A significant amount of cocaine in his  
17 system?

18          A       Well, depends on what you call significant.  
19 This is probably ball park average street dose.

20          Q       In your experience, does the average street  
21 dose get the ingester, the person ingesting it high?

22          A       I'm sorry, I missed the first couple of  
23 words you were saying.

24          A       In your experience, does the average street  
25 dose render the person that ingests it under the

1 influence?

2 A Probably.

3 Q And the Ethinyl, is that necessarily a  
4 result of Mr. Hamilton ingesting alcohol?

5 A Yes, it would be.

6 Q Isn't there a fashion by which the body  
7 creates some Ethinyl after it stops working, for lack of a  
8 better term?

9 A Only when the body starts to decompose,  
10 which was not the case here.

11 Q Were there any tatooing or stipling on this  
12 body?

13 A No.

14 Q So the jury knows what I'm talking about,  
15 what is tattooing?

16 A I assume you're referring to gunshot  
17 injuries?

18 Q Yes, sir.

19 A Okay. If a weapon is fired fairly close to  
20 its target, let's say a couple of feet, burning powder  
21 particles will strike that target and leave an impression  
22 or a tiny burn mark. This is what we call stipling or  
23 tattooing, gun powder tatooing.

24 Most firearms, pistols will throw powder at  
25 least two feet. Little .22s will do that. Bigger and

1 heavier things like a 9 millimeter and on up through the  
2 .45 will put out quite a bit further.

3 But the effect is to surround the bullet  
4 hole with these little marks, assuming that the skin is  
5 unprotected. If a person is closed, then the clothing may  
6 well prevent that stuff from striking the skin. And it  
7 would be up to the crime lab people to take the clothing  
8 and try and find out by chemical means what, if any,  
9 powder mark there is.

10 Q Do you know if that was done in this case,  
11 Dr. Green?

12 A I have no information on that. You're going  
13 to have to ask the crime lab people.

14 Q I will. Dr. Green, the time of death, I  
15 think you told Mr. Kane that it would have been at least  
16 within the previous day, which would have made it -- if  
17 the 16th of November was a Monday morning, would have made  
18 it sometime during the day of Sunday the 15th of November,  
19 1998?

20 A That's certainly reasonable.

21 Q And you wouldn't go so far as to say it  
22 couldn't have been 48 hours that he was killed, would you?

23 A I think the body was too fresh for that. I  
24 would say within the preceding 24 hours, and it could have  
25 been, certainly, less than 24.

1           Q       Did you do any tests to determine like age  
2 of the blood that was left inside the lungs that you  
3 described for the jury.

4           A       Do what?

5           Q       Any testing of the blood to see how old the  
6 blood had possibly been, or the injuries were?

7           A       Well, if you can test blood for that, I wish  
8 you would tell me how to do it.

9           Q       I'm asking you, aren't there histological  
10 tests that can be done on blood or injuries to determine  
11 how long the injury has been present?

12          A       There are a few things which can  
13 pinpoint -- that's bad word -- can give you an estimate of  
14 the time if it occurred, say, within an hour of death.  
15 There have been some systems worked out for that. Beyond  
16 that, I'm not aware of any.

17          Q       So you're not aware of any staining that's  
18 done to blood in putting iron stains on blood, and looking  
19 at it through different --

20          A       In a fresh body, iron stains aren't going to  
21 help.

22          Q       So the best you can say is, this happened  
23 within 24 hours of the time the body was located Monday  
24 morning, the 16th of November of 1998?

25          A       Without a doubt.

1 MR. CHRISTIANSEN: Pass the witness.

2 Thank you, Dr. Green.

3 THE COURT: Redirect?

4 MR. KANE: No, Your Honor.

5 THE COURT: Dr. Green, thank you very  
6 much, sir. Next witness, please.

7 MR. KANE: Rick Ferguson, Your Honor.

8

9 Whereupon,

10 RICK FERGUSON,

11 was called as a witness by the State, and having been  
12 first duly sworn, was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. KANE:

16 Q Sir, would you state your name and spell  
17 your last name for the record.

18 A Richard Ferguson, F-e-r-g-u-s-o-n.

19 Q And where do you work, sir?

20 A I work at R & M Trophies.

21 Q And where is that located?

22 A 1937 Western.

23 Q How long have you been there?

24 A Nine years.

25 Q I want to talk to you about November of

1 1998; specifically, November the 17th. And whether you  
2 remember the date or not, was there a day in November when  
3 you called the police because of something that happened  
4 in a neighboring business?

5 A Yes, there was.

6 Q And what time of the day was it when you  
7 called them?

8 A To my best recollection, it was probably  
9 around 8:00 o'clock; 8:00, 8:30.

10 Q And what was it you were reporting?

11 A I was reporting broken glass with blood and  
12 everything else that was two buildings down from where I  
13 was at.

14 Q And do you recall what the number was?

15 A No, I don't recall.

16 Q But it's whatever one was two down from you?

17 A Yes; two down.

18 Q And did the police respond to the scene?

19 A Yes, they did.

20 Q About how long was it between the time you  
21 called and the time they got there?

22 A Well, I really can't answer that question,  
23 because I don't recall how long it was.

24 Q Did they eventually respond to the scene?

25 A Yes, they did.

1           Q       Were any of the other businesses in that  
2 center open and operating by the time the police got  
3 there?

4           A       No.

5           Q       Only yours?

6           A       Correct.

7           Q       While the police were there, did anyone  
8 arrive that you knew from any of the other businesses?

9           A       Well, I think it was Jack that showed up  
10 after the police had arrived.

11          Q       Now, when you said Jack, you appeared to  
12 indicate someone?

13          A       Yes.

14          Q       Do you know someone here in court?

15          A       Jack Seka.

16          Q       Would you point to him and tell me what he  
17 is wearing?

18          A       Right there in the brown sweater.

19                   MR. KANE: May the record reflect  
20 identification of the defendant, Your Honor?

21                   THE COURT: It may.

22          Q       (By Mr. Kane) How did you know Mr. Seka  
23 back in November of 1998?

24          A       Well, him and Pete had the business right  
25 next door to me, the air conditioning business.



1 Q Was that Cinergi? Does that name ring a  
2 bell?  
3 A I believe that was the name of it, yes.  
4 Q And do you know Pete's last name?  
5 A No, I don't.  
6 Q So you knew them as Pete and Jack?  
7 A Right.  
8 Q Now, Jack arrived while the police were  
9 there?  
10 A Yes.  
11 Q Walking or driving?  
12 A He was driving.  
13 Q Driving what?  
14 A A little brown Toyota truck.  
15 Q Had you seen that truck before?  
16 A Yes, several times.  
17 Q Had you seen Jack driving it before?  
18 A I don't recall Jack driving it.  
19 Q Was there anything different about the truck  
20 on that day from other times that you had seen it?  
21 A Yes. It was washed.  
22 Q What was so different about that?  
23 A Well, I'm accustomed to seeing the truck out  
24 there, but it's always been dirty.  
25 Q And this was the first time that you had

1     seen it that it was clean?

2             A        Yes.

3             Q        And it was significant enough you remember  
4     it now a couple of years later?

5             A        Yes. It was just one of those eye-catching  
6     things that I noticed. When he came up it was nice and  
7     clean.

8             Q        And did you mention that to the police  
9     officers; if you recall?

10            A        I don't recall if it was the police officer  
11     or Mark, the landlord, was standing there. But I did make  
12     that comment, yes.

13            Q        Now, did you ever go inside 1929, or did you  
14     ever go inside the business premises that you called about  
15     with the broken glass, or did you just let the police go  
16     in there and do that?

17            A        No. I did not go in there. The police went  
18     in there.

19                    MR. KANE: Nothing further, Your Honor.  
20     Pass the witness.

21                    THE COURT: Cross-examination?

22

23                    CROSS-EXAMINATION

24     MR. CHRISTIANSEN:

25             Q        Good afternoon, Mr. Ferguson. My name is

1 Pete Christiansen, and I represent Jack Seka. You have  
2 spoken to my investigator, the bald guy here, right?

3 A Yes.

4 Q And then you subsequently spoke to an  
5 investigator, Mr. Maldonado, who works for the District  
6 Attorney's Office?

7 A Correct.

8 Q And you relayed very similar versions of  
9 events to both of these gentlemen that you just gave the  
10 jury here today?

11 A Correct.

12 Q Back in November of 1998, this was a Tuesday  
13 morning that you were at work; do you recall?

14 A I believe it was Tuesday morning. I don't  
15 recall, exactly.

16 Q Did you work Mondays back then?

17 A Yes.

18 Q Your business was open on a Monday?

19 A Monday through Friday.

20 Q And you didn't notice this broken glass  
21 yourself. Somebody else told you about it, correct?

22 A Correct.

23 Q And that was some type of homeless person  
24 that was wondering through the area mentioned to you that  
25 there was broken glass and blood two doors up from you?

1           A       What it was, a guy had pulled up next door.  
2 I know exactly what I talked to him about. But a guy had  
3 pulled up next door and asked me if I knew when these guys  
4 next door were going to open up the air conditioning  
5 business.

6                   And I told them no. And he said: Well, did  
7 you see all this blood and glass broken over here?

8           Q       So somebody appearing to be looking for  
9 either Peter Limanni or Jack --

10          A       Correct.

11          Q       -- is who eventually informs you of the  
12 broken glass?

13          A       Correct. And then I went down to take a  
14 look.

15          Q       On Monday you didn't walk down in front of  
16 that business and look and see if that glass was broken,  
17 did you?

18          A       No, I did not.

19          Q       Now, the police arrive eventually after you  
20 call them?

21          A       Correct.

22          Q       At some period of time later?

23          A       Correct.

24          Q       And after they arrive then Jack arrives?

25          A       Yeah. It was a little time later. I can't

1 recall exactly what time it was.

2 Q And did you see Jack let the police in to  
3 Cinergi, the business that was Peter Limanni's?

4 A No. I didn't see him do that.

5 Q Did you ever see one of uniformed police  
6 officers that morning out behind the business looking in  
7 the dumpster?

8 A Not -- I guess he was a police officer. He  
9 was in civilian clothes and had a badge.

10 Q Okay. So I just want to be clear for you.  
11 If you turn around and look at that chart on the wall,  
12 does that appear to be 1921 through 1937 Western in which  
13 your business is located?

14 A Yes.

15 Q And there's little box right behind 1933  
16 with a D next to it. Was that about where the dumpster  
17 would have been?

18 A That's about it, yes.

19 Q Back in 1998 as well? Is that a yes?

20 A Well, the dumpster was brought in there by  
21 these guys. And I don't remember when it was actually  
22 brought it, but it was sitting there. Because I asked  
23 them if I could use it occasionally.

24 Q You recall, don't you, that it was there  
25 when the police were around doing their investigation in

1 November of 1998?

2 A Correct.

3 Q Because about 1:00 o'clock in the afternoon  
4 you saw a plain-clothes police officer looking in this  
5 dumpster behind 1933, correct?

6 A I did not see the police officer looking in  
7 there. He was standing off to the side. I opened up the  
8 back door.

9 Q Of your business?

10 A Of my business, and I walked out there.

11 Q Which one is your business?

12 A The furthest on the right on the end, 37.

13 Q Thirty-seven. And did you happen to look  
14 into the dumpster that day?

15 A Yes, I did.

16 Q About what time did you look into the  
17 dumpster?

18 A What time that was, it was apparently in the  
19 afternoon.

20 Q Was it about the same time you saw this  
21 plain-clothes police officer in that area?

22 A Yes.

23 Q And prior to, say, 1:00 o'clock in the  
24 afternoon -- if that's the time you're putting me at  
25 ball park?

1           A       Right.

2           Q       Had you seen any uniformed police officer  
3 out in the back looking in that dumpster?

4           A       No, I did not.

5           Q       And your business is right next door to  
6 1933?

7           A       Correct.

8           Q       When you looked in the dumpster, did you see  
9 any burnt items?

10          A       Not that I can recall. It was just a small  
11 amount of trash that was in the bottom of it. And when I  
12 was looking in there, the police officer that was standing  
13 off to my right there, he says: Don't touch anything in  
14 there.

15          Q       That was the ununiformed police officer?

16          A       Correct.

17          Q       And did you smell anything as being burnt?

18          A       No. It didn't look unusual at all.

19          Q       Did you see any hose or water being drained  
20 into that dumpster?

21          A       No.

22                   MR. CHRISTIANSEN: Nothing further. I  
23 pass the witness.

24                   THE COURT: Redirect?

25                   MR. KANE: Court's indulgence. No

1 redirect.

2 THE COURT: Sir, thank you very much.  
3 You're excused.

4 Next witness, please.

5 MR. KANE: Judge, prior to calling our  
6 next witness, we do have a request for judicial notice, if  
7 I could approach?

8 THE COURT: Fine.

9 MR. KANE: A lot of dates have come up,  
10 and question of what day of the week were they on. I  
11 provided the Court with a copy of the calendar of November  
12 and December of 1998, and just ask the Court to take  
13 judicial notice of that.

14 So now if the witness says the 17th, we can  
15 just say: Yes, that was a Tuesday, and we will all know  
16 what they were talking about.

17 THE COURT: Did you cause to have this  
18 duplicated from a calendar?

19 MR. KANE: I caused it to be printed  
20 and I xeroxed it.

21 MR. KENNEDY: We have no objection to  
22 that. I have received a copy as well.

23 THE COURT: You didn't cause to have  
24 the calendar printed, the original calendar that this was  
25 taken off of?



1 MR. KANE: No. I created the calendar.

2 THE COURT: You created this actual  
3 document?

4 MR. KANE: Yes.

5 THE COURT: You did so referring to a  
6 1998 calendar?

7 MR. KANE: I did.

8 THE COURT: No objection?

9 MR. KENNEDY: No objection.

10 THE COURT: It is received as judicial  
11 notice. Proceed, please.

12 MR. FATTIG: Jennifer Harrison.

13 MR. CHRISTIANSEN: Judge, may we  
14 approach real quickly?

15 THE COURT: You may.

16 (Whereupon, counsel conferred with the Court.)

17

18 Whereupon,

19 JENNIFER HARRISON,

20 was called as a witness by the State, and having been  
21 first duly sworn, was examined and testified as follows:

22

23 DIRECT EXAMINATION

24 BY MR. FATTIG:

25 Q Ma'am, will you please state your name and

1 spell your last name for the record.

2 A Jennifer Harrison, H-a-r-r-i-s-o-n.

3 Q Ma'am, back in 1998, were you residing here  
4 in Las Vegas?

5 A Yes.

6 Q What were you doing for a living?

7 A Selling Yellow Pages.

8 Q And what was the name of your employer?

9 A The Frontier Telephone Directory.

10 Q Did you have occasion to meet a person named  
11 Peter Limanni?

12 A Yes.

13 Q How did that come about?

14 A I was given his account to talk to him about  
15 how there was -- I don't remember the exact problem, but  
16 there was something with the advertizement that I had to  
17 clarify, and I went over there to discuss that with him.

18 Q And was Mr. Limanni attempting to advertise  
19 with your company?

20 A Yes.

21 Q And about when did you meet Mr. Limanni in  
22 1998?

23 A In August, first part of August.

24 Q Did you, after that initial meeting, see  
25 Mr. Limanni again?

1           A       Yes, I did.

2           Q       Did you, in fact, begin to date Mr. Limanni?

3           A       Yes, I did.

4           Q       How long did you date Mr. Limanni?

5           A       Approximately three months.

6           Q       When was the last time you remember seeing

7 Mr. Limanni?

8           A       On a Wednesday night.

9           Q       Would do you remember the month?

10          A       Yeah; in November.

11          Q       Was it early November, or late?

12          A       It was the first week in November.

13                   MR. FATTIG: And may I ask for judicial

14 notice that that was November 4th?

15                   THE COURT: That would be the

16 indication.

17                   THE WITNESS: Wednesday.

18                   MR. FATTIG: Thank you.

19          Q       (By Mr. Fattig) Could you briefly describe

20 your relationship with Peter in terms of how many times

21 you saw him, and how close you were from August 1st to

22 November 4th of '98?

23          A       Yeah. I met him in August and that day we

24 got along well, and he was actually teasing me about

25 buying an ad if I go out with him, and I told him that I

1 didn't date clients, this and that, and ended up going out  
2 with him, I believe it was the following week. And then  
3 we started dating and seeing each other a few times a  
4 week.

5 Q And would you see -- where did you see Peter  
6 at when you initially went to see him the first time?

7 A The first time, at the office.

8 Q Was that Cinergi?

9 A At Cinergi on Western.

10 Q Where did Peter Limanni live?

11 A He lived there in the back.

12 Q In the business?

13 A Uh-huh.

14 Q Was anyone else related with that business,  
15 did anything anyone else live there?

16 A Yes. Jack lived there.

17 Q And the person that you say is Jack, do you  
18 see that person here in court today?

19 A Yeah.

20 Q Could you please point to him today and  
21 identify a piece of clothing that he's wearing?

22 A He has on a sweater.

23 MR. FATTIG: May the record reflect the  
24 identification of the defendant?

25 THE COURT: It may.

1 MR. FATTIG: Thank you.

2 Q (By Mr. Fattig) How often were you around  
3 Peter and/or Jack at the business?

4 A Daily, usually.

5 Q So you saw Peter pretty much every day?

6 A I'd see him pretty much every day.

7 Q Did Peter often come over to your house?

8 A Just a few times.

9 Q Did you also have a lot of telephone contact  
10 with Peter?

11 A Yes.

12 Q And how would that occur?

13 A Well, he gave me phone that was linked in  
14 with the business, with Cinergi, with one of the phones  
15 there, radio and telephone, and we would radio back and  
16 forth and he could type messages on the computer to me.

17 Q Was it easy for you to contact Peter?

18 A Yeah, oh yeah.

19 Q Did he have a cell phone?

20 A Yeah. He had a phone just like mine.

21 Q Was his cell phone normally turned on and  
22 was accessible?

23 A Most definitely, yes.

24 Q Do you know where Jack Seka, the defendant  
25 in this case, where he lived?

1 A He lived there also.

2 Q At the business?

3 A At the business.

4 Q Where did they stay in the business?

5 A They stayed in the back part. There was a  
6 separate door from the office area. And then there was  
7 another room behind that, a kitchen and so forth, and  
8 there was a door back there that went into another room  
9 where they had beds.

10 Q And how big was that room, approximately?

11 A Say 14 by 14, 14 feet by 14 feet.

12 Q And both of them stayed in the same room?

13 A Yes, uh-huh.

14 Q Were you familiar with any vehicles that  
15 were associated with the business?

16 A Yes.

17 Q What vehicles did you see?

18 A Peter often drove a Toyota truck, a brown  
19 Toyota truck. And then there were three or four white  
20 vans.

21 Q And did some of these vans have markings?

22 A Cinergi on them with the phone number.

23 Q Were you familiar in August when you first  
24 got to know Peter, did you become aware of how the  
25 business was going?

1           A       It appeared to be going very well when we  
2 first met.

3           Q       And what do you base that on?

4           A       Just by dinners that we used to have, and  
5 the way that he was spending money. And I would be there  
6 occasionally and see the phones ringing, and just from  
7 being in sales and hearing people. I remember two times  
8 someone mentioning calling up Cinergi to get air  
9 conditioning installed, and this and that.

10          Q       Was there a point in time when Peter and/or  
11 Jack indicated to you that they wanted get into the cigar  
12 business?

13          A       Uh-huh.

14          Q       And when about was that?

15          A       I don't remember when.

16          Q       Were you -- did the three you do things  
17 together occasionally?

18          A       Yes.

19          Q       Could you describe generally the  
20 relationship between Peter Limanni and the defendant, the  
21 things that you witnessed?

22          A       They were friends. I mean, they got along,  
23 they were friends. Peter was more controlling, say, than  
24 Jack.

25          Q       How about their relationship?

1           A       He was controlling. He controlled the money  
2 and he pretty much -- I don't want to say managed the  
3 friendship, but Jack pretty much did what Peter said to  
4 do.

5           Q       So you wouldn't describe them as equal  
6 partners with the business?

7           A       No, huh-uh.

8           Q       What sort of things would Peter make Jack  
9 do?

10          A       He did a lot of the errands and just running  
11 around picking up supplies, going for coffee, staying in  
12 the office doing a lot of the phone work.

13          Q       Did you see Jack give Peter any orders or  
14 directions to do things?

15          A       No.

16          Q       Was it always the other way around?

17          A       Yes.

18          Q       Did you ever see Peter be disrespectful to  
19 Jack?

20          A       Yes.

21          Q       Could you describe that? What did you see?

22          A       One time I remember when they were  
23 building -- this was when they were going to start a cigar  
24 shop there at Cinergi, I remember Jack spilled some purple  
25 paint. And Peter just was livid about that, and calling



1 him a dumb ass and really lost his temper.

2 Q And you thought Peter was out of line?

3 A Well, yeah, because he just spilled paint,  
4 and just clean it up. It wasn't that big of a deal.

5 Q Did you have a conversation with the  
6 defendant about that?

7 A Yeah. Because Jack got upset because he was  
8 upset that he got Peter so upset, and Peter was so angry.  
9 And I said: Don't worry about it, just blow it off. And  
10 he said: You don't know, that's just the tip of the  
11 iceberg. He's got such a temper.

12 Q Did you ever hear Jack use -- excuse me,  
13 Peter use derogatory terms when referring to Jack?

14 A Yeah.

15 Q What did he call him?

16 A He always called him his nigger.

17 Q Did you hear him use that term in Jack's  
18 presence?

19 A Not that I remember in his presence.

20 Q Do you remember an incident at the Palace  
21 Station?

22 A Yes.

23 Q Could you describe that?

24 A We were at Palace Station at the Oyster Bar,  
25 and we were standing in line and we were taking turns

1 because we were playing Double Diamonds. And Jack was  
2 drinking and getting a little buzzed and dropped his beer,  
3 and made a comment about what I was wearing, about how I  
4 dress so nice. And I could just see Peter getting angry  
5 the way Jack was talking.

6 Later that night when we left, Peter made  
7 some comments to Jack to stop looking at me in a nasty  
8 way. What I remember is him saying, "Stop looking at her  
9 like you want to fuck her. Don't disrespect me like  
10 that." And Jack was, like: I'm not, I'm not. And they  
11 just had a few words, and I don't know what was said after  
12 that. I just walked away and Jack got in the truck and  
13 left.

14 Q And they appeared to leave on bad terms that  
15 particular night?

16 A Yes.

17 Q Do you remember an incident involving some  
18 luggage?

19 A When we went to Lake Tahoe, Jack drove us to  
20 the airport. And we got out and we were standing out on  
21 the side getting ready to check in, and Peter just stood  
22 there. And I was kind of waiting for Peter to get the  
23 luggage.

24 And he told Jack, "Get our luggage." And  
25 Jack goes, "I'm not getting your luggage." He goes, "Get

1 our luggage, just do, get our luggage now." So Jack got  
2 our luggage out and put it up, and that was it.

3 Q Was Jack going on the trip with you?

4 A No.

5 Q He was dropping you two off?

6 A He dropped us off at the airport.

7 Q Did you see Jack with money during this time  
8 period?

9 A Not often, no. I don't think I ever saw him  
10 with money.

11 Q Did Peter have money?

12 A Yes.

13 Q Did you ever see -- how would Jack get his  
14 money?

15 A From Peter. Peter would give him some  
16 money.

17 Q And that was part of his salary, or do you  
18 know?

19 A I don't know if it was his salary. I never  
20 saw him get a check. He would just give him cash. Jack  
21 would say: Hey, give me a few bucks.

22 Q And Peter would do that?

23 A And Peter would give him some money.

24 Q Did Peter have a dog?

25 A Yes.

1 Q What was the dog's name?

2 A Jake.

3 Q What kind of dog was he?

4 A He was a -- I can't remember.

5 Q Could you describe what the dog looked like?

6 A He was a Jack Russell.

7 Q So a small sort of --

8 A Yeah; a small, thin dog.

9 Q Could you describe for the jury what Peter's

10 relationship with his dog was?

11 A Always with his dog. Jake was sitting on

12 his lap when I met him. He was always with him, always

13 had Jake.

14 Q Would he bring Jake over to your apartment?

15 A A few of the times, yes.

16 Q Would he bring Jake with him on jobs?

17 A Yeah.

18 Q Or on errands?

19 A Yeah.

20 Q So a very close relationship?

21 A Oh, yeah. And he said that was his number

22 one friend. And he used to always make the comment, he

23 would say, "A man can't live without his dog and his

24 camel." And I would ask what is the camel, and the camel

25 was his woman.

1 Q Do you remember the last time you saw Peter?

2 A Yes.

3 Q And, again, you testified earlier that was  
4 Wednesday night?

5 A Uh-huh.

6 Q What occurred on Wednesday night?

7 A He came over to my house and we watched a  
8 movie. And I remember that he was really exited by all  
9 the things that were going to be happening with the cigar  
10 shop. And he was real optimistic, ready for things to  
11 start turning around because business was not as good as  
12 it had been, and was very optimistic. And he left that  
13 night, I stayed.

14 Q Did the two of you leave on good terms?

15 A Yeah. I was standing there, he was at the  
16 bottom of my stairs and I said: I'll talk to you  
17 tomorrow, call me tomorrow. And he said: You can call  
18 me. And he said we would probably do lunch or something,  
19 and he left.

20 Q On the morning of the 5th of November, that  
21 Thursday, what did you do?

22 A I was at work in my office and tried to call  
23 Peter, and his phone -- I don't remember if it was turned  
24 off or whether it went right to voice mail, which was  
25 unusual. So I waited and called back and I started

1 leaving messages.

2 Then I attempted to radio him and it wasn't  
3 going through.

4 Q Was that unusual?

5 A Yes, uh-huh. And then I called, radioed  
6 Jack and it said that it went through, and Jack wasn't  
7 picking up. So I called on the phone, Jack's phone from  
8 my office and Jack picked up the phone, and I started  
9 talking to Jack.

10 Q And what was the essence of your  
11 conversation with the defendant?

12 A I just said: Hey, where is Peter? I'm  
13 trying to reach him and he's not answering his phone. He  
14 said: I don't know, you must have kicked his ass last  
15 night and got him in gear, because he was up this morning  
16 first thing in the morning, out and about. I waited for  
17 him to wake me up and he didn't. I thought he was getting  
18 up early, but he's gone.

19 Q Did he indicate whether or not the defendant  
20 had left with anyone else?

21 A I don't remember.

22 Q Whether Pete had left with anyone?

23 A He left, and I think I remember him saying  
24 with someone.

25 Q Do you remember whether or not he told you

1 Peter left in a specific vehicle?

2 A I don't remember if he was in the truck or  
3 the van.

4 Q Or perhaps the vehicle of the other person?

5 MR. CHRISTIANSEN: Objection. Leading,  
6 Your Honor.

7 THE COURT: Rephrase, please.

8 Q (By Mr. Fattig) Do you remember if he told  
9 you what vehicle Peter left in?

10 A No, I don't remember.

11 Q Did you have anything else -- did Jack tell  
12 you anything else on that particular phone call; do you  
13 remember?

14 A Yeah. We talked for a while because Jack  
15 was really down. I said: What's going on? And he had  
16 just gotten back from New Jersey. And I asked him, I  
17 said: What, are you on drugs or drunk? You sound  
18 terrible. And he said: I'm just so depressed, and was  
19 just say how depressed he was.

20 Q Did he say why he was depressed?

21 MR. CHRISTIANSEN: Objection.  
22 Relevance.

23 THE COURT: What is the relevance?

24 MR. FATTIG: It goes to state of mind,  
25 Your Honor, during a very relevant time.

1 MR. CHRISTIANSEN: May we approach,  
2 Your Honor, briefly?

3 THE COURT: You may.

4 (Whereupon, counsel conferred with the Court.)

5 THE COURT: Proceed, please.

6 Q (By Mr. Fattig) Ma'am, at that point in the  
7 conversation, did Jack indicate he was depressed because  
8 when he went to New Jersey he caught his girlfriend in New  
9 Jersey in bed with another man?

10 A Yes.

11 Q And after that phone call, what did you do?

12 A I knew something wasn't right. I just knew  
13 something was not right. And I was in my office, and I  
14 remember right around 11:00 o'clock or so, I just put  
15 everything down and I told the secretary I was leaving,  
16 and I left and drove over there.

17 Q And when you went over there, what did you  
18 see?

19 A When I went over there, I got there and the  
20 door was locked. And I remember walking in to the front  
21 room, and there's another door that's always open and it  
22 was shut. And I just -- most of me wanted to leave  
23 because I had a feeling that something wasn't right.  
24 Anyway, I went in though, I opened the door and Jack was  
25 there just knocked out on the floor.



1 Q And did you see anyone else in there?

2 A And there was another girl there on the  
3 couch.

4 Q And what time of the day was this about?

5 A This was somewhere around noon. I sat  
6 outside the office for a while and didn't go in.

7 Q This was at Cinergi on Western?

8 A Yes.

9 Q What did you do once you got in there?

10 A When I got in there, like I say, Jack was on  
11 the floor and he was out cold. Jake was there, which was  
12 strange. Jake was on the floor with Jack, and this girl  
13 was passed out on the couch.

14 And I went right away walking around and  
15 Peter wasn't there. And I went into the back room where  
16 their beds were where they sleep, and that door was  
17 locked. And I started banging on it, and it was never  
18 locked and that was odd. And this girl came back and  
19 asked me what I was doing.

20 Q And did you eventually get into the room?

21 A Yes. I got into the room.

22 Q What did you see in the bedroom?

23 A It was very strange because right  
24 away -- the room only had two beds, and like a chair, and  
25 clothes. And I remember, everything was right there. And

1 right near Peter's bed, all of his shoes were there, and  
2 that's the first thing I saw. And I saw a pair of pants  
3 and a sweater I had bought him.

4 Q And were you personally familiar with  
5 Peter's shoes?

6 A Yes.

7 Q With all of them?

8 A Yeah; because he only had three pairs.

9 Q And you saw all of them there?

10 A Yes.

11 Q And that struck you as odd?

12 A Yes.

13 Q What about the fact that Jake was there?

14 A And Jake there, yeah.

15 Q That was odd too?

16 A Oh, yes.

17 Q What did you do next?

18 A I looked around the room and I saw, like I  
19 said, his shoes were there; the jeans that he had on with  
20 the one belt, he had the leather belt, that was there.  
21 And I remember just snooping around kind of kicking things  
22 around, and I did find a bullet.

23 Q Could you describe the bullet?

24 A It was a small bullet.

25 Q Did it look like it had been fired?

1           A       No.

2           Q       Where was that at?

3           A       On the floor.

4           Q       Did you ever see --

5           A       Near the back door.

6           Q       In the bedroom?

7           A       In the bedroom.

8           Q       Did you ever see any firearms around

9   Cinergi?

10          A       Never.

11          Q       Did you ever see Peter with a gun?

12          A       Never.

13          Q       Ever see Jack with a gun?

14          A       Never.

15          Q       What did you do after you saw that?

16          A       After I saw that, I left. Well, I went back

17   into the room because this girl was there, and she had

18   woken up and she said no one is here.

19                   MR. KENNEDY: Objection, Your Honor.

20   Hearsay.

21                   MR. FATTIG: I'm not calling for that,

22   Your Honor.

23                   THE COURT: Go ahead. Next question,

24   please.

25                   MR. FATTIG: Thank you.

1 Q (By Mr. Fattig) Did you see any cash in the  
2 area?

3 A Yes. There was a wad of cash in the front  
4 office.

5 Q Was that near where Jack was passed out?

6 A Jack was on the floor, and the money was on  
7 the desk.

8 Q And how much money did you see?

9 A Twenties and tens, maybe a couple hundred  
10 bucks.

11 Q Was that unusual to see that?

12 A Lying out, yes.

13 Q At Cinergi?

14 A Yes.

15 Q At that point did you leave Cinergi?

16 A Yes. Like I say, Jack was out. I actually  
17 kind of kicked him a few times because I was upset,  
18 wondering what was going on. And Jack was out and this  
19 girl asked for a ride, so I actually gave her a ride just  
20 down the road and dropped her off.

21 Q Did you have any further contact with Jack?

22 A Yes.

23 Q Explain that.

24 A I don't recall if it was that day or the  
25 next day, but I kept calling because I hadn't heard from

1 Peter, and Peter's phone was not turned on. And I just  
2 knew something was going on and kept asking Jack. And I  
3 said: What, he's probably just taken off, skipped town.

4 Q Who said that?

5 A I said that. And Jack said probably. I  
6 don't know. I don't know anything. And I spoke to Jack,  
7 I don't recall how many times, but just checking in  
8 wondering if he had heard from Peter. And then I said I  
9 wanted to call the police and call missing persons, and he  
10 said: No, no. He's missing because he wants to be  
11 missing.

12 Q Were you familiar with a crate or a box that  
13 Peter owned?

14 A Yes.

15 Q Could you describe it?

16 A Yeah. It was the one thing he said that he  
17 always traveled light but always had this with him. And  
18 he opened it up, and inside of it was an old bottle of  
19 Crown -- unopened bottle of Crown Royal that I don't  
20 recall where he got it from, but he said he was going to  
21 open it when either him or his brother got married, or had  
22 their first baby or something.

23 And also his prom picture with a girl with a  
24 hat on, and a transfer logo from his dad's restaurant.

25 Q So he indicated to you that the box had some

1 meaning for him?

2 A Oh, yeah. And he had a family picture with  
3 him and all his -- one picture, an old black and white  
4 photo of him and the family.

5 Q During your conversations with Jack during  
6 this time period, was the box ever brought up?

7 A Yeah. I right away asked, because Jake was  
8 there, and I said: He would never leave without Jake. He  
9 wouldn't leave without Jake. And I said: Is the box  
10 gone? He said the box is gone.

11 Q The defendant said that?

12 A Yes.

13 Q Did you have additional conversations later  
14 on in November with the defendant?

15 A With Jack, yes.

16 Q What were those?

17 A He called me one time. He paged me and he  
18 was calling from Arizona. And I don't recall if it was  
19 before or after I had met with the investigators. But he  
20 told me that someone had been killed, and I'm going to be  
21 called in because they have your pictures from Tahoe.

22 And I asked him why, and he told me that  
23 some black guy got killed and he's got to get out of town  
24 because they're trying to blame him, and I've got to get  
25 out of here. And, actually, that was in the parking lot

1 of 24-Hour Fitness.

2 Q That wasn't on the telephone, that  
3 particular conversation?

4 A That conversation was in person. That was  
5 the last time I saw Jack.

6 Q When about was that?

7 A I don't remember.

8 Q Would it have been in November of 1998, or  
9 later than that?

10 A It could have been -- I believe it was in  
11 November before the holidays, I know. I don't remember.

12 Q And where was that conversation? Where did  
13 it occur?

14 A That was in the parking lot of 24-Hour  
15 Fitness.

16 Q Was there a separate conversation where the  
17 defendant indicated he was in Arizona?

18 A Yeah. That was when he called me, and that  
19 was afterward. He said he was going underground, and it  
20 was just --

21 Q He used the term "underground"?

22 A Uh-huh.

23 Q Did you ever get any phone calls or any  
24 messages or anything from Peter after November 4th of  
25 1998?

1 A No.

2 Q Were you familiar with any tattoos on Peter?

3 A Yes.

4 Q What?

5 A He had Italy on his calf, and he had an  
6 eagle on his arm.

7 Q Were you familiar with any other employees  
8 that were involved with Cinergi?

9 A Just Peter, Jack, and a Mexican guy. I  
10 don't recall his name.

11 Q Did you ever see an African-American male  
12 around the business?

13 A No.

14 Q Ma'am, do you remember a conversation in  
15 November of 1998 with the defendant involving your  
16 vehicle?

17 A I left my vehicle when we went to Tahoe. My  
18 vehicle, Jack wanted to borrow my vehicle, but I don't  
19 remember what time that was.

20 Q You don't remember when that occurred?

21 A I do remember. It was in the parking lot at  
22 24-Hour Fitness, because he was in the van and he wanted  
23 to borrow my car because he was being followed. And  
24 that's why he was meeting me at the parking lot. He had  
25 paged me when I was at the gym. I met outside of 24-Hour



1 Fitness at Rainbow and Cheyenne right at the Pier One, and  
2 I said no.

3 Q You didn't give him your vehicle?

4 A No.

5 Q Did he indicate to you who was following  
6 him?

7 A No. I believe he said the police, because  
8 he had said that he was called in to be prosecuted for a  
9 murder. He didn't do it, he's got to get out of town.

10 MR. FATTIG: May I approach the  
11 witness, Your Honor?

12 THE COURT: You may.

13 Q (By Mr. Fattig) Ma'am, showing you Proposed  
14 Exhibit No. 25, a photograph, do you recognize anything in  
15 that photograph?

16 A Yes.

17 Q What do you recognize?

18 A The box that Peter had.

19 Q That Peter had. That was the box you  
20 testified?

21 A That was the box that everything was inside,  
22 yeah.

23 Q The Crown Royal and sentimental things?

24 A Uh-huh.

25 MR. FATTIG: Nothing further at this

1 time.

2 THE COURT: Cross-examination?

3

4 CROSS-EXAMINATION

5 MR. CHRISTIANSEN:

6 Q Good morning, Ms. Harrison, or good  
7 afternoon, I'm sorry. Ms. Harrison, you met with my prior  
8 to today; is that correct?

9 A Yes.

10 Q You came up to meet me and my investigator a  
11 week or ago, or two weeks ago on a Saturday?

12 A It was on a Saturday.

13 Q And talked to us about this case; is that  
14 accurate?

15 A Yes.

16 Q What was your phone number, Ms. Harrison,  
17 back at the time in question? Do you remember?

18 A I couldn't get the phone number.

19 Q Do you remember what your phone number was?

20 A No, I don't.

21 Q Was it [REDACTED] 9242?

22 A [REDACTED] yes.

23 Q Do you remember what Peter's phone number  
24 was?

25 A [REDACTED] I know that's right.

1 Q Was it [REDACTED] 7433?

2 A I don't remember.

3 Q So if I had phone records with listings from  
4 your cell phone, and phone calls you made on certain  
5 dates, I couldn't ask questions about was this who you  
6 were calling, because you don't -- and it's three years  
7 later, you don't remember specifically whose phone numbers  
8 are whose?

9 A No.

10 Q Do you remember I told you when we met it's  
11 okay if you don't remember?

12 A I don't remember.

13 Q That's fine. Now, you gave a statement on  
14 December 7th to police officers, Detective Tom Thowsen; is  
15 that right?

16 A Yes.

17 Q And that was a taped statement. He had a  
18 dictaphone and you guys talked on tape?

19 A Yes.

20 Q And you were subsequently provided a  
21 transcribed copy of that statement to review by Mr. Fattig  
22 or Mr. Kane before you came in here and testified?

23 A Yes.

24 MR. CHRISTIANSEN: Judge, may I  
25 approach the witness?

1 THE COURT: You may.

2 Q (By Mr. Christiansen) Ms. Harrison, I'm  
3 handing you what's been marked for identification purposes  
4 Defendant's Proposed Exhibit B. Does that appear to be  
5 your statement?

6 A Yes.

7 Q I give it to you because I may refer to  
8 portions of it, and if it's in front of you, you can look  
9 at the page I'm referring to and make life easier for  
10 everybody.

11 You are knew Peter Limanni from August to  
12 November of 1998?

13 A Yes.

14 Q You became involved with Mr. Limanni, if I  
15 understood your testimony, or you met him in your capacity  
16 as a rep for Frontier Yellow Pages, and you were trying to  
17 correct something dealing with his advertising in your  
18 Frontier Yellow Pages?

19 A Yes.

20 Q And after you met him, he actually increased  
21 his ad, because you probably did a good job, so he  
22 increased his ad to a full page from a half page, right?

23 A He increased it that day to a full page,  
24 actually over the phone. And that's what I went to go see  
25 him about.

1           Q       So over the phone you did a really good job,  
2 you got it increased to a full page?

3           A       Yes.

4           Q       Did he ever pay that bill?

5           A       Yes; it's monthly.

6           Q       If you would turn to Page 64 of your  
7 statement. Now, your statement was given back much closer  
8 in time to the events we're talking about today than we  
9 are here in 2001, correct?

10          A       Excuse me?

11          Q       The day you gave this statement, things were  
12 fresher in your mind than they are today, some three years  
13 later?

14          A       Yes.

15          Q       And would you look down and read to yourself  
16 the questions and answers on about the bottom five or six  
17 lines, and when you're finished reading go ahead and look  
18 up at me so I'll know you're done.

19          A       I'm done.

20          Q       Does that refresh your recollection a little  
21 bit?

22          A       A little.

23          Q       It appears, at least in that statement, that  
24 you told the police officers Peter didn't pay his bill at  
25 the Frontier?

1           A       Right.

2           Q       And, similarly, Peter had ads in Sprint and  
3 in the Review Journal?

4           A       Yes, he did.

5           Q       Those adds are expensive, you know from your  
6 experience selling?

7           A       Yes.

8           Q       Peter never paid any of them, did he?

9           A       Well, it says here that he didn't pay his  
10 Frontier bill. That's the only bill I would know about.

11          Q       Fair enough. When you met Peter, he told  
12 you a story about how he had been fleeced by his ex-wife,  
13 and she had taken everything he had and that's why he had  
14 to live in -- for lack of a better term -- this pig sty at  
15 1933 Western, correct?

16          A       Yes.

17          Q       And you later found out that was not true,  
18 correct?

19          A       Or hearsay, no facts.

20          Q       You found out that he fleeced his wife and  
21 ran off with money from her?

22          A       No facts, no.

23          Q       Is that what you heard?

24          A       I heard that, not from him.

25          Q       You told the jury that the last time you saw

1 Peter was the evening of November the 4th about 10:30 when  
2 he left?

3 A Yes.

4 Q And on November the 5th about 1:00 o'clock,  
5 you went over and found Jack asleep or passed out, or a  
6 combination of the two on the floor of 1933 Western,  
7 correct?

8 A Yes.

9 Q And he was wearing a white shirt and jeans,  
10 correct?

11 A Yes.

12 Q He wasn't dirty?

13 A No.

14 Q He didn't appear to have dug a grave?

15 A No.

16 Q Wasn't dirt all over him?

17 A No.

18 Q And this was at about somewhere around the  
19 lunch hour of November the 5th, correct?

20 A To the best of my recollection, yes.

21 Q And you had spoken to him that morning about  
22 8:30; him being Jack Seka?

23 A Yes.

24 Q You had spoken to Jack about 8:30, and you  
25 had a conversation about him being depressed because he

1 saw his girlfriend involved with another man?

2 A Yes.

3 Q Back east?

4 A Yes.

5 Q At any time during the conversation you had  
6 with Jack on November the 5th, did he tell you he had shot  
7 Peter Limanni?

8 A No.

9 Q At any time during any subsequent  
10 conversation, did Jack indicate that he had harmed Peter  
11 Limanni?

12 A No.

13 Q In your opinion, Peter Limanni was Jack's  
14 only friend, correct?

15 A Yes.

16 Q In all the times the DA asked you about the  
17 time at the Palace Station, and the time with the luggage  
18 you saw Peter being mean or disrespectful to Jack,  
19 correct?

20 A Yes.

21 Q You never saw Jack demean or be  
22 disrespectful or get angry or threaten Peter, did you?

23 A No.

24 Q In fact, you were sort of sympathetic to  
25 Jack for getting verbally abused, for lack of a better



1 term, by Peter?

2 A Yes.

3 Q The situation you told the jury already  
4 about was the paint situation where Jack spilled some  
5 paint and Peter goes nuts, screaming and yelling at Jack.  
6 And your conversation with Jack he tells you that's just  
7 the tip of the iceberg, he really gets angry, he's got a  
8 bad temper?

9 A Yes.

10 Q And is that consistent with your experience  
11 with Peter Limanni?

12 A I never had an experience with him like  
13 that. I've seen it with Jack.

14 Q Peter appeared to be controlling; is that  
15 correct?

16 A Yes.

17 Q He controlled Jack?

18 A Yes.

19 Q He gave you a phone so he could keep tabs on  
20 where you were all the time, correct?

21 A Probably.

22 Q You guys called each other pretty  
23 frequently, right?

24 A Uh-huh.

25 Q You have to say "yes" or "no" so she can

1 take it down.

2 A Yes.

3 Q Peter told you he was the owner of Cinergi,  
4 correct?

5 A Yes.

6 Q Peter never told you that a man Takeo Kato  
7 had given him a hundred-thousand dollars that he had blown  
8 in four months. He never told you that, did he?

9 A No.

10 Q And when you meet Peter, we're talking  
11 August, so that's the eighth month of 1998, right before  
12 Labor Day weekend I think you told me is when you met him?

13 A Yes. Not right before Labor Day weekend. I  
14 met him the first week in August.

15 Q Peter treated you well?

16 A Yes.

17 Q He told you that nothing but the best for  
18 you and he, correct?

19 A Yes.

20 Q And you told the police that back in 1998  
21 when you gave the statement to them? Do you think that's  
22 what you told them back then?

23 A I could have said that.

24 Q He took you out to nice dinners?

25 A Yes.

1           Q       He flew you to Lake Tahoe?

2           A       Yes.

3           Q       And in Lake Tahoe he discussed with you

4 about opening a cigar shop, slash, heating business up in

5 Lake Tahoe?

6           A       Yes.

7           Q       Now, when he took you to Lake Tahoe, he

8 didn't take the dog on the plane with you guys, did he?

9           A       No. The dog stayed.

10          Q       With Jack?

11          A       Yes.

12          Q       And when you guys went out on dates out to

13 dinner, things of that nature where you can't bring dogs

14 like in the Palace Station, for example, the dog stayed

15 sometimes with Jack, right?

16          A       Or by himself.

17          Q       At 1933 Western?

18          A       Western, uh-huh.

19          Q       And so it wouldn't be completely out of the

20 realm of possibilities that Peter left the dog at 1933

21 Western on the morning of November the 5th when you came

22 and found the dog there and Jack passed out on the floor,

23 right?

24          A       Possibly not.

25          Q       And your first thought when Peter

1 disappeared wasn't that he had been killed. It was that  
2 he just up and gone, right?

3 A Yes.

4 Q Peter talked frequently about traveling  
5 light because he could disappear and go to another city,  
6 correct?

7 A Yes.

8 Q Peter told you he lived in China, he lived  
9 in Arizona, California. He moved lightly; is that fair?

10 A Yes.

11 Q And you thought that was what had happened  
12 back in November when you were no longer able to get a  
13 hold of him?

14 A Yes.

15 Q In fact, part of I think what you told me as  
16 the impetus or the reason you went over to 1933 Western on  
17 morning of November the 5th, because you thought Peter may  
18 be with another woman, correct?

19 A Yes.

20 Q And if Peter was seen alive on November the  
21 6th, which would have been Friday in the afternoon, with a  
22 blonde shapely woman, that wasn't you, was it?

23 A No.

24 Q And if Peter was seen alive on November the  
25 6th in the afternoon, he had been successfully dodging

1 your phone calls for 48 hours at least, correct?

2 A To the best of my memory, yes.

3 Q I think you told Mr. Fattig that Peter lived  
4 at this business on 1933?

5 A Yes.

6 Q And he told you he did that because he  
7 didn't want to go to the expense of getting an apartment  
8 and having expenses of that nature?

9 A Because he was going to build a house.

10 Q Peter also told you that he was going to  
11 take Cinergi international, didn't he?

12 A Yes.

13 Q He was going to take it to all these  
14 different cities across the country and go public with it.  
15 He had big dreams for Cinergi?

16 A Yes.

17 Q And as you saw Cinergi, the heating  
18 business, and your objective view of how the business was  
19 going, did it seem like that was happening any time in the  
20 near future? We're November of '98.

21 A Not in November.

22 Q Business was going downhill, wasn't it?

23 A I don't know where this was.

24 Q You and Peter weren't eating out as much?

25 A No.

1 Q He couldn't take you on trips?

2 A No.

3 Q He didn't have much money left to spend?

4 A I don't know about that.

5 Q He didn't spend it on you, did he?

6 A Not like that.

7 Q In fact, Peter had contemplated and had even

8 taken you with him to Lake Tahoe about setting up a new

9 business up in Lake Tahoe, heating, air conditioning,

10 slash, cigar store?

11 A Yes.

12 Q And you later came to find out he signed a

13 lease in Lake Tahoe?

14 A Yes.

15 Q And on that lease he put you as a reference,

16 did he not?

17 A I saw that he did.

18 Q He put that he had known you for two years,

19 right?

20 A That's what you showed me.

21 Q And that's not true, was it, back in

22 November of '98?

23 A No.

24 Q You knew Peter and Jack had taken one of the

25 vans up to Lake Tahoe?

1 A Yes.

2 Q And that was one of the vans that you were  
3 under the impression Peter Limanni owned, correct?

4 A Yes.

5 Q And so if I told you those vans weren't  
6 owned by him, but were owned by a gentleman name Takeo  
7 Kato, that was not the impression Peter gave you?

8 A Well, I recognize that name.

9 Q Were you ever told he was the money behind  
10 Peter's business?

11 A I don't remember.

12 Q You were, after Peter disappeared, called by  
13 a lady named Peggy Eichorn, who is a real estate agent up  
14 in South Lake Tahoe, correct?

15 A Yes.

16 Q And she asked you if you had heard from him,  
17 and you said you had not, correct?

18 A Correct.

19 Q And that was sometime in the middle or late  
20 November of 1998, to the best of your recollection?

21 A I don't remember.

22 Q It was after the 5th when you went over to  
23 1933 and Peter wasn't there?

24 A Yes.

25 Q And it was before the 7th of December when

1 you gave this taped statement to the police officers?

2 A Yes.

3 Q Peter had other business associates that he  
4 was dealing with back in November and earlier when you  
5 knew him, isn't that correct?

6 A Not that I remember.

7 Q There was a gentleman name Amir that Peter  
8 dealt with in the jewelery business?

9 A Dealt with for something.

10 Q And you had an understanding that this Amir  
11 was somebody who ripped off \$50,000 worth of checks and  
12 then disappeared?

13 A No.

14 Q Where did Peter tell you he was from? Where  
15 did he live last?

16 A He lived last in California.

17 Q Was it Santa Monica, California?

18 A To the best of my memory, yes.

19 Q So if there was an identification,  
20 California identification of Peter listing Beverley Hills  
21 as his address, that wouldn't be an accurate reflection of  
22 what he told you?

23 A Could be.

24 Q Did you know that Takeo Kato came to Las  
25 Vegas and repossessed one of the vans from Peter prior to



1 November the 5th, '98?

2 A No.

3 Q In terms of people that had access to the  
4 vans and the trucks, Peter and Jack drove interchangeably,  
5 correct?

6 A Yes.

7 Q In fact, there was a period of time when  
8 your car was broken down that you drove the truck for a  
9 while?

10 A The Toyota, yes.

11 Q The little brown Toyota pickup?

12 A Uh-huh.

13 Q The business went into a down turn, the  
14 heating business from -- you met Peter in August, so  
15 August, September and the fall of 1998. At some point  
16 Peter got the idea to start a cigar shop there at that  
17 address on Western, correct?

18 A Yes.

19 Q I keep pointing to that map. I'm sorry.

20 A That's okay.

21 Q And Peter and Jack worked frequently in this  
22 business sawing boards, and putting up this humidor, and  
23 things of this nature?

24 A Yes.

25 Q And it was physical hand work, carpentry,

1 and the like, correct?

2 A Yes.

3 Q And would oftentime Peter have the natural  
4 consequences of that work reflected on his hands; cut  
5 hands, nicks, scratches?

6 A Yes.

7 Q You noticed it because you probably held his  
8 hand once in a while, right?

9 A Yes.

10 Q Did there come a time when Peter asked you  
11 to borrow \$2,000 for his cigar business?

12 A Yes.

13 Q And you didn't loan him that \$2,000, right?

14 A No.

15 Q And he had a big story about how he was in  
16 California, but they wouldn't take his Nevada check. And  
17 that was the story he told you, and you didn't feel  
18 comfortable, right?

19 A Right.

20 Q And so you didn't give him the money?

21 A No.

22 Q To an extent you thought Peter was a con  
23 man, correct?

24 A To an extent.

25 Q And we spoke about this, but in hindsight

1 looking back on things, there were a lot of indicators  
2 that that's what he was, that now you look back and you  
3 see a lot clearer than you did in November of '98?

4 A Yes.

5 Q And I apologize, I'm not trying to attack  
6 you, I'm just trying to get the facts out as best I can.

7 Peter told you he wasn't close to his  
8 family, to everybody but his mother?

9 A Not to everyone, no.

10 Q And I think you told Mr. Fattig that the  
11 derogatory term, the racial term that Peter referred to  
12 Jack as, was only in your presence. He didn't say: Hey  
13 Jack, you're the --

14 A No, he didn't say that at me, he said it  
15 more in a -- just commenting.

16 Q But to you, not to Jack?

17 A Correct.

18 Q Peter was also an actor, was he not?

19 A Yes.

20 Q He had a portfolio?

21 A Yes.

22 Q And, in fact, he acted as an extra in the TV  
23 movie "Rat Pack"?

24 A Yes.

25 Q And that was the movie you watched with

1 Peter and Jack on a couch at 1933 Western sometime in the  
2 fall of 1998?

3 A Yes.

4 Q Peter also told you that his reason or  
5 justification for treating Jack the way he did, was that  
6 this was the best life Jack has ever known?

7 A Yes.

8 Q Peter was under the impression, at least  
9 from his comments to you, that Jack was living better than  
10 he ever had?

11 A Yes.

12 Q He had food and a roof and beer, or what  
13 have you, correct?

14 A Yes.

15 Q You never saw Jack with a gun?

16 A No.

17 Q You never saw Jack do anything in a violent  
18 capacity, did you, in all the time you knew him?

19 A No.

20 Q And when Jack talked to you about the  
21 police, and I'm talking now about the 17th of November  
22 when he calls you up and says: Come meet me in the  
23 parking lot of 24-Hour Fitness, Jack told you the police  
24 were trying to pin something on him that he hadn't done?

25 A Yes.

1 Q And that a black guy had been killed and the  
2 police were trying to say he did it?

3 A Yes.

4 Q And he told you he didn't do it?

5 A Yes.

6 Q And that's in August from Arizona that Jack  
7 calls you and he says he's underground, that was because  
8 of the situation with the black gentleman who was found  
9 dead, correct?

10 A And that was after I remember seeing Peter's  
11 picture on TV. And I remember asking Jack what's going  
12 on, Peter's picture is all over TV, it's in the paper.  
13 And he's, like: I don't know what's going on.

14 Q He never gave an indication to you that he  
15 had harmed Peter in any fashion whatsoever, correct?

16 A No.

17 Q His belief, or at least what he relayed to  
18 you was exactly what you thought, which is that Peter just  
19 upped and moved, right?

20 A Yes.

21 Q Incidentally, when Jack calls you and says  
22 that: Hey, I just got done talking to the police, he  
23 tells you that he had to give the police your name, right?

24 A Yes.

25 Q And he tells you he had to tell the police

1 the truth, that's why he had to give them your name,  
2 correct?

3 A No. I don't remember that.

4 Q If I showed it to you in your statement,  
5 might it help refresh your recollection?

6 A Yeah.

7 MR. CHRISTIANSEN: Court's indulgence.  
8 Let me see if I can find it as we go.

9 Q (By Mr. Christiansen) When you were  
10 questioned by the police in December of 1998, you told the  
11 police officers that you were concerned that somehow  
12 whoever had killed or done whatever harm to Peter may, in  
13 fact, harm you?

14 A Yeah.

15 Q You thought it had something to do with the  
16 Mafia, right?

17 A I was thinking all kinds of things.

18 Q You've never been involved in a situation  
19 where somebody just upped and disappeared?

20 A No.

21 Q You never expressed to the police your  
22 concern of any repercussions or retributions on behalf of  
23 Jack, like Jack was going to come and get you, right? You  
24 never told the cops you were scared of Jack?

25 A I don't remember.

1           Q       Did you tell the police officers in your  
2 statement that Peter was mean?

3           A       I don't remember.

4           Q       Did you tell them you knew he was a  
5 bullshitter, to use your words?

6           A       Yes.

7           Q       Look on Page 32, if you would, in terms of  
8 the question about that Peter was mean. And read the last  
9 answer on the page to yourself, and look up back at me  
10 when you're finished.

11                    You told the officers Peter was mean, didn't  
12 you?

13          A       Yes.

14          Q       Look at Page 37. I found the part about  
15 telling the truth, and it's the first answer about a third  
16 of the page. Read that to yourself, if you would, please,  
17 and tell me when you're finished.

18                    Does that refresh your recollection? Jack  
19 told you that he said to tell the police the truth, and  
20 that's how he gave them your name, correct?

21          A       That I worked for the Frontier Directory.

22          Q       He said that he wasn't going to lie?

23          A       That I work at Frontier Directory, correct.

24          Q       Did you tell the police that you had some  
25 concerns that the man you knew as Peter Limanni was not

1 really Peter Limanni, was somebody else?

2 A Yes.

3 Q And did you tell the police that you thought  
4 he was the kind of guy who took money from women and just  
5 took off?

6 A I don't remember saying that.

7 Q Turn to Page 61 for me, if you would, of  
8 your statement. And, Ms. Harrison, I'm not beating you up  
9 for not remembering something two years later. That's why  
10 I gave you the statement just so we get out what it was  
11 you told the police back then.

12 A Okay.

13 Q Read the first answer that goes two-thirds  
14 of the page to yourself, and tell me when you're done, if  
15 you would. You're smiling. I imagine that's because  
16 you're remembering how things went down back when you  
17 talked to the police officers; is that right?

18 A Yes.

19 Q In fact, on Page 61, back just about a month  
20 after Peter had disappeared, you told the police officers  
21 you thought he was just some con, correct?

22 A Yes.

23 Q That he probably packed up and went off to  
24 Tahoe?

25 A Yes.



1           Q       That's because he set this business up in  
2 Tahoe?

3           A       Yes.

4           Q       And that he probably knew you weren't going  
5 to play the game because you could have confronted him on  
6 what you thought was true, or what could have been true,  
7 and he was saying things and they weren't making sense.  
8 And you were even worried Peter Limanni might not be this  
9 guy's real name?

10          A       Yes.

11          Q       You were worried that he was the kind to  
12 take women, and just take them and not get nothing? And  
13 you thought to yourself and told the police: He's not  
14 going to get a penny from me?

15          A       Yes.

16          Q       And that reflects your desire or your  
17 decision to not give him that \$2,000 when he called you  
18 from LA and wanted to borrowed money, and had that  
19 concocted story about his check?

20          A       Yes.

21          Q       And Peter even attempted to talk you into  
22 going into business with him on numerous times, didn't he?

23          A       Yes.

24          Q       And always something in your gut or in your  
25 brain told you this wasn't a guy you wanted to be in

1 business with, correct?

2 A Yes.

3 Q And, in fact, in November of 1998, you had  
4 sort of made a decision that you were going to go separate  
5 ways with Peter Limanni?

6 A Yes.

7 Q I wrote a note down, I'm just not sure I  
8 heard you right. Did you say that Peter called you his  
9 camel?

10 A He referred, not to me personally, but to a  
11 girlfriend. "A man cannot live without his dog and his  
12 camel."

13 Q And a camel is a female?

14 A Referring to his woman.

15 Q Let me ask you a question. Did Peter and  
16 Jack often make lists of things to do, or Peter make lists  
17 of things for Jack to do?

18 A Peter made lists of errands for Jack to run.

19 Q Was that uncommon at all?

20 A Not that I remember.

21 Q You didn't learn anything about these  
22 Japanese individuals that I've been talking to you about  
23 today until Jack told you about them after Peter had  
24 disappeared and Jack had left, correct?

25 A Referring to who?

1           Q       The Japanese investors that I've talked  
2 about, Takeo Kato.

3           A       No. When you mentioned that name, I do  
4 remember seeing that name on a contract at Frontier  
5 Directory.

6           Q       So Mr. Kato may have had to sign the  
7 Frontier Directory contract?

8           A       He had that, yes.

9           Q       Do you know why it was that Peter Limanni  
10 didn't put his name on the Frontier Directory contract?

11          A       I already had the contract. That's how I  
12 met Peter, that's the reason why I recognize the name now.  
13 That's who signed the contract. I called for him. He,  
14 from the best that I can remember, that Peter owned the  
15 company, had bought it from him.

16          Q       Peter told you he had bought the company  
17 from Kato?

18          A       The best of my memory.

19          Q       You told the State and jury that Jake was  
20 with Peter a lot, except the times when you went to Tahoe,  
21 or you guys would go to dinner or what have you?

22          A       That's correct.

23          Q       And yet when you spoke to the police just a  
24 month after Peter disappeared, it was your opinion that  
25 Peter would have left Jake if he had to disappear, right?

1           A        I don't think I would say that.

2           Q        Turn to Page 69 of your statement for me, if  
3 you would, and read last questions and answer on the page.

4           A        "And so you're thinking --

5           Q        I'm sorry. You have to read it to yourself  
6 and then look up at me. That's okay. I should have  
7 explained it better.

8                    In this portion of the statement you're  
9 talking to the police officer, to Detective Thowsen about  
10 your thoughts when you couldn't find Peter on November the  
11 5th, which was that he must have just disappeared with  
12 another woman or taken off somewhere else, correct?

13          A        Not so much with the other woman. That was  
14 a thought. That was a thought. But that it was he had  
15 just taken off.

16          Q        And in response to a question by a police  
17 officer you said, "Something is going on that I don't know  
18 about, something. And like they say, love shakes but, you  
19 know what, he'll get another dog." That's what you said,  
20 right?

21          A        Yes.

22          Q        And you thought Tahoe was a likely place he  
23 would disappear because he had set that new business up  
24 and taken one of the vans from the old business and put it  
25 up there, correct?

1 A Yes.

2 Q And he talked all the time about traveling  
3 lightly, and being able to just pick up and go at any  
4 second?

5 A Yes.

6 Q And so until somebody called you, and you  
7 told me it was his sister, until she called you some  
8 months or a couple months after he disappeared, your  
9 entire thought process was that Peter had just up and  
10 taken off?

11 A Yes.

12 Q You never thought that Jack Seka had shot or  
13 hurt or harmed his only friend, did you?

14 A No.

15 MR. CHRISTIANSEN: Nothing further.  
16 Thank you, Ms Harrison.

17 THE COURT: Redirect?  
18

19 REDIRECT EXAMINATION

20 BY MR. FATTIG:

21 Q Did you ever see Peter with any gaping  
22 wounds or anything that would require stitches?

23 A No.

24 Q You testified you saw minor scrapes on his  
25 hands?

1 A Yes.

2 Q Anything more than that?

3 A No.

4 Q Nothing that would cause him to bleed and  
5 stain the wall or carpet, or anything like that?

6 A No.

7 Q Did you have -- what was the status of your  
8 relationship in early November of 1998? Did you have  
9 specific plans to break up?

10 A Yeah. We actually weren't even talking as  
11 often as we were, and I just knew we weren't going to see  
12 each other anymore.

13 Q Did you have a knock-out, drag-out fight  
14 about it?

15 A No not at all. We actually never discussed  
16 it. I was just already thinking that.

17 Q So that was something that was internal in  
18 you?

19 A Yeah.

20 Q Would you describe the last time you saw  
21 him, was it on good terms or bad terms?

22 A No. It was fine. It was nice, it was  
23 always just easy, nice. It's just it knew it was not  
24 going to progress and nothing was said about it. And he  
25 just left and: See you later.

1 Q And you had plans to meet on the next day?

2 A Yes.

3 MR. FATTIG: Nothing further.

4 THE COURT: Anything further?

5 MR. CHRISTIANSEN: Just briefly.

6

7 RECROSS EXAMINATION

8 BY MR. CHRISTIANSEN:

9 Q When you and Peter were packing to go to  
10 Tahoe back over Labor Day, you saw a bullet in the 1933  
11 then as well, did you not?

12 A I don't remember when I saw the bullet. I  
13 remember seeing a bullet, but I don't remember when I saw  
14 the bullet.

15 Q And when you were in Tahoe, Jack wasn't with  
16 you and Peter, was he?

17 A No.

18 Q And in a sushi bar there was a violent  
19 episode with Peter losing his temper up in Tahoe as well,  
20 correct?

21 A In Tahoe? No.

22 Q Yes. Look at Page 17 of your statement,  
23 please. And this is just related to the bullet,  
24 Ms. Harrison. Middle of the page, the question start  
25 with, "Did you ever see -- and then just read that answer

1 to yourself and tell me when you're finished.

2 So when you gave this statement back in  
3 December of 1998, just a month after Peter had  
4 disappeared, you had a recollection of when you were  
5 packing to go to Tahoe seeing a bullet at that location?

6 A As it says, we were packing to go to Tahoe,  
7 or getting stuff together. I don't remember if it was  
8 just going Tahoe.

9 Q I'm just trying to make -- it wasn't on the  
10 5th when you went and found Jack passed out on the floor?  
11 You had seen a bullet there before that?

12 A Could have been. I don't remember. I  
13 remember seeing a bullet, I don't remember when.

14 Q And the answer to this question you say is,  
15 "We were packing to go to Tahoe, or we were doing -- don't  
16 know, getting some stuff together, I remember I saw one.  
17 I didn't say anything, I just swept it under the carpet,  
18 you know."

19 That's what your answer was December 7th  
20 '98, right?

21 A Yes.

22 MR. CHRISTIANSEN: Nothing further.

23 Thank you, Ms. Harrison.

24 THE COURT: Anything further?

25 / / /



FURTHER REDIRECT EXAMINATION

BY MR. FATTIG:

Q Do you remember telling the police you also saw one the morning of November 5th in this back bedroom?

A I remember I saw a bullet. I don't remember when I saw the bullet.

MR. FATTIG: Nothing further.

MR. CHRISTIANSEN: Nothing further.

THE COURT: Thank you very much.

You're excused. We will take a break, ladies and gentlemen.

"It is your duty not to discuss among yourselves, or with anyone else, any subject connected with the trial; or read, watch or listen to any report of, or commentary on the trial or any person connected with the trial by any medium of information, including without limitation, newspapers, television and radio; or form or express any opinion on any subject connected with the trial until the cause is finally submitted to you."

We'll take approximately 30 minutes.

Court's in recess.

ATTEST: Full, true and accurate transcript of proceedings.

  
MAUREEN SCHORN, CCR NO. 496, RPR

DISTRICT COURT  
 FILED IN OPEN COURT  
 CLARK COUNTY, NEVADA  
 FEB 15 2001  
 CHARLEY E. PARRAGUIRRE, CLERK  
 BY JUDY NORMAN  
 DEPUTY

THE STATE OF NEVADA,

Plaintiff,

vs.

JOHN JOSEPH SEKA,

Defendant.

No. C159915  
 Dept No: XIV

**COPY**

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE DONALD M. MOSLEY

VOLUME II

February 14, 2001  
 3:40 p.m.  
 Department XIV

**APPEARANCES:**

For the State:

MR. EDWARD KANE  
 MR. TIM FATTIG  
 Deputy District Attorney

For the Defendant:

MR. KIRK KENNEDY  
 MR. PETER CHRISTIANSEN  
 Attorneys-at-Law  
 Deputy Public Defender

Reported by:  
 Joseph A. D'Amato  
 Nevada CCR #17

2  
Page

EXAMINATION by Mr. Fattig  
EXAMINATION by Mr. Kennedy

EXAMINATION by Mr. Kane  
EXAMINATION by Mr. Kenndey

EXAMINATION by Mr. Kane

/	/	/
/	/	/
/	/	/
/	/	/

1 THE COURT: Continuation of case number  
2 C159915, State of Nevada versus John Joseph Seka. Let  
3 the record reflect the presence of the Defendant, counsel  
4 for the defense, Mr. Christiansen, Mr. Kennedy present,  
5 Mr. Kane and Mr. Fattig for the State.

6 Will counsel stipulate all members of the  
7 jury are present and properly seated?

8 MR. KANE: Yes, Your Honor.

9 MR. KENNEDY: Yes, Your Honor.

10 THE COURT: Next witness, please.

11 MR. FATTIG: Peter Borden.

12  
13 PETER BORDEN,  
14 a witness herein, was sworn by the clerk of the court,  
15 was examined and testified as follows:  
16

17  
18 EXAMINATION

19 BY MR. FATTIG:

20 Q. Sir, would you please state your name and  
21 spell your last name for the record?

22 A. Peter B-o-r-d-e-n.

23 Q. Back in December of 1998 did you live in  
24 Henderson, Nevada?

25 A. Yes, I did.

1 Q. Where did you work at?

2 A. Molycor Mine.

3 Q. Where was that located at?

4 A. Mountain Pass, California.

5 Q. Can you be a little bit more specific?

6 Where, in California, was it at?

7 A. Maybe about eight miles past Stateline or  
8 so, right at Mountain Pass on Route 15.

9 Q. On December 23, 1998 were you working that  
10 day?

11 A. Yes.

12 Q. What were your general duties?

13 A. I worked in the utility carpenter shop at  
14 the mine and one of my responsibilities was to monitor  
15 the waste water lines and fresh water lines that service  
16 the mine.

17 Q. And how would you do that?

18 A. By truck, drive along side the roads that  
19 they went along, parallel to.

20 Q. What roads do they go off?

21 A. Semere Road (phonetic) and Nipton Road.  
22 Basically, those were the main areas.

23 Q. On December 23, 1998, did you work that  
24 day?

25 A. Yes, I did.

1 Q. Did you see anything unusual?

2 A. Yes.

3 Q. Where were you at?

4 A. I was on Nipton Road.

5 Q. And what did you see?

6 A. I saw a dog on the side of the road  
7 chewing on something, and to see a dog on that road was  
8 out of place, so I turned around to go back and see what  
9 the dog was doing there.

10 Q. And did you turn around and get a closer  
11 look?

12 A. Yes.

13 Q. What did you see?

14 A. I saw what appeared to be a body.

15 I wasn't sure what it was, at first, and  
16 the dog had been on top of the body, chewing on it.

17 Q. How much of the body did you see?

18 A. About from the waist up.

19 Q. Was there anything obstructing the view of  
20 the body between the body and the road?

21 A. Yes. There was a berm there.

22 Q. Berm made out of what, dirt?

23 A. Dirt.

24 I wouldn't have seen it had the dog not  
25 been there.

1 Q. Okay. And you said you only saw it from  
2 the waist up?

3 A. Correct.

4 Q. What did the body look like to you?  
5 What kind of shape was it in?

6 A. At first, I actually thought it was a  
7 resuscitation dummy and it was shiny and I didn't think  
8 it was human, at first.

9 Q. What did it look like to you?  
10 What condition was it in?

11 A. Partially decomposed, no flesh left on the  
12 head that I could see. I saw one hand. It looked like  
13 one finger was gone.

14 I didn't get out of my truck. I stayed in  
15 the truck so I didn't take a real close look at that  
16 time.

17 Q. What did you do after that?

18 A. I tried to contact the mine with the radio  
19 that was in the truck to let them know I just found a  
20 body in the desert, but the radio wouldn't work. For  
21 whatever the reason, it wouldn't carry that far at the  
22 time, so BLM had some trailers set up just down, further  
23 down Nipton Road towards where I was originally headed  
24 anyways, and I think they had land lines there so I went  
25 down there and I asked them to call 911, that I had found

1 a body, and then I turned around and went back to stay at  
2 the site.

3 Q. And when you went back to the site was  
4 there any people around at all?

5 A. No.

6 Q. Was this a pretty isolated place?

7 A. Yes, very.

8 Q. Were you there until the police arrived?

9 A. Yes, I was.

10 Q. How long did it take the police to arrive?

11 A. It seems 15 to 20 minutes from the time I  
12 left the trailer.

13 Q. Did you ever disturb anything at the  
14 scene?

15 A. No. I didn't get out of the truck until  
16 the police arrived.

17 Q. At any point did you ever disturb  
18 anything?

19 A. No.

20 Q. Did you - - does Nipton Road intersect  
21 with I-15?

22 A. Yes, it does.

23 Q. How far into California is Nipton Road?

24 A. It's going to be a guess, but maybe five  
25 miles from Stateline, five to six miles from Stateline.



1 I'm not sure.

2 Q. Close.

3 MR. FATTIG: Nothing further, Your Honor.

4 THE COURT: Cross-examination.

5

6

7

EXAMINATION

8

BY MR. KENNEDY:

9 Q. Mr. Borden, you said you lived in  
10 Henderson?

11 A. Yes.

12 Q. When you would go to work in the morning  
13 to Stateline would you take Lake Mead out to I-15 and  
14 take I-15 and go south?

15 A. Yes.

16 Q. From that point when you get on I-15 from  
17 Lake Mead how many minutes does it take, given traffic,  
18 to get to your work?

19 A. From the Lake Mead/I-15 intersection,  
20 probably 45, 45 minutes.

21 Q. What time do you go to work in the  
22 morning?

23 Is it in the morning?

24 A. I don't work there now, but when I did  
25 work there I worked 7:00 to 3:30.

1 Q. You told us that you were driving along  
2 Nipton Road as part of your job functions and duties; is  
3 that correct?

4 A. Correct.

5 Q. And prior to December 23, 1998 had you  
6 driven that road on a number of occasions?

7 A. Yes, I had.

8 Q. Let's talk in the month of December.

9 Before December 23rd, how many occasions  
10 did you drive up and down Nipton Road?

11 A. I would guess 30 or more.

12 Q. And obviously on the 23rd that was the  
13 only time you ever saw this body in the desert; is that  
14 correct?

15 A. Correct.

16 Q. When you're driving along Nipton Road are  
17 you looking out across the landscape as part of your job?

18 A. To the right, yes, looking out to the  
19 right-hand side, but mostly I use Nipton Road to get to  
20 the dirt road where the pipes are.

21 Q. How far was that dirt road turnoff from  
22 the point where you saw the body?

23 A. Again I would have to guess, maybe four  
24 miles or so down the road further it would have been.

25 Q. And as you testified when you saw the body

1 did you actually pull your truck over and step out and  
2 take a look at what this dog was pulling on?

3 A. Pulled the truck over, but didn't step  
4 out, no.

5 Q. So you could see everything from your  
6 truck?

7 A. Yeah. Once I pulled up into the dirt off  
8 the road I could see more clearly what it was.

9 Q. And only half of the body was exposed?

10 A. That's all I could see from the waist up.

11 Q. Did you return to the scene at a later  
12 time when the authorities arrived?

13 A. Yeah. After I went to the trailer I went  
14 right back to where I had found the body and waited for  
15 the police to arrive there.

16 Q. And you gave a statement to them?

17 A. Yes, I did.

18 MR. KENNEDY: Pass the witness, Your  
19 Honor.

20 MR. FATTIG: Nothing further.

21 THE COURT: Next witness, please.

22 MR. KANE: James Buczek.

23  
24 JAMES BUCZEK,  
25 a witness herein, was sworn by the clerk of the court,

1 was examined and testified as follows:

2

3

4

EXAMINATION

5 BY MR. KANE:

6 Q. Sir, would you state your name and spell  
7 your last name for the record?

8 A. My name is James B-u-c-z-e-k.

9 Q. By whom are you employed?

10 A. For the Las Vegas Metropolitan Police  
11 Department.

12 Q. How long have you been with that  
13 department?

14 A. With Metro, approximately 12 years now.

15 Q. And to what section are you assigned?

16 A. Homicide.

17 Q. And how long have you been assigned to  
18 that section?

19 A. Just a little over four years.

20 Q. I want to talk to you about some incidents  
21 in November of 1998.

22 Let me ask you, at the outset, when you  
23 when you investigated homicide scenes in 1998 was it the  
24 practice and is it still the practice now to investigate  
25 in terms of two homicide detectives?

1 A. Yes, it is.

2 Q. And is there a division of responsibility  
3 between the two detectives at the beginning of the  
4 investigation?

5 A. Yes, there is.

6 Q. What is it basically?

7 A. My partner was Detective Tom Thowsen.

8 Detective Tom Thowsen in this given case  
9 was assigned to handle the interviews of any witnesses  
10 and/or suspects.

11 My job was to strictly do the  
12 investigation of the crime scenes.

13 Q. When you say do the investigation of the  
14 crime scenes, you're not doing that all by yourself as a  
15 homicide detective; am I correct?

16 A. That is correct.

17 Q. In fact, a homicide scene, at least at the  
18 beginning, is fairly swarming with a lot of people; is  
19 that correct?

20 A. Some are, yes.

21 Q. And there are crime scene analysts, people  
22 whose job it is to photograph and preserve and collect  
23 evidence, correct?

24 A. That's correct.

25 Q. And there were a number of those people

1 involved in the incidents that we're going to be talking  
2 about?

3 A. Yes, yes, there were.

4 Q. With the understanding that they will be  
5 testifying and bringing in the various items of physical  
6 evidence, I do want to go through just a brief overview  
7 of how this investigation got started and we'll start on  
8 November 16, a little after 7:30 in the morning.

9 Were you contacted by Sergeant Ken Hefner  
10 at that point?

11 A. Yes, I was.

12 Q. And what information were you given?

13 A. Sergeant Hefner told me to respond to Las  
14 Vegas Boulevard South and it would be approximately two  
15 miles south of Route 146, which at that time was called  
16 Lake Mead.

17 Currently it's St. Rose Parkway.

18 Q. And did you respond to that scene?

19 A. Yes, I did.

20 Q. And again your responsibility here was  
21 primarily processing the scene with Detective Thowsen  
22 primarily interviewing witnesses; is that correct?

23 A. That is correct.

24 Q. Would you describe the scene as you  
25 observed it?

1           A.    As I arrived to park my vehicle, I got out  
2 and I saw the body of an individual laying - - it was  
3 west of Las Vegas Boulevard South and east of I-15.

4           The body was covered with a variety of  
5 lumber, different sizes. Some were cedarwood, others  
6 were 2x4's, 1x4's, 1x6's and I believe it was also 1x3's  
7 of various lengths.

8           The body you could still see beneath the  
9 wood, without any difficulties from the roadway.

10           MR. KANE: May I approach?

11           THE COURT: You may.

12           BY MR. KANE:

13           Q.    I want to show you what have been marked  
14 for identification as State's proposed exhibits 2 through  
15 6.

16           Without describing them would you tell me  
17 first if you recognize them?

18           A.    Yes, I do.

19           Q.    Are those photographs that were taken of  
20 the scene that you've just been talking about back on  
21 November 16 of 1998?

22           A.    Yes, they were.

23           Q.    Do they fairly and accurately depict the  
24 scene as you saw it in that morning?

25           A.    Without a doubt, yes.

1 MR. KANE: Offer two through six.

2 MR. KENNEDY: Can I just take a quick  
3 look?

4 MR. KANE: I'm sorry.

5 MR. KENNEDY: No objection, Your Honor.

6 THE COURT: Those items are received.

7 Thank you.

8 BY MR. KANE:

9 Q. I would note, for the jury's convenience,  
10 that you'll have access to those photos later, along with  
11 an exhibit list that briefly describes each.

12 With that in mind, Detective Buczek, would  
13 you just go through the photos one at a time and just  
14 indicate to the jury what's depicted in each of the  
15 photographs?

16 A. Okay.

17 Q. I realize they are all roughly of the same  
18 area.

19 A. This picture here is a photograph of the  
20 victim's body. It is underneath the wood and there's  
21 various pieces of lumber that are laying across the body.

22 It's located out in the desert area. You  
23 can see the desert vegetation.

24 Q. Would you read the number on the back as  
25 you go through?



1 A. This would be number six.

2 Number five very much depicts the same  
3 thing. However, here and also here you can also see that  
4 there are tire tracks that are going through the dirt in  
5 the desert.

6 The victim appears to be in the middle of  
7 the tire tracks and that would be number five.

8 This right here again is the pile of  
9 lumber on top of the victim. Located east of the victim  
10 is Las Vegas Boulevard South; heading this way would be  
11 north, this way would be south.

12 Again you can see the tire tracks here.  
13 I'm sorry, that would have been number four.

14 Again we have the pile of lumber on the  
15 victim. Again you can see the tire tracks in the desert  
16 and this is a view looking towards the south. That would  
17 be number three.

18 And number two would be a closer, close-up  
19 of this and again the same thing, the lumber, you can see  
20 the tire tracks and the victim.

21 Q. I'm assuming at some point the lumber was  
22 removed and the body was examined?

23 A. That is correct.

24 Q. And would you briefly describe the body  
25 and its condition?

1           A.    The body was that of a black male.  He was  
2   laying face down.

3                   His head was to the north and his feet  
4   were to the south.  His arms were extended over his head  
5   in this position (indicating).

6                   He was wearing a charcoal grey T-Shirt.  
7   He also had on a pair of black Levi jeans and black  
8   athletic shoes.

9                   MR. KANE:  Can the record reflect when  
10   Detective Buczek said he was in this position, he raised  
11   his hands about shoulder width apart?

12                   THE COURT:  Do you concede?

13                   MR. KENNEDY:  Yes.

14                   THE COURT:  The record will reflect that.

15   BY MR. KANE:

16                   Q.   Was there any identification on the body?

17                   A.   No.

18                   Q.   Was there anything on the body in the way  
19   of personal effects?

20                   A.   The victim had a ring on.

21                           There was also just a rubberband around  
22   his wrist and also in his, I believe it was his front  
23   pocket was a piece of paper and on the piece of paper was  
24   the name Jack and a telephone number.

25                   Q.   Now, from what you saw at the scene were

1 you able to fix an identity to this person?

2 A. No.

3 Q. And in cases like that the person is  
4 treated initially as a John Doe?

5 A. Yes, that is correct.

6 Q. And because of the wood piled on top of  
7 the body this victim was initially referred to as John  
8 Lumber Doe; is that correct?

9 A. That's correct, yes.

10 Q. What did you do with respect to the phone  
11 number that was found in his pockets?

12 A. My partner, Tom Thowsen, did a check on  
13 it, and I can't recall what company it was, but the  
14 number, I believe, was [REDACTED] 5957, and it came back to  
15 Sinergi which is a business located at 1933 Western  
16 Avenue.

17 My understanding is that the person who  
18 was supposed to use that phone was a person by the name  
19 of Jack.

20 Q. Now, on the next day, that is November 17,  
21 1998, was there an investigation in progress at 1929  
22 Western Avenue?

23 A. Yes, there was.

24 Q. And how did - - how were you made aware of  
25 that?

1           A.    The crime scene analyst had contacted my  
2 sergeant again, Ken Hefner, and told him that we probably  
3 would be interested in responding to that location, that  
4 there was a scene there, there were some bullets and also  
5 some blood located there, so we headed down.

6                   My sergeant instructed me to go down  
7 there. I went down and upon my arrival I noticed that  
8 the front window just south of the front door had been  
9 broken and inside, inside the business - - the business  
10 was vacant and it was - - I believe there are five rooms  
11 and two bathrooms in the business.

12                   However, the front room where you would go  
13 through the doorway, the glass was inside and there was  
14 also quite a bit of blood on the carpeting and also on  
15 the glass and we also located, I believe it was at that  
16 scene, three bullets and also three fragments of bullets  
17 there.

18                   There was also in the northwest corner of  
19 the room a dark blue jacket with quite a bit of blood on  
20 it. The jacket had some holes in it and the holes were  
21 consistent with bullet holes.

22                   We later compared the bullet holes and  
23 they were similar to the bullet holes that Eric Hamilton  
24 had in his body.

25           Q.    And Eric Hamilton is what John Lumber Doe

1 was eventually identified as?

2 A. That's correct.

3 And when I'm saying similar, I mean its  
4 positioning, where they were positioned on the body in  
5 the jacket.

6 Q. Now, in addition to the scene at 1929  
7 Western Avenue was your attention directed eventually to  
8 1933 Western Avenue on that same day, November 17?

9 A. Yes, it was.

10 Q. For what reason?

11 A. The patrol officers that had arrived there  
12 had contacted Jack Seka and they felt that he was a bit  
13 nervous. They also had seen a bullet in front of Mr.  
14 Seka on the desk and then related that to us.

15 There was also some burned clothing and  
16 personal items to Peter Limanni that were located in a  
17 dumpster in the back.

18 Q. And all of that had happened before your  
19 attention was drawn over to that premise?

20 A. Yes.

21 Q. Did you enter and view the premises at  
22 1933 Western?

23 A. Yes, I did.

24 We had contacted Mr. Seka and talked to  
25 him and he gave permission to Sergeant Hefner to allow us

1 to come in and look around. At that point I had Mr. Seka  
2 sign a consent to search card.

3 He read it out loud and signed it.

4 Q. And did you, in fact, go through the  
5 premises at 1933 Western?

6 A. Yes, I did.

7 Q. What did you observe there?

8 A. I observed in the - - first, the north  
9 room, it would have been I believe the northwest room of  
10 the business was a lot of lumber.

11 There was some renovating going on,  
12 remodeling. There was cedarwood and there was 1x4's,  
13 2x4's. There was wood similar to what I saw at my first  
14 scene the day prior.

15 There was also a humidor that was being  
16 built in the eastern portion of that room for selling  
17 cigars, I would imagine. I believe they were going to  
18 start a cigar business.

19 The humidor was made up of cedarwood.  
20 There were a pair of french doors that opened into the  
21 humidor.

22 There was also some other rooms that were  
23 located in the business. One room was the southeast room  
24 and in the southeast room there was a desk and I believe  
25 a couple desks, some file cabinets and a couch.

1           The couch had a bullet hole in the couch  
2           and the bullet had passed through the couch into the wall  
3           behind it and the bullet was recovered out of that wall.

4           We also found in the toilet, in the water  
5           portion of the toilet in the bathroom was a .32 cartridge  
6           which would be the bullet and shell casing in full. It  
7           was submerged in water.

8           We also found in the ceiling - - it had a  
9           false ceiling and we went up and looked around in the  
10          ceiling. We found some .357 ammunition, I believe it was  
11          maybe three cartridges, and a couple .32 cartridges also  
12          in the ceiling.

13          Also found a wallet belonging to Peter  
14          Limanni in the ceiling. The wallet contained a driver's  
15          license of Peter - -

16                 MR. KENNEDY: Objection.

17                 Assumes facts not in evidence as to who  
18          owned the wallet.

19                 MR. KANE: I'm not saying it was  
20          truthfully his identification. He can say what it said  
21          on the identification.

22                 MR. KENNEDY: He can say that, but he  
23          can't say it's Peter Limanni's wallet.

24                 THE COURT: All right.

25          BY MR. KANE:

1 Q, You found a wallet, correct?

2 THE COURT: The characterization that it's  
3 Peter Limanni's wallet will be stricken.

4 Proceed.

5 BY MR. KANE:

6 Q. It bore identification; is that correct?

7 A. That's correct.

8 Q. What forms of identification?

9 A. It had a Nevada driver's license. I  
10 believe it was in the name of Peter Limanni. It had A  
11 Social Security number in the name of Peter Limanni, had  
12 a birth certificate in the name of Peter Limanni and I  
13 believe there was also some credit cards.

14 Q. And what else of significance did you  
15 observe in 1933 Western Avenue?

16 A. There was also a purse, okay.

17 Q. Not important.

18 Q. In any event, in processing these scenes  
19 as the homicide detective do you actually take possession  
20 of any of the items of evidence and put them in the  
21 evidence vault?

22 A. No, I do not.

23 Q. Who does that?

24 A. That would have been the crime scene  
25 analysts who respond out there and there was crime scene



1 analyst Al Kombrowski and Dave Ruffino and the third one  
2 is escaping me.

3 Q. Did you also as part of your participation  
4 in this investigation attend the autopsy of Eric Hamilton  
5 at the Clark County Coroner's Office on December 17?

6 A. Yes.

7 Q. Finally, did you attend on December 29 of  
8 1998 the autopsy in California of the body of Peter  
9 Limanni?

10 A. Yes, I did.

11 Q. In each of these situations as well were  
12 there crime scene analysts or evidence technicians  
13 present who took possession of any physical evidence?

14 A. Yes, there were.

15 Q. And so should the jury want to see any of  
16 that those crime scene analysts would be the people to  
17 bring it in to Court?

18 A. That would be correct, yes.

19 MR. KANE: Nothing further.

20 Tender the witness.

21 THE COURT: Cross-examination.

22 MR. KENNEDY: May I approach the clerk,  
23 Your Honor?

24 THE COURT: You may.  
25

## EXAMINATION

BY MR. KENNEDY:

Q. Detective, when you arrived on November 16 in the morning at the body which you discovered was Eric Hamilton's you noted there was a diamond ring on his right hand; the right finger; is that correct?

A. I'm not quite sure if it was a diamond ring. I believe it had a clear stone.

Q. In fact, it was a gold nugget type ring and it had multiple clear stones; is that correct?

A. I believe so, yes.

Q. The ring itself, was that taken into evidence?

A. I believe it was taken by the coroner's office.

Q. You're also aware the very next day, on the 17th, that there was a bold bracelet or what appeared to be a gold bracelet at 1929 Western; is that correct?

A. It was a yellow metal bracelet, yes.

Q. Was there any identification as to who the owner of that gold bracelet was?

A. Not that I recall.

Q. Do you remember the gold bracelet itself as far as the description of it?

1 Was it relatively thick or was it thin?

2 A. I don't recall.

3 Q. You didn't take that into evidence  
4 yourself?

5 A. No.

6 That would have been the crime scene  
7 analyst.

8 Q. You spoke about on the 17th when you went  
9 next door to 1933 Western that there was a bullet hole in  
10 the couch?

11 A. That's correct.

12 Q. Did you physically see this bullet hole in  
13 the couch?

14 A. Yes, I did.

15 Q. Did you see any apparent stains of blood  
16 or anything of that type around the bullet hole?

17 A. No, I did not.

18 Q. Do you recall what time you arrived at the  
19 scene of 1929, 1933 Western?

20 A. I'm recalling it was around noon.

21 Q. And you came there with Sergeant Hefner?

22 A. That's correct.

23 Q. Did you arrive in the same car?

24 A. No. We would have taken separate cars.

25 Q. Is he a superior to you?

1 A. Yes, he is. He's my supervisor.

2 MR. KENNEDY: May I approach the witness,  
3 Your Honor?

4 THE COURT: Yes.

5 MR. KENNEDY: Your Honor, at this time  
6 this is - - Defendant's proposed C is actually a  
7 stipulated exhibit. It is an incident recall list from  
8 November 17, 1998.

9 It's from the Las Vegas Metropolitan  
10 Police Department which details the calls and the badge  
11 numbers of all those who were at the scene on that date  
12 and time.

13 We have a stipulation to admit that into  
14 evidence at this time.

15 MR. KANE: That's true, Your Honor.

16 THE COURT: Very good. It's received.

17 MR. KENNEDY: If I can approach with what  
18 has now been admitted as Defendant' C, I'll ask you some  
19 questions on it.

20 THE WITNESS: Yes.

21 BY MR. KENNEDY:

22 Q. Have you ever seen a document like this  
23 before, an incident recall sheet?

24 A. Yes, I have.

25 Q. And do you know how many times have you

1 seen these before?

2 A. Yeah.

3 Q. Hundreds?

4 A. I'd say, yeah.

5 Q. So you know what they are for?

6 A. Yes.

7 Q. What would you say, what are they for?

8 Can you just tell the jury what they are  
9 for, the document?

10 A. Basically what they are documenting is the  
11 air traffic. With people arriving there may be some  
12 information that's coming over the air so the dispatcher,  
13 as she's talking to the vehicles she will type in certain  
14 events.

15 Q. All right. If you'll look at this with  
16 me, there are several columns. One, of course, is the  
17 date on the very left-hand side of the page; is that  
18 correct?

19 A. That is correct, yes.

20 Q. There is a column for the time?

21 A. That is correct.

22 Q. Then there is a column for type.

23 Does that refer to the type of call, the  
24 reason that someone is out on the call and an officer is  
25 there?

1                   What does that refer to?

2                   A.    I'm sorry.

3                   Q.    There is a column that says - - you see at  
4 the top it says type?

5                   A.    Yes, type.

6                   Q.    As I look down that there are different  
7 initials like AS, ER, TO, AO.

8                   Do those have a certain meaning to you?

9                   A.    Yes.

10                  Actually, for example, AS is assigned, ER  
11 is en route, TO is to, CL is clear, N is just backed that  
12 unit up.

13                  Q.    If you're actually at a site what would be  
14 the initial for that?

15                  Would that be or is there like a AR,  
16 arrived at site or something?

17                  A.    AR, that is correct.

18                  Q.    Okay. And then there is a separate  
19 column, another column that says address and that gives  
20 you the location of where you're at; is that correct?

21                  A.    That's correct.

22                  Q.    Okay. Now, your badge number is 3702; is  
23 that correct?

24                  A.    Yes.

25                  Q.    In fact, every Metro officer and detective

1 has an identification number; is that right?

2 A. That's correct.

3 Q. As I'm looking on this list here from  
4 November 17 of '98, the first time I see 3702 is towards  
5 the bottom there. It looks like 1233 - -

6 A. That's correct.

7 Q. - - p.m.

8 Is that the time you arrived?

9 A. No. That was the time I was en route.

10 Q. How long did it take you to get there?

11 Is it on the next page?

12 A. They didn't put that when I arrived.

13 Q. Is that something you would have called in  
14 when you got there?

15 A. You know, sometimes - - the vast majority  
16 of the time, yes. Sometimes you get there and you forget  
17 to call in that you arrived, yes.

18 Q. Underneath, if you'll look at that again,  
19 at that one particular line that says 1233, LVH 3702 en  
20 route. The very next line says unit LV530H freed from  
21 the event.

22 Do you know who was freed from the event  
23 at that time?

24 A. I believe that would have been Bill  
25 Keaton.

1 Q. Is he an officer who was there at the  
2 time?

3 A. He would have been a Sergeant. I don't  
4 recall him being there. I don't know.

5 Q. The next initials are LV530H.  
6 Is that Sergeant Hefner?

7 A. That's correct.

8 Q. That is his, okay.

9 A. And maybe that may have been as far as  
10 5:03 or 5:30, that could have been a typo.

11 Q. It says at 1247 on November 17, 530H  
12 arrived. The next line is AR.

13 So that's when Sergeant Hefner was there  
14 at the scene; is that correct?

15 A. That's correct. He arrived at 1247.

16 Q. When you got there was Sergeant Hefner  
17 already there or did you - -

18 A. I don't remember.

19 Q. When you arrived at the scene were there  
20 any, for lack of a better word, black and whites there,  
21 uniformed officers on the scene?

22 A. There were uniformed officers, yes.

23 Q. Do you know an Officer Kroll?

24 A. No, I don't.

25 Q. Do you know an Officer Nogues?



1 A. No, I don't.

2 Q. Were you the detective that asked the two  
3 officers to return to the scene that had gone to lunch,  
4 Kroll and Nogues, asked them to come back around 1:30 or  
5 so?

6 A. I don't think so. I think it may have  
7 been Sergeant Hefner. I don't believe I did.

8 Q. All right. Were you with Sergeant Hefner  
9 throughout his entire stay there at 1933 Western?

10 In other words, were you following him  
11 around or were you off doing your own thing?

12 A. I was off doing my own thing.

13 Q. Okay. So at the time you got there, we're  
14 going to say sometime around between 12:30 and 1:00  
15 o'clock, just a very broad range; is that fair to say?

16 A. I think that's fair, yes.

17 Q. There's definitely more than one officer  
18 there?

19 A. Yes.

20 Q. Would there be more than five Metro  
21 officers there?

22 A. I don't know.

23 Q. And did you yourself go into the back and  
24 look at this dumpster behind the office of 1933 Western?

25 A. Yes, I sure did.

1 Q. And when was that called to your attention  
2 to go back there?

3 Do you recall how long you were there when  
4 someone said "Hey, come back and take a look at this."?

5 A. I don't recall exactly how long I was  
6 there. However, it was definitely brought to my  
7 attention and I went out back and saw it.

8 Q. You don't recall who brought it to your  
9 attention?

10 A. No, I do not.

11 Q. When you went back there you did look  
12 inside it and you saw burnt items of paper and clothing  
13 and things of that type; is that correct?

14 A. That's correct.

15 Q. They were still there. No one had touched  
16 them?

17 A. No, no one did touch them.

18 Q. Did you physically see those items taken  
19 out of the dumpster by maybe a crime scene analyst or  
20 another officer?

21 A. No, I did not.

22 Q. How long do you think you were there that  
23 entire day, at that location, 1933 Western?

24 A. I want to guess at approximately seven,  
25 eight hours, maybe longer.

1 Q. Okay.

2 A. I remember when I left it was dark.

3 Q. Did you ever return to the scene on that  
4 same day?

5 A. No. Once I left I believe that was it,  
6 yes.

7 Q. Did you ever return to the scene on a  
8 later day and do any follow-up work or any other  
9 investigation work?

10 A. Not that I recall.

11 Q. Okay. If you can look at the very next  
12 page of that incident recall, if you'll go down to, looks  
13 like it says a time of 1536, there's your badge number  
14 again; is that correct?

15 Do you see that?

16 A. That's correct, yes, I do.

17 Q. It says AR.

18 Does that mean the location is 1929  
19 Western?

20 Did you - - you testified that you got  
21 there between 12:30 and one, but it looks like you came  
22 back after 3:00 o'clock, around 3:36; is that correct?

23 A. I don't recall.

24 Q. Okay. Do you think this incident recall  
25 is in error?

1 A. I'm not saying that.

2 Q. But you don't recall going back to the  
3 scene twice?

4 A. No, I really don't.

5 Q. Would you have made a report indicating  
6 that you had returned to the scene, later in the day?

7 A. We stayed there constantly, continually,  
8 as you can see. It shows that we're there.

9 If I may have been - - I don't believe I  
10 did leave, but if I did I - - there would have been other  
11 detectives there or my sergeant.

12 Q. The items that were in the dumpster  
13 itself, you testified they were burnt or they appeared  
14 burnt; is that right?

15 A. That's correct, yes.

16 Q. You're saying that because they had  
17 perhaps a black charring around them?

18 A. That's correct.

19 Q. Were they physically - - you testified you  
20 didn't see anybody remove them, but could you identify  
21 what the pieces of burnt evidence there were in that  
22 dumpster and could you peer inside of it and see what was  
23 in there?

24 A. Yes, I did.

25 Q. Is that in one of your reports, as well,

1 what was found in the dumpster?

2 A. Some of the items were described, yes.

3 MR. KENNEDY: Pass the witness, Your  
4 Honor.

5 THE COURT: Re-direct?

6 MR. KANE: No re-direct, Your Honor.

7 THE COURT: Thank you, very much, sir.

8 THE WITNESS: Thank you.

9 THE COURT: Next witness, please.

10 MR. KANE: David Ruffino.

11

12

13

DAVID RUFFINO,

14 called as a witness herein, was sworn by the clerk of the  
15 court, was examined and testified as follows:

16

17

18

EXAMINATION

19 BY MR. KANE:

20 Q. Would you please state your name and spell  
21 your last name for the record?

22 A. My name is David Ruffino, R-u-f-f-i-n-o.

23 Q. And by whom are you employed?

24 A. The Las Vegas Metropolitan Police  
25 Department.

1 Q. And what's your assignment?

2 A. Currently I'm a crime scene analyst within  
3 the Criminalistics Bureau of the department.

4 Q. And how long have you been a crime scene  
5 analyst?

6 A. For 23 years.

7 Q. It's the luck of the draw you're our first  
8 crime scene analyst so you're going to have to handle the  
9 labor.

10 Would you tell the jury what a crime scene  
11 analyst does?

12 A. Basically what a crime sign analyst does,  
13 it's our responsibility and duty to respond to crime  
14 scenes of all types of natures.

15 While we're investigating a crime scene  
16 it's our responsibility as crime scene analysts to take  
17 photographs, to document the crime scenes, to possibly  
18 process for latent fingerprints, to identify, recover  
19 evidence from the crime scenes. That also includes doing  
20 crime scene diagrams at the scene.

21 There's many other duties that we do, but  
22 our basic responsibility is the physical evidence at  
23 crime scenes and documenting this.

24 Q. In terms of physical evidence is part of  
25 your job also the collection of physical evidence so that

1 it can be present presented at legal proceedings like  
2 we're involved in now?

3 A. Yes.

4 Q. If you investigate a crime scene and you  
5 locate an item of physical evidence what do you do to  
6 make sure you can come into court a couple years later  
7 and say "Yeah, that's the same thing I saw back in  
8 1998."?

9 A. Right.

10 First of all, the reason for us doing this  
11 is because we're involved in hundreds of cases a year and  
12 in order to document properly, routinely we will expose  
13 color negatives, take photographs of the items of  
14 evidence.

15 If it's a major crime scene we'll diagram  
16 it, exactly where that item is located within that  
17 specific crime scene and then we'll recover it and handle  
18 it carefully and/or process it, if we need to, and  
19 impound it as evidence.

20 Reports are generated from us indicating  
21 what items we recovered as well as a general crime scene  
22 report detailing of what we did on that particular scene  
23 or scenes.

24 Q. How do you mark or secure the physical  
25 items themselves to make sure you'll recognize them

1 later?

2 A. Okay. Basically it depends on the item of  
3 evidence. We may have, for example, if we recover a  
4 bullet we may put it in a vial or an envelope; it  
5 depends.

6 Then we would mark that particular vial  
7 and/or envelope and then place it inside an evidence bag.  
8 It could be an evidence envelope. It could be an  
9 evidence bag. Depends on how large the item of evidence  
10 is.

11 Then we fill out the evidence package with  
12 the proper event numbers and information. We place the  
13 item or items inside that particular bag of evidence.

14 We seal it with an evidence seal. We  
15 initial it with our P Numbers and/or the date and our own  
16 initials and then we place it into our evidence vault at  
17 our the criminalistics bureau.

18 And as I said earlier, we generate an  
19 evidence impound report and it's also included in our  
20 crime scene report specifically what we did.

21 Q. Now, what if later somebody wants to do a  
22 test or an examination on something you've recovered?

23 Let me use as an example a bullet. You  
24 recover a bullet and at some point the firearms examiner  
25 at the Las Vegas Metropolitan Police Department wants to



1 look at that.

2 What is the procedure to make sure you'll  
3 still know it's the same bullet when we got back to  
4 Court?

5 A. Right.

6 The procedure is whoever is requesting or  
7 whoever is doing the examination follow up at a later  
8 time - - say, for example in this case, a firearms  
9 examiner, they will call up to our evidence vault and  
10 request an evidence custodian brings that evidence to  
11 them.

12 Once the evidence arrives everything is  
13 logged and everything and that firearms examiner, if it  
14 happens to be firearms evidence, he will receive that.

15 Before he opens the - - either before or  
16 after he opens that particular package for examination,  
17 he will initial the chain of custody, he will sign it and  
18 then open the package.

19 When they are done examining that  
20 particular item of evidence they will place that item of  
21 evidence back in the bag. If it happens to be a bullet  
22 or whatever it happens to be and then they will seal it,  
23 put their own seal on it and initial that and then it's  
24 sent back to the evidence vault at some point in time.

25 That's generally the procedure that goes

1 on.

2 It could be blood for DNA, it could be  
3 firearms evidence for the firearms examiner, it could be  
4 latents, which has a little different scenario and the  
5 particular expert in that particular field always makes  
6 sure the correct chain of custody is followed.

7 Q. Now, if somebody wants to test an item of  
8 evidence of yours in order to get into the bag that you  
9 have that evidence in do they just cut right through your  
10 seal that's on the bag?

11 A. Generally they won't cut right through my  
12 seal. They will open it in another area of the bag.

13 There are times they will cut through our  
14 seal, but either way they will place a seal on it,  
15 initial it and sign the chain of custody on the front of  
16 the package.

17 Q. Moving from the general to the specific, I  
18 want to talk to you about November 17, 1998.

19 Were you assigned on that date to process  
20 a crime scene at 1929 Western Avenue here in Las Vegas,  
21 Clark County, Nevada?

22 A. Yes, I was.

23 Q. When did you arrive at that scene?

24 A. I arrived at the scene on that date at  
25 approximately 11:31 in the morning.

1 Q. What type of scene were you there to  
2 investigate?

3 A. I had received a call as a malicious  
4 destruction of private property/suspicious circumstances.

5 So when I arrived there that's the type of  
6 scene that I was called to.

7 Q. Would you describe how the scene at 1929  
8 Western looked at you first observed it?

9 A. Okay. Basically with my 23 years  
10 experience as a crime scene analyst it looked like a  
11 murder scene, but let me be more specific.

12 There was a point of entry into the scene  
13 that was broken glass. There was blood all over it.

14 There was a piece of the molding from that  
15 particular window that was out in the parking lot. It  
16 appeared to have a bullet hole in through that molding.

17 There was a bullet, actually a lead  
18 projectile apparently from a bullet on the sidewalk  
19 outside that business. As you go inside the business  
20 there's bloody glass all over.

21 There's apparent blood on the floor,  
22 starting from about two feet from the south wall in the  
23 reception area and it arched about eight feet on the rug  
24 itself within that front of the business, whereas at the  
25 end of the eight feet there was a large blood spot,

1 besides the blood that went up to it and then there was a  
2 blood pattern coming back towards that point of entry  
3 window that was busted.

4           Aside from that there was bullets inside  
5 on the floor, which is not a normal thing to see on any  
6 malicious property. There was a security guard jacket  
7 that had blood on it and apparent bullet holes through  
8 it.

9           I've seen things like this before on  
10 hundreds of murder scenes and so it was more than a  
11 malicious destruction of private property, in my view.

12           At the time I had 22 years experience. To  
13 me, my own professional opinion at the time was this  
14 could be a murder scene.

15           Q. Did the location itself have any  
16 significance to you, the fact that it was Western Avenue?

17           A. Initially, no.

18           As the scene progressed I contacted my  
19 supervisor at the time was Al Kabralis, and he contacted  
20 homicide for me, because I had personal information that  
21 there was a body discovered just the day before.

22           They did not know where the crime scene  
23 was, but they found where a body was located. That body  
24 at the time was called John Lumber Doe.

25           So in talking with homicide Al Kabralis,

1 my supervisor at the time, i had said where I was  
2 located. I believe he talked to Sergeant Hefner from  
3 homicide. And he didn't have much to say about the scene  
4 until Al Kabralis had told him where the scene was  
5 located, which was 1929 Western.

6 Well, again I believe it was Sergeant  
7 Hefner, Sergeant Hefner said that we recovered a body  
8 called John Lumber Doe at the time, the day before that  
9 had a telephone number in his pockets.

10 When they found out where that phone  
11 number came back to, it came back to 1933 Western Avenue,  
12 which so happens to be one business south of 1929 Western  
13 in the same exact building that I was at.

14 It was at that point that Sergeant Hefner,  
15 I believe, said that he would be down en route to that  
16 location with a couple of his homicide detectives and it  
17 was at that point that I started investigating this as a  
18 potential homicide scene, not a malicious destruction of  
19 private property/suspicious circumstances scene.

20 Q. As part of your processing of the scene at  
21 1929 Western Avenue did you take a number of photographs?

22 A. Yes, I did.

23 MR. KANE: May I approach, Your Honor?

24 THE COURT: You may.

25 BY MR. KANE:

1 Q. I want to show you what have been marked  
2 for purposes of identification as State's proposed  
3 exhibits seven through 17.

4 You had an opportunity to look at those  
5 before you came in here to testify; is that correct?

6 A. Yes, I did.

7 Q. Are those photographs of various aspects  
8 of 1929 Western as you observed it back on November 17,  
9 1998?

10 A. Yes, they do.

11 Q. Do they fairly and accurately depict the  
12 scene as you observed it on that date?

13 A. Yes, they do.

14 MR. KANE: Offer seven through 17, Your  
15 Honor.

16 MR. KENNEDY: No objection, Your Honor.

17 THE COURT: Those are received.

18 BY MR. KANE:

19 Q. Would you describe for the Ladies and  
20 Gentlemen of the Jury - - just read number from the back  
21 of each photo and then tell them what's depicted in the  
22 photograph.

23 A. Marked for identification as State's  
24 proposed exhibit 7 was a photograph that I took  
25 indicating 1929 and that indicates the address.

1                   This was an address photographed at that  
2 location on Western that day.

3                   State's proposed exhibit 8, this is a more  
4 distant shot of the business, the front of the business  
5 which looks west.

6                   It includes part of the address number as  
7 well as the broken window and apparent blood that's  
8 located outside the business at that location.

9                   State's proposed exhibit 9, this is a  
10 photograph of the interior of the business showing the  
11 apparent blood type drag marks, the broken glass and  
12 other blood as well as the hat that was located inside  
13 the point of entry window, which was a broken window, at  
14 the west front side of the business.

15                  State's proposed exhibit 10 is also a  
16 photograph of the interior of the business. This is  
17 showing part of that apparent blood type drag marks, the  
18 pooling of blood I spoke about earlier as well as the  
19 security coat I spoke about earlier that had the apparent  
20 bullet-type holes through the coat.

21                  State's proposed exhibit 11, also another  
22 view of the blood drag type marks showing some broken  
23 glass on the interior of this scene as well as I believe  
24 the pamphlet that I recovered, advertisement of sort  
25 sorts that I impounded as evidence.

1 State's proposed exhibit 12, also another  
2 photograph. This depicts all the apparent blood type  
3 drag marks as well as the pooling of blood, broken glass  
4 and the point of entry as well as the front door that was  
5 closed at the time.

6 State's proposed exhibit 13 is another  
7 photograph of the interior, looking west towards the  
8 point of entry window. It shows broken glass, blood and  
9 the hat, baseball-type cap I spoke about earlier.

10 State's proposed exhibit 14, this is a  
11 close-up view looking outside into the location showing  
12 broken glass, imperfections in the molding and blood like  
13 substance.

14 State's proposed exhibit 15, this is a  
15 photograph showing the corner of the room in which the  
16 security jacket I spoke about earlier was located and  
17 it's basically just a close-up photograph of that coat  
18 lying on the rug in the corner of the room.

19 State's proposed exhibit 16, this is a  
20 close-up of the hat, the baseball type cap I spoke about  
21 earlier. It happens to be a J. C. Penny construction  
22 type ball cap with a brim as well as adjacent glass and  
23 the molding near the point of entry.

24 Finally, State's proposed exhibit 17, this  
25 is a photograph depicting numbers, placard numbers two,



1 three, four and five that I placed down indicating there  
2 evidence was located, which I will refer to shortly in  
3 the diagram, as well as the blood stain drag marks that I  
4 talked about earlier.

5 Q. So the jury is clear, those little  
6 numbered placards in State's exhibit 17, they are not  
7 there when you get there.

8 Those are things that you put down on the  
9 floor to identify them?

10 A. Yes, they are.

11 They are numbers - - they are yellow  
12 placards with black numbers and those I place as part of  
13 the evidence recovery on this particular crime scene.

14 Q. Are those numbers later related to a crime  
15 scene diagram that you prepared?

16 A. Yes, they are.

17 Q. Did you prepare such a diagram in this  
18 case?

19 A. Yes, I did.

20 MR. KANE: May I approach, Your Honor?

21 THE COURT: You may.

22 BY MR. KANE:

23 Q. Show you what has been marked for purposes  
24 of identification as State's proposed Exhibit 18 and ask  
25 if you recognize that.

1 A. Yes, I do.

2 Q. Is that a blow-up of the crime scene  
3 diagram that you prepared on November 17 of 1998  
4 concerning 1929 South Western avenue?

5 A. Yes, it is.

6 Q. Now, does it indicate the items of  
7 evidence that you found and recovered along with their  
8 placard numbers?

9 A. Yes.

10 Q. This isn't drawn like a set of blueprints,  
11 is it, exactly to engineering scale?

12 A. That's correct.

13 Q. Are the proportions roughly correct?

14 A. Yes, they are.

15 Q. Do you feel it fairly and accurately  
16 depicts the premises at 1929 Western as they existed on  
17 November 19, 1998.

18 A. Yes.

19 MR. KANE: Move for the admission of  
20 State's proposed 18.

21 MR. KENNEDY: No objection.

22 THE COURT: Received.

23 BY MR. KANE:

24 Q. I'm going to ask you to go down and  
25 indicate for the jury what each of the items is and point

1 out the location inside 1929 where you found it.

2 THE COURT: Do you have a pointer there?

3 THE WITNESS: What this is, as we spoke  
4 about earlier is a homicide follow-up that I did at 1929  
5 South Western on 11.17 of '98 and to the right of the  
6 diagram I have listed the 20 items of evidence that I  
7 recovered from this particular scene, numbered from one  
8 to 20.

9 On the lower left-hand side of the scene  
10 is the business that we spoke about earlier detailing  
11 where all those items were recovered from so the numbers  
12 in the legend correspond with the green numbers in the  
13 diagram itself.

14 Beginning with item number one, I have  
15 listed in my legend as a large lead fragment. Item  
16 number one is located to the lower left of the diagram.  
17 That's outside on the sidewalk on the west side of the  
18 business that is the, that is a large lead fragment.

19 Item number two is a copper jacketed  
20 bullet and that was located here on the diagram which is  
21 the lower right side of the diagram inside the business.

22 Number three, a copper jacketed bullet  
23 also located inside the business on the east side of the  
24 floor.

25 Item number four is a lead copper bullet

1 fragment located in the southeast portion of the floor.

2                   Number five is a lead copper bullet  
3 fragment that's located in the northeast corner of the  
4 floor of that reception area.

5                   Number six, copper jacketed bullet and  
6 that's located on the left side of the diagram where my  
7 pointer is at.

8                   Number seven, glass fragment with possible  
9 or apparent blood on it. That's located right inside the  
10 point of entry.

11                   Number eight, possible blood sample and  
12 control that was located outside the business on the edge  
13 of the sidewalk in the west of the business in front of  
14 it.

15                   Number nine is two glass fragments with  
16 the possible or apparent blood that's located inside the  
17 point of entry window.

18                   Number 10, three dark hairs. They were  
19 located inside the point of entry window.

20                   Briefly - - I didn't mention earlier - -  
21 the point of entry is on the lower left side of the  
22 diagram. That's right where my pointer is in so you know  
23 where the point of entry broken window is at.

24                   To the left of it on the diagram is  
25 outside, to the right of it is inside the room.

1 Down to number 11, I have listed in my  
2 legend as several light colored hairs and that's located  
3 inside near the front door of the business.

4 Number 12, multiple glass fragments that's  
5 located inside the front door of the business, not far  
6 from the point of entry.

7 Number 13, green carpet standard that's  
8 located inside the front door of the business and when I  
9 say a standard, I took a piece of the carpet.

10 If, for any reason, there were other  
11 fibers found on the victim at a later time we have a  
12 standard showing what that carpet fiber is.

13 Sometimes trace evidence gets on things  
14 and it's good to have a standard. So a standard is the  
15 original carpet fiber that I recovered.

16 Number 14, a small piece of paper with  
17 possible blood or apparent blood, number 14. That's  
18 located about in the center sought part of the business  
19 inside.

20 Number 15, small piece of paper with  
21 writing. That's also located in about the same location  
22 inside the business.

23 Number 16, escort type publication. That  
24 was a publication I was referring to earlier, also  
25 located inside the business at the south end.

1                   Number 17, gold colored nugget bracelet  
2 didn't appear real to me, but so I called it gold  
3 colored, that's number 17. That's located at the south  
4 end inside the business.

5                   Number 18, short beige toothbrush, kind of  
6 like a portable toothbrush that was located in the center  
7 of the business on the floor.

8                   Number 19, the J.C. Penney baseball hat  
9 that I talked about earlier and that's located adjacent  
10 to the front door inside.

11                   And number 20, a blue winter coat with  
12 apparent bullet type holes and that's located, as I  
13 mentioned earlier, in the northwest corner of the  
14 business lying on the floor.

15                   MR. KANE: You can resume your seat, thank  
16 you.

17                   May I approach again, Your Honor?

18                   THE COURT: You may.

19 BY MR. KANE:

20                   Q. I next want to show you what has been  
21 marked for purposes of identification as State's proposed  
22 Exhibit 19 and ask you if you recognize that.

23                   A. Yes, I do.

24                   Q. What is State's proposed 19?

25                   A. This happens to be package number one of

1 11 packages that I impounded from this scene at 1929  
2 Western.

3 I have the event number, my signature and  
4 personnel number listed on it as well as the items of  
5 evidence that are located inside the package.

6 Q. And does that item appear to be in the  
7 same condition as it was when you recovered those items  
8 and sealed them on November 17 of 1998?

9 A. Yes.

10 Q. Does it bear any additional signatures or  
11 seals other than your own?

12 A. Yes, it does.

13 Q. And is it the signature or seal of anyone  
14 familiar to you?

15 A. Yes. It appears to be Torri Johnson.

16 Q. Who is Torri Johnson?

17 A. Torri Johnson is a firearms examiner with  
18 the Las Vegas Metropolitan Police Department.

19 Q. Other than the addition of Mr. Johnson's  
20 signature and seals does that appear to be in the same  
21 condition as it was when you saw it on November 17, 1998?

22 A. Yes, it does.

23 MR. KANE: First of all, I'd offer the  
24 exhibit.

25 THE COURT: Opposition?

1 MR. KENNEDY: No objection.

2 THE COURT: It is received.

3 MR. KANE: And second I'd ask permission  
4 for the witness to open it and display the contents to  
5 the jury.

6 THE COURT: If you would, Officer Ruffino.

7 THE WITNESS: Yes.

8 BY MR. KANE:

9 Q. Would you display the contents and  
10 describe them to the Ladies and Gentlemen of the Jury?

11 A. Yes.

12 What I recovered from State's proposed  
13 exhibit 19, this envelope, are six items of evidence and  
14 the six items of evidence are in vials and they are the  
15 bullet and/or bullet type fragments that I spoke about on  
16 the diagram and they are numbered one through six, as  
17 they are on the diagram.

18 Q. Those numbers one through six on the vials  
19 themselves correspond with the numbers on your diagram?

20 A. Yes, they do.

21 Q. And does each individual vial bear your  
22 mark, your signature, initials and P number?

23 A. Yes.

24 Q. If you'd replace those.

25 I next want to show you what has been



1 marked for identification as State's proposed exhibit 21  
2 and ask you if you recognize that.

3 A. Yes, I do.

4 Q. What is 21?

5 A. Item 29 or 21 was - - State's proposed  
6 exhibit 21 is an envelope and inside the envelope is a  
7 gold colored nugget type bracelet that I spoke about  
8 earlier, possibly costume type jewelry.

9 It bears my signature as well as my  
10 personnel number and it's in a sealed condition with the  
11 seal on it.

12 Q. Any other additional signatures or seals  
13 on that one?

14 A. No other additional seals on this  
15 envelope.

16 Q. Does that appear to be in exactly the same  
17 condition as it was when you last saw it on December 17  
18 of 1998?

19 A. Yes.

20 MR. KANE: Offer that.

21 MR. KENNEDY: No objection.

22 THE COURT: It is received.

23 BY MR. KANE:

24 Q. Would you open that and display the  
25 contents on the jury?

1           A. I'm removing from State's proposed exhibit  
2 21 a plastic baggie that bears the same event number, my  
3 initials, P number and it also states item number 17 and  
4 on my diagram it also bears the same number, number 17,  
5 which is a gold colored nugget type bracelet, possibly  
6 costume jewelry.

7           Q. If you'd replace that in envelope 21.

8                   I next want to show you what has been  
9 marked for purposes of identification as State's proposed  
10 Exhibit 22 and ask you if you recognize that.

11          A. Yes, I do.

12          Q. What is that?

13          A. This is also a package that I prepared at  
14 the date I recovered it and included, besides my  
15 signature, P number and initials is included what's in  
16 the bag itself and included in this bag, 10 of 11 that I  
17 impounded, which is State's proposed exhibit 22, is a  
18 item 18, a four-inch beige toothbrush, kind of a portable  
19 type vacation toothbrush as well as item 19, which is a  
20 J. C. Penney construction baseball type cap, and as you  
21 can see, the same numbers are listed on my diagram, both  
22 as number 18 and number 19.

23          Q. Are there any additional signatures or  
24 seals on that bag besides your own?

25          A. No.

1 Q. Does it appear to be in the same condition  
2 as when you last saw it on November 17 of 1998?

3 A. Yes, it does.

4 MR. KANE: Offer 22.

5 MR. KENNEDY: No objection.

6 THE COURT: Received. Thank you.

7 BY MR. KANE:

8 Q. Would you open that please and just  
9 display the hat to the jury?

10 A. Okay.

11 THE WITNESS: Judge, I'm going to go ahead  
12 and put latex gloves on just in case this happens to have  
13 any blood on it.

14 THE COURT: That would be fine.

15 Do you have those with you?

16 THE WITNESS: Yes.

17 BY MR. KANE:

18 Q. This would be a good time to ask you - - I  
19 apologize. I didn't notice if there was a biohazard  
20 sticker on that bag.

21 A. I don't see a biohazard sticker on the  
22 bag.

23 Normally when that's on it we will put it  
24 on there, say for example, blood. I don't believe  
25 there's blood on this, but just as a precaution I'm

1 putting on gloves just in case.

2 I don't believe there was blood on it  
3 because I would have marked blood.

4 I would have put a biohazard sticker on  
5 it. Just as a precaution, I'm going to put on gloves  
6 anyway.

7 Q. For the safety of the jury, if they see  
8 that biohazard sticker on a particular exhibit should  
9 they use gloves if they are going to handle that?

10 A. Yes, yes.

11 Q. You can go ahead, sir.

12 A. I just took out two items. One is the  
13 beige toothbrush I spoke about as well as the cap. I  
14 don't physically see any biohazard stuff on here, but  
15 this is the J. C. Penney cap that I spoke about earlier  
16 as well.

17 Q. If you'd replace those.

18 One last exhibit I want you to take a look  
19 at and it's been marked for purposes of identification as  
20 State's proposed 23.

21 Do you recognize that?

22 A. Yes, I do.

23 Q. What is 23?

24 A. This is another package that I impounded.  
25 It happens to have a biohazard sticker on

1 both sides as well as the refrigerate sticker that I also  
2 put on it and has my signature as well as my initials and  
3 P number and listed on this package is State's proposed  
4 exhibit 23 and this is package number 11 of 11 that I  
5 impounded that day and contained inside I have listed  
6 item number 20, it's also listed on my diagram, a blue,  
7 winter security type jacket with possible bullet type  
8 holes through the jacket.

9 Q. Now, does that package bear any additional  
10 signatures or seals besides your own?

11 A. No, no it does not.

12 Q. Does it appear to be in exactly the same  
13 condition as when you last saw it on November 17 of 1998?

14 A. Yes, it does.

15 MR. KANE: Offer 23, Your Honor.

16 MR. KENNEDY: No objection.

17 THE COURT: Received.

18 BY MR. KANE:

19 Q. Would you open that and display the jacket  
20 to the Ladies and Gentlemen of the Jury?

21 A. Okay.

22 Again, this won't pose any harm to  
23 anybody. If you were to touch it at some point today or  
24 any day after, I would recommend you wear gloves, but  
25 just to look at it or open it it doesn't present a

1 danger.

2 I just removed the security, blue security  
3 type jacket from the back with apparent holes and  
4 apparent blood like substance on it.

5 MR. KANE: Ask permission for the witness  
6 to step down and display the item on the jury, Your  
7 Honor.

8 THE COURT: That will be fine, yes.

9 THE WITNESS: Okay. I have this jacket  
10 marked with my initials and P number and again, this is  
11 item 20 located on the upper left-hand corner of the room  
12 and it was located on the floor at that location.

13 Here is the interior of the coat and here  
14 is the exterior of the coat. Just so you're aware, there  
15 are holes in the coat.

16 They are difficult to see because as  
17 apparent bullets travel through fabric they are difficult  
18 to see, but here looking at the front chest there happens  
19 to be one here.

20 I don't know if you happen to see that.  
21 There is a little bit like a hole. They sometimes look  
22 similar to cigarette burns or something of that nature.  
23 They are not really big.

24 A lot of people get the idea that they are  
25 going to be very large looking, but in fabric and clothes

1 basically if a bullet were to go through a coat or a  
2 piece of clothing it kind of - - the hole kind of closes  
3 after it.

4 It gives an appearance of having a smaller  
5 bullet than what actually goes through as opposed to a  
6 hard surface, like a wall. The wall will kind of retain  
7 the same type of shape. There's not as much elasticity  
8 with the hard wall so going through a wall it will look  
9 bigger.

10 Going through fabric it will look smaller.  
11 I'm not a firearms examiner, but these will appear  
12 smaller to you than perhaps the model weapon that might  
13 have been used.

14 THE COURT: Are there additional questions  
15 here?

16 MR. KANE: Yes.

17 THE COURT: Go ahead.

18 BY MR. KANE:

19 Q. No, not as to the jacket.

20 If you'd resume your seat unless - - do  
21 you have other holes you want to display?

22 A. There's probably other holes in here.  
23 There are other holes in here.

24 There's one here on the right side, of the  
25 coat to the right of the zipper. There's at least one in

1 the back, back here. You see it here in the back side of  
2 the jacket so there's several holes in the coat that you  
3 can see.

4 MR. KANE: If you'd resume your seat and  
5 replace that in the bag.

6 BY MR. KANE:

7 Q. While you're doing that, although I was  
8 too inattentive to ask you to do it this way, was I  
9 correct in knowing as you opened each bag you opened it  
10 by slicing along the side?

11 A. Yes.

12 Q. Why did you do it this way?

13 A. This way it could be re-sealed at a later  
14 time and I do not go through the original seals.

15 Q. And the jury is also free to look at those  
16 sales and make sure these things arrived in court in a  
17 sealed condition?

18 A. Yes.

19 THE COURT: Counsel approach the bench,  
20 please.

21 (Discussion off the record.)

22 THE COURT: Mr. Ruffino, I'm going to ask  
23 you to return at a later time. Bear with me just a  
24 moment.

25 (Whereupon, the Court admonished the



1 jury.)

2 THE COURT: Ladies and Gentlemen, I'm  
3 afraid I'm going to have to ask an accommodation.  
4 Tomorrow I am going to have to be at an investiture of  
5 four judges that we are placing into service in this  
6 building, this and the domestic court.

7 I am the presiding judge of the criminal  
8 division and it's just important - - It's really  
9 something I need to do. I'm going to ask two things of  
10 you and if it can't be done conveniently reasonably I  
11 want you to tell me. Tomorrow there's no sense in  
12 starting - - we have to meet at 2:15. We would take off  
13 tomorrow.

14 My Friday morning calendar, as typically  
15 is the case is light, compared to ordinarily. We could  
16 start at 10:00 o'clock Friday morning try to make up a  
17 little of this, unless that's a major hardship.

18 I realize you didn't bargain for a morning  
19 situation. If your schedule - - you have something  
20 absolutely scheduled I may have to work with you on that.

21 Is that a problem Friday morning at 10:00  
22 o'clock? I apologize.

23 Now, the last thing. Please make a note  
24 to yourself, because this is not our routine. If it  
25 doesn't occur to you Friday to come in at 10:00 and all

1 of us do, except for one or two, we have a problem.

2 Well, I do thank you.

3 You have been admonished, please keep that  
4 in mind. I will see you at 10:00 o'clock Friday morning  
5 and, counsel, if there's anything to do prior to that, we  
6 can do it earlier.

7 Thank you.

8  
9  
10  
11  
12  
13  
14  
15 (5:00 p.m.)  
16  
17  
18  
19  
20  
21

22 ATTEST that this is a true and complete transcript of the  
23 proceedings held, DATED this 15th day of February 2001.

24  
25   
J. A. D'AMATO CCR #017

Kirk

**PROSECUTION'S EXHIBIT LIST**

**Case No. C159915**

**Defendant: SEKA, JOHN JOSEPH**

<b>No.</b>	<b>Description</b>	<b>Offered</b>	<b>Admitted</b>
1	PHOTO - John "Lumber" Doe/Eric Hamilton	2/14	2/14
2	PHOTO - John "Lumber" Doe's grave	2/14	2/14
3	PHOTO - John "Lumber" Doe's grave	2/14	2/14
4	PHOTO - John "Lumber" Doe's grave	2/14	2/14
5	PHOTO - John "Lumber" Doe's grave	2/14	2/14
6	PHOTO - John "Lumber" Doe's grave	2/14	2/14
7	PHOTO - Door of 1929 Western	2/14	2/14
8	PHOTO - Door of 1929 Western	2/14	2/14
9	PHOTO - 1929 Western/Interior floor (with glass and hat)	2/14	2/14
10	PHOTO - 1929 Western/Interior floor (with hat and jacket)	2/14	2/14
11	PHOTO - 1929 Western/Interior floor (with apparent drag marks)	2/14	2/14
12	PHOTO - 1929 Western/Interior floor (with apparent drag marks and hat)	2/14	2/14
13	PHOTO - 1929 Western/Interior floor (with glass and hat)	2/14	2/14
14	PHOTO - 1929 Western/Interior floor (with glass and blood)	2/14	2/14
15	PHOTO - 1929 Western/Interior floor (jacket closeup)	2/14	2/14
16	PHOTO - 1929 Western/Interior floor (hat closeup)	2/14	2/14

No.	Description	Offered	Admitted
17	PHOTO - 1929 Western/Interior floor (with evidence cones)	2/14	2/14
18	CRIME SCENE DIAGRAM - 1929 Western	2/14	2/14
19	AMMUNITION from 1929 Western	2/14	2/14
20	ENVELOPE & NOTE (from Kato Takeo to Tom Thowsen)	2/21	2/21
21	BRACELET from 1929 Western	2/14	2/14
22	HAT from 1929 Western	2/14	2/14
23	JACKET from 1929 Western	2/14	2/14
24	SEARCH WARRANT	NO	NO
25	PHOTO - Box on floor	2/20	2/20
26	BLOOD SAMPLES (1998 Toyota Truck)	2/16	2/16
27	TIRE IMPRESSIONS (1998 Toyota Truck)	2/16	2/16
28	PHOTO - 1998 Toyota Truck	2/16	2/16
29	PHOTO - 1998 Toyota Truck	2/16	2/16
30	PHOTO - 1998 Toyota Truck	2/16	2/16
31	PHOTO - 1998 Toyota Truck (bed)	2/16	2/16
32	PHOTO - 1998 Toyota Truck (bed) (luminol reaction)	2/16	2/16
33	DNA DRAWINGS	NO	NO
34	DNA CHART	2/16	2/16

No.	Description	Offered	Admitted
35	DNA CHART	2/16	2/16
36	HAIR/NAILS (Hamilton)	2/20	2/20
37	NOTE (Jack/429-5957)	2/20	2/20
38	DIAGRAM - 1933 Western	2/20	2/20
39	DUMPSTER CONTENTS	2/20	2/20
40	DUMPSTER CONTENTS	2/20	2/20
41	CARDS FROM PAVEMENT	2/20	2/20
42	AMMUNITION (1933 Western)	2/20	2/20
43	MISC OFFICE CONTENTS (1933 Western)	2/20	2/20
44	JEANS (1933 Western)	2/20	2/20
45	BLOOD SAMPLES (1933 Western)	2/20	2/20
46	BLOOD SAMPLES (1933 Western)	2/20	2/20
47	BLOOD SAMPLES (1998 Dodge Van)	2/20	2/20
48	BUSINESS CARDS (1998 Dodge Van)	2/20	2/20
49	PROJECTILES (Limanni Autopsy)	2/20	2/20
50	PHOTO - VEHICLES parked outside 1933 Western	2/20	2/20
51	PHOTO - VEHICLES parked outside 1933 Western	2/20	2/20
52	PHOTO - WALL CALENDAR (inside 1933 Western)	2/20	2/20

No.	Description	Offered	Admitted
53	PHOTO - OFFICE AREA inside 1933 Western	2/20	2/20
54	PHOTO - BULLET IN TOILET (1933 Western)	2/20	2/20
55	PHOTO - LUMBER in 1933 Western	2/20	2/20
56	PHOTO - COUCH in 1933 Western (front)	2/20	2/20
57	PHOTO - COUCH in 1933 Western (back)	2/20	2/20
58	PHOTO - BULLET in ceiling of 1933 Western	2/20	2/20
59	PHOTO - DUMPSTER behind 1933 Western	2/20	2/20
60	PHOTO - DUMPSTER CONTENTS	2/20	2/20
61	PHOTO - SHOE AND ID DOCUMENTS	2/20	2/20
62	PHOTO - REAR OF 1998 VAN	2/20	2/20
63	PHOTO - INTERIOR OF 1998 VAN	2/20	2/20
64	PHOTO - INTERIOR OF 1998 VAN	2/20	2/20
65	PHOTO - TIRE TRACKS & BERM (Limanni burial site)	2/16	2/16
66	PHOTO - LIMANNI'S BODY	2/16	2/16
67	PHOTO - LIMANNI'S BODY	2/16	2/16
68	PHOTO - LIMANNI'S BODY	2/16	2/16
69	PHOTO - LIMANNI'S HEAD (closeup)	2/16	2/16

No.	Description	Offered	Admitted
70	TIRE CAST (Hamilton burial site)	2/20	2/20
71	LUMBER (Hamilton burial site) (Individual boards = A,B,C,D,E,F,G)	2/20	2/20
72	SKU UPC TAG (from lumber)	2/20	2/20
73	AERIAL PHOTO (Hamilton burial site)	2/20	2/20
74	AERIAL PHOTO (Hamilton burial site)	2/20	2/20
75	PHOTO - TIRE CAST (Hamilton burial site)	2/20	2/20
76	PHOTO - CAMERA AND TRIPOD (Hamilton burial site)	2/20	2/20
77	PHOTO - CASINO CARDS ON PAVEMENT	2/20	2/20
78	PHOTO - BURNT CLOTHING	2/20	2/20
79	DIAGRAM - Hamilton gravesite	2/20	2/20
80	TAPE - SEKA INTERVIEW (80A=Transcript; marked but NOT offered)	2/21	2/21
81	LATENT PRINTS FROM LUMBER	2/21	2/21
82	LATENT PRINTS FROM 1998 TOYOTA (Reed)	2/21	2/21
83	LATENT PRINTS FROM 1998 TOYOTA (McPhail)	2/21	2/21
84	LATENT PRINTS FROM BEER BOTTLES (1933 Western - McPhail)	2/21	2/21
85	PAWN SHOP RECORDS		
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No.	Description	Offered	Admitted
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