

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

2
3 MATTHEW WASHINGTON,

4 Appellant,

5 v.

6 THE STATE OF NEVADA,

7 Respondent.

No. 65998

Electronically Filed
Jun 02 2015 08:23 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

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9 **APPELLANT'S APPENDIX VOLUME I PAGES 001-241**

10 PHILIP J. KOHN
11 Clark County Public Defender
12 309 South Third Street
13 Las Vegas, Nevada 89155-2610

14 Attorney for Appellant

STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

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FILED

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

Nov 6 1 24 PM '13

THE STATE OF NEVADA,

Plaintiff,

JUSTICE COURT
LAS VEGAS NEVADA

SG

DEPUTY

CASE NO: 13F18022A-B

DEPT NO: 5

-VS-

MATTHEW WASHINGTON #2685499,
MARTELL MOTEN #1999333,

Defendants.

CRIMINAL COMPLAINT

The Defendants above named having committed the crimes of CONSPIRACY TO COMMIT MURDER (Category B Felony - NRS 199.480, 200.010, 200.030, 193.165); MURDER WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (Category A Felony - NRS 200.010, 200.030, 193.165, 193.167); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165); BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.481) and DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE, AIRCRAFT, OR WATERCRAFT (Category B Felony - NRS 202.285), in the manner following, to-wit: That the said Defendants, on or about the 5th day of November, 2013, at and within the County of Clark, State of Nevada,

COUNT 1 - CONSPIRACY TO COMMIT MURDER

Defendants did conspire with DAVID JONES, then and there meet with each other and between themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire and agree to commit a crime, to-wit: murder with use of a deadly weapon, victim 60 years of age or older, and in furtherance of said conspiracy, Defendants did commit the acts as set forth in Counts 2-14, said acts being incorporated by this reference as though fully set forth herein.

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1 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF
2 AGE OR OLDER

3 Defendants did then and there wilfully, feloniously, without authority of law, and
4 with premeditation and deliberation, and with malice aforethought, kill NATHAN RAWLS,
5 being 60 years of age or older, a human being, by shooting into the body of the said
6 NATHAN RAWLS, with a deadly weapon, to-wit: a firearm, Defendants MATTHEW
7 WASHINGTON and MARTELL MOTEN, being responsible under one or more of the
8 following principles of criminal liability, to-wit: (1) by having premeditation and
9 deliberation in its commission; and/or (2) the killing occurring during the perpetration or
10 attempted perpetration of burglary and/or robbery and/or kidnapping and/or (3) by aiding or
11 abetting in the commission of the crime by accompanying each other to the crime scene
12 where each acted as lookouts for each other, one or both of the Defendants shooting into the
13 body of NATHAN RAWLS, with a firearm, MATTHEW WASHINGTON and MARTELL
14 MOTEN, encouraging one another throughout by actions and words, the Defendants acting
15 in concert throughout; and/or (4) by Defendants MATTHEW WASHINGTON and
16 MARTELL MOTEN, conspiring with each other to commit murder whereby each is
17 vicariously liable for the acts of the other in furtherance of the conspiracy in its commission.

18 COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

19 Defendants did then and there, without authority of law, and malice aforethought,
20 willfully and feloniously attempt to kill ASHLEY SCOTT, a human being, by shooting at
21 and into the body of the said ASHLEY SCOTT, with a deadly weapon, to-wit: a firearm,
22 Defendants MATTHEW WASHINGTON and MARTELL MOTEN, being responsible
23 under one or more of the following principles of criminal liability, to-wit: (1) by having
24 premeditation and deliberation in its commission; and/or (2) the killing occurring during the
25 perpetration or attempted perpetration of burglary and/or robbery and/or kidnapping and/or
26 (3) by aiding or abetting in the commission of the crime by accompanying each other to the
27 crime scene where each acted as lookouts for each other, one or both of the Defendants
28 shooting out of a vehicle and at and into the body of ASHLEY SCOTT, with a firearm,

1 Defendants MATTHEW WASHINGTON and MARTELL MOTEN, encouraging one
2 another throughout by actions and words, the Defendants acting in concert throughout;
3 and/or (4) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN,
4 conspiring with each other to commit murder whereby each is vicariously liable for the acts
5 of the other in furtherance of the conspiracy in its commission

6 COUNT 4 - BATTERY WITH USE OF A DEADLY WEAPON

7 Defendants did then and there wilfully, unlawfully, and feloniously use force or
8 violence upon the person of another, to-wit: ASHLEY SCOTT, with use of a deadly
9 weapon, to-wit: a firearm, shooting at and into the body of the said ASHLEY SCOTT,
10 Defendants MATTHEW WASHINGTON and MARTELL MOTEN, being responsible
11 under one or more of the following principles of criminal liability, to-wit: (1) by having
12 premeditation and deliberation in its commission; and/or (2) the killing occurring during the
13 perpetration or attempted perpetration of burglary and/or robbery and/or kidnapping and/or
14 (3) by aiding or abetting in the commission of the crime by accompanying each other to the
15 crime scene where each acted as lookouts for each other, one or both of the Defendants
16 shooting out of a vehicle and at and into the body of ASHLEY SCOTT, with a firearm, the
17 Defendants encouraging one another throughout by actions and words, Defendants
18 MATTHEW WASHINGTON and MARTELL MOTEN, acting in concert throughout;
19 and/or (4) by Defendants conspiring with each other to commit murder whereby each is
20 vicariously liable for the acts of the other in furtherance of the conspiracy in its commission.

21 COUNT 5 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

22 Defendants did then and there, without authority of law, and malice aforethought,
23 willfully and feloniously attempt to kill LAROY THOMAS, a human being, by shooting at
24 and into the body of the said LAROY THOMAS, with a deadly weapon, to-wit: a firearm,
25 Defendants MATTHEW WASHINGTON and MARTELL MOTEN, being responsible
26 under one or more of the following principles of criminal liability, to-wit: (1) by having
27 premeditation and deliberation in its commission; and/or (2) the killing occurring during the
28 perpetration or attempted perpetration of burglary and/or robbery and/or kidnapping and/or

1 (3) by aiding or abetting in the commission of the crime by accompanying each other to the
2 crime scene where each acted as lookouts for each other, one or both of the Defendants
3 shooting out of a vehicle and at and into the body of the said LAROY THOMAS, with a
4 firearm, Defendants MATTHEW WASHINGTON and MARTELL MOTEN, encouraging
5 one another throughout by actions and words, the Defendants acting in concert throughout;
6 and/or (4) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN,
7 conspiring with each other to commit murder whereby each is vicariously liable for the acts
8 of the other in furtherance of the conspiracy in its commission

9 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON

10 Defendants did then and there wilfully, unlawfully, and feloniously use force or
11 violence upon the person of another, to-wit: LAROY THOMAS, with use of a deadly
12 weapon, to-wit: by shooting at and into the body of the said LAROY THOMAS, with a
13 deadly weapon, to-wit: a firearm, Defendants MATTHEW WASHINGTON and
14 MARTELL MOTEN, being responsible under one or more of the following principles of
15 criminal liability, to-wit: (1) by having premeditation and deliberation in its commission;
16 and/or (2) the killing occurring during the perpetration or attempted perpetration of burglary
17 and/or robbery and/or kidnapping and/or (3) by aiding or abetting in the commission of the
18 crime by accompanying each other to the crime scene where each acted as lookouts for each
19 other, one or both of the Defendants shooting out of a vehicle and at and into the body of
20 LAROY THOMAS, with a firearm, the Defendants encouraging one another throughout by
21 actions and words, Defendants MATTHEW WASHINGTON and MARTELL MOTEN,
22 acting in concert throughout; and/or (4) by Defendants conspiring with each other to commit
23 murder whereby each is vicariously liable for the acts of the other in furtherance of the
24 conspiracy in its commission.

25 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

26 Defendants did then and there, without authority of law, and malice aforethought,
27 willfully and feloniously attempt to kill MARQUE HILL, a human being, by shooting at and
28 into the body of the said MARQUE HILL, with a deadly weapon, to-wit: a firearm,

1 Defendants MATTHEW WASHINGTON and MARTELL MOTEN, being responsible
2 under one or more of the following principles of criminal liability, to-wit: (1) by having
3 premeditation and deliberation in its commission; and/or (2) the killing occurring during the
4 perpetration or attempted perpetration of burglary and/or robbery and/or kidnapping and/or
5 (3) by aiding or abetting in the commission of the crime by accompanying each other to the
6 crime scene where each acted as lookouts for each other, one or both of the Defendants
7 shooting out of a vehicle and at and into the body of MARQUE HILL, with a firearm,
8 Defendants MATTHEW WASHINGTON and MARTELL MOTEN, encouraging one
9 another throughout by actions and words, the Defendants acting in concert throughout;
10 and/or (4) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN,
11 conspiring with each other to commit murder whereby each is vicariously liable for the acts
12 of the other in furtherance of the conspiracy in its commission.

13 COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON

14 Defendants did then and there wilfully, unlawfully, and feloniously use force or
15 violence upon the person of another, to-wit: MARQUE HILL, with use of a deadly weapon,
16 to-wit: by shooting at and into the body of the said MARQUE HILL, with a deadly weapon,
17 to-wit: a firearm, Defendants MATTHEW WASHINGTON and MARTELL MOTEN,
18 being responsible under one or more of the following principles of criminal liability, to-wit:
19 (1) by having premeditation and deliberation in its commission; and/or (2) the killing
20 occurring during the perpetration or attempted perpetration of burglary and/or robbery and/or
21 kidnapping and/or (3) by aiding or abetting in the commission of the crime by
22 accompanying each other to the crime scene where each acted as lookouts for each other,
23 one or both of the Defendants shooting out of a vehicle and at and into the body of
24 MARQUE HILL, with a firearm, the Defendants encouraging one another throughout by
25 actions and words, Defendants MATTHEW WASHINGTON and MARTELL MOTEN,
26 acting in concert throughout; and/or (4) by Defendants conspiring with each other to commit
27 murder whereby each is vicariously liable for the acts of the other in furtherance of the
28 conspiracy in its commission.

1 COUNT 9 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
2 AIRCRAFT, OR WATERCRAFT

3 Defendants did then and there wilfully, unlawfully, maliciously, and feloniously
4 discharge a firearm at or into a structure, said structure, not having been abandoned, located
5 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada.

6 COUNT 10 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
7 AIRCRAFT, OR WATERCRAFT

8 Defendants did then and there wilfully, unlawfully, maliciously, and feloniously
9 discharge a firearm at or into a structure, said structure, not having been abandoned, located
10 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada.

11 COUNT 11 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
12 AIRCRAFT, OR WATERCRAFT

13 Defendants did then and there wilfully, unlawfully, maliciously, and feloniously
14 discharge a firearm at or into a structure, said structure, not having been abandoned, located
15 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada.

16 COUNT 12 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
17 AIRCRAFT, OR WATERCRAFT

18 Defendants did then and there wilfully, unlawfully, maliciously, and feloniously
19 discharge a firearm at or into a structure, said structure, not having been abandoned, located
20 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada.

21 COUNT 13 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
22 AIRCRAFT, OR WATERCRAFT

23 Defendants did then and there wilfully, unlawfully, maliciously, and feloniously
24 discharge a firearm at or into a structure, said structure, not having been abandoned, located
25 at 2655 Sherwood Street, No. 18, Las Vegas, Clark County, Nevada.

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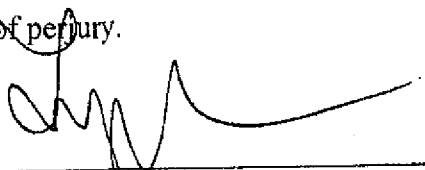
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1 COUNT 14 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
2 AIRCRAFT, OR WATERCRAFT

3 Defendants did then and there wilfully, unlawfully, maliciously, and feloniously
4 discharge a firearm at or into a structure, said structure, not having been abandoned, located
5 at 2655 Sherwood Street, No. 18, Las Vegas, Clark County, Nevada.

6 All of which is contrary to the form, force and effect of Statutes in such cases made
7 and provided and against the peace and dignity of the State of Nevada. Said Complainant
8 makes this declaration subject to the penalty of perjury.

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(TK5)

ORIGINAL

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

FILED IN OPEN
COURT

11/20/2013

COURT CLERK

THE STATE OF NEVADA,

Plaintiff,

-VS-

MATTHEW WASHINGTON, #2685499
MARTELL MOTEN, #1999333

Defendants.

CASE NO: 13F18022A-B

DEPT NO: 5

AMENDED
CRIMINAL COMPLAINT

The Defendants above named having committed the crimes of CONSPIRACY TO COMMIT MURDER WITH THE INTENT TO PROMOTE, FURTHER, OR ASSIST A CRIMINAL GANG (Category B Felony NRS - 199.480, 200.010, 200.030, 193.168, 193.169); MURDER WITH USE OF A DEADLY WEAPON, WITH THE INTENT TO PROMOTE, FURTHER, OR ASSIST A CRIMINAL GANG (Category A Felony NRS - 200.010, 200.030, 193.168, 193.169); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON WITH THE INTENT TO PROMOTE, FURTHER, OR ASSIST A CRIMINAL GANG (Category B Felony NRS - 193.330, 200.010, 200.030, 193.168, 193.169); BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM WITH THE INTENT TO PROMOTE, FURTHER, OR ASSIST A CRIMINAL GANG (Category B Felony NRS - 200.481.2e, 193.168, 193.169); DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE, AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR ASSIST A CRIMINAL GANG (Category B Felony NRS - 202.285, 193.168, 193.169) and POSSESSION OF FIREARM BY EX-FELON (Category B Felony NRS - 202.360), in the manner following, to-wit: That the said Defendants, on or about the 5th day of November, 2013, at and within the County of Clark, State of Nevada,

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13F18022A
ACRM
Amended Criminal Complaint
3191184



1 COUNT 1 - CONSPIRACY TO COMMIT MURDER WITH THE INTENT TO
2 PROMOTE, FURTHER, OR ASSIST A CRIMINAL GANG

3 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
4 unnamed coconspirator, did then and there willfully, unlawfully, feloniously, and knowingly,
5 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
6 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
7 felonious criminal activities other than the conduct which constitutes the primary offense,
8 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
9 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
10 above-said gang, did then and there meet with each other and between themselves and each
11 of them with the other, willfully, unlawfully and feloniously conspire and agree to commit a
12 crime, to-wit: Murder with use of a deadly weapon, and in furtherance of said conspiracy,
13 Defendants MATTHEW WASHINGTON and MARTELL MOTEN did commit the acts as
14 set forth in Counts 2-19, said acts being incorporated by this reference as though fully set
15 forth herein.

16 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON, WITH THE INTENT TO
17 PROMOTE, FURTHER, OR ASSIST A CRIMINAL GANG

18 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
19 unnamed coconspirator, did then and there willfully, unlawfully, feloniously, and knowingly,
20 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
21 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
22 felonious criminal activities other than the conduct which constitutes the primary offense,
23 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
24 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
25 above-said gang, did then and there willfully, feloniously, without authority of law, and with
26 premeditation and deliberation, and with malice aforethought, kill NATHAN RAWLS, a
27 human being, by shooting at and into the body of the said NATHAN RAWLS, with a deadly
28 weapon, to-wit: a firearm; the said actions of the Defendants MATTHEW WASHINGTON

1 and MARTELL MOTEN and an unnamed coconspirator, resulting in the death of the said
2 NATHAN RAWLS, Defendants MATTHEW WASHINGTON and MARTELL MOTEN
3 being responsible under the following principles of criminal liability, to-wit: (1) by directly
4 committing said act, and/or (2) by Defendants MATTHEW WASHINGTON and
5 MARTELL MOTEN and/or unnamed coconspirator, aiding or abetting each other, with the
6 specific intent that a killing occur, by providing counsel and encouragement and by assisting
7 each other in this crime by accompanying each other to the crime scene where one of more
8 of their member acted as lookouts, as one or more of their member discharged one or more
9 firearms multiple times striking at and into the body of NATHAN RAWLS resulting in the
10 death of the said NATHAN RAWLS, Defendants MATTHEW WASHINGTON and
11 MARTELL MOTEN and/or an unnamed coconspirator left the crime together immediately
12 after the shooting, Defendants MATTHEW WASHINGTON and MARTELL MOTEN and
13 the unnamed coconspirator acting in concert throughout, Defendants MATTHEW
14 WASHINGTON and MARTELL MOTEN and the unnamed coconspirator counseling and
15 encouraging each other throughout by words or deeds, and/or (3) Defendants MATTHEW
16 WASHINGTON and MARTELL MOTEN and an unnamed coconspirator, conspiring with
17 each with the specific intent to commit murder whereby each is vicariously liable for the acts
18 of the other in furtherance of the conspiracy in its commission

19 COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON WITH THE ✓
20 INTENT TO PROMOTE, FURTHER, OR ASSIST A CRIMINAL GANG ✓

21 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
22 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
23 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
24 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
25 felonious criminal activities other than the conduct which constitutes the primary offense,
26 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
27 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
28 above-said gang, did then and there, without authority of law, and malice aforethought,

1 willfully and feloniously attempt to kill ASHLEY SCOTT, a human being, by shooting at
2 and into the body of the said ASHLEY SCOTT, with a deadly weapon, to-wit: a firearm,
3 Defendants MATTHEW WASHINGTON and MARTELL MOTEN being responsible under
4 one or more of the following principles of criminal liability, to-wit: (1) by directly
5 committing said act, and/or (2) by Defendants MATTHEW WASHINGTON and
6 MARTELL MOTEN and/or unnamed coconspirator, aiding or abetting each other, with the
7 specific intent that a killing occur, by providing counsel and encouragement and by assisting
8 each other in this crime by accompanying each other to the crime scene where one of more
9 of their member acted as lookouts, as one or more of their member discharged one or more
10 firearms multiple times striking at and into the body of ASHLEY SCOTT, Defendants
11 MATTHEW WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator
12 left the crime together immediately after the shooting, Defendants MATTHEW
13 WASHINGTON and MARTELL MOTEN and the unnamed coconspirator acting in concert
14 throughout, Defendants MATTHEW WASHINGTON and MARTELL MOTEN and the
15 unnamed coconspirator counseling and encouraging each other throughout by words or
16 deeds, and/or (3) Defendants MATTHEW WASHINGTON and MARTELL MOTEN and an
17 unnamed coconspirator, conspiring with each other with the specific intent to commit this
18 murder whereby each is vicariously liable for the acts of the other in furtherance of the
19 conspiracy in its commission.

20 COUNT 4 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
21 SUBSTANTIAL BODILY HARM WITH THE INTENT TO PROMOTE, FURTHER, OR
22 ASSIST A CRIMINAL GANG

22 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
23 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
24 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
25 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
26 felonious criminal activities other than the conduct which constitutes the primary offense,
27 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
28 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the

1 above-said gang, did then and there wilfully, unlawfully, and feloniously use force or
2 violence upon the person of another, to-wit: ASHLEY SCOTT, with use of a deadly
3 weapon, to-wit: a firearm, by shooting at and into the body of the said ASHLEY SCOTT,
4 resulting in substantial bodily harm to the said ASHLEY SCOTT, Defendants MATTHEW
5 WASHINGTON and MARTELL MOTEN, being responsible under one or more of the
6 following principles of criminal liability, to-wit: (1) by directly committing said act, and/or
7 (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN and/or unnamed
8 coconspirator, aiding or abetting each other, by providing counsel and encouragement and by
9 assisting each other in this crime by accompanying each other to the crime scene where one
10 of more of their member acted as lookouts, as one or more of their member discharged one
11 or more firearms multiple times striking at and into the body of ASHLEY SCOTT,
12 Defendants MATTHEW WASHINGTON and MARTELL MOTEN and/or an unnamed
13 coconspirator left the crime together immediately after the shooting, Defendants
14 MATTHEW WASHINGTON and MARTELL MOTEN and the unnamed coconspirator
15 acting in concert throughout, Defendants MATTHEW WASHINGTON and MARTELL
16 MOTEN and the unnamed coconspirator counseling and encouraging each other throughout
17 by words or deeds, and/or (3) Defendants MATTHEW WASHINGTON and MARTELL
18 MOTEN and an unnamed coconspirator, conspiring with each other to commit this crime
19 whereby each is vicariously liable for the acts of the other in furtherance of the conspiracy in
20 its commission.

21 COUNT 5 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON WITH THE
22 INTENT TO PROMOTE, FURTHER, OR ASSIST A CRIMINAL GANG

23 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
24 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
25 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
26 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
27 felonious criminal activities other than the conduct which constitutes the primary offense,
28 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an

1 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
2 above-said gang, did then and there, without authority of law, and malice aforethought,
3 willfully and feloniously attempt to kill LAROY THOMAS, a human being, by shooting at
4 and into the body of the said LAROY THOMAS, with a deadly weapon, to-wit: a firearm,
5 Defendants MATTHEW WASHINGTON and MARTELL MOTEN being responsible under
6 one or more of the following principles of criminal liability, to-wit: (1) by directly
7 committing said act, and/or (2) by Defendants MATTHEW WASHINGTON and
8 MARTELL MOTEN and/or unnamed coconspirator, aiding or abetting each other, with the
9 specific intent that a killing occur, by providing counsel and encouragement and by assisting
10 each other in this crime by accompanying each other to the crime scene where one of more
11 of their member acted as lookouts, as one or more of their member discharged one or more
12 firearms multiple times striking at and into the body of LAROY THOMAS, Defendants
13 MATTHEW WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator
14 left the crime together immediately after the shooting, Defendants MATTHEW
15 WASHINGTON and MARTELL MOTEN and the unnamed coconspirator acting in concert
16 throughout, Defendants MATTHEW WASHINGTON and MARTELL MOTEN and the
17 unnamed coconspirator counseling and encouraging each other throughout by words or
18 deeds, and/or (3) Defendants MATTHEW WASHINGTON and MARTELL MOTEN and an
19 unnamed coconspirator, conspiring with each other with the specific intent to commit this
20 murder whereby each is vicariously liable for the acts of the other in furtherance of the
21 conspiracy in its commission.

22 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
23 SUBSTANTIAL BODILY HARM WITH THE INTENT TO PROMOTE, FURTHER, OR
24 ASSIST A CRIMINAL GANG

25 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
26 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
27 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
28 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
felonious criminal activities other than the conduct which constitutes the primary offense,

1 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
2 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
3 above-said gang, did then and there wilfully, unlawfully, and feloniously use force or
4 violence upon the person of another, to-wit: LAROY THOMAS, with use of a deadly
5 weapon, to-wit: a firearm, by shooting at and into the body of the said LAROY THOMAS,
6 resulting in substantial bodily harm to the said LAROY THOMAS, Defendants MATTHEW
7 WASHINGTON and MARTELL MOTEN, being responsible under one or more of the
8 following principles of criminal liability, to-wit: (1) by directly committing said act, and/or
9 (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN and/or unnamed
10 coconspirator, aiding or abetting each other, by providing counsel and encouragement and by
11 assisting each other in this crime by accompanying each other to the crime scene where one
12 of more of their member acted as lookouts, as one or more of their member discharged one
13 or more firearms multiple times striking at and into the body of LAROY THOMAS,
14 Defendants MATTHEW WASHINGTON and MARTELL MOTEN and/or an unnamed
15 coconspirator left the crime together immediately after the shooting, Defendants
16 MATTHEW WASHINGTON and MARTELL MOTEN and the unnamed coconspirator
17 acting in concert throughout, Defendants MATTHEW WASHINGTON and MARTELL
18 MOTEN and the unnamed coconspirator counseling and encouraging each other throughout
19 by words or deeds, and/or (3) Defendants MATTHEW WASHINGTON and MARTELL
20 MOTEN and an unnamed coconspirator, conspiring with each other to commit this crime
21 whereby each is vicariously liable for the acts of the other in furtherance of the conspiracy in
22 its commission.

23 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON WITH THE
24 INTENT TO PROMOTE, FURTHER, OR ASSIST A CRIMINAL GANG

25 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
26 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
27 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
28 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in

1 felonious criminal activities other than the conduct which constitutes the primary offense,
2 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
3 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
4 above-said gang, did then and there, without authority of law, and malice aforethought,
5 willfully and feloniously attempt to kill MARQUE HILL, a human being, by shooting at the
6 body of the said MARQUE HILL, with a deadly weapon, to-wit: a firearm, Defendants
7 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
8 more of the following principles of criminal liability, to-wit: (1) by directly committing said
9 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
10 and/or unnamed coconspirator, aiding or abetting each other, with the specific intent that a
11 killing occur, by providing counsel and encouragement and by assisting each other in this
12 crime by accompanying each other to the crime scene where one of more of their member
13 acted as lookouts, as one or more of their member discharged one or more firearms multiple
14 times at the body of MARQUE HILL, Defendants MATTHEW WASHINGTON and
15 MARTELL MOTEN and/or an unnamed coconspirator left the crime together immediately
16 after the shooting, Defendants MATTHEW WASHINGTON and MARTELL MOTEN and
17 the unnamed coconspirator acting in concert throughout, Defendants MATTHEW
18 WASHINGTON and MARTELL MOTEN and the unnamed coconspirator counseling and
19 encouraging each other throughout by words or deeds, and/or (3) Defendants MATTHEW
20 WASHINGTON and MARTELL MOTEN and an unnamed coconspirator, conspiring with
21 each other with the specific intent to commit murder whereby each is vicariously liable for
22 the acts of the other in furtherance of the conspiracy in its commission.

23 COUNT 8 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
24 AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR
25 ASSIST A CRIMINAL GANG

26 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
27 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
28 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in

1 felonious criminal activities other than the conduct which constitutes the primary offense,
2 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
3 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
4 above-said gang, did then and there wilfully, unlawfully, maliciously, and feloniously
5 discharge a firearm at or into a structure, said structure, not having been abandoned, located
6 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
7 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
8 more of the following principles of criminal liability, to-wit: (1) by directly committing said
9 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
10 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
11 with the intent to commit this crime by accompanying each other to the crime scene where
12 one of more of their member acted as lookouts, as one or more of their member discharged
13 one or more firearms multiple times at or into a structure, Defendants MATTHEW
14 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
15 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
16 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
17 pursuant to a conspiracy to commit this crime.

18 COUNT 9 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
19 AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR
20 ASSIST A CRIMINAL GANG

21 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
22 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
23 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
24 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
25 felonious criminal activities other than the conduct which constitutes the primary offense,
26 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
27 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
28 above-said gang, did then and there wilfully, unlawfully, maliciously, and feloniously
discharge a firearm at or into a structure, said structure, not having been abandoned, located

1 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
2 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
3 more of the following principles of criminal liability, to-wit: (1) by directly committing said
4 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
5 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
6 with the intent to commit this crime by accompanying each other to the crime scene where
7 one of more of their member acted as lookouts, as one or more of their member discharged
8 one or more firearms multiple times at or into a structure, Defendants MATTHEW
9 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
10 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
11 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
12 pursuant to a conspiracy to commit this crime.

13 COUNT 10 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
14 AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR
ASSIST A CRIMINAL GANG

15 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
16 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
17 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
18 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
19 felonious criminal activities other than the conduct which constitutes the primary offense,
20 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
21 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
22 above-said gang, did then and there wilfully, unlawfully, maliciously, and feloniously
23 discharge a firearm at or into a structure, said structure, not having been abandoned, located
24 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
25 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
26 more of the following principles of criminal liability, to-wit: (1) by directly committing said
27 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
28 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime

1 with the intent to commit this crime by accompanying each other to the crime scene where
2 one of more of their member acted as lookouts, as one or more of their member discharged
3 one or more firearms multiple times at or into a structure, Defendants MATTHEW
4 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
5 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
6 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
7 pursuant to a conspiracy to commit this crime.

8 COUNT 11 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
9 AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR
10 ASSIST A CRIMINAL GANG

11 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
12 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
13 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
14 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
15 felonious criminal activities other than the conduct which constitutes the primary offense,
16 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
17 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
18 above-said gang, did then and there wilfully, unlawfully, maliciously, and feloniously
19 discharge a firearm at or into a structure, said structure, not having been abandoned, located
20 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
21 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
22 more of the following principles of criminal liability, to-wit: (1) by directly committing said
23 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
24 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
25 with the intent to commit this crime by accompanying each other to the crime scene where
26 one of more of their member acted as lookouts, as one or more of their member discharged
27 one or more firearms multiple times at or into a structure, Defendants MATTHEW
28 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
together immediately after the shooting, Defendants MATTHEW WASHINGTON and

1 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
2 pursuant to a conspiracy to commit this crime.

3 COUNT 12 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
4 AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR
5 ASSIST A CRIMINAL GANG

6 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
7 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
8 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
9 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
10 felonious criminal activities other than the conduct which constitutes the primary offense,
11 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
12 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
13 above-said gang, did then and there wilfully, unlawfully, maliciously, and feloniously
14 discharge a firearm at or into a structure, said structure, not having been abandoned, located
15 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
16 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
17 more of the following principles of criminal liability, to-wit: (1) by directly committing said
18 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
19 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
20 with the intent to commit this crime by accompanying each other to the crime scene where
21 one of more of their member acted as lookouts, as one or more of their member discharged
22 one or more firearms multiple times at or into a structure, Defendants MATTHEW
23 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
24 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
25 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
26 pursuant to a conspiracy to commit this crime.

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1 COUNT 13 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
2 AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR
3 ASSIST A CRIMINAL GANG

4 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
5 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
6 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
7 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
8 felonious criminal activities other than the conduct which constitutes the primary offense,
9 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
10 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
11 above-said gang, did then and there wilfully, unlawfully, maliciously, and feloniously
12 discharge a firearm at or into a structure, said structure, not having been abandoned, located
13 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
14 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
15 more of the following principles of criminal liability, to-wit: (1) by directly committing said
16 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
17 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
18 with the intent to commit this crime by accompanying each other to the crime scene where
19 one of more of their member acted as lookouts, as one or more of their member discharged
20 one or more firearms multiple times at or into a structure, Defendants MATTHEW
21 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
22 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
23 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
24 pursuant to a conspiracy to commit this crime.

25 COUNT 14 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
26 AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR
27 ASSIST A CRIMINAL GANG

28 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING

1 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
2 felonious criminal activities other than the conduct which constitutes the primary offense,
3 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
4 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
5 above-said gang, did then and there wilfully, unlawfully, maliciously, and feloniously
6 discharge a firearm at or into a structure, said structure, not having been abandoned, located
7 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
8 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
9 more of the following principles of criminal liability, to-wit: (1) by directly committing said
10 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
11 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
12 with the intent to commit this crime by accompanying each other to the crime scene where
13 one of more of their member acted as lookouts, as one or more of their member discharged
14 one or more firearms multiple times at or into a structure, Defendants MATTHEW
15 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
16 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
17 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
18 pursuant to a conspiracy to commit this crime.

19 COUNT 15 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
20 AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR
21 ASSIST A CRIMINAL GANG

22 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
23 unnamed coconspirator did then and there wilfully, unlawfully, feloniously, and knowingly,
24 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
25 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
26 felonious criminal activities other than the conduct which constitutes the primary offense,
27 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
28 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
above-said gang, did then and there wilfully, unlawfully, maliciously, and feloniously

1 discharge a firearm at or into a structure, said structure, not having been abandoned, located
2 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
3 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
4 more of the following principles of criminal liability, to-wit: (1) by directly committing said
5 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
6 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
7 with the intent to commit this crime by accompanying each other to the crime scene where
8 one of more of their member acted as lookouts, as one or more of their member discharged
9 one or more firearms multiple times at or into a structure, Defendants MATTHEW
10 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
11 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
12 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
13 pursuant to a conspiracy to commit this crime.

14 COUNT 16 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
15 AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR
16 ASSIST A CRIMINAL GANG

16 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
17 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
18 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
19 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
20 felonious criminal activities other than the conduct which constitutes the primary offense,
21 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
22 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
23 above-said gang, did then and there wilfully, unlawfully, maliciously, and feloniously
24 discharge a firearm at or into a structure, said structure, not having been abandoned, located
25 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
26 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
27 more of the following principles of criminal liability, to-wit: (1) by directly committing said
28 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN

1 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
2 with the intent to commit this crime by accompanying each other to the crime scene where
3 one of more of their member acted as lookouts, as one or more of their member discharged
4 one or more firearms multiple times at or into a structure, Defendants MATTHEW
5 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
6 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
7 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
8 pursuant to a conspiracy to commit this crime.

9 COUNT 17 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
10 AIRCRAFT, OR WATERCRAFT WITH THE INTENT TO PROMOTE, FURTHER, OR
11 ASSIST A CRIMINAL GANG

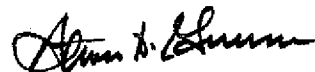
12 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
13 unnamed coconspirator did then and there willfully, unlawfully, feloniously, and knowingly,
14 for the benefit of, at the direction of, or in affiliation with a criminal gang, to-wit: ROLLING
15 60s CRIPS and/or SQUAD UP, which has as one of its common activities engaging in
16 felonious criminal activities other than the conduct which constitutes the primary offense,
17 and Defendants MATTHEW WASHINGTON and MARTELL MOTEN, along with an
18 unnamed coconspirator, with specific intent to promote, further, or assist the activities of the
19 above-said gang, did then and there willfully, unlawfully, maliciously, and feloniously
20 discharge a firearm at or into a structure, said structure, not having been abandoned, located
21 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
22 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
23 more of the following principles of criminal liability, to-wit: (1) by directly committing said
24 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
25 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
26 with the intent to commit this crime by accompanying each other to the crime scene where
27 one of more of their member acted as lookouts, as one or more of their member discharged
28 one or more firearms multiple times at or into a structure, Defendants MATTHEW
WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime

CASE NO. C294695-1 and C294695-2

DEPT. NO. 5

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

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CLERK OF THE COURT

THE STATE OF NEVADA,

Plaintiff,

vs.

MATTHEW WASHINGTON,

MARTELL MOTEN,

Defendants.

Case No.

13F18022A-B

REPORTER'S TRANSCRIPT

OF

PRELIMINARY HEARING

BEFORE THE HONORABLE CYNTHIA CRUZ
JUSTICE OF THE PEACE

TAKEN ON THURSDAY, December 5, 2013
AT 10:00 A.M.

APPEARANCES:

For the State: Danielle Pieper, Esq.
Chief Deputy District
Attorney

For the Defendant: David Otto, Esq.
Joel Mann, Esq.
Las Vegas, Nevada

REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

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I N D E X

WITNESSES:

D C RD RC

LORRAINE DESOTO

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ASHELY SCOTT

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55

MARQUE HILL

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1 LAS VEGAS, NEVADA, THURSDAY, DECEMBER
2 5, 2013

3 * * * * *

4 THE COURT: Okay.

5 Let's get on the record. Matthew the
6 Washington and Martell Moten, 13F18022A and B.

7 Mr. Washington is present with the
8 assistance of the counsel, as well as Mr. Moten is
9 present with the assistance of counsel.

10 They are both in custody.

11 Ready to proceed?

12 MR. MANN: Good morning, Your Honor, Joel
13 Mann appearing for Martell Moten.

14 MR. OTTO: David Otto on behalf of
15 Mr. Washington.

16 THE COURT: Mr. Mann and Mr. Otto, are we
17 ready to proceed at this particular time?

18 MR. MANN: Yes.

19 MR. OTTO: I would like to make a record
20 regarding my desire for a continuance.

21 I have been in, I might say in constant
22 communication with the State's attorney, Ms. Pieper
23 regarding several things.

24 One is the fact that we do not have a
25 transcript of statements made by Mr. Moten. We only

1 have video, which is about 8 hours long.

2 Without the transcript it is difficult for
3 me to attack, if you will, or impeach the veracity
4 of what is being said about what was being said.

5 I doubt Mr. Moten will be testifying today.
6 And also, just up front, I am going to make a Gruton
7 objection to any statements by Mr. Moten coming in
8 against Mr. Washington.

9 THE COURT: Let me get this straight, your
10 objection is, is that you don't have the
11 co-Defendant's statement.

12 MR. OTTO: Which implicates my client.

13 THE COURT: Which underneath Gruton that
14 this Court would not be able to consider, nor would
15 the Court consider against your client.

16 I will be realistic, Mr. Otto, the statute
17 says you are entitled to your client's statement; do
18 you have your client's statement?

19 MR. OTTO: I do, yes.

20 THE COURT: Let me hear from Mr. Mann
21 regarding this, because I will be honest, before we
22 have that you guys wanted to push this, and keep the
23 15 days, but you are the ones -- Mr. Otto, you are
24 asking for a continuance.

25 Mr. Mann, where are you at?

1 MR. MANN: Good morning, Your Honor.

2 I do not have Mr. Moten's transcripts. I
3 have reviewed his recorded statement, and I have
4 discussed that with Mr. Moten.

5 He desires to continue to go forward.

6 Regarding the Gruton issue, any statements
7 from the co-Defendant to come in against my client,
8 I would strongly object against as a Gruton
9 violation.

10 I would ask Your Honor to not consider
11 that. But Mr. Moten would like to still go forward
12 today.

13 THE COURT: All right.

14 So, Mr. Mann, like I said, any statements
15 that Mr. Washington may have made that are
16 incriminating to Mr. Moten, I am certainly not going
17 to impugn on to him. That would be a Gruton
18 violation.

19 I wouldn't be able to do that. All right.
20 So, Mr. Otto, it looks like if that's the only
21 thing, I am going to proceed forward.

22 You still be able to question people
23 appropriately.

24 Any other motions from the defense at this
25 particular time?

1 MR. OTTO: I would ask that everybody who
2 may become a witness in this hearing today, or in
3 the trial of the future, that may occur in the
4 future, be excluded from the courtroom because --

5 THE COURT: You are invoking the
6 exclusionary rule?

7 MR. OTTO: For both called witnesses and
8 uncalled witnesses, because it is a gang case; any
9 associate of these gentlemen may be called in as
10 witnesses at a trial.

11 THE COURT: This is generally how I handle
12 this; basically I have got a lot of family in the
13 courtroom, family and friends.

14 What I usually tell my defense attorneys,
15 and State is the same way, if it looks like there
16 could be anybody called potentially in the future,
17 that is here, that could be a defense witness, it is
18 only beneficial and helpful for both Mr. Moten and
19 Mr. Washington that they not stay in the courtroom,
20 because then they would never be able to be called.

21 Usually what I do usually is I tell
22 everybody to see if there anybody that you could
23 possibly think that you are going to be calling down
24 the road with everybody's family.

25 MS. PIEPER: Judge, can we approach

1 briefly?

2 THE COURT: Sure.

3

4 (a bench conference was had.)

5

6 THE COURT: Gentlemen, no secrets at the
7 bench, I more that I usually have concerns that I
8 want everybody to make sure -- it looks like your
9 attorneys could have some concerns based upon how
10 things transpire today, that they might need to call
11 some potential friends and family that could be in
12 the courtroom today.

13 So I don't want to deprive you guys of ever
14 having a witness that could be available. I am
15 going to have your attorneys talk to the family, and
16 ask the friends and family to exit the courtroom.

17 I don't want it to be a situation where they
18 stay in here, and suddenly this case gets up in
19 District Court, and they need to call somebody, and
20 because they sat in here, that they could never be
21 called.

22 Gentlemen, if you want to talk to the
23 friends and family and ask quick questions, I will
24 give you 5 minutes out in the hallway.

25 Family and friends, I will you step outside

1 and speak with your respective attorneys, however
2 you are here with as to what is going on.

3 I think they might have the anticipation
4 that they might need to call some people in the
5 future, so why don't you talk to everybody out in
6 the hallway.

7 I will give you a quick 5 minutes.

8

9 (Recess taken.)

10

11 THE COURT: Are you done chatting with
12 family?

13 MR. MANN: Yes.

14 MR. OTTO: I am finished chatting with the
15 family.

16 2 or 3 may want to come in and maybe they
17 will never be witnesses. It will be up to the
18 Court, of course.

19 THE COURT: Let's get Ms. Pieper back in
20 here.

21 MS. PIEPER: Judge, can we approach?

22

23 (A bench conference was had.)

24

25 THE COURT: All right.

1 I have joint requests from the attorneys to
2 seal the courtroom based upon what the nature of the
3 proceedings are.

4 I am going to, for the first witness, seal
5 the courtroom for the first witness.

6 Based upon how I think things are, going I
7 will allow our 4 family members back in that we are
8 having after the first witness.

9 I will watch kind of what is going on with
10 everybody's demeanor.

11 If it looks like I get a renewed motion from
12 counsel to seal it, then I will seal it for the rest
13 of the proceedings.

14 Family, I am going to ask just for my first
15 witness that you step out. Amber will come get you
16 after the first witness.

17 If I see people opening the doors, I will
18 take it you can't follow my rule, and I will seal it
19 permanently.

20 Okay, everybody?

21 All right.

22 State call your first witness.

23 MS. PIEPER: The State calls Lorraine
24 Desoto.

25 THE CLERK: Please be seated.

1 Please state your name and spell it for the
2 record.

3 THE COURT: Just so everybody knows, my
4 staff has been going before 8:00, so, we will go as
5 far as we can to noon.

6 We will take a break, and then we will be
7 reconvening to 6-A, because I lose the courtroom.

8 MS. PIEPER: I didn't tell both attorneys
9 this, I think I am going to call 10, 11 witnesses.

10 I have several witnesses here, and then the
11 rest of my witnesses, 5 or 6 of them will be coming
12 in the afternoon.

13 I didn't think it was prudent to have
14 everyone sit here since 10:00 o'clock.

15

16 LORRAINE DESOTO,

17

18 who, being first duly sworn to tell the truth, the
19 whole truth, and nothing but the truth, was examined
20 and testified as follows:

21

22 THE CLERK: Please be seated.

23 Please state your name and spell for the
24 record.

25 THE WITNESS: Lorraine Desoto,

1 L-o-r-r-a-i-n-e D-e-s-o-t-o.

2 MR. MANN: Your Honor, can I have my
3 client's right hand?

4 THE COURT: No, that's jail policy.

5 No.

6 MR. OTTO: For the record, he cannot write
7 notes?

8 THE COURT: I understand. Unfortunately,
9 nothing against your client, it has been broadcast
10 that you get a clip board.

11 MR. OTTO: Get 2.

12 THE COURT: It has been written policy that
13 we are not to do that at all.

14 They will get you clip boards so they can
15 write.

16 All right.

17 Mr. Pieper, you may proceed.

18 MS. PIEPER: Thank you.

19

20

21 DIRECT EXAMINATION

22

23 BY MS. PIEPER:

24 Q. Ms. Desoto, I want to draw your attention to
25 the November 5, 2013.

1 Were you in the area of 2665 Sherwood, Clark
2 County, Nevada?

3 A. Yes.

4 Q. Approximately 4:34 in will morning, did you
5 hear something that woke you up?

6 A. Gunfire.

7 Q. Gunshots, correct?

8 A. Yes.

9 Q. How many gunshots did you hear
10 approximately?

11 A. 5.

12 Q. Once you heard the gunshots, what happened
13 next?

14 A. I got up out of bed, got dressed, and looked
15 out a window, and saw a vehicle.

16 Q. When you say you looked out of the window,
17 did you look out of the front of your apartment or
18 the back of your apartment?

19 A. The side.

20 Q. The side.

21 The side of your apartment, when you look
22 out that window, what does it face, is it a street?

23 A. An alley.

24 Q. And can cars sit in that alleyway?

25 A. Yes.

1 Q. Can people also walk through that alleyway?

2 A. Yes.

3 Q. Are there gates that block people from going
4 in and out of that alleyway?

5 A. Yes.

6 Q. You looked out the side window and you saw a
7 vehicle; can you describe for us what type of
8 vehicle you saw?

9 A. A silver Magnum.

10 Q. A silver Dodge Magnum?

11 A. Yes.

12 Q. And you saw that vehicle; did you see the
13 vehicle moving off and on; what do you remember?

14 A. The vehicle was in movement.

15 Q. And can you describe what direction the
16 vehicle was going?

17 A. The vehicle was heading west.

18 Q. Can you give us the major cross street, or
19 the area if, it was going west what it was going
20 toward?

21 A. It would have been the heading towards Van
22 Patten.

23 Q. What are the major cross streets where
24 Sherwood is?

25 A. Karen and Sahara.

1 Q. Did you see the car; did you stand there and
2 see the car totally move, or did you just see the
3 car, you saw movement and then called 911?

4 A. I saw the car totally move.

5 Q. Once you saw the car move, is that when you
6 called 911?

7 A. Yes.

8 Q. You called 911 and relayed the information
9 of what you heard?

10 MR. MANN: Objection, leading.

11 Q. What happened when you called 911?

12 A. I told them that we just heard 5 gunshots,
13 and there was a vehicle leaving the area.

14 Q. Did you describe for the dispatcher what
15 type of vehicle that you saw?

16 A. Yes.

17 Q. What happened next?

18 A. The police showed up.

19 Q. The police showed up at your house, and did
20 you speak to the police?

21 A. Yes.

22 Q. Was it marked patrol officers, a marked car?

23 A. Yes.

24 Q. I don't know if they are in uniform?

25 A. Yes.

1 Q. I don't know if they were brown
2 uniforms or the uniforms that you see here
3 today.

4 A. I couldn't answer that, no idea.

5 Q. Once you met up with the police, you
6 spoke to them, correct?

7 A. Yes.

8 Q. What did you tell them?

9 A. The same thing I told the dispatch.

10 Q. Eventually were you taken to another
11 location?

12 A. Yes.

13 Q. What location were you taken to?

14 A. Somewhere by Fremont Street.

15 Q. And once you got to that location,
16 were you asked to look at a vehicle?

17 A. Yes.

18 MS. PIEPER: Your Honor, may I
19 approach the witness?

20 THE COURT: You may.

21 Q. Showing you what has been marked as
22 State's Proposed 15, do you recognize that
23 vehicle?

24 A. Yes.

25 Q. Minus the orange seals that you see

1 on vehicle, is that the same vehicle that you
2 saw on November 5, 2013?

3 A. Yes, that's the vehicle that I saw in
4 the alleyway.

5 MS. PIEPER: Your Honor, the State

6 moves for the admission of 15.

7 MR. OTTO: No objection.

8 MR. MANN: None, Your Honor.

9 THE COURT: It will deemed admitted
10 for purposes of preliminary hearing.

11 It was 15?

12 MS. PIEPER: correct.

13 Q. After you went down and saw the
14 vehicle, did you then sort of fill out a
15 statement, and then were you eventually
16 interviewed by police officers?

17 A. Yes.

18 Q. You are here pursuant to subpoena,
19 correct?

20 A. Yes.

21 Q. And there is an explaining on that
22 subpoena that if you do not show up, there
23 are other means by which the State of Nevada
24 can bring you to Court?

25 A. Yes.

1 Q. You do not want to be here?

2 A. I do not.

3 MS. PIEPER: Thank you.

4 No further questions.

5 THE COURT: All right.

6 We will start off with Mr. Otto,
7 since you are representing Mr. Washington,
8 the A Defendant, I will let you cross first.

9 MR. OTTO: No questions.

10 THE COURT: Mr. Mann.

11

12 CROSS-EXAMINATION

13

14 BY MR. MANN:

15 Q. Ms. Desoto, so how long have you
16 lived at that location?

17 A. 6 months, roughly.

18 Q. Who do you live there were?

19 A. My husband and my daughter.

20 Q. And is this an upstairs or a
21 downstairs apartment?

22 A. Downstairs.

23 Q. And, so, when you saw the car, were
24 you looking straight at it; were you looking
25 to the side; where was the car when you

1 looked out the window?

2 A. Directly even with my window.

3 Q. You said it was in movement?

4 A. Correct.

5 Q. It was driving past your window?

6 A. Yes.

7 Q. Was there a car parked in a parking spot in
8 front of your window?

9 A. Possibly, because I know one parks there.
10 Otherwise I don't recall.

11 Q. Okay.

12 And you heard these gunshots, and then
13 that's when you got up, correct?

14 A. That's correct.

15 That's what woke me up.

16 Q. You weren't up before you heard the
17 gunshots?

18 A. No.

19 Q. Is was the gunshots that woke you up, that
20 caused you to get out of bed?

21 A. Correct.

22 Q. You heard 5 gunshots, correct?

23 A. Correct.

24 Q. And when you heard these 5 gunshots, you
25 didn't go directly to the window. Did you?

1 A. No.

2 Q. You went to go put on your jeans?

3 A. Yes.

4 Q. And put on a top?

5 A. Yes.

6 Q. Did you put on shoes?

7 A. Not at that time, no.

8 Q. Okay.

9 After you put on jeans and a top, anything
10 else; is that a no?

11 A. No.

12 Q. After you put on jeans and a top, that's
13 when you went to the window?

14 A. Correct.

15 Q. Okay.

16 And that window that you went to, is that in
17 the bedroom or out of the bedroom?

18 A. In.

19 Q. So your bedroom has how many windows in it?

20 A. One.

21 Q. That window faces west, towards the
22 alleyway, is that correct?

23 A. No.

24 Q. What direction did that window face?

25 A. It faces north.

1 Q. North, okay.

2 MR. MANN: Court's indulgence.

3 Can I have this marked, Your Honor?

4 If I may approach with Defendant Moten's

5 Exhibit A?

6 THE COURT: You may.

7 MR. MANN: Thank you.

8 Q. Ms. Desoto do you see this picture?

9 A. Yes.

10 Q. Do you recognize what that picture is?

11 A. It is an aerial view of where I was living.

12 Q. Can you identify the area that you -- or the
13 area that you would indicate your apartment was?

14 MS. PIEPER: Do you want her to draw?

15 MR. MANN: I will do that.

16 A. From aerial, not a clue.

17 Q. Not a clue from aerial?

18 A. No.

19 THE COURT: I will let the attorneys
20 approach so they can watch what she's doing.

21 Hold on.

22 MR. MANN: Right now she hasn't been able to
23 identify anything.

24 THE COURT: Okay.

25 Q. So you don't know where your apartment is

1 from this aerial view?

2 A. No.

3 Q. Do you have an idea where Sherwood Street
4 is?

5 A. Yes.

6 Q. Okay.

7 And is your apartment off of Sherwood
8 Street?

9 A. Yes.

10 Q. And do you see an alleyway that would be
11 indicative of the alleyway that your apartment
12 looked out to?

13 A. It would be this back here.

14 Q. Now, do you know how close to Karen Avenue
15 your apartment is?

16 MS. PIEPER: Judge, I don't mean to
17 interrupt, which I just did, but for the record, the
18 witness just said this one right here.

19 If we could just have her with a black line
20 draw this one right here, so that the record shows
21 what this one right here is.

22 Q. I want to you to write up here alley, so we
23 know that's what that line was.

24 And then can you also mark with an arrow
25 indicating that -- then you had previously

1 indicated Sherwood Street; can you draw a line, and
2 mark with an arrow where Sherwood Street is?

3 A. (Indicating.)

4 Q. Now, knowing now where the alley is, and

5 where Sherwood Street is, can you identify where
6 your apartment might be in this aerial view?

7 A. No.

8 Q. At least the building that it may be in?

9 A. (Indicating.) The side one, not the main
10 one, one of the side ones.

11 Q. Okay.

12 So can you then -- are you saying it is
13 either this building or that building, is that
14 correct?

15 A. It would be this alley.

16 Q. Can you go ahead and circle that area, that
17 that is the alley that you believe that your
18 apartment faces.

19 . You are not sure which building it is, but
20 you believe it is that alley, correct?

21 A. Yeah.

22 Q. All right.

23 And was it this alley that you were looking
24 out on to on that night?

25 A. Yes.

1 Q. So can you then draw another line from that
2 circle and indicate that that is the alley that your
3 apartment looks out to?

4 MS. PIEPER: Just a suggestion, maybe she
5 can put bedroom window alley.

6 MR. MANN: That sounds good.

7 MS. PIEPER: I am not trying to tell her how
8 to testify.

9 I am trying to make sure we can remember
10 this a year from now.

11 Q. All right.

12 And it was from -- can you indicate, does
13 your bedroom window face specifically north?

14 A. Yes.

15 Q. So would you agree that it faces towards
16 this other building?

17 A. Yes.

18 Q. And you are just not sure if it is building
19 1 or building 2 that you circled?

20 A. Right.

21 MS. PIEPER: Judge, for the record she used
22 uh-huh, that's a yes?

23 A. Sorry.

24 Q. You do believe that it is this building
25 here?

1 A. Yes.

2 Q. Circle that as well?

3 A. The whole building?

4 Q. Ms. Pieper is saying maybe we should
5 put an X through it, but I would like a

6 smaller circle right here.

7 Then draw a line up here saying you
8 believe that is your apartment building.

9 Q. Perfect. Thank you.

10 MR. MANN: All right.

11 So at this time, Your Honor, I would
12 like to admit Defendant's Exhibit A.

13 MS. PIEPER: No objection.

14 MR. OTTO: No objection. I want to
15 ask a question.

16 THE COURT: Wait a minute. You have
17 got to wait for your turn.

18 MR. OTTO: It is just the drawing
19 might change.

20 THE COURT: Mr. Otto, you have to
21 wait for your turn, otherwise my record is
22 horrible.

23 THE COURT: Defendant Moten Proposed A
24 is deemed admitted.

25 All right, Mr. Mann.

1 Q. All right.

2 So when you saw the vehicle, you believe
3 that you are in this apartment building that you
4 circled?

5 A. Yes.

6 Q. The smaller circle?

7 MS. PIEPER: Just for the record --

8 A. Yes.

9 Q. And that the window that you were looking
10 out of faced towards the other building, correct?

11 A. Correct.

12 Q. And when you observed the car driving, can
13 you identify where you observed that car?

14 On this map, can you identify where you saw
15 that car?

16 A. Right there.

17 Q. I ask you to mark it with an X and draw a
18 line from that X indicating car.

19 A. Okay.

20 Q. All right.

21 And in what direction was that car driving?

22 A. West.

23 Q. Okay.

24 Can you then from that X indicate an arrow
25 of the direction that you saw that car driving?

1 An arrow, please.

2 A. (Indicating.)

3 Q. All right.

4 So on this aerial map, it looks like that

5 alleyway that you indicated was a short alleyway
6 that ended behind the block of apartments, is that
7 correct?

8 A. Correct.

9 Q. Did you see the car turn?

10 A. No.

11 Q. Did you see car do anything other than drive
12 by your window?

13 A. No.

14 Q. How fast was the car moving?

15 A. Not at an un-normal rate of speed.

16 Q. So there was nothing unusual about the pace
17 of the car?

18 A. Nothing.

19 Q. And from the direction that the car was
20 driving, what would that indicate to you that it was
21 coming from?

22 MS. PIEPER: Objection, speculation.

23 MR. MANN: Your Honor, I think a normal
24 person can make that assumption.

25 MS. PIEPER: There we go, speculation and

1 assumption.

2 THE COURT: I will overrule it. let me hear
3 what she has to say.

4 A. I would answer that I have no idea.

5 Q. Thank you.

6 And the observation that you made, was
7 anyone with you when you made that observation?

8 A. Yes.

9 Q. Who else was with you?

10 A. My husband.

11 Q. Was he standing next to you?

12 A. No. He actually he was up before I was, and
13 viewed the vehicle before I did from a different
14 window.

15 Q. Okay.

16 Did you see him view that window, or is that
17 based on a conversation that you had wit him?

18 A. That's what he told me.

19 Q. And is that other window that you believe
20 that he viewed from in your bedroom?

21 A. No.

22 Q. Okay.

23 What room is that window in?

24 A. The dinning room.

25 Q. And did you see that car driving any or

1 time?

2 A. No.

3 Q. And you heard the gunshots, the 5 gunshots?

4 A. Yes.

5 Q. That's when you got up and got dressed, and
6 then looked out of the window?

7 A. Correct.

8 MR. MANN: Court's indulgence.

9 Your Honor, if I may take the exhibit to
10 show my client, he was unable to see what she was
11 drawing.

12 THE COURT: Sure.

13 MR. MANN: Thank you.

14 I am just going to go leave this up here,
15 and go back to my desk to continue on with
16 questioning.

17 THE COURT: Okay.

18 Q. Ms. Desoto, did you see anyone get in the
19 car?

20 A. No.

21 Q. Did you see the occupants of the car?

22 A. No.

23 Q. Had you seen the car before?

24 A. No.

25 Q. When you saw the vehicle, how long was that

1 before your husband saw the vehicle -- how long was
2 that after your husband had seen the vehicle, if you
3 know?

4 A. I have no idea.

5 Q. Before you talked to the police that day,
6 did you and your husband have a conversation?

7 A. No.

8 Q. So you and your husband hear gunshots, and
9 both of you look out windows, separate windows, but
10 you don't have conversation about what you saw?

11 A. As soon as he looked out the window, he went
12 out the front door.

13 He wasn't even in the house when I was on
14 the phone with the police.

15 The only thing I said to him is; that was a
16 Magnum, correct; he said yes.

17 Q. At the time the car you saw, you speculated
18 that it was a Magnum, but you didn't know for sure?

19 A. No.

20 Q. Okay.

21 And it was your discussion with your husband
22 that confirmed what you believed?

23 A. Yes.

24 Q. And when you had that conversation with him,
25 had the police arrived yet?

1 A No.

2 Q. How long after you called 911 did the police
3 arrive to your location?

4 A. 5, 10 minutes, maybe.

5 Q. How many police officers?

6 A. There was a lot. I can't answer that.

7 They didn't actually come to my location.
8 They went to the area of the shooting.

9 Q. I will rephrase my question.

10 To your location, where you were, how long
11 did it take for the police to arrive?

12 A. It was a while.

13 Q. How long is a while, a half hour, an hour?

14 A. A half hour at least, because we were
15 already outside.

16 We were already over in the general area of
17 the shooting, so they spoke to us mostly over there.

18 Q. So you heard the shooting, got dressed,
19 looked outside, you saw a car, you then went with
20 your husband out the door --

21 A. No, I stayed inside.

22 Q. You called it 911, and your husband went
23 outside?

24 A. Yes.

25 Q. And then at some point in time you wander

1 over to where the shooting occurred?

2 A. Correct.

3 Q. How long after you called 911 did you go to
4 where the shooting occurred?

5 A. Let's say 15, 20 minutes.

6 Q. Okay.

7 And when you went to the location where the
8 shooting occurred, were there already police at that
9 location?

10 A. Yes.

11 Q. Did you then go up to police officer and
12 indicate that you had called 911?

13 A. Yes.

14 Q. And did they separate you and your husband
15 at that time?

16 A. No.

17 Q. So you and your husband remained together at
18 the location where the police were, until the police
19 had then spoke to you?

20 A. Correct.

21 Q. And spoke to you, and the police spoke to in
22 a, I believe you had indicated, a marked patrol car?

23 A. Yes.

24 Q. And that's when you gave a recorded
25 statement?

1 A. That was quite a few hours later that they
2 did the recorded statement.

3 Q. So you gave a statement in a marked police
4 car first that wasn't recorded?

5 A. The recorded statement was in an unmarked
6 vehicle.

7 Q. Okay.

8 You gave statement in a marked vehicle?

9 A. The written, are you talking the written
10 statement?

11 Q. Written statement.

12 A. The written statement I did in my own home.

13 Q. You indicated that you went in a marked
14 patrol car and gave a statement?

15 A. We went in the marked patrol car to view a
16 vehicle that they had stopped.

17 Q. And, so, how soon after the shooting
18 occurred did they take you in the marked patrol
19 vehicle to see what they speculated was the same
20 vehicle?

21 MS. PIEPER: objection, Your Honor, to the
22 form of the question.

23 MR. MANN: They, meaning the police.

24 THE COURT: Hold on.

25 Number one I am not a jury. I can discern

1 it.

2 Number 2, the question is not evidence. It
3 is a question.

4 Her answers are evidence.

5 MS. PIEPER: However, Judge, if we end up
6 not being able to get her back, and we have to read
7 testimony in, I will object to form of that
8 question, because I have to read that in front of a
9 jury.

10 THE COURT: All right.

11 Mr. Mann, rephrase it slightly.

12 MR. MANN: Your Honor, my question was at
13 the time.

14 Q. All right.

15 When you were taken in a marked patrol
16 vehicle, did you know that the vehicle that they had
17 stopped was the vehicle you had seen?

18 A. No.

19 Q. Did you believe that the police believed it
20 was the vehicle that you had seen?

21 MS. PIEPER: Objection, Your Honor, calls
22 for speculation.

23 MR. MANN: This is what her belief was.

24 THE COURT: The question is bad, Mr. Mann,
25 so I will sustain it.

1 Maybe you can rephrase it.

2 Q. When you were being transported, what did
3 you believe the purpose was for your transportation?

4 A. To see if the vehicle they had stopped was

5 the same vehicle that we had seen.

6 Q. Okay.

7 And you had indicated the location that it
8 was, the same vehicle, correct?

9 A Yes. We could not say 100 percent, because
10 the vehicle we had seen go through the alley had all
11 windows up, very dark tinted.

12 When they took us to view the vehicle, all
13 windows were down, so we had no way of seeing the
14 tint.

15 We told them at that time if the rest of the
16 windows matched the little one in the rear that
17 could not good down, then yes.

18 Q. When you had made that identification of the
19 car, was both you and your husband in the marked
20 patrol vehicle looking out?

21 A. Yes.

22 Q. And you could here what your husband was
23 saying about this vehicle?

24 A. Yes.

25 Q. And your husband could hear what you were

1 saying about this vehicle?

2 A. Yes.

3 MR. MANN: I have no further questions.

4 THE COURT: Redirect.

5 MR. OTTO: I would like to --

6 THE COURT: Mr. Otto, here is the thing,
7 direct, then you get to cross, then Mr. Mann, and
8 then it goes back to Ms. Pieper.

9 Ms. Pieper, redirect?

10 MS. PIEPER: No, Your Honor.

11 THE COURT: Mr. Otto, normally I don't it,
12 but I know you want to ask a question.

13 MR. OTTO: I just wanted to cleanup the map
14 a little, mostly to make sure it is clear.

15 There is just one thing on the map.

16 THE COURT: Okay.

17 MR. MANN: Your Honor, I would say that if
18 there are any sort of notations on the map, that it
19 be done in a different color.

20

21 CROSS-EXAMINATION

22

23 BY MR. OTTO:

24 Q. Let the record show I am just asking the
25 witness about Defendant's Exhibit A. I will have

1 her draw it in a big red marker.

2 I wonder if it wouldn't be easier if we drew
3 it in a ball point pen.

4 This arrow which you drew to indicate the
5 direction of the travel of the vehicle you saw,
6 could you mark that up here as direction of the
7 travel?

8 A. Do you want me to go over it with the red?

9 Q. That's okay, sure.

10 Q. And then one question, something in the
11 neighborhood off of the off map, is the Eureka
12 Casino near this neighborhood?

13 A. Yes.

14 Q. This is Karen Avenue; where would the Eureka
15 Casino be located?

16 A. On corner of the Sahara and Sherwood.

17 Q. Where is Sahara?

18 A. Off the map.

19 Q. Could you just draw approximately on this
20 map with that red a square showing the Eureka
21 Casino?

22 And then if you can sign this map down there
23 with your name for the record?

24 A. Can I have a real pen?

25 THE COURT: She can do that in ball point.

1 MS. PIEPER: And the date.

2 Q. And the date.

3 Then just one based on Mr. Mann's question;
4 and I need to refresh my memory.

5 Did you say you heard the statement that
6 your husband gave to the police, or you didn't?

7 A. Which statement?

8 Q. Either, any statement.

9 Did you hear him give any statement to the
10 police?

11 A. The recorded statements were done
12 separately.

13 Q. Did he ever talk to the police at the scene
14 or at your house without a recorded statement in
15 your presence?

16 A. Yes, but just general talk.

17 Q. Did what he say differ from what you said?

18 A. Yes.

19 Q. In what way?

20 A. He had more description, more detail of the
21 vehicle than I did.

22 Q. What is your husband's name?

23 A. Darren Desoto.

24 MR. OTTO: Thank you very much.

25 THE COURT: Ma'am, thank you very much for

1 your patience and testimony today.

2 I ask that you step down.

3 Please don't discuss your testimony with
4 anybody during the course of this case unless it is

5 a representative from the District Attorneys office
6 or Mr. Otto's office or Mann's office.

7 They will identify themselves appropriately
8 for you.

9 Thank you for your time and patience today.
10 So step down.

11 State, call your next witness.

12 MS. PIEPER: The State calls Ashely Scott.

13 MR. MANN: Your Honor, can we open up --

14 THE COURT: Yes. Amber will handle that.

15
16 ASHELY SCOTT,

17
18 who, being first duly sworn to tell the truth, the
19 whole truth, and nothing but the truth, was examined
20 and testified as follows:

21
22 THE CLERK: Please be seated.

23 Please state your name and spell it for the
24 record.

25 THE WITNESS: Ashely Scott, A-s-h-e-l-y

1 S-c-o-t-t.

2 MS. PIEPER: I would object to anybody
3 coming in.

4 THE COURT: Tell the 4 to come in. We will
5 see how they do, just the 4.

6 MS. PIEPER: I would object to anybody
7 coming in.

8

9 DIRECT EXAMINATION

10

11 BY MS. PIEPER:

12 Q. I draw your attention to November 5, 2013.

13 Were you at 2655 Sherwood, Apartment Number
14 18, here in Las Vegas, Clark County, Nevada?

15 A. Yes.

16 Q. Who were you there to see?

17 A. Leroy.

18 Q. And at that time were you kind of dating him
19 or seeing him?

20 A. Not necessarily.

21 Q. Okay.

22 Approximately what time did you get to that
23 apartment?

24 A. I can't really say exactly what time I got
25 there.

1 I do stay in an apartment like one building
2 over, but the very last time I did look at my watch
3 it was about 12:47 on my phone.

4 Q. So you were there maybe the late hours of
5 the 4th going into the 5th?

6 A. Correct, because I stayed in the Apartment
7 Number 11.

8 Q. Okay.

9 When you got there, who else was in the
10 apartment?

11 A. Nat and I did not know at the time that
12 Manook was in the back room.

13 Q. Can you spell Manook?

14 A. I didn't know his name was Manook until I
15 got to this point.

16 Q. Somebody else -- it was yourself?

17 A. Yes.

18 Q. Leroy?

19 A. Yes.

20 Q. Nat?

21 A. Yes.

22 Q. And Manook?

23 A. Correct.

24 Q. When you were in the apartment, where did
25 you hang out in the apartment?

1 A. Just in the front living room.

2 Q. How many bedrooms are there in that
3 apartment?

4 A. 2.

5 Q. How many bathrooms?

6 A. One.

7 Q. When you first walk into the apartment, what
8 room are you walking into?

9 A. The living room/kitchen.

10 Q. When you walk in, what side is the living
11 room on?

12 A. The right side.

13 Q. What side is the kitchen on?

14 A. The left.

15 Q. As you continue into the apartment, where is
16 the bathroom?

17 A. To the left, by the second bedroom.

18 Q. And to the right behind the living room, is
19 that going to be the first bedroom?

20 A. Correct.

21 Q. When you first walked into the apartment,
22 where did you go?

23 A. Into the living room.

24 Q. Okay.

25 And who else was in the living room at the

1 time?

2 A. Leroy and Nat.

3 Q. Manock was in one of the other bedrooms, you
4 found out later?

5 A. Correct.

6 Q. You were inside the apartment, what were you
7 guys doing?

8 A. Actually Nat and Leroy went over to PT's to
9 grab some hamburgers.

10 At that point they returned. We ate the
11 hamburgers, and around 12:47 was the last time I
12 looked at my clock, because I was waiting for my
13 unemployment to go onto my card so that I can
14 leave.

15 The next thing I know I am shot in the foot.

16 Q. You are sitting in the apartment; how many
17 couches are in the apartment?

18 A. 2.

19 Q. And where are the couches in relationship in
20 the living room?

21 A. There is a love seat against the wall that
22 is going to be in front of the first room.

23 And then there is a longer couch in front of
24 the window.

25 Q. Where were you sitting?

1 A. On the love seat.

2 Q. By yourself or with somebody else?

3 A. With Leroy.

4 Q. And how were you sitting on the love seat

5 with Leroy?

6 A. I was sitting closer to the wall by the TV
7 with my feet down.

8 Leroy was across with his feet across me.

9 Q. His feet were across your lap area?

10 A. Yes.

11 Q. Where was Nat sitting?

12 A. On the opposite couch.

13 Q. If I were to walk into that apartment, would
14 Nat -- I walk in and turn to the right, is Nat
15 sitting on right or the left-hand side?

16 Let me ask a better question.

17 I walk into the apartment, and I am looking
18 at the living room area; are you and Leroy sitting
19 on the left-hand side or the right-hand side of the
20 room?

21 A. The left-hand side, closest to the first
22 bedroom.

23 Q. So when you first walk in, the wall where
24 the couch is, is where Nat is sitting?

25 A. Correct, immediately, as soon as you walk

1 in, right by the window.

2 Q. Okay.

3 You guys are sitting that way, you and Leroy
4 are sitting that way, and then you say you fall
5 asleep?

6 A. Yes.

7 Q. What is the next thing you remember?

8 A. Around 12:47 I looked onto my phone, and
9 said I was going to give myself another 15 minutes
10 and fell back to sleep.

11 Q. And what is the next thing you remember
12 happening?

13 A. A whole bunch of gunshots.

14 Q. Can you tell me approximately how many
15 gunshots you heard?

16 A. I heard the first one. I jumped. I tried
17 to make me way into the room.

18 Later on I counted gun holes, and there was
19 about 13 of them.

20 Q. When you say you hear the initial shot, and
21 you get up and try to get into the other room, what
22 room are you talking about?

23 A. The closest room to me, that was the one
24 towards the left.

25 Q. So that would be the bedroom that we talked

1 about previously as number 2?

2 A. Correct. The one closest to the bathroom.

3 Q. You get up, you hear the first gunshot, and
4 then you say you tried to get to that room.

5 What keep you from going into that room?

6 A. A lot of panic. I jumped up and ended up in
7 the back corner. I thought; oh, my God, what is
8 going on.

9 I tell myself to get down. I tried to crawl
10 into the room. I looked to the left and I had seen
11 Nat on the floor, and then I made my way into the
12 room.

13 At that point I got into the closet.

14 Q. You got into the closet in bedroom number 2
15 or one?

16 A. The one closest to the bathroom.

17 Q. So bedroom 2.

18 When you initially get up and you say that
19 you hear panic, as you are panicking, are you
20 continuing to hear gunshots?

21 A. I can't recall.

22 Q. You eventually get into the bedroom, and you
23 get into the closet.

24 What happens next?

25 A. At that point I try to feel over my body, to

1 make sure I am not shot.

2 I feel my foot is burning. I have blood on
3 my sweets, and that's when I saw I was shot.

4 Q. The left or the right side?

5 A. The left foot.

6 Q. You saw blood that was on your hand, and
7 what do you do next?

8 A. Could you repeat that?

9 Q. You feel kind of blood, you said, on sweets,
10 what did you do next?

11 A. After I saw blood on my sweets, I reached
12 down to my left booth, and that's when I saw that I
13 was shot.

14 Q. What did you see?

15 A. Blood on my hands.

16 Q. Then what happened?

17 A. At that point I just kind of laid there.
18 Manook came out of the room, and asked if everybody
19 was okay, and started to call 911.

20 That's when I yelled my foot was on fire,
21 and then he continued to talk to the police or the
22 ambulance.

23 Q. When you say Manook came into the bedroom,
24 when you went into bedroom number 2 closest to the
25 bathroom, do you know if he was in that room at that

1 time, or was he in bedroom number one?

2 A. I believe he was in bedroom number one.

3 Q. And when he came into room where you were,
4 do you remember if you were screaming in the

5 closet, or do you know how he found you in the
6 closet?

7 A. He initially asked if everybody was okay.

8 I crawled back out, and I seen Nat on the
9 floor, and I crawled back into the closet.

10 I am assuming that's when he saw me.

11 Q. But you don't know for sure, and eventually
12 he found you in the closet?

13 A. Correct.

14 Q. He had been on the phone with 911; do you
15 ever call 911 on your own?

16 A. No.

17 Q. After you realized you are shot, and he
18 calls 911, what happens next?

19 A. He continued on the phone. I stayed in the
20 closet until the police tells us to come out.

21 Q. When you were in the closet, was the door
22 opened or closed?

23 A. The closet was opened.

24 Q. Once the police get there, are they in
25 uniform?

1 A. Yes.

2 Q. And eventually you see they are in marked
3 patrol cars?

4 A. Yes.

5 Q. Until the immediate time they get there, you
6 didn't see cars?

7 A. Not until they called everybody out of the
8 house, and I knew it was the police.

9 Q. How did you know the police was there?

10 A. They called everybody out of the house.

11 Q. Who else came out?

12 A. Manook and Leroy.

13 Q. What about Nat?

14 A. He was dead already.

15 Q. How do you know he was dead?

16 A. He wasn't moving when I walked out past the
17 cops.

18 Q. Initially you said that you kind of went
19 over to him when the shooting started; did you touch
20 him?

21 A. I didn't go all the way out. Once I made it
22 into the room, I checked myself, noticed I was shot,
23 I crawled to the door.

24 That's when I saw him laying on the floor,
25 so I crawled back into the room, into the closet.

1 Q. Once you were ordered out of the apartment,
2 and you saw Leroy Manook out there, I am assuming
3 there are also police out there?

4 A. Correct.

5 Q. Could you see whether anybody else was
6 injured?

7 A. Yes.

8 Q. Who else was injured?

9 A. Leroy.

10 Q. Where?

11 A. His foot.

12 Q. Do you know whether it was his right or
13 left?

14 A. I believe it was the left.

15 Q. What about Manook?

16 A. No.

17 Q. Could you not see if he was injured, or you
18 don't know?

19 A. I don't believe he was injured.

20 Q. How did you know Leroy was injured?

21 A. I saw blood on his foot.

22 Q. You didn't see any blood from Manook, is
23 that correct?

24 A. Correct.

25 Q. You spoke to the police, is that correct?

1 A. Yes.

2 Q. You told them what happened?

3 A. Correct.

4 Q. Then eventually were you taken into an

5 ambulance, and you went to the hospital?

6 A. I was taken into the ambulance, to the
7 hospital. Once I got there, the CSI came in, spoke
8 to me, got my statement.

9 Q. And you went to Sunrise Hospital?

10 A. Correct.

11 Q. Once you got to Sunrise Hospital, did they
12 treat you for your injuries?

13 A. No. They gave me some pain pills and told me
14 I would be fine.

15 They gave me bandage and told me to go home.

16 Q. Eventually you went home, correct?

17 A. Correct.

18 Q. Did you ever receive any further treatment
19 in regard to your foot, or did the bullet stay in
20 your foot?

21 A. Yes.

22 Q. That day, correct?

23 A. Yes.

24 Q. Eventually was the bullet taken out?

25 A. Almost 7 days later.

1 Q. How was the bullet taken out?

2 A. Surgically.

3 Q. Do you have a scar as a result of that?

4 A. Yes.

5 Q. Since November 5th, 2013, have you been in
6 any type of pain as a result of the injuries that
7 happened?

8 A. I can't walk that well.

9 Q. You can walk better before, is that correct?

10 A. Correct.

11 MS. PIEPER: Your Honor, may I approach the
12 witness?

13 THE COURT: You may.

14 Q. I am showing these to defense counsel,
15 showing you State's Proposed Exhibit 13 and 14, do
16 you recognize who is in that picture?

17 A. Yes.

18 Q. What does that depict?

19 A. Yes.

20 Q. Let's take 13 first, who is that a picture
21 of?

22 A. Myself.

23 Q. Is that what you looked like on November 5,
24 2013?

25 A. My hair was a lot better earlier that day.

1 Q. Besides that, is that how you looked?

2 A. Yes.

3 MS. PIEPER: Your Honor, I move for
4 the admission of 13.

5 MR. OTTO: No objection.

6 MR. MANN: No objection.

7 THE COURT: 13 is deemed admitted.

8 Q. Looking at State's Proposed 14, what
9 is that a picture of?

10 A. My foot.

11 Q. Your left foot?

12 A. Yes.

13 Q. And is there sort of like a circle, a
14 circle where you actually saw the bullet on
15 the heel part of your foot, below your ankle
16 bone?

17 A. I think I am confused.

18 Q. In this picture State's Proposed
19 Exhibit Number 14, do you see sort of red
20 circle where the bullet was sort of near the
21 heel area of your left foot?

22 A. Yes.

23 Q. Is that how it looked on the November
24 5, 2013?

25 A. Yes.

1 MS. PIEPER: The State moves for the
2 admission of 14.

3 MR. OTTO: No objection.

4 MR. MANN: Just for clarification, when was
5 this picture taken?

6 Q. When was the picture taken?

7 A. Immediately after I was admitted into the
8 hospital.

9 Q. November 5, 2013?

10 A. Yes.

11 MR. MANN: No objection.

12 THE COURT: 14 is admitted.

13 Q. You don't want to be here today, do you?

14 A. Absolutely not.

15 Q. And you are in custody as of this moment,
16 correct?

17 A. Correct.

18 Q. That is for traffic tickets?

19 A. Correct. I decided to go ahead and turn
20 myself in so I wouldn't have to pay the fines.

21 MS. PIEPER: Thank you.

22 No further questions by the State.

23 THE COURT: Mr. Otto, cross?

24 MR. OTTO: Just a few, Your Honor.

25

CROSS-EXAMINATION

BY MR. OTTO:

Q. Were you treated by ambulance at the scene?

A. No, I was just taken immediately to Sunrise Hospital.

Q. By ambulance?

A. Correct.

Q. And where did they ambulance responders -- where did they see you, in the courtyard or elsewhere?

A. The courtyard.

Q. Did they remove your socks?

A. I don't believe so.

Q. Did you remove your socks?

A. I don't think so.

Q. Did you ever step on the stairs next to this apartment?

A. No.

Q. You never saw who shot into the apartment?

A. Correct.

Q. You don't know who shot into the apartment?

A. Correct.

Q. You don't know at the time the shots were being fired, you didn't know where they were coming

1 from, is that correct?

2 A. I am assuming outside the window.

3 Q. And you counted the bullet holes?

4 A. Correct.

5 Q. When did you do that?

6 A. The next day after I returned from the
7 hospital.

8 MR. OTTO: That's all, Your Honor.

9 THE COURT: Mr. Mann.

10

11 CROSS-EXAMINATION

12

13 BY MR. MANN:

14 Q. Ms. Scott, how many times had you been to
15 this apartment before the shooting?

16 A. Maybe 4, 5.

17 Q. Who did you know at that apartment that
18 caused you to go back?

19 A. Leroy.

20 Q. Did Leroy live at that apartment?

21 A. Not that I know of.

22 Q. Why is it that you were able to find Leroy
23 at that apartment?

24 A. I stayed in the building right next to it.

25 Q. Why is it that Leroy was at that apartment?

1 A. Personal interests. I don't know.

2 Q. Who did Leroy know at that apartment?

3 A. I don't know.

4 Q. Ms. Pieper asked you if Leroy was your

5 boyfriend, correct?

6 A. Correct.

7 Q. You stated no, or that he was?

8 A. I didn't answer the question, because I
9 believe that intrudes on my privacy.

10 Q. Was Leroy your boyfriend?

11 A. Because of my privacy, I don't want to
12 answer.

13 MR. MANN: Your Honor, I ask that you
14 instruct the witness to answer.

15 MS. PIEPER: I don't know if it is
16 relevant.

17 MR. MANN: Do you want me to answer?

18 THE COURT: Yes.

19 MR. MANN: It goes to the relationships of
20 potential victims in there.

21 It goes to their potential biases.

22 It goes to why they would know certain
23 things in the apartment.

24 Certain things about what Leroy may have
25 done, or things like that before or after this

1 incident.

2 THE COURT: I don't think you need to ask
3 whether he was her boyfriend.

4 You can ask some other questions.

5 I don't think she's comfortable talking
6 about that.

7 MR. MANN: What is the objection as to why
8 she can't answer the statement?

9 MS. PIEPER: Relevance.

10 THE COURT: Okay.

11 Here is where we are at.

12 She, Ms. Scott, discussed that she knows
13 Leroy.

14 I am happy for you to ask, inquire as to her
15 level of how she's knows Leroy.

16 She doesn't appear to be comfortable with
17 utilizing the term boyfriend.

18 So maybe you want to ask something else.

19 MR. MANN: That's fine.

20 Q. How long have you known Leroy?

21 A. Maybe a couple of weeks, I can say.

22 Q. Where did you meet Leroy?

23 A. In the apartment complex.

24 Q. Okay.

25 When you said that you lived in Apartment

1 11, is that the same building as Apartment 18, or a
2 separate building?

3 A. One building over to the left.

4 Q. And you found, or you met Leroy as you 2

5 were coming and going in that apartment complex?

6 A. Correct.

7 Q. And you guys were friends?

8 A. Correct.

9 Q. And had you become more than friends?

10 A. Is that intruding on my privacy.

11 THE COURT: That one is not.

12 A. Yes.

13 Q. And at the time of the shooting, were you
14 and Leroy more than friends?

15 A. Yes.

16 Q. You answered as with a question mark; are
17 you sure you were more than friends at that time?

18 MS. PIEPER: I object.

19 THE COURT: Hold on.

20 MS. PIEPER: I object based on relevance.

21 He wants to ask her certain things. I don't
22 know about their relationship.

23 I think he wants to ask her several things
24 in regards to Leroy.

25 I don't know -- I don't why he doesn't just

1 ask those questions.

2 I understand what he is getting at, but to
3 me the questions he is asking, whether somebody is
4 quite frankly in a sexual relationship with someone

5 or not, I don't think that determines that tells you
6 what they were doing in the apartment.

7 He can ask her if he knows what Leroy was
8 doing in that apartment. I don't know why it
9 matters whether they are in a sexual relationship or
10 not.

11 That sounds like where he is going.

12 THE COURT: I think he was asking whether
13 they were more than friends.

14 Are you going to get into the details?

15 MR. MANN: Your Honor, I was pretty much
16 done as soon we got to the point were they more than
17 friends at the time of the shooting.

18 MS. PIEPER: Thank the Lord.

19 MR. MANN: I ask that counsel from the State
20 refrain from making those comments.

21 THE COURT: Calm down, otherwise it will be
22 a long day.

23 Everybody, we will be here for a long day.

24 Your clients are acting like gentlemen.

25 I will ask that everyone else act like

1 ladies and gentlemen.

2 Mr. Mann, you asked a final question, and
3 Ms. Scott was trying to answer it.

4 I will allow you to answer the question
5 again.

6 Q. Ms. Scott, at the time of the shooting, were
7 you and Leroy more than friends?

8 A. Define what more than friends is.

9 MR. MANN: I am leave it at that, Your
10 Honor.

11 THE COURT: Okay.

12 Q. You had said that you had been to the
13 apartment that Leroy -- or Apartment 18, I believe
14 you said 5 times prior, is that correct?

15 A. Correct.

16 Q. And had you been to the apartment, Apartment
17 18 before you had met Leroy, or only after you met
18 Leroy?

19 A. Only after.

20 Q. And, so, you had said that you had met Leroy
21 a couple of weeks before the shooting, correct?

22 A. Yes.

23 Q. So, then, it would be fair to say that you
24 had been to Apartment 18 a couple of times in the
25 last few weeks before the shooting?

1 A. Correct.

2 Q. And when you were there, who -- do you
3 remember the first time that you were at that
4 apartment?

5 A. Yes.

6 Q. And do you remember who was the that
7 apartment the first time you were there?

8 A. Leroy.

9 Q. Was there anyone else at the apartment the
10 first time you were there?

11 A. No.

12 Q. Do you remember about the date that you were
13 at the first time at that apartment?

14 A. It had to be the beginning of October
15 sometime.

16 Q. Okay.

17 Did it appear that Mr. Leroy lived at that
18 apartment at that time?

19 A. Well, he was living out of a suitcase. He
20 told me that he resided in Florida, and would be
21 going back in a couple of weeks.

22 MS. PIEPER: Objection, Your Honor, hearsay.

23 THE COURT: Sustained.

24 Q. It was your belief then that Leroy was
25 visiting that apartment?

1 A. I can assume so.

2 Q. And from the time that you first went there
3 until the shooting, you believe that Leroy continued
4 to visit that apartment?

5 A. Yes.

6 Q. Staying out of a suitcase from that
7 apartment?

8 A. Correct.

9 Q. Now, when you said staying out of a
10 suitcase, was he sleeping in a particular room or on
11 the couch?

12 A. In the room closest to the bathroom.

13 Q. Was that ultimately the room that you ended
14 up crawling into to get into the closet?

15 A. Correct.

16 Q. And had you met Nat before the day of the
17 shooting?

18 A. Yes.

19 Q. How many times had you met or been with Nat
20 before the shooting?

21 A. Twice.

22 Q. And was that at Apartment 18?

23 A. Correct.

24 Q. Had you seen -- I think you said the name
25 was Manook at that apartment before the day of the

1 shooting?

2 A. Correct.

3 Q. How many times had you seen Manook at that
4 apartment before the day of the shooting?

5 A. Maybe once or twice.

6 Q. Had you seen Nat in the apartment complex
7 before you met Leroy?

8 A. No.

9 Q. Had you seen Manook at apartment the complex
10 before you met Leroy?

11 A. Yes.

12 Q. How many times had you seen Manook at the
13 apartment complex before you met Leroy?

14 A. Maybe 3, 4 times. It was more of a coming
15 and going situation.

16 Q. Did you ever talk to him?

17 A. Not too many words.

18 Q. Hello, normal courtesy type words?

19 A. Correct.

20 Q. Anything other than hello, how your day, the
21 weather?

22 A. He tried to hit on me a couple of times.

23 Q. But you didn't have any other words than him
24 trying to hit on you?

25 A. No.

1 Q. Okay.

2 How long had you lived in Apartment 11
3 before the shooting?

4 A. I believe it was the end of June, beginning
5 of July.

6 Q. Who do you feel with at Apartment 11?

7 A. Rickie Parish.

8 Q. And who is he?

9 A. A friend.

10 Q. Is it just you 2 in that apartment?

11 A. Her 2 children. She's was pregnant at the
12 time, and the father of her kids.

13 Q. Okay.

14 So it was you, Rickie, Rickie's baby daddy?

15 A. The father of her children.

16 Q. And her 2 children?

17 A. Correct.

18 Q. And on the night of the shooting, you had
19 indicated that at 12:47 you had looked at your, I
20 believe your phone?

21 A. Correct.

22 Q. And there was a clock on your phone?

23 A. Correct.

24 Q. Were you looking at your phone in order to
25 determine if you received Welfare funds?

1 A. Unemployment benefits.

2 Q. Unemployment funds?

3 A. Yes.

4 Q. And when you said that you looked at it and

5 said I am just going to give myself 15 more minutes?

6 A. Correct.

7 Q. What did you mean when you said I will give
8 myself 15 more minutes?

9 A. Well, around 12:01, I called up my
10 unemployment card, and my funds weren't there.

11 And normally I know about 1:00 o'clock they
12 do enter on my card.

13 I was going to travel over to the LVH to
14 engage with a couple of friends.

15 Since it wasn't on at 12:01, I checked the
16 clock and seen it wasn't 1:00 o'clock, so I decided
17 to lay back down.

18 Q. It was your intention that in 15 minutes you
19 were going to get up and go somewhere?

20 A. Yes.

21 Q. And you ended up falling asleep and not
22 going somewhere?

23 A. Yes.

24 Q. Was it your intention to get up and go
25 somewhere to take Leroy with you or not?

1 A. No.

2 Q. And when the shooting occurred, you and
3 Leroy were both on the couch, correct?

4 A. Correct.

5 Q. And I think you indicated that Leroy, part
6 of his body was on your legs, or on your lap?

7 A. Correct.

8 Q. His head or feet?

9 A. Feet.

10 Q. And when the shooting occurred, you got off
11 the couch?

12 A. Correct.

13 Q. Immediately onto the ground?

14 A. No. Into the corner that was closest by the
15 TV, and then from there I told myself to crawl on
16 the floor.

17 Q. Did you see what Leroy was doing at that
18 time?

19 A. Crawling as well.

20 Q. You saw him get up and get onto the ground?

21 A. I pushed his legs off of mine. I hoped into
22 the coroner, and he scurried about, and I
23 immediately tried to crawl up to the bedroom.

24 Q. Did you see what Nat was doing at the time
25 you were crawling into the corner?

1 A. He was on the floor.

2 Q. He was already on the floor at that moment?

3 A. Correct.

4 Q. And did you ever see Nat move after that

5 time?

6 A. No.

7 Q. So at the time of hearing gunshots, you did
8 not see Nat move?

9 A. Correct.

10 Q. So then once there was the shooting from --
11 the shooting ceased, that's when you heard Manook
12 come out?

13 A. Correct.

14 Q. And that was the first time that you had
15 learned that Manook was in the apartment?

16 A. Correct.

17 Q. And were you not surprised to see Manook?

18 A. Yes.

19 Q. You were surprise to see Manook?

20 A. There was so much commotion going on, I was
21 surprised at everything.

22 Q. Were you surprised to see Manook in the
23 apartment?

24 A. I did not know he was there.

25 Q. Did it seem unusual that Manook was in that

1 particular apartment?

2 A. No.

3 Q. Do you know if Manook knew Nat?

4 A. As far as I knew, they were all friends.

5 Q. Okay.

6 And do you have any knowledge as to how
7 Leroy knew Manook or Nat?

8 A. No.

9 MR. OTTO: No further questions.

10 THE COURT: Redirect?

11 MS. PIEPER: No, Your Honor.

12 THE COURT: All right.

13 Ma'am, thank you very much for your time and
14 patience today.

15 I ask that you step down.

16 Please don't discuss your testimony with
17 anybody aside from a representative from the
18 District Attorneys office or from Mr. Otto or Mann's
19 office.

20 They will identify themselves
21 appropriately.

22 Thank you for your time?

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: Let's get going on the next
25 witness, and then we break in probably 10, 15

1 minutes.

2 MS. PIEPER: The State calls Marque Hill.

3

4 MARQUE HILL,

5

6 who, being first duly sworn to tell the truth, the
7 whole truth, and nothing but the truth, was examined
8 and testified as follows:

9

10 THE CLERK: Please be seated.

11 Pleas state your name and spell it for the
12 record.

13 THE WITNESS: Marque Hill, M-a-r-q-u-e
14 H-i-l-l.

15 THE CLERK: Thank you.

16

17 DIRECT EXAMINATION

18 BY MS. PIEPER:

19 Q. Hello, Mr. Hill.

20 I didn't want to start questioning.

21 MR. OTTO: Go ahead.

22 Q. Drawing your attention to November 5, 2013
23 were you at 2655 Sherwood Street Apartment Number 18
24 here in Las Vegas, Clark County, Nevada?

25 A.. Yes.

1 Q. And who else was in that apartment with you?

2 A. Leroy.

3 Q. Leroy Thomas?

4 A. Yes, Leroy Thomas.

5 Shelly, .

6 And Nat.

7 Q. And we sort of have a set up of how the
8 apartment is; at approximately 4:30 in morning, what
9 room were you in?

10 Were you in the bedroom closest to the
11 bedroom, or were you in the bedroom behind the
12 living room?

13 A. The bedroom behind the living room.

14 Q. And did you live at that apartment?

15 A. Yes.

16 Q. And do you know approximately what time
17 Leroy came over and Nat came over, and did you call
18 her Shelly?

19 A. Yes.

20 Q. Did everyone come over at different times?

21 A. We were there all day.

22 Q. You guys were just hanging out in the
23 apartment?

24 A. Yes.

25 Q. Were you there day before, November 4th,

1 2013?

2 A. Yes.

3 Q. So November 5, 2013, at approximately 4:00
4 o'clock in the morning, what were you doing in the

5 apartment?

6 A. I was asleep.

7 Q. As you were sleeping, did something happen?

8 A. I heard gunshots.

9 Q. How many gunshots did you hear?

10 A. About 7, 8.

11 Q. You heard the gunshots, and where are you --
12 you said you were sleeping; were you sleeping on the
13 floor or bed in the apartment?

14 A. I was in the bed, but the bed is sitting on
15 the floor.

16 Q. So you heard a series of gunshots; could you
17 tell where the gunshots were coming from?

18 A. Out of the front somewhere.

19 Q. Out of the front, do you mean within the
20 apartment or outside of the apartment?

21 A. I was sleep. I just looked up, and there
22 was holes jumping in the wall, so I rolled on the
23 floor.

24 Q. When you say there were holes jumping
25 through the wall, do you mean as you lying on the

1 bed, there were holes coming in from the living room
2 area through the wall that separates the living room
3 and your bedroom?

4 A. Yes.

5 Q. Could you tell whether the holes continued
6 to the back part of the bedroom or not?

7 A. I rolled on the floor.

8 Q. Once you heard the gunshots, you just said
9 you rolled on the floor, is that correct?

10 A. Yes.

11 Q. Then what happened?

12 A. Leroy came busting through the room, like
13 I've been shot, I have been shot.

14 I told him to just lay on the floor. I
15 crawled out of the room and crawled in the next
16 room, where I seen Shelly laying in the closet,
17 talking about my feet is on fire, she had been
18 shot.

19 MR. OTTO: Your Honor, I move to strike the
20 hearsay statements.

21 MS. PIEPER: Judge --

22 Q. Were you shocked by the fact that there was
23 gunshots being fired in your house?

24 A. Yes, but at the same time I was trying to
25 make sure everybody was all right.

1 Q. That's not an event that had happened on a
2 regular basis in the apartment that you were living
3 in, shots being fired?

4 A. No.

5 MS. PIEPER: Your Honor, I would say they
6 fall under the excited utterance exception.

7 THE COURT: I am going to overrule the
8 objection, because we already heard from the prior
9 witness.

10 Q. Shelly says her foot is burning, she's been
11 shot, what happens next?

12 A. I told her to just stay there.

13 I crawled in the front room to where Nat was
14 laying on the floor, and I checked him.

15 Q. Okay.

16 A. And I called the police.

17 Q. When you say you checked him, what do you
18 mean by that?

19 A. Because he wasn't moving. I was asking him
20 if his is all right.

21 He didn't respond, so I raised his shirt up
22 to see if there were bullet holes.

23 I didn't none. He still wasn't responding.
24 I called the police.

25 Q. You called the police, and how long -- what

1 did you tell the police, essentially what you told
2 us?

3 A. I told them somebody just shot in the house,
4 and I got people on the floor bleeding.

5 Q. How soon did the police arrive?

6 A. Maybe 8 minutes; 7, 8 minutes.

7 Q. Once the police got there, what happened
8 next?

9 A. They put us on the floor, made us get on the
10 floor, and checked the house, and they took me out
11 front.

12 Q. Out of the front door of the apartment?

13 A. Yes, took me out front to the street, and
14 did whatever they did.

15 Q. Okay.

16 What do you mean, did whatever they did?

17 A. I wasn't able to go back in the house.

18 Q. So once you got taken out of the apartment,
19 you weren't able to go back in the apartment?

20 A. No, not at all.

21 Q. Once you were take taken out of the
22 apartment, do you know if Leroy Thomas and Shelly
23 also came out of the apartment?

24 A. Yes. They came out and got in the
25 ambulance, and went to the hospital.

1 Q. Prior to them getting into the ambulance,
2 did you see them in the front area where you were?

3 A. No. I told them to lay on the floor until
4 somebody gets there, until the police come.

5 Q. Did you see them standing outside where you
6 were, and Shelly and Leroy?

7 A. All 3 of us were outside. They made all 3
8 us come outside and lay down.

9 Q. Lay down on the floor outside?

10 A. Yes.

11 Q. Okay.

12 You are laying down on the floor outside,
13 once you guys were all laying on floor outside,
14 could you see whether Shelly and Leroy were injured?

15 A. Yes. I knew they were injured, when they
16 told me in the house, when the shooting first
17 occurred.

18 Q. Could you see it; could you see blood; were
19 they screaming?

20 A. Yes. Leroy's leg was bleeding, and Shelly's
21 foot was bleeding, yes.

22 Q. Then the police showed up, and then
23 eventually it is your testimony that Shelly and
24 Leroy were taken by ambulance?

25 A. Yes.

1 Q. And you stayed on the scene?

2 A. Yes.

3 Q. Now, you actually know Leroy, correct?

4 A. Yes.

5 MS. PIEPER: Your Honor, may I approach the
6 witness?

7 THE COURT: You may.

8 Q. Mr. Hill, showing you what's marked as
9 State's Proposed Exhibit Number 6, do you recognize
10 who that is?

11 A. Yes.

12 Q. Who is that?

13 A. That's me.

14 Q. Is that what you looked like on November 5,
15 2013?

16 A. Yes.

17 Q. Is that outside of the apartment that you
18 were staying at on Sherwood?

19 A. Yes, it is.

20 Q. Sort of like in the street area.

21 A. Yes.

22 MS. PIEPER: Your Honor, the State moves for
23 admission of 6.

24 MR. MANN: No objection.

25 MR. OTTO: No objection.

1 THE COURT: 6 will be deemed admitted.

2 Q. Showing you what's marked as State's
3 Proposed Exhibit 7, what does that depict?

4 A. That is the room that I was in and the bed.

5 That's the room I was in, the bed. I was

6 laying there.

7 Q. At the time that the shots were being fired?

8 A. Yes.

9 Q. Earlier you testified that as you were lying
10 down, and you heard the shots being fired, that you
11 saw holes coming through the wall?

12 A. Yes.

13 Q. In the right middle part of this picture,
14 there is a wall; can you see that?

15 A. Yes.

16 Q. And there are some, what looks like holes in
17 that wall?

18 A. Yes.

19 Q. Is that what you were describing earlier?

20 A. Bullet holes, yes.

21 Q. Is that a fair and accurate depiction of
22 what the room looked like on November 5, 2013?

23 A. Yes.

24 MS. PIEPER: The State moves for the
25 admission of 7.

1 MR. MANN: No objection.

2 MR. OTTO: No objection.

3 THE COURT: 7 will be deemed admitted.

4 Q. Showing you State's Proposed Exhibit 12, do

5 you know who that is?

6 A. Yes.

7 Q. Who is that?

8 A. Leroy Thomas.

9 Q. Is that what he looked like on November 5,
10 2013?

11 A. Yes.

12 MS. PIEPER: The State moves for the
13 admission of 12.

14 MR. MANN: I have an objection to that one.

15 THE COURT: What is your objection?

16 MR. MANN: if I can ask questions regarding
17 that picture?

18 THE COURT: Okay.

19

20 VOIR DIRE EXAMINATION

21

22 BY MR. MANN:

23 Q. That picture appears to have been taken in
24 the hospital, correct?

25 A. Yes.

1 Q. Were you at the hospital when that picture
2 was taken?

3 A. No, sir.

4 Q. And, so, you don't know that that is exactly
5 how Leroy Thomas looked in the hospital, correct?

6 A. No, sir.

7 Q. So you do indicate that that is a picture of
8 Leroy Thomas, but as to date and time of that
9 picture, or location of that picture, you have no
10 clue?

11 A. No sir.

12 MR. MANN: That's my objection, Your Honor.
13 There is no foundation for that particular
14 picture.

15 He can obviously identify the person in the
16 picture. He can't identify that that is a true and
17 accurate depiction of Leroy Thomas in the hospital
18 on the day in question.

19 THE COURT: Okay.

20 My question then would be, does it depict
21 injuries, or does it just depict a picture of what
22 he looked like that day?

23 MS. PIEPER: It just depict him.

24 MR. MANN: I would argue that it does depict
25 some injuries on there, and some injuries that have

1 not been described.

2 But I still would say it does not -- this
3 witness cannot indicate that it is a true and
4 accurate depiction of Leroy Thomas on the date in
5 question, and the location.

6 MR. OTTO: I will join in the objection,
7 Your Honor.

8 THE COURT: I am not going to allow --
9 State, are you offering 12 for just that's Leroy, or
10 are you offering 12 to be able to later argue as to
11 injuries that are depicted in the photograph?

12 MS. PIEPER: In 12, I don't see any injuries
13 on Leroy, so I don't know how I can argue.

14 THE COURT: That's what my question is.

15 MS. PIEPER: I am just going to argue that's
16 Leroy.

17 THE COURT: If it is just for purposes of
18 this is Leroy, I will allow it to be admitted.

19 However, Mr. Mann, if something happens --
20 it is only for the purposes of preliminary hearing.

21 If it looks like down the road Ms. Pieper
22 starts arguing about there is injuries involved, I
23 am not going to consider that.

24 We are just going to say that's Leroy.

25 MR. MANN: Just for the record, I believe 12

1 does depict -- there is bandages on his arm, and
2 things like that.

3 That would indicate that there were
4 injuries.

5 That's part of why I was making that
6 objection.

7 But I understand Your Honor's ruling, and we
8 will see when the argument comes out.

9 THE COURT: So 12 is deemed admitted as that
10 is Leroy.

11 Q. Showing you what has been marked State's
12 Proposed Exhibit 21, do you recognizes that?

13 A. Yes.

14 Q. What is that a picture of?

15 A. The front room.

16 Q. Of the living room area of Apartment Number
17 18?

18 A. Yes.

19 Q. Depicted in this picture there is 2 couches,
20 do you see that?

21 A. Yes.

22 Q. And the shorter couch sort of -- I think it
23 is brown and has some flowers and design on it,
24 behind that wall, is that the room that you were
25 staying in?

1 A. Yes.

2 Q. And is this a fair and accurate depiction of
3 what the apartment looked like on November 5, 2013?

4 A. Yes.

5 MS. PIEPER: The State moves for the
6 admission of 21.

7 MR. MANN: Ms. Pieper, can you just show me
8 that picture again, so I can see what you are
9 looking at?

10 Okay. No objection.

11 MR. OTTO: No objection.

12 THE COURT: It is admitted.

13 Q. I show you what's been marked as State's
14 Proposed Exhibit 23, do you recognize that?

15 A. Yes.

16 Q. What is that a picture of?

17 A. The same apartment.

18 Q. Is it a different angle?

19 A. Slightly, yes.

20 Q. Depicted in this picture is sort of, if you
21 were to be in the apartment, correct, and you are
22 looking out towards the front door, out towards the
23 front window, the front door area, is that correct?

24 A. Yes.

25 Q. Where would the front door be on this

1 picture?

2 A. Against, right next to this couch,
3 the longer couch.

4 Q. And where this couch, there is
5 curtains in the picture, correct?

6 A. Yes.

7 Q. And if I were to open those curtains,
8 what would be in front of that?

9 A. A window.

10 Q. And also depicted in this picture, is
11 there somebody else in this picture?

12 A. Yes.

13 Q. Who is that?

14 A. Nat Rawls.

15 Q. That's the way the apartment looked
16 on November 5, 2013?

17 A. Yes.

18 MS. PIEPER: Your Honor, the State
19 moves for the admission of 23.

20 MR. MANN: No objection.

21 MR. OTTO: No objection.

22 THE COURT: 23 will be deemed
23 admitted.

24 Q. How long had you been staying in that
25 apartment prior to the shooting?

1 A. I would say 2 weeks.

2 Q. And during the 2 weeks that you were there,
3 was there a firearm in that apartment?

4 A. No.

5 Q. Did you have a firearm in that apartment
6 that night?

7 A. No, ma'am.

8 MS. PIEPER: I pass the witness.

9 THE COURT: Okay.

10 What we are going to do before we start
11 cross is we will take a break.

12 My staff needs to have lunch.

13 They have been going all morning.

14 Mr. Hill, I remind you that you are under
15 oath.

16 You can talk about whatever is going on with
17 sports.

18 You talk about that it is cold outside.

19 You cannot talk about anything that was
20 discussed in here, or anything going on with the
21 case.

22 THE WITNESS: Yes, ma'am.

23 THE COURT: You are under oath.

24 You will go with the District Attorney
25 investigator.

1 You will remain under oath, and be back in
2 my courtroom at 5 till 1. And they will probably
3 bring you backup here.

4 All right. Mr. Hill will leave.

5 Be back in 6-A at about 1, so just a few
6 minutes before one.

7 We will take our recess. Gentlemen,
8 Mr. Moten and Washington, they will take you down so
9 that you can get some food and use the facilities.

10 I will see everybody back in Courtroom 6-A
11 at 1.

12

13 (Luncheon recess taken.)

14

15

16

17 * * * * *

18 ATTEST: FULL, TRUE, ACCURATE AND CERTIFIED
19 TRANSCRIPTION OF PROCEEDINGS.

20

21

22 /s/ Robert A. Cangemi

23 ROBERT A. CANGEMI, CCR NO. 888

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yourself (40:16) (43:2)

1 CASE NO. C294695-1 and C294695-2

2 DEPT. NO. 5

3
4 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

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5

6 THE STATE OF NEVADA,)
7)
Plaintiff,)
8)
vs.) Case No.
9) 13F18022A-B
MATTHEW WASHINGTON,)
10 MARTELL MOTEN,)
Defendants.)

Alvin D. L...

CLERK OF THE COURT

11

12

REPORTER'S TRANSCRIPT
OF
PRELIMINARY HEARING

13

14

BEFORE THE HONORABLE CYNTHIA CRUZ
JUSTICE OF THE PEACE

15

16

TAKEN ON THURSDAY, December 5, 2013
AT 1:00 P.M.

17

18

19 APPEARANCES:

20

For the State: Danielle Pieper, Esq.
Chief Deputy dispatch
Attorney

21

22

For the Defendant: David Otto, Esq.
Joel Mann, Esq.
Las Vegas, Nevada

23

24

25 REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

I N D E X

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2

3 WITNESSES:

D C RD RC

4

5 MARQUE HILL

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7 MICHAEL CROMWELL

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9 CHRISTIAN PARQUETTE 63

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1 LAS VEGAS, NEVADA, THURSDAY, DECEMBER
2 5, 2013

3 * * * * *

4 THE COURT: Let's get back on the
5 record.

6 Okay. Mr. Hill, as I stated, you are
7 still underneath oath.

8 All right. Mr. Hill, as I advised,
9 is still under oath.

10 Mr. Otto, cross?

11 MR. OTTO: Yes.

12

13 CROSS-EXAMINATION

14

15 BY MR. OTTO:

16 Q. Mr. Hill, whose apartment was that?

17 A. Theresa.

18 Q. Theresa who?

19 A. I don't know her last name.

20 Q. And you were staying there, you said
21 you had been there for how long?

22 A. About 2 week.

23 Q. Where did you come from?

24 A. Chicago.

25 Q. And you didn't see who fired gunshots

1 into that apartment, is that correct?

2 A. No.

3 Q. You don't know who fired them?

4 A. No.

5 Q. Do you know of any reason why anyone would
6 fire gunshots into that apartment?

7 A. No.

8 MR. OTTO: I have nothing else.

9 THE COURT: Mr. Mann, cross.

10

11

CROSS-EXAMINATION

12

13 BY MR. MANN:

14 Q. Mr. Hill, what brought to you Las Vegas?

15 A. Friends.

16 Q. When did you move here to Las Vegas?

17 A. I have been out here about a year and a
18 half.

19 Q. Okay.

20 You said that at the time of the shooting
21 you were living at Apartment 18?

22 A. Yes, sir.

23 Q. How long had you been living there?

24 A. Be 2 weeks.

25 Q. How long did you come to live at that

1 apartment?

2 A. Theresa.

3 Q. Who is Theresa?

4 A. These is a crackhead.

5 Q. A crackhead?

6 A. Yes.

7 Q. And is that how you met Theresa?

8 A. Yes.

9 Q. So then you do drugs?

10 A No, sir. I came out here from Chicago with
11 friends, and we did a little bit too much gambling,
12 and I got stuck.

13 So mingled and gravitated to the neighbor
14 and ran into some crack heads, and I stayed here for
15 a day or 2, and moved to the next place for day or
16 2.

17 She let me stay there.

18 Q. Did you know Leroy Thomas?

19 A. Yes.

20 Q. How did you know Leroy Thomas?

21 A. I have been knowing Leroy Thomas for like
22 over 20 years from Chicago.

23 Q. Was he from Chicago?

24 A. Yes.

25 Q. Did Leroy introduce you to Theresa?

1 A. No, sir, I introduced him to Theresa.

2 Q. So you said you met Theresa 2 weeks before
3 the shooting?

4 A. No, I have been knowing Theresa, but Theresa
5 had an apartment over there.

6 She let me stay there. She knew I didn't
7 have a stable place to stay.

8 Q. Did you know Marque Hill?

9 A. That is me.

10 Q. Did you know Ashely Scott?

11 A. Yes, I know her, but not for no long amount
12 of time, period of time.

13 Q. Did you meet Ashely Scott through Leroy
14 Thomas?

15 A. No, actually I met her through her brother.

16 Q. Her brother?

17 A. Yes.

18 Q. What is her brother's name?

19 A. We call him Skully.

20 Q. Skully, S-k-u-l-l-y?

21 A. S-k-u-l-l-y.

22 Q. And how long had you known Skully?

23 A. About a month.

24 Q. And when did you meet Ashely Scott?

25 A. At least 2 weeks, about 2 weeks after I met

1 her brother.

2 I met her through him. He came and said
3 that was his sister.

4 I was just talking to her.

5 Q. Okay.

6 And do you have nickname that you go by?

7 A. Nuke.

8 Q. Do you know how that is spelled?

9 A. N-u-k-e.

10 Q. How long have you had that nickname?

11 A. Since I was 13.

12 Q. How old are you now?

13 A. 38.

14 Q. And did you grow up in Chicago?

15 A. Yes, sir.

16 Q. Have you ever done -- have you ever been
17 convicted of a felony?

18 A. Yes, sir.

19 Q. Was that in Illinois?

20 A. Yes, sir.

21 Q. Ever been convicted of a felony in Nevada?

22 A. No, sir.

23 Q. Okay.

24 Did you do time in Illinois?

25 A. Yes, sir.

1 Q. So you were staying at Apartment 18 for 2
2 weeks before the shooting; that's when you started
3 living there.

4 Who else was living with you at that
5 apartment?

6 A. Theresa.

7 Q. Theresa?

8 A. Yes.

9 Q. Was she staying there at a regular basis or
10 just had her stuff there?

11 A. No. It was her apartment.

12 She stayed there.

13 Q. What room did she stay in?

14 A. She was in and out everyday. She was a
15 crackhead.

16 She was in and out everyday. She might come
17 in, sleep on the couch, go in the room, either room,
18 or she might sleep on the floor.

19 Q. And how long was Leroy staying at the
20 apartment?

21 A. Like 3, 4 days.

22 Q. If Ms. Scott testified that Leroy had been
23 staying at the apartment for the last 2 weeks, would
24 that be accurate or inaccurate?

25 A. Inaccurate.

1 Q. Do you know how many times Ms. Scott was at
2 the apartment?

3 A. If I am not mistaken, every other day.

4 Q. Every other day?

5 A. Yes.

6 Q. For the last 2 weeks before the shooting?

7 A. Yes.

8 Q. It would be at least 7 times, then?

9 A. Yes.

10 Q. Do you think that it is more or less than 7
11 times?

12 A. I'd say more.

13 Q. More?

14 A. Yes.

15 Q. And had you ever seen Nat living at the
16 apartment?

17 A. No, sir.

18 Q. When was first time that Nat came to the
19 apartment?

20 A. I'd say 3 or 4 days before the shooting.

21 Q. How did you know Nat?

22 A. Actually I didn't know him. He was visiting
23 somebody else.

24 Q. When you say somebody else, do you know who
25 that somebody else is?

1 A. His cousin. His cousin stayed over there.

2 Q. Over there in Apartment 18?

3 A. In that apartment building.

4 Q. In the complex?

5 A. Yes.

6 Q. Do you know his cousin's name?

7 A. I think Leroy was one of his cousins.

8 Q. Leroy, was that the cousin that you were
9 referring to?

10 A. No. There is another. I don't know. They
11 have family over there.

12 Leroy was one of his cousins. He was just
13 visiting him and his girlfriend.

14 His girlfriend left to go back to Memphis
15 and left him and that happened.

16 Q. Did Nat have a suitcase that was at the
17 apartment?

18 A. I think so.

19 Q. Do you know?

20 A. I think so, yes.

21 Q. Where was he staying in the apartment?

22 A. He was sleeping on the couch.

23 Q. On the couch.

24 And who was staying in bedroom that was next
25 to the bathroom?

1 A. Anybody could sleep in there.

2 Q. Anybody could sleep anywhere they wanted to?

3 A. Yes.

4 Q. Wherever they felony down, that's where they

5 were?

6 A. Yes.

7 Q. Did Nat have a nickname?

8 A. No.

9 Q. Not that you are aware of?

10 A. Not that I am aware of.

11 Q. Did you have conversations with Nat?

12 A. Yes.

13 Q. Did you see him on a regular basis in the

14 4 days that he was staying there?

15 A. Everyday.

16 Q. Everyday?

17 A. Yes.

18 Q. And were you working at the time that you

19 lived at that apartment?

20 A. No.

21 Q. Did you have any place that you regularly

22 would go during the time you were staying at

23 apartment?

24 A. No, sir.

25 Q. Were there other people besides Nat, Leroy,

1 Ashely, Theresa and yourself that would frequent
2 that apartment?

3 A. Yes.

4 Q. Who else?

5 A. Girls.

6 Q. What kind of girls?

7 A. Girls that we talk to out on the street.
8 Not prostitutes.

9 I smoke reefer. We sit in there smoking,
10 play the game, watch TV girls.

11 We talk.

12 Q. People you would meet on the street?

13 A. Yes.

14 Q. You would all hang out in that apartment
15 having a good time?

16 A. Yes.

17 Q. And did anyone else stay at the apartment?

18 A. No.

19 Q. On the night of the shooting, were you guys
20 hanging out at the apartment smoking reefer?

21 A. Yes.

22 MS. PIEPER: Judge, I object to that, only
23 because -- can we approach?

24

25 (A bench conference was had.)

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THE COURT: All right.

Go ahead, Mr. Mann.

Q. Mr. Hill, you said on the night in question,
the night of the shooting, that you had smoked
reefer that day, correct?

A. Yes.

Q. Okay.

And were there other people in the apartment
with you that had also smoked?

A. No. I smoked by myself.

Q. Was Ms. Scott smoking with you?

A. No.

Q. Was Mr. Thomas smoking with you?

A. No.

Q. And was Mr. Rawls smoking with you?

A. No.

Q. Do you know about what time of day this
occurred?

A. No. I was asleep.

Q. What time of day were you smoking?

A. Oh, about 7.

Q. 7:00 p.m.?

A. Yes, 7, 7:30. I was watching the Bears and
the Packers game.

1 MR. MANN: Court's indulgence.

2 Q. What time did you go to sleep that night?

3 A. I don't know exactly what time. I know it
4 was half time.

5 I went to sleep at half time.

6 Q. At half time?

7 A. Yes.

8 Q. Was anyone home when you went to sleep?

9 A. Yes.

10 Q. Who was home?

11 A. Leroy was in the house, and Nathan was in
12 the house.

13 If I am not mistaken, Ms. Scott was there
14 too.

15 Q. Ms. Scott was there when you went to sleep?

16 A. I think she was.

17 Q. And did you have dinner that night?

18 A. No.

19 Q. Do you know -- did you ever wake up after
20 half, but before the shooting?

21 A. No, sir.

22 Q. So you went to sleep at half, then the
23 shooting occurred was the next thing you remember?

24 A. Yes.

25 Q. And you decided to go to sleep in room that

1 was next to living room?

2 A. Right.

3 Q. The wall that was adjacent to the living
4 room?

5 A. Yes.

6 Q. Had you seen Theresa that day?

7 A. I think I saw her earlier that day.

8 Q. When you say you think, do you know?

9 A. I had seen her earlier that day.

10 Q. You did?

11 A. Yes.

12 Q. Was she in the apartment or somewhere else?

13 A. She was in the apartment cleaning up.

14 Q. Cleaning up?

15 A. Yes.

16 Q. Did she know that Leroy and Nat were
17 lounging, staying there?

18 A. Yes.

19 Q. Okay.

20 And she permitted that to happen?

21 A. No, but she knew they were there.

22 Q. She didn't have any objection to it?

23 A. No, not at all.

24 Q. And do you know if -- you said Theresa was a
25 crackhead.

1 Was there any sort of drug transactions that
2 occurred in front of you at that apartment?

3 A. No.

4 Q. So you didn't see any dealing of drugs out
5 of that apartment?

6 A. No.

7 MR. MANN: Court's indulgence.

8 No further questions.

9 THE COURT: Redirect.

10 MS. PIEPER: Just a couple.

11

12 REDIRECT EXAMINATION

13

14 BY MS. PIEPER:

15 Q. Mr. Mann asked you sort of what time did
16 you -- what were you doing earlier in the day, and
17 you said were you watching part of the football
18 game; do you remember that?

19 A. Yes.

20 Q. Earlier in the day what did you do. Before
21 everybody came over, did you guys do anything, go
22 out?

23 A. Not at all.

24 Q. Once everybody came over, once I should say
25 when Leroy came over, and Nat came over, did you

1 guys ever leave the apartment?

2 A. No.

3 Q. Do you remember speaking to police and
4 talking about how you went to a coroner store and

5 bought Snickers and Almond Joy and Ruffles at the
6 coroner store?

7 A. I can't remember.

8 Q. No?

9 A. I can't remember going to the corner store.
10 I can't remember.

11 Q. Do you remember going to the corner store
12 that day?

13 A. No.

14 Q. Okay.

15 Do you remember if you went to PT's at all
16 to go get a hamburger with Leroy?

17 A No. This occurred while -- they went to
18 PT's while I was asleep.

19 Q. So you didn't go to PT's at all?

20 A. Not at all.

21 Q. You also testified that when you went out
22 into the living are room, you checked on Nat, do you
23 remember That?

24 A. Yes.

25 Q. Was he making any noise at that time?

1 A. No. I was on the phone telling the police
2 that somebody just shot in the house, and he gasped,
3 and that was it.

4 Q. Did you hear him gasp more than once?

5 A. Just that one time.

6 Q. As he was doing that, could you see his
7 face?

8 A. Yes.

9 Q. Could you describe for us what his face
10 looked like?

11 A. He just laid on his back with his eyes wide-
12 open like this.

13 And while I was on the phone, I was telling
14 them he ain't breathing.

15 He gasped. That's it.

16 Q. After he gasped, and you said he wasn't
17 breathing, did you touch any parts of his body to
18 check for a pulse?

19 A. I just raised his shirt up to see if there
20 were bullet holes.

21 Q. That was in the front?

22 A. Yes.

23 Q. Did you ever check the back of his body?

24 A. No.

25 Q. After you checked him, did you continue to

1 try to talk to him?

2 A. After he gasped, I knew it was over with.

3 Q. What did you say?

4 A. After he took his last breath, I knew it was

5 over with.

6 He was dead.

7 MS. PIEPER: Thank you.

8 Nothing further.

9 THE COURT: Mr. Otto, any follow-up?

10 MR. OTTO: No, Your Honor.

11 THE COURT: Mr. Mann?

12 MR. MANN: No thank you, Your Honor.

13 THE COURT: Mr. Hill, thank you very much
14 for your time and patience today.

15 I ask that you step down.

16 Please do me a favor, don't speak about your
17 testimony today to anybody, aside from a
18 representative from the dispatch Attorneys office
19 Mr. Otto's office, or from Mr. Mann's office.

20 They will identify themselves
21 appropriately.

22 THE WITNESS: Yes, ma'am.

23 MS. PIEPER: Judge, I am going to call a
24 witness out of order to get him out of here.

25 One of my other witnesses hasn't arrived

1 yet.

2 The State will call Mike Cromwell.

3

4 MICHAEL CROMWELL,

5

6 who, being first duly sworn to tell the
7 truth, the whole truth, and nothing but the
8 truth, was examined and testified as
9 follows:

10

11 THE CLERK: Please be seated.

12 And state your name and spell it for
13 the record.

14 THE WITNESS: Michael Cromwell,
15 M-i-c-h-a-e-l C-r-o-m-w-e-l-l.

16 THE COURT: You may proceed.

17 MS. PIEPER: Thank you.

18

19 DIRECT EXAMINATION

20

21 BY MS. PIEPER:

22 Q. How are you employed?

23 A. I am a senior crime scene analyst
24 with the Las Vegas Metropolitan Police
25 Department.

1 Q. And how long have you been worked with
2 Metro?

3 A. Approximately 5 and a half years now.

4 Q. And on November 5, 2013, were you working on
5 that day?

6 A. Yes, ma'am.

7 Q. And were you working with other people?

8 A. I was.

9 Q. And were you called out to sort of process,
10 take photographs of a vehicle?

11 A. I was.

12 Q. Okay.

13 And can you tell the Court where was that
14 at?

15 A. It was on South Eastern and Ogden Avenue,
16 that intersection.

17 Q. When you show up on scene, are you wearing a
18 uniform?

19 A. A dress code.

20 Q. Are you dressed in a uniform as if you are a
21 patrol officer?

22 A. No.

23 Q. Do you show up in a marked patrol vehicle?

24 A. We do not.

25 Q. Essentially you arrive on the scene in

1 street clothes and you have an unmarked vehicle?

2 A. Typically, yes.

3 Q. When you showed up on scene in regard to
4 this car, who else was with you?

5 A. Senior crime scene analyst Erin Taylor was
6 with me.

7 Q. Besides Erin and yourself anyone, did
8 anybody else show up with you?

9 A. Not with me, but homicide detective Bob
10 Rogers was on scene when we arrived.

11 Q. When you got to the vehicle, explain what
12 you did?

13 A. When we got to the vehicle, we met with
14 detectives on scene, as well patrol officers.

15 The vehicle was parked along the east curb
16 of the northbound lanes of Eastern, north of the
17 intersection.

18 We documented that vehicle using photographs
19 and notes.

20 And then once we had a search warrant, we
21 entered that vehicle to document the interior.

22 Q. Document the interior, when you document the
23 outside, you take pictures, look around the vehicle
24 to see if you see anything of evidentiary value?

25 A. We take pictures to show what we are taking

1 a picture of, and any specifics inside or around.

2 Q. Once the search warrant was obtained, then
3 you opened the doors to the vehicle, and pictures
4 are taken inside, is that correct?

5 A. That's correct.

6 Q. Once you guys -- after obtaining the search
7 warrant, the car was opened up; are you the person
8 that took the pictures?

9 A. Yes.

10 Q. What is the difference between what you do
11 and what Erin does?

12 A. We have multiple crime scene analysts.

13 Q. Ms. Taylor, when are working with her in
14 regards to this case, what is the difference between
15 what you did, what Ms. Taylor did, or what any other
16 the crime scene analyst did?

17 A. When we work a scene or a crime with
18 multiple analysts, we divvy up the duties.

19 I was responsible for documenting the
20 vehicle and the scene of the vehicle, using
21 photography, and the writing the crime scene
22 report.

23 Ms. Taylor was responsible for recovering
24 and impounding evidence on the scene of the vehicle
25 again.

1 And then both of us conducted the search,
2 processed for latent prints.

3 There's a lot of duties that we do together
4 as well.

5 Q. So, even through some things are done
6 separately, she's not taking every other photograph,
7 you are.

8 Processing the actual vehicle, impounding
9 the evidence, notating it, taking pictures, those
10 are things you might do together?

11 A. The whole thing we work together on. It is
12 just the final product is divvied up.

13 Q. In regard to once you obtained the search
14 warrant, do you know if initially when you did the
15 search there were any weapons recovered in this
16 vehicle?

17 A. We did a cursory research of the vehicle
18 after we obtained the search warrant at the
19 intersection.

20 We recovered a Smith and Wesson semi-
21 automatic handgun.

22 Q. Do you remember what caliber?

23 A. 9.

24 Q. Do you know where it was located?

25 A. Beneath the front passenger seat.

1 Q. Then you continued to process the vehicle,
2 is that correct?

3 A. We did. Again we did a cursory search at
4 the scene.

5 Once that was completed, we sealed the
6 vehicle at the intersection, and had it towed back
7 to the crime scene investigation section garage, to
8 have more resources.

9 It is just a better environment to process a
10 vehicle.

11 Q. Better than processing it at the side of the
12 street where you could get hit by a car?

13 A. Exactly, or it is cold and windy.

14 Q. Then you tow the car back to the lot, and
15 are you continuing to process the vehicle at that
16 time?

17 A. We do a more thorough search of the vehicle,
18 process it for latent prints.

19 We observed on the exterior of the vehicle a
20 bullet ricochet that was documented and tested.

21 Q. Okay.

22 A. At that point crime scene analyst supervisor
23 Terry Martin was assisting with the processing of
24 that vehicle.

25 Q. He didn't go out to the scene, but was where

1 the vehicle was later taken to?

2 A. That's correct.

3 Q. Were the latent prints done on the scene or
4 done back at the crime lab?

5 A. Back at the crime lab.

6 Q. Eventually did you learn that, or did
7 another detective learn information that caused them
8 to go back and search that vehicle again, not search
9 again search, but did the search continue for
10 another gun?

11 A. Yes.

12 Q. Were you on scene for that?

13 A. I was on scene. The detective stayed with
14 the car, waiting for a tow to come back.

15 At that point information was obtained that
16 there may be a second gun in the vehicle, and where
17 that gun was.

18 He looked in that area, saw the gun, stopped
19 right there, and we were called back to recover the
20 gun and document its location.

21 Q. The car had already been at Metro's crime
22 lab, and you guys left, and then were called back?

23 A. Yes, it was still at the crime lab. It had
24 not been touched.

25 We were waiting on a tow to come back and

1 pick it up.

2 Q. And take it to the tow yard?

3 A. Yes, when that was recovered.

4 MS. PIEPER: No further questions.

5 THE COURT: Mr. Otto, cross.

6

7 CROSS-EXAMINATION

8

9 BY MR. OTTO:

10 Q. Mr. Cromwell, what time did the search
11 warrant come to you on scene?

12 A. Do you mind if I look at my report.

13 Q. If your memory is exhausted, you may, yes.

14 A. I am not sure what time the actual search
15 warrant was signed.

16 We entered the vehicle 0743 hours.

17 Q. Exactly?

18 A. Yes.

19 Q. How did you get the search warrant?

20 A. We were notified by the homicide detective
21 on scene that a search warrant had been obtained.

22 Q. All right.

23 When you say a cursory search, what does
24 that mean?

25 A. A quick search. We are not going into too

1 much detail. We are not ripping things up, tearing
2 door panels off.

3 Just a quick search to see if we see
4 anything out in the open that is of evidentiary
5 value.

6 Q. Did you ever tear door panels and upholstery
7 up?

8 A. Later on when we found the second gun
9 underneath the steering column it was removed.

10 Q. What was the first gun you found?

11 A. A Smith and Wesson. I believe it was a
12 model 669.

13 Q. What caliber?

14 A. 9 millimeter.

15 Q. You have been a CSA for some number of
16 years?

17 A. 5 and a half.

18 Q. That's a common caliber handgun, is that
19 correct?

20 A. It is pretty common, yes.

21 Q. Any do you have any idea how many exist in
22 this valley?

23 A. No idea.

24 Q. You said you searched -- you processed the
25 vehicle for prints?

1 A. For latent prints, yes.

2 Q. Outside the car?

3 A. Yes, sir.

4 Q. Inside the car?

5 A Yes, sir.

6 Q. Everywhere?

7 A. Everywhere.

8 Q. How about the handguns?

9 A. The handguns, senior crime scene analyst
10 Taylor swabbed those.

11 We recovered them and documented them to
12 show their condition as they were recovered.

13 We made them safe, unloading them, making
14 sure nothing was in the chamber, making them safe to
15 transport and to store.

16 After which, once they were returned back to
17 the lab, Erin Taylor processed them for latent
18 prints.

19 She swabbed the rough areas of the handgun
20 and the magazine for possible DNA samples.

21 Q. Do you know the results?

22 A. If I can refer to her --

23 Q. If your memory is exhausted, yes.

24 A. She noted on her evidence impound report
25 that the Smith and Wesson was chemically processed

1 for latent prints, with negative results.

2 As well as the Glock 22 was processed for
3 latent prints with negative results.

4 Q. What caliber was the Glock?

5 A. 40.

6 Q. Was there ammunition in the handguns when
7 you, as you describe, made them safe by unloading
8 them?

9 A. Both handguns had ammunition inside.

10 Q. How full were those?

11 A. The Smith and Wesson contained one round in
12 the chamber, one cartridge, as well as 8 cartridges
13 in the magazine.

14 Q. A full magazine, one in the chamber?

15 A. I don't recall the capacity of the
16 magazine.

17 It had 8 rounds came out.

18 Q. The other, that's the Smith 40?

19 A. That's the Smith 9.

20 Q. Smith 9.

21 The Glock 40?

22 A. The Glock 40 had one in the chamber and one
23 in the magazine.

24 Q. Did you find evidence that the guns had been
25 recently fired?

1 A. There is nothing we can do on scene to show
2 that they have been recently fired.

3 Q. Did you find any evidence of gang
4 paraphernalia in the vehicle?

5 A. Not that I recall.

6 Q. Insignias, papers, anything, posters,
7 anything?

8 A. We didn't see anything to document.

9 Q. The detective who told you that the search
10 warrant had been issued was Detective Bob Rogers, is
11 that correct?

12 A. That's correct.

13 Q. He is from homicide at Metro?

14 A. Yes.

15 MR. OTTO: That's all for now.

16 THE COURT: Mr. Mann, cross.

17 MR. MANN: Thank you, Your Honor.

18

19 CROSS-EXAMINATION

20 BY MR. MANN:

21 Q. Mr. Cromwell, you arrived on scene at 7:10?

22 A. Yes.

23 Q. You were in the same vehicle as Ms. Taylor?

24 A. We drove separate vehicles. We arrived at
25 the same time.

1 Q. Do you normally work with Ms. Taylor?

2 A. We are on the same squad. There are some
3 cases we work together, and some we work
4 individually.

5 Q. When you are called out, are you called out
6 individually, and you just appear at the scene, or
7 is it that you 2 always work in tandem?

8 A. It is random. In this particular case she
9 came after me in seniority.

10 When I was assigned the call, based on the
11 call type, my supervisor sent 2 people.

12 He chose myself and Ms. Taylor to go along.

13 Q. You arrived at 7:10, and she arrived roughly
14 about that same time?

15 A. We followed each other there.

16 Q. Did you leave from the same location?

17 A. Yes.

18 Q. From MLK?

19 A No. Our office is on Jones and the 215, the
20 south side of town.

21 Q. Do you know what time you were dispatched?

22 A. It would have been -- I think we left around
23 6:35 in the morning.

24 By time got suited up, it might have been
25 6:30.

1 Q. Suited up, what does that mean?

2 A. Gotten ready to run calls. Put on our
3 uniform, our crime scene vest. Our duty belt,
4 boots, just to get ready for the day once we get
5 into the office.

6 Q. Okay.

7 And when you arrived, you said you had
8 conversations with officers and detectives on the
9 scene, correct?

10 A. That's correct.

11 Q. How many detectives were there?

12 A. At the scene of the traffic stop, Detective
13 Rogers was the only detective there.

14 Q. And how many officers were there?

15 A. There were several. I don't recall the
16 count.

17 Q. Did you ever have a conversation with the
18 officer or officers who conducted the stop?

19 A. No.

20 Q. When you arrived, and before the search
21 warrant, you became known of the search warrant, you
22 took pictures of the vehicle?

23 A. I did.

24 Q. And those pictures were of the outside of
25 the vehicle?

1 A. When I arrived on scene, the front driver
2 and the rear driver's side doors were both open.

3 Pictures were taken to show the overall
4 views of the car from the outside, as well as

5 whatever interior views I could obtain from the
6 outside of the vehicle through the open doors.

7 Q. Did you only take pictures through those
8 open doors staying, I think as you were implying,
9 outside of the car?

10 A. Yes.

11 Q. Did you ever take pictures from the other
12 side of the car before the search warrant?

13 A. No.

14 Q. Were the other side, which is also known as
15 the passenger side of that vehicle, were those
16 windows up or down?

17 A. I believe all of the windows were down.

18 Q. You didn't take any picture through the
19 windows?

20 A. I might recall that I took some pictures
21 through the windows.

22 Q. Do you know how many pictures you took
23 before the search warrant?

24 A. I don't recall.

25 Q. Is there anyway or any sort of notes that

1 you do during your investigation of how you conduct
2 the investigation?

3 A. I don't understand the question.

4 Q. When you are taking pictures, do you have

5 like a pad of paper where you write down I took so
6 many picture of this, so when you go back and start
7 to process the pictures, your able to remind
8 yourself with these notes of what happened?

9 A. We are going to take notes on specific
10 items; for instance, when we looked at the firearm
11 underneath the seat, we note that was a firearm.

12 We note all of the information on that
13 firearm.

14 Typically, with digital photography these
15 days, there is no need to write down exactly what --
16 the content of all of your pictures.

17 If your scene documentation is good enough,
18 you should be able to look at the picture and
19 explain exactly what that is.

20 Q. So my question is, sometimes you can zoom in
21 on an item --

22 A. Yes.

23 Q. -- and you may not be able to tell what the
24 surrounding thing is for the time of the picture;
25 and, so, I didn't know if there was a way for you to

1 document when that particular picture was taken, so
2 you know that you don't mix it with another picture
3 similar at a later time?

4 A. When we do a series of photographs, it is
5 standard procedure to do 3 sets.

6 We do an overall view to show the room or
7 the scene.

8 If you have a specific item in question, you
9 do a relationship shot, a relationship photograph,
10 which means you are going to show that item of
11 interest in comparison to something else, so you can
12 place it in that scene.

13 Then you also do a close-up photograph to
14 show what it is you are looking at, or the focus.

15 So with those series of photos, you would be
16 able to place any piece of evidence, or any item
17 that you are interested in, in the scene.

18 As far as time stamping the photos, the
19 electronic data on every photo is time stamped at
20 the point the picture was taken.

21 So assuming the time on the camera is
22 correct, it is going to be time stamped with all of
23 the settings that the camera was on as well, when
24 that photo was taken.

25 Q. That's essentially called a metadata?

1 A. Yes.

2 Q. As part of your normal procedure, do you
3 verify that the camera that you are using has a full
4 battery, has the right clock, date, time on it,
5 things like that?

6 A. Typically after the time change we will
7 check the date and time to make sure it is correct.

8 Q. Other than that, do you do any further
9 checking before you go out on the scene?

10 A Yes. You make sure your batteries are
11 full.

12 Q. And the date and time?

13 A. Not everyday, not every scene.

14 Q. Okay.

15 And when you prepared your report, you
16 prepare it to be submitted to the detectives,
17 correct?

18 A As well as the courts, yes.

19 Q. As well as the dispatch Attorneys office?

20 A. Yes.

21 Q. So obviously you prepare your report
22 separately from the pictures that you have taken,
23 correct?

24 A. It is different documents. The pictures are
25 obtainable. They can be viewed.

1 The report is written as its own, as its own
2 entity. One should be able to read the report and
3 have an idea of what is going on, what happened at
4 the scene.

5 The photos, when you look at the photos, you
6 should be able to refer back to the report and see
7 what you are looking at, and know what you are
8 looking at.

9 Q. Okay.

10 So at the point of 7:10 until 7:43, when you
11 entered the car, were you able to observe the car
12 that whole time?

13 A. Yes.

14 Q. Do you know if anyone other than yourself
15 and Ms. Taylor came close to the car?

16 A. Not that I recall, other than Detective Bob
17 Rogers, and everybody stayed outside of the vehicle.

18 Q. Okay.

19 Did anyone touch anything inside the car
20 between 7:10 and 7:43?

21 A. Not to my recollection, no.

22 Q. Okay.

23 When you arrive, do the officers essentially
24 turn over this vehicle to you, and you are
25 essentially the one in control of the vehicle?

1 A. It is us as well as the homicide detective.

2 Q. Do the homicide detective enter the vehicle
3 with you or -- rephrase.

4 Does the homicide detective sometimes assist
5 you in collecting evidence, and this is before the
6 search warrant?

7 A. Before the search warrant.

8 Q. We will get to after search warrant in a
9 second.

10 A. We didn't do a search of the vehicle before
11 the search warrant.

12 At that point we were just taking pictures
13 from outside of the vehicle.

14 Q. Let me back up.

15 You are taking pictures outside of the
16 vehicle.

17 Did the detective walk around with you point
18 and to you what pictures he wanted taken?

19 A. No. We know what pictures to take.

20 Q. Was the detective near you when you were
21 taking those pictures?

22 A. I am sure he was.

23 Q. How near?

24 A. He could have come up and said something to
25 me.

1 He could have been on the street corner or
2 in one of the patrol cars.

3 Q. You have no independent recollection?

4 A. We were all in same area and were

5 communicating back and forth.

6 Q. Okay.

7 Now, when you did a picture inside the car
8 from outside the car, you said the doors were open?

9 A. Yes.

10 Q. And you took a series of pictures?

11 A. Yes.

12 Q. Did you observe the Smith and Wesson?

13 A. I was told when I got out to the scene that
14 a handgun was observed underneath the right front
15 passenger seat of the vehicle.

16 All you could see was the lower end of the
17 grip of the gun. That's what we were taking a
18 picture of.

19 Q. It was difficult to see that lower end of
20 the grip of the gun, correct?

21 A. You could see it. I wouldn't say it was
22 difficult, but you could see a very small portion of
23 it.

24 Q. Okay.

25 And, so, does someone point out to you where

1 that gun was, where that butt of the gun was?

2 A. We were advised when we arrived on scene.

3 Q. Who advised you?

4 A. I think that was homicide detective Bob

5 Rogers.

6 Q. And when you were taking pictures from
7 outside the car, were you zooming in on that
8 location?

9 A. I was.

10 Q. And did you ever move anything, touch
11 anything?

12 A. Prior to the search warrant?

13 Q. Correct.

14 A. No.

15 Q. When you conduct your searches, are you
16 wearing anything on your hands?

17 A. We are wearing latex gloves.

18 Q. What color are those gloves?

19 A. We have blue ones and orange ones.

20 Q. Blue ones and orange ones?

21 A. Yes. Typically, most days I carry orange
22 gloves with me.

23 Other CSAs may have blue ones in their
24 supply.

25 MR. MANN: Court's indulgence.

1 THE COURT: While Mr. Mann is finding what
2 he is looking for, we will take a bathroom break.

3
4 (Recess taken.)

5
6 MR. MANN: Your Honor, may I approach to
7 have these marked as proposed exhibits?

8 THE COURT: You may

9 MR. MANN: May I approach?

10 THE COURT: You may.

11 Q. Mr. Cromwell, I am approaching with a series
12 of photos, Moten Defense B through K; can you look
13 through those photographs and see if they appear to
14 be the photographs you took before you entered the
15 vehicle?

16 A. They appear to be.

17 Q. Is that, in your opinion, or from your
18 understanding, is that, B through K, the whole group
19 of photographs that you took before you entered the
20 vehicle, or may there possibly be more?

21 A. There are other photographs we took prior to
22 the entering vehicle, which include overall views of
23 the car, the intersection.

24 Q. Did you happen to bring your pictures that
25 you took from your investigation?

1 A. We don't supply them to the Court, no.

2 Q. You didn't bring them with you?

3 A. No.

4 Q. And you, as we stated before, provided

5 digital copies to the detective and to the dispatch

6 Attorneys office?

7 A. We submit them to the department's server,
8 which loads them onto the server.

9 It is up to the detectives, dispatch
10 Attorneys, defense to request them from Metro's
11 records.

12 Q. All right.

13 So showing you Defendant's Exhibit B, what
14 does that appear to be?

15 A. This is a zoomed in photograph looking into
16 that open rear passenger door, focused on the lower
17 seat portion of the rear of the front driver's seat.

18 Q. Okay.

19 And showing you also C, D, E and F, do those
20 seem to be similar photos of the same area?

21 A. Yes, they do. They have different
22 brightnesses. Sometimes it is hard to get the
23 lighting right, where you have your flash directed.

24 In these type situations, I choose not to
25 delete any photographs.

1 I submit them all.

2 Q. Do those truly and accurately depict what
3 you took before you entered the car?

4 A. Yes.

5 MR. MANN: I am moving for the admission of
6 B through F.

7 MS. PIEPER: No objection by the State.

8 MR. OTTO: No objection.

9 THE COURT: Moten B, C, D, E and F are
10 deemed admitted.

11 MR. MANN: Thank you, Your Honor.

12 Q. Then showing you G through J, do those
13 photos look like the photos you took before you
14 entered the car?

15 A. Yes, sir.

16 Q. Okay.

17 And do they fairly and accurately depict
18 what you took a picture of at that time?

19 A. They do.

20 Q. And what do they appear to be a picture of?

21 A. This is looking into the front driver's side
22 door that was open when I arrived.

23 Q. Okay.

24 And were you specifically pointing your
25 camera at any specific thing, or just the general

1 front passenger side?

2 A. Just the general front passenger
3 compartment.

4 Q. Showing you --

5 MR. MANN: Your Honor, I ask that G through
6 J be admitted.

7 MS. PIEPER: No objection by the State.

8 THE COURT: Mr. Otto.

9 MR. OTTO: No objection.

10 THE COURT: G through J are deemed admitted
11 for Moten.

12 Q. Showing you Defendant's K, what does that
13 appear to be a picture of?

14 A. This is an image through the front passenger
15 window.

16 Q. Was that taken before you entered the
17 vehicle?

18 A. Yes, otherwise I would have opened the door.

19 Q. Fair enough.

20 And does that truly and accurately depict
21 what it looked like before you, at the time that you
22 took this picture?

23 A. Yes.

24 MR. MANN: I move for Defendant's Exhibit K
25 to be admitted.

1 MS. PIEPER: No objection from the State.

2 MR. OTTO: No objection.

3 THE COURT: K is deemed admitted.

4 Q. Okay.

5 Looking at these admitted photographs,
6 looking at K, this is the front area, correct?

7 A. Yes.

8 Q. Okay.

9 Do you see any gun from this front picture
10 that you took on K?

11 A. No, sir.

12 Q. Showing you G, that is the front passenger
13 compartment as well, correct?

14 A. Yes, sir.

15 Q. And does that appear to -- do you see any
16 gun in that picture?

17 A. No, sir.

18 Q. And showing you Exhibit H, was there taken
19 before you entered the vehicle?

20 A. It appears -- it is an image that we would
21 take right before entering the vehicle.

22 Again, without the time stamp on it, I
23 believe I went back around and re-photographed the
24 inside, once we obtained the search warrant.

25 It is a picture of the front passenger

1 assumedly before we entered the vehicle.

2 Q. So quite possibly H is a picture that you
3 took after the search warrant was conducted,
4 correct?

5 A. Actually I will tell you it is after the
6 search warrant was conducted.

7 There's the search warrant return on the
8 front passenger seat.

9 Q. And in looking at the windows, does that
10 appear to be where you were where the car was initially
11 stopped?

12 A. No, that appears to be, I believe, another
13 CSA went to the tow yard after we were done
14 processing.

15 Q. That's not a picture you took?

16 A. No.

17 Q. That would be -- H is no longer a picture
18 that you say you have taken?

19 A. That's correct.

20 Q. Showing you I, does that appear to be a
21 picture that you took before you entered the
22 vehicle?

23 A. Yes.

24 Q. And what is that showing?

25 A. Again, the front passenger compartment.

1 Q. Is there any gun that you can observe on the
2 front passenger area?

3 A. No, sir.

4 Q. And also J, same thing?

5 A. The same thing, kind of looking more towards
6 the floorboard, versus across the seats.

7 Q. And you don't observe any gun in those
8 pictures?

9 A. No.

10 Q. Then showing you B -- will you look through
11 at B through F, and pull out the picture that was
12 widest before you zoomed in more?

13 A. The widest angle?

14 Q. Yes.

15 A. It should be these 2. They are a little
16 brighter.

17 Q. How strong is your lens on your camera?

18 A. As far as focal length?

19 A. I think it is 17 to 55 millimeter.

20 Q. In the digital realm, we usually talk about
21 how many times it magnifies.

22 Do you know how to convert your lens into
23 how many times it can magnify?

24 A. I don't.

25 Q. Would you say that this is something that

1 you can zoom in pretty well on?

2 A. You can zoom in a little bit. I can't give
3 you --

4 Q. Is it a -- what kind of camera is it?

5 A. A Canon 60 D.

6 Q. Is that DSLR?

7 A. A digital SLR, yes.

8 Q. Is that something you can remove the lens
9 and put on the different lens?

10 A. Yes.

11 Q. It is more of professional camera instead of
12 a point and shoot?

13 A. Yes.

14 Q. It is obvious from these pictures that you
15 zoomed in using the lens of your camera, correct?

16 A. That's correct.

17 Q. And it was at this point that from the
18 zooming in that you are able to see the gun, not
19 before?

20 A. You were able to see the gun with the naked
21 eye from the outside of the vehicle.

22 Sometimes with the way cameras work, it is
23 hard to get the angle that you can get with your
24 head from outside of the vehicle.

25 And the lighting as well, what happens a

1 lot, why you see this -- some being brighter, you
2 have to adjust the flash.

3 Sometimes they have an automatic flash. So,
4 when it is going to hit this jacket in the

5 forefront, it might shut down the flash, making
6 everything in the distance a lot darker.

7 You have to adjust the flash for area of the
8 picture that you want.

9 Q. Showing you B and F, they appear to be a box
10 on the ground in that picture?

11 A. Yes.

12 Q. In picture F, do you see the gun in this
13 particular picture?

14 A. I do.

15 Q. Can you point to it?

16 A. It is on the left-hand side of the box.

17 It is viewable under the seat. In the photo
18 it is going to be to the right of the center console
19 of the vehicle, and left of the box on the floor.

20 MR. MANN: Can I borrow a marker, Your
21 Honor?

22 Your Honor, do you mind if I have the
23 witness mark the picture that's been admitted?

24 THE COURT: No.

25 Q. Can you circle the area that you are saying

1 that the gun was located in that picture?

2 A. Indicating.)

3 Q. That is the Defendant's F, correct?

4 MS. PIEPER: It says F on the back.

5 Q. And in picture B, can you circle where the
6 gun is in this picture?

7 A. It is not as viewable. You can see the
8 textured portion of the back rib.

9 The lighting on this is not as good as that
10 one.

11 You can partially see it. It is going to be
12 in this area.

13 MS. PIEPER: can you have him initial it?

14 Q. Can you initial and put your signature and
15 the date.

16 Now in these 2 pictures, you see this box
17 here?

18 A. Yes.

19 Q. Does the angle of the box move?

20 A. No, those pictures are taken back to back.

21 Q. These pictures, the angle of the box would
22 not have moved at all?

23 A. The angle that I was standing may have
24 moved.

25 I could be standing an inch this way or that

1 way. The angle of the box wouldn't move.

2 MS. PIEPER: When he is asking about the
3 angle of the pictures, those pictures are --

4 MR. MANN: B and F.

5 MS. PIEPER: Thank you.

6 Q. All right.

7 Showing you Defendant E, can you say the gun
8 in that picture?

9 A. I can't see it in that picture, no.

10 Q. Showing you Defendant's C, can you see the
11 gun in that picture?

12 A. Again, it is going to be dark. I can't see
13 it from that position.

14 Q. Defendant's D, do you see the gun in that
15 picture?

16 A. In that resolution, no.

17 Q. So at 7:43 you get the call, or you get
18 instructions that you can now enter the vehicle?

19 A. That's correct.

20 Q. And you ultimately enter the vehicle?

21 A. Yes.

22 Q. Was Detective Rogers there with you?

23 A. He was, yes.

24 Q. Did he enter the vehicle as well?

25 A. Typically I am going to take photographs

1 first.

2 But he was along side me, I am sure, but we
3 are going to document the inside of that vehicle
4 prior to disturbing anything.

5 Q. Okay.

6 And when you entered the vehicle, you took
7 pictures of the gun that you found?

8 A. Yes.

9 Q. And where was the gun located when you found
10 it?

11 A. Again, it was under the front passenger seat
12 of the vehicle.

13 Q. It was not on the front passenger seat?

14 A. It was underneath.

15 Q. Okay.

16 After going through the vehicle on the
17 scene, do you know how many pictures you took once
18 you received the search warrant?

19 A. I don't.

20 Q. Is there any sort of documentation that
21 would indicate how many pictures you have taken?

22 A. They are listed in the Las Vegas
23 Metropolitan Police Department server.

24 We can look up based on our P number, and
25 the event number, which pictures are which.

1 Q. The digital file numbers of the pictures, is
2 there any rhyme or reason as to the number code on
3 the digital file?

4 A. You would have to ask the photo lab
5 personnel.

6 Q. You don't have personnel knowledge to
7 indicate what the picture file name is?

8 A. As far as Las Vegas Metropolitan Police
9 Department server goes, when they upload them,
10 typically the first picture on the card, the first
11 picture that is downloaded is going to be batch
12 number such and such, image number one.

13 Then the image numbers will move up
14 subsequently from there.

15 Q. The batch number that you are talking about,
16 is there any significance to that batch number or is
17 it just the next one in line?

18 A. I am not sure if they are sequential or not.

19 Q. When you go to look at the pictures you have
20 taken after you submitted them to the server, do you
21 go on the server, or do you look at your own
22 pictures that you have taken?

23 A. They are uploaded to the department server
24 on base, where we can pull up and search for
25 reports, photographs, based on our personnel number,

1 department event number, location.

2 There is number of search options.

3 Q. You indicate; hey, I am Michael Cromwell, P
4 number whatever, and it is for this particular

5 event, and then it catalogs what you upload under
6 that event?

7 A. Yes. When you log on, it is going to log
8 you on when you originally sign into a computer in
9 the office.

10 When you open up the on-base program, you
11 can search. I can search for the event number, and
12 pull up every photograph, any photos uploaded to the
13 system for this event number.

14 I can narrow that search and put in my
15 initial and P number under the search parameter of
16 who took the pictures.

17 That would narrow the search down to the
18 photos taken for this event number by the personnel
19 number that you listed.

20 Q. Okay.

21 And you had testified during direct
22 examination that the vehicle was then taken after
23 you had done an initial search to the crime scene
24 garage, correct?

25 A. That's correct.

1 Q. And it was there that you further conducted
2 a search?

3 A. Yes.

4 Q. At that time you did not find a second gun?

5 A. We removed some clothing items, but it was
6 actually homicide detective Bob Rogers who
7 physically located the gun, based on interviews
8 other detectives were doing at that time.

9 Q. So you were not there when detective Rogers
10 found the gun?

11 A. We responded immediately after.

12 Q. Was it Detective Rogers that called you?

13 A. Yes. He called our supervisor.

14 Q. How far away were you when you got that
15 call?

16 A. A couple of miles.

17 Q. And you just turned around?

18 A. Yes.

19 Q. And had Detective Rogers removed the gun
20 before you have arrived?

21 A. No. Once it was located -- he will have to
22 testify as to what he did.

23 Q. That's fine.

24 A. Presumably it was left hands off once you
25 see it.

1 Q. You are not sure what Detective Rogers did,
2 but all you know is that when you arrived, you saw
3 the gun in what you believed was the location it was
4 found?

5 A. Yes. All I can testify to is that that was
6 the original location that the gun was in when I
7 arrived.

8 Q. When you were searching the car, was the
9 steering column removed like that?

10 A. No.

11 Q. So when you have came back, the steering
12 column was then down, and you could then obviously
13 see the gun?

14 A. Yes.

15 Q. Did you take apart anything else during your
16 initial search in the crime scene garage, any part
17 of the car?

18 A. I don't think we did. Typically we are
19 going to look for areas that appear to be removed or
20 disturbed.

21 Sometimes the vehicles you see areas that
22 are cut or ripped out. You can see there has been
23 damage to it.

24 It is kind of a sign that something may be
25 underneath. We didn't note anything like that.

1 There was area in the vehicle that the
2 carpeting was a little bit pulled up.

3 I believe it was on the steering column side
4 of the front passenger seat. I am sorry, the center
5 console side of the front passenger seat.

6 We looked in that there. There was nothing
7 in that.

8 Q. Would you consider the steering column to be
9 the same as the floorboard?

10 A. No.

11 Q. Your reaction just then in that question is
12 that they are obviously different?

13 A. The floorboard is the floorboard.

14 The steering column is what holds the
15 steering wheel up and the dashboard in that area.

16 Q. If someone was to say the gun was found in
17 the floorboard would be significantly wrong?

18 A. The gun --

19 Q. I can rephrase it.

20 The 40 caliber weapon that was found
21 initially in the steering column, someone indicated
22 that that was found in the driver's floorboard, that
23 would be obviously wrong, correct?

24 A. Yes.

25 Q. And you find it hard to believe that someone

1 could mistake the 2?

2 A. A typo is a typo, but there's a floorboard.

3 I consider the floor being the floor, and
4 that includes under the seat.

5 It includes the rear passenger, the floor of
6 rear passenger seat.

7 The front passenger seat.

8 The front driver's seat.

9 Also the glove compartment and the dash,
10 they are all separate parts of the vehicle.

11 Q. Beside you and Taylor and Rogers, was there
12 anyone else in the crime scene garage conducting the
13 search?

14 A. Crime scene analyst supervisor, Terry
15 Martin.

16 Q. He is your supervisor?

17 A. That's correct.

18 Q. I assume it is a he.

19 A. Yes.

20 Q. And did he participate in the search?

21 A. He was in and out.

22 Ms. Taylor and I were both primary on it,
23 conducting most of the search.

24 He was intermittent. He helped us out with
25 some aspects.

1 We were more involved, Ms. Taylor and I.

2 Q. When you entered the car at the scene after
3 receiving the warrant, were you handed a piece of
4 paper with the warrant, or were you just indicated
5 by someone that you had received the warrant?

6 A. I got word of mouth.

7 Q. You didn't have any documentation that said
8 warrant approved, or anything to that aspect?

9 A. I believe typically it is the homicide
10 sergeant that obtains that search warrant signed by
11 the Judge.

12 That information would be passed on from her
13 to her detective.

14 A lot of times they will do a telephonic
15 search warrant.

16 Q. Did you see the paperwork from this
17 particular search warrant placed in vehicle before
18 it was sealed to go to the crime scene garage?

19 A. Yes.

20 Q. Who put that in that?

21 A. Detective Rogers.

22 Q. Did you see anyone give Detective Rogers
23 that paperwork?

24 A. I don't recall.

25 MR. MANN: No further questions.

1 THE COURT: Redirect?

2 MS. PIEPER: One question.

3 May I approach the witness?

4 THE COURT: You may.

5 REDIRECT EXAMINATION

6
7
8 BY MS. PIEPER:

9 Q. Showing you what's been admitted as State's
10 15, we have been talking a lot about the car and the
11 gun, and is this the car we are talking about?

12 A. Yes, ma'am.

13 MS. PIEPER: Thank you.

14 THE COURT: Any follow-up to Ms. Pieper's
15 question?

16 MR. OTTO: Nothing.

17 MR. MANN: Nothing, Your Honor.

18 THE COURT: Thank you for your testimony.

19 You may step down.

20 Don't discuss your testimony with anybody
21 during the pendency of the case, aside from a
22 representative of the State or Mr. Otto's office or
23 Mr. Mann's office.

24 Call your next witness, State.

25 MS. PIEPER: before I call our next witness,

1 can we approach the bench briefly?

2 THE COURT: Sure.

3

4 (a bench conference was
5 had.)

6

7 MR. OTTO: Your Honor, to be clear on
8 the scheduling, Monday we will start at one.

9 THE COURT: And go no later than 4.

10 THE COURT: State call your next
11 witness.

12 MS. PIEPER: The State calls
13 Christian Parquette.

14

15 CHRISTIAN PARQUETTE,

16

17 who, being first duly sworn to tell the
18 truth, the whole truth, and nothing but the
19 truth, was examined and testified as
20 follows:

21

22 THE CLERK: Please be seated.

23 Please state your name and spell it
24 for the record.

25 THE WITNESS: Christian Parquette,

1 P-a-r-q-u-e-t-t-e.

2

3

DIRECT EXAMINATION

4

5 BY MS. PIEPER:

6 Q. How are you employed?

7 A. I am sorry?

8 Q. How are you employed?

9 A. I am a police officer for the Las Vegas
10 Metropolitan Police Department.

11 Q. Can you speak up?

12 A. I am a police officer with the Las Vegas
13 Metropolitan Police Department.

14 Q. How long have you been with Metro?

15 A. Approximately 5 years.

16 Q. What area of command do you work for?

17 A. Downtown area command.

18 Q. When you go to work, do you dress in uniform
19 and drive a marked patrol vehicle?

20 A. Yes.

21 Q. I will draw your attention to November 5,
22 2013; were you working that day?

23 A. Yes.

24 Q. What was your shift?

25 A. Graveyard.

1 Q. And what time does graveyard start, and what
2 time does it end?

3 A. It starts at 10:00 o'clock at night, and we
4 get done at 8 in the morning.

5 Q. At approximately 4:45 in the morning, did
6 some information come out over dispatch?

7 A. Yes.

8 Q. And what was information in regard to?

9 A. There was a shooting that occurred in the
10 next area of command, south central, that we border,
11 and there was a description of a vehicle.

12 Q. When you say you border it, with regard to
13 the Clark County, is there certain areas that Metro
14 splits up, northeast, northwest, things of that
15 nature?

16 A. Yes.

17 Q. And you said it was in the area of command
18 next to you?

19 A. Yes.

20 Q. Are you allowed to go into other area
21 commands?

22 A. Yes.

23 Q. As you are driving, describe for Court what
24 happened as you are driving, and you hear the call
25 come out?

1 A. There was a call that there was a shooting
2 that happened on our border, which is by Sahara, so
3 the vehicle description that was broadcasted was a
4 dark gray or silver Dodge Magnum with dark tinted
5 windows, and that was it.

6 So I assigned myself through dispatch to go
7 to attempt to located the vehicle, at which time I
8 was traveling south on Eastern and observed a silver
9 Dodge Magnum with extremely dark tinted windows
10 coming north down Eastern and St. Louis.

11 Q. What did you do next?

12 A. I advised dispatch that I possibly located
13 that suspect vehicle related to the incident, and I
14 waited for backup officers to arrive, upon which we
15 conducted a felony vehicle stop on it.

16 Q. What is a felony vehicle stop?

17 A. A felony vehicle stop is where we stop the
18 vehicle, and we are not going to approach up to the
19 window to the severity of the crime.

20 They could be armed and dangerous. And, so,
21 we stop the vehicle, and we called them out, each
22 occupant one at a time.

23 We told them to put their hands up. Our
24 weapons are drawn.

25 We bring them back towards us. We have them

1 roll all of their windows down at which point each
2 occupant will come out of the vehicle until each one
3 is taken into custody.

4 Then we make sure no one else is in the
5 vehicle. We clear the vehicle out.

6 Q. When you are giving this information or
7 shouting these commands, is it like through a Bull
8 Horn?

9 A. Yes. Every situation is different. Some
10 is, some is not. Some we yell out. Some is a Bull
11 Horn situation.

12 Q. Do you remember what cross streets, what
13 corner the vehicle was stopped at?

14 A. Eastern and Ogden.

15 Q. Were the occupants taken out of the vehicle?

16 A. Yes.

17 Q. And taken into custody?

18 A. Yes.

19 Q. And do you see those occupants here today in
20 courtroom?

21 A. Yes.

22 Q. Do you remember which person was driving and
23 which person was in -- there was a driver in the
24 vehicle, correct?

25 A. Correct.

1 Q. Do you see the driver in the courtroom
2 today?

3 A. Yes, I do.

4 Q. Can you point to him and describe an article
5 of clothing, and where he is sitting in the table to
6 my right of 4 people?

7 A. He is the second one from my right, right
8 now in the blue shirt.

9 He has tattoos on his chest.

10 Q. He is sitting between 2 gentlemen, for lack
11 of a better word that are wearing suits, correct?

12 MS. PIEPER: Your Honor, may the record
13 reflect that the witness identified Defendant
14 Washington?

15 THE COURT: It will.

16 Q. Do you see -- was there another person in
17 the vehicle?

18 A. Yes.

19 Q. Where was that person sitting in the
20 vehicle?

21 A. He was in the back-seat.

22 Q. Driver's side or passenger's, if you can
23 recall?

24 A. I can't remember.

25 Q. He was in the back-seat, correct?

1 A. Yes.

2 Q. Do you see him in the courtroom today?

3 A. Yes.

4 Q. Point to him and describe an article of

5 clothing he is wearing.

6 A. He is to the far left in the blue shirt and
7 pants with orange sandals.

8 Q. To his left is a gentleman in a yellow tie,
9 is that correct?

10 A. Correct.

11 MS. PIEPER: Your Honor, I ask that the
12 record reflect that the witness identified Defendant
13 Martell Moten.

14 THE COURT: It will.

15 Q. Once they are taken into custody, what
16 happens next?

17 A. When they are taken into custody, we clear
18 the vehicle out, make sure no other outpatients are
19 in there, hiding, laying down.

20 At which point the details were updated that
21 it became a homicide.

22 Due to that, we were waiting for homicide to
23 help us.

24 Q. You wait for homicide to get there, because
25 you don't want to do anything that would jeopardize

1 the homicide investigation?

2 MR. OTTO: Objection, leading.

3 Q. Why did you sit there and wait for the
4 vehicle?

5 A. Due the evidentiary value, we don't want to
6 go inside the vehicle and start asking them
7 questions.

8 That's going to be turned over to the
9 homicide detectives for their investigation.

10 Q. Did you pat the Defendant down for weapons?

11 A. Correct.

12 Q. And did you ask for consent to search the
13 vehicle?

14 A. We did ask, yes.

15 Q. What happened?

16 A. They said yes we could consent, at which
17 point, when they exited the vehicle, the doors were
18 left open from when they exited.

19 So myself and my partner, we had consent
20 from the driver to search the vehicle, at which time
21 we walked up to the back left door, which was open
22 of the vehicle, the back passenger left side.

23 And we could see the butt of a gun sticking
24 out from the right front passenger seat on the
25 floorboard.

1 Q. Okay.

2 Did you go in and seize that weapon?

3 A No.

4 Q. You then waited for homicide, is that

5 correct?

6 A. Yes.

7 Q. Did somebody show up at the scene and sort
8 of identify the car; did you have anything to do
9 with that witness showing up?

10 A. They showed up. It was the other area
11 command that brought them to us.

12 I had nothing to do with it.

13 Q. You knew somebody showed up to the vehicle,
14 but you had not contact with that witness?

15 A. Correct.

16 Q. Eventually homicide detectives showed up,
17 and then did you have further contact with the
18 vehicle at or homicide at that time?

19 A. I had more contact with the homicide
20 detective.

21 Q. Once you located the vehicle, and all of the
22 occupants are taken out of the vehicle, is crime
23 scene tape put up or do you have the car isolated on
24 the side of the road?

25 A. It is isolated.

1 Q. No one is going in and out besides the
2 central personnel, personnel that has anything to do
3 with the investigation, correct?

4 A. Correct.

5 MS. PIEPER: No further questions.

6 THE COURT: Mr. Otto, cross.

7 MR. OTTO: Yes, Your Honor.

8

9

CROSS-EXAMINATION

10

11 BY MR. OTTO:

12 Q. You say you got a consent to search from
13 which occupant of the car?

14 A. The driver.

15 Q. Did you get a card or anything indicating
16 his consent to search?

17 A. No.

18 Q. You said a door was opened, and you saw the
19 butt of a handgun?

20 A. Correct.

21 Q. Which door was open?

22 A. The doors of the vehicle were open when they
23 exited.

24 Q. The front door was open?

25 A. Yes.

1 Q. It was a 4 door car?

2 A. Both doors on the left-hand side were open.
3 The driver's side and the back driver's side
4 were open.

5 Q. And where did you see the butt of the
6 weapon?

7 A. Underneath the front passenger seat.

8 Q. Was it dark out?

9 A. It was starting to become daytime.

10 Q. Did you use a flashlight?

11 A. Yes.

12 Q. How did you isolate the car from anybody
13 tampering or entering it?

14 A. Where we stopped the vehicle, it is placed
15 right there, and no one else gets to go, enter it,
16 or move clothing, anything of that
17 purpose.

18 Q. And what happened to the occupants of the
19 car?

20 A. They were placed in handcuffs and separated.

21 Q. Where were they put while they were
22 separated?

23 A. In different patrol vehicles.

24 In the back of the patrol vehicles.

25 Q. They waited as well until homicide

1 detectives arrived?

2 A. Correct.

3 MR. OTTO: Nothing further.

4 THE COURT: Mr. Mann, cross.

5 CROSS-EXAMINATION

6
7
8 BY MR. MANN:

9 Q. So you get call from dispatch, shots fired,
10 correct?

11 A. It wasn't a shots fired call, no.

12 Q. So you a get call from dispatch that you
13 were looking for silver car, Magnum?

14 A. There was a shooting that had happened in
15 next area of command, and they described the vehicle
16 over the radio to us.

17 Q. You get an announcement over the radio that
18 there is something that happened in what you said is
19 the south central area command, correct?

20 A. Correct, one of our bordering area of
21 commands.

22 Q. Okay.

23 From that call, what is announced over the
24 air?

25 A. That there was a shooting that happened at a

1 certain location at the residence.

2 Q. Did they say what location?

3 A. They did.

4 Q. What location was that?

5 A. I don't remember the address.

6 Q. Okay.

7 Do you remember the area of the address?

8 A. Yes. It was near Sahara and the Van Patten
9 area Sherwood, which borders on our area of command.

10 Q. Is that what they said over the air, or is
11 that what you later discovered?

12 A. They had the exact address. I don't work
13 in that area of command, so I was just attempting to
14 locate a vehicle.

15 Q. It was your recollection that they announced
16 the address over the air?

17 A. Correct.

18 Q. You knew enough of the area that it was
19 somewhat near where you work?

20 A. Correct.

21 Q. And they over the air announce the vehicle
22 correct that they believed was involved?

23 A. Correct.

24 Q. And they announced that it was a silver or
25 gray Magnum car, correct?

1 A. Correct.

2 Q. With dark window tint?

3 A. Correct.

4 Q. Anything else other than that?

5 A. Not at the time when I spotted that vehicle.

6 Q. Did they indicate anything about the rims?

7 A. No.

8 Q. Did they indicate anything about how many
9 passengers were in the car?

10 A. I couldn't see.

11 Q. You couldn't see what they were telling you?

12 A. Dispatch did not know how many occupants
13 were in the vehicle at the time.

14 Q. Did they indicate any identifiers of the car
15 other than the silver or gray Dodge Magnum with dark
16 windows?

17 A. No.

18 Q. Did they indicate that the car was driving
19 at an erratic pace?

20 A. They said it left at a high rate of speed.

21 Q. Did they indicate other identifiers of that
22 car?

23 A. No.

24 Q. And, so, the first silver or gray Dodge
25 Magnum you came upon you followed?

1 A. It was only one on Eastern at the time when
2 I was driving.

3 Q. That would be first one?

4 A. Yes.

5 Q. You followed that one?

6 A. Correct.

7 Q. You were the lone occupant, the lone officer
8 in your police car, correct?

9 A. Yes.

10 Q. Was there another officer in your car?

11 A. Not at the time.

12 Q. Was there another person in your car?

13 A. No.

14 Q. When you were following this car, did other
15 officers respond to your location?

16 A. Yes.

17 Q. How many other officers backed you up?

18 A. I couldn't tell you the exact number. I

19 would say at least 6 or 7 other officers.

20 Q. When you say 6 or 7, would that indicate at
21 least 6 or 7 other cars?

22 A. Correct.

23 Q. Okay.

24 And these 6 or 7 other officers, were they
25 driving behind you, or were they attempting to go in

1 different directions to look in the car that you
2 were following?

3 A. They were following behind me.

4 Q. All of these 6 or 7 were behind you?

5 A. Correct.

6 Q. Was there anyone in front of you that the
7 Magnum or the car that you were following was going
8 to end up coming in contact with?

9 A. As in police vehicles?

10 Q. Yes.

11 A. No.

12 Q. Okay.

13 And when these other 6 or 7 cars came behind
14 you, is that when you turned on your overhead
15 lights?

16 A. Correct.

17 Q. And proceeded to stop the vehicle?

18 A. Correct.

19 Q. And when you proceeded to stop the vehicle,
20 there were several police cars kind of fanned out?

21 A. Yes.

22 Q. And the officers got out of the vehicle?

23 A. Yes.

24 Q. Pointed their guns?

25 A. Yes.

1 Q. And ordered the occupant to roll down their
2 windows?

3 A. Yes.

4 Q. Stick their hands out of the car?

5 A. Yes.

6 Q. And wait for further commands?

7 A. Correct.

8 Q. You told the driver of the vehicle to throw
9 the keys outside of the car?

10 A. Correct.

11 Q. Onto the street?

12 A. Correct.

13 Q. You then instructed the driver of the car to
14 step out of the car slowly?

15 A. Right.

16 Q. With the hands up?

17 A. Yes.

18 Q. And walk backwards towards the sound of your
19 voice?

20 A. Yes.

21 Q. And Then ultimately lie on the ground?

22 A. Yes.

23 Q. And then you had other officers go and
24 handcuff the driver of the car, is that correct?

25 A. Not until the other occupant came out.

1 Q. So the driver remained on the ground until
2 you instructed the other occupant, who turned out to
3 be in the back passenger behind the driver's seat to
4 come out of the car?

5 A. He was in the back area. I can't see
6 exactly where he was at.

7 Q. And did you see him stick his hands out of
8 the car?

9 A. Not initially.

10 Q. When you instructed them to roll down the
11 windows and stick their hands out of the car, did
12 you see the driver's hand?

13 A. I saw the driver.

14 Q. Did you see the driver's hands?

15 A. Yes.

16 Q. Did you see the other occupant's hands?

17 A. No.

18 Q. Did anyone else, any other officer see the
19 other occupant's hands?

20 A. I can't recollect that. No one said they
21 could see anybody else.

22 Q. When you are doing this felony stop with
23 several other officers, do you have radio
24 communication with those other officers at the
25 time?

1 A. Not during the stop.

2 Q. Not during the stop.

3 It is not something where you have an ear
4 piece, and you can here each other talking to each
5 other?

6 A. You have ear pieces for radio, but at the
7 time there is no need to tell a partner next to me
8 when he can hear me giving commands to him.

9 Q. So you order both occupants to stick their
10 hands out of the car, but you only see the driver's
11 hands.

12 The driver gets out of the car. You have the
13 driver on the ground, at which time you ordered the
14 other occupant to get out of the car?

15 A. Correct.

16 Q. That occupant gets out of the back passenger
17 seat behind the driver's side, correct?

18 A. Yes.

19 Q. And that person gets out with their hands
20 up?

21 A. Yes.

22 Q. And walks backwards and lays on ground as
23 you instruct them?

24 A. Yes.

25 Q. At that point you put both occupants into

1 custody?

2 A. Yes.

3 Q. And you handcuff them?

4 A. Yes.

5 Q. And you lead them to various patrol cars?

6 A. Yes.

7 Q. And when this happens, you then sit and wait
8 for homicide to come?

9 A. At that point we did not know if -- we
10 waited.

11 When they got into custody, we brought them
12 in front of each vehicle, patrol vehicle, separated
13 them, and at that point it was broadcasted through
14 the details of the call that one of the subjects was
15 a homicide.

16 So we just left the vehicle as is. We
17 didn't go inside it.

18 Q. So you have them in front of the vehicle?

19 A. Correct.

20 Q. And you search them?

21 A. I patted them down, yes.

22 Q. Did you take anything out of their pockets?

23 A. I did not.

24 Q. Who is one that searched the driver?

25 A. I can't tell you.

1 Q. Who is the one that searched the other
2 occupant?

3 A. I don't know.

4 Q. Did you do any of the searching?

5 A. No.

6 Q. Okay.

7 Who is the one that had the conversation
8 with the driver?

9 A. I did.

10 Q. So you did not search the driver, but you
11 did have a conversation with the driver?

12 A. Yes.

13 Q. And you don't know who searched the driver?

14 A. I do not.

15 Q. How quickly after they had been removed from
16 the car in handcuffs do you then -- does
17 Mr. Washington, the driver of the car, get searched?

18 A. I did not search him.

19 I don't know.

20 Q. How quickly after you move him out of the
21 car do you question Mr. Washington?

22 A. I wasn't questioning him all. I asked if
23 there was anything illegal in the vehicle.

24 Q. That's not a question.

25 A. That's standard procedure that we ask.

1 Q. Did you Mirandize Mr. Washington?

2 A. No.

3 Q. Did you explain to him that he had a right
4 to remain silent?

5 A. I did not Mirandize him.

6 Q. Before you spoke to him, you didn't let him
7 know of his right to remain silent?

8 A. No.

9 Q. And you then asked him if there was anything
10 else in the vehicle, correct?

11 A. Correct.

12 Q. Did you ask him anything else?

13 A. No.

14 Q. That was the only question you posed to
15 Mr. Washington?

16 A. I asked if there was anything illegal in the
17 vehicle, and I believe that was it.

18 I believe I asked him where was he coming
19 from.

20 Q. Okay.

21 Just those 2 questions, where was he coming
22 from, and was there anything else illegal in the
23 vehicle?

24 A. Correct.

25 Q. So, was it at that time that you questioned

1 him about giving his consent to search the car?

2 A. He gave us consent to search the car, yes.

3 Q. Was it based on the question that you posed

4 to him to; do we have consent to search the car?

5 A. I asked if there was anything else illegal

6 in the vehicle, and he said no. He said you can

7 search the car.

8 Q. He responded to your question no, and then

9 offered, hey, you can search the car?

10 A. Yes.

11 Q. Did you get a written consent to search

12 card?

13 A. No.

14 Q. Did you tell any detective that you got a

15 written consent to search card?

16 A. No.

17 Q. Did you ever explain to any other officer

18 that you have got a written consent to search card?

19 A. No, because there was no written consent to

20 search card.

21 Q. And it is also your testimony that the

22 consent to search that was given was based on the

23 question that you gave; is there anything illegal in

24 the car, and then Mr. Washington said no, and then

25 just offered; hey, you can search my car?

1 MS. PIEPER: Judge, I object to the
2 characterization.

3 I don't know that the witness characterized
4 that. I think counsel characterized it.

5 This witness is just answering Mr. Mann's
6 question.

7 THE COURT: I think we got that.

8 It is in the transcript.

9 The witness can answer, so overruled.

10 Go ahead, Mr. Mann.

11 Q. So it was Mr. Washington that just
12 volunteered that information when he was in
13 handcuffs, being removed from the car at gun point?

14 A. Yes.

15 Q. Okay.

16 And did Mr. Washington say anything else to
17 you or that it was?

18 A. Not that I can recollect, no.

19 Q. Okay.

20 So when he gave you what you believe to be
21 consent to search --

22 MS. PIEPER: objection to that
23 characterization.

24 THE COURT: All right.

25 I will sustain that one.

1 Go on.

2 Q. Do you believe that Mr. Washington gave you
3 consent to search?

4 A. Yes.

5 Q. Okay.

6 So when you received what you believe to be
7 consent to search, you then searched the car?

8 A. I did not search the vehicle.

9 Q. Okay.

10 Did you enter the vehicle?

11 A. No.

12 Q. Did you do anything with the vehicle?

13 A. I looked inside the vehicle from the doors
14 being opened.

15 I never entered the vehicle.

16 Q. What about the keys on the ground, what did
17 you do with the keys?

18 A. I didn't touch the keys.

19 Q. Did you know of anyone that secured the
20 keys?

21 A. I am sure they were secured. I don't know
22 the officer who did it.

23 Q. Who was in charge of the scene?

24 A. Of the scene?

25 Q. Yes.

1 A. Of the vehicle stop?

2 Q. Yes.

3 A. I would say the watch commander would be.

4 Q. Who is that?

5 A. The lieutenant that night.

6 Q. And who was that?

7 A. Lieutenant Beckler.

8 Q. Was he there at the time of the stop?

9 A. I can't recollect if he was there or not.

10 Q. Do you remember seeing him after the stop?

11 A. Yes.

12 Q. How long after the stop do you remember
13 seeing him?

14 A. I can't recall.

15 Q. When you saw what you described to be the
16 butt of a gun, was that on the front passenger seat?

17 A. On the seat, no.

18 Q. Okay.

19 Was it -- were you able to only see the butt
20 of the gun from the open door?

21 A. Yes. And you could see it from the back
22 right window that was rolled down as well.

23 Q. So you also went through the back right
24 window to see the butt of the gun?

25 A. I looked through the window that was rolled

1 down, yes.

2 Q. And when you did that, did you indicate to
3 anyone else that you had seen the gun?

4 A. Yes.

5 Q. Who did you indicate that to?

6 A. The supervisors.

7 Q. What supervisors?

8 A. My supervisors at the time.

9 Q. Who was that?

10 A. Sergeant Lynch.

11 Q. Was Sergeant Lynch in charge of the scene,
12 or was that Lieutenant Beckler?

13 A. I would say it was a combination of people
14 who supervised the scene.

15 Q. And did you provide any information about
16 where you found the gun to anyone else other than
17 Sergeant Lynch?

18 A. Yes.

19 Q. Who?

20 A. Several officers that were there.

21 Q. Did you ever talk to any homicide
22 detectives?

23 A. Yes.

24 Q. What homicide detectives did you talk with?

25 A. I can't remember his name.

1 Q. You don't remember who you spoke with?

2 A. If I can refer to the notes.

3 Q. Do you have your notes?

4 A. I do not.

5 Q. Did you create a report?

6 A. I did not.

7 Q. Do you remember any of the names of the
8 other officers that were with you?

9 A. Yes.

10 Q. Did any of those people create a report?

11 A. Not that I know of.

12 Q. So you conduct this stop, this felony stop,
13 and you didn't make any sort of report?

14 A. Myself personally, no, I did not make a
15 report.

16 Q. Did you sit down with a detective and go
17 through the details of the stop?

18 A. Yes.

19 Q. What detective did you sit down with and go
20 through the details with?

21 A. If I can reefer to my notes, I can't
22 remember his name.

23 Q. What notes; I don't know what you are
24 talking about.

25 A. I believe Detective Rogers, homicide.

1 Q. You believe that Detective Rogers filled out
2 a report?

3 MS. PIEPER: Objection, Your Honor, that's
4 not what the witness testified to.

5 The witness was asked did he sit down with a
6 police officer or a detective and discuss what
7 happened, and his answer was yes.

8 MR. MANN: Then I asked who was it, and he
9 said I don't remember, if I can refer to my notes.

10 MS. PIEPER: He said it was Bob Rogers. He
11 never said Bob Rogers filled out a police report.

12 THE COURT: Mr. Mann, ask him if he knows
13 whether Detective Rogers filled out a police report.

14 Q. Officer Parquette, you said if you can refer
15 to your notes, right?

16 A. Correct.

17 Q. What notes are those?

18 A. The arrest report done. The arrest package
19 for this case.

20 Q. Did you physically hand write any notes?

21 A I did not.

22 Q. Any notes that you have would be from
23 statements that you have made to other people that
24 have memorialized in some manner or form?

25 A. It would be from the arrest package for this

1 case, anything that was put together for it.

2 Q. Would that be in the arrest report?

3 A. That would include it, yes.

4 Q. And is it your testimony that the

5 description in the arrest report accurately reflects

6 what you indicate happened that night?

7 A. I have not seen the arrest report.

8 Q. Yet you want to rely on the arrest report to

9 indicate what happened that night, is that correct?

10 A. Correct.

11 Q. Okay.

12 A. Of who I spoke with to tell him about the

13 vehicle stop, yes.

14 Q. Did you only speak to one detective or more?

15 A. One.

16 Q. And you don't remember which detective that

17 was, but if it was in the arrest report, it would

18 indicate what detective you spoke to?

19 A. Detective Rogers.

20 Q. You did speak to Detective Rogers?

21 A. Yes.

22 Q. It was in your conversation with Detective

23 Rogers that you indicated that you had found the gun

24 in the car?

25 A. Yes.

1 Q. That was before the search, getting a search
2 warrant, correct?

3 A. Correct.

4 Q. And when you found -- when you spoke to
5 Detective Rogers, did you tell him that the gun was
6 found on top of the passenger seat?

7 A. No.

8 Q. You told him that the gun was found where?

9 A. Underneath the passenger seat.

10 Q. And was it found and secured?

11 A. I did not secure it. When I saw it, I left
12 it there.

13 Q. Okay.

14 Now, you indicated that you had stopped the
15 silver Magnum as a felony stop, correct?

16 A. Yes.

17 Q. There were no traffic violations that caused
18 you to stop the vehicle, correct?

19 A. Correct.

20 Q. It was only on the description that you
21 received over the air that caused you to stop the
22 vehicle?

23 A. Correct.

24 Q. It was at that point that you drew weapons
25 and removed the people from the vehicle?

1 A. Correct.

2 MR. MANN: Court's indulgence.

3 Q. When you looked in the back of the car, did
4 you see only one item or multiple items?

5 A. I can't recollect what was exactly in back
6 of the vehicle.

7 Q. Do you remember multiple items or one?

8 A. Multiple items.

9 Q. And was there only one item that gave you
10 any sort of concern?

11 A. No.

12 Q. There were multiple items that gave you
13 concern?

14 A. Yes.

15 Q. What were those multiple items that gave you
16 concern?

17 A. A latex glove next to the gun.

18 Q. Anything else?

19 A. Not that I remember.

20 That's what I saw.

21 MR. MANN: No further questions.

22 THE COURT: Ms. Pieper, any redirect?

23 MS. PIEPER: Just to clarify.

24

25

REDIRECT EXAMINATION

1
2
3 BY MS. PIEPER:

4 Q. You did not search the vehicle prior to a
5 search warrant, correct?

6 A. Correct.

7 Q. Once the occupants were removed from the
8 vehicle, you had to check to make sure there wasn't
9 a third person ready to blast your head off sitting
10 in the vehicle, correct?

11 MR. MANN: Objection, Your Honor.

12 It misstates what the original testimony
13 was, and if not then it is leading.

14 Q. Why did you look through the car with the
15 doors open after you had removed these 2 gentlemen
16 from the vehicle under a felony car stop?

17 A. To see if there were any other occupants in
18 the vehicle.

19 MS. PIEPER: Thank you.

20 Nothing further.

21 THE COURT: All right.

22 MR. OTTO: Could I ask a couple; I promise
23 not to take too long.

24 THE COURT: Sure.

25

RECROSS-EXAMINATION

1
2
3 BY MR. OTTO:

4 Q. You asked Mr. Washington -- he is in custody
5 after -- he is not free to leave once you handcuff
6 him, correct?

7 A. Correct.

8 Q. You ask him if there is anything in the car
9 without giving him his Miranda rights, is that
10 correct?

11 A. Correct.

12 Q. He answered your question no; is that
13 correct?

14 A. Correct.

15 Q. Then you say as part of that answer no, he
16 gives you consent to search the car, correct?

17 A. Correct.

18 Q. Why didn't you search the car?

19 A. Because at the time we found evidentiary
20 value in the vehicle, and we weren't going to search
21 it.

22 Q. And who next arrived on scene other than the
23 uniformed officers who were there?

24 A. The detective that I spoke with.

25 Q. And who did you speak with on scene, do you

1 remember?

2 A. Detective Rogers.

3 Q. Did you then leave the scene?

4 A. No.

5 Q. How long did you stay?

6 A. Until about 8:30 in the morning.

7 Q. Did you see CSI?

8 A. Yes.

9 Q. Did anyone -- did Detective Rogers search
10 the car?

11 A. Not while I was there.

12 Q. Did anyone enter the car?

13 A. Nobody.

14 MR. OTTO: I have nothing else.

15 MR. MANN: Your Honor --

16

17 RECROSS-EXAMINATION

18

19 BY MR. MANN:

20 Q. Officer Parquette, you conducted the felony
21 stop, correct?

22 A. Correct.

23 Q. And you removed the occupants from the
24 vehicle?

25 A. Yes.

1 Q. And then at that point you did a quick sweep
2 of the vehicle to clear the vehicle, correct?

3 A. Correct.

4 Q. It wasn't until after that you went and

5 talked to Mr. Washington, who gave you consent to
6 search, that you then went in and looked and found
7 the butt of the gun?

8 A. I did not go into the vehicle or search the
9 vehicle.

10 Q. It wasn't until Mr. Washington gave you
11 consent to search that you then went back to the
12 vehicle, and looked inside the vehicle, and found
13 the butt of the gun, correct?

14 A. If he gave me consent or did not, the doors
15 were open, and in plain view I could see what would
16 be in the vehicle.

17 Q. It wasn't until that he gave you consent
18 that you went back to the vehicle and looked inside
19 the vehicle, correct?

20 A. Correct.

21 Q. It wasn't during your clearing of the
22 vehicle that you looked inside the vehicle and found
23 the gun, correct?

24 A. Not at the time. I saw the gun.

25 Q. The vehicle was already cleared, and that's

1 when you went back to look inside the vehicle?

2 A. Correct.

3 Q. So you were no longer concerned about
4 someone blasting your head off when you were looking
5 inside the vehicle, correct?

6 A. Not any more.

7 MR. MANN: No further questions.

8 THE COURT: All right.

9 Officer, thank you very much for your
10 patience and testimony.

11 I ask that you step down.

12 Please don't discuss your testimony with
13 anybody, aside from a representative from District
14 Attorneys office, Mr. Otto's or Mann's office.

15 They will identify themselves
16 appropriately.

17 Thank you for your time and patience.

18 THE WITNESS: Thank you.

19 THE COURT: State, call your next witness.

20 MS. PIEPER: Judge, what I am discussing
21 with defense counsel is whether I should call your
22 next witness, since we probably are not going to get
23 through direct and all of cross.

24 He going to have to come back anyway. I have
25 to shut you down in 20.

1 Your call.

2 THE COURT: Then he stays under oath.

3 No one can talk to him.

4 MS. PIEPER: He will have to come back.

5 I can do something else, if the Court would
6 like.

7 What I can do, Judge, in regard to the
8 medical examiner, I have spoken to both counsel, and
9 they are going to stipulate that the cause of death
10 was gunshot wound.

11 The manner was homicide, and we stipulated
12 to -- I have here, which is marked as State's
13 Exhibit 1, the autopsy report, as well as the --

14 MR. MANN: I didn't agree to the toxicology.

15 THE COURT: That issue has been alleviated
16 clearly.

17 MS. PIEPER: I have got to fix that.

18 THE COURT: I am sure we can fix that.

19 MS. PIEPER: I was going to attach the
20 result. I was giving him a copy just to be
21 complete.

22 MR. MANN: Your Honor, that's fine. Before
23 you remove that Danielle, I just want to put in that
24 when I agreed to the stipulation, that I had not
25 seen the toxicology report.

1 I didn't think it was part of the toxicology
2 report at the time.

3 THE COURT: Why don't you take a gander.

4 MR. MANN: I have. I do have questions,

5 but --

6 THE COURT: So we are admitting the autopsy
7 report with or without the toxicology?

8 MS. PIEPER: I will take off the toxicology,
9 since Mr. Mann didn't agree to it.

10 MR. OTTO: We have stipulated but for the
11 limited purpose of this hearing, Your Honor.

12 MS. PIEPER: I apologize.

13 THE COURT: Any evidence that is admitted at
14 the preliminary hearing is deemed only for the
15 preliminary hearing.

16 If this case gets up to District Court, the
17 state has to meet its burden to get any other
18 evidence admitted into the record.

19 MS. PIEPER: Judge, at this point, that is
20 marked as State's Exhibit Number 1.

21 I am taking the other half of the exhibit
22 with myself.

23 At the end of the preliminary hearing I was
24 going to do this, but I can do this now.

25 I have copies. I didn't want to admit

1 originals at this point of both Defendants'
2 Judgements of Convictions.

3 THE COURT: Approach and look at it.

4 MR. MANN: I have no objection to

5 Mr. Moten's Judgement of Conviction filed April
6 10th, 2007 being admitted.

7 THE COURT: Number --

8 MR. MANN: State's Exhibit 2.

9 THE COURT: 2 will be admitted.

10 Give that back to Shawna.

11 Still have 3, 4 and 5.

12 THE COURT: Okay.

13 So Mr. Mann did not object, so 2 is
14 admitted.

15 MR. OTTO: I have no objection to 3, 4 and 5
16 being admitted.

17 MS. PIEPER: Essentially, Judge, those are
18 the certified priors of both Defendants.

19 THE COURT: 3, 4 and 5 are admitted also.

20 Okay. So I am thinking, unless there is
21 anything else, I want to make sure everybody wants
22 to check anything that's been offered today that
23 everybody handled what has been offered today is
24 admitted for anything being talked about.

25 MR. OTTO: there is nothing hanging out, I

1 don't think.

2 MS. PIEPER: I have some exhibits left for
3 other witnesses.

4 THE COURT: What happens is what has been
5 marked, and it still goes into a separate section.

6 You can't take that back. What is deemed
7 admitted will be separate, and they will go into my
8 evidence locker to come back with us.

9 Everybody check their tables that you don't
10 have any proposed or admitted.

11 All right.

12 We will pick back up Monday afternoon at
13 1:00 o'clock.

14 I think the State has 3 or 4 more
15 witnesses.

16 MS. PIEPER: They will all come Monday.

17 THE COURT: We have one long one?

18 MS. PIEPER: Yes.

19 THE COURT: We are in recess until Monday.

20 Gentleman, I see you back on Monday at 1:00
21 o'clock, and we will pickup with the remainder of
22 our witnesses.

23 All right.

24

25 (Hearing adjourned.)

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ATTEST: FULL, TRUE, ACCURATE AND

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CERTIFIED TRANSCRIPTION OF PROCEEDINGS.

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/s/ Robert A. Cangemi

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ROBERT A. CANGEMI, CCR NO. 888

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IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW WASHINGTON,
Appellant,
vi.
THE STATE OF NEVADA,
Respondent.

No. 65998

APPELLANT'S APPENDIX VOLUME I PAGES 001-241

PHILIP J. KOHN
Clark County Public Defender
309 South Third Street
Las Vegas, Nevada 89155-2610

Attorney for Appellant

STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

CERTIFICATE OF SERVICE

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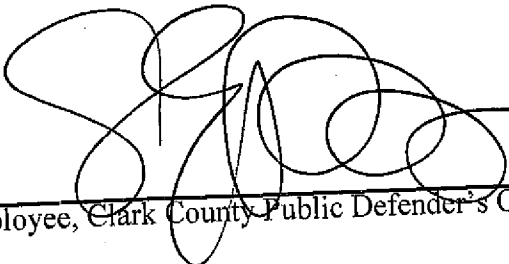
CATHERINE CORTEZ MASTO
STEVEN S. OWENS

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NDOC # 1061467
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