IN THE SUPREME COURT OF THE STATE OF NEVADA

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CLEMON HUDSON, Appellant, vs. THE STATE OF NEVADA, Respondent.	S.C. CASE NO. 82231

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APPEAL FROM A JUDGMENT OF CONVICTION PURSUANT TO LOZADA V. STATE AND DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) EIGHTH JUDICIAL DISTRICT COURT THE HONORABLE JUDGE CARLI KIERNY, PRESIDING

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APPELLANT'S APPENDIX TO THE OPENING BRIEF VOLUME VII

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ATTORNEY FOR APPELLANT
CHRISTOPHER R. ORAM, ESQ.
Attorney at Law
Nevada Bar No. 004349
Rachael E. Stewart
Nevada Bar No. 14122
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
Telephone: (702) 384-5563

ATTORNEY FOR RESPONDENT
STEVE WOLFSON
Nevada Bar No. 1565
200 E. Lewis Ave.
Las Vegas, Nevada 89155
(702)455-4711

AARON FORD
Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717

CHRISTOPHER R. ORAM, LTD.
520 SOUTH 4TH STREET | SECOND FLOOR
LAS VEGAS, NEVADA 89101
TEL. 702.384-5563 | FAX. 702.974-0623

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CLEMON HUDSON, Appellant, vs. THE STATE OF NEVADA Respondent.	CASE NO. 82231

APPELLANT'S APPENDIX

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LAS VEGAS, NEVADA 89101
TEL. 702.384-5563 | FAX. 702.974-0623

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520 SOUTH 4TH STREET | SECOND FLOOR
LAS VEGAS, NEVADA 89101
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CHRISTOPHER R. ORAM, LTD.
520 SOUTH 4TH STREET | SECOND FLOOR
LAS VEGAS, NEVADA 89101
TEL. 702.384-5563 | FAX. 702.974-0623

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AARON FORD
Nevada Attorney General

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE

CHRISTOPHER R. ORAM, ESQ.

BY:

/s/ Nancy Medina
An Employee of Christopher R. Oram, Esq.

CHRISTOPHER R. ORAM, LTD.
520 SOUTH 4TH STREET | SECOND FLOOR
LAS VEGAS, NEVADA 89101
TEL. 702.384-5563 | FAX. 702.974-0623

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DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff(s), vs. STEVEN TURNER AND CLEMON HUDSON, Defendant(s).	Case No. C-15-309578-1 and Case No. C-15-309578-2 DEPT. XVIII

BEFORE THE HONORABLE MARK B. BAILUS,
DISTRICT COURT JUDGE

MONDAY, APRIL 23, 2018

TRANSCRIPT OF PROCEEDINGS RE:
JURY TRIAL - DAY 6

(Appearances on page 2.)

RECORDED BY: ROBIN PAGE, COURT RECORDER

APPEARANCES:

For the Plaintiff(s):	LEAH C. BEVERLY, ESQ. (Deputy District Attorney) JOHN L. GIORDANI III, ESQ. (Deputy District Attorney)
For the Defendant Steven Turner:	TEGAN C. MACHNICH, ESQ. (Deputy Public Defender) ASHLEY L. SISOLAK, ESQ. (Deputy Public Defender)
For the Defendant Clemon Hudson:	CLAY PLUMMER, ESQ.

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LAS VEGAS, NEVADA, MONDAY, APRIL 23, 2018

[Proceedings commenced at 11:13 a.m.]

[Outside the presence of the jury.]

THE COURT: Please be seated. This is the continuation of the trial in Case No. C-15-305978-1 and -2, *Plaintiff, State of Nevada vs. Defendants, Steven Turner and Clemon Hudson.*

Before we get started, I have a couple questions. When is, counsel, anticipate -- shucks. I need to -- let the record reflect the presence of counsel for the State, counsel for the defendants, and the defendants are present.

When do you anticipate this trial concluding?

MS. BEVERLY: Well, that's what I was going to address with Your Honor. We're moving very, very fast from the State's perspective. We have four witnesses today. And then following that, we have two.

So what I was going to ask is that we actually go dark tomorrow, because the two witnesses that we have, they could be available, but it's going to be difficult for them to be available, because I thought we would still be --

THE COURT: That's fine.

MS. BEVERLY: -- going through other witnesses.

THE COURT: Counsel for --

MS. BEVERLY: So we'll finish --

THE COURT: -- the defendants.

MS. SISOLAK: Your Honor, the only concern that would

present is that we do have a juror who I believe has a flight out Friday night. And depending upon if clients decide to testify or not, I would just be concerned it would push us into a third week. But otherwise, I have no objection if Your Honor has none.

THE COURT: And what -- I will tell you right now: Tuesday, Wednesday, and Thursday, we were only going to go half days, from 1:00 to 5:00, because of the Court's calendar.

MS. BEVERLY: Right.

THE COURT: As a matter of fact, we got a little bit of a late start, because Judge Scotti uses this courtroom on -- on Mondays for his law and motion calendar. Friday, I could go most of the day.

MS. SISOLAK: And if the jury's deliberating, they could go the full day, even on Friday.

THE COURT: So, again, I'm not committing you to recognizing half days. When do you -- when do you think this matter will go to the jury?

MS. BEVERLY: Well, you know, it's -- actually, it's okay, Judge, because if one of them's going to testify and they're going to have witnesses, I do want to make sure we close on Thursday; so it's -- we'll make it work with the witnesses.

THE COURT: You sure?

MS. BEVERLY: If we're starting at 1:00, we should.

THE COURT: We're going to -- Tuesday, Wednesday, and Thursday, we will start at 1:00.

MS. BEVERLY: Okay. Then, I definitely think we should be

able to close Thursday afternoon so the jury can have it all day on Friday.

MS. SISOLAK: I would agree.

THE COURT: So that resolves that issue.

MS. BEVERLY: Yeah.

THE COURT: Also, I had counsel submit their jurist instructions on Friday.

State, that was prior to you filing the amended complaint. There's three instructions that referenced the discharge count.

MS. BEVERLY: Exactly. There's a couple -- and I'm going to do this later today, but there's just a couple things I need to fix because of that amended.

THE COURT: Right.

MS. BEVERLY: Taking it out of the -- changing the instructions a little bit.

THE COURT: Proposed.

MS. BEVERLY: But I'm going to do that and e-mail it to your JEA by tomorrow morning at the latest.

THE COURT: That's fine. I just wanted to bring that to your attention.

MS. BEVERLY: Yeah.

THE COURT: There was three instructions that I reviewed.

MS. BEVERLY: Right.

THE COURT: But still, I think, but I know still a reference to a discharge count.

MS. BEVERLY: Right. Otherwise, the instructions, the agreed upon instructions, the correct ones, we have very minimal that we need to discuss with Your Honor.

THE COURT: So at this pace, I'll want instructions sometime Wednesday or Thursday --

MS. BEVERLY: Yes.

THE COURT: -- depending on how fast we're going. I always like to settle instructions the day before --

MS. BEVERLY: Okay.

THE COURT: -- we're going to actually submit them. And so anticipate setting instructions probably, it looks like, on Wednesday.

MS. BEVERLY: Okay. That sounds good to the State.

MR. GIORDANI: One more thing, Your Honor.

THE COURT: Yes.

MR. GIORDANI: We have some exhibits your clerk brought to our attention that weren't technically admitted. I thought we got a conditional ruling. And then once foundation was going to be laid, which I believe it has been at this point, they were to be admitted.

They're 307, 308, 309, 310, and then 236, 239, and 240. I just got these, so I haven't handed them to the defense. But they've already been -- we already went back and revisited them with testimony on Wednesday.

[Pause in proceedings.]

THE COURT: Counsel, that was clerk statement by the State. I did make a ruling that they were conditionally admitted subject to the

witness testifying. Do you have any objection to their admission at this time?

MS. MACHNICH: Nothing beyond prior record.

MR. PLUMMER: Same, Your Honor.

THE COURT: Okay. It will be admitted.

[State's Exhibit Nos. 236, 239, 240, and 307 through 310 admitted.]

MR. GIORDANI: Thank you. And I believe we do have some additional proposed the whole records of the [indiscernible].

THE COURT: Are the parties ready to proceed?

MS. BEVERLY: Yes, Your Honor.

MS. MACHNICH: Yes, Your Honor.

THE COURT: I'm going to bring in the jury at this time.

[Pause in the proceedings.]

THE COURT: Counsel, have a seat for a second. Apparently my marshal -- there's a technical difficulty with the headset, so as soon as it's resolved.

MS. SISOLAK: Oh, I thought we lost a juror. Sometimes they wander away.

[Pause in proceedings.]

THE COURT: Bring in the jury, please.

[Jury reconvened at 11:20 a.m.]

THE COURT: You may be seated.

Will the parties stipulate to the presence of the jury?

MS. MACHNICH: Yes, Your Honor.

MR. PLUMMER: Yes, Your Honor.

MR. GIORDANI: Yes, Your Honor.

THE COURT: Thank you.

State, call your next witness.

MR. GIORDANI: State would call Gayle Johnson.

GAYLE JOHNSON,

[having been called as a witness and first duly sworn, testified as follows:]

THE COURT: State, you may proceed.

MR. GIORDANI: Thank you, Your Honor.

THE CLERK: Please state and spell your name for the record.

THE WITNESS: Gayle Johnson, G-A-Y-L-E J-O-H-N-S-O-N.

MR. GIORDANI: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. GIORDANI:

Q Ma'am, what do you do for a living?

A I am a forensic scientist for the Las Vegas Metropolitan Police Department, assigned to the latent print detail.

Q How long have you been assigned to the latent print detail with Metro?

A In July, it will be seven years.

Q And as a forensic scientist with the latent print detail, what exactly is your job?

A So my job includes examining evidence, comparing unknown prints to known prints, processing evidence to -- in hopes of recovering

latent prints. I also generate reports, and I testify in court.

Q In order to do that job, do you have any specialized training?

A Yes.

Q Please describe it.

A I have a Bachelor of Science in natural science with an emphasis in chemistry. I have 20 years' experience working as a chemist. And when I was promoted to the late -- to the latent print detail as a trainee, that involved a two-year intensive program where I learned all of the necessary skills that I would need to be able to complete my duties as a latent print examiner.

Q I want to bring you back to September 4th of 2015. Were you the forensic scientist assigned to process prints in that case?

A Yes, I was.

Q And is there a particular event number that your processing event was done under?

A I do not remember it. I know that it starts with 1-5.

Q Okay. Does 150904-0516 sound right?

A If I could look at my report, I would be able to confirm that number.

Q Okay. Would that refresh your memory to look at your report?

A Yes, it would.

Q Go ahead and do that.

A Could you please read the event number again.

Q 150904-0516.

A Yes.

Q Okay. Around what date did you receive items to be processed in this particular case?

A It was on September 4th, 2015.

Q Okay. So the day of the event number or the incident?

A Correct.

Q Okay. Was that a scenario in which you went out to a scene, or do you stay in a lab and the evidence comes to you?

A I stay in the lab. The evidence is -- I can check out the evidence. There's a vault in our laboratory where I can check out the evidence to myself and take possession. And then I will go ahead and complete -- since, in this particular case, these were evidence items that I processed to recover latent prints from them if they were on the surfaces of the items.

Q And before we get into the specifics of this case, ma'am, describe to the ladies and gentlemen of the jury how you go about comparing known prints to prints that are taken from items of evidence.

A So what -- the first step that I do is if I do have a print that I have determined to be suitable, which means that there's enough information present that's clear enough that I can know that if I would look at a known print, the way that I'm seeing it would be very similar to how it would be recorded to a known print.

So what I will do is I will analyze this unknown print and look at the features that are present and mark them up and look at the flow, look at the pattern, look at all of the information that I have present. So I will do that first.

Once I have completed my analysis, then I will go to the known latent -- to the known prints, excuse me, and I will look and do the same type of analysis on those prints.

Q Let me stop you for a moment. You referenced known prints and unknown prints.

A Correct.

Q Just briefly, what is a known print; how do you come about getting that?

A A known print is a deliberate recording of a person's record; so it will include all 10 fingers. We know the person's name. We know the time that it was recorded and the date. So we know information about that person. And it is either kept as an inked record, or sometimes, it's electronically stored. So those are two ways that those records are kept.

Q How is it that you come about getting unknown prints?

A Well, the unknown print in this particular case is on the items of evidence that I process. And through those processing techniques, then I may recover some prints that if they do meet the suitability criteria, I will photograph. And then I will use those photographs to make my comparisons.

Q How is it that you go about developing an unknown print with specific regard to this case?

A Well, with this specific case, the items that I had were firearms and magazines. And since those items were large items, I first did visual examinations with a light source to see if there's anything that I can see

with the naked eye.

After that, I will go ahead and process them in the environmental chamber, which is like a superglue chamber. We use cyanoacrylate. It's a chemical. It's an organic chemical that what will happen is if there's any residue on the surfaces of the items of evidence, it will mix with that and it will form these white areas that can be viewed with a light source.

So after that the next step and the last step that I did with these particular items was I did use an organic solvent. It was a fluorescent dye. What that dye does is it will soften the glue and sometimes make those images a lot clearer when I'm looking at them with a light source.

Q Okay. Fair to say that fingerprints are more likely to be left on some surfaces than other surfaces?

A Absolutely. Absolutely.

Q Can you describe the differences between surfaces and how much ridge detail or how much of a fingerprint you typically would see?

A Well, specifically, let's talk about the firearms. Like on -- on a grip on a gun, it's textured. It's hard to recover any kind of latent print from a surface that has any texture. What you want is a flat, large, smooth surface.

There are some areas on a firearm, like the frame, or maybe if it's -- if it's a long gun like a shotgun, there's different pieces of metal that are housed above the trigger. Even the frame itself is a nice, large, smooth surface that is conducive to being able to recover prints.

Some other factors that are involved is the person that's handling it, they need to have substance or some sort of material, like sweat or oil on their skin, because if they don't and you touch a surface, there's not a very good chance that you're going to leave any impression behind.

THE COURT: Counsel, approach, please. Counsel, approach, please.

[Bench conference transcribed as follows:]

THE COURT: Is this witness -- is this witness being offered as an expert witness?

MR. GIORDANI: Yes.

THE COURT: Are you finished with her qualifications?

MR. GIORDANI: Yes, sir.

THE COURT: When are you going to offer her as an expert witness?

MR. GIORDANI: I didn't think we did that anymore --

THE COURT: Okay. All right.

MR. GIORDANI: -- unless I'm wrong.

THE COURT: Can you stipulate -- all of you clear as -- for appellate review --

MR. GIORDANI: Sure.

THE COURT: -- I need to make a determination that she's an expert witness.

MR. GIORDANI: I thought there was a case that came out --

THE COURT: There might be. So you're stipulating she's an

expert?

MS. MACHNICH: [Indiscernible] that case. There's words to that case --

MR. GIORDANI: Yeah. There are very -- what is the case that came out --

MS. MACHNICH: I think it says we can't qualify --

MR. GIORDANI: -- that says we don't qualify them as experts any longer. Actually, not supposed to.

THE COURT: That's fine.

MS. SISOLAK: I can have my law clerk verify it if you want --

THE COURT: No, that's fine. I just procedurally wanted to make sure I didn't have an issue --

MR. GIORDANI: Yeah.

THE COURT: -- for appellate review.

MR. GIORDANI: Before we move on then, until we resolve that issue --

THE COURT: No. If there's case law -- no. If there's case law that resolves it, that's fine.

MS. MACHNICH: I don't know, guys. I know that there's a case that says we don't put on the record if their experts, because it potentially gives more credence --

THE COURT: So I'm going to let her -- I am -- just so you know, I am satisfied she's an expert.

MR. GIORDANI: Okay.

MS. MACHNICH: Okay. Thank you. And we would not --

THE COURT: So we won't come back. So I'm going to let her testify as an expert in her specialized knowledge.

MS. MACHNICH: And, Your Honor, Mr. Turner has no challenges to the qualifications.

THE COURT: Okay. Thank you.

MR. GIORDANI: Thank you, Your Honor.

[End of bench conference.]

BY MR. GIORDANI:

Q Ma'am, you referenced different types of surfaces on firearms that could be -- could potentially yield a print; was that right?

A Correct.

Q Are there certain surfaces that are more amenable to yielding a print or not?

A Yes.

Q And describe that.

A As I was saying, like, a flat surface, glass. The surface should be smooth. Again, if it's a large flat surface, it's better than, say, a curved surface, things of that nature.

Q Thank you. You may have already said that, and I missed that. I apologize.

A That's okay.

Q So in this particular case, how many items of evidence did you receive for examination?

A There was actually five different items that I received.

Q And can you describe the first item?

A It was a AK-47 firearm.

Q Showing you State's 395.

MR. GIORDANI: I got it. I think so.

Q While that's booting up, showing you State's 395; is that the firearm that you referenced?

A Yes.

Q There we go. So we have a new fancy system in this courtroom.

MR. GIORDANI: May I approach the witness?

THE COURT: You may.

BY MR. GIORDANI:

Q And I believe that you can mark using the mouse on that.

Did you process that particular firearm --

A Yes, I did.

Q -- for fingerprints?

A I did.

Q What areas did you process?

A I processed the whole -- the whole item.

Q Okay. When you say the whole item, do you mean all the surfaces we're seeing on that item?

A Yes. It was actually placed into a chamber that was large enough to be able to hold that whole item.

THE COURT RECORDER: Your Honor, can we just pause for a moment please? Sorry.

MR. GIORDANI: It's okay.

THE COURT: Apparently there's some issues with the --

[Equipment malfunction, pause in proceedings.]

BY MR. GIORDANI:

Q All right. You see the large, what appears to be green surface here?

Well, it looks like we're paused. Should I --

[Pause in the proceedings.]

BY MR. GIORDANI:

Q This large surface here, ma'am --

A Yes.

Q -- what type of surface is that?

A I don't recall, because, I mean, is it metal? It's a metal surface. But I don't understand; is that what you're asking?

Q Well, do you know what this portion of the gun is made out of?

A I believe it was -- I don't -- I can't recall. I mean, I don't --

Q Okay. You don't --

A I'm going to have to look at my notes. Because I take --

Q Would it refresh your memory --

A Yeah.

Q -- to look at your notes?

A Yes, yes.

Q Go ahead and do so.

A Okay.

Q Anytime you need to be refreshed, just let us know.

A Yes. It was black, smooth metal.

Q Okay. And then there is a grip, a handle grip, where the trigger is. And then there's another handle grip on the fore-end of the stock; is that right?

A Correct.

Q Are those -- do you recall what those surfaces are?

A I believe the grip was textured plastic material. And the forward hand, more of the barrel style, was probably metal.

Q Okay. And then there's -- the components of the gun on the top, are those all metal except for this piece of wood at the top?

A Yes. They were black metal.

Q Okay. Did you process -- you said you processed the entirety of the gun?

A Yes. The only thing that I would say that was different from this photograph is the magazine that you see there in the middle was removed. And I processed that separately and not having it in the gun at the time.

Q Understood. We'll get to that in a moment. So with specific regard to the gun, not the magazine, were you able to develop any prints from that item?

A I was not able to develop any suitable prints.

Q Okay. What is a latent print?

A The latent print, again, remember, it's an accidental touching on a surface that might leave behind an impression that reproduced the patterns of the different ridges on your skin.

Q I understand.

A That is a latent print. It's -- you cannot see it. It's naked -- I mean, excuse me -- it's not visible to the naked eye.

Q Understood. What is a suitable latent print?

A A suitable latent print has to have at least eight features that are visible that you can use for a comparison.

Q Okay. And I believe you said that you got no suitable latent prints from this particular item; is that right?

A Correct. It was -- insufficient ridge detail was found on the metal housing above the trigger.

Q Okay. The metal housing above the trigger --

A Uh-huh.

Q -- can you circle that area?

A I'll give it a shot.

Q I think you might be the first person to ever do this.

A Let's see how --

Q I think you have to hold the mouse down continually.

A Okay.

Q Okay. Is that the area where you lifted some ridge detail?

A Correct.

Q And --

A I was able to recover that I saw with the light source that there -- there was ridge detail that I could see. But there wasn't enough to render it suitable for a comparison.

Q Okay. Were there any other potential prints, suitable or otherwise, lifted from that particular one?

A No.

Q How about the magazine that you referenced that goes with this one?

A No. There was nothing recovered from the magazine.

Q Okay. So there's a difference there, right? There's nothing recovered treat from the magazine, but there's something recovered from the firearm, it's just not enough for you to make a conclusion?

A Correct.

Q Is that right?

A That is correct.

Q Okay.

MR. GIORDANI: We're paused again.

[Equipment malfunction, pause in proceedings.]

BY MR. GIORDANI:

Q Did you also receive a small frame handgun to test?

A Yes, I did.

Q Showing you now State's 390; does that appear to be that firearm?

A Yes.

Q What areas of this firearm did you attempt to process?

A Again, the whole firearm was placed into the environmental chamber.

Q Okay. And what -- did anything come of that test?

A No. There was no suitable -- there was nothing -- there was no latent prints at all recovered from this item.

Q Okay. So, again, difference between suitable and nothing at all is you don't find anything that could be ridge detail on this firearm?

A Correct.

Q Okay. I want to show you now State's 391; did you also process that item of evidence?

A I did.

Q And did you place that into the chamber as well?

A Correct, I did.

Q What were the results of that?

A I was able to recover two suitable latent prints from this item of evidence.

Q Okay. So now we're talking suitable latent prints. Does that mean that there's enough ridge detail that you can compare it to someone's known prints?

A Correct.

Q How many known prints did you receive in this case?

A I had four different people that I was looking at.

Q Okay. And who were those four people?

A Steven Turner, Clemon Hudson, Anya Saiko [phonetic], and I cannot remember the officer's name. I'd have to look at my report.

Q Would that refresh your memory, ma'am?

A Yes.

Q Go ahead and do so.

A Joshua Bitsko.

Q Okay. Joshua Bitsko, is that a canine detective or sergeant

that may have handled the firearm?

A Yes.

Q Okay. And then Anya Saiko, is that a forensic scientist within the Firearms and Tool Marks division of your unit?

A Yes.

Q So are you putting those print -- known prints up against any suitable latent prints that you find in order to determine whether it may be a Metro employee who left that print?

A Correct.

Q What were your results as to the two latent prints that you lifted from this shotgun?

A I was able to identify them.

Q As?

A The -- the first latent that I recovered, I was able to identify to the right ring finger of Clemon Hudson. And the second print, I was able to identify to the left little finger of Clemon Hudson.

Q Okay. The first print that you identified as Clemon Hudson's, where did that come from on the firearm?

A Both of the latent prints were recovered from this metal area above the trigger. I'll try to draw this. Sorry. They were from, like, near this ejection port area. I don't know if I would just draw a little spot right there and over here.

Q Okay. And the first print that you referenced, would that be the one on the left?

A I would have to refer to my photographs to be able to tell you

which one was -- I just remember the general area of where they were recovered from.

Q Would that refresh your memory?

A Yes.

Q Go ahead and do so.

A [Witness complies.] So the -- the one that was recovered or that I identified to the right ring finger was this one on this side. That was where L-1 was photographed and taken from. And the left little finger was L-2, which was from this side.

Q Okay. So for the record, the ejection chamber is in between those two rounds -- I mean, those two prints that you just identified in the exhibit, correct?

A Correct.

Q The exhibit that comes -- I mean -- sorry, the print that comes from the right ring finger would be to the right of the ejection port?

A Correct.

Q And the print that comes to the left little finger of Clemon Hudson would be the -- to the left of the ejection port?

A That's correct.

Q Okay.

MR. GIORDANI: I'll pass the witness.

Thank you, ma'am.

THE COURT: Defense, any questions?

MS. MACHNICH: Very briefly, Your Honor.

CROSS-EXAMINATION

BY MS. MACHNICH:

Q Good morning.

A Good morning.

Q I just have a few questions for you to make sure that we understand everything that you've done in this case. You were given the five items to examine?

A Correct.

Q Okay. These included the AK-47 rifle? Yes?

A Yes.

Q Okay. Also, the magazine to that rifle?

A Correct.

Q Okay. A shotgun?

A Correct.

Q All right. A Beretta handgun. Yes?

A Yes.

Q Oh, sorry. And the magazine to that handgun?

A Yes.

Q All right. And to your knowledge, these consisted of all of the firearms impounded as belonging to the suspects in this case? Are you -- are you given that information?

A No.

Q Okay. Fair to say you did not receive any additional magazines that may have been located on the scene?

A Correct.

Q Okay. And you testified that you were only able to lift latent prints suitable for comparison from the shotgun?

A Correct.

Q Right? And those prints were identified as belonging to Defendant Hudson?

A Correct.

Q Okay. And you have fingerprint exemplars from both Mr. Hudson and Mr. Turner?

A That is correct.

Q And you were unable to find any latent prints belonging to Mr. Turner?

A Correct.

Q Thank you, ma'am.

MS. MACHNICH: Nothing further. Thank you, Your Honor.

THE COURT: Thank you.

Mr. Plummer.

MR. PLUMMER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. PLUMMER:

Q Good afternoon, ma'am.

A Good afternoon.

Q So you weren't able to find suitable prints for anybody on any of the weapons except for the shotgun?

A Correct. The only prints that I recovered that were suitable to compare to anyone was from the shotgun.

Q Is that normal as far as not finding prints?

A Yes.

Q Thank you.

THE COURT: Thank you.

Any redirect by the State?

MR. GIORDANI: No, Your Honor. Thank you.

THE COURT: Can this witness be excused?

MR. GIORDANI: Yes, Your Honor.

THE COURT: Ma'am, thank you.

THE WITNESS: Thank you.

THE COURT: You are excused.

State, you may call your next witness.

MR. GIORDANI: Thanks. The State would call Kimberly Dannenberger.

KIMBERLY DANNENBERGER,

[having been called as a witness and first duly sworn, testified as follows:]

THE CLERK: Would you please state and spell your name for the record.

THE WITNESS: Kimberly Dannenberger. K-I-M-B-E-R-L-Y D-A-N-N-E-N-B-E-R-G-E-R.

MR. GIORDANI: May I?

THE COURT: Yes, you may.

MR. GIORDANI: Thank you.

DIRECT EXAMINATION

BY MR. GIORDANI:

Q What do you do for a living, ma'am?

A I am employed with the Las Vegas Metropolitan Police Department's Forensic Laboratory as a forensic scientist in the biology DNA detail.

Q How long have you been with the Metro lab in the forensic biology detail?

A I have been in the biology section for approximately seven years.

Q And what type of education and training did you receive in order to become a forensic analyst?

A I have a Bachelor of Science degree from the University of Nevada, Las Vegas, in cell molecular biology. As well, I completed an approximate 16-month training program with our forensic lab in the biology section.

Q What is DNA, ma'am?

A DNA is, basically, our genetic blueprint. It's what makes us who we are. Our unique characteristics such as eye color, hair color, height, skin color, those are all coded by our DNA.

Q How is it that someone may leave their DNA behind on a particular item?

A DNA can be left behind in multiple ways. It can be from a bodily fluid, such as saliva or blood, or it can be also be left behind from skin cells. So when we're handling everyday items, our skin cells are

constantly sloughing off.

Q If I were to reach up and touch this podium with my fingers, am I going to leave DNA on there for sure?

A It is possible. I can't say whether for sure or not.

Q Okay. There are several factors that go into whether DNA is left behind on a particular item?

A There are, yes.

Q And describe those for us.

A It can be dependent upon how often the item is handled, if the item was left out in the elements, such as rain or sun, if it was recently washed. Like I just mentioned, bodily fluids are going to give a better chance of DNA recovery as opposed to just touching something very quickly. So it is dependent upon a lot of factors. The surface of the item, if it's smooth versus rough. So a lot of factors at play as to whether DNA could or could not be left behind.

Q You referenced surfaces of items and whether they're smooth or rough; how does that come into play with regard to DNA?

A Typically, a rough surface can provide a better opportunity for DNA recovery, just because when it's rough, you have a better chance of your skin cells sloughing off or DNA kind of being stuck in the crevices. But we can also recover DNA -- or, excuse me, obtain DNA profiles from smooth surfaces as well.

Q Okay. Did you conduct testing under Las Vegas Metropolitan Police Department Event No. 150904-0516?

A I did, yes.

Q And do you recall how many items of evidence you received for testing?

A I would have to reference my report.

Q Would that refresh your memory?

A Yes, it would.

Q Go ahead and do so.

A [Witness complies.] Nine items. And then three reference standards.

Q What is a reference standard?

A A reference standard is a known standard. So that means we know where that DNA sample came from. It's typically a -- we call a buccal swab. It's a swabbing of the inside of your cheek. They're called buccal cells; we call them a buccal swab.

Q Okay. So you received three knowns?

A I did, yes.

Q Who were those from?

A Can I reference my report?

Q Sure.

A They were from J. Bitsko, Clemon Hudson, and Steven Turner.

Q Okay. To your knowledge, is J. Bitsko a canine sergeant?

A I believe so, yes.

Q Okay. The items that you described having received for testing in addition to the knowns, how is it that you go about comparing a known sample of DNA to an unknown or potential DNA?

A Throughout the DNA processing -- so once I establish which samples I'm going to take from those items of evidence, whether it be a stain or if I'm swabbing the entire item for possible touch DNA, so the skin cells, I will ultimately produce a DNA profile. So I'll take the DNA profile from the evidence found at a scene and compare it to those known reference standards, the DNA profile from the known reference standards.

Q Okay. So we're talking about an item of evidence that's left at a crime scene. That comes to you. How is it that you go about processing that item for potential DNA?

A It is dependent upon the case and what is given to me. So kind of depends on the item of evidence as well.

Q Okay. Let's talk generally about firearms.

A Okay.

Q How is it that you go about processing firearms for DNA generally?

A Generally, we will swab the areas that are primarily touched by the person handling the firearm. So, typically, it's going to be the trigger area, the grips, any rough areas on the firearm is where we typically will swab for DNA.

Q Okay. Are there times where you're potentially avoiding areas of, say, a firearm where there may be prints left behind and swabbing around those for DNA?

A Yes. We do try to preserve evidence for other details as well.

Q Okay. And I want to start with one item of evidence. Yugo

long rifle; did you receive that for processing?

A I did yes.

Q Showing you State's 395; does that look like that rifle?

A I believe so. I have to reference my case file.

Q Okay.

A But, yes, I did process a Yugo long rifle.

Q Okay. Let's talk about how you processed the Yugo rifle in this case; how did you go about doing that?

A So in this case, looking at my report, I swabbed the triggers, the textured surfaces of the bolt-action lever, and then additional areas near the triggers, the grips, the stock, the grip pod, and butt of the rifle.

Q Okay. Now, for -- for the members of the jury that may not be familiar with firearms, can you point to those areas using that mouse actually? It's a new system.

A The mouse? Okay.

MR. GIORDANI: Can I approach, Your Honor?

THE COURT: You may.

BY MR. GIORDANI:

Q You can hold the mouse button down when you find your area.

A Okay.

Q And then make a mark while holding it down.

A Okay.

Q Just describe what you're marking.

A Sorry. I apologize. It's slow. So -- thank you.

[Pause in proceedings.]

BY MR. GIORDANI:

Q You referenced several areas you swabbed. Why don't you just go through those and show the jury what you're talking about.

A So this would be the trigger area; the grip would be this area, this area as well; the butt of it is kind of hanging out of the picture, but it'd be the end.

And then I swabbed the rough areas as well, so -- I apologize. It's not moving as fast. So we're going to have the stock area be around in here. It might not be exactly where I swabbed, but these are the general areas.

Q Understood.

A And then here. So sticking more to the textured surfaces, because other details such as latent prints, they are for the smooth areas. And we'll also consult with them as to what areas we can swab to preserve their evidence.

Q Okay. After swabbing all those different areas, what do you do next?

A I put the -- I take the sample and I put it through a series of lab processing steps to ultimately arrive at -- to obtain a DNA profile. So our DNA profile, when I do my comparisons, I'm looking at, basically, a graphical representation of our DNA profile. So I'll compare that graphical representation from, say, the swabbing from this rifle to all the known standards I have in the case.

Q Okay. Now, in this particular case, after swabbing all of those

different areas on this gun, you conduct your -- your tests. And then do you automatically compare whatever you get to the knowns, or do you have to have a certain amount of data in order to compare it to the knowns?

A We do have to have a certain amount of data. So the first thing I will do is look at all the profiles obtained from the evidence samples and determine if I can even make interpretations from those profiles. Sometimes, there is not enough DNA present for me to say yes or no if someone can or cannot excluded or included. And sometimes there's just too much DNA present for me to make conclusions. So I do have to determine if the profile's even suitable for interpretation.

Q Okay. And with regard to the long rifle, what were your results?

A For this rifle -- excuse me -- it was consistent with a mixture of at least four individuals with at least one being male. However, due to the limited data available, no conclusions could be made.

Q Okay. There's a couple of buzzwords that are referenced there; what is a mixture profile?

A So a mixture profile, I'm determining upfront that there are at least two or more people present on the sample that I obtained.

Q Okay. Sometimes, I'm just talking generally here, you'll get a profile and it's clear that it's a single person's profile; is that right?

A That is correct, yes.

Q Okay. With regard to this particular case, you said that it's at least two peoples' DNA -- I'm sorry, at least four peoples'?

A Correct.

Q With at least one being male?

A That is correct.

Q Okay. How is it that you determine briefly how with at least one being male?

A We have a -- when we're looking at the graphical representation of our DNA, we're looking at 16 different locations. So one of those locations actually lets or determines for us, lets us know if there's going to be a male or female present or sometimes both. So depending on the results at that one location, I can determine if there's at least a male present in that profile.

Q Okay. So without -- without sounding too basic, in this particular case with this firearm, you have at least four people, one of them are male?

A Correct.

Q But there's not enough data to compare to the known standards of Mr. Turner or Mr. Hudson?

A Correct. The profile as a whole, I could not make any conclusions.

Q Okay. So there's DNA there, we just can't tell whose it is?

A Correct.

Q It may very well be Turner's and Hudson's, we just don't know that?

A Correct. I cannot make any conclusions.

Q Understood. Did you also test the magazine that came out of

that firearm?

A I did, yes.

Q What were your results there?

A For the magazine, there was a partial DNA profile obtained consistent from originating from at least one contributor. And due to the limited data available, no conclusions could be made.

Q Okay. What do you mean by partial -- partial DNA profile?

A So as I just mentioned a few minutes ago, I'm looking at 16 specific locations on our DNA profile. If we do not get any peaks on that graph, if we don't get any peaks at one of those locations, we consider it a partial. So we don't have data at all locations.

Q Okay. So again -- and if I'm saying it to you basically, please correct me. Here, we have potential DNA on the magazine, just not enough data to compare to Turner and Hudson?

A Correct. I cannot make any conclusions.

Q Okay. Did you also process a shotgun?

A I did, yes.

Q Showing you 391; does that appear to be that shotgun?

Oh, I'm not showing you 391. There we go.

Does that appear to be that shotgun?

A I believe so. I processed a Mossberg shotgun.

Q Understood. These aren't your photos, right?

A They are not.

Q These are crime scene photos?

A It appears so, yes.

Q Okay. Do you have your own photos that you keep of an item?

A As an analyst, we can choose to take photos. So if I did, they'd be in my case file.

Q Okay. And I'm sure if this was not the shotgun, the defense would be jumping up and down. So let's go with this as the shotgun, okay?

A Okay.

Q What areas on the shotgun did you process?

A On this shotgun, I -- I took sampling from staining that was found on the stock as well as I took a separate sample. I swabbed the trigger, the forestock, and the butt of the shotgun.

Q Okay. Real briefly, mark those areas so the jury understands what you're talking about.

A [Witness complies.] So this would be the trigger area. The forestock would be up here. And then the -- the butt of the gun is going to be down on the end of it.

Q Okay. So when you say the butt of the gun, you're talking about the actual back end of it, not the whole butt?

A Correct. Where, like, the -- the textured surfaces are going to be typically on the -- on the backside.

Q Oh, okay.

A Where -- where it would potentially sit in your shoulder area.

Q Understood. Did you -- were you able to obtain a profile from the Mossberg 12-gauge shotgun?

A Excuse me. For Item 5.1, which was apparent staining on the stock, a DNA profile was not obtained.

Q When you say apparent staining on the stock, what does that -- what do you mean there?

A When I was analyzing this shotgun, there appeared to be indications of red-brown staining, which can indicate possible blood. So I did a chemical test while I was examining the shotgun to determine if it was possible blood or not, and I took that sample forward.

Q Okay. What was the result of the possible blood test?

A For the possible blood, so it's a presumptive test only, it was positive.

Q Okay. So your presumptive testing indicates it's blood. You go ahead and swab it and then attempt to get a DNA profile from it?

A That is correct, yes.

Q Okay. And in this particular case, did you say what your results were?

A No. A DNA profile was not obtained.

Q Okay. What about the areas being the trigger, forestock, and butt?

A So for the swabbing I took from those areas, it was -- a partial DNA profile was obtained consistent with originating from at least one male contributor. However, due to limited data, I could not make conclusions.

Q Okay. So with regard to this, there was potential DNA on there, just not enough for you to compare it to Mr. Turner or Mr. Hudson;

is that right?

A Correct. I could not make any conclusions.

Q Okay. Showing you now State's 390; did you also test a small Beretta handgun?

A I did, yes.

Q Got to get used to this. All right.

Does this appear to be the Beretta? Or are you sure?

A I -- it's the same -- the personnel number on the ruler is the same personnel number that I have in my report as well.

Q Understood. Did you process -- what areas did you process on the small Beretta handgun?

A So for this, I swabbed -- I took swabbing from the trigger, the safety, the magazine release, the hammer, the grips, and the textured areas on the slide.

Q Okay. I believe you've referenced those areas with the other firearms, except for what do you mean by the slide?

A Did you want me to use the mouse?

Q Please.

A So for the slide, it's going to be -- I would -- I swabbed this area, these textured areas below the red line.

Q Understood. Did you get enough data to compare that to Mr. Turner or Mr. Hudson or no?

A So for this Beretta, my DNA results, a DNA profile was not obtained.

Q Okay. Did you also test a magazine that came with the

Beretta?

A I did yes.

Q Okay. And the magazine being the item that holds the cartridges that slides into the bottom of that hand grip; is that right?

A That is correct, yes.

Q And I presume you swabbed most of that?

A For the magazine, I swabbed the base and feed areas.

Q Oh, okay.

A So looking at a magazine, the base of it, and then where you would put the ammo.

Q Understood. Were you able to obtain a DNA profile from those areas?

A So for the magazine, the results, I obtained a partial DNA profile consistent with originating from at least one contributor. However, due to the limited data available, I could not make conclusions.

Q Okay. Are those the only three firearms that were tested in this case?

A They were, yes.

Q Do you also test an item of clothing?

A I did, yes.

Q Showing you State's 195; does that look familiar to you?

A Yes.

Q Does that appear to be the item of clothing that you tested in this case?

A It does. I had an orange-and-black beanie noted on my report.

Q Okay. Now, is processing an item of clothing such as this different than how you go about processing a firearm?

A It can be, yes.

Q How is it done in this case?

A In this case, I looked at various staining that was on the item of evidence. As well, I took a swabbing from the inside for potentially who could have worn it or handled the item.

Q Okay. So there's areas of staining, and then you take samples from inside the actual beanie where there may not be apparent staining; is that right?

A Correct.

Q How do you go about taking those samples?

A Typically, we take a small cutting, depending on the sample size. Depending on the item of evidence, sometimes we will take a swabbing of the stain.

Q Okay. And in this particular case, how many different areas did you test on this item?

A For this beanie, I tested -- I took on a total of four different samples.

Q Okay. Where did those areas come from?

A So Item 15.1's going to be the stain from the front of the beanie; Item 15.2 is the stain from the front brim; Item 15.3 was a swabbing on the inner brim and lower outer black stripe on the brim; and

then Item 15.4 was swabbing of white substance on the backside of the beanie.

Q Okay. Let's start with the stain from the front of the beanie; can you see that in this photograph?

A I would have to reference my notes to determine what stain I actually took on.

Q Okay. But when you're referencing the front of the beanie, are we talking about the area where that logo isn't up?

A Yes.

Q Would that be the front?

A Yes.

Q Okay. Did you generate a profile from that area?

A So for the stain from the front, I did obtain a DNA profile.

Q Okay.

A The full DNA profile from the front of the beanie is consistent with Clemon Hudson.

Q Okay. Is there any type of ratio, probability ratio, or anything associated with that finding?

A Yes. Any time you make a conclusion where somebody is included or consistent with a DNA profile, we have to give a statistical weight to that inclusion.

Q Okay.

A So in this case, that is -- the probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the DNA profile from the evidence is

approximately 1 in 1.55 sextillion.

Q What is sextillion? Can you quantify sextillion?

A So sextillion is a number with 21 zeroes behind it. A million is going to be a number with six zeroes, just to put it into context for you.

Q Okay. So 1 in 1.55 sextillion with regard to that specific area?

A That is correct, yes.

Q Did you exclude anybody from that same profile?

A I did, yes. J. Bitsko and Steven Turner were excluded as possible contributors.

Q Okay. You also referenced a swabbing taken from the inner brim and lower outer black stripe on the brim of the beanie?

A Yes.

Q And did you obtain a profile from those areas?

A Yes. So the -- the DNA profile obtained from the swabbing on the inner brim and the lower outer black stripe is consistent with a distinguishable mixture of at least two people, at least one of those being male. And I was able to generate a major DNA profile from that that was consistent with Clemon Hudson.

Q Okay. I don't believe you've talked about this yet, correct me if I'm wrong; what is the difference between a major profile and a minor?

A So when I'm looking at the DNA profile I mentioned earlier, it's a graphical representation of our DNA. So we do have, basically, peaks on a graph. So as I'm looking at the profile as a whole, there are going to be peaks that are consistently higher than other peaks.

So in the instance when I can say through my interpretations, I

can pull out a major profile from any minor profiles, from littler peaks, bigger peaks compared to little peaks.

Q Okay. And I believe you indicated that the major profile is consistent with Clemon Hudson; is that right?

A That is correct, yes.

Q What was the statistical number associated with that finding?

A So the probability of randomly selecting an unrelated individual from the general population having a profile consistent with a major profile is going to be approximately 1 in 1.55 sextillion.

Q Okay. You also swabbed a white substance on the backside of the beanie; is that right?

A That is correct, yes.

Q Were you able to obtain a profile from that area?

A For that one, I was.

Q And what were your results there?

A So from that white substance, it was consistent with a mixture of at least two individuals, at least one being male. However, due to limited data, I could not make conclusions.

Q Okay. So there is potential DNA on there, or there is DNA on there, it's just not enough to compare to Turner and Hudson, correct?

A Correct. I can't make any conclusions.

Q Were there also some swabs submitted to you for testing?

A There was, yes.

Q What's the difference between a swab and a swabbing?

A So when I'm referencing a swab on my report, typically that

was swabbed at the crime scene, typically by a crime scene analyst. Swabbing is something that I do myself in the lab; so I'm actually examining the evidence.

Q Okay. So how many swabs did you obtain to test in this case?

A In this case, I had three swabs that were submitted to me.

Q Okay. Did those -- are those associated with lab item numbers?

A Those are going to be Lab Items 16, 17, and 18.

Q Okay. Let's start with 16; do you know where that swab came from or a general description where it came from?

A A swab was from the north sidewalk of East Nunca Street, and it was referenced as AB1.

Q Did you compare that swab -- or did you obtain a profile from that swab?

A For Item 16, I did, yes.

Q And what were your results there?

A The full DNA profile obtained was consistent with Clemon Hudson.

Q Okay. What was the number -- I'm sorry -- associated with that?

A That statistic is going to be the same as the last one I mentioned, approximately 1 in 1.55 sextillion.

Q Okay. Lab Item 17 is another swab, correct?

A It is, yes.

Q Where was that taken from?

A That was from the rear patio north of the table, referenced as AB2.

Q And were you able to obtain a profile from that swab?

A Number 17, I was, yes.

Q What were your results there?

A The full DNA profile obtained was consistent with Clemon Hudson.

Q And is there a statistic associated with that finding?

A There is, yes.

Q And what is that?

A That is going to be the same as the one I just mentioned, approximately 1 in 1.55 sextillion.

Q Okay. Lab Item 18, did you receive a swab there?

A I did, yes.

Q And where was that from?

A That was a swab from the walkway in the rear yard, referenced as AB3.

Q Okay. What -- did you obtain a profile from that swab?

A I did, yes.

Q What were your results?

A For that sample, the full DNA profile obtained was consistent with Clemon Hudson.

Q Okay. Is there a statistic associated with that finding?

A There is, and it's the same as the one I previously mentioned: Approximately 1 in 1.55 sextillion.

Q Okay. Were there any other items of evidence that you tested in this case?

A From the crime scene, no. The other items are going to be the reference standards I mentioned earlier.

Q Okay. Thank you very much.

MR. GIORDANI: I'll pass the witness.

THE COURT: Counsel, approach.

[Bench conference transcribed as follows:]

THE COURT: And for the record, I'm making a ruling that I accepted this witness as an expert in forensic science, and there was no objection or challenge by the defense as to the qualifications of this expert.

MR. GIORDANI: Thank you, Your Honor.

MS. MACHNICH: No challenge by Mr. Turner.

THE COURT: Huh?

MS. MACHNICH: No challenge by Mr. Turner.

MR. PLUMMER: No objection, Your Honor.

THE COURT: Thank you.

MR. GIORDANI: Thank you.

THE COURT: Thank you.

[End of bench conference.]

CROSS-EXAMINATION

BY MS. MACHNICH:

Q Good afternoon.

A Good afternoon.

Q All right. I have just a few questions for you, all right?

A Okay.

Q Okay. So you don't get access to all of the evidence impounded in a case, correct?

A That is correct.

Q Things are submitted to you for testing?

A Correct, yes.

Q Okay. So you are aware that many things were impounded in association with this case?

A I -- yes. I mean, I'm sure there were more.

Q Okay. Of course. And so fair to say you were not asked to test a black metal magazine apparently to a firearm other than what you've tested and what you've talked about today?

A Correct.

Q So no other errant magazines separate from the firearms that you tested?

A Correct. This is all that I -- I did DNA testing on.

Q Okay. And so it's also fair to say that you were not given a swab of possible DNA located at the exterior front entry security door handle?

A I was not, no.

Q Okay. Or a swab of possible DNA from thea exterior front entry door handle?

A I was not.

Q Okay. Or a swab of possible DNA from the exterior north side

garage door handle?

A I was not, no.

Q All right. Or a swab of possible DNA from the exterior rear patio door handle?

A I was not.

Q Okay. But you did examine the nine items that you discussed on your direct examination?

A That is correct, yes.

Q Okay. And those actually ended up being 16 separate lab items?

A Yes. Nine, we call them pair items, and then I would take additional samples from those nine main items, yes.

Q Perfect. And they -- and they included, as you testified, three firearms that -- and I don't know if you're aware, allegedly belonged to the suspects in this case?

A Correct. Three firearms, yes.

Q All right. And you were unable to conclusively match anything you tested to Mr. Turner?

A On my interpretable -- excuse me. All the samples I could make interpretations on, he was excluded.

Q Thank you.

MS. MACHNICH: Nothing further.

THE COURT: Mr. Plummer?

MR. PLUMMER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. PLUMMER:

Q Good morning.

A Hi.

Q The prosecutor asked you about three items. First, Item 16, which was a swab from the north sidewalk of East Nunca Street.

A Yes.

Q Now, that swab was submitted to you for testing?

A It was, yes.

Q And that swab was, basically, a swab of blood?

A Based on the presumptive testing I did, there was an indication -- it was possible blood, yes.

Q So they swabbed the sidewalk of something that -- presumptive positive for blood?

A That is correct, yes.

Q Item 17, a swab from the rear patio north of the table. Again, that was also a swab that was submitted to you with the presumptive positive for blood?

A Correct. It was presumptive for blood.

Q And Item 18, a swab from the walkway in the rear yard; again, a presumptive positive for blood?

A Yes.

Q And I believe it's already been stated: You only test what's actually submitted?

A That is correct, yes.

Q So if the police don't believe something's of evidentiary value to submit to you, you're not going to test it?

A Correct. I don't question what comes through my requests -- on my requests.

Q Thank you.

THE COURT: Any redirect by the State?

MR. GIORDANI: No, Your Honor.

THE COURT: May this witness be excused?

MR. GIORDANI: Yes, Your Honor.

THE COURT: Ma'am, thank you.

THE WITNESS: Thank you.

THE COURT: You're excused.

State, call your next witness.

MR. GIORDANI: That's it for the morning, Your Honor.

THE COURT: We're going to take our -- counsel, approach.

[Bench conference transcribed as follows:]

THE COURT: How many witnesses do you have? Two witnesses?

MS. BEVERLY: Two --

MS. MACHNICH: Can you bring anymore?

MS. BEVERLY: No.

MR. GIORDANI: Yeah, because it's the same ones who have the [indiscernible].

MS. MACHNICH: Oh, they're in it today too?

MR. GIORDANI: [Indiscernible.]

THE COURT: Okay. So I'm going to recess until about 1:45.

MS. BEVERLY: Okay.

THE COURT: Okay. Are your witnesses going to be available at 1:45?

MS. BEVERLY: Yeah, that's fine.

THE COURT: Okay. Then, I'll recess until 1:45.

MS. MACHNICH: Thank you, Your Honor.

MS. SISOLAK: Thanks.

MS. BEVERLY: Okay.

[End of bench conference.]

THE COURT: We're going to take our lunch recess at this time. We're going to be in recess until 1:45.

During this recess you are admonished not to talk or converse among yourselves or with anyone else on any subject connected with this trial or read, watch, or listen to any report or any report -- of or commentary on the trial or any person connected with this trial by any medium of information, including, without limitation, to social media, text, newspapers, television, the Internet, and radio.

Do not visit the scene of any of the events mentioned during the trial or undertake any investigation. Do not do any posting or communication on any social networking sites or do any independent research including Internet searches or form or express any opinion on any subject connected with the trial until the case is finally submitted to you.

We'll be in our lunch recess until 1:45.

[Court recessed at 12:19 p.m., until 2:00 p.m.]

[Outside the presence of the jury.]

THE COURT: This is the continuation of the trial of Case No. C-15-309578-1 and -2, *Plaintiff, State of Nevada vs. Defendants Steven Turner and Clemon Hudson.* Let the record reflect the presence of counsel for the State, counsel for the defendants, and the presence of the defendants.

Counsel, we're ready to proceed?

MS. BEVERLY: Yes.

MS. MACHNICH: Yes, Your Honor.

MR. PLUMMER: Yes, Your Honor.

THE COURT: Thank you.

MS. BEVERLY: Oh, actually, can we just make a record just of what we talked about in chambers?

It's the State's intention at this point to introduce the statements of both Mr. Hudson and Mr. Turner. There have been extensive records over the prior -- prior months regarding redactions related to the two statements of Mr. Hudson and now the two statements of Mr. Turner.

Just in an abundance of caution, the State's going to ask this Court with permission to not only have the witness take the redacted statements on to the stand so they are well aware of what they can and can't get into, we'd ask for that, and we'd also asked for leeway to lead the witness. That way, we can avoid any type of incidences in this case. The witnesses have been told about what they can and can't get into,

but they're still kind of lengthy statements, so.

THE COURT: Defense, what's your position?

MS. MACHNICH: Your Honor, on behalf of Mr. Turner, we think that is a good idea for them, the witnesses, to have copies of the statements up there with the proper redactions. And I assume that the State has also indicated to their witnesses which statements of Mr. Turner's are out and aren't coming in and the contents thereof. Obviously, we'll see if anything happens, but we are in support of avoiding issues at all costs.

We also discussed in chambers about the limiting instruction. I believe Mr. Giordani is almost done with that at this time. And on behalf of Mr. Turner, we would request that be read before the witness who's testifying about Mr. Turner's statement. Obviously, that's the one that we can speak to.

And before Mr. Hudson's statement -- I guess specifically before Mr. Hudson's statement, because that's the one that does not come in against Mr. Turner, I would guess that counsel for Mr. Hudson will have the same idea for the statements by Mr. Hudson -- by Mr. Turner. But we'll submit.

THE COURT: All right. So what -- Mr. Plummer, what's your position?

MR. PLUMMER: Your Honor, I -- I do agree with what the State's trying to do. My concern is the -- the leading in a way that it appears to be more cross-examination, where they get all of the points that they want out without having to ask the witness a particular

question.

THE COURT: All right. What's your --

MR. PLUMMER: I don't mind a little leading to focus the witness to a particular area. But I think the witness needs to give an answer based on an open-ended question.

MS. BEVERLY: I guess the problem with that, Judge, though, is that there are certain portions of the statement that use the pronouns. And I want to make sure that the correct pronouns, word for word what's in that statement, is coming out, not something, you know, off the memory.

Typically, in a situation like this, I would play a statement. But because of the amount of redactions, it would have just sounded ridiculous. So I want to make sure that there's no confusion that the exact wording is getting out there so there's no objection to the witness, you know, summarizing stuff.

THE COURT: Okay. I am going to allow the witnesses to have the redacted statement at the witness stand. I'm going to allow the State to lead the witnesses.

Also, are you requesting a limiting instruction, Mr. Plummer?

MR. PLUMMER: Yes, Your Honor.

THE COURT: Thank you.

Counsel for the State, I need you to identify, when you begin your questioning, what defendant the statement is being offered against.

MS. BEVERLY: Sure.

THE COURT: And then I will give a limiting instruction that it's

only to be used against that defendant.

MS. BEVERLY: Okay. Thank you.

THE COURT: Thank you.

Anything further?

MR. PLUMMER: No, Your Honor.

MR. GIORDANI: No, Your Honor.

THE COURT: Can I bring the jury in at this time?

MS. MACHNICH: Sure.

THE COURT: Counsel, can I bring the jury in?

MS. MACHNICH: Yes, Your Honor.

THE COURT: Thank you.

[Jury reconvened at 2:05 p.m.]

THE COURT: You may be seated. Will the parties stipulate to the presence of the jury?

MS. BEVERLY: Yes.

MS. MACHNICH: Yes, Your Honor.

MR. PLUMMER: Yes, Your Honor.

THE COURT: State, call your next witness, please.

MS. BEVERLY: State calls Craig Jex.

CRAIG JEX,

[having been called as a witness and first duly sworn, testified as follows:]

THE CLERK: Would you please state and spell your name for the record.

THE WITNESS: Craig Jex. C-R-A-I-G J-E-X.

DIRECT EXAMINATION

BY MS. BEVERLY:

Q Sir, how are you currently employed?

A I am employed as an assistant principal for a charter high school in Las Vegas.

Q Okay. How long have you been doing that for?

A Two months.

Q Prior to that, what were you doing?

A I was a detective for Las Vegas Metro Police for almost 21 years.

Q Okay. Prior to -- did you actually retire from Metro?

A Yes, I did.

Q Okay. Prior to retiring from Metro, what was your last assignment?

A I was a detective in the Force Investigation Team, which investigates officer-involved shootings.

Q Okay. And how long had you been in FIT?

A Four years.

Q I want to direct your attention to September the 4th of 2015. On that day, were you working as a FIT detective with Metro?

A Yes, I was.

Q Okay. Can you describe for the jury a little bit about what a FIT detective does with Metro?

A Whenever there's an officer-involved shooting or an in-custody death or whatever the sheriff deemed for us to investigate, we took care

of those investigations. Particularly with officer-involved shootings, we would respond after the incident took place and then begin our investigation as to what took place.

The FIT team investigates the criminal side of the investigation, not the administrative side of the investigation.

Q Okay. When a call comes out about specifically an officer-involved shooting, do a group of FIT detectives respond?

A Yes, we do.

Q And is there, like, a lead detective or a case agent?

A Yes, there is.

Q For the incident that we're here talking about today on September 4, who was the lead on this case?

A Detective Marc Colon.

Q Okay. And were you assigned to some task regarding the investigation?

A Yes. Yes, I was.

Q Okay. Did one of those tasks involve responding to UMC Hospital?

A Yes, it did.

Q When you responded to UMC Hospital, was that on the morning of September the 4th?

A I'm sorry. Say --

Q When you responded to UMC, was that on the morning of September the 4th?

A Yes, it was. I'm sorry.

Q Okay. When you responded to UMC, did you come into contact with an Officer Robertson?

A Yes, I did.

Q Okay.

MS. BEVERLY: Your Honor, permission to publish admitted exhibits.

THE COURT: You may.

MS. BEVERLY: For the record, I'm publishing Exhibit No. 36. Okay.

BY MS. BEVERLY:

Q You can see it on your screen, Detective?

A Yes, it is.

Q Is this Officer Robertson that we're referring to?

A Yes, it is.

Q And is this the state that you saw him in that day?

A Yes, it is.

Q Showing you Exhibit No. 37; is that a closer-up portion of him?

A Yes, it is.

Q Did you observe any injuries to Officer Robertson?

A Yes, I did.

Q What injuries did you observe?

A He had a gunshot wound to his hip.

Q Okay. Showing you Exhibit No. 39; is that the wound that we're talking about?

A Yes, it is.

Q And a closer-up, Exhibit No. 40. That would be the gunshot wound; is that correct?

A That's correct.

Q Okay. Do you know if Officer Robertson had been to surgery prior to you coming in contact with him?

A He had not been to surgery.

Q Okay. At the hospital, did you also come in contact with a person by the name of Clemon Hudson?

A Yes, I did.

Q Okay. Do you see Mr. Hudson in court today?

A Yes.

Q Can you please point to him and tell me an article of clothing that he's wearing today?

A All I can see is just this -- there we go.

Q You can stand up if you need to.

A I can see him now. He's wearing a blue shirt and blue tie.

Q Okay.

MS. BEVERLY: Let the record reflect the identification of Mr. Hudson.

THE COURT: The record will so reflect.

BY MS. BEVERLY:

Q Did you also come in contact at the hospital with a person by the name of Steven Turner?

A Yes, I did.

Q Do you see Mr. Turner in court today?

A No.

Q Okay. Has it been a while since you've seen Mr. Turner?

A Yes, it has.

Q Okay. I'm going to show you what's been admitted as Exhibit No. 42; did you come in contact with this person at the hospital?

A Yes.

Q Okay. And let's just do Exhibit No. 43; is that a closer-up picture?

A Yes.

Q As part of your -- actually --

MS. BEVERLY: Your Honor, at this point, do you want us to approach?

THE COURT: Yes.

[Bench conference transcribed as follows:]

MS. BEVERLY: We're going to now get into Mr. Hudson's statement.

THE COURT: Okay. So I'm going to do the limiting instruction, and then she's going to go into the statement.

MS. BEVERLY: Okay.

MR. PLUMMER: Okay.

THE COURT: Against Mr. Hudson, correct?

MS. MACHNICH: Hudson, yes.

THE COURT: Okay.

[End of bench conference.]

THE COURT: Ladies and gentlemen, you are about to hear

testimony regarding statements made by Clemon -- shucks -- Clemon Hudson to detectives. These statements are to be considered by you as evidence against Clemon Hudson only.

MS. BEVERLY: Thank you, Your Honor.

BY MS. BEVERLY:

Q So, Detective, it was part of your responsibility that night interviewing Mr. Hudson, who you've just identified?

A Yes.

Q Okay. As a detective for multiple years with -- with Metro, when a person gives a statement, are there portions of the statement that are legally admissible and portions that are not legally admissible?

A Yes.

Q Okay. So today when we talk about Mr. Hudson's statements, we're talking about the portions that are legally admissible; is that fair to say?

A That's correct.

Q Okay. And that statement -- actually, did you take two statements with Mr. Hudson?

A Yes, I did.

Q Okay. And were those statements recorded?

A Yes.

Q Okay. And do you -- was a transcript made of those statements?

A Yes, they were.

Q Okay. Do you actually on the stand have a copy of those

transcripts?

A Yes, I do.

Q Okay. So if you can -- at times throughout the questioning, if you need to refer to that, just let me know, okay?

A Okay.

Q So you indicated that there were two statements. And so we'll talk about the first statement first, okay?

Prior to giving -- Mr. Hudson telling you anything, did you read him what is known as Miranda rights?

A Yes, I did.

Q Okay. What are Miranda rights?

A You're asking specifically what it says or what are they for?

Q Both.

A It's -- it's to give him the right to whether or not he wants to speak to an attorney before any questioning and -- so that he understands what those rights are.

If I could refer to my statement, I can tell you exactly what I said to him.

Q Sure. Were those Miranda rights actually recorded and transcribed?

A Yes.

Q Okay. And what were those rights that you read to him?

A For my -- for my statement, I said, You have the remain silent. Anything you say can be used against you in a court of law. You have to right to an attorney. If you cannot afford one, one will appointed. You

understand these rights, right?

Q Okay. And did Mr. Hudson agree to speak with you?

A Yes.

Q Okay. Initially, in the first part of the interview, did he tell you that he was going to get some weed that night?

A Yes.

Q After you read Mr. Hudson his Miranda rights, did you -- well, did you ask him whether two people went to that house that night?

A Yes, I did.

Q Okay. And did he indicate yes?

A He indicated that there were two that walked up to the house.

Q Okay. Did he indicate to you -- well, are you asking, in general, questions about what he was doing that night in reference to the shooting that occurred over on Oveja Circle?

A Yes.

Q Okay. Did you ask him about what happened when he got to the house?

A Yes.

Q Okay. Did he tell you that he was supposed to go through the back of the house to get the weed?

A Yes.

Q Okay. Actually, specifically, he said, We were supposed to go around the back of the house and get the weed?

A Yes, he did.

Q Okay. Did you ask him about what happened when -- whether

the door was locked or not when he got to the house on Oveja?

A Yes, I did.

Q Okay. Did he indicate to you that the -- the front door was locked?

A Yes.

Q Okay. And did he tell you that, We were knocking on the door to see if anybody was there?

A Yes, he did.

Q And did he indicate that it seemed like nobody was there?

A Yes.

Q Okay. And did he then tell you that, Our plan was to break the back window -- that was our plan?

A Yes, he told me that.

Q Were you aware -- even though you weren't the lead detective in this case, were you aware that there were weapons involved in this incident over on Oveja?

A Yes, I was.

Q Okay. And throughout your initial interview with Mr. Hudson, did the topic of weapons begin to be brought up?

A Yes, it was.

Q Okay. Specifically, did you ask him if he was carrying a shotgun?

A Yes, I did.

Q And did he indicate that he was?

A Yes, he did.

Q Specifically, did Mr. Hudson tell you what he was wearing that evening?

A Yes, he did.

Q Did he indicate that he had on a long-sleeve camo?

A Yes.

Q Or camouflage?

A Yes.

Q Okay. And that he had a beanie on?

A Yes.

Q And did he specifically say, It was really hard for them to see me?

A Yes, he did.

Q Did you ask him some questions about how this entire incident kind of started?

A Yes, I did.

Q Okay. Did you specifically ask him where he and another person met up?

A Yes, I did.

Q And did he tell you that they met up in an alley off Lake Mead and Jones?

A Yes.

Q When you were asking him about what was happening prior to this incident and he told you that he met up with someone on Lake Mead and Jones, did he indicate it was just one other person he met up with?

A Yes, he indicated just one person.

Q Did you ask him about, during the incident, what he did with the shotgun?

A Yes.

Q Okay. And did he specifically tell you, I didn't have the shotgun at the time when both of us fired?

A Yes.

Q Throughout this interview, are you continuing to get more and more details, specific details, about what was happening over on Oveja and prior to them going to Oveja?

A Yes.

Q Okay. Did he specifically tell you that, We were getting blasted?

A Yes.

Q Okay. And blasted by -- meaning gunfire; is that correct?

A That's correct.

Q Okay. And that he fell on the ground?

A Yes.

Q Okay. And then did he specifically tell you, I see him shoot to the right side of me?

A Yes.

Q Okay. Did he indicate he saw shots on the right side of him and then he hit the back wall?

A Yes.

Q Did you specifically ask him how he got into the backyard of the home?

A Yes, I did.

Q All right. And did he indicate to you that he hopped into the backyard on the left side of the house?

A Yes.

Q Did you ask him when he got into the backyard, if he tried any of the doors in the backyard?

A Yes, I did.

Q And did he indicate to you he tried the side door?

A Yes.

Q And did he specifically say, We twisted it, meaning the door?

A Yes, he did.

Q Did he then indicate that all the doors were locked?

A Yes, he did.

Q Okay. And then the plan was to break the back window where a fan was spinning?

A Yes, it was.

Q Prior to you interviewing Mr. Hudson, had you been over to the house on Oveja?

A No, I had not.

Q Okay. During the interview, did you try to draw a little diagram for Mr. Hudson to point out some certain things?

A Yes, I did.

Q Okay.

MS. BEVERLY: Your Honor, by stipulations, Exhibits 399 and 400 are being admitted.

THE COURT: Is that correct, Defense?

MR. PLUMMER: Yes, Your Honor.

MS. MACHNICH: Yes, Your Honor.

THE COURT: It will be admitted.

[State's Exhibit Nos. 399 and 400 admitted.]

MS. BEVERLY: Thank you.

[Pause in the proceedings.]

BY MS. BEVERLY:

Q I am going to -- can you see that, Detective?

A Yes, I can.

Q All right. So this is the kind of diagram that you were talking about with Mr. Hudson; is that correct?

A That's correct.

Q Okay. And where my pen is, that would be the front door of the house; is that correct?

A Yes.

Q Okay. And then over here would be the left side of the house?

A Yes.

Q And over here would be the right side of the house?

A Correct.

Q All right. So did Mr. Hudson indicate that when he hopped the wall, it was to the left?

A Yes, he did.

Q Or when we hopped the wall, it was to the left?

A Yes, he did.

Q And this wall, did he indicate, the wall on the left side, lead to the backyard of the house?

A That's correct.

Q And this area at the top of Exhibit No. 400, does this area at the top depict the backyard?

A Yes, it does.

Q Okay. Did he indicate to you that, We walked around and there was a patio?

A Yes, he did.

Q And did he indicate to you, using this diagram, that there was a patio door right about here in the middle of the page?

A Yes, he did.

Q And that door, did he indicate, was locked?

A Yes. He said it was locked.

Q Did he also indicate to you that next to the door, there was a small window?

A Yes.

Q Did he indicate to you that where these two stars are, that's where they both were when the shots started?

A Yes.

Q Okay. And that's by the window; is that correct?

A That's correct.

Q Okay. Did he also indicate to you after the shots, he fell by a little wall here on the right side?

A Yes, he did.

Q Okay. And did he indicate that he actually kind of got stuck by that wall when the police were there?

A Yes, he did.

Q And just to be clear, on this diagram, these stars indicate people, correct?

A That's correct.

Q Okay. And there were only two stars?

A Correct.

Q Did you ask him about what time they got to this residence?

A Yes, I did.

Q And did he indicate that it was probably after 2:00 a.m.?

A Yes.

Q Did he indicate to you that he carried the shotgun over this left wall?

A Yes.

Q During this interview, are you kind of going over things with him several different times?

A Yes.

Q Okay. And as that's happening, is he giving you more and more details?

A Yes, he is.

Q And did he confirm later on in the interview that once again, they were by the window?

A Yes.

Q Did Mr. Hudson, at the end of -- towards the end of the

interview, indicate that this was his first heist robbery?

A Yes.

Q Okay. Did you ask Mr. Hudson about a -- excuse me, a tan vehicle that was parked in front of Oveja Circle?

A Yes, I did.

Q Okay. Does he indicate that he was familiar with the car, that it was registered to his mom?

A Yes.

Q Later on in the day on September 4th, did you interview Mr. Hudson for a second time?

A Yes, I did.

Q Okay. And were those Miranda rights -- did you explain to him that those Miranda rights were still in effect?

A That's correct.

Q Okay. Specifically, did you interview him a second time because the homeowners had reported a potential third person being there?

A That's correct.

Q Okay. In the beginning portion of that interview, the second interview, did Mr. Hudson again indicate that he had on a long-sleeve camouflage shirt?

A Yes.

Q And, specifically, was it a dark gray -- like, light gray, dark gray kind of shirt?

A Yes.

Q But, specifically, that it was camouflage?

A That's correct.

Q And did he indicate he had on some jean shorts?

A Yes.

Q Excuse me. In the very beginning of the second interview, did you ask him where this third person was?

A Yes, I did.

Q Okay. And did he indicate specifically there was no other guy?

A Yes.

Q Okay. Just two people?

A That's correct.

Q Okay. Specifically, does he say, It was just me and him?

A Yes.

Q And did you ask him, Are you sure?

A Yes.

Q And did he indicate, I'm a 100 percent positive?

A That's correct.

Q Did Mr. Hudson indicate that he had driven to this place in the Camry car that we were talking about earlier?

A Yes.

Q Throughout the second interview, from the beginning to the end, are you constantly trying to give him opportunities to tell you about any potential third person?

A Yes, I am.

Q And does he continue throughout the interview to adamantly deny that there was a third person there?

A Yes he did.

Q Okay. Specifically, in the beginning part of the interview, does he say, It's a third person, I don't know that you're talking about, I swear to God?

A That's correct.

Q Okay. And, It wasn't -- it wasn't no three people. It wasn't three people?

A Correct.

Q Okay. In the second interview, do you continue to once again go over what happened that evening?

A Yes.

Q Okay. And do you ask about how many people were in the backyard?

A Yes.

Q Okay. And does he say, Just two people in the backyard?

A Yes, he does.

Q And did you ask him about how many -- initially, did you ask him about how many guns were back there?

A Yes, I did.

Q And did he indicate there was an SK and a shotgun?

A Yes.

Q Again, do you ask him, Did you see another person in the backyard?

A Yes.

Q And did he say, No, I didn't?

A That's correct.

Q Did you ask him what he and the one other person that was back there were doing in the backyard?

A Yes, I did.

Q Okay. And did he specifically say, We were checking it out to see if anybody was home?

A Yes.

Q Did he specifically say, We were peeping through the window?

A Yes.

Q The window in the back?

A Yes.

Q Okay. Did he tell you that they went to the side door to see if that was open?

A Yes, he did.

Q And it was locked?

A That's correct.

Q So they went over to the slider door that is depicted in Exhibit No. 400?

A Correct.

Q Did you ask him again if he had the shotgun in the backyard?

A Yes, I did.

Q And did he indicate that he, in fact, had that shotgun?

A Yes, he did.

Q Did you ask him, How many shots did you shoot with the shotgun?

A Yes, I did.

Q Did he say, If I did, it was one?

A That's correct.

Q Did he then tell you he, being this other person, had the SK?

A Yes, he did.

Q Did you ask him how many shots the other person fired?

A Yes, I did.

Q Did he say I have no idea?

A Yes, he did.

Q Did he tell you that he actually brought the shotgun in the car with him to the house?

A Yes, he did.

Q Did he tell you that he had the shotgun for about a week prior to this incident?

A Yes, he did.

Q And that he got it from a friend named T?

A Yes.

Q Do you continue to ask him about the shooting of the shotgun?

A Yes, I do.

Q Did you ask him, When you fired the shotgun, where were you shooting?

A Yes, I did.

Q And did he indicate to you at the bottom of the window?

A Yes, he did.

Q Did he indicate to you that after he fired the one shot, he fell over on this little wall again that we talked about earlier?

A Yes, he did.

Q And again, throughout this interview at different points, are you continually asking him, Tell me about the third person, tell me about the third person?

A Yes, I am.

Q And does he continue to say, There was no third person?

A Yes.

Q Do you actually try to give him an out to put something -- to put this incident on the third person?

A Yes.

Q Okay. And does he tell you, again, I would tell you if there was a third person but there wasn't, essentially?

A Yes, he did.

Q Okay. Now, were you aware as you were interviewing him that there was a third small pistol also located in the backyard of that home?

A Yes, I was.

Q Did you ask him about that little gun?

A Yes, I did.

Q Okay. And did he tell you, That little gun came with us?

A Yes.

Q Did he tell you that little gun was in his pocket?

A Yes.

Q Specifically, did he say, I came with the shotgun, and I got the little gun in my pocket after we got to the house?

A Yes, he did.

Q In fact, specifically, does he say, I got the little gun once we got into the backyard of the house?

A Yes.

Q Does he talk to you about there being a pool in the backyard?

A Yes.

Q Okay. And does -- did he tell you that once they got around the pool, they were scoping, step out to make sure it was clear?

A Yes.

Q And once again, does he tell you the back door was checked to see if it was open?

A Yes.

Q Does he talk about -- again, about mid-interview, mid -- in the second interview about them being by the window when the shots came out?

A Yes, he did.

Q Does he specifically say he was right by the glass door?

A Yes, he did.

Q Does he indicate that he fired his shotgun and fell straight back?

A Yes.

Q And the gun fell with him?

A Yes.

Q Did he tell you when the shotgun was fired and he fell back, that at the time, he had the little gun with him?

A Yes.

Q Did he indicate it may have been in his shoe?

A Yes.

Q Did Mr. Hudson describe the shotgun as a 12-gauge Mossberg shotgun?

A Yes, he did.

Q Okay. And did he indicate it was loaded?

A Yes.

Q With buckshots?

A Yes.

Q Specifically, did he indicate that it was a pump-action shotgun?

A Yes, he did.

Q As you're getting towards the end of the second interview, do you give him another opportunity to tell you who's in the backyard?

A Yes, I do.

Q Do you specifically say, Two or three people in the backyard?

A Yes, I did.

Q And does he say, Two?

A Yes, he did.

Q Do you ask him, Who's watching the front door for you guys?

A Yes, I did.

Q And does he say, Nobody that I know, honest to God?

A Yes, he did.

Q Does he specifically tell you, If I knew about a third person, I would give you every bit of information about him?

A Yes, he did.

Q Does he specifically tell you that prior to this incident happening, they had met up at a person by the name of Big John's house?

A Yes.

Q Okay. And the decision was made to go hit the house?

A Yes.

Q Does he specifically say, Big John didn't come with us?

A Yes, he did.

Q When asked about why they were going to hit the house, does he specifically say, It was to get some weed?

A Yes, he did.

Q And that once the decision was made, he grabbed his pump?

A Yes.

Q Being the shotgun?

A That's correct.

Q Did you ask him about whether he had been to this cul-de-sac where this house was prior to September the 4th?

A Yes.

Q And did he indicate that, yes, he had been there before?

A Yes, he did.

Q Okay. Did he indicate that the person he was with knew that the homeowner had some weed in the house?

A Yes, he did.

Q Okay. And it was going to be easy to do a hit and get the weed from this house?

A That's correct.

Q But he indicated that previously, prior to this incident, they had been to this house to check it out?

A That's correct.

Q And that was about a week before September the 4th?

A That's correct.

MS. BEVERLY: I will pass the witness.

THE COURT: Defense, any cross-examination?

THE COURT RECORDER: Just pause for one second, Judge -- Your Honor. One second, please.

[Pause in the proceedings.]

THE COURT RECORDER: I need to pause for a moment. I have to call IT.

[Pause in proceedings.]

MR. GIORDANI: Your Honor, can I suggest if Defense counsel doesn't need it for this witness, we just move on and deal with it?

THE COURT RECORDER: No. I'm frozen, so if --

MR. GIORDANI: Oh.

THE COURT RECORDER: -- if you need a bench conference, I can't click the button right now.

MR. GIORDANI: Okay. Sorry.

THE COURT RECORDER: It's recording though.

THE COURT: Let's stop talking.

THE COURT RECORDER: Yeah.

THE COURT: Okay.

[Pause in proceedings.]

THE COURT: I'm going to take a recess. Let's do a 10-minute recess. Hold on.

During this recess, you are admonished not to talk or converse among yourselves or with anyone else on any subject connected with this trial, or read, watch, or listen to any report of or commentary on the trial or any person connected with this trial by any medium of information, including, without limitation, newspapers, television, radio, or Internet; or form or express any opinions on any subject connected with the trial until the case is finally submitted to you.

We're in a 10-minute recess. Thank you.

We'll be in recess.

[Court recessed at 2:21 p.m., until 2:50 p.m.]

[Outside the presence of the jury.]

THE COURT: This is the continuation of the trial of the *State of Nevada vs. Steven Turner and Clemon Hudson*, Case No. C-15-309578-1 and -2. Let the record reflect the presence of counsel for the State, counsel for the defense, and the presence of the

defendants.

And, counsel, I wasn't trying to be rude by raising my hands to not have anybody state anything. It was unclear to me whether it was still recording and it was going to be on the record. I didn't want any statements that weren't being recorded.

What I've been advised is the system froze up, but we were still on the record; so the admonishment was also on the record.

MS. BEVERLY: No problem.

THE COURT: I believe that's resolved. So we're going to go forward.

[Jury reconvened at 2:52 p.m.]

THE COURT: You may be seated. You may be seated. You may be seated.

Will the parties stipulate to the presence of the jury?

MS. BEVERLY: Yes, Your Honor.

MS. MACHNICH: Yes, Your Honor.

MR. PLUMMER: Yes, Your Honor.

THE COURT: Thank you.

Defense, any cross-examination?

MS. SISOLAK: Briefly, Your Honor.

CROSS-EXAMINATION

BY MS. SISOLAK:

Q Good afternoon, Mr. Jex?

A Jex, yes.

Q Perfect. I didn't know if it was -- still have to call you detective

or not?

A I'm retired.

Q Perfect. You were a detective with Metropolitan Police Department for how long?

A Just almost 21 years.

Q Okay. And would you say you did thousands of interviews?

A Yes.

Q In your experience, do defendants always tell you the truth?

A No.

Q Even when they swear to God?

A Yes.

Q Thank you.

THE COURT: Mr. Plummer.

MR. PLUMMER: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. PLUMMER:

Q Good afternoon, sir.

A Good afternoon.

Q So I want to clarify and kind of fill in some of the things that you discussed with Clemon. He flat out told you the plan was to steal weed?

A Yes.

Q And that he also told you that the door was supposed to be open and no one was supposed to be home?

A I'd have to refer to my statement of where that was said before

I would be able to answer that correctly.

Q Okay. Well, we'll get there. Let's talk about your -- the statements. The first one was done at 0627 in the morning. Was that at the hospital?

A Yes, it was.

Q And -- and so why don't you take a look at, if it refreshes your memory, page 4 of that statement.

A Okay.

Q Page 4 and 5, because we're going to talk about a few points there just to refresh your memory. If you'll look around the middle of page 4, does that refresh your memory?

A Yes.

Q So Clemon told you that the door was supposed to be open and the no one was supposed to be home?

A That's correct.

Q And that, basically, in order to determine to make sure no one was home, they knocked on the door?

A That's correct.

Q And when no one answered, he informed you that, specifically, I guess the plan was to go through the back window?

A That's what he said.

Q But that didn't happen, because bullets went flying by his face; he told you that?

A That's correct.

Q And while bullets were flying by his face, he fell and he didn't

move?

A It's okay if I refer to my statement?

Q If you need to refresh your memory, please. Let us know, and take the opportunity to do so.

A [Witness complies.]

Q Does that refresh your memory?

A Specifically, what he said, I'm not sure which page you're looking at.

Q Page -- page 5, middle of the page. He informed you:

Plan -- that was our plan, but it didn't happen. I mean, the next thing, I know, it's bullets flying, you know, by my face.

A And then he stated:

Thank God I didn't get hit.

Q During that exchange, as far as he -- during your interviews with him, he told you that he fell and he didn't move?

A You would have to tell me which page you're referring to so that I can refresh my memory from that.

Q So you don't recall him telling you that he fell at all? I mean, I -- we mentioned it a few times.

A Without going through my statement and knowing exactly what was said, I wouldn't want -- I wouldn't want to misstate.

Q All right. Let's look at the second statement, and I'll draw you directly to page 13.

A I'm on page 13.

Q Okay. You're referring to -- at least it starts off where you're

talking to him about firing of the shotgun?

A That's correct.

Q And you ask him how many shots he fired, and he indicates:

If I did, it was one.

He tells you:

I don't even know if I shot. I fell right over and after I started getting, you know, shot at.

A That's correct. That's what he said.

Q Now, multiple times while talking to you, he indicates to you:

I don't know if I shot.

During your entire interview.

A Correct.

Q Would you like me to go through each page and each one, sir? Or just do you recall that he said it multiple times?

A He said that he fired one shot.

Q Did he also indicate to you that he's not sure if he fired the one shot?

A He said on page 13:

Shit, I don't think I shot the shotgun.

But then later, he said that he may have shot one time.

Q So you agree with me that he's telling you he may have shot it, he's not sure, if I did shoot it, it was one time --

A Correct.

Q -- and I don't know if I actually fired the gun?

A Correct.

Q That when the bullets started flying, he fell over?

A Correct.

Q He also indicated to you that, one, he didn't know that there was police officers initially --

A Correct.

Q -- until everything was said and done and there was lasers coming out and people yelling from inside?

A Correct.

Q And that he didn't know that the door had been opened, but he thought the shooting was through the door?

A Again, I'd have to know --

MS. BEVERLY: Judge, I'm just going to ask that Mr. Plummer refer to a page number so that the detective can know where to look.

MR. PLUMMER: Your Honor, I'm hoping that the officer will remember some of this stuff. And if he does, then I don't need to flip through pages. If he doesn't remember, then I will flip to a page and refresh his memory.

THE COURT: Did you hear his question?

THE WITNESS: I did hear his question.

THE COURT: Do you --

THE WITNESS: But I don't want to misspeak from my -- what my statement has said.

THE COURT: If you reviewed your -- if you reviewed the statement, would it refresh your recollection?

THE WITNESS: Yes, it would.

THE COURT: Okay. What page, counsel?

BY MR. PLUMMER:

Q Officer, second statement, page 11, middle of the page.

A And could you repeat your question for me, please.

Q That Mr. Hudson thought that they didn't know that the door was open, he thought they shot through the door?

A He stated that he did not think they opened the door, that I -- he stated:

I just think they shot through the door.

Q So he informed you that he thought the shooting was through the door?

A That's what he said.

Q And he didn't think the door had been opened?

A I'm sorry, I didn't hear.

Q And he didn't think the door had been opened?

A That's correct.

Q And you already indicated that he didn't know they were cops?

A That's correct.

Q Now, did he also indicate to you that he thought the officers started shooting first?

A Yes.

Q Okay. Officer, I just want to sum this up so we're clear, because we seem to be going through pages. Plan was to buy weed, right?

A Yes.

Q Door was supposed to be open?

A Yes.

MS. BEVERLY: I'm going to object as to mischaracterizes testimony. It wasn't to buy weed. It was to steal weed.

MR. PLUMMER: Did I say buy? I'm sorry.

MS. BEVERLY: Yes.

MR. PLUMMER: I did not mean to say buy.

BY MR. PLUMMER:

Q To steal weed. Door was supposed to be open, right?

A Correct.

Q No one was supposed to be home?

A Correct.

Q And that this was the second time that he had been to that house?

A That's correct.

Q And the first time, they didn't go in, because someone was home?

A I don't recall that without knowing in my statement what was said.

Q I'm going to refer you to page 52 of the second statement.

A And your question again, please?

Q The -- in summary, they didn't go into the house because someone was home. Basically, the car was there.

A He stated:

The other time you drove up there, you're telling me --

Or, excuse me, I stated:

You're telling me you drove up there, and there's another car, there's another car in the driveway. So you drive out.

And he said, Yes.

Q But on this occasion, they believed no one was home?

A That's what he said.

Q And he fell when the shooting started?

A That's correct.

Q And then after he fell, he stayed where he was and didn't move?

A That's correct.

Q And I believe you indicated this on direct, that this was -- he told you this was his first heist --

A Yes.

Q -- that he was involved in?

A Yes.

Q Did you do any background investigation on Mr. Hudson?

A I'm sorry?

Q Did you do any background investigation on Mr. Hudson?

MS. BEVERLY: I'm going to object as to relevance at this point, Judge.

THE COURT: Counsel, approach.

[Bench conference transcribed as follows:]

THE COURT: State, look. I need you to put on the record your objection on why it's not relevant.

MS. BEVERLY: Well, I don't think his criminal history in any criminal case against a defendant is relevant. I would love to get into people's criminal history, but I can't. I think that's what he's asking; so, I mean, I'm just trying to protect the record.

THE COURT: All right. I understand.

MS. BEVERLY: If he wants to get into his client's criminal history --

THE COURT: So what is the relevance, counsel? He stated this is first heist. What is it that you're trying to develop here?

MR. PLUMMER: Well, I'm -- specifically, Your Honor, I'm just wondering what else this detective did on the case that involved Mr. Hudson.

THE COURT: Huh?

MR. PLUMMER: I'm wondering what else he did on this case. Did he try to confirm anything? Did he look into and investigate --

THE COURT: Okay. But your question seemed to indicate that you were trying to go into his criminal history.

MR. GIORDANI: Or lack thereof.

MS. BEVERLY: Or lack thereof.

THE COURT: Or lack thereof. You have on the record that this was his first heist.

MR. PLUMMER: Yes, Your Honor. I'll leave it at that.

THE COURT: Okay.

MS. BEVERLY: Okay.

THE COURT: So I will sustain the objection.

MS. BEVERLY: Okay. Thank you.

[End of bench conference.]

MR. PLUMMER: Your Honor, may I have one minute, one moment?

THE COURT: You may.

[Pause in proceedings.]

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

THE COURT: Thank you.

Any redirect by the State?

MS. BEVERLY: No.

THE COURT: May this witness be excused?

MS. BEVERLY: Yes, if there's no questions from the jury.

THE COURT: That's correct.

No hands being raised.

I'm -- sir, you can be excused. Thank you.

THE WITNESS: Thank you.

THE COURT: State, call your next witness, please.

MS. BEVERLY: State's next witness is Ed Pazos.

EDUARDO PAZOS,

[having been called as a witness and first duly sworn, testified as follows:]

THE CLERK: Would you please state and spell your name for the record.

THE WITNESS: My name is Eduardo Pazos, P-A-Z-O-S. Spelling of Eduardo is E-D-U-A-R-D-O.

THE COURT: State, you may proceed.

DIRECT EXAMINATION

BY MS. BEVERLY:

Q Sir, how are you currently employed?

A Las Vegas Metropolitan Police Department.

Q Okay. And what is your specific assignment?

A Right now I'm at the Northwest Area Command Flux Unit.

Q Okay. Are you a detective with the Flux Unit?

A It's kind of a intermediary position. So we do plainclothes stuff. I wear the uniform. So that's the only way to explain it. So we do detective work but don't get paid for it.

Q Okay. I want to direct your attention back to September the 4th of 2015. Were you working for Metro at that time?

A Yes, I was.

Q And what was your assignment at that time?

A I was a detective for the Force Investigation Team.

Q Okay. And we've heard a little bit about what FIT does. When FIT responds to a scene, is there a primary case agent?

A Correct.

Q And there are other detectives on that unit assigned to do various other additional tasks as needed?

A That's correct.

Q Okay.

MS. BEVERLY: Can we approach, Your Honor.

THE COURT: You may.

[Bench conference transcribed as follows:]

MS. BEVERLY: I'm now going to get into Mr. Turner's statement by this detective.

THE COURT: Okay. And you have requested a limiting instruction?

MS. SISOLAK: I have.

THE COURT: And you've requested a limiting instruction; is that correct, Mr. Plummer --

MR. PLUMMER: Yes, Your Honor.

THE COURT: Thank you.

[End of bench conference.]

THE COURT: Ladies and gentlemen, you are about to hear testimony regarding statements made by Steven Turner to detectives. These statements are to be considered by you as evidence against Steven Turner only.

MS. BEVERLY: May I proceed, Your Honor?

THE COURT: You may proceed.

MS. BEVERLY: Thank you.

BY MS. BEVERLY:

Q As part of -- well, back on September 4th of 2015, were you asked to assist Detective Marc Colon in a shooting that occurred over on Oveja Circle?

A Yes, I was.

Q Okay. Was your responsibility in part to interview a person with the last name of Turner?

A Correct, yes.

Q Okay. Do you see a person with the last name of Turner in court today?

A Yes, I do.

Q Can you please point to that person and tell me an article that they're wearing today?

A It looks like a gray shirt, but I can't --

Q Can you point to the person?

MS. BEVERLY: Let the record reflect the identification of Mr. Turner.

THE COURT: The record will so reflect.

BY MS. BEVERLY:

Q Now, I've been saying with the last name of Turner. Did you conduct two interviews with Mr. Turner?

A I did, correct.

Q Okay. As a detective with FIT, are you aware when anybody gives a statement, whether there are certain legally admissible items allowed and some things that are not legally admissible?

A I am aware, yes.

Q Okay. And so today, we're only going to talk about things that are legally admissible; is that correct?

A That's correct.

Q Okay. Did you, in fact, record both of the interviews with Mr. Turner?

A Yes, I did, ma'am.

Q Okay. And did you bring a copy of those transcripts of those recordings with you today?

A I've got both of them right here.

Q Okay. So if you need to refer to them, please let me know as we go through this, okay?

The first interview that you conducted with Mr. Turner, what name was given to you?

A It was Devonte [phonetic] Turner.

Q Okay. Did you later find out that the person that you are interviewing's name actually was not Devonte Turner?

A That's correct.

Q Okay. But throughout the first interview, he identified himself as Devonte Turner?

A That's what the statement says. That's what I refer to him as, Devonte.

Q Okay. Turns out later it was actually Steven Turner?

A Yes, ma'am.

Q Did you, prior to speaking with Mr. Turner, give him Miranda rights?

A Yes, I did.

Q And those Miranda rights, were those on the recording part of the interview?

A Yes, they are.

Q Okay. Can you please tell the jury what rights you read to him?

A You have the right to remain silent. Anything you say can be used against you in a court of law. You have the right to the presence of an attorney. If you cannot afford an attorney, one will be appointed before questioning. Do you understand these rights?

And then I told him, I've got to hear yes or no.

Q Okay. And did he indicate yes, he understood those rights?

A Yes, ma'am.

Q And did he agree to speak with you?

A Yes.

Q Okay. One of the first things that you discussed with him -- correct me if I'm wrong -- is an injury to his leg; is that correct?

A Yes, ma'am.

Q Did you actually personally observe that injury?

A I did observe it, yes.

Q Okay. Did he specifically tell you that he got that injury from hopping over a fence?

A Yes.

Q Okay. Did he say:

I scraped my leg on the fence, the pole smashed into my leg, and that's what happened?

A That's correct.

Q And did you specifically ask him:

So that's not a result of us, meaning the police?

A Correct.

Q Did he say:

It's not from y'all at all?

A Yeah. That's exactly what he said.

Q During this initial interview, do you start to go over with Mr. Turner what he was doing prior and then during this incident?

A That's correct.

Q Okay. Specifically, did you ask him:

Tell me how this all started?

A Yes.

Q Okay. And did he say:

The wrong people pulled up and influenced me to go on a ride with them?

A Yes.

Q And did he say:

I rode with them?

A He did say, I rode with them.

Q Okay. Then did he specifically tell you that he was outside the whole time anything at the house was going on?

A This first statement, yes, that's what he told me, that he was screaming outside.

Q And we're just talking, like, the first statement at this time, correct?

A Yes, ma'am.

Q Did he tell you that as he's outside, he hears shit go off, hears guns go off, and runs?

A Yes.

Q Okay. Now, did he tell you that they were actually at the house to do a lick?

A Yes, he did.

Q And did you ask him to describe what a lick is?

A I did.

Q And did he say:

Somebody trying to come up on somebody?

A That's exactly what he said.

Q Okay. Did he describe for you that someone came to pick him up?

A Yes.

Q Okay. And that he sat in the front passenger seat of the car?

A Yes.

Q At that point, just two people in the car; is that correct?

A That's what he said, correct.

Q And then did he indicate that they drove over somewhere on Westcliff?

A Yes, ma'am.

Q To your knowledge, as you were assisting in this investigation, did you become aware that some firearms were involved in this?

A Yes.

Q Specifically an SKS weapon?

A Yes.

Q Okay. Did you ask Mr. Turner in the first interview about that SK?

A Yes, I did.

Q And did he tell you that it was his uncle's SK?

A Yes.

Q Okay.

A He said it looked like his uncle's SK.

Q Okay. That was registered to his uncle; is that right? Looked like it was the one that was registered to his uncle?

A Yes.

Q And did you ask him to describe that SK?

A I did, ma'am.

Q And did he indicate that it was brown with, like, a green handle and brownish-tannish?

A That is correct.

Q And did you ask him if that weapon was loaded?

A Yes, I did.

Q And did he say:

I believe so?

A Yes.

Q As you're going on during this first interview, are you again trying to ask him what was happening at this house?

A Yes.

Q Okay. Did he again say:

I got the hole in my leg from hopping over a fence?

A He indicated again, yes, he -- the second time that that's what happened.

Q And, again, that it wasn't him getting shot. It was hopping over a fence?

A Yes.

Q Did he indicate to you that there was a white car in the driveway of the residence that we're referring to?

A Yes.

Q And did he indicate to you that he didn't see any guns until they got to the residence?

A That's what he said, yes, ma'am.

Q Did he acknowledge that he saw a shotty or shotgun in the back of the vehicle?

A Yes. He referred to it as a shotty.

Q Did he indicate to you that he was picked up around midnight?

A Yes.

Q Now, during this whole first interview, at any point during this interview, is there any mention of a third person being at this residence?

A Negative, no.

Q Okay. Later on, on September the 4th of 2015, did you get to interview Mr. Turner again?

A Yes, I did.

Q Okay. This time, does he give the name, now, Steven Turner?

A Yes.

Q Okay. So now, referring you to the second interview.

Was he still under the Miranda rights?

A Affirm. I told him the same thing. Do you remember -- I read you your Miranda rights. Do you remember that you still want to talk to me?

Q And he indicated he still wanted to speak with you?

A Yes.

Q Okay. Did you confront him with the fact that he had given a different name, a different date of birth, and a different Social Security number?

A That's correct.

Q And did he acknowledge that information was wrong?

A That's correct.

Q Okay. And did he say he gave the wrong information because he was scared, he didn't know the seriousness of what happened?

A Yes.

Q Okay. So do you begin to talk to him about the events of September the 4th, 2015, again?

A Again, yes.

Q Okay. Did he tell you that he was at the house and he was chilling?

A Yes. Yes, ma'am.

Q Okay. And someone called him and told him they were going to go for a ride; is that correct?

A Yeah.

Q Did he tell you that when he got in the car with this other person, there were two guns in the back of the car?

A That's correct, yes, ma'am.

Q And one of them looked like his uncle's gun, the SK?

A Correct.

Q Did he tell you that when they got to the house, the person he was with hopped over the wall first?

A Uh-huh, yes.

Q Okay. And then he hopped over the wall afterwards?

A That's correct.

Q And did he indicate to you when he got to the backyard, shots started being fired?

A Yes. That's what he said.

Q Did he indicate when the shots were fired, he hopped over the back wall of the house?

A Yes.

Q Did he indicate that after he hopped over the back wall, he sat on a couch for a while in the neighborhood?

A Yes, he did.

Q Okay. And then he started walking to his friend's house?

A Correct.

Q Okay. And as he's walking to his friend's house, he runs into the police; is that correct?

A Affirm. Patrol officers.

Q And did he indicate that he lied about his identity?

A Yes.

Q Now, at the time of this second interview, did you have some

information from the detectives on your team that there was maybe a third person involved?

A We were being told there was maybe a white person involved. And --

Q Okay. Well, did you specifically ask him if there was any white guys there?

A Yes, I did.

Q Okay. And did he specifically say:

No, there was nobody in the car with us.

A Correct. It was just the two of them.

Q Okay. Again, did you ask him:

No other guys with you?

And did he indicate, No.

A Affirmative. That's what he said.

Q Okay. Did he indicate to you -- well, do you ask him about whether you saw a white car in the driveway?

A Whether he -- yes. He told me he saw a white car in the driveway.

Q And did he describe it as, like, a toaster car? On page 9 for your reference.

A Page 9? Yeah. Towards the bottom, he says:

It's like a toaster car.

Q And, actually, at the top of that page, did he talk about how once he hopped over the wall and the shots came out, that's when he figured he got shot?

A Yes.

Q Okay. Now, specifically, did he tell you that he hopped the wall to the left of the house?

A That's correct.

Q And did he indicate that he had to crawl over some walls after he hopped over the wall on the left?

A Yes.

Q Just to be clear, when he's talking about hopping the wall on the left, that was before the shooting; is that correct?

A Yes, correct.

Q Okay. Just to clarify that.

A And if you're looking at the house, so to the left if you're looking at the house.

Q Okay. So front of the house, he hopped over to the wall to the left?

A That's correct.

Q Okay. And that was before any shots came out?

A Yes.

Q Okay. And did he indicate the person he was with also hopped over on the left side prior to him hopping over?

A Yes, he said that.

Q Did you start talking to him about describing the backyard of this home?

A Yes. I wanted to make sure everyone knew what he was describing. So I had him describe what was in the backyard.

Q And did he describe for you that when he hopped over the wall, the pool was right in front of him?

A Yes.

Q Okay. And then he walked around the pool?

A Yes.

Q Okay. And there was a little grass area around the pool?

A He says around the pump, over by the pump.

Q Okay. And then did he describe past that, there was a patio?

A Yes.

Q Okay. And did he say:

And there was a TV and everything right there on the patio.

A Yes, he did.

Q Okay. And did he indicate to you that when he got to the point where the patio and the TV were, shots started coming out?

A Yes.

Q Okay. Did you ask him if he'd ever been to that house before?

A I did.

Q And did he say -- indicate that he had been to that house before?

A Yes.

Q Okay. And did he indicate he knew who lived there?

A Correct.

Q And the person that lived there sells dope?

A Correct.

Q Okay. Or weed?

A Yes. More specifically weed, yes.

Q Okay. And did you ask him was this going to be a dope rick?

A I did.

Q And did he say, Yeah?

A His answer was yes -- or yeah. Correct.

Q Is there a point -- during this second interview, are you interviewing him at UMC Hospital?

A Yes.

Q Okay. And is there a point in time where medical is coming in there, looking at the injury to his leg?

A Affirm. I actually say that medical staff is inside trying to help him out or work on him.

Q Okay. And are they talking about removing a piece of shrapnel from his leg?

A Yes.

Q Okay. And do they actually say that they're not going to take it out, it'll just work its way out?

A That's what they said, yes.

Q Okay. Did Mr. Turner also describe there being a sliding glass door in the back of the residence?

A Yes.

Q And did he specifically say when he got back there that he told the person he was with:

There's somebody in here, obviously, their car is in the front.

A Yes.

Q I'm going to page 17; are you continuing to ask questions about this rifle, this SK rifle?

A I am.

Q Okay. And did he then confirm that that rifle was his uncle's rifle?

A Yep. He said, I know that rifle.

Q Okay. Did he say:

I've seen it before, it's my uncle's.

A That's correct.

Q Did you ask him how many times he'd been to this house prior to this incident?

A I did.

Q Okay. And did he specifically say:

I've been there maybe, like, twice, three times before.

A Maybe two or three times is what he said.

Q Okay. Did you ask him:

Were you guys looking to get dope or money?

Did you ask him that?

A I did.

Q And then he indicated he was there to get weed?

A Correct.

Q Did you ask him:

Hey, if there's money at the house, are you going to get the money too?

A I did.

Q And did he say, Yeah?

A Yes, he did say so.

Q During the second interview that you conducted with him, does he ever mention there being a third person in the car or a third person in the backyard?

A No, ma'am.

Q Okay. In fact, when given the opportunity or asking about a third person, did he adamantly deny that there was a third person?

A That's correct.

Q Okay.

MS. BEVERLY: I'll pass the witness.

THE COURT: Defense, any cross-examination?

MS. SISOLAK: Yes, please, Your Honor.

THE COURT: You may proceed.

CROSS-EXAMINATION

BY MS. SISOLAK:

Q Good afternoon, Detective.

A Good afternoon. How are you?

Q I'm wonderful. How are you?

A I'm good. Thank you.

Q I'm going to refer you back to Statement 2, okay?

A Statement 2? Okay. Any specific page?

Q Do you want me to give you page numbers, or do you want to just go from the beginning to the end?

A Whatever you want.

Q All right. Let's start with page numbers. On page 2, Mr. Turner admits he gave you the wrong information; is that correct?

A Yes.

Q And he said he did that because he was scared and he didn't think -- he didn't know the seriousness of what really was and that's the only reason why he did it?

A That's correct.

Q And on page 3, he told you:

Even at the time when I ran away, I didn't know what was going on. I just ran because I heard bullets. I hear bullets, I hear people shooting. So, yeah, I ran; you know what I mean?

A That's correct.

Q And on page 4, he said he was at home chilling?

A I was at home chilling.

Correct.

Q And he ended up calling you, correct?

A Correct.

Q And he talked about one of them did look like his uncle's gun that was missing, right?

A Yes.

Q And then maybe there were two of them? Referring to --

A I see that, yes.

Q -- two firearms? And he said he didn't say anything to him because he was on some raw-raw right now, right?

A Uh-huh.

Q He stated he hopped over the wall?

A Uh-huh.

Q Bro, what are you doing? Let's go. You've been back here too long.

A That's correct.

Q And then as soon as he said that, shots started flying through that window area?

A That's correct.

Q And on page 5, he told you he hopped over the wall?

A He did.

Q He just ran?

A Correct.

Q And he stated:

I'm just going to have go ahead and walk, walk home.

Correct?

A I think he said walk to my friend's house, which was off of Westcliff.

Q I'm looking at page 5, one, two, three, four, five, six, seven lines down.

I'm just going to have to go ahead and walk, walk home.

A Oh, yes, I see that. And then he says:

I was going to walk to my friend's house.

That's it right there.

Q Okay. And he said:

I know I did lie about my identity and everything, but that was

before I knew the seriousness of the whole situation.

A Yes, ma'am.

Q Toward the bottom of that page, he said:

At home with my mom, having a wonderful evening with my mom and my fiance and my auntie.

A Uh-huh.

MS. BEVERLY: I'm going to object at this point to relevance -- at that point to relevance.

THE COURT: Counsel, approach.

[Bench conference transcribed as follows:]

THE COURT: Counsel, state your objection for the record.

MS. BEVERLY: Our objection is to relevance. What -- if he was at home with his mom having a wonderful evening, that's not relevant to the crimes in this case.

THE COURT: Okay.

MS. SISOLAK: Your Honor, it's absolutely relevant. The codefendant is -- has stated that he was the one that picked him up. So I'm -- I'm getting into that he was at home when he received the call. And on timing, he talks about exactly what time he was home and what time he got off work.

THE COURT: I'll allow these as foundational questions, counsel. I'm not going to give extension to what he was doing prior to the incident.

MS. SISOLAK: Okay.

THE COURT: Arguably, this is cross-examination of his

testimony going to direct regarding a little [indiscernible] prior to get into the incident.

So I'll allow it as a foundational question, but I'm not going to allow you to get in depth as to what he was doing prior to the incident.

MS. SISOLAK: Understood.

MR. GIORDANI: And -- wait. While we're -- while we're up here, Judge, in anticipation of potential testimony, we'd like to just state for the record any reference that Turner made about being sorry about the incidents is not relevant whatsoever. We just ask that not be allowed.

THE COURT: Okay. Are you --

MS. SISOLAK: I don't think I'll get into that.

THE COURT: Okay.

MS. SISOLAK: Don't get mad. Thank you, Your Honor.

THE COURT: In any event, in anticipation of that, his personal feelings are --

MS. SISOLAK: I'll make sure I word --

MS. BEVERLY: Right.

THE COURT: -- will not be allowed.

MS. SISOLAK: Thank you, Your Honor.

MS. BEVERLY: Thank you.

[End of bench conference.]

BY MS. SISOLAK:

Q And did he, Mr. Turner, tell you what time he got off work?

A Yes.

Q And was that 8:00?

A 8:00.

Q Thanks. I'm jumping ahead to page 9. And did he say:

So once I look over the wall -- once I look over the wall, I don't see him; so I'm like, where is he at?

A Yes.

MS. SISOLAK: I -- for the record, I creatively edited out a select word. Is that okay?

MS. BEVERLY: Well, I think that you can just say the word. I mean, it's included.

MS. SISOLAK: Okay.

BY MS. SISOLAK:

Q Where is this N-word at?

A That's what he said, yes.

Q So I just hopped over the wall, looking like, where is this N-word at?

A Yes.

Q Then all of a sudden, you just hear gunshots, boom, boom, boom.

A Yes.

Q And that's when I -- I guess that's when I got shot, because I was like, Oh, shit, and I just took off running.

A Yes.

Q And just below that, he said:

I did not shoot nobody.

Correct?

A Yes. I did not shoot nobody.

Q I did not have gun in my -- I didn't shoot nobody. I ran out and left.

A That's what he said, yes.

Q Jumping ahead a little bit to page 13. He stated:

I did not hear no warning, no nothing.

It's about midway down.

A He said -- oh, I'm sorry. I was on 12.

Q You're fine.

A Yep.

Q And I know who lives there.

A Yes.

Q He sells weed.

A He sells weed.

Q Perfect. And you asked:

So this was going to be a dope rick?

And he responded, Yes?

A Yes.

Q On page 15:

They just started shooting through the house, and I -- that's when I took off like a bat out of Hell. I just started running.

A Yep, that's correct.

Q On page 16, you asked:

At no point did you have any of those firearms?

And he responded, No.

A That's correct.

Q And on page 18, he stated:

I honestly did not know that I was shot until, like I said, once I got to the house across the street and I sat down and I looked at -- looked. And at first, I was like, Oh, shit, I cut myself on the fence, you know what I mean?

A That's correct.

Q And he stated again they sell weed, correct?

A Correct.

Q And at no point either during the first or the second statement did Mr. Turner tell you he had a gun in that backyard, did he?

A That's correct.

Q Thank you.

MS. SISOLAK: Nothing further.

THE COURT: Counsel, approach before you move on.

[Bench conference transcribed as follows:]

THE COURT: I just want to make sure I didn't cut off your cross-examination.

I want to clarify my ruling as to Mr. Giordani's concerns. If you were going to bring in some technique in your opening statement, seemed to be making a concession regarding the burglary.

MS. SISOLAK: Uh-huh.

THE COURT: If the State -- if you were going to bring an admission, and that was part of the entire admission, I would let the

entire admission in if he somehow -- I don't know what the statements are [indiscernible].

MS. SISOLAK: Your Honor, just to clear up the record, quite frankly, I got to ask all the questions I intended to ask.

THE COURT: Okay. I just wanted to make sure you had the opportunity for full cross-examination. Thank you.

MS. SISOLAK: Thank you, Your Honor.

MS. MACHNICH: Thank you.

[End of bench conference.]

THE COURT: Mr. Plummer, any cross-examination of this witness?

MR. PLUMMER: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. PLUMMER:

Q Good afternoon, Officer.

A Afternoon.

Q I draw your attention to page 21 of the second statement.

A Second statement, 21.

Q At some point during your interview, you asked him about his buddy.

MS. BEVERLY: Can we approach?

THE COURT: You may.

[Bench conference transcribed as follows:]

MS. BEVERLY: I'm just -- out of an abundance of caution, I'm being very careful, because the part where they ask about his buddy has

been redacted. That would be this portion right here.

THE COURT: Counsel, are you asking a question and the question's been redacted, that I'm not allowing in?

MS. BEVERLY: That's been redacted.

MS. SISOLAK: Is that one of the copy -- if Mr. Plummer doesn't have a --

MR. PLUMMER: I -- I --

MS. SISOLAK: -- redacted copy, we can get him one.

THE COURT: Counsel, I redacted portions of both statements extensively --

MR. PLUMMER: I have the redactions, Your Honor. This version was not -- I didn't plan on asking any questions as far as --

THE COURT: Okay, counsel. You either need to withdraw your question --

MR. PLUMMER: Yes, Your Honor.

THE COURT: -- on the record in front of the jury.

MR. PLUMMER: But isn't the redaction supposed to be towards me then? So if he says something about my client --

MS. BEVERLY: The Court -- this is what the Court redacted. The Court said we could not get into this.

THE COURT: Counsel, we had a pretrial hearing on the statements. Your -- Mr. Mueller [phonetic] had moved to sever --

MR. PLUMMER: Yes, Your Honor.

THE COURT: -- in the alternative, counsel for Mr. Turner -- the counsel for Mr. Turner, which made the redactions in lieu of

severance.

I withdrew the redactions and made additional redactions and provided them to both Mr. Mueller at the -- Mr. Turner's counsel and stated that would be -- those portions of the statements allowed were on them. And the redacted portions would either be made neutral or would not be allowed.

MR. PLUMMER: I understand that, Your Honor. It was -- it was my understanding that the redactions -- a lot of the redactions were made where he would not be able to testify to certain things, because my client doesn't have the ability to cross-examine Mr. Turner. But if there was no objection -- because the person being harmed would be Mr. Hudson; so the redactions are to protect Mr. Hudson.

MS. SISOLAK: And Mr. Turner. That's the definition of bootleg. Because at that [indiscernible] I wouldn't have [indiscernible].

THE COURT: All right. You witness to his [indiscernible].

MS. SISOLAK: I understand.

THE COURT: It's a statement used as to your client to implicate his client. Are you now waiting [indiscernible] -- a [indiscernible] measure, and now wanting the statements to come in as they were stated?

MR. PLUMMER: I guess what --

THE COURT: Okay, because once you open that door, counsel --

MS. SISOLAK: We have more cross.

THE COURT: I mean, the State's going to be allowed to

cross-examine. In other words, the redactions were for the benefit of your client in making them neutral.

MR. PLUMMER: I understand, Your Honor. I guess I just -- I don't see a statement by my client here. It's just something he witnessed.

THE COURT: Okay. It's not a client statement by your client. It's a statement by Mr. Turner that implicates your client. What we did is we went through the statements and tried to redact them and make them neutral as to the non-test -- the non-statement person. I was going to say non-testifying person.

So if you now want the jury to hear the actual statements that were made by Mr. Hudson implicating your client --

MR. PLUMMER: It's not a statement, Your Honor. The portion of it is, is that he saw the other person with him lying on the ground as he was taking off. It was a --

THE COURT: All right.

MR. PLUMMER: Him seeing --

THE COURT: Is this -- okay. Was this the statement taken out?

MR. PLUMMER: It was, Your Honor.

THE COURT: Okay. Then I'm not going to allow you to ask it, because it's for the benefit of your client.

MR. PLUMMER: Understood, Your Honor. I'll withdraw the question.

THE COURT: Okay. Let me just see the statement real

quick.

MS. BEVERLY: I can show you the redacted portion.

THE COURT: Okay. And counsel, just so you know, when I went through these to redact them, the redactions weren't done in isolation. In other words, it's to make the entire statement neutral. So the things that were redacted were done in conjunction with other portions of the statement.

MR. PLUMMER: Yes, Your Honor.

THE COURT: Okay. All right. So are you withdrawing the question?

MR. PLUMMER: I'll withdraw the question.

THE COURT: All right. Thank you.

[End of bench conference.]

MR. PLUMMER: Your Honor, I don't have any questions.

THE COURT: Thank you, Counsel.

Can this -- oh, I'm sorry.

Any redirect by the State?

MS. BEVERLY: Just briefly.

REDIRECT EXAMINATION

BY MS. BEVERLY:

Q You've been with Metro how many years, did you say?

A It would be 18 years in July.

Q Did you -- when you're interviewing a suspect, do they always tell you 100 percent of the truth?

A Negative, no.

MS. BEVERLY: Nothing further.

THE COURT: Any recross by the defense?

MS. SISOLAK: Nothing on behalf of Mr. Turner, Your Honor.

MR. PLUMMER: No, Your Honor.

THE COURT: Thank you.

Seeing no hands.

May this witness be excused?

MS. BEVERLY: Yes, Your Honor.

THE COURT: Sir, thank you. And you're excused.

THE WITNESS: Thank you, sir.

THE COURT: State, do you have any additional witnesses for today?

MS. BEVERLY: Not for today. We're moving very, very fast, just so everyone knows.

THE COURT: All right.

Ladies and gentlemen, we're going to take our evening recess. We're going to reconvene tomorrow at 1:00.

So during this recess, you are admonished not to talk or converse among yourselves or with anyone else on any subject connected with this trial or read, watch, or listen to any report of or commentary on the trial or any person connected with this trial by any medium of information, including, without limitation, newspapers, television, radio, and Internet, or form or express any opinion on any subject connected with the trial until the case is finally submitted to you.

We'll be in our evening recess and reconvene in this

courtroom tomorrow at 1:00. Thank you.

[Jury recessed at 3:48 p.m.]

THE COURT: This is outside the presence of the jury.

It's my understanding you have two witnesses tomorrow.

MR. GIORDANI: Yes, Your Honor.

MS. BEVERLY: Yes.

THE COURT: Do you think it will take the entire afternoon?

MR. GIORDANI: Probably not.

THE COURT: Okay. I don't know if the defense -- at the conclusion of their case, obviously, I'm going to go over certain rights available to your -- the clients. I don't know what your defense will be. But you might have a witness available tomorrow, unless -- if we -- do you think it's going to take a couple hours? I hate to --

MR. GIORDANI: Yes --

THE COURT: I hate to have a witness come in for, like, a half-hour worth of testimony is my concern.

MS. MACHNICH: Might we be able to settle jury instructions tomorrow after the State closes?

THE COURT: We could, if you guys are --

MR. GIORDANI: Well -- I'm sorry, Your Honor.

THE COURT: No, I'm sorry. Go ahead.

MR. GIORDANI: If we can just do the admonishment now, then we can roll directly into the defense case.

THE COURT: No. I'd like to do it at the conclusion of the State's case. That's my preference.

MR. GIORDANI: Okay.

MS. BEVERLY: Okay.

MS. MACHNICH: But if after your witnesses, we could do jury instructions, then that could fill up the afternoon.

THE COURT: So if we finish early tomorrow -- right. Unless you guys are -- here's the deal. You represent your case tomorrow. If you rest tomorrow, I'm going to do the admonishments. If the defense doesn't have any witnesses available at that point, we'll start settling jury instructions.

MS. SISOLAK: Thank you, Your Honor.

MS. BEVERLY: Sorry. Just my one thing about that is that if one of the defendants testifies, it's -- I'm going to have to add more instructions. So I'd rather wait to see --

THE COURT: Okay. But this -- settling jury instructions doesn't mean we're going to go into closing argument tomorrow.

MS. BEVERLY: Okay.

THE COURT: In other words, depending on how long it takes to settle the instructions -- I'm assuming you're witnesses are going to take a while. Let's just see what happens tomorrow.

MS. BEVERLY: Okay.

MR. GIORDANI: One more thing for the record. We've marked as next in order State's Proposed Exhibit 401. Ms. Beverly's shown them to Ms. Machnich and Ms. Sisolak, and I believe they're going to be admitted by stipulation.

THE COURT: How about Mr. Plummer?

MS. BEVERLY: They don't really apply to him, but --

MR. GIORDANI: They're Mr. Turner's medical records.

THE COURT: Okay. Do you want to have them admitted -- well, do you want to have them admitted now?

MR. PLUMMER: No.

MR. GIORDANI: Well, Mr. Plummer has no objection, Your Honor.

MR. PLUMMER: I don't have an objection, Your Honor, no to Mr. Turner's medical records.

THE COURT: And that's correct, counsel?

MS. BEVERLY: Yes.

THE COURT: Pursuant to stipulation, that exhibit will be admitted.

MS. MACHNICH: Thank you, Your Honor.

MS. BEVERLY: Okay.

MR. GIORDANI: Okay. And I believe that would make everything admitted that we've proposed at this time.

THE COURT: Is that correct, Mr. Castle?

THE CLERK: Except for the audio.

THE COURT: Except for the audio.

THE CLERK: Video surveillance.

MR. GIORDANI: Oh, okay. Understood. We'll take care of that tomorrow. Thank you.

THE COURT: All right. Anything further, counsel?

MS. MACHNICH: Nothing further.

MR. GIORDANI: Not from the State.

THE COURT: We'll be in recess.

MS. MACHNICH: Thank you.

MR. GIORDANI: Thank you, Your Honor.

[Court recessed at 3:52 p.m., until April 24, 2018, at 1:00 p.m.]

/ / /

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

Shawna Ortega

Shawna Ortega, CET*562