

IN THE SUPREME COURT OF THE STATE OF NEVADA

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| FREDERICK H. HARRIS, JR., |) | | Electronically Filed |
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| |) | CASE NO.: 81257-81255 | Elizabeth A. Brown |
| Appellant, |) | E-FILE | Clerk of Supreme Court |
| |) | D.C. Case No.: A-18-784704-W | |
| vs. |) | C-13-291374-1 | |
| |) | Dept.: XII | |
| STATE OF NEVADA, |) | | |
| |) | | |
| Respondent. |) | | |
| |) | | |

APPELLANT'S APPENDIX VOLUME III

Appeal from a Denial of Post Conviction Relief
Eighth Judicial District Court, Clark County, Nevada

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CERTIFICATE OF SERVICE

I hereby certify that I am an assistant to Terrence M. Jackson, Esquire, am a person competent to serve papers and not a party to the above-entitled action and on the 29th day of October, 2020, I served copy of the foregoing: Appellant, Frederick H. Harris', Opening Brief as well as Volumes I through XI of the Appendix, as follows:

[X] Via Electronic Service to the Nevada Supreme Court, to the Eighth Judicial District Court, and to the Nevada Attorney General by U.S. mail with first class postage affixed to the Petitioner/Appellant as follows:

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1 THE COURT: Okay.

2 MR. MAC ARTHUR: And I'll just ask this and part of it's repetitive, but.

3 Look it's not that any of the attorneys up here have never had that kind
4 of answer before, but no one has ever disclosed as far as I can tell for the first time
5 in court. So this is –

6 MS. LUZAICH: That's not true.

7 MR. MAC ARTHUR: Oh, sorry. I'm sorry.

8 MS. LUZAICH: I've heard it two or three times.

9 MS. ALLEN: Yeah, but you do it all the time.

10 MR. MAC ARTHUR: With the exception of Lisa. And so for you it's very
11 fresh, right. Many of the other people who disclosed may have had an opportunity
12 to sit and process and figure out how they feel and how it affects how they look.
13 And so the Judge and Betsy's question, I think, go to the issue of is there a danger
14 that as we go through this trial and you sort of become more comfortable with, you
15 know, what you said in open court and hear child alleged victims testifying and
16 you're evaluating their credibility, as to whether they're not honest or not, is there a
17 danger that due to this, you know, emotional state –

18 PROSPECTIVE JUROR #090: Uh-huh.

19 MR. MAC ARTHUR: -- that's new to you, that it might impair your ability to
20 objectively evaluate their testimony to you?

21 PROSPECTIVE JUROR #090: Possibly. I can't really – I mean I don't know
22 now, obviously; but –

23 THE COURT: Okay.

24 PROSPECTIVE JUROR #090: -- it could.

25 THE COURT: And I know, I've noticed you back there, you've been paying

1 attention; you've been listening and so you understand what our concerns are?

2 PROSPECTIVE JUROR #090: Yeah.

3 THE COURT: We can't have jurors that say today we can be fair and
4 impartial but when you go back to deliberate upon a verdict, after you've heard all
5 the evidence say, no, I can't be fair and impartial. 'Cause you can't tell me that then,
6 do you understand that?

7 PROSPECTIVE JUROR #090: Then I guess I would say no.

8 THE COURT: No what?

9 PROSPECTIVE JUROR #090: No, I can't be fair and – I can't guarantee that
10 I would be.

11 THE COURT: Okay. Who are you not going to be fair to?

12 PROSPECTIVE JUROR #090: Probably the defense.

13 THE COURT: Because of what happened to you?

14 PROSPECTIVE JUROR #090: Yeah.

15 THE COURT: Okay. So is there a danger of you kind of taking out on the
16 defense what happened to you?

17 PROSPECTIVE JUROR #090: I'd like to say no but I can't – I don't know.

18 MS. LUZAICH: Can I just ask her one question, please?

19 THE COURT: Absolutely.

20 MS. LUZAICH: And I mean no disrespect when I say this. You recognize that
21 what happened to you is something that's entirely different than what's going to go
22 on in this court?

23 PROSPECTIVE JUROR #090: Yes.

24 MS. LUZAICH: The relationship or lack of relationship, the situations are
25 entirely different?

1 PROSPECTIVE JUROR #090: Yes.

2 MS. LUZAICH: And all we're asking you to do is leave that, what happened to
3 you outside the courtroom and when you come in here listen to all the witnesses,
4 the kids, the grownups, the police, everybody objectively and make up your mind
5 about credibility and things of that nature, without thinking about what happened to
6 you. I mean can you do that?

7 PROSPECTIVE JUROR #090: Yes.

8 THE COURT: Okay. If you or someone you loved were sitting at the defense
9 table right now, would you want someone like yourself on the jury panel?

10 PROSPECTIVE JUROR #090: [No verbal response].

11 MS. ALLEN: I mean on this type of case.

12 MS. LUZAICH: And I don't mean to interrupt, but knowing everything that you
13 know about yourself.

14 THE COURT: Okay. Do you, do you understand my question?

15 PROSPECTIVE JUROR #090: Yeah.

16 THE COURT: Okay. So if, you know, your brother, your husband, cousins,
17 somebody you really care about, was sitting at the defense table, would you want
18 someone like yourself as a juror?

19 PROSPECTIVE JUROR #090: I don't really know.

20 THE COURT: Okay. Well, what kind of juror would you want for a loved one?

21 PROSPECTIVE JUROR #090: One that would be completely impartial and –

22 THE COURT: Completely fair and impartial, right?

23 PROSPECTIVE JUROR #090: Yeah.

24 THE COURT: Okay. So are you a juror that can be completely fair and
25 impartial?

1 MS. ALLEN: I think on these charges, just qualifying on these charges.

2 THE COURT: I'm sorry?

3 MS. ALLEN: I would qualify it just with the charges. Like if it was a stolen car,
4 I think it wouldn't be an issue.

5 PROSPECTIVE JUROR #090: Yeah, but –

6 THE COURT: Well, you know what the charges are, right?

7 PROSPECTIVE JUROR #090: Yeah, I do.

8 THE COURT: Oh, okay.

9 PROSPECTIVE JUROR #090: I mean like right now I say yes, but depending
10 on – maybe in the situation it would be different. Like when I'm hearing stuff, it
11 would be different; does that make sense?

12 THE COURT: Yeah. And that's what I'm concerned about. 'Cause
13 remember I said it yesterday everybody –

14 PROSPECTIVE JUROR #090: Yeah.

15 THE COURT: -- comes to the courtroom with lifetime – life experiences.
16 We'd never be able to find people that have no experiences, nor would we want
17 those kind of people as jurors. You understand that right?

18 PROSPECTIVE JUROR #090: Yeah.

19 THE COURT: What we need is people that can leave their experiences at the
20 door and judge this case solely upon what they see and hear in the courtroom. And,
21 the instructions on the law without allowing what happened to you to interfere with
22 that. Do you understand that?

23 PROSPECTIVE JUROR #090: I don't think I can do that.

24 THE COURT: Okay. You don't think you can set aside your personal
25 experience?

1 PROSPECTIVE JUROR #090: I don't think I can.

2 THE COURT: Okay. And so does that mean you don't think you can be fair
3 and impartial to these parties?

4 PROSPECTIVE JUROR #090: Yes.

5 THE COURT: Okay. And who is it you don't think you can be fair to?

6 PROSPECTIVE JUROR #090: The Defendant.

7 THE COURT: Okay. You don't think he can get a fair trial with you on a
8 panel?

9 PROSPECTIVE JUROR #090: No.

10 THE COURT: Okay. Is there any other follow-up?

11 MS. ALLEN: No, Your Honor.

12 THE COURT: Okay. I'm just going to – do you have anything at this chair
13 over here [indicating]?

14 PROSPECTIVE JUROR #090: Yeah, just my purse.

15 THE COURT: Okay. If you'll just grab your purse, you can go back and sit
16 where you were sitting.

17 Okay.

18 MS. ALLEN: Thank you.

19 THE COURT: The attorneys – okay. She was excused for cause.

20 [Bench conference concluded]

21 THE COURT: Okay. Mr. Charles Lyons, Mr. Charles Lyons.

22 Good afternoon, Mr. Lyons.

23 PROSPECTIVE JUROR #097: Good afternoon.

24 THE COURT: Can you hear me okay?

25 PROSPECTIVE JUROR #097: Yes.

1 THE COURT: All right. You want to use the microphone?
2 PROSPECTIVE JUROR #097: Yeah.
3 THE COURT: Are you sure you can hear me okay?
4 PROSPECTIVE JUROR #097: Yes, I can.
5 THE COURT: All right. If at any time you can't hear, just put those
6 earphones on.
7 PROSPECTIVE JUROR #097: I will.
8 THE COURT: 'Cause I saw you took 'em off, are they uncomfortable?
9 PROSPECTIVE JUROR #097: At times, yes.
10 THE COURT: Okay.
11 PROSPECTIVE JUROR #097: And a lot of times I didn't want to hear some
12 of the stuff. I mean it keeps going over and over and over, it's repetitious, you know,
13 so I just pull them off.
14 THE COURT: Okay. All right. It's getting late in the day –
15 PROSPECTIVE JUROR #097: Yeah.
16 THE COURT: -- but I appreciate you being here. Do you mind answering a
17 few questions for me?
18 PROSPECTIVE JUROR #097: Sure.
19 THE COURT: Okay. How long have you lived in Clark County?
20 PROSPECTIVE JUROR #097: Since '02, about 12 years.
21 THE COURT: Your education background?
22 PROSPECTIVE JUROR #097: High school.
23 THE COURT: What do you do for a living?
24 PROSPECTIVE JUROR #097: I'm retired.
25 THE COURT: Okay. How long have you been retired?

1 PROSPECTIVE JUROR #097: I've been retired since '02.

2 THE COURT: Okay. And what did you do before you retired?

3 PROSPECTIVE JUROR #097: I was a construction supervisor for the City of
4 Long Beach Water Department.

5 THE COURT: City of Long Beach?

6 PROSPECTIVE JUROR #097: California.

7 THE COURT: Okay. So you were –

8 PROSPECTIVE JUROR #097: Water Department.

9 THE COURT: Did you say fire department?

10 PROSPECTIVE JUROR #097: Water.

11 THE COURT: Water Department, I'm sorry. How long did you do that?

12 PROSPECTIVE JUROR #097: Thirty-eight years.

13 THE COURT: So it was your entire career?

14 PROSPECTIVE JUROR #097: Yes.

15 THE COURT: And then you decided to move from Long Beach to here?

16 PROSPECTIVE JUROR #097: Yeah, I was born there, I just wanted a
17 change.

18 THE COURT: Oh, good for you. And your marital status?

19 PROSPECTIVE JUROR #097: Married 50 years.

20 THE COURT: Oh, congratulations. Is your wife employed or is she retired.

21 PROSPECTIVE JUROR #097: She's retired.

22 THE COURT: Now what did she do before she retired?

23 PROSPECTIVE JUROR #097: She was a assistant teacher for special ed
24 kids.

25 THE COURT: Do you have children?

1 PROSPECTIVE JUROR #097: I have four.

2 THE COURT: Four children. Are they old enough to be employed?

3 PROSPECTIVE JUROR #097: Yes, they all are.

4 THE COURT: Can you tell us what each does for a living?

5 PROSPECTIVE JUROR #097: My oldest son is a captain for the Long Beach
6 Fire Department. My youngest son is a paramedic in South Carolina. My oldest
7 daughter is a office manager for a seafood place here in Vegas. My youngest
8 daughter is a president of her own company.

9 THE COURT: What kind of company is it?

10 PROSPECTIVE JUROR #097: Electrical.

11 THE COURT: Do you know of any reason why you could not be a completely
12 fair and impartial juror if we asked you to serve on this panel?

13 PROSPECTIVE JUROR #097: No.

14 THE COURT: Okay. Have you ever served as a juror before?

15 PROSPECTIVE JUROR #097: Yes, I have.

16 THE COURT: How many times?

17 PROSPECTIVE JUROR #097: I believe four.

18 THE COURT: Okay. Out of those four times can you tell me whether they
19 were civil or criminal?

20 PROSPECTIVE JUROR #097: Three civil, one criminal.

21 THE COURT: Okay. So the three civil, were you ever selected to be the
22 foreperson?

23 PROSPECTIVE JUROR #097: No.

24 THE COURT: Okay. Without telling us what your verdict was, were you able
25 to reach a verdict in all three cases?

1 PROSPECTIVE JUROR #097: Yes.

2 THE COURT: All right. Now the criminal one, were you selected to be the
3 foreperson?

4 PROSPECTIVE JUROR #097: No.

5 THE COURT: Without telling us what your verdict was, were you able to
6 reach a verdict?

7 PROSPECTIVE JUROR #097: Yes.

8 THE COURT: Anything about those experiences as a juror those four times
9 that would affect your ability to be fair and impartial, if selected to serve on this
10 panel?

11 PROSPECTIVE JUROR #097: The criminal case I sat on was rape kidnap.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR #097: -- and it was pretty gruesome; I wouldn't care
14 to go through something like that again. But I feel that I could do it, but I just -- it
15 took a big toll on a person to sit and listen to detail after detail of what went on.

16 THE COURT: Okay. So wasn't -- I mean the civil case, no problem with
17 those, right?

18 PROSPECTIVE JUROR #097: No problem, right.

19 THE COURT: Criminal cases, they're harder to listen to those facts, right?

20 PROSPECTIVE JUROR #097: In those cases, yes.

21 THE COURT: All right. Especially if that's not something you do all the time.

22 PROSPECTIVE JUROR #097: Right.

23 THE COURT: Okay. And so in that criminal case you had, you kind of had a
24 problem listening to those facts?

25 PROSPECTIVE JUROR #097: Yes.

1 THE COURT: Okay. And you know what – you know what the allegations
2 are in this case, correct?

3 PROSPECTIVE JUROR #097: Yes.

4 THE COURT: 'Cause you heard the District Attorney tell you all yesterday
5 what the allegations were, correct?

6 PROSPECTIVE JUROR #097: Right, yes.

7 THE COURT: And knowing what the allegations are do you think that you will
8 be able to sit and listen to those types of facts again?

9 PROSPECTIVE JUROR #097: Yes.

10 THE COURT: Okay. Even though you know it's going to be difficult?

11 PROSPECTIVE JUROR #097: Yes, I think I could. I don't want to but I will.

12 THE COURT: No. I would be more concerned if you said you wanted to.

13 PROSPECTIVE JUROR #097: Yeah.

14 THE COURT: Okay. You know, I don't think anyone wants to listen –

15 PROSPECTIVE JUROR #097: Yes.

16 THE COURT: -- to that kind of stuff, but –

17 PROSPECTIVE JUROR #097: Right.

18 THE COURT: -- you know that somebody has to, right?

19 PROSPECTIVE JUROR #097: Right.

20 THE COURT: And if you were called upon, you would do that?

21 PROSPECTIVE JUROR #097: Yes.

22 THE COURT: Okay. And you don't think that the fact that you've done this
23 before would interfere with your ability to be fair and impartial in this case, correct?

24 PROSPECTIVE JUROR #097: Correct.

25 THE COURT: Have you or anyone close to you, such as a family member or

1 friend, ever been the victim of a crime?

2 PROSPECTIVE JUROR #097: Yes.

3 THE COURT: Okay. Go ahead.

4 PROSPECTIVE JUROR #097: I was – my house was broken into. I've had
5 three cars stolen. I've been shot at by gang members.

6 THE COURT: Oh, I'm sorry.

7 PROSPECTIVE JUROR #097: And that's about it.

8 THE COURT: Okay. In those cases were the police called?

9 PROSPECTIVE JUROR #097: Yes.

10 THE COURT: And I'm assuming that all happened in Long Beach?

11 PROSPECTIVE JUROR #097: Yes.

12 THE COURT: Okay. Were you happy with the way it was handled by the
13 police?

14 PROSPECTIVE JUROR #097: Very.

15 THE COURT: All right. Anything about those experiences that would affect
16 your ability to be fair and impartial in this case?

17 PROSPECTIVE JUROR #097: No.

18 THE COURT: Okay. Have you or anyone close to you, such as a family
19 member or friend ever been the victim of a sexual assault, sexual abuse or domestic
20 violence?

21 PROSPECTIVE JUROR #097: Not to my knowledge.

22 THE COURT: Okay. Have you or anyone close to you, such as a family
23 member or friend ever been accused of a crime?

24 PROSPECTIVE JUROR #097: Yes.

25 THE COURT: Can you tell me about that?

1 PROSPECTIVE JUROR #097: I've had three uncles that went to prison.

2 THE COURT: Okay. Why don't you tell me – three uncles?

3 PROSPECTIVE JUROR #097: Three uncles.

4 THE COURT: Dad's, mom's siblings, which?

5 PROSPECTIVE JUROR #097: Mom's, mom's brothers.

6 THE COURT: Mom's siblings?

7 PROSPECTIVE JUROR #097: Yes.

8 THE COURT: All three of them were mom's brothers?

9 PROSPECTIVE JUROR #097: Yes.

10 THE COURT: Okay. What did they go to prison for?

11 PROSPECTIVE JUROR #097: One of them – two of them went to prison for
12 armed robbery and one went to prison for murder.

13 THE COURT: Okay. Was it around the same time or was it –

14 PROSPECTIVE JUROR #097: No, it was throughout the years. A couple of
15 my uncles were younger and they had been in and out of jail most of their lives.

16 THE COURT: Okay. Anything about that that would affect your ability to be
17 fair and impartial in this case?

18 PROSPECTIVE JUROR #097: No.

19 THE COURT: Okay. Anything else?

20 PROSPECTIVE JUROR #097: No, that's it.

21 THE COURT: All right. Do you think they were all three treated fairly?

22 PROSPECTIVE JUROR #097: Yes.

23 THE COURT: Okay. Would you have a tendency to give more weight or
24 credence or less weight or credence to the testimony of a police officer, simply
25 because he or she is a police officer?

1 PROSPECTIVE JUROR #097: You know, I really believe I would. I have a
2 great respect for police officers. I've actually applied for the academy of a police
3 officer in Long Beach and passed and was accepted. But my wife kind of talked me
4 out of it, so I wound up turning it down. But I have a great respect for police officers.

5 THE COURT: Okay. And there's nothing wrong with that. But what my
6 question is if – and I told some of the jurors before – if a police officer comes in and
7 testifies, you're going to know that person is a police officer. They'll either be in their
8 uniform or they're going to tell you what they do for a living. Do you understand
9 that?

10 PROSPECTIVE JUROR #097: Yes.

11 THE COURT: Okay. So if we have a police officer that comes in and
12 testifies, would you have a tendency to give more weight or credence or less weight
13 or credence to their testimony, simply because they are a police officer?

14 PROSPECTIVE JUROR #097: I have to be honest that I believe I would
15 probably give more.

16 THE COURT: Okay. So regardless of what they say, just because they're a
17 police officer, their testimony is going to carry more weight and credibility with you?

18 PROSPECTIVE JUROR #097: For the most part yes. I'm not naïve. I know
19 we got some bad cops out there and I know the majority of them are good and
20 they're – they strive to do the best job they can. I've ran into some terrible ones, but
21 I – overall I believe that they're up and up, and I would give them more credibility.

22 THE COURT: Okay. So if someone walks in, they have a badge and a
23 uniform, they're automatically going to have more credibility with you than someone
24 who is not in a uniform?

25 PROSPECTIVE JUROR #097: Well, I wouldn't say just because they walked

1 in. I would probably have to listen to them and see.

2 THE COURT: Okay. Well, that's what I'm trying to get out.

3 PROSPECTIVE JUROR #097: Yeah, right.

4 THE COURT: 'Cause my question is simply because they are police
5 officers –

6 PROSPECTIVE JUROR #097: No.

7 THE COURT: Okay. So simply because a witness is a police officer are they
8 going to get more weight or credibility from you, simply because they're a police
9 officer?

10 PROSPECTIVE JUROR #097: No.

11 THE COURT: Okay. So you'll listen to their testimony?

12 PROSPECTIVE JUROR #097: Yes.

13 THE COURT: Yes. And you'll judge the credibility based upon the
14 instructions on the law, which the Court will give you?

15 PROSPECTIVE JUROR #097: Yes.

16 THE COURT: Okay. So we don't have to worry about if a police officer
17 testifies, you know, they're going to have more credibility with you, simply because
18 they have a badge?

19 PROSPECTIVE JUROR #097: No, not because they have a badge.

20 THE COURT: Okay. So you'll listen to the testimony and the cross-
21 examination and judge their credibility like you would any other witness?

22 PROSPECTIVE JUROR #097: Yes.

23 THE COURT: Okay. If you're selected to be on this panel, can you wait in
24 forming your opinion as to the appropriate result to be reached in this case until
25 you've heard all of the evidence and after you've been instructed on the law by

1 myself? Can you do that?

2 PROSPECTIVE JUROR #097: Yes.

3 THE COURT: Okay. Can you think of any reason why you could not be a
4 completely fair and impartial juror, if you were selected to serve?

5 PROSPECTIVE JUROR #097: No.

6 THE COURT: Thank you.

7 Ms. Luzaich, you can question this juror.

8 MS. LUZAICH: Thank you.

9 Good afternoon. Kids, do you think that it is harder for kids to talk about
10 abuse than it would be for grownups?

11 PROSPECTIVE JUROR #097: I don't know if it would be harder. In my
12 opinion it would be just as hard for a grownup to talk about it. But kids, depending
13 on their age, might come under a little more pressure to talk about it or not to talk
14 about it, whereas an adult might be a little more embarrassed.

15 MS. LUZAICH: Okay. Can you think of a reason or reasons that kids might
16 not tell somebody that they've been being abused – that they have been abused?

17 PROSPECTIVE JUROR #097: Sure. Some of the reasons would probably be
18 fear for thinking they might have done something wrong. Or fear that something
19 might happen to them or someone they love. Or fear that – just, overall just fear of
20 not being accepted.

21 MS. LUZAICH: Okay. Do you think you can listen to the testimony of kids
22 and evaluate that testimony the same as you would any other witness?

23 PROSPECTIVE JUROR #097: Yes, I could.

24 MS. LUZAICH: You wouldn't automatically believe an adult over a child,
25 simply because they're an adult?

1 PROSPECTIVE JUROR #097: No.

2 MS. LUZAICH: And, you wouldn't automatically believe a child over an adult,
3 simply because they're a child?

4 PROSPECTIVE JUROR #097: No.

5 MS. LUZAICH: If somebody gets on the stand and talks to you about things
6 that they've done that you find to be so incredibly foolish, can you still listen to
7 something that persons says objectively?

8 PROSPECTIVE JUROR #097: Yes.

9 MS. LUZAICH: What about individuals that exchange sex for money, do you
10 have an opinion about that?

11 PROSPECTIVE JUROR #097: No.

12 MS. LUZAICH: So if somebody gets on the stand and tells you that they have
13 in the past exchanged sex for money, can that individual in your mind still be a
14 victim of sexual assault?

15 PROSPECTIVE JUROR #097: Yes.

16 MS. LUZAICH: And can you listen to that person's testimony objectively like
17 you would other people?

18 PROSPECTIVE JUROR #097: Yes.

19 MS. LUZAICH: I mean, clearly, you would take that into consideration, but
20 you won't automatically disbelieve everything they say, simply because they told you
21 that they had exchanged sex for money?

22 PROSPECTIVE JUROR #097: No, there's a reason for everything.

23 MS. LUZAICH: Okay. You've sat here for the last two days and heard all the
24 questions that I have been asking. Is there anything that you think you need to tell
25 us about yourself that'll let us know whether you would be a good juror?

1 PROSPECTIVE JUROR #097: Well, I raised four kids and I have ten
2 grandkids and two great grandkids. I believe I know kids pretty good. I know when
3 my kids are lying, I know that; and some of my grandkids for the closeness I've been
4 with them. But I don't judge them for lying as much as I try to correct them not to do
5 it again.

6 MS. LUZAICH: Okay. Would you consider yourself to be a fair and open-
7 minded person?

8 PROSPECTIVE JUROR #097: For the most part, yes.

9 MS. LUZAICH: What would make you not fair and open-minded?

10 PROSPECTIVE JUROR #097: If it got to a point where I believed that the
11 testimony was absolute truth of one person or another, then I would probably be
12 acceptable to go with that way.

13 MS. LUZAICH: Okay. Earlier you said that on the prior case that you sat on,
14 it was gruesome. When you say gruesome, do you mean violent or?

15 PROSPECTIVE JUROR #097: Violent and very sexual oriented.

16 MS. LUZAICH: Okay. Well, that's what this case is going to be, very sexual
17 oriented.

18 POSPECTIVE JUROR #097: I understand that. And like I said earlier, I don't
19 wish to go through that again, but I believe I'm capable of doing it.

20 MS. LUZAICH: And you would, if selected?

21 PROSPECTIVE JUROR #097: Yes.

22 MS. LUZAICH: Overall, did you enjoy your experience last time?

23 PROSPECTIVE JUROR #097: No.

24 MS. LUZAICH: Why? Because of the nature of what they talked about?

25 PROSPECTIVE JUROR #097: Yes.

1 MS. LUZAICH: Do you remember when that was?

2 PROSPECTIVE JUROR #097: Not exactly, but I believe it was in the late
3 '80s.

4 MS. LUZAICH: Okay. In California?

5 PROSPECTIVE JUROR #097: Yes.

6 MS. LUZAICH: And you know the law in California is very different than the
7 law here?

8 PROSPECTIVE JUROR #097: I have no idea what the difference of the law
9 is but I'm sure I'd be instructed.

10 MS. LUZAICH: You will be, which is what I going to. If there is anything that
11 you remember from the law that the Court read to you in that case, will you promise
12 that you will forget it and only follow the law that Court reads you in this case?

13 PROSPECTIVE JUROR #097: I have a hard time remembering last week.

14 MS. LUZAICH: Fortunately, you're going to have a notepad if you sit, so you'll
15 get to take down the notes. Is there anything about you that would prevent you from
16 being able to sit in judgment?

17 PROSPECTIVE JUROR #097: No.

18 MS. LUZAICH: And if you listen to all the testimony, see any evidence, if
19 you're convinced beyond a reasonable doubt the Defendant committed the crimes
20 that he is charged with, would you be able to say the word guilty?

21 PROSPECTIVE JUROR #097: I most certainly would.

22 MS. LUZAICH: Thank you.

23 The State pass for cause.

24 THE COURT: Okay. The panel is yours.

25 MS. ALLEN: Thank you, Your Honor.

1 Okay. Good afternoon, Mr. Lyons. How are you?

2 PROSPECTIVE JUROR #097: Good.

3 MS. ALLEN: You apparently took your headphones off 'cause you were
4 tired of listening to all this, is that right?

5 PROSPECTIVE JUROR #097: For the most part.

6 MS. ALLEN: I get it. Think my kids feel the same way about me. Do you
7 have a problem with burden of proof?

8 PROSPECTIVE JUROR #097: No, I don't.

9 MS. ALLEN: Okay. You said a minute ago that if you heard someone say
10 something that was the absolute truth, someone comes in here and marches up on
11 the stand and says the light was absolutely red. You were convinced, totally
12 convinced that that person was telling the truth. Would you then shut out whatever
13 other – let's say we have a witness that came in and said the light was absolutely
14 green.

15 PROSPECTIVE JUROR #097: No, I wouldn't shut it out. There's many
16 truths.

17 MS. ALLEN: Okay. But you understand I'm a little concerned about the
18 answer you gave a minute ago where you said if someone comes in and I absolutely
19 believe them, then I'm done. Okay. I – that's it.

20 PROSPECTIVE JUROR #097: Okay.

21 MS. ALLEN: Do you remember saying something to that affect?

22 PROSPECTIVE JUROR #097: Yes, yes.

23 MS. ALLEN: So you understand how that's concerning if – you understand
24 the State goes first and the then defense has a chance to go, right? And so if the
25 State brings in all their witnesses and you absolutely decide before you hear any-

1 thing from the defense that they're all telling the truth and that's the end of it, you
2 shut out anything that we've had to say, you understand that's concerning?

3 PROSPECTIVE JUROR #097: Yes, I do understand and I wouldn't shut you
4 out.

5 MS. ALLEN: Okay. So you'd just take your headphones off.

6 PROSPECTIVE JUROR #097: Well, I can hear you fine. It's just when I was
7 back there in the corner it's hard to hear.

8 MS. ALLEN: I was kidding. Just giving you a hard time. It's late in the day.
9 Okay. You have a lot of grandkids and great grandkids and there's all kinds of kids
10 at your house?

11 PROSPECTIVE JUROR #097: I don't have anybody at home right now.
12 But –

13 MS. ALLEN: Okay. Oh, okay, all right. So it's just you and your wife?

14 PROSPECTIVE JUROR #097: Just – yes.

15 MS. ALLEN: Nice and quiet?

16 PROSPECTIVE JUROR #097: For the most part.

17 MS. ALLEN: The most part. All right. All your kids finally moved out?

18 PROSPECTIVE JUROR #097: Yes.

19 MS. ALLEN: Okay. Was it like moved out, came back in, moved out again
20 with some of them?

21 PROSPECTIVE JUROR #097: One did.

22 MS. ALLEN: One did. There's always one, isn't there?

23 PROSPECTIVE JUROR #097: Yes.

24 MS. ALLEN: Yeah. I always thought I was going to build a one-bedroom
25 house once they're all gone, so they don't come back.

1 What – tell me about being shot at by gang members, what happened?

2 PROSPECTIVE JUROR #097: What had happened is that the wife and I we
3 were much younger and my uncle and his wife, we went over to a place called
4 Shady Acres, which is a miniature golf course.

5 MS. ALLEN: Okay.

6 PROSPECTIVE JUROR #097: And as we was leaving, there was three gang
7 bangers, sort to speak, they were – in LA they're called the Crips.

8 MS. ALLEN: Okay.

9 PROSPECTIVE JUROR #097: And there was a, kind of a little confrontation
10 in the parking lot, we was parked next to 'em. And one of them had said something
11 to my uncle, which was driving his car. And my uncle snapped back at him. But,
12 anyway, there was a confrontation and we got in the cars and left. And they
13 followed us. My uncle dropped me and my wife off at our house, which only about
14 two miles from there. And they followed us and as we was getting out of the car and
15 going in the house, they drove by and shot at us.

16 MS. ALLEN: So a drive by shooting.

17 PROSPECTIVE JUROR #097: Yes.

18 MS. ALLEN: Anybody ever get caught for that?

19 PROSPECTIVE JUROR #097: Yes, they did.

20 MS. ALLEN: Oh, okay. All right. Were they prosecuted?

21 PROSPECTIVE JUROR #097: Yes, they were.

22 MS. ALLEN: Did you testify or anything?

23 PROSPECTIVE JUROR #097: Yes, I did.

24 MS. ALLEN: Oh, okay. All right. And were you happy with the outcome?

25 PROSPECTIVE JUROR #097: Yes.

1 MS. ALLEN: You previously served on a jury, we've talked about that and
2 with a criminal case. And you said that it was sort of explicit, is that correct? There
3 was some explicit sexual content to it?

4 PROSPECTIVE JUROR #097: Yes.

5 MS. ALLEN: Okay. Did it involve children or adults?

6 PROSPECTIVE JUROR #097: It was an adult.

7 MS. ALLEN: Does it concern you at all that this involves -- this could involve
8 children?

9 PROSPECTIVE JUROR #097: Yes, it does.

10 MS. ALLEN: Okay. Why does that concern you?

11 PROSPECTIVE JUROR #097: Because children are very impressionable --

12 MS. ALLEN: Okay.

13 PROSPECTIVE JUROR #097: -- between certain ages. They -- that's when
14 they get their learning from is. And if something like that could happen to a child, it
15 could stick with him for the rest of his life. Some of them come out of it. Some of
16 them with therapy can really be helped. And some of them, they're messed up for
17 the rest of their life. And I think that's just a crying shame. I don't think that a child
18 should ever have to go through something like that or anybody, but especially a
19 child because he's -- he had no defense or she has no defense.

20 MS. ALLEN: Okay. It sounds like you leave out the possibility that someone
21 could make something like that up?

22 PROSPECTIVE JUROR #097: Well, sure. Sure. Yeah. Kids, kids -- every-
23 body lies --

24 MS. ALLEN: Okay.

25 PROSPECTIVE JUROR #097: -- everybody. I mean I don't think there's a

1 soul on earth that hasn't lied.

2 MS. ALLEN: Okay.

3 PROSPECTIVE JUROR #097: You know, so.

4 MS. ALLEN: I'm not going to follow that up with what do you think about
5 lawyers question; just skip that altogether.

6 PROSPECTIVE JUROR #097: And car salesmen.

7 MS. ALLEN: Thank you, Mr. Lyons. I appreciate that.

8 And I am finally, you know, I'm trying to get to talk to some of the
9 people in the back; I think I'm almost done. Can you pass the microphone down
10 that way [indicating]? Yeah, that's fine, since I don't know where the marshal is.
11 He's the one doing it. The end, just the end.

12 Kordoban, Mr. Kordoban –

13 PROSPECTIVE JUROR #042: Yes, ma'am.

14 MS. ALLEN: How are you?

15 PROSPECTIVE JUROR #042: I'm great. Thank you.

16 MS. ALLEN: Okay. I'll try not to be too repetitive. Too late, right? Would –
17 some of the questions I asked earlier regarding where children might feel a safe
18 place, let's say, to report or to talk to somebody about about possible abuse. And I
19 had said things like a CPS worker. Would you agree that a Child Protective
20 Services worker, a social worker, would be someone that you would think a child
21 would feel safe reporting to?

22 PROSPECTIVE JUROR #042: I would think so.

23 MS. ALLEN: Okay. What about a police officer?

24 PROSPECTIVE JUROR #042: To some degree, yes.

25 MS. ALLEN: Okay. To some degrees. How about, like, a school counselor?

1 PROSPECTIVE JUROR #042: Yes.

2 MS. ALLEN: Or just a teacher even?

3 PROSPECTIVE JUROR #042: Teacher, yeah.

4 MS. ALLEN: Okay. What about a psychiatrist?

5 PROSPECTIVE JUROR #042: I think so, in the circumstances that they'd be
6 in probably a period of time talking to them, so.

7 MS. ALLEN: Okay. You – they – these are instances of people that generally
8 – I think most people think of them as being safe, is that right?

9 PROSPECTIVE JUROR #042: Yes, I would.

10 MS. ALLEN: Okay. Do you agree that – well, let me ask you do you –
11 automatically are you going to believe a child over an adult?

12 PROSPECTIVE JUROR #042: No.

13 MS. ALLEN: Okay. All right. Do you think everybody motivations, whether
14 they're coming in here to testify or sit at tables or sit in the back row, everybody has
15 a motivation, is that correct when it comes to certain things?

16 PROSPECTIVE JUROR #042: To be – yeah –

17 MS. ALLEN: Okay.

18 PROSPECTIVE JUROR #042: To be here, sure.

19 MS. ALLEN: And motivation sometimes cause us to lie or be dishonest?

20 PROSPECTIVE JUROR #042: To protect their peer pressure or their own
21 ego or whatever, yes.

22 MS. ALLEN: Do you think peer pressure necessarily has to come from
23 outside, from friends? Or, can it come internally from, let's say, siblings?

24 PROSPECTIVE JUROR #042: Siblings, I have five brothers, so yeah.

25 MS. ALLEN: Oh, five boys; so six boys, total?

1 PROSPECTIVE JUROR #042: Uh-huh.

2 MS. ALLEN: Wow, okay. All right. Were you the youngest, oldest, middle?

3 PROSPECTIVE JUROR #042: I was – my older brother stayed with my real
4 dad. The guy got divorced so I was the oldest of the five.

5 MS. ALLEN: Oldest of five.

6 PROSPECTIVE JUROR #042: Um-huh.

7 MS. ALLEN: Okay. All right. Did the little ones follow you around –

8 PROSPECTIVE JUROR #042: Oh, yeah.

9 MS. ALLEN: -- and annoy you?

10 PROSPECTIVE JUROR #042: There's enough span of time to – yeah.

11 MS. ALLEN: Did they annoy you? Were they good to you?

12 PROSPECTIVE JUROR #042: Well, I was the babysitter all the time 'cause I
13 was always the –

14 MS. ALLEN: Ah.

15 PROSPECTIVE JUROR #042: -- the older one.

16 MS. ALLEN: Oh, you got that job?

17 PROSPECTIVE JUROR #042: Yeah.

18 MS. ALLEN: Okay. All right. Did you see, I guess since you were
19 babysitting, did – let me ask you, were you somewhat resentful about having to
20 babysit your siblings?

21 PROSPECTIVE JUROR #042: No.

22 MS. ALLEN: You weren't resentful at all?

23 PROSPECTIVE JUROR #042: No, not at all.

24 MS. ALLEN: Okay. You didn't feel like you were sort of abandoned with the
25 kids?

1 PROSPECTIVE JUROR #042: No, I – no, I was pretty athletic, so I still got to
2 play a lot of sports, so.

3 MS. ALLEN: Okay. Were you the disciplinarian? Were you --

4 PROSPECTIVE JUROR #042: Yeah, always, um-huh.

5 MS. ALLEN: Firm hand?

6 PROSPECTIVE JUROR #042: Sorry?

7 MS. ALLEN: Firm hand? You always had them under control?

8 PROSPECTIVE JUROR #042: Yeah, I think so or pretty much so, yeah,
9 'cause I was – 'cause of the span of years between us all.

10 MS. ALLEN: Okay. All right. Do you think that a child can make up
11 allegations and I don't just mean sexual allegations, I mean anything; they can make
12 anything up?

13 PROSPECTIVE JUROR #042: Making up stories, you mean?

14 MS. ALLEN: Yeah. Do you think children can make that up?

15 PROSPECTIVE JUROR #042: I think so, uh-huh.

16 MS. ALLEN: Would you agree that with some of the other jurors I talked to
17 that – like sex is more accessible now?

18 PROSPECTIVE JUROR #042: Completely more.

19 MS. ALLEN: Okay. A lot more, right?

20 PROSPECTIVE JUROR #042: Yeah.

21 MS. ALLEN: As – I think someone, Mr. Greenwood, you know you go to the
22 library like 20 years ago, now it's just turn on a computer, right?

23 PROSPECTIVE JUROR #042: That's most definitely.

24 MS. ALLEN: Or the TV? It's very easy to get an idea, isn't it?

25 PROSPECTIVE JUROR #042: That's correct.

1 MS. ALLEN: Okay. Okay. Is there anything else I asked anybody that you
2 wouldn't approve or any of those fun things that you thought, I really have to answer
3 that question?

4 PROSPECTIVE JUROR #042: I think generally speaking I'm a very fair and
5 impartial person. So I think I read people well and I've been in the people business,
6 the hotel business, et cetera, so.

7 MS. ALLEN: Okay.

8 PROSPECTIVE JUROR #042: So I've been around that. So pretty strong
9 with listening to all sides and had a lot of employees and et cetera like that.

10 MS. ALLEN: Sound like you want to be on the jury?

11 PROSPECTIVE JUROR #042: To a degree. You know, I mean I – it's like
12 when I got drafted and I'm a Vietnam veteran. Well, I think there's a responsibility
13 for us all to participate. And if I was sitting over there, I'd want to have, have some-
14 body that cares enough to hear the facts and be a part of it.

15 MS. ALLEN: Okay. So you believe both sides are entitled to a fair trial?

16 PROSPECTIVE JUROR #042: Very much so.

17 MS. ALLEN: All right. And you understand what's at stake here?

18 PROSPECTIVE JUROR #042: Pardon?

19 MS. ALLEN: You understand what's at stake here, is that correct?

20 PROSPECTIVE JUROR #042: Yes.

21 MS. ALLEN: It's very serious?

22 PROSPECTIVE JUROR #042: Very serious, yeah.

23 MS. ALLEN: Okay. Thank you very much.

24 PROSPECTIVE JUROR #042: Thank you.

25 MS. ALLEN: Ms. Spaur –

1 PROSPECTIVE JUROR #049: Yes.

2 MS. ALLEN: -- how are you? If you can pass --

3 PROSPECTIVE JUROR #049: I can hear you.

4 MS. ALLEN: How are you? You're a attorney?

5 PROSPECTIVE JUROR #049: Yes.

6 MS. ALLEN: And how excited were you to get the jury summons?

7 PROSPECTIVE JUROR #049: It's kind of like, ooh, I could miss work for a
8 day or two. I was kind of -- the one, I actually postponed, 'cause my original
9 summons came around when I was really busy, but fortunately things are quieter
10 now, so my boss isn't e-mailing me every 30 seconds.

11 MS. ALLEN: I had -- I received one and I actually got called and sat in. I
12 didn't get picked, but I got to sit and it's a totally different perspective --

13 PROSPECTIVE JUROR #049: It really is.

14 MS. ALLEN: -- picking a jury versus sitting there, is that correct?

15 PROSPECTIVE JUROR #049: It absolutely is.

16 MS. ALLEN: And I was so excited that I thought I'd -- you know, I thought,
17 wow, I get to actually sit on a jury. Do you kind of feel that?

18 PROSPECTIVE JUROR #049: Actually, I have been thinking about it and I --
19 would be, I think, an opportunity, I think. I agree with some of the other jurors like
20 Mr. Kordoban says, you know, it's a part of citizenship and service and --

21 MS. ALLEN: Okay.

22 PROSPECTIVE JUROR #049: -- and it would be an honor to serve.

23 MS. ALLEN: Okay. The charges bother you at all?

24 PROSPECTIVE JUROR #049: I think the severity of the charges certainly
25 bother me because it's very serious and some difficult issues and I'm sure difficult

1 facts; but – and I'm sure no one would look forward to going through it, but you
2 know, it's a part of the process and the Defendant is entitled to a fair hearing and a
3 fair trial and the State's entitled to fair opportunity to present their case, so –

4 MS. ALLEN: Okay.

5 PROSPECTIVE JUROR #049: -- we'd just have to listen.

6 MS. ALLEN: Okay. And you think you're pretty impartial? You can be fair
7 and impartial?

8 PROSPECTIVE JUROR #049: Absolutely.

9 MS. ALLEN: Listen to both sides?

10 PROSPECTIVE JUROR #049: Absolutely.

11 MS. ALLEN: Okay. Do you think that you possess, because I assume you've
12 cross-examined some people or that you've examined people on the stand?

13 PROSPECTIVE JUROR #049: I've actually only participated in one trial and
14 I'm – I was second chair and my boss kinda forgot to – that he was going to let me
15 cross-examine a couple of witnesses. So I've prepared testimony but I haven't
16 actually examined witnesses personally.

17 MS. ALLEN: Have you done depositions?

18 PROSPECTIVE JUROR #049: Yes.

19 MS. ALLEN: Okay. So –

20 PROSPECTIVE JUROR #049: I mean I have done that. But – yes.

21 MS. ALLEN: Okay. So depositions are – you can –

22 PROSPECTIVE JUROR #049: Similar, yes.

23 MS. ALLEN: When you're in a deposition do you – you sort of have to assess
24 people as you're questioning them, would you agree?

25 PROSPECTIVE JUROR #049: Yes.

1 MS. ALLEN: Okay. And depending on what it is, I mean personal injury is
2 obviously different than construction defect or, you know, securities fraud –
3 whatever it is, they're all different. But you're still assessing the credibility of a
4 person sitting in front of you?

5 PROSPECTIVE JUROR #049: Right.

6 MS. ALLEN: And how they respond to the question, correct?

7 PROSPECTIVE JUROR #049: Yes.

8 MS. ALLEN: And their demeanor on the stand?

9 PROSPECTIVE JUROR #049: Yes.

10 MS. ALLEN: Okay. So do you think you possess a special talent for that
11 because of what you do; assessing people's credibility?

12 PROSPECTIVE JUROR #049: I don't know if I'd call it a special talent. I
13 think I have developed the skill –

14 MS. ALLEN: Um-huh.

15 PROSPECTIVE JUROR #049: -- of assessing credibility if someone is in the
16 process of testifying and observing, you know. When I'm either doing the direct
17 examination or the cross-examination myself, when I'm doing the questioning, you
18 know I have to kind of figure out where they're going and what questions need to be
19 followed up on and what, you know, the demeanor of the witness. And so I think I
20 have picked up the skill of evaluating someone who's testifying.

21 MS. ALLEN: All right. Was there anything that I mentioned earlier to any of
22 the other jurors that struck you, that again, as I said to Mr. Kordoban, like, oh, I have
23 to answer that; let me just jump up right now and, like now –

24 PROSPECTIVE JUROR #049: No.

25 MS. ALLEN: Nothing that exciting?

1 PROSPECTIVE JUROR #049: No. I – you know, I think you know, think I've
2 pretty much addressed the issues that both sets of attorneys might have with me.

3 MS. ALLEN: Okay. I appreciate it. If you could just hand the microphone to
4 Mr. Bocage.

5 PROSPECTIVE JUROR #048: Bocage [pronounces name].

6 MS. ALLEN: Bocage [pronounces name]. Good afternoon. How are you?

7 PROSPECTIVE JUROR #048: Good afternoon.

8 MS. ALLEN: Did your voice get any better?

9 PROSPECTIVE JUROR #048: It's getting a little better.

10 MS. ALLEN: A little better. What's the weather like now in Louisiana?

11 PROSPECTIVE JUROR #048: Well, the problem – this year it's part my fault
12 because I was doing Mardi Gras, so I kind of overdid it a little bit after school, so,
13 being honest.

14 MS. ALLEN: Okay. Were you – I didn't know if I caught this but were you
15 raised in Louisiana?

16 PROSPECTIVE JUROR #048: Yes.

17 MS. ALLEN: What part?

18 PROSPECTIVE JUROR #048: New Orleans.

19 MS. ALLEN: New Orleans.

20 PROSPECTIVE JUROR #048: Right.

21 MS. ALLEN: Okay. Great place.

22 PROSPECTIVE JUROR #048: Went to an all boys' school, so you know.

23 MS. ALLEN: And then you broke free and came to Vegas?

24 PROSPECTIVE JUROR #048: No, I went Salt Lake City.

25 MS. ALLEN: Oh, okay. So you went to Salt Lake City. What did you do in

1 Salt Lake City?

2 PROSPECTIVE JUROR #048: I was the HR director for Sperry Univac.

3 MS. ALLEN: Okay. And then from Salt Lake City here?

4 PROSPECTIVE JUROR #048: Salt Lake City here.

5 MS. ALLEN: All right.

6 PROSPECTIVE JUROR #048: And now I'm a director with the Disabled
7 American Veterans.

8 MS. ALLEN: Okay. Did you serve in the military?

9 PROSPECTIVE JUROR #048: Absolutely.

10 MS. ALLEN: Okay. I apologize. It's been two days and I know it seems long
11 for you, but it's even longer for us. And what branch?

12 PROSPECTIVE JUROR #048: Navy, but I took care of the Marines. I was a
13 hospital corpsman.

14 MS. ALLEN: Okay. All right. And how long were you in the military?

15 PROSPECTIVE JUROR #048: Four years.

16 MS. ALLEN: Four years, okay. You go down to – how long did you live in
17 Louisiana before you moved out.

18 PROSPECTIVE JUROR #048: Okay. I lived in – I left Louisiana in 1960.

19 MS. ALLEN: Okay. And now – and you haven't gone back to live, is that
20 right, since?

21 PROSPECTIVE JUROR #048: Oh, no, I haven't gone back to live.

22 MS. ALLEN: Okay.

23 PROSPECTIVE JUROR #048: But I been teaching down there. That
24 program that I'm in, this is my 30th year.

25 MS. ALLEN: Okay. And so you fly down there?

1 PROSPECTIVE JUROR #048: Yes.

2 MS. ALLEN: To teach?

3 PROSPECTIVE JUROR #048: Yes.

4 MS. ALLEN: Okay. How often do you fly down there?

5 PROSPECTIVE JUROR #048: Say it again.

6 MS. ALLEN: How often do you fly down there? Back to –

7 PROSPECTIVE JUROR #048: Once a year.

8 MS. ALLEN: Just once a year?

9 PROSPECTIVE JUROR #048: Yes.

10 MS. ALLEN: Oh, okay. And how long are you there?

11 PROSPECTIVE JUROR #048: Two weeks.

12 MS. ALLEN: All right. Would you say that Louisiana has changed, that New
13 Orleans has changed since you moved?

14 PROSPECTIVE JUROR #048: Absolutely.

15 MS. ALLEN: Okay. Good, bad, indifferent?

16 PROSPECTIVE JUROR #048: You got to realize I was come up in the '50s,
17 so –

18 MS. ALLEN: Okay. I understand.

19 PROSPECTIVE JUROR #048: Okay. I'm 72, so.

20 MS. ALLEN: Well, you don't look it.

21 PROSPECTIVE JUROR #048: Thank you.

22 MS. ALLEN: But you understand – okay, so I understand what you're telling
23 me and it is – we're talking about a totally different era.

24 PROSPECTIVE JUROR #048: Um-huh.

25 MS. ALLEN: But do you think it changed for the better?

1 PROSPECTIVE JUROR #048: Absolutely.

2 MS. ALLEN: Okay. Would you say that Louisiana, in general, is like no other
3 part of the country?

4 PROSPECTIVE JUROR #048: Absolutely.

5 MS. ALLEN: Not just 'cause you lived there or you're wearing a Saints jacket
6 but it's like no other part of the country, isn't that right?

7 PROSPECTIVE JUROR #048: It's very friendly, okay, you know.

8 MS. ALLEN: Okay. Very friendly.

9 PROSPECTIVE JUROR #048: And it always been that way even in the '50s,
10 I think –

11 MS. ALLEN: Okay.

12 PROSPECTIVE JUROR #048: -- you know, the relationship with the people
13 out in Louisiana –

14 MS. ALLEN: Okay.

15 PROSPECTIVE JUROR #048: -- is quite different; it's not in other places.

16 MS. ALLEN: What about the people? Do you think the people are different
17 than anywhere in the country?

18 PROSPECTIVE JUROR #048: Friendly.

19 MS. ALLEN: Friendly?

20 PROSPECTIVE JUROR #048: Yeah.

21 MS. ALLEN: Okay. There are other things that are different about Louisiana
22 than other states, like they use a different law, like legal system, is that correct?

23 PROSPECTIVE JUROR #048: Okay. Now –

24 MS. ALLEN: The French Civil Code?

25 PROSPECTIVE JUROR #048: Yeah. My mom used to tell me that Louisiana

1 is totally different when it comes down to their politics.

2 MS. ALLEN: Okay.

3 PROSPECTIVE JUROR #048: Because, you know, she tell me this is a
4 crook, but I'm going to vote for him anyway.

5 MS. ALLEN: Fair enough.

6 PROSPECTIVE JUROR #048: So, you know, we –

7 MS. ALLEN: Well, at least she was honest, at least she was honest.

8 PROSPECTIVE JUROR #048: Right. And then, of course, everybody know
9 that our previous mayor, a friend of mine, you know he's going to be going to jail, so.

10 MS. ALLEN: It happens.

11 PROSPECTIVE JUROR #048: Happens.

12 MS. ALLEN: It happens, okay. So you've served in the military and you're,
13 obviously, well-educated. And I have to ask are you – is this something you want to
14 do is serve on a jury?

15 PROSPECTIVE JUROR #048: Yes.

16 MS. ALLEN: Have you ever – have you done it before?

17 PROSPECTIVE JUROR #048: No.

18 MS. ALLEN: Never done it before.

19 PROSPECTIVE JUROR #048: No.

20 MS. ALLEN: Wow, that's surprising. Retired military, we get a lot of retired
21 military in our jury pools. You must have been in Louisiana every time the summons
22 came.

23 PROSPECTIVE JUROR #048: Well, I had to postpone this one because it
24 was during the time I was teaching.

25 MS. ALLEN: I understand.

1 PROSPECTIVE JUROR #048: So I had to reschedule.

2 MS. ALLEN: Is this case going to present difficulties, based upon the nature
3 of the charges for you?

4 PROSPECTIVE JUROR #048: No.

5 MS. ALLEN: No. You think you can still be impartial regardless of the
6 charges?

7 PROSPECTIVE JUROR #048: Absolutely.

8 MS. ALLEN: Okay. Do you – you recall the questions I was asking about sex
9 and the media and television. Did you agree with some of the jurors, previous jurors
10 who answered those questions?

11 PROSPECTIVE JUROR #048: Oh, sure.

12 MS. ALLEN: Okay. That it's more out there now than it was let's say even 20
13 years ago?

14 PROSPECTIVE JUROR #048: Oh, absolutely.

15 MS. ALLEN: Things have changed a lot in the last 20 or 30 years?

16 PROSPECTIVE JUROR #048: Yes.

17 MS. ALLEN: In the media –

18 PROSPECTIVE JUROR #048: Yes.

19 MS. ALLEN: -- is that correct? Okay. And it's much more accessible to
20 children now?

21 PROSPECTIVE JUROR #048: Yes.

22 MS. ALLEN: Okay. Thank you very much.

23 PROSPECTIVE JUROR #048: Yeah.

24 MS. ALLEN: I hope your voice gets better.

25 PROSPECTIVE JUROR #048: I hope so.

1 MS. ALLEN: If we could go down this way [obtaining microphone]. Thank
2 you. Okay. Let's see you are Ms. Barlow, is that right?

3 PROSPECTIVE JUROR #051: Um-huh.

4 MS. ALLEN: Okay. And you're a teacher.

5 PROSPECTIVE JUROR #051: Yes.

6 MS. ALLEN: And so you've heard a mandatory reporter being thrown out a
7 lot?

8 PROSPECTIVE JUROR #051: Yes.

9 MS. ALLEN: Okay. So can you explain specifically what that is 'cause I'm not
10 that any – I don't know if anybody else gave a specific explanation.

11 PROSPECTIVE JUROR #051: Well, if you suspect any physical or emotional
12 or neglect, you need to – you have to report it.

13 MS. ALLEN: And what happens if it's – comes to someone's attention that
14 you don't? Are there consequences if you don't report?

15 PROSPECTIVE JUROR #051: Yes.

16 MS. ALLEN: And what would those consequences be?

17 PROSPECTIVE JUROR #051: The – your principal would talk to you and,
18 depending what the district decides, you could lose your job.

19 MS. ALLEN: Do you know if you can – I apologize.

20 PROSPECTIVE JUROR #051: Right.

21 MS. ALLEN: Do you know if you can be charged with a crime?

22 PROSPECTIVE JUROR #051: I am not – I'm sure. I'm not sure, though;
23 actually, I'm not sure.

24 MS. ALLEN: You're not sure.

25 PROSPECTIVE JUROR #051: I just know my responsibility.

1 MS. ALLEN: Okay. And you said before that you really didn't – you hadn't at
2 least come across any teachers or people you worked with that you thought were
3 hesitant to report?

4 PROSPECTIVE JUROR #051: No.

5 MS. ALLEN: Everybody you know has been very forthcoming with that?

6 PROSPECTIVE JUROR #051: Yes.

7 MS. ALLEN: And if – let's say, that they're – you reported. Actually, you did.
8 You reported something. Did other teachers in your school know about it?

9 PROSPECTIVE JUROR #051: No.

10 MS. ALLEN: Okay. You were the only one –

11 PROSPECTIVE JUROR #051: Yeah.

12 MS. ALLEN: -- and the principal?

13 PROSPECTIVE JUROR #051: Um-huh.

14 MS. ALLEN: Yes. Okay. Thank you very much.

15 Miss Hiatt.

16 PROSPECTIVE JUROR #053: Yes.

17 MS. ALLEN: How are you?

18 PROSPECTIVE JUROR #053: I'm good. How are you?

19 MS. ALLEN: I'm good. Thank you. Just – I've asked a bunch of questions of
20 a bunch of the jurors over here and, hopefully, you've been listening to some of it.
21 So without completely regurgitating everything, obviously, you think you can be fair
22 and impartial, you answered those questions earlier. Is that correct?

23 PROSPECTIVE JUROR #053: Yes, that's correct.

24 MS. ALLEN: The charges don't bother you in the least?

25 PROSPECTIVE JUROR #053: I wouldn't say they don't bother me, but –

1 MS. ALLEN: Okay.

2 PROSPECTIVE JUROR #053: -- I will do what I have to do and be impartial
3 with, you know, and listen to all the, you know, the information before you make a
4 judgment.

5 MS. ALLEN: Okay. Do you think that children are capable of -- again, making
6 up stories? I don't mean specific to what we're talking about here --

7 PROSPECTIVE JUROR #053: Right.

8 MS. ALLEN: -- but just in general?

9 PROSPECTIVE JUROR #053: Definitely.

10 MS. ALLEN: Okay. Carrying it forward, you think that they have the ability to
11 make up stories with regard to things such as what we are talking about here?

12 PROSPECTIVE JUROR #053: Yes, I -- it depends on the age, of course --

13 MS. ALLEN: Okay.

14 PROSPECTIVE JUROR #053: -- as to maybe how significant the situation is
15 or how, you know, how they can give details. But, yes, I believe they can.

16 MS. ALLEN: Okay. So details would be important, is that correct?

17 PROSPECTIVE JUROR #053: Yes. Yes.

18 MS. ALLEN: Okay. All right. What about this idea of talking, that there are
19 potentially safe people to talk to like a CPS worker.

20 PROSPECTIVE JUROR #053: Uh-huh.

21 MS. ALLEN: Would you agree with that?

22 PROSPECTIVE JUROR #053: Yes.

23 MS. ALLEN: Okay. What about a police officer?

24 PROSPECTIVE JUROR #053: Yes. You would hope so.

25 MS. ALLEN: Okay. Psychiatrists, school counselors, things such as that?

1 PROSPECTIVE JUROR #053: Um-huh. I think anyone in authority of that
2 nature that deal with children especially, you would hope they would feel
3 comfortable enough to discuss it with them.

4 MS. ALLEN: Okay. I think Ms. Luzaich asked you, I can't remember if she
5 specifically asked you, I know she asked I think everybody, but – about the
6 prostitution, sex for money –

7 PROSPECTIVE JUROR #053: Uh-huh.

8 MS. ALLEN: -- that doesn't bother you, does it?

9 PROSPECTIVE JUROR #053: No.

10 MS. ALLEN: Okay.

11 If I may have the Court's indulgence for just a moment?

12 THE COURT: You bet.

13 MS. ALLEN: Thank you. [Conferring with co counsel]. Your Honor, I think
14 the defense will pass for cause at this time.

15 THE COURT: Okay. Both parties having passed the panel for cause, at this
16 time, the Clerk has prepared what has been marked as Court's Exhibit Number 1.
17 And the State of Nevada may exercise their first peremptory challenge.

18 Let me just ask, I know we've been in here all afternoon, is everyone
19 okay? Does anyone need a break?

20 PROSPECTIVE JUROR #040: But there's something that I need to say or
21 ask?

22 THE COURT: Okay. Can I have the – just you hang onto it, Ms. Luzaich?

23 MS. LUZAICH: Sure.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR #040: It's just something that, you know, I just

1 thought about.

2 THE COURT: Okay. Your name and badge number.

3 PROSPECTIVE JUROR #040: Kathleen Smith, badge 40. My concern just is
4 that if I were selected would I still be able to work my job downstairs at the
5 information desk? We open – we start at six in the morning, doors open at seven.
6 And you made mention that court would start like about 10, 10:30.

7 THE COURT: Oh, sure. I don't care what you do before we're up here.

8 PROSPECTIVE JUROR #040: All right. Because I – well, my concern was
9 with some of the witnesses coming through, that they would see me at the
10 information desk and then see me here in the courtroom. And I don't want them to –
11 I don't want anybody to be feeling uncomfortable that – well, she's there –

12 THE COURT: As long as you wear a – if you're selected, as long as you wear
13 a badge that identifies you as a juror in Department XII, I'm okay. And as long as
14 you don't talk to anybody. If you feel like that's going to be a problem, then I'll tell
15 you don't work at the information desk. Okay.

16 PROSPECTIVE JUROR #040: Okay.

17 THE COURT: Are you okay with that?

18 PROSPECTIVE JUROR #040: Yes, I am.

19 THE COURT: Okay. So your concern was maybe witnesses coming to you
20 and asking you questions?

21 PROSPECTIVE JUROR #040: No, just would they feel uncomfortable that if
22 they saw me at the information desk and then they see me in the courtroom and
23 say, well, she's both places?

24 THE COURT: No. So it's just a concern?

25 PROSPECTIVE JUROR #040: Right.

1 THE COURT: Thank you for letting us know that.

2 State can exercise – let me just – does anyone need a break? ‘Cause
3 this may take awhile. Okay. So if one person wants a break, we all need to take a
4 break. What I’m going to try to –

5 PROSPECTIVE JUROR #030: Five minutes, five minute pee break.

6 UNIDENTIFIED PROSPECTIVE JUROR: Five minutes or –

7 PROSPECTIVE JUROR #030: Ten minute pee break, to be straight.

8 THE COURT: Okay. So we’ll take about a ten minute recess. If you can try
9 to limit it to ten minutes, so we can get back ‘cause this is all we have to do. And
10 then I’m going to let – if you’re not chosen, you’ll be able to go home. Remember, I
11 have to read the admonition.

12 During this recess, you’re admonished not to talk or converse amongst
13 yourselves or with anyone else on any subject connected with this trial or read,
14 watch or listen to any report of or commentary on the trial or any person connected
15 with this trial by any medium of information, including without limitation newspapers,
16 television, the Internet or radio; or form or express any opinion on any subject
17 connected with this trial ‘til the case is finally submitted to you.

18 We’re in recess for ten minutes. Thank you.

19 [Recess taken from 4:42 p.m. to 4:51 p.m.]

20 [In the presence of the prospective jury panel]

21 THE COURT: Do the parties stipulate to the presence of the jury panel?

22 MS. LUZAICH: Yes, ma’am.

23 MS. ALLEN: Yes, Your Honor.

24 THE COURT: Okay. Have both sides exercised their first challenge?

25 MS. LUZAICH: Oh, no, the State did.

1 [The State exercises its first peremptory challenge]
2 THE COURT: Okay. And the defense may now exercise their –
3 MS. ALLEN: Thank you.
4 THE COURT: I'm sorry. The defense may now exercise their first challenge.
5 [The Defense exercises its first peremptory challenge]
6 MS. LUZAICH: Oh.
7 THE COURT: Will you bring – I like to see it in –
8 MS. ALLEN: Oh, I'm sorry.
9 THE COURT: That's okay. I just like to see it in between –
10 MS. LUZAICH: Oh.
11 MS. ALLEN: Understood.
12 THE COURT: – just in case.
13 State of Nevada may exercise their second peremptory challenge.
14 [The State exercises its second peremptory challenge]
15 MS. LUZAICH: You put a two.
16 MS. ALLEN: I am so tired; here, sorry, sorry, sorry. Here --
17 MS. LUZAICH: Judge, just for the record, the defense put a two.
18 MS. ALLEN: Two.
19 MS. LUZAICH: So she's changing it to a one –
20 MS. ALLEN: To a one. Do you want me to initial it?
21 MS. LUZAICH: – for her first preempt.
22 MS. ALLEN: And sorry.
23 THE COURT: You know what? I actually wrote a two down too.
24 MS. ALLEN: I'm –
25 THE COURT: So I just –

1 MS. ALLEN: It's just been a long day.
2 THE COURT: It's been a long day.
3 MS. ALLEN: I'll initial it.
4 THE COURT: So thank you. If you will just initial it, I would appreciate –
5 thank you very much.
6 MS. ALLEN: Thank you. Sorry about that.
7 THE COURT: A whole lot of good I did checking it.
8 [Colloquy between the defense counsel]
9 [The Defense exercises its second peremptory challenge]
10 MR. MACARTHUR: We should ask.
11 THE COURT: Did you want to –
12 MS. ALLEN: I just have – we have a question, Your Honor.
13 THE COURT: Okay. You may approach.
14 MS. ALLEN: Thank you.
15 [Bench conference transcribed as follows:]
16 THE COURT: All four lawyers are present at the bench.
17 MS. ALLEN: I didn't even think to ask this or maybe you said it and I just
18 didn't listen. I'm sorry. Do you snake up once we – or do they fill in?
19 MS. LUZAICH: Huh?
20 THE COURT: No.
21 MS. ALLEN: Do you know understand what –
22 THE COURT: I don't know what snake up means, but here's what – when
23 you're done, all of you –
24 MS. ALLEN: Right.
25 THE COURT: – when you're done exercising –

1 MS. ALLEN: Okay.

2 THE COURT: – you get eight each, I start at the top –

3 MS. ALLEN: Right.

4 THE COURT: -- and I count down 12.

5 MS. ALLEN: Down. Okay.

6 MR. MACARTHUR: Okay, so they fill in.

7 THE COURT: And then I draw a line.

8 MS. LUZAICH: The first 12.

9 MR. MACARTHUR: They snake up.

10 THE COURT: So I don't know. Does that mean snake up?

11 MR. MACARTHUR: Well, what she means is sometimes if the position

12 number 5 becomes vacant, you pull from the end and you stick in.

13 THE COURT: No, I don't do that.

14 MS. ALLEN: Okay. Snake up means if 1, 3 and 5 are gone, everybody just

15 moves up a seat.

16 THE COURT: No.

17 MR. MACARTHUR: Just accordions.

18 MS. ALLEN: Okay.

19 THE COURT: I don't know if that's – I just literally –

20 MS. ALLEN: I understand.

21 MS. LUZAICH: Just the first 12 that are still here –

22 MR. MACARTHUR: Okay.

23 THE COURT: The first 12.

24 MS. LUZAICH: – are it.

25 MS. ALLEN: That's snake up.

1 THE COURT: It's the first 12 –
2 MR. MACARTHUR: Yeah. That's snake up.
3 MS. LUZAICH: Where did you get that?
4 MS. ALLEN: Herndon. I think Herndon used it.
5 THE COURT: The first 12 –
6 MS. LUZIACH: No.
7 THE COURT: The last 12 standing that is.
8 MS. ALLEN: Got it.
9 MS. LUZAICH: Yeah.
10 MS. ALLEN: Got it. Thank you.
11 THE COURT: Okay?
12 MR. MACARTHUR: Okay.
13 MS. ALLEN: Sorry about that.
14 THE COURT: Thanks.

15 [Bench conference concluded]

16 THE COURT: The State of Nevada may exercise their third peremptory
17 challenge.

18 [The State exercises its third peremptory challenge]

19 THE COURT: The defense may exercise their third peremptory challenge.

20 [The Defense exercises its third peremptory challenge]

21 THE COURT: The State of Nevada may exercise their fourth peremptory
22 challenge.

23 [The State exercises its fourth peremptory challenge]

24 THE COURT: The defense may exercise their fourth peremptory challenge.

25 [The Defense exercises its fourth peremptory challenge]

1 THE COURT: The State of Nevada may exercise their fifth peremptory
2 challenge.

3 [The State exercises its fifth peremptory challenge]

4 THE COURT: The defense may exercise their fifth peremptory challenge.

5 [The Defense exercises its fifth peremptory challenge]

6 THE COURT: The State of Nevada may exercise their sixth peremptory
7 challenge.

8 [The State exercises its sixth peremptory challenge]

9 THE COURT: The defense may exercise their sixth challenge.

10 [The Defense exercises its sixth peremptory challenge]

11 THE COURT: The State of Nevada may exercise their seventh peremptory
12 challenge.

13 [The State exercises its seventh peremptory challenge]

14 THE COURT: The defense may exercise their seventh.

15 [The Defense exercises its seventh peremptory challenge]

16 THE COURT: The State of Nevada may exercise their eighth peremptory
17 challenge.

18 [The State exercises its eighth peremptory challenge]

19 THE COURT: The defense may exercise their eighth.

20 MR. MACARTHUR: Your Honor, if counsel waives a preempt, where would
21 you like us to indicate that?

22 THE COURT: If you just want to, on the second page. Number eight you're
23 going to waive? Just put defense waives eight.

24 MR. MACARTHUR: Where would you like it written?

25 THE COURT: Just –

1 MS. ALLEN: The bottom, okay.

2 THE COURT: I mean you can put it at the bottom.

3 [The Defense waives its eighth peremptory challenge]

4 MS. ALLEN: Okay

5 THE COURT: Thank you.

6 Okay. All right, at this time the State of Nevada and the defense may
7 exercise their ninth and final peremptory challenge as to 22, 28, 29, 31, and 32 only,
8 so 22 through 32, with the exception of those that have been exercised.

9 [The State exercises its ninth peremptory challenge]

10 THE COURT: The Defense may exercise their ninth and final peremptory
11 challenge as to 22 through 32, with the exception of those that have been exercised.

12 [The Defense exercises its ninth peremptory challenge]

13 THE COURT: Okay. At this time, ladies and gentlemen, we're going to take
14 a really short recess, probably about two minutes. So I'm going to ask everyone to
15 go outside. I just have to do something with the attorneys outside of your presence.
16 When you come back in if everybody will sit in the gallery. When you come back in
17 the clerk will call our panel of jurors. If your name is called, you'll be on our jury
18 panel; otherwise, you will be excused. Thank you very much. We'll see you in
19 about two minutes.

20 [Jury excused 5:16 p.m.]

21 [Outside the presence of the prospective jury panel]

22 THE COURT: Okay. The record will reflect that this hearing is taking place
23 outside the presence of the jury panel. Juror number 1 will be Tom Shinkawa;
24 number 2, Timothy Geiger; number 3, Ian Urquico; number 4, Richard McCreedy;
25 number 5, Eric Greenwood; number 6, Helen Stephens; number 7, Yvonne Lewis;

1 number 8, Kathleen Smith; number 9, Lisa Mandel; number 10, Eugene Kordoban;
2 number 11, Maria Boulton; number 12, Nabor Torres; number 13, Robert Bell;
3 number 14, Robin Powell.

4 Any objection by the State of Nevada?

5 MS. LUZAICH: None.

6 THE COURT: Any objection by the defense?

7 MS. ALLEN: No, Your Honor.

8 THE COURT: Bring them back in and let's start seating them. They always
9 think I'm kidding when I say –

10 MS. ALLEN: I know, short.

11 THE COURT: – two minutes.

12 MS. ALLEN: You know there's people who went to the bathroom.

13 MS. LUZAICH: Yep.

14 THE COURT: Right. And so it really takes longer, because they really don't
15 believe me. Oh, wait, this jury might have believed me.

16 MS. ALLEN: Oh, I guess they did.

17 [In the presence of the prospective jury panel, 5:18 p.m.]

18 THE COURT: You can have a seat when you come in.

19 Juror number 1 is Tom Shinkawa.

20 MS. LUZAICH: He's not here yet.

21 THE COURT: Juror number 1 Tom Shinkawa, You're our juror number 1,
22 number 2, Timothy Geiger. Mr. Geiger, okay, you're juror number 2. Number 3 –

23 THE COURT CLERK: Ian Urquico, juror number 3.

24 THE COURT: Mr. McCreedy, Richard McCreedy, you're going to be juror
25 number 4; juror number 5 Eric Greenwood; juror number 6, Helen Stephens;

1 number 7, Yvonne Lewis. Number 8 will be the first seat on the second row,
2 Kathleen Smith, number 8, Kathleen Smith; number 9, Lisa Mandel; number 10,
3 Eugene Kordoban; number 11, Maria Boulton; number 12, Nabor Torres; number
4 13, Robert Bell; and juror number 14, Robin Powell.

5 THE COURT: Ladies and gentlemen, we do have our empaneled jury. So if
6 your name was not called, you are excused. Thank you very, very much for being
7 here for the last two days. You're excused. Thank you for being here.

8 [Remaining prospective jury panel excused, 5:20 p.m.]

9 Okay. Thank you, ladies and gentlemen. You are now our empaneled
10 jury. What I'm trying to do is find enough jury badges so that all of you have a blue
11 badge. You can take off your white badges. You now have a blue badge that
12 identifies you as a juror in Department 12. I know it's been a long day so – and it's
13 already after 5 o'clock, so I am going to excuse you. But before I do, I just want to
14 give you a few instructions.

15 You can't talk about this case with anyone, including your fellow jurors.
16 You can tell you family members and friends you're a juror in a criminal trial, but you
17 can't tell them anything else. Wear those blue badges at all times when you are in
18 the courthouse so that it identifies you as a juror in Department 12, so that anybody
19 associated with this case knows not to talk to you. Be here tomorrow morning at
20 10:30. This Court has a regular morning calendar. I start at 8:30. I'm generally
21 always done before 10:30, but I'd ask that you don't come in the courtroom until the
22 Court Marshal greets you and brings you in.

23 So, again, I want to remind you 10:30. Everyone got it? 10:30. Come
24 straight up to the 14th floor. And also, I just want to remind you my name is Michelle
25 Leavitt. You're in Department 12 of the Eighth Judicial District Court. For whatever

1 reason, if you need to contact us, to tell us you're running late or any type of
2 problem, you can just – I think you can just call 4-1-1 and ask for my number and it
3 will give you chambers. Don't call jury services, because you'll just be on hold all
4 day. But my office, we answer our phone.

5 Okay. And with that, are there any questions before I – oh, my
6 goodness. Come on. I'm trying –

7 JUROR NUMBER 10: Just a quick –

8 THE COURT: – to let you guys go.

9 JUROR NUMBER 10: Just a real quick question.

10 THE COURT: Your name. Your name, sir?

11 JUROR NUMBER 10: Eugene Kordoban.

12 THE COURT: Go ahead.

13 JUROR NUMBER 10: I have a doctor's appointment at noon. Should I
14 change it or – it's not going to be a long appointment, but would – or should I
15 change it to another day?

16 THE COURT: I would suggest if you can change it, that you do.

17 JUROR NUMBER 10: Okay.

18 THE COURT: Because I think you've kind of figured out that we can't do
19 anything unless every single person is here. Okay. And so, if it's urgent and we
20 have to wait for you – is it that type of an appointment?

21 JUROR NUMBER 10: It's every three months I have to go, but I can change
22 it.

23 THE COURT: Are you sure?

24 JUROR NUMBER 10: Yep. Thank you.

25 THE COURT: Okay. I would certainly appreciate that.

1 JUROR NUMBER 10: Of course.

2 THE COURT: I appreciate that.

3 JUROR NUMBER 14: Robin Powell. Is it 10:30 every day –

4 THE COURT: Okay.

5 JUROR NUMBER 14: – or just tomorrow?

6 THE COURT: It will be 10:30 tomorrow. Friday it will be 8:30.

7 MS. ALLEN: We're dark.

8 MS. LUZAICH: We're dark on Friday.

9 THE COURT: Oh, wait. I'm sorry. I think I told everybody in the beginning
10 we're – so this Friday you won't have to be here. So tomorrow, 10:30, will be the
11 first day. Well, it will be the third day. But Friday we'll be dark, so you don't have to
12 be here. The following Monday, 10:30; Tuesday, 10:30; Wednesday, 8:30;
13 Thursday, 10:30; and then next Friday, if we still need it, it will be an 8:30 day. So,
14 unless I tell you otherwise, Monday, Tuesday, Thursday are 10:30s; Wednesday
15 and Friday are 8:30, except this Friday we'll be dark.

16 JUROR NUMBER 14: Thank you.

17 THE COURT: Okay. Ms. Lewis?

18 JUROR NUMBER 7: Will we always be out by 5:00 or 5:30?

19 THE COURT: Okay. It's almost 5:30.

20 JUROR NUMBER 7: I know.

21 THE COURT: I like to say yes. I do my very best. Sometimes we go over,
22 but if there's anybody on the panel that has a problem with going over 5 o'clock, can
23 you let me know right now?

24 JUROR NUMBER 7: Yeah. I just have 5:30 at the latest, because otherwise
25 my kids will be expelled. It's difficult on me.

1 THE COURT: Okay. That's what I need to know. So you have childcare
2 issues?

3 JUROR NUMBER 7: I have – my kids go to Safe Key and the latest – if it's
4 after 6:30 –

5 THE COURT: Okay. I know that 6:00 thing. They [demonstrating.]

6 JUROR NUMBER 7: And I live pretty far.

7 THE COURT: They'll take your kids to – yeah. Then is 5 o'clock good? If we
8 end every day at 5:00 o'clock can you get there on time?

9 JUROR NUMBER 7: Yeah, 5:30 at the absolute latest. Yesterday I was there
10 by like 6:15, so it was okay.

11 THE COURT: Okay. So if – and I just – Ms. Lewis, sometimes I get – like
12 yesterday I lost –

13 JUROR NUMBER 7: Yeah.

14 THE COURT: – track of time in all fairness.

15 JUROR NUMBER 7: Yeah.

16 THE COURT: So if that every happens, you have to raise your hand –

17 JUROR NUMBER 7: Okay.

18 THE COURT: -- please –

19 JUROR NUBMER 7: I will.

20 THE COURT: -- and get my attention.

21 JUROR NUMBER 7: Okay.

22 THE COURT: Because I know how important that whole Safe Key thing is.

23 JUROR NUMBER 7: Yes. Thank you for the –

24 THE COURT: Okay.

25 JUROR NUMBER 7: – permission to do that.

1 THE COURT: Mr. Geiger?

2 JUROR NUMBER 2: So now we all park in the City lot?

3 THE COURT: You know what? The Court Marshal's going to give you
4 direction on that.

5 JUROR NUMBER 2: Oh.

6 THE COURT: And he'll also validate your parking.

7 JUROR NUMBER 3: I just had a question regarding work. I know they need
8 to give me the days off. But I work graveyard, can they give me the day off, even
9 though I work at night, if I go to court –

10 THE COURT: Okay. Here's what I usually tell – and I didn't know you
11 worked graveyard, because I didn't get that during voir dire. And I know that a lot of
12 people in Las Vegas do work graveyard. This is what I tell everyone that works
13 graveyard. Do not go to work on graveyard shift. Is your graveyard like midnight
14 'til –

15 JUROR NUMBER 3: 9:00 to 6:00 a.m.

16 THE COURT: 9:00 to 6:00 a.m. I tell you, you know you could go 9:00 to
17 12:00 or 1:00 o'clock in the morning; however, I don't like people to work all night
18 and then be here at 8:00, because sometimes you're required to be here at 8:30 or
19 10:30.

20 JUROR NUMBER 3: Yeah.

21 THE COURT: You have to sleep at some point. Okay. So I'd ask you to use
22 your discretion. I don't like people to work past maybe 1 or 2 in the morning, so I
23 would not want you to work – what did you say all the way until 6?

24 JUROR NUMBER 3: Six, yeah.

25 THE COURT: Yeah. That would be – you would have no time to sleep.

1 JUROR NUMBER 3: Yes.

2 THE COURT: And we need jurors that, obviously, have slept and can be alert
3 and listen to the evidence.

4 JUROR NUMBER 3: Okay.

5 THE COURT: So I would ask you not to work a full graveyard shift. I wouldn't
6 have a problem with you working part of it, just not a full graveyard shift.

7 And anyone that needs any type of verification from your employer, if
8 you let the Court Marshal know, I will be happy to provide that to you. Okay. And,
9 again, I just want to tell you it – I know it was two very long days. You were very
10 professional, very courteous. I'm very grateful for that. And I look forward to seeing
11 you tomorrow morning. Thank you very much. And you are excused. 10:30,
12 tomorrow morning.

13 [Jury excused, 5:28 p.m.]

14 [Outside the presence of the jury]

15 MS. ALLEN: Oh, Your Honor, can I just make a really quick record?

16 THE COURT: Of course.

17 MS. ALLEN: I apologize. Super fast.

18 THE COURT: This hearing is taking place outside the presence of the jury
19 panel. Thank you very much for getting that panel picked.

20 MS. ALLEN: Thank you. I appreciate –

21 THE COURT: You guys did a great job.

22 MS. ALLEN: Thank you. I just want to make a real quick record. I asked Ms.
23 Luzaich earlier if she was intending on admitting my client's statement for the
24 purposes of opening, because we want to know whether or not to comment on it or
25 not. She indicates that she has every intention to. It could change, obviously, but I

1 just want to make that clear; that we have any indication she is bringing it in. She
2 said she has every intention to, I guess, save and except something happening
3 that's startling.

4 MS. LUZAICH: That is correct. I do intend to bring it in.

5 MS. ALLEN: Okay.

6 MS. LUZAICH: So if they address it in opening, they do have a good-faith
7 basis to do that.

8 MS. ALLEN: Okay. So I'm just –

9 THE COURT: Okay.

10 MS. ALLEN: That's all I'm saying. I just want to make sure the – we make a
11 record on that.

12 THE COURT: All right. So you want to be able to comment on your client's
13 statement to the police?

14 MS. ALLEN: If – well, yes. I – there are certain things that need to be
15 addressed if they're bringing it in. If they're not bringing it in, then –

16 THE COURT: Okay.

17 MS. ALLEN: – there's no reason to bring it up.

18 THE COURT: And, Ms. Luzaich, you're probably going to bring it in?

19 MS. LUZAICH: I have every intention of bringing it in, unless something
20 unusual happens.

21 THE COURT: Okay. So you have no objection to them commenting on it?

22 MS. LUZAICH: No, I do not.

23 THE COURT: Okay.

24 MS. ALLEN: Okay. And I think that's it. That's it.

25 THE COURT: Okay. And I have –

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MS. ALLEN: Thank you.

THE COURT: I feel comfortable that we'll be able to start by 10:30.

MS. ALLEN: Okay.


THE COURT: Okay. So I'll see everybody then.

MS. ALLEN: Thank you.

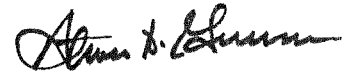
MS. LUZAICH: Thank you.

[Evening recess taken 5:30 p.m.]

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


DEBRA WINN, Court Transcriber

P-98



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA

Plaintiff

vs.

FREDERICK HARRIS, JR.

Defendant

CASE NO. C-291374

DEPT. NO. XII

Transcript of
Proceedings

BEFORE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

JURY TRIAL - DAY 3

THURSDAY, MARCH 27, 2014

APPEARANCES:

FOR THE STATE:

ELISSA LUZAICH
KRISTINA A. RHOADES
Deputy District Attorneys

FOR THE DEFENDANT:

BETSY ALLEN, ESQ.
JONATHAN MacARTHUR, ESQ.

COURT RECORDER:

KRISTINE CORNELIUS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, THURSDAY, MARCH 27, 2014, 10:45 A.M.

2 (Court was called to order)

3 (Jury is not present)

4 THE COURT: The record will reflect that this
5 hearing is taking place outside the presence of the jury
6 panel.

7 MS. LUZAICH: Sorry, Judge.

8 THE COURT: That's okay.

9 MS. LUZAICH: As I was going through the witnesses
10 and information I noticed that in the charging document, the
11 information, on Count 43 there was a typo where it said "did
12 subject Tina Duke to penetration by putting his penis in the
13 anal opening of Victoria."

14 So I filed an amended information this morning just
15 fixing Count 43, and then on Count 45 making underlined. And
16 I wanted to do that on the record before the jury came in,
17 because the clerk is going to read the information --

18 THE COURT: Okay.

19 MS. LUZAICH: -- and she's going to read "Amended
20 Information."

21 THE COURT: All right. Any objection?

22 MS. ALLEN: No, Your Honor.

23 THE COURT: Okay. All right. And we're ready to
24 go?

25 MS. LUZAICH: Yes. That was all. I just didn't

1 want the --

2 THE COURT: Sure.

3 MS. LUZAICH: -- Court to get concerned when she

4 heard "amended."

5 THE COURT: That probably wouldn't have made a lot

6 of sense.

7 Okay. We can bring them in.

8 (Jury is present)

9 THE COURT: Ladies and gentlemen, we're standing for

10 you. So when you come in you could have a seat.

11 Good morning. Thank you for coming back.

12 Do the parties stipulate to the presence of the jury

13 panel?

14 MS. LUZAICH: Yes.

15 MS. ALLEN: Yes, Your Honor.

16 THE COURT: Thank you.

17 Okay. Now I'm going to ask you to stand again,

18 because I have to administer the oath of service. So if you'd

19 please stand and raise your right hand, the clerk's going to

20 administer the oath of service to the ladies and gentlemen of

21 the jury panel.

22 (Jury sworn)

23 THE COURT: Thank you.

24 Before we get started there are a few instructions

25 that the Court is required to give to you.

1 Ladies and gentlemen, you're admonished that no
2 juror may declare to a fellow juror any fact relating to this
3 case of his or her own knowledge, and if any juror discovers
4 during the trial or after the jury has retired that he or she
5 or any other juror has personal knowledge of any fact in
6 [unintelligible] in this case, he or she shall disclose that
7 situation to myself in the absence of the other jurors. This
8 means that if you learn during the course of this trial that
9 you're acquainted with the facts of this case or the witnesses
10 and you've not previously told me of this relationship, you
11 must then declare that fact to me.

12 Again I want to remind you we do have an impaneled
13 jury, so that myself, the staff in Department 12, the parties
14 and the attorneys are not permitted to have any communication
15 with you whatsoever outside of the courtroom. If there's
16 anything you need to communicate to the Court, you do so in
17 the courtroom on the record in the presence of both sides.
18 The court marshal is the only person that is permitted to have
19 any communication with you. And, again, he'll be the one that
20 meets you after our breaks. He'll meet you in the morning,
21 he'll release you at night, and he'll be the one that greets
22 you when we come back from our recesses. Although he cannot
23 discuss the facts and circumstances of this case, if there's a
24 question that you need to pass along to the Court, you can do
25 that. Or, again, I want to remind you we do everything in

1 court on the record in the presence of both sides.

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

7 This is a criminal case commenced by the State of
8 Nevada, which I may sometimes refer to as the State, against
9 the defendant.

10 The case is based on the information. The clerk
11 will now read the information to the ladies and gentlemen of
12 the jury, and she will state the plea of the defendant to the
13 information.

14 THE CLERK: Thank you, Your Honor.

15 (Information read)

16 THE COURT: Thank you, Susan.

17 This case is based upon an information which just
18 has been read to you by the clerk of the Court. You should
19 distinctly understand that the information is simply a charge
20 and that it is not in any sense evidence of the allegations it
21 contains.

22 The defendant has entered a plea of not guilty to
23 the information. The State therefore has the burden of
24 proving each of the essential elements as alleged in the
25 charging document by proof beyond a reasonable doubt. As the

1 defendant sits here today he is presumed innocent. The
2 purpose of this trial is to determine whether the State of
3 Nevada will meet their burden of proof.

4 It is your primary responsibility as jurors to find
5 and determine the facts. Under our system of criminal
6 procedure you are the sole judge of the facts. You are to
7 determine the facts from the testimony you hear and the other
8 evidence, including exhibits introduced in court. It is up to
9 you to determine the inferences which you feel may be properly
10 drawn from the evidence.

11 The parties may sometimes present objections to some
12 of the testimony or other evidence. It is the duty of a
13 lawyer to object to the evidence which he or she believes may
14 not properly be offered, and you should not be prejudiced in
15 any way against a lawyer who makes objections on behalf of the
16 party he or she represents.

17 At times I may sustain objections or direct that you
18 disregard certain testimony or exhibits. You must not
19 consider any evidence to which an objection has been sustained
20 or which I have instructed you to disregard.

21 Anything you may have seen or heard outside the
22 courtroom is not evidence and must also be disregarded.

23 Remember statements, arguments, and opinions of
24 counsel are not evidence in the case. However, if the
25 attorneys stipulate as to the existence of a fact, you must

1 accept the stipulation as evidence and regard that fact as
2 proved.

3 You must not speculate to be true any insinuation
4 suggested by a question asked a witness. A question is not
5 evidence and may be considered only as it supplies meaning to
6 the answer.

7 You must not be influenced in any degree by any
8 personal feeling of sympathy for or prejudice against the
9 State or the defendant. Both sides are entitled to the same
10 fair and impartial consideration.

11 In considering the weight and value of the testimony
12 of any witnesses you may take into consideration the
13 appearance, attitude, and behavior of the witness, the
14 interest of the witness in the outcome of the case, if any,
15 the relation of the witness to the defendant or the State, the
16 inclination of the witness to speak truthfully or not, and the
17 probability or improbability of the witness's statements and
18 all the facts and circumstances in evidence. Thus, you may
19 give the testimony of any witness just such weight and value
20 as you believe the testimony of the witness is entitled to
21 receive.

22 There are two kinds of evidence, direct and
23 circumstantial. Direct evidence is testimony by a witness
24 about what that witness personally saw or heard or did.
25 Circumstantial evidence is testimony or exhibits which are

1 proof of a particular fact from which, if proven, you may
2 infer the existence of a second fact.

3 You may consider both direct and circumstantial
4 evidence in deciding this case. The law permits you to give
5 equal weight to both, but it is for you to decide how much
6 weight to give to any evidence.

7 Opening statements and closing arguments of the
8 attorneys are intended to help you in understanding the
9 evidence and applying the law, but they are not evidence.

10 No statement, ruling, remark, or comment which I
11 make during the course of this trial is intended to indicate
12 my opinion as to how you should decide the case or to
13 influence in any way in your determination of facts. At times
14 I may even ask questions of witnesses. If I do so, it is for
15 the purpose of bringing out matters which I feel should be
16 brought and not in any way to indicate my opinion about the
17 facts or to indicate the weight I feel you should give to the
18 testimony of the witness.

19 I may also find it necessary to admonish the
20 lawyers, and if I do, you should not show prejudice against a
21 lawyer or his or her client because I found it necessary to
22 admonish him or her.

23 Until this case is submitted to you you must not
24 discuss it with anyone, even with your fellow jurors. After
25 it is submitted to you you must discuss it only in the jury

1 room with your fellow jurors. It is important that you keep
2 an open mind and not decide any issue in the case until the
3 entire case has been submitted to you under instructions from
4 myself.

5 I may during the trial take notes of the witnesses'
6 testimony. You are not to make any inference from that
7 action. I'm required to prepare for legal arguments of
8 counsel during this trial, and for that reason I may take
9 notes.

10 The jury will not have a transcript to consult at
11 the close of the case. However, you have been furnished with
12 note pads and pencils. You will be permitted to take notes.
13 You will also be permitted to take those notes with you when
14 you go back to deliberate upon your verdict.

15 Has the jury been provided with note pads?

16 Okay. We're going to hand you out note pads and
17 pens. You are permitted to take notes. I always like to make
18 it clear when you go back to deliberate upon your verdict you
19 will not have a transcript of the proceedings. However, you
20 will have notes that each of you take, and you'll obviously
21 have your memory. So during deliberation it will be your
22 memory and your notes that will prevail.

23 When you get these notebooks I just ask that you put
24 your name in the front, because I don't let you take them out
25 of the courtroom until you go back to deliberate upon your

1 verdict. So at the end of the day the court marshal will be
2 under Court order to collect all your notebooks, but them in a
3 safe place, and when you return the next morning they will be
4 there waiting for you.

5 The trial will proceed in the following manner. The
6 Deputy District Attorney will make an opening statement, which
7 is an outline to help you understand what the State expects to
8 prove. Next the defense attorney may, but does not have to,
9 make an opening statement. Opening statements are not serve
10 as an introduction to the evidence which the party making the
11 statement intends to prove.

12 The State will then present its evidence, and
13 counsel for the defense may cross-examine the witnesses.
14 Following the State's case the defendant may present evidence,
15 and the Deputy District Attorney may cross-examine the
16 witnesses. However, as I have said, the defendant is not
17 obligated to present any evidence.

18 After all of the evidence has been presented I will
19 instruct you on the law. After the instructions on the law
20 have been read to you each side has the opportunity to present
21 oral argument. What is said in closing argument is not
22 evidence. The arguments are designed to summarize and
23 interpret the evidence. Since the State has the burden of
24 proving the defendant guilty by proof beyond a reasonable
25 doubt, the State has the right to open and close the

1 arguments.

2 After the arguments have been completed you will
3 then retire to deliberate upon your verdict. Again let me
4 remind you that until this case is submitted do not talk to
5 each other about it or about anyone who has anything to do
6 with it until the end of the case when you go to the jury room
7 to decide upon your verdict.

8 Do not talk with anyone else about this case or
9 about anyone who has anything to do with it until the trial
10 has ended and you've been discharged as jurors. "Anyone else"
11 includes members of your family and your friends. You may
12 tell that them you're a juror in a criminal case, but don't
13 tell them anything else about it until after you've been
14 discharged by myself.

15 Do not let anyone talk to you about the case or
16 about anyone who has anything to do with it. If someone
17 should try to talk to you, please report that to me
18 immediately by contacting the court marshal.

19 Do not read any news stories or articles or listen
20 to any radio or television reports about the case or about
21 anyone who has anything to do with it.

22 As jurors in the case you do have the right to ask
23 written questions of any of the witnesses who are called to
24 testify in this matter. You are not encouraged to ask large
25 numbers of questions, because that is the primary

1 responsibility of counsel.

2 Questions may be asked, but only in the following
3 manner. After both lawyers have finished questioning the
4 witness and only at this time if there are additional
5 questions you would like to ask the witness, you may then seek
6 permission to ask that witness a written question. Should you
7 desire to ask a question, write your question down with your
8 juror number on a full sheet of clean paper and raise your
9 hand. All questions from jurors must be factual in nature and
10 designed to clarify information already presented. In
11 addition, jurors must not place undue weight on the responses
12 to their questions.

13 The court marshal will pick up your question and
14 present it to the Court. All questions must be directed to
15 the witness and not to the lawyers or to myself. After
16 consulting with counsel I will then determine if your question
17 is legally proper. If I determine that your question may
18 properly be asked, I will ask the witness the question. No
19 adverse inference should be drawn if the Court does not allow
20 a particular question.

21 At this time I'm going to ask that the notebooks be
22 passed out. In the notebooks the preliminary instructions
23 that I gave to you are in there, the admonishment that I give
24 you before we recess every time, I am required by law to read
25 that admonishment to you, also the instruction on how to ask

1 questions of witnesses, that's also in there if you need to
2 refer to that. And in the back are blank note paper in which
3 you may take notes. I know this case is going to go longer
4 than normally, so if you need any additional paper, just let
5 me know, and we'll make sure that you get that. These are
6 your juror notebooks. If you open up the left side, in that
7 pocket, you can pull that out, that's the only thing that you
8 can take out and keep with you. It just tells you where you
9 are and the phone numbers to my chambers so if for any reason
10 you need to get in touch with us you have those numbers and
11 you can get in touch with us.

12 But, again, I just want to make sure you understand
13 those notebooks are not permitted to leave the courtroom at
14 any time. They will be here every time you leave, and they'll
15 be here in the morning. And you will be able to take those
16 notebooks with you when you go back to deliberate upon your
17 verdict.

18 At the end of the case when I do give you the
19 instructions on the law everyone will have a copy of the jury
20 instructions. You will also be able to put that, the jury
21 instructions, in your notebook.

22 With that, the State of Nevada may address the jury
23 panel in your opening statement.

24 MS. LUZAICH: Thank you.

25 //

1 STATE'S OPENING STATEMENT

2 MS. LUZAICH: Mark Twain once said that truth is
3 stranger than fiction. By the end of this trial you will
4 absolutely understand what he meant. This trial over the
5 course of the next week is about that man, Frederick Harris,
6 and his control of and manipulation of the Duke children.

7 Tina Duke had five children. You're going to hear
8 about her oldest daughter, Victoria, who is today 21; her
9 daughter Mahlica, who is today 20; her son Shabazz, who is
10 today 19; her daughter Taharah, who is today 14; and her
11 daughter Taquanda, who is today 13. You're going to hear all
12 the way back to when Tina had her first child, Victoria, was
13 living in Ohio, went to Louisiana, where she had the rest of
14 her children. Tina was living with the father of her
15 children. He was an individual who was potentially not like
16 you or I and did not believe in schooling for the children.
17 So you are going to hear that until the kids came here to
18 Nevada they were not schooled.

19 In December of 2004 Tina came here to Nevada from
20 Louisiana. Previously she had gotten away from the kids'
21 father, so she and her children were living in Louisiana.
22 They had been what she will call travellers. They didn't have
23 a permanent home. But when she got away from him she was
24 working at bar in Louisiana called Faces. And while she was
25 working there in 2004 she met the defendant. Although he was

1 living in Las Vegas, he had been for a period of time in New
2 Orleans or in Louisiana, met Tina.

3 You're going to hear some things about Tina that may
4 make your skin crawl over the last -- over the next week.
5 Remember, it is the defendant who is on trial, not Tina. You
6 don't have to like her, you're probably going to hate her, but
7 you're going to hear all sorts of crazy things about her.

8 You're going to hear first that after she met the
9 defendant Tina came to Las Vegas to visit with him and did not
10 bring her children. At the time Victoria was eleven, Mahlica
11 was ten, Shabazz was nine, Taharah and Taquanda were about
12 four or five.

13 After she had been here for a little while the
14 defendant sent his brother to Louisiana to bring Tina's kids
15 here. They had lived in a shelter or some sort of place for a
16 little while, but then they began to live with a lady that you
17 will hear them call Miss Ann. Miss Ann's name is also Lealer
18 Ann Cooks. He, the defendant he, was involved with Miss Ann.
19 He was also involved with Tina at the time.

20 The kids and Tina lived with Miss Ann, and
21 eventually Tina found a job, so she was actually working here
22 for a period of time into 2005. Miss Ann was also working,
23 and the defendant was working. The defendant lived in an
24 apartment. You're going to hear about one day that the kids
25 went to the defendant's apartment while Tina was at work and

1 while at the apartment, while the other kids were either
2 sleeping or outside or doing something else, the defendant
3 brought Victoria, who at the time was 11, into his room. And
4 while in his room he took her hand and he put it on his
5 genital area. He then put his finger in her vagina. He then
6 put his penis in her vagina. Afterwards he told her, don't
7 tell anyone or I will beat you.

8 Victoria, however, told. She told Miss Ann. Miss
9 Ann told the defendant's mother, and they yelled at Victoria.
10 They didn't believe her. They treated her badly after that.
11 They told her mother, and the description Tina heard Tina also
12 didn't believe Victoria. Victoria was treated, she'll
13 describe for you, very badly, differently. She was sort of
14 separated from the other kids after that.

15 And then you're going to hear about how in May of
16 2005 Tina took her five children and went to Utah. You're
17 going to hear that Tina was pregnant, she couldn't have
18 another child, she already had five she could barely take care
19 of, if at all, and she gave that child up for adoption. There
20 was an agency in Utah that relocated her to Utah, her and her
21 children, and she did give that child up for adoption.

22 You're also going to hear that while she was in Utah
23 with those kids she decided to come down here to visit Fred,
24 the defendant. I think it was his birthday, I don't remember
25 what the incident was. And she may have been here a little

1 longer than anticipated. When she got back to Utah CPS, or at
2 least the Utah equivalent of our CPS, had taken her children.
3 So her children were placed in foster care in early 2005.
4 Victoria and Mahlica were in one home, Taharah and Taquanda
5 were in another home, and Shabazz was in another home. Tina
6 had to work through a program in Utah whereupon she was able
7 to get her children back. She did continue to see the
8 defendant, however.

9 In August of 2007, after they'd been there for about
10 two years, the kids will describe for you that one night Mom
11 woke them up, put them in Fred's car, and drove them back to
12 Las Vegas. Now, the kids liked it in Utah. It was a small
13 town, people were friendly there. But, nope. They were woken
14 up, they were put in his car and brought to Las Vegas.

15 Now, when Fred, the defendant, brought them to Las
16 Vegas in August of 2007 he brought Mahlica, Shabazz, Taharah,
17 and Taquanda to a house at 966 Blankenship. You'll hear that
18 in the time that the Duke family was in Utah Miss Ann and the
19 defendant moved into a house together on Blankenship. Prior
20 to the family going to Utah Miss Ann had lived in a place on
21 Trish Lane, and she's got a daughter. You're going to hear
22 she had lived there, as well. But while the family was in
23 Utah the two of them had acquired a house, 966 Blankenship.
24 You're going to hear lots about that house.

25 So the defendant brings the family back, but he only

1 takes, like I said, Mahlica, Shabazz, Taharah, and Taquanda to
2 the house. He tells those kids that Victoria's a bad
3 influence on them, and he separates Victoria from them. He
4 takes Victoria and Tina to his mother's for a short time and
5 then to a -- what Tina will describe as an efficiency
6 apartment, kind of like the Siegel Suites. The kids while in
7 Utah finally were going to school. So when they came back
8 here to the Blankenship house the defendant did enroll them in
9 school. Victoria, while she was living in this other location
10 with her mom, also went to school. But you're going to hear
11 about how in the middle of August, while the kids were at the
12 Blankenship house and Tina and Victoria were not at the
13 Blankenship house, that one night the defendant tells them,
14 hey, let's go for a ride. And he has Tina in front and
15 Victoria in the back, and he stops and he gets some alcohol.
16 And he drives around a little bit, and he gives Victoria some
17 alcohol. Victoria has literally just turned 15. The end of
18 July of 2007 Victoria turned 15. This is August of 2007. He
19 gives Victoria some alcohol and he says that he's going to
20 take her virginity.

21 So he drives the car up to someplace that is going
22 to be described as Sunrise Mountain, that while there Tina is
23 in the front seat, the defendant gets in the backseat with
24 Victoria. She's been drinking by now. And he does in fact
25 have sex with her. Against her will, she doesn't want to, she

1 indicates she doesn't want to, he puts his penis in her
2 vagina. Tina is in the front seat, you're going to hear.
3 Tina does nothing. Tina actually watches. Tina is also
4 drinking at the time, but she does nothing to stop it. In
5 fact, you'll hear Victoria say that she thought her mom was
6 somewhat amused by it.

7 Eventually Tina and her mom move into, like I said,
8 the Siegel Suites -- not Tina and her mom, sorry, Tina and
9 Victoria, and then into an apartment on Walnut. You're going
10 to hear while they lived at the Siegel Suites apartment that
11 the defendant would come over and he would have sex with
12 Victoria on a fairly regular basis. He would also have sex
13 with Tina on a fairly regular basis. Meanwhile, Miss Ann has
14 the other kids at the Blankenship house.

15 Now, the defendant is living at the Blankenship
16 house. He's just coming over and having sex with Victoria,
17 he's coming over and having sex with Tina. You're going to
18 hear from Tina that the defendant would tell her that she's
19 not giving him enough money, he's got her kids, he's taking
20 care of her kids and he wants more money. She had by then
21 gotten a job at Bally's. She was working at Bally's as a
22 maid. But that wasn't paying enough for him, so he told her
23 she needed to go make some more money faster. And she'll tell
24 you how she was forced by him to work the streets to exchange
25 sex for money and that she was required to give him, the

1 defendant, the money that she made on the streets. He would
2 threaten her, I'm going to put your kids out, they're going to
3 not have a roof over their head; but also by now he had gotten
4 heavy handed and violent. He had threatened to hurt her and
5 beat her, and there were occasions that he did hurt Tina. And
6 she'll tell you that this is why she did this. She'll even
7 describe for you that there was one night that he wanted more
8 money, it was a slow night, she didn't have any, girls were
9 getting arrested. He was so angry that she didn't have any
10 money he called her a stupid whore, he threw her down, and he
11 forced his penis in her butt.

12 Now, she will tell you clearly there were occasions
13 that she had consensual sex with him absolutely. There were
14 occasions after that, but this particular violent night he
15 forced his penis in her butt. That was not a consensual act.
16 He yelled at her, he beat her, and he forced her on that
17 night.

18 You're going to hear that during the time that they
19 were at the Walnut apartment not only did the defendant have
20 sex with Victoria on a regular basis, he would put his penis
21 in her vagina, he would put his penis in her butt, he also
22 brought toys over. You're going to hear from Victoria about
23 how he would also put vibrator or dildos in her vagina. He
24 had separated her from her siblings, her mom was out working,
25 either at Bally's or working the streets. There was not

1 anything Victoria could do.

2 You're going to hear also during this time frame --
3 so by now we're into 2007-2008 -- the kids, Mahlica, Shabazz,
4 Taharah, and Taquanda, are living at the house with Miss Ann.
5 You're going to hear from them while this was going on at
6 Walnut and the Siegel Suites that the defendant is any more
7 pleasant at the Blankenship house. You're going to hear from
8 all of these kids about how the defendant would beat them with
9 a belt when they didn't do what he wanted. If they didn't do
10 the chores in exactly the same way, if they didn't have
11 something sitting properly or lined up properly, he would beat
12 them with a belt. You will hear occasions where they would --
13 they will describe for you how it happened to them. They will
14 also describe for you how they saw him do it to their siblings
15 or heard it in another room.

16 You're going to hear not only about beatings with a
17 belt and marks being left on body parts, you're going to hear
18 that there was an occasion that the defendant threatens
19 Taquanda with a knife because she did something he didn't like
20 in the kitchen.

21 You're going to hear there was an occasion that he
22 choked Mahlica because she spoke back to him. You're going to
23 hear that while all of this is going on there were occasions
24 that the kids were able to go see Mom and Victoria, but it
25 wasn't very often, and they were always there, either Miss Ann

1 or the defendant.

2 There did come a time, however, that the defendant
3 moved Tina and Victoria into the house on Blankenship,
4 somewhere around 2009. You'll hear that by then when the
5 defendant would go to Victoria it was much fewer and farther
6 between. You'll hear that there was some instances of sexual
7 intercourse at the Blankenship house between him and Victoria,
8 but not much.

9 You'll hear that eventually -- now, they lived there
10 for probably a year, year and a half, give or take, and
11 everyone's going to talk to you about time frames, and they're
12 all slightly fuzzy on time frames. But you'll hear that there
13 did come a time that Tina moved out of the Blankenship house
14 with Victoria, Mahlica, and Shabazz, but she left Taharah and
15 Taquanda behind. You're going to hear that there were --
16 sorry, that they had gotten a guardianship agreement. They
17 actually went to an attorney, they got a piece of paper so
18 that Tina gave guardianship of Taharah and Taquanda to Miss
19 Ann, and then she moved out of the house.

20 And, I'm sorry, I have to go back. I said that
21 there are things that you're going to hear about Tina that are
22 going to make your skin crawl. One of those things that
23 you're going to hear is that while they were at the Walnut
24 apartment not only did the defendant have sex with Victoria,
25 not only did the defendant have sex with Tina, but the

1 defendant made Tina and Victoria engage in sexual acts with
2 each other. You're going to hear about Tina giving oral sex
3 to Victoria, you're going to hear about a dildo that has two
4 sides to it. You're going to hear about how the defendant
5 caused Tina and Victoria to both sit on one end, one on the
6 other end of this dildo while he watched and enjoyed.

7 So when Tina moved Victoria, Shabazz, and Mahlica
8 out of the house on Blankenship she moved them to an apartment
9 in North Las Vegas. They'll call it the St. Andrews
10 apartment. I don't know if it was on St. Andrews Street or
11 that's what the apartment was called, but that's how the
12 family will refer to it, the St. Andrews apartment.

13 While at the St. Andrews apartment the defendant
14 would continue to come, he would continue to have sex with
15 Victoria, he would continue to have sex with Tina. By now
16 Victoria is just about of age. I believe she's still 17, she
17 may be turning 18. But this is the life she will describe to
18 you that she has lived since she came back from Utah in August
19 of 2007. She doesn't know anything else.

20 You'll hear also that Victoria met a lady named Rose
21 Smith while she was living at the St. Andrews apartment, I
22 believe Tina may have met her first, that Tina walked into a
23 church-type location saying that she was -- she found this
24 place, she needed money to get home, and a nice lady named
25 Rose Smith and her what she calls her spiritual mother talked

1 to Tina and gave her a ride home. And that's how Rose Smith
2 met the kids. And she became very close to Victoria. Rose,
3 you'll hear, has a son who is a little bit older than
4 Victoria, and has a daughter who is younger than Victoria.
5 Interestingly, today, while Victoria is 21, Rose's daughter is
6 13. And the way Rose will describe Victoria to you is she may
7 be chronologically a lot older than my daughter, but
8 emotionally and mentally they're the same. You will see that
9 through the course of this trial, that many kids are maybe not
10 where you would expect to them to be at their chronological
11 age emotional and mental level. Rose is very clear about
12 that. Tina not so much, but Rose, the objective person, will
13 be.

14 So Rose and Victoria became close. She would have
15 the kids at her house, Victoria, Mahlica, Shabazz. She had
16 not met Taharah and Taquanda. Victoria, Mahlica, and Shabazz
17 would come to her house, have barbecues, things of that
18 nature. Rose will tell you how she lost track of Victoria for
19 a little while, that one day one of her kids saw Victoria and
20 Victoria came back to the home and back to the family to
21 visit. By now Tina had moved Victoria, Shabazz, and Mahlica
22 to another apartment in Henderson on Center Street. You're
23 going to hear that they still live there, and the rest of what
24 you're going to hear about the family is when they lived on
25 Center Street.

1 When they were at St. Andrews there were times that
2 the defendant or Miss Ann would bring the kids to visit the
3 family at St. Andrews, and there were times that they would
4 bring them to visit at Center Street, as well. You're going
5 to hear that the defendant continued to go to Center Street,
6 that he would get money from Tina for the kids, that he would
7 have sex with Tina, that he would have sex with Victoria at
8 Center Street. What you will hear is that in December of
9 2011, while they were living at Center Street, this is when
10 Rose and her family kind of caught back up with Victoria. And
11 Victoria was staying at Rose's house one night and they were
12 having a conversation about being sacred. Rose is quite
13 religious, you're going to hear. And Rose was talking to
14 Victoria about being sacred, and Victoria said, well, you
15 know, I can't save myself because Fred has already taken it
16 from me. Rose was just shocked. And Victoria told Rose some
17 of what had been going on with Fred over the course of the
18 last few years. Rose was appalled.

19 Rose took Victoria right to the Henderson Police
20 Department. In fact, they get to the Henderson Police
21 Department somewhere around 11:30 at night. At the Henderson
22 Police Department a detective from the Sexual Abuse Detail
23 gets called out. The detective -- Detective Aguiar you'll
24 hear from. He talks to Rose and he talks to Victoria. And
25 Victoria explains for him what had happened back in 2005 when

1 she was 11, how she went to Utah, how she came back, and how
2 since she came back from Utah she described for him in detail
3 the time in the car on Sunrise Mountain, she described for him
4 what was going on at the Siegel Suites, she described for him
5 what was going on at Walnut, she described for him what was
6 going on at Blankenship, she described for him what was going
7 on at St. Andrews, and she described for him what was going on
8 at Center Street.

9 She was also extremely concerned about Taharah and
10 Taquanda, because they were living at house with him. They
11 were living there and had access -- or he had access to them.
12 Now, she said, I haven't heard anything that he has touched
13 them, I haven't heard that, but I am worried about them. So
14 in the middle of the night, at 1:00 o'clock in the morning,
15 three Henderson detectives went to 966 Blankenship to check to
16 make sure Taharah and Taquanda were okay. So they bang on the
17 door, they have Metro patrol with them, because, you know,
18 detectives, plainclothes, 1:00 o'clock in the morning, who
19 knows what's going to be inside. And Ann -- Miss Ann and Fred
20 are home. They wake up, and the detectives interview
21 everybody.

22 Now, you're going to hear that they talked to the
23 defendant first. You're going to hear that the defendant
24 initially denies any sex whatsoever with Victoria, what, who,
25 me, no, no, no, I'm like a father to her. Ultimately,

1 however, you're going to hear that he admits that he had sex
2 with Victoria, although he says he only had sex with Victoria
3 after she turned 18. You're going to hear that he also
4 admitted having sex with Tina. You're going to hear that he
5 admitted having sex with Victoria and Tina.

6 After they talk to the defendant they talk to Miss
7 Ann. Miss Ann maybe didn't know about the defendant having
8 sex with Victoria and Tina. And you will hear that while two
9 detectives were talking to Taharah and Taquanda -- and you'll
10 hear that they talked to them separately so that they could
11 get just what everybody knows on their own not contaminated by
12 anybody else. But while two of the detectives were talking to
13 Taharah and Taquanda, the third detective let the defendant
14 and Miss Ann have conversation in the bedroom. And you will
15 hear that there was an explosion in that bedroom.

16 So that night they talked to, like I said, Taharah
17 and Taquanda. You'll hear that Taquanda did talk to the
18 detectives about physical abuse that had been going on, the
19 things that Fred and hit -- you know, belt and punch and
20 things of that nature. But you'll hear that Taharah said, oh,
21 no, no, no, everything is fine here, everything's fine.

22 So that night the detectives leave the house because
23 there's no evidence of physical abuse, there's no evidence of
24 sexual abuse in that home. What you're also going to hear
25 about is when there are allegations of any kind of abuse in a

1 home involving children -- and at this point Taharah and
2 Taquanda are about 10 and 11 or 11 and 12 -- Child Protective
3 Services gets involved. By now Victoria is 18, so there's no
4 Child Protective Services involved in what was going on with
5 Victoria. But because Taharah and Taquanda are young, Child
6 Protective Services gets called. You'll hear that the
7 detective called the hotline, that's how things happen, and
8 the hotline assigns a case to one of the workers.

9 You're going to hear that Bobbie Tibbs -- her real
10 name is Teresa Tibbs, she goes by Bobbie -- Bobbie Tibbs
11 contacts the kids and contacts the defendant and Miss Ann, as
12 well, and there is an independent investigation. So Child
13 Protective Services, through Bobbie Tibbs, is doing an
14 investigation about what's going on in the Blankenship home.

15 And you'll hear that Bobbie Tibbs doesn't really
16 hear anything from Taharah and Taquanda about, you know -- she
17 doesn't hear anything about sexual abuse, and they don't
18 really tell Bobbie anything. Unfortunately, if CPS does not
19 have a disclosure, there's not much they can do. She had
20 caused Fred, the defendant, to move out of the house while it
21 was going on. Miss Ann and the defendant cooperated with
22 Child Protective Services. You're not going to hear that he
23 was difficult or anything like that. He cooperated. But
24 you're going to hear that Henderson just kind of left it
25 there. They didn't really do very much else at all.

1 Eventually Child Protective Services closes their
2 case because they don't have any other information that
3 anything inappropriate is going on at Blankenship. What you
4 will hear, however, is that the defendant -- because by now he
5 knows that Victoria is pretty much off limits because Victoria
6 has disclosed to the police and there is still a pending
7 police investigation, the defendant switches from Victoria to
8 Taharah, who at the time is 11 and living in the home. What
9 you're going to hear from Taharah is that the defendant
10 sexually abused Taharah over the course of months, that it
11 happened only in the Blankenship home, that it happened in his
12 and Ann's room when Ann was not there, that it happened in
13 Taharah's room, that it happened in the laundry room, that it
14 happened in the garage. You're going to hear that he put his
15 fingers in her vagina on several occasions, you're going to
16 hear that he put his penis in her vagina on several occasions,
17 you're going to hear that he rubbed her breasts, you're going
18 to hear that he took her hand, put it on his penis, and made
19 her hand rub up and down on his penis.

20 You're actually going to hear that one night
21 Taquanda saw something happen, that when the defendant got
22 Taharah out of the room that the two girls shared in the
23 Blankenship house Taquanda had woke up and she saw, either in
24 the mirror or something, she saw them walking down the hall
25 towards the laundry room. She's going to describe how she saw

1 Taharah's hand up on the wall, that she saw the defendant's
2 hand on Taharah's hand, and that she heard a buckle. She's
3 going to tell you how she knew that something inappropriate
4 was going on. Taharah is older than Taquanda, so at this time
5 Taquanda is 10 or 11, Taharah is 11 or 12.

6 You're going to hear that Taquanda asked Taharah
7 about it and Taharah said, yeah, that he did that, that's what
8 he did. On that occasion he put his finger in her vagina.
9 Not his penis, just his finger. Taharah doesn't really do
10 anything. Taharah doesn't really tell anybody else.
11 Taquanda, however, goes and tells Miss Ann, says, hey, look at
12 what your boyfriend's doing, he's sexually -- well, my words,
13 sexually abusing -- he's touching Taharah, he's doing bad
14 things to the Taharah. Miss Ann doesn't believe it. Taharah
15 then does confirm that, yes, this has been happening. And
16 Miss Ann actually takes Taharah to a doctor.

17 You're going to hear that Taharah went to a doctor,
18 Dr. Gondy, that she had HPV. HPV, genital warts. You're
19 going to hear that she told -- or that there was conversation
20 with Dr. Gondy about sexual abuse, that she had an examination
21 not only a vaginal exam, stirrups and whatnot, but also a
22 vaginal ultrasound where something quite large is inserted in
23 the vagina. She's 12 years old at the time. And she is given
24 medication and things of that nature.

25 Miss Ann tells them that she's going to move them

1 out of the house, but she says, well, you know, just until
2 then just lock the door or something, just lock the door,
3 don't let him in. Well, she never actually does anything, and
4 the abuse continues.

5 For the summer, you'll hear -- and it's May of 2012
6 that Taquanda tells Miss Ann. They go and spend most of the
7 summer at Center Street with their mom and siblings. When
8 they come back and school starts Miss Ann has still done
9 nothing to protect Taharah, who was still being abused, so
10 Taquanda one day finally, at the end of September, realizes
11 that, well, I told a grownup and that grownup did nothing,
12 we've talked to the police before. And so Taquanda, who has
13 had communication with Child Protective Services before,
14 called the hotline. Taquanda calls Child Protective Services
15 on September 27th of 2012. The case is assigned to a worker,
16 Sholeh Nourbakhsh, and you'll hear that in addition to CPS
17 being involved in this, because it's going on in the home,
18 Metro -- because Blankenship is in the Las Vegas Metropolitan
19 Police Department jurisdiction, Metro also gets involved. So
20 Detective Nick Madsen and Sholeh Nourbakhsh are now
21 investigating what is going on between the defendant and
22 Taharah.

23 Well, Detective Madsen, before Taharah is actually
24 brought to what's called the Southern Nevada Childrens
25 Assessment Center to be interviewed, does a little research

1 and realizes that there has been an allegation before
2 regarding the defendant involving Henderson Police Department,
3 and he tries to contact Henderson so he can get that
4 information. Unfortunately, it wasn't quite so easy. We find
5 out that the Detective Aguiar that working the case left the
6 Sexual Abuse Detail and went to Fraud. So Detective Madsen's
7 trying to get that information. Sholeh from Child Protective
8 Services actually goes to the school, gets the kids Taharah
9 and Taquanda out of school, brings them to the Childrens
10 Assessment Center so that they can be interviewed.

11 You're going to hear that the Southern Nevada
12 Childrens Assessment Center is a location where a bunch of
13 different agencies are all housed under one roof. There's
14 Sexual Abuse from Las Vegas Metropolitan Police Department,
15 there is Child Protective Services, the sexual abuse
16 investigators, there are forensic interviewers, people who all
17 they do is interview kids who have made sexual abuse
18 allegations, there are medical services. There's a doctor
19 there who has a clinic and sees kids there. There are
20 psychological services. All of this in one location, kind of
21 like one-stop shopping, so kids can come, they can be
22 interviewed, all these things in a friendly environment, and
23 they can do it all at once.

24 So you'll hear that the kids came on September 27th
25 of 2012, they were interviewed, and they were examined by a

1 doctor. You're going to hear from Dr. Mehta that she examined
2 Taharah, that she didn't find any physical evidence of
3 anything, but she'll also explain to you way more than you've
4 ever wanted to know about a young girl's vagina and why it is
5 not unusual that, despite what she has described occurring,
6 Taharah doesn't have physical evidence of it. The doctor will
7 explain for you why that is not unusual and she is not in any
8 way surprised.

9 Taharah does explain for the forensic interviewer
10 while Detective Madsen and Sholeh watch the abuse that Fred
11 has heaped on her over the last few months, the penis in the
12 vagina, the fingers in the vagina, the rubbing his penis, the
13 rubbing her breasts. And you'll hear that there's the
14 investigations, that it took a while for the detective to
15 actually get the information from Henderson, but ultimately he
16 did, and here we are.

17 That, ladies and gentlemen, is the State's case in a
18 nutshell. Over the course of the next week the State will
19 present all of those witnesses that I have talked about to
20 you. All I ask is that you pay attention. Because at the end
21 of the trial, after you see and hear everything, you pay
22 attention to everything that you have heard, you will find the
23 defendant guilty of all the charges.

24 THE COURT: Thank you very much.

25 Opening, Mr. MacArthur?

1 MR. MacARTHUR: Thank you, Your Honor.

2 DEFENDANT'S OPENING STATEMENT

3 MR. MacARTHUR: Good morning, ladies and gentlemen
4 of the jury panel. I almost said prospective jury, because we
5 spent two days finding you. This is opening statement, and I
6 like to at the beginning explain how trial procedure works,
7 because I find that the fewer surprises the better things tend
8 to work out.

9 This is an opening statement. You've already heard
10 the State's, and as soon as I'm done with this preamble,
11 you'll hear from me. Then we'll have witnesses that testify.
12 Each side will have an opportunity to examine them. After the
13 State's case is completed they will close, and the defense
14 will have an opportunity to present witnesses, if any. At the
15 close of evidence you'll hear closing arguments. Now, what's
16 important here is that the State will go first, then the
17 defense goes, and, because the State has the burden, they get
18 the last word. So they get to go twice at the end.

19 You'll see that there are two attorneys at each
20 table. I'm with Betsy Allen for the defense, and it is my
21 pleasure to be doing this trial with Betsy. This is our fifth
22 together. But she is lead counsel, so this is going to be
23 only time that you hear from me directly, other than when I
24 question witnesses. So I want to make sure I do this right.

25 Opening statement, as described by the State, is

1 essentially our case in a nutshell. And there's an analogy
2 that works pretty well, State versus the defense. You can
3 think of the State's opening argument as using your GPS. If
4 you do a lot --

5 MS. LUZAICH: I'm sorry. This is argument. Opening
6 statement is really supposed to be just what is the evidence
7 going to show.

8 THE COURT: Sustained.

9 MR. MacARTHUR: All right. The State has given you
10 its version of the events that it believes the evidence will
11 show. However, there are -- which should probably not be
12 apparent to you yet, there are some significant gaps or lapses
13 in the State's theory or explanation of what happened. And so
14 I am going to present to you the timeline and the factors that
15 the State either has not considered or refuses to consider.

16 Now, I appreciate the State having done some of my
17 work for me. She identified some of the players to you. But
18 just to make sure that I'm thorough, we have a couple of
19 things. One, we have Tina Duke, the mother; we have her
20 oldest daughter, Victoria Duke; we have her next daughter
21 down, Mahlica Duke; her only son, Shabazz Duke; and her two
22 youngest daughters, Taharah Duke and Taquanda Duke.

23 In the second household we have the defendant, Fred
24 Harris. If I might --

25 Fred, stand up for me briefly.

1 Ladies and gentlemen, this is Fred Harris. We're
2 going to be talking about him in graphic and abusive detail
3 when it's the State's case, and we're going to be talking
4 about him in different references when it's the defense case.

5 Mr. Harris, please have a seat.

6 The evidence will show you that he is more than a
7 man sitting at a desk, quietly waiting for people to finish
8 talking about him. The evidence is going to show you that he
9 is retired from the phone company and that, at least at the
10 time relevant in this case, he is also a contractor at the
11 Nellis Air Force Base. He, during most relevant periods in
12 this case, had a boyfriend-girlfriend relationship with
13 another woman by the name of Lealer Cooks. She is also known
14 as Ann. As a matter of fact, most of the children in the Duke
15 family will refer to as Miss Ann.

16 Now, much of what I tell you, and it is going to
17 agree with what the State said, and it should. The Duke
18 family starts off in -- or at least for purposes of this case
19 in Louisiana. This is 2004. The defendant has family in
20 Louisiana, and he went to visit them in approximately July of
21 2004, whereupon he made the acquaintance of Tina Duke, who was
22 working at the lounge described by the State. She was working
23 as a cocktail waitress. They made pretty quick friends. They
24 had a one-night stand, and they enjoyed each other's company
25 enough to where they exchanged contact information, and he

1 invited her to contact him again if she ever happened to go
2 out to Las Vegas.

3 Within six months Tina Duke did take an opportunity
4 to visit him in Las Vegas. Without a lot of notice, although
5 they did have contact with each other, she came out to Las
6 Vegas and left her children in Louisiana. There may be some
7 dispute as to whether she left them completely on their own or
8 whether she left them in the care of someone else. However,
9 when CPS investigated those circumstances they found that she
10 had in the habit of leaving her children unattended and that
11 her oldest daughter, Victoria, was typically left in charge,
12 and that the oldest daughter was developmentally delayed and
13 was expected to essentially act as an adult despite the fact
14 that her development was equivalent of a young lady much
15 younger.

16 Before CPS or its equivalent in Louisiana actually
17 came and seized the children Tina Duke, having been in Las
18 Vegas for a week, explained this predicament to Fred Harris,
19 and Fred Harris contacted his brother, who is a over-the-road
20 truck driver. That brother happened to be in Louisiana, and
21 he asked the brother, in exchange for \$600, to bring the
22 children out to Las Vegas. And that's exactly what happened.
23 And so Louisiana's CPS was not directly involved in the case.
24 The children were gone before their investigation began.

25 When the children arrived -- let me stop here and

1 say that clearly Fred Harris not their father. Fred Harris
2 isn't even their stepfather. He was never married to Tina
3 Duke, he was never in a committed relationship with Tina Duke.
4 The defense is not going to deny that they had a sexual
5 relationship ongoing over several periods of years and that
6 they were friends and at times that they lived together.
7 However, at no point should the evidence indicate that Fred
8 Harris held himself out to the parents of these children, and
9 I'm even going to go so far as to say that I expect that the
10 testimony from the children would also reflect that.

11 These children's father is a man by the name of
12 Marvin Gibson. The evidence will show that the reason that
13 compelled Tina Duke to leave Louisiana the most was that this
14 man was abusive. They had been transient, going from
15 Louisiana to Texas or Florida, not necessarily in that order,
16 I'm just listing the states, and that ultimately Tina Duke
17 felt like she needed to get away from this man before he did
18 something really bad to her family.

19 The children arrived in Las Vegas in January of
20 2005. The State said during its opening that Tina gained
21 employment during the time she was in Las Vegas, but she
22 didn't include any other details. Her employment at the time
23 was actually in Larry's Villa, which, if you've lived in Las
24 Vegas for a while, you know is one of our many strip joints.
25 It's on Rancho and Bonanza. It's not one with the best

1 reputation.

2 Tina lived with her children with Lealer Cooks.
3 Lealer Cooks and Fred Harris did not live together at that
4 time. They had an on-again-off-again relationship, but he
5 would go to her house. It was not their custom for Lealer to
6 go to his house. And so Tina and Lealer had Tina's children
7 at that apartment for several months, which both parties, give
8 or take, will estimate to be approximately May of 2005.

9 When Tina arrives in Las Vegas in January of 2005
10 she is pregnant. She may tell you that she knew she was
11 pregnant, she may tell you that she did not know she was
12 pregnant. Tina has a problem being consistent. Regardless of
13 whether she knew when she arrived or not, this was not Fred
14 Harris's child. She made arrangements through an agency in
15 Utah to give her sixth child up for adoption. And when that
16 process or that program was ready to begin she took all of her
17 children, which was something of a surprise, she didn't
18 explain that this was her intention to do so, and she went to
19 Utah. This, again, would have been approximately May of 2005.

20 Now, the State brings up a relatively important
21 point. There is an allegation that no one denies that
22 Victoria was angry that her mother had left her in Louisiana
23 and that at the same time, chronologically speaking, she said
24 that she'd been inappropriately touched by Fred Harris. This
25 was discussed between Lealer, Tina, and Fred Harris's mother.

1 The defense does not disagree with the State that Victoria was
2 not believed. The authorities were not contacted. Tina
3 relocated after the fact to Utah due to her pregnancy and the
4 adoption.

5 While in Utah Tina continued to maintain contact
6 with Fred Harris, and in December of -- Court's indulgence.
7 In December of 2005 she comes back to Las Vegas to have a
8 weekend or so with Fred Harris. The evidence will show that
9 she came into a little bit of money and she wanted to spend it
10 here recreating and have contact with Fred while she was here.

11 Unfortunately, Tina did not leave her children in
12 anyone's care. The evidence will show that she had a neighbor
13 that the children will refer to as Miss Heather, who she paid
14 \$200 to to come in and check on the kids from time to time.
15 When Miss Heather was not inside of that apartment, again, it
16 was Victoria, the oldest and the developmentally delayed, that
17 was responsible for her brothers and sisters. This is the
18 second that that we are aware of in which she has been
19 abandoned by her mother.

20 CPS is contacted by a concerned party. Tina is then
21 contacted by CPS, saying, we have your children and you need
22 to come back to Utah immediately. She does so. As the State
23 explained in its opening argument, her children were placed in
24 foster care, and she had to go through a parenting program in
25 order to get them back. That took approximately six months.

1 Once she had them back, this would have been approximately
2 August of 2006, she had them for one year where she lived in
3 Utah working as a housekeeper and being, as far as we can
4 tell, otherwise stable. However, she decided that she wanted
5 to come back to Las Vegas because our casinos pay better than
6 housekeeping opportunities in Utah. She returned, and when
7 she did so she put her children in the household that was now
8 occupied by Fred Harris and Lealer Ann Cooks.

9 So let's be clear about something. Evidence will
10 show that Lealer Ann Cooks moved out of her apartment and into
11 a house with Fred Harris and that this house is on 966
12 Blankenship in the west side of Las Vegas. However, Tina and
13 her oldest daughter, Victoria, did not move into that house.
14 And this will be an important point. Various witnesses will
15 testify to you as to why it is that Tina and Victoria did not
16 move in. But perhaps the most valuable testimony will be that
17 of Tina herself. The evidence should show that the reason
18 they didn't move in is because of the previous problem
19 involving Victoria and the allegation made against Fred.
20 Victoria will be described as boisterous, disobedient,
21 undisciplined, and a bad influence on the other children. He
22 didn't want her in the house, there was no one that could
23 force him to take her in the house, and so she lived with her
24 mother in a hotel temporarily, for one month, and then they
25 moved in with the defendant's mother at her house.

1 Incidentally, the woman from Utah that was watching
2 the children, I believe she'll be referred to as Miss Heather.

3 Eventually Tina is working and is able to afford to
4 move out on her own with Victoria. Now, this is another
5 important point, because the State's case -- some of its
6 charges involve pandering, and it will be explained to you
7 later that that is essentially the legal way that we say
8 pimping, when one person encourages, forces, or compels
9 another person to act as a prostitute. The State's theory is
10 that the defendant made her prostitute herself in order to
11 provide money to care for her children. What the State does
12 not mention in its opening argument, which should be something
13 that you pay close attention to when it comes out, is that the
14 defendant got Tina Duke a job at the Bally's doing
15 housekeeping and that when she started there she was full time
16 and getting between \$13 and \$15 an hour. The State, I assume,
17 I have to make some guesses, is going to try to convince you
18 that Tina Duke was working two jobs, one legitimate, one
19 illegitimate, and forced to give all of her money to Fred
20 Harris.

21 At this time CPS begins receiving complaints. Now,
22 if you're not familiar with CPS, CPS is rather careful to
23 protect the people who contact them as the complainers. They
24 don't want to create situations where the person who calls in
25 to CPS is then subject to some sort of revenge or backlash.

1 And so they will usually refer to the person who contacts them
2 as the source. They don't disclose who that -- what that
3 information is. At this point CPS begins getting a series of
4 contacts from a given source that is not divulged. And these
5 are recurrent, despite the fact that every time there's an
6 investigation they come back unsubstantiated, it doesn't stop
7 the complaints from coming in.

8 You later learn from the witnesses that these
9 complaints were initiated by Victoria. However, as of October
10 2007 and summer 2008, which is where we are now, with the Duke
11 children living with Lealer Cooks and Fred Harris in the
12 Blankenship house and Tina and Victoria living in an apartment
13 on a street known as Walnut in North Las Vegas, this is the
14 time period in which the telephone calls start coming.

15 In April of 2008 the first allegation that there was
16 sexual assault going on the State referred to in its opening
17 argument the children were interviewed individually. Remember
18 that at the Blankenship house are going to be Shabazz,
19 Mahlica, Taquanda, and Taharah. After interviewing each, each
20 of them denies that there's any sort of sexual conduct going
21 on or any sort of inappropriate touching. CPS closes the case
22 in April of 2008 as unsubstantiated.

23 Now, the summer of 2008 Victoria Duke spends the
24 summer with the defendant's mother, Miss Dorothy. When she
25 finishes the summer she is permitted to move back inside of

1 the Blankenship residence. She would like to be closer to her
2 brothers and sisters and her mother. Victoria and Tina are
3 allowed to move into the Blankenship residence, and there are
4 no allegations of abuse made by anyone between August of 2008
5 and May of 2009. It's important to note that at this time
6 Victoria is between 16 and 17 years old.

7 For those of you taking notes, backing up earlier in
8 my statement, the first sexual assault allegation that was
9 made by not transmitted to law enforcement, that was somewhere
10 between January and May of 2005. Back then Victoria was 12
11 years old.

12 Moving forward, Victoria, if she's consistent with
13 other testimony she's given earlier in the case, is expected
14 to say that her abuse at Blankenship resumes in May of 2009
15 and persists through August of 2010. Now, the reason I'm
16 giving you these dates is that at some point you'll be asked
17 to compare facts to criminal charges, and you'll recognize
18 having heard this morning that sometimes it's sexual assault,
19 victim under 14, sometimes it's sexual assault, victim under
20 16, and other times it's just sexual assault. And so in order
21 to help organize this information I give you the dates so that
22 you know where they correspond. The sexual allegations in
23 this section are those that are without the age. Since
24 Victoria's over the age of 16, these are the ones that are
25 just sexual.

1 Now, the evidence will show that at this point
2 Victoria is undergoing psychotherapy. She also claims to have
3 exhausted her remedies, that she tried to tell her family and
4 that she was not believed, that she's tried to tell CPS and
5 that she wasn't believed. At this point she claims to have
6 told a Canyon Springs High School teacher, a mandatory
7 reporter, that she was being sexually assaulted. Ladies and
8 gentlemen, we have found that teacher, and we intend to have
9 her testify for you.

10 Next, Tina and Victoria move out of the Blankenship
11 house in August of 2010. They move to an apartment on a
12 street known as St. Andrews in North Las Vegas. And when
13 Victoria leaves with Tina they take Mahlica and Shabazz with
14 them. Prior to this point Mahlica and Shabazz have been
15 living with Fred and Lealer, along with Taharah and Taquanda.
16 Shabazz and Mahlica leave. Now with Lealer and Fred Harris
17 there are Taquanda and Taharah. Taharah is the older of the
18 two.

19 Tina, Victoria, Shabazz, and Mahlica remain at that
20 address until October 26th, 2011. At that point they move to
21 a residence in Henderson the defense believes is Center
22 Street. You'll forgive us if we don't have any numbers.
23 That should come out in testimony. At this point Victoria
24 makes another allegation of sexual assault at the hands of
25 Fred Harris. She contacts Henderson Police Department, as

1 described by the State's opening argument, and Henderson comes
2 out immediately and in the early hours contacts everyone at
3 the Blankenship house in order to obtain a statement.

4 At the time of that statement again the charges are
5 unsubstantiated. CPS is also involved, because these are
6 children.

7 And let me back up a step. Before Tina Duke and
8 Victoria Duke move out of the Blankenship house Tina agrees to
9 give temporary guardianship of Taharah and Taquanda to Lealer
10 Cooks. She states her reasons for that were their further
11 education, that they were stable, and that they were living
12 well. She said that she trusted Fred and Lealer and she was
13 confident that they had her best interests in mind. So when
14 Tina and Victoria and Mahlica and Shabazz move out of the
15 Blankenship address to St. Andrews they leave Taharah and
16 Taquanda behind, which will become very important. Victoria
17 is expected to testify that she does not like when her family
18 is broken apart, that she misses her brothers and sisters, and
19 she makes no secret that she can't stand Fred Harris.

20 During the contact from Henderson Police Department
21 with the household we learn several things. And let me
22 preface by saying that this is the worst thing about the
23 defense's case. The police learned that Fred Harris has had
24 sex with Victoria at the age of 19. The police think that
25 sounds odd. And there's no reason that they wouldn't.

1 However, now that it's clear as to where Victoria's been
2 living for the past several years the police step back a bit
3 and ask for more corroboration. They start by talking to
4 Tina. And Tina says, somewhat mystifyingly, that she is aware
5 that her daughter had had sex with Fred and that she describes
6 it as having been Victoria's idea. She denies it as having
7 been forced upon her by Fred. She considered Victoria to be
8 doing her own thing.

9 At this same time Victoria, who's no longer in the
10 Blankenship address, she's living at St. Andrews with her
11 mother, fails to complete the twelfth grade. This will become
12 important later. Victoria also says that her abuse at the
13 hands of Fred Harris -- because, remember, she maintains that
14 it was abuse no matter what her mother said -- that there was
15 less abuse at St. Andrews. She doesn't necessarily explain
16 why, but that there was less abuse at the hands of Fred Harris
17 at the St. Andrews address than at Blankenship or previous
18 addresses.

19 At this point Victoria has already had the
20 conversation described by the State with the big-hearted woman
21 known as Rose. She's the religious woman that was talking
22 about the importance of maintaining chastity. Now, something
23 that Victoria appears not to have told Rose with regard to
24 maintaining her virginity was that she is or if those two
25 things did not overlap that she would soon be pregnant. That

1 child was not the child of Fred Harris. There's no allegation
2 that it was the child of Fred Harris. I believe the evidence
3 will show that that child miscarried. But she was
4 unquestionably pregnant in February of 2012 when she was
5 living at St. Andrews with her mother, Tina Duke.

6 The last part of the investigation by CPS, having
7 been initiated by Henderson PD, into this sexual assault
8 allegation ended with Taharah and Taquanda, the two youngest,
9 that are still living with Fred Harris. You've already heard
10 by the charging documents and by the State's opening argument
11 that they are alleged to have also been victims of Fred
12 Harris. However, at the time which CPS contacted them, on
13 January 10th, 2012, this approximately one month after the
14 sexual assault allegation by Victoria that went to Henderson
15 Police Department, and it's approximately a month before the
16 certainty of her pregnancy, and Taharah and Taquanda, the
17 evidence will show, reported to CPS that not only was nothing
18 inappropriate happening to them, but that they did not believe
19 the allegations that were made by their sister Victoria.
20 We're going to ask why.

21 Enter the summer of 2011. At this point Taharah and
22 Taquanda have been living with Lealer Cooks and Fred Harris
23 for some time. And the children living with Tina and
24 Victoria, the evidence will show, are not faring well in
25 school or in how they interact. Lealer Cooks and to a lesser

1 degree Fred Harris cease to allow as much contact between
2 Taharah and Taquanda and their siblings living with Tina Duke.
3 As you might imagine, that did not sit well with Tina Duke or
4 Victoria. However, in the summer Taharah and Taquanda were
5 permitted to go and reside with them.

6 And then we come to the second sexual assault
7 allegation, the one that brings you here today. On September
8 27th, at the end of that summer where Taharah and Taquanda
9 were living with their mother and sister, there's an
10 allegation of sexual assault of Fred Harris against the older
11 of the two youngest, Taharah, not against Taquanda. In
12 speaking with Taharah -- this is going to be by CPS -- Taharah
13 claims to have disclosed her abuse to an OB-GYN. Again,
14 another mandated report. And that she did not receive any
15 help. Her statement to CPS was that the doctor's advice was
16 that, well, maybe then she should just move.

17 Taquanda, the sister, not the victim Taharah,
18 Taquanda, having heard about the abuse from her sister, also
19 claims to have informed a H. P. Fitzgerald, it's an elementary
20 school, I believe she's in fifth grade, counselor by the name
21 of House, that her sister was being sexually assaulted. This
22 is the third mandatory reporter being involved in the case.
23 We've also contacted Counselor House. I expect you will find
24 that testimony as to whether that was ever said to her
25 enlightening.

1 The doctor referenced by the State in its opening, I
2 believe it's doctor Mehta, and she will be flying in from
3 Louisiana.

4 The last part of the investigation again involved
5 talking to Fred Harris. This was by police detectives. I
6 expect that the State will want to go through that statement
7 with you, and there are things in that statement that I wish I
8 didn't have the contend with. Namely, Fred Harris ever
9 thinking that it was a good idea to have sex with Victoria.
10 What he is candid about, the State is not in error in saying
11 that he initially denied it. He will say in the statement,
12 and perfectly consistent, that he wasn't big on the idea of
13 people knowing that he had done things with both a mother and
14 a daughter. In fact, had it not been for that poor judgment,
15 he probably wouldn't be sitting in the position he's in now.
16 But he is, if nothing else, once he learns that, okay, this
17 has come to roost, candid. You will see that he does not try
18 to hide the ball. When the police ask him questions about,
19 so, you know, what were you doing over here and what were you
20 doing over there, he admits to many things that other people
21 would otherwise leave out, such as, hey, I was over there
22 smoking marijuana. Not that the police knew that, but he
23 included it. When he came out he came clean.

24 Now, the evidence will show that the reason we are
25 here, other than short-sighted misstep, are, number one, that

1 the State and its actors -- and when I say the State and its
2 actors I don't mean these lovely ladies at the table, I mean
3 the Henderson Police, CPS, other people involved in putting
4 this case together -- the evidence will show that they're
5 particularly good at rescue, that it's difficult sometimes to
6 make an allegation to be vulnerable, and they're well equipped
7 to getting that information, making an individual feel safe,
8 and prosecuting. However, the evidence will show that what
9 they're not good at is detecting deceit or manipulation.

10 Next the evidence will show that, having received
11 these allegations, the State did not attempt to corroborate
12 that information whenever possible, such as by speaking to the
13 doctors that the girls claim to have complained to or speaking
14 to the teachers that the girls claim to have complained to or
15 checking the income of Tina Duke, who claimed that she was
16 forced to prostitute herself in order to sustain her children
17 or consulting the school records involving the children.

18 Now, the evidence will show that the reason why
19 checking these things are particularly important is because
20 you find patterns, and the pattern that the State didn't
21 bother to look at was how the children were faring at the time
22 in which these various allegations were made. The evidence
23 will show that at all points in which the children were living
24 with Fred Harris they had the best academic performance of
25 their lives and that when they left his care those that

1 continued to go to school did very poorly and that -- that's
2 those who continued to go to school. Those who did not
3 dropped out entirely. The evidence will show that Victoria
4 failed to graduate high school, that Mahlica failed to
5 graduate high school, but that Taharah and Taquanda during the
6 time they were with Fred Harris did exceptionally well. The
7 evidence will show that the most poignant part of that
8 evidence will be that everyone did well when they lived with
9 Fred Harris, but that when Tina Duke moved out with Victoria
10 everyone at the Harris continued to do exceedingly well, but
11 that Victoria Duke failed to graduate. The evidence will then
12 show that when Mahlica and Shabazz moved out to live with Tina
13 and Victoria they failed and that Taquanda and Taharah
14 continued to do exceedingly well.

15 Some of the State's witnesses will be able to
16 testify to you why that's odd. They will be able to tell you
17 that one of the ways that abuse in a home can be corroborated
18 is that, despite the best attempts to hide it, is that
19 children suffer in school, that they become disconnected, that
20 they don't do their homework, that they don't perform well,
21 they become introverted. And the exact opposite is happening
22 here.

23 Once this case begins, because there is a sexual
24 assault allegation that leads to the beginning of this case,
25 Taharah and Taquanda are removed from the home. That was in

1 2013. The evidence will show that between October of 2013,
2 last year, and January of this year Taharah already has 14
3 absences, Taquanda already has 18 -- I'm sorry, 28, and that
4 their grades are abysmal. You will be able to compare that to
5 letters written by Taquanda and Taharah themselves stating to
6 CPS why they did not want to move with their mother. They
7 will explain in that letter why their education was valuable
8 to them and why they thought they were better off living with
9 the defendant and Lealer Cooks after the timeline established
10 by the State of these allegations.

11 This is not the first time these parties have
12 appeared in court. You will hear during various examinations
13 that witnesses have appeared before probable cause hearings,
14 evidentiary hearings, et cetera. Victoria is no exception.
15 At the inception of this case last year Victoria appeared and
16 testified under oath at preliminary hearing. She included a
17 lot of allegations, many of which and the most important of
18 which we weren't present to see. However, she provided many
19 that could be checked or verified or corroborated. The
20 evidence will show that one of her biggest missteps in
21 bringing these horrible allegations against Fred Harris is
22 that she also included his daughter.

23 Now, Victoria and his daughter, whose name is Shaday
24 [phonetic], haven't seen each other in quite some time. The
25 evidence may show that Victoria doesn't recognize Shaday or

1 didn't at the time. It will also show that she didn't know
2 that Shaday was in the room watching the proceedings.
3 Victoria made an allegation that she was not only Fred
4 Harris's victim, that her sister Taharah was Fred Harris's
5 victim --

6 MS. LUZAICH: Objection. Can we approach?

7 THE COURT: Yes, you may.

8 (Bench conference) }

9 THE COURT: It's opening statement.

10 MS. LUZAICH: I know. And I'm sorry. I think he's
11 going to misstate what happened. Victoria did not say that
12 Shaday was a victim. Victoria said that Fred told Victoria.
13 There's a big difference.

14 THE COURT: Okay. Well, that's all right. I don't
15 know what he was going to say, so --

16 MS. LUZAICH: It sounded like he was about to say
17 that Victoria said that Shaday was a victim. That is not what
18 she said.

19 MR. MacARTHUR: Okay.

20 MS. LUZAICH: I just want to be clear.

21 MS. ALLEN: We don't have to do it now, but I have
22 to make a record about two things after we're done with
23 closing [sic], assuming we're doing lunch right after. Are we
24 doing lunch right after opening?

25 THE COURT: Uh-huh.

1 MS. ALLEN: We just need to make a record about two
2 things.

3 THE COURT: Okay. Thank you.

4 (End of bench conference)

5 THE COURT: Okay. You can proceed.

6 MR. MacARTHUR: Thank you, Your Honor.

7 Victoria then testified under oath that she was
8 informed that Shaday was also sexually assaulted, and then all
9 hell broke loose. So they will come and testify and include
10 all of those other details. But suffice it to say that there
11 was not order in the court.

12 Ladies and gentlemen, the defense expects that the
13 evidence will show that the Duke children certainly have not
14 had enviable lives and that much of their misfortune is the
15 fault of their mother, not necessarily deliberately. We do
16 not have to prove or disprove that she is doing her best or
17 not doing her best. But it will become abundantly clear that
18 these children have never had a fair shot and that one child,
19 who was almost an adult, Victoria, it was already too late to
20 save her, that she was a lost child and that she had good
21 reason to be angry, if not at her mother, then the whole
22 world. She had been taken away from her family, and she felt
23 as though this man was to blame. The evidence will show
24 directly, not even by inference, that one of the reasons she
25 blames this man is because she can't blame her own mother.

1 It's her mother, and try as she might, she has to love her.
2 The evidence will show that from its inception the allegations
3 made against Fred Harris by Victoria Duke were and were always
4 back then false.

5 The evidence will show that the reason why nothing
6 ever happened that changed these circumstances was because no
7 one agreed with her, but that when the opportunity arose to
8 enhance her own story with another one of her siblings she
9 took it. And she had to wait a long time for that
10 opportunity. The evidence will show that when she had an
11 opportunity to spend significant periods of time with her
12 younger siblings that their allegations would arise and that
13 their testimony would change. The reason you're here is to
14 determine whether or not that changed because they were
15 manipulated or did it change because they felt comfortable
16 disclosing to their sister, as opposed to doctors, teachers,
17 police, CPS workers, and counselors, all of whom had attempted
18 to make contact and rapport with these children in order to
19 make them feel safe to bring such an allegation if it was
20 warranted.

21 The evidence will probably show that the worst part
22 of State's case in contrast to ours is the inconsistency of
23 Tina Duke. She is at times a wholehearted supporter of Fred
24 Harris, she is at other times a woman scorned, jealous that
25 she cannot have an exclusive relationship with him because he

1 always seems to put Lealer Cooks first, he's having two
2 relationships in the open, and there's jealousy.

3 Ladies and gentlemen, Tina Duke, not unlike her
4 children, has had a rough life, and perhaps the most telling
5 way to characterize her testimony and her motivations can be
6 found in her most recent book. She fancies herself a writer,
7 and she writes, at least in her characterization, about true
8 events that have happened in her life. The most recent book
9 that she has submitted --

10 MS. LUZAICH: Object. Can we approach?

11 THE COURT: Yes.

12 (Bench conference)

13 MS. LUZAICH: Rape shield. She writes about a rape
14 that occurred when she was 14.

15 MR. MacARTHUR: I haven't read it.

16 THE COURT: You haven't read it?

17 MS. ALLEN: She said she's send it to her publisher.
18 [Inaudible].

19 MR. MacARTHUR: And she's already published it, so
20 it's not --

21 MS. LUZAICH: It is not published yet.

22 MS. ALLEN: It's submitted to her publisher.

23 MS. LUZAICH: It's a rape when she was 14. That is
24 rape shield. It's got nothing to do with this.

25 MS. ALLEN: All we're talking about is seeing the

1 book. That's it.

2 MR. MacARTHUR: I haven't read the book.

3 THE COURT: It sounds like you were going to talk
4 about what was in the book. If you're not going to do that --

5 MS. ALLEN: No.

6 THE COURT: -- that's fine.

7 MR. MacARTHUR: She told us that she writes about
8 her life and she told us the title and that she submitted it.
9 I don't know anything --

10 MS. LUZAICH: It's "Sweet Revenge." But none of
11 that -- it's all about what happened when she was 14.
12 "Secret" or whatever it's called.

13 MS. ALLEN: We're not going to ask her questions
14 about the book, just --

15 MS. LUZAICH: Well, no. The name of the book isn't
16 relevant, either.

17 MR. MacARTHUR: I'm not going to get into the
18 details of it.

19 MS. LUZAICH: The name of the book is "Secret
20 Revenge."

21 MS. ALLEN: "Secret Revenge." We're not going to
22 get into the details, just going to --

23 MR. MacARTHUR: And we -- both sides can cross her
24 on it.

25 THE COURT: But why do you have to state the name?

1 MS. ALLEN: That's the whole theory of the case.
2 MR. MacARTHUR: Because our theory of the case is
3 that --
4 MS. ALLEN: Victoria --
5 MR. MacARTHUR: -- Victoria's getting revenge
6 against the defendant and that she's helping her.
7 THE COURT: But she really didn't write the book.
8 MR. MacARTHUR: No. But she's --
9 MS. LUZAICH: No. Was involved in it.
10 MR. MacARTHUR: -- she's enlisted her mother's aid
11 in doing that.
12 THE COURT: Okay. But you haven't read the book,
13 you don't know what the book says, but the book's part of your
14 theory.
15 MR. MacARTHUR: We can cross-examine her on it.
16 MS. LUZAICH: Absolutely not. Rape shield.
17 MS. ALLEN: I'm not going to ask her about the facts
18 in the --
19 THE COURT: What I'm just going to ask you to is not
20 talk about the name of the book. I mean, if you haven't even
21 read the book, how are you going to cross-examine her on the
22 book?
23 MS. ALLEN: We'll ask her if she's written a book by
24 the name of "Secret Revenge," that's all.
25 MS. LUZAICH: Well, no. What she told us was that

1 it was about when she was raped when she was 14. And then she
2 kills the guy. She doesn't [inaudible], she kills him.

3 THE COURT: Oh my goodness.

4 MS. LUZAICH: No. It's completely irrelevant.

5 THE COURT: Okay. I would just ask you not to talk
6 about it in opening until you have more information that you
7 can make an offer of proof on.

8 MR. MacARTHUR: All right, Judge.

9 (End of bench conference)

10 THE COURT: You may proceed.

11 MR. MacARTHUR: Ladies and gentlemen, all cases are
12 more interesting when there's a little bit of suspense, so I'm
13 go to add that now. We're not going to talk about the title
14 of the book yet. We'll leave that for when Tina Duke is
15 cross-examined.

16 MS. LUZAICH: Objection.

17 THE COURT: Sustained.

18 MR. MacARTHUR: Understood, Your Honor.

19 Ladies and gentlemen, all of you have notebooks,
20 and, gratefully, all of you have written into them. In ending
21 my opening statement I will ask you to continue writing. The
22 facts here are convoluted, and they have taken place over a
23 very long period of time. And the allegations are quite
24 serious. And I don't just mean serious in the sense that they
25 have huge consequences for the defendant. I mean them serious

1 in the way that when you hear about them that you can't ignore
2 the subject matter. Chances are good that if you allow
3 yourselves to be offended by the topic, that you'll start
4 shutting out details. And the details are what is absolutely
5 essential to set this man free. So I appreciate your
6 attention and your patience. This is my last opportunity to
7 speak to you directly, and I'm [inaudible] that you will
8 uphold your end of your commitment fully.

9 THE COURT: Thank you very much.

10 At this time we're going to recess for lunch.

11 During this recess you're admonished not to talk or
12 converse amongst yourselves or with anyone else on any subject
13 connected with this trial, or read, watch, or listen to any
14 report of or commentary on the trial or any person connected
15 with this trial by any medium of information, including,
16 without limitation, newspapers, television, the Internet, or
17 radio, or form or express any opinion on any subject connected
18 with this trial until the case is finally submitted to you.

19 We'll be in recess till 2:15. Thank you very much.
20 We'll see you at 2:15.

21 (Jury recessed at 12:48 p.m.)

22 THE COURT: The record will reflect this hearing is
23 taking place outside the presence of the jury panel.

24 Ms. Allen, you indicated you had a couple things you
25 wanted to bring up.

1 MS. ALLEN: I do, Your Honor. I noticed in the
2 State's opening that they mentioned that we would hear from
3 someone by the name of Rose Smith, and I'm fully aware that
4 she was -- there's a statement in my discovery from her. And
5 I want to be fair to the State, because I think I remember
6 seeing her on one of their witness lists. It's not on the
7 information that I have, and it's not on the information that
8 was originally filed. But, again, they did file another one.
9 I want to be fair by saying I think that they noticed her.

10 MS. LUZAICH: I did.

11 MS. ALLEN: Okay. So --

12 That's fine. You don't have to get it. I trust
13 you.

14 But the problem is this. Her address is listed as
15 "address unknown" in the witness list, and we -- as a matter
16 of fact, I said -- I talked to my investigator -- her name is
17 very common, obviously, Rose Smith.

18 THE COURT: Sure.

19 MS. ALLEN: And we -- because she was listed as
20 "address unknown," we had no ability to contact her in any
21 way. I've not been provided with any information about where
22 she is or -- and she may not be testifying. Maybe I misheard
23 Ms. Luzaich.

24 MS. LUZAICH: No. She is.

25 MS. ALLEN: That presents a bit of a problem,

1 because we haven't had any opportunity to even attempt to find
2 her under "address unknown." And so at this point in time,
3 unless I'm wrong about the address part of it, I would move
4 for her exclusion, because we haven't been given adequate
5 notice under the statute. Obviously the State has contact
6 information, and we weren't provided that. I think that the
7 statute requires that they update their witness list as soon
8 as, you know, addresses change and things such as that; and
9 that wasn't provided.

10 Additionally, I did file a discovery motion. I
11 think it was listed in the discovery motion, all of the things
12 -- and that was one of them, update witness lists. And I did
13 never receive that.

14 MS. LUZAICH: We've talked on pretty much a daily
15 basis, and she hasn't said anything before that she didn't
16 have any information. I don't know if -- I just -- I'm not
17 seeing it right now. I don't know what it says on the witness
18 list. But all she had to was ask me, and I would have given
19 it to her. And I will. I'll give her the phone number that
20 we have. I don't have it. My investigator does.

21 THE COURT: Okay. You'll provide that -- okay.
22 Will you provide that to Ms. Allen today.

23 MS. LUZAICH: Of course.

24 THE COURT: Okay.

25 MS. ALLEN: And I do appreciate that, Your Honor.

1 But you understand we've already done openings, and I didn't
2 know -- when they say "address unknown" -- I mean, she had
3 addresses for everybody else, and usually if it's "address
4 unknown" it's usually I don't know where she is. Which is
5 fine. I appreciate that. It happens to us all the time. But
6 I -- that's what the motion was for. I didn't -- that's why I
7 didn't, you know, bug her about, you know, can I get this, can
8 I get that. I mean, that's why I file the motions and make
9 the record that I do. And so I do appreciate getting the
10 information. Obviously the remedy in my mind is excluding her
11 from testifying. I think that the State's burden -- it's the
12 State's burden, obviously, to update that witness list, and
13 that wasn't done here. And so I would just submit it with
14 that.

15 THE COURT: Okay. Will you give her the
16 information.

17 And then after you get the information, Ms. Allen,
18 if you feel like you still don't have an opportunity, I'll
19 revisit the motion.

20 MS. ALLEN: Okay. I appreciate that.

21 THE COURT: Okay.

22 MS. ALLEN: The second thing was that I heard in the
23 State's opening argument that surprised me a little bit, and
24 Mr. MacArthur actually turned to me and said, I don't know
25 anything about this, apparently there's a third officer at the

1 Blankenship home in December of 2011 that heard some argument
2 between Lealer and Fred. I think she characterized it as an
3 explosion. I quickly sort of looked through the reports I
4 have, and I don't have a report from anybody. I didn't even
5 have anything about a third officer being there. And so I
6 don't -- maybe I missed it. And if I did, I apologize.

7 MS. LUZAICH: It's not another report, it's the same
8 report. And the report talks about the three detectives being
9 there, Melchert, Aguiar, and Delacanal, "On December 17th at
10 approximately 16:30 I, Aguiar, was called up by Delacanal." I
11 mean, it talked about the three of them through the report.

12 MS. ALLEN: Which -- I'm sorry. Wait a second.
13 There's one that's 22 pages, and there's one that's 20.

14 MS. LUZAICH: The Henderson incident report --

15 MS. ALLEN: No. Wait. There's the one that's 20
16 pages, and there's one that's 22.

17 MS. LUZAICH: Well, it doesn't matter. It's still
18 December 17th -- well --

19 (Pause in the proceedings)

20 MS. LUZAICH: Well, either way. I mean, it says,
21 "On December 18th at approximately 1:17 a.m. Detective
22 Melchert, Sgt. Delacanal --" and she's --

23 MS. ALLEN: Okay.

24 MS. LUZAICH: -- I mean, I'm looking at hers
25 "responded to 966 Blankenship."

1 MS. ALLEN: Melchert and Delacanal. That's -- yeah,
2 the two. But I thought in your opening you said there's a
3 third one who heard an argument between --

4 MS. LUZAICH: No. Aguiar -- it was Delacanal who
5 heard it, because he was standing there.

6 MS. ALLEN: Okay. And is there a report on this?

7 MS. LUZAICH: No. Just -- we heard that in
8 pretrial. And he didn't hear what was said, just that it was
9 loud, it was an explosion.

10 MS. ALLEN: Okay. So, just to be clear, there's not
11 an officer that's going to testify about a conversation he
12 heard between Lealer and Fred and specifics, just that they
13 were arguing?

14 MS. LUZAICH: Yes.

15 MS. ALLEN: Okay. Then that's it. I apologize.
16 That's all I needed.

17 THE COURT: Thank you.

18 MS. ALLEN: Thank you.

19 (Court recessed at 12:54 p.m., until 2:24 p.m.)

20 (Jury is not present)

21 THE COURT: I understand you have something outside
22 the presence.

23 MS. ALLEN: Your Honor, just that we wanted to --
24 sorry. I'll turn around. We thought we should address the
25 book, and you said that there needed to be a proffer.

1 THE COURT: Sure.

2 MS. ALLEN: And so she's taking the stand first, I

3 think --

4 MS. LUZAICH: Yes.

5 MS. ALLEN: -- so that's what we wanted to address.

6 THE COURT: And the name of the book is --

7 MS. ALLEN: "Secret Revenge."

8 THE COURT: -- "Secret Revenge?"

9 MS. ALLEN: Yes.

10 THE COURT: Okay.

11 MS. ALLEN: And I don't even -- I don't know what

12 the book is about. Ms. Luzaich advised me at the bench that

13 it was about something that happened, she was 12, and that she

14 said it's --

15 MS. LUZAICH: Fourteen.

16 MS. ALLEN: Okay. Fourteen. Sorry. But it

17 qualifies under rape shield. And we don't intend to get into

18 the facts of the book, and I'm not -- I didn't even know what

19 the book was about. The idea in this case is that this was a

20 revenge tactic, obviously, from our opening on behalf of

21 Victoria, her mother's involved in it. The name of the book,

22 "Secret Revenge" obviously comes into play with regard to

23 that. This is a book that she's writing. Whether or not it's

24 about anything to do with this --

25 MR. MacARTHUR: She told us it was an autobiography.

1 MS. ALLEN: Oh. Yeah. I apologize. She did tell
2 my investigator that it was autobiographical, that it was
3 about her life.

4 THE COURT: Okay.

5 MS. ALLEN: And, again, I don't intend to get into
6 any rape or killing anybody. That's not my intent.
7 Nonetheless, we believe that it does go towards bias and
8 motive in addition to the bias and motive related to this
9 case. It's sort of -- sort of a small snippet into who this
10 person is, and so that's what we were -- all we were going to
11 elicit is the name of the book, you're writing a book, it's
12 currently at the publicist, what's the name of the book,
13 "Secret Revenge." That was the extent of what we were getting
14 into. We had no questions about the -- or maybe that it was
15 autobiographical, but no questions about the actual substance
16 of the book, certainly not anything to do with rape shield or
17 violating --

18 THE COURT: So how is that relevant? I mean, I know
19 your theory is that this was, you know, revenge. But you
20 haven't read the book --

21 MS. ALLEN: I have not.

22 THE COURT: -- you don't know if the book has
23 anything to do with your client, and Ms. Luzaich has said that
24 it has to do with something that happened when she was a child
25 which she -- she was sexually assaulted and she killed her --

1 MS. LUZAICH: Oh, no, no, no.

2 THE COURT: I don't know. I thought that's what you
3 said up here at the bench.

4 MS. LUZAICH: Well, yes.

5 THE COURT: That's why when I --

6 MS. LUZAICH: What she told us was --

7 THE COURT: Okay.

8 MS. LUZAICH: -- and she just told us this the other
9 day --

10 THE COURT: All right.

11 MS. LUZAICH: -- I didn't know about the book
12 before, either -- was that she was writing this book, that
13 it's autobiographical, that when she was 14 --

14 THE COURT: Okay.

15 MS. LUZAICH: -- in I think Michigan she was raped
16 by -- raped by somebody and she is writing this book that in
17 her mind she thought about revenge, but in the book what she
18 does is she kills the person. Now, I could understand --

19 THE COURT: So then it's fictional?

20 MS. LUZAICH: Absolutely. The rest of it is.

21 THE COURT: Okay. But that's different than --
22 that's different than an --

23 MS. LUZAICH: Okay. Well --

24 THE COURT: It's different than a memoir, I think.

25 MS. LUZAICH: I completely agree. Tina is not the

1 smartest person on the planet --

2 THE COURT: Okay.

3 MS. LUZAICH: -- so when she says autobiographical,
4 I don't know that she knows what autobiographical means. But
5 it is --

6 THE COURT: It means it's true, that I --

7 MS. LUZAICH: You and I know that. I don't know
8 that she knows that.

9 MS. ALLEN: Maybe she does. Maybe it is true.

10 MS. LUZAICH: Okay. Maybe she did kill him. I
11 don't know. But the way she describes it is she was raped
12 when she was 14, and the fictional part of is that what she
13 does in revenge is that she ultimately kills him. Now, if,
14 for example, in her book her secret revenge was that she
15 cooked up false allegations against somebody who hurt her and
16 went to trial and testified and they got convicted and went to
17 prison, then I think that that would be relevant and could
18 potentially overcome rape shield. But the fact that they want
19 to only bring in the name of the book is completely
20 inappropriate, because it has nothing to do with this. And
21 they're trying to make it sound like she is writing this sweet
22 revenge book and it has something to do with this and they're
23 going to try and correlate the two. And that's not fair.
24 Because in order to demonstrate that it has nothing to do with
25 this we would have to bring up the fact that it dealt with her

1 rape when she was 14. And that's rape shield. So they're
2 trying to get a little bit of information that has no bearing
3 whatsoever on this case and use it in a way that is
4 misleading. I knew there was a word. I just couldn't get it.
5 Sorry.

6 MS. ALLEN: And I don't know that it's misleading.
7 Again, we're not trying to get into this rape or whatever's
8 going on there. I'm sure there's plenty of events in the book
9 regardless -- or save and apart from this alleged rape, but it
10 sort of gives you an idea of sort of this woman's life and the
11 kind of --

12 Pardon?

13 Oh. I apologize. I thought Mr. MacArthur said
14 something to me.

15 -- but sort of the kind of motives that she has in
16 her -- the way she uses things and what she does and the
17 motives that she has in her life. And, again, you know, ~~the~~
18 defense in this case has always been that this was sort of
19 payback originally cooked up by Victoria, but, nonetheless,
20 payback for all this and her involvement in it. Not looking
21 to get into anything, like I said, related to rape shield,
22 simply that she wrote a book, that she has motive, that that's
23 a motive -- that correlates to her motive to lie here, like
24 it's a revenge tactic, like this isn't -- she's obviously
25 writing about it in this book. And so I'd submit it with

1 that.

2 THE COURT: Okay. At this time I'm going to exclude
3 that evidence unless she says something that makes it
4 relevant.

5 MS. ALLEN: Okay.

6 THE COURT: So can we bring the jury in? Okay.

7 And she's your first witness, Mom? Okay. Tina?

8 MS. LUZAICH: Sorry. I had a mouthful -- yes.

9 Tina, the mother, is our first witness.

10 (Jury reconvened at 2:31 p.m.)

11 THE COURT: Do the parties stipulate to the presence
12 of the jury panel?

13 MS. LUZAICH: Yes.

14 MS. ALLEN: Yes, Your Honor.

15 THE COURT: Okay. The State may call their first
16 witness.

17 MS. LUZAICH: The State calls Tina Duke.

18 THE COURT: If you'll take the stand and when you
19 get up there if you'll please remain standing, raise your
20 right hand, and face the clerk so she can administer the oath
21 -- she's right here -- so she can administer the oath.

22 TINA DUKE, STATE'S WITNESS, SWORN

23 THE CLERK: Thank you. Please be seated. Could you
24 please state your full name, spelling your first and last name
25 for the record.

1 THE WITNESS: Tina Rene Duke, T-I-N-A R-E-N-E,
2 Duke, D-U-K-E.

3 THE CLERK: Thank you.

4 MS. ALLEN: Your Honor, could we possibly move this,
5 the overhead?

6 THE COURT: Sure. No problem.

7 MS. ALLEN: I was just going to quietly ask your
8 marshal. I'm sorry.

9 THE COURT: No problem at all.

10 (Pause in the proceedings)

11 THE COURT: Go ahead.

12 MS. LUZAICH: Thank you.

13 DIRECT EXAMINATION

14 BY MS. LUZAICH:

15 Q Good afternoon, ma'am. May I call you Tina?

16 A Yes.

17 Q Thank you. Tina, do you live in Las Vegas now?

18 A No. I live in Henderson.

19 Q Okay. You live in Clark County?

20 A Yes.

21 Q That's in Nevada?

22 A Yes.

23 Q Are you from Nevada?

24 A No, I'm not.

25 Q Where are you from?

1 A Detroit, Michigan.

2 Q Were you born and raised in Detroit?

3 A Yes, I was.

4 Q When you were living in Detroit did you have a
5 child?

6 A Excuse me?

7 Q Oh. Let me rephrase that. When you were living in
8 the Midwest did you have a child?

9 A In the Midwest meaning?

10 Q Okay. Do you have children?

11 A Yes.

12 Q How many children do you have?

13 A I have five.

14 Q Can you tell me the names and the ages of your
15 children.

16 A Victoria, 21; Mahlica, 20; Shabazz, 19; and Taharah,
17 14; and Taquanda, 13.

18 Q Were all of your kids born in the same place?

19 A No, they weren't.

20 Q Where was -- Victoria is your oldest; correct?

21 A Yes.

22 Q Where was Victoria born?

23 A She was born in Columbus, Ohio.

24 Q Okay. I was close. [Inaudible] Michigan. That's
25 in the Midwest; right?

1 A Yes. Excuse me. Now I have the full understanding
2 what you were talking about. Okay.

3 Q Okay. Who is Victoria's father?

4 A Victoria -- Victoria's father is Marvin C. Gibbs.

5 Q Does he go by another name, as well?

6 A Yes.

7 Q What's his other name?

8 A Cassein Assamet [phonetic].

9 Q Is he Muslim?

10 A Yes, he is.

11 Q Okay. And you had indicated that he's the father of
12 all of your children?

13 A Yes, he is.

14 Q Were you and he together for a substantial period of
15 time?

16 A Yes.

17 Q When you and he got together where were you living?

18 A I was in Detroit.

19 Q And where did you go from Detroit?

20 A From Detroit I went -- we went to Ohio.

21 Q Okay. Did you go from Ohio to somewhere else?

22 A Went to Arizona.

23 Q Okay. How long were you and he together in Detroit?
24 About. I mean, days, weeks, months, years?

25 A For about -- when we started talking for about a

1 couple of weeks. About -- well, about eight weeks, seven
2 weeks, two months.

3 Q How old were you when you met him and became
4 involved?

5 A I was 14.

6 Q How old were you when Victoria was born?

7 A I think I was about 29.

8 Q Were you together that whole time?

9 A Excuse me?

10 Q Were you and he together that whole time?

11 A Yes, we were.

12 Q Okay. Where did -- when you went to Ohio how long
13 did you guys live there?

14 A We lived in Ohio for about -- for a few months.
15 About six months.

16 Q Okay. You said you went from Ohio to Arizona?

17 A Yes.

18 Q How long were you in Arizona?

19 A For about -- for about nine months -- from nine
20 months to a couple years. We would commute back and forth,
21 Ohio to his folks and then to Arizona.

22 Q Okay. Where were you living when Mahlica was born?

23 A We were in Nevada.

24 Q Okay. Did you come to --

25 A Reno, Nevada.

1 Q Did you come to Nevada from Arizona?
2 A Yes. I believe so. It's been a while.
3 Q Where were you living when Shabazz was born?
4 A We were in Louisiana.
5 Q Okay. Where were you living when Taharah was born?
6 A When Taharah was born we were in Florida.
7 Q Okay. Where were you living when Taquanda was born?
8 A We were in Arizona.
9 Q Okay. So in the years that you and he were together
10 did you have one permanent home ever?
11 A No.
12 Q How would you have characterized that life?
13 A Travelling.
14 Q All right. Did there come a time that you and he
15 separated from each other?
16 A Yes.
17 Q When was that?
18 A It was in '04.
19 Q Okay. And as you and he were together before '04,
20 as you were travelling, were the kids going to school?
21 A No, they weren't.
22 Q Okay. So in '04 when you split up with him how old
23 was Victoria?
24 A Victoria was about 12. About 12.
25 Q Okay. I'll ask it an easier way. What's Victoria's

1 birthday?

2 A Victoria's birthday is the 7th the 31st, '92.

3 Q The 7 31st? You mean July 31st, 1992?

4 A Yes.

5 Q Okay. When is Mahlica's birthday?

6 A 9/11/93.

7 Q September 11th of '93?

8 A Yes.

9 Q When is Shabazz -- and can you spell Mahlica for our
10 nice court recorder.

11 A M-A-H-L-I-C-A.

12 Q And then Shabazz. Can you spell Shabazz for the
13 court recorder.

14 A S-H-A-B-A-Z-Z.

15 Q When is Shabazz's birthday?

16 A January the 21st, '95.

17 Q And Taharah. Could you spell Taharah for the
18 recorder.

19 A T-A-H-A-R-A-H.

20 Q When is her birthday?

21 A 10/9/99.

22 Q And then can you spell Taquanda for the recorder.

23 A T-A-Q-U-A-N-D-A.

24 Q When is Taquanda's birthday?

25 A 10/3, year 2000.

1 Q You had indicated that at the time that you and
2 their dad split up the kids had not been in school. Why --
3 how would you characterize your relationship with their dad?
4 A Our relationship in the beginning was -- it was all
5 right. It was cool. It was romantic, but as it got further
6 down, further down the line, further down in the relationship
7 it became very abusive.
8 Q And at the time that you separated from him where
9 did the kids go?
10 A The children went with me.
11 Q In the years that you were with him were you
12 working?
13 A No. He wouldn't let me.
14 Q When you split from him did you begin to work?
15 A Yes.
16 Q What did you do?
17 A I was a bartender/cocktail waitress, serving drinks
18 and also doing Madison's -- I worked for Faces Lounge -- Mr.
19 Madison's accounting at the end of the day, inventory.
20 Q This was in Louisiana?
21 A Yes.
22 Q Where in Louisiana?
23 A Monroe.
24 Q Did there come a time that you met somebody that
25 ultimately you left Louisiana to see?

1 A Yes.

2 Q Who was that?

3 A Frederick Harris.

4 Q Do you see him here in court today?

5 A Yes, I do.

6 Q Can you describe an article of clothing that he's

7 wearing and kind of point to him.

8 A He's wearing a gray shirt, black pants, black shoes,

9 and his glasses and a tie. There he is.

10 Q There are two individuals at that table with a gray

11 shirt. Which one? At least from here it looks like there are

12 two with a gray shirt.

13 A Dark gray. He's wearing dark gray.

14 Q Hair, or no hair?

15 A He has hair.

16 MS. LUZAICH: Record reflect identification of the

17 defendant?

18 THE COURT: So reflected.

19 MS. LUZAICH: Thank you.

20 BY MS. LUZAICH:

21 Q How did you meet the defendant?

22 A Well, it was a Black Friday. It was -- I was a

23 cocktail waitress at Faces and I was working, and he came in

24 the bar, the lounge.

25 Q Okay. So you met him at work.

1 A Yes.

2 Q Did you become friendly?

3 A Kind of -- yes. Hi. You know, it was -- you know,

4 serving, being a host, cocktail waitress.

5 Q Did you see him outside of work?

6 A Yes.

7 Q How did you see him outside of work?

8 A He gave me his number, and I was almost -- I was

9 almost done with my shift at Faces and we were about to close,

10 and so he gave me his number. I walked over to his table, and

11 we had a conversation and he called, and then I seen him -- he

12 picked me up from West Monroe. I was living in West Monroe at

13 the time.

14 Q So you guys went out?

15 A Yes.

16 Q Okay. Do you know what he was doing there? I mean,

17 did he live there, was he visiting there?

18 A He was visiting.

19 Q Okay. So you guys at least had conversation about

20 personal-type things?

21 A Yeah.

22 Q Okay. Did you see him on more than one occasion in

23 Louisiana?

24 A I seen him a few times before he left. He said he

25 had to go back to Las Vegas, Nevada.

1 Q Okay. Did you guys have any conversation about
2 keeping in touch?

3 A Yes.

4 Q What was that conversation?

5 A Well, he said that he'll call me, you know, and I
6 would call him.

7 Q Okay. Did he leave Louisiana?

8 A Excuse me?

9 Q Did he leave Louisiana --

10 A Yes, he did.

11 Q -- and go back to Las Vegas?

12 A Yes, he did.

13 Q Did you talk to him while you were still in
14 Louisiana and he was in Las Vegas?

15 A Yes.

16 Q Did you do something?

17 A When we seen each other in Louisiana?

18 Q Did you have conversation with him about your
19 leaving Louisiana and going somewhere?

20 A Yes.

21 Q What was the conversation about your leaving
22 Louisiana and going somewhere?

23 A Conversation was for me to come and visit with him a
24 few days, a weekend, and come right back. But I believe it
25 was his idea to come -- to have the girls picked up -- his

1 brother John to go and pick them up from Louisiana.

2 Q Okay. Before we get there, you're still in

3 Louisiana, he's in Las Vegas.

4 A Yeah.

5 Q How do you get -- or did you come to Las Vegas?

6 A I came to Las Vegas on a bus.

7 Q Okay. And when you came to Las Vegas where did you

8 stay?

9 A When I came to Las Vegas I stayed -- I stayed with

10 Fred that first night -- a few nights.

11 Q When you stayed with Fred that first few nights

12 where was that?

13 A I remember it was on Nellis. Hamptons.

14 Q What kind of place was it?

15 A It was apartment.

16 Q Okay. So not a house, not a hotel, an apartment.

17 A Yes.

18 Q Okay. You said you stayed with him the first night

19 or a few nights. Then what?

20 A And then I stayed with one of his friends -- one of

21 their friends. It was Ann's and Fred's friend. And then I

22 stayed on Trish Lane, where Ann was.

23 Q You said one of their friends, Ann and Fred. Who is

24 Ann?

25 A Ann was his girlfriend -- his friend.

1 Q Does Ann have another name?
2 A Huh?
3 Q Does she have another name?
4 A Lealer Cooks.
5 Q Okay. So Lealer Ann Cooks. But you knew her as
6 Ann?
7 A I knew her as Ann.
8 Q Okay. You said she was his girlfriend. Did she
9 live with him in the apartment, the Hamptons?
10 A No. She lived on Trish Lane.
11 Q Okay. Where were your kids when you came to Las
12 Vegas and stayed at Fred's?
13 A They were in Monroe, Louisiana.
14 Q Okay. Did you and he have a conversation about your
15 kids while you were here?
16 A Yes, to bring them here to Las Vegas.
17 Q How did that come about?
18 A Well, he was -- Fred was talking about us living
19 here and trying to make a life here.
20 Q When you say Fred was talking about us living here,
21 who's "us"?
22 A Me and my children. And so that came about where
23 his brother John went down to Louisiana to pick the children
24 up, my children up.
25 Q Okay. So his brother went and got your kids?

1 A Yes.

2 Q Do you know what his brother does for a living?

3 A I think he was working at a restaurant or something

4 like that.

5 Q Why would his brother go get your kids?

6 A I guess because he had a car.

7 Q When you were living in Louisiana did you have a

8 car?

9 A No, I didn't have a car.

10 Q When you got here did you have a car?

11 A No.

12 Q You indicated that his -- Fred's brother went and

13 got your kids. Why did you not go?

14 A Let me remember.

15 Q Were you working at the time?

16 A No, I wasn't working.

17 Q Did you have any money?

18 A No, I really didn't have any money.

19 Q Okay. Did you -- were you looking to get a job

20 while you were here?

21 A Yes, I was -- I was looking to get a job.

22 Q And did you ultimately get a job while you were

23 here?

24 A Yes, I did.

25 Q Doing what?

1 A My first job here was Jason's Deli.
2 Q Okay. Now, do you know when it was that you met
3 Fred in Louisiana?
4 A It was in July.
5 Q July 2004?
6 A July 2004.
7 Q When did you come to Nevada?
8 A It was December.
9 Q Okay. Did you get another job in December of 2004,
10 as well?
11 A In 2004 I was still at -- I was still at Faces
12 before I moved to Las Vegas.
13 Q Well, in Las Vegas in 2004 did you get a job at
14 Larry's Villa?
15 A I signed up for it.
16 Q When you say you signed up for it what does that
17 mean?
18 A I applied. I applied. But I got the job, but I
19 turned it down.
20 Q Okay. What is Larry's Villa?
21 A It's a strip place.
22 Q Did you have to get some kind of card or something
23 to work there?
24 A Yes.
25 Q Did you get the card?

1 A I got the card.

2 Q Okay. But you say you didn't work there?

3 A No, I didn't work there.

4 Q You said you --

5 A I wound up not working there.

6 Q I'm sorry?

7 A Excuse me. I wound up not working there. Then I

8 got a job at Jason's Deli.

9 Q Doing what at Jason's Deli?

10 A Serving, making sandwiches, food prep.

11 Q Where was that? Where was Jason's Deli?

12 A On Maryland Parkway.

13 Q Did you start working there before your kids got

14 here, or after they had arrived?

15 A After they had arrived.

16 Q Okay. When your kids got here where did they stay?

17 A We all stayed on Trish Lane.

18 Q Okay. So by the time they got here were you at

19 Trish Lane already?

20 A Yes.

21 Q Who lived at Trish Lane?

22 A Miss Ann.

23 Q Okay. You said Miss Ann was his girlfriend. Was

24 there anybody else living in the house, as well?

25 A On Trish Lane it was his -- excuse me, it was her

1 mother.

2 Q Miss Ann's mother?

3 A Ann's mother.

4 Q Okay.

5 A And Miss Ann. Well, Fred would come there off and

6 on.

7 Q That was my next question. He didn't live there?

8 A No.

9 Q How often would he come?

10 A Almost like every other day or almost every day

11 like.

12 Q Okay. Would you continue to -- well, did you have

13 an intimate relationship with him?

14 A Yes.

15 Q Did the intimate -- where did the intimate

16 relationship begin?

17 A Monroe, Louisiana.

18 Q Okay. Did it continue when you got here to Las

19 Vegas?

20 A Yes.

21 Q When the kids came here -- you said you came in

22 December of 2004. How much later did the kids get here?

23 A About 12 days later.

24 Q Okay. Did the kids go to school when they came here

25 in 2004-2005?

1 A Yes. I had to register them.

2 Q Okay. You had said that you worked at Jason's Deli.

3 Did Miss Ann work, as well?

4 A Yes, she did. She worked -- she helped the elderly.

5 She was like a care person -- caregiver.

6 Q Did the defendant work?

7 A Caregiver.

8 Q Did the defendant work?

9 A Yes.

10 Q What did he do?

11 A He worked for Sprint -- well, now to be Century

12 Link.

13 Q Okay. Did he work a day job, a night job? What

14 hours?

15 A It was mostly daytime. Sometimes they would call

16 him out to work on the phone, the poles, what have you, at

17 nights sometimes.

18 Q Is that for the most part a day job?

19 A Yeah.

20 Q What about Miss Ann? Was hers a day job, a night

21 job?

22 A Day job.

23 Q What about yours?

24 A Mine was a day job.

25 Q Okay. So in 2005 when you got here you said

1 Victoria was around 11 or 12. Taharah and Taquanda, were they
2 therefore not yet of school age?

3 A Yes. They were like preschool, kindergarten. They
4 went to -- they went to Tinker Town.

5 Q So they went to a daycare?

6 A Yeah, daycare.

7 Q Okay. Did there come a time that -- well, what kind
8 of condition were you in when you got here?

9 A I was -- about two months later found out I was
10 pregnant.

11 Q Okay. And you had five kids at that point.

12 A Yes.

13 Q Did you make a decision about what to do?

14 A Yes.

15 Q What was your decision?

16 A Almost at the end of my pregnancy I made a decision
17 to adoption agency.

18 Q And what were you going to do?

19 A Put my baby up for adoption.

20 Q How would you do that? What did the adoption agency
21 have to do with it?

22 A Well, they help you get the child adopted.

23 Q Do they also help with prenatal care, things of that
24 sort?

25 A Prenatal care, things like that.

1 Q Before you -- well, did they do something for you
2 and your family?

3 A Yes. They moved me and my family to Orem, Utah.

4 Q Okay. When was that?

5 A That was in May.

6 Q May what?

7 A I believe the end of May, May the 26th.

8 Q But what year?

9 A Oh. 2005.

10 Q Now, before you left for Utah did something happen
11 with Victoria?

12 A Yes.

13 Q What happened with Victoria?

14 A Victoria said that Fred had fondled her, had -- she
15 told Ann, Ann told me.

16 Q Did she tell somebody else, as well?

17 A She told Ms. Dorothy.

18 Q Who is Miss Dorothy?

19 A Fred's mom.

20 Q Did you know Fred's mom at the time?

21 A Yes. He introduced me when I came, you know, in
22 December 2004.

23 Q Did Fred's mom also have interaction with your kids?

24 A Yes. Sometimes she would watch them.

25 Q How did you find out that Victoria said that Fred

1 had fondled her?

2 A Ann told me. When I got home from work Ann and them
3 was talking. I said, what's going on, what happened, you
4 know. And everybody's all upset, I'm coming home exhausted,
5 everyone's upset. And they said, well, Tina, let's come in
6 the bedroom, we need to talk. I said okay. And so she told
7 me --

8 Q Who was in the bedroom?

9 A It was Ann and it was me and I think it was Miss
10 Dorothy. I can't -- I think it was his mom there, too, 'cause
11 -- yeah. I think.

12 Q Okay. After she told you that was anything done
13 about it? Did anybody call the police?

14 A Victoria -- no. We talked --

15 Q Did anybody call Child Protective Services?

16 A No. Victoria was saying -- stating that she was
17 just mad or she just wanted to get back at Fred or something
18 because he was -- he got on her, they had an argument. And we
19 was -- we was like couldn't believe it, you know, 'cause Fred
20 and the girls and the kids was getting along and --

21 Q Had then been an occasion prior to that that the
22 kids were at Fred's apartment?

23 A Sometimes they would go there. Sometimes playing
24 with his kids, looking at TV, playing video games, what have
25 you, while I was at work.

1 Q How long after this happened did you guys leave for
2 Utah?

3 A About --

4 Q Days, weeks, months?

5 A About a month. End of May -- about a month --
6 almost two months after that incident happened.

7 Q Did you continue to live at Trish Lane, you and the
8 kids, after that happened?

9 A Yes, we did. Until the end of May.

10 Q Until you left for Utah?

11 A Yeah.

12 Q How did you get to Utah?

13 A The people from the adoption agency came to pick us
14 up. We went to their schools and the agents and I signed them
15 out of their classes. And then we picked them up from school
16 and we went to Utah.

17 Q When you went to Utah did they get you a place to
18 live?

19 A Yes.

20 Q Did they get you prenatal care?

21 A Yes.

22 Q Did they pretty much take care of you till the baby
23 was born?

24 A Correct.

25 Q Did the kids go to school in Utah?

1 A Yes.

2 Q Did there come a time that you came back to Las
3 Vegas by yourself?

4 A Yes.

5 Q When was that?

6 A That was in December before his birthday, Fred's
7 birthday.

8 Q Who's "his" birthday?

9 A Fred's birthday.

10 Q Why'd you come back to Las Vegas?

11 A Just to visit, to see him.

12 Q To see who?

13 A Fred.

14 Q And how long did you come for?

15 A I came for a few days. I was planning on going
16 back, because that was my home, in Utah.

17 Q Where did your kids stay while you came to Las
18 Vegas?

19 A Stayed with our next-door neighbor, very close
20 friend, next-door neighbor, Ms. Heather Adams.

21 Q Did they stay with her?

22 A Yes, they did. I paid her over \$200 to take care of
23 them a few days.

24 Q Describe the place that you guys were living.

25 A We were an a four-plex, okay. She was the next-door

1 neighbor. If you put your feet -- if you stretch your feet
2 out you could go -- you could be next door. It was that
3 close, the four-plex.

4 Q Okay. What did Heather Adams do? I mean, did she
5 work, did she have kids?

6 A No, she didn't work. She did some daycare. She
7 took care of the kids. And her kids got along with my kids,
8 my kids got along with her kids. And --

9 Q So you came down to Las Vegas to visit Fred. What
10 happened while you were in Las Vegas?

11 A We seen each other. I was at his place on Nellis at
12 the Hamptons. And about a day or two before I was about to go
13 home Heather calls me and says that we got a problem. And I
14 asked her, well, what's up, what's going on; and she said that
15 one of the neighbors or the principal -- someone came from the
16 school to the apartment. And so I guess I wasn't there, you
17 know, at the time. Someone called CPS.

18 Q CPS took your kids?

19 A Yes.

20 Q You found that out when you were here in Las Vegas?

21 A Yes.

22 Q Did you go back to Utah?

23 A Yes, I went back immediately.

24 Q What happened when you went back to Utah?

25 A Excuse me?

1 Q What happened when you went back to Utah?

2 A They said that -- I came back off the bus. It was

3 cold. It was snowing. And I went home, and they were gone.

4 They weren't there.

5 Q Okay. Where were they?

6 A They were in -- they were in the custody of CPS.

7 Q Okay. And I'll use the term CPS. It's at least

8 Utah's version of our Child Protective Services; correct?

9 A Oh. Okay.

10 Q Am I right?

11 A You're right. They're called DCFS.

12 Q Okay. So did you have -- did you do anything? I

13 mean, did you have to go to court, did you have to go do

14 stuff?

15 A Yes. I had to go to court. They were in custody

16 for about six months. I had a parenting class, court,

17 uplifting class. It's --

18 Q So they told you to do a bunch of things?

19 A Yes.

20 Q Did you do what you were told to do?

21 A Yes, ma'am.

22 Q Did you ultimately get the children back?

23 A Yes.

24 Q While you were living in Utah did you work?

25 A Yes, I worked.

1 Q What did you do?

2 A I worked for Utah State Hospital. I did

3 housekeeping, like cleaning the dorms and the establishment of

4 the hospital.

5 Q Did you continue to see the defendant or communicate

6 with him after you found out your kids were taken away?

7 A I seen him a few times.

8 Q How did you see him?

9 A By bus.

10 Q You got on a bus and went somewhere? That was a

11 question. Did you get on a bus --

12 A Yes.

13 Q -- and go somewhere, as opposed to him getting on a

14 bus?

15 A I went on the bus and seen him. And a few times he

16 came to see me.

17 Q Okay. So you continued to have contact with him?

18 A Yes.

19 Q Did the kids like it in Utah?

20 A Yes, they did.

21 Q Did you leave Utah?

22 A Yes, I left Utah.

23 Q When did you leave Utah?

24 A It was August.

25 Q Of what year?

1 A August '07.

2 Q How did you get back -- well, how did you leave

3 Utah?

4 A Fred came and picked us up.

5 Q Why did you leave Utah?

6 A He was stating that I could make twice as much as

7 what I was doing in Utah, I was going to make twice as much.

8 And I did, for working for the same -- doing the same job I

9 was doing up there.

10 Q How could you make more in Las Vegas than in Utah?

11 A Utah pays like \$7, \$8 an hour for what I was doing.

12 And Bally's paid double the amount, 13.75, 13.13 an hour. It

13 jumped to 15.15 an hour.

14 Q Okay. When you say Bally's does that mean you got a

15 job at Bally's?

16 A Right. Yes. Got a job at Bally's.

17 Q How did you get a job at Bally's?

18 A Job searching. Fred helped me to get the job at

19 Bally's.

20 Q Okay. And the job at Bally's you were doing what?

21 A Housekeeping. GRA.

22 Q When did you start working there?

23 A It was in September.

24 Q September of what year?

25 A 2007.

1 Q Okay. So you said Fred came to Utah to get you.
2 You and the kids?
3 A Yes.
4 Q Did the kids want to go back?
5 A I don't think so. They liked it in -- they liked it
6 in Utah.
7 Q Did you tell them they were coming back, or did you
8 just bring them back?
9 A I mentioned to them that we were moving. I started
10 having a yard sale, selling, you know, some of the furniture
11 and everything that was able to be, you know, sold. But he
12 just came and picked us up.
13 Q Kind of no notice?
14 A It was semi notice. It was --
15 Q To the kids.
16 A I mentioned we were leaving, but they didn't know we
17 was leaving that night.
18 Q So you come back to Las Vegas -- I'm sorry. When
19 you left Utah where did you go?
20 A Las Vegas, Nevada.
21 Q Did Fred bring you and the kids back to Las Vegas?
22 A Yes.
23 Q In his car?
24 A Yes.
25 Q Where did you go when you got to Las Vegas?

1 A When we got to Las Vegas Fred dropped Taharah,
2 Taquanda, Shabazz, and Mahlica.

3 Q What did he do with them?

4 A He dropped them off at this different house that
5 they were at when I came back. It was 966 Blankenship.

6 Q Did you know before you came back that there was
7 this Blankenship house?

8 A I think -- I believe so. I sent him some mail, I
9 sent him some pictures there or something like that, a card or
10 something.

11 Q Who lived at the Blankenship house? When you got
12 back to Las Vegas who was already living at the Blankenship
13 house?

14 A Ann was there, and he was there.

15 Q I'm sorry?

16 A Ann was living there, and Fred was living there.

17 Q Okay. So now when you left and went to Utah they
18 were not living together; correct?

19 A Correct.

20 Q But when you came back they were.

21 A Yes.

22 Q So he takes your youngest four children and drops
23 them at that house?

24 A Yes.

25 Q What about you and Victoria?

1 A Yes. I was asking, well, why can't I stay there,
2 what about me and Victoria? And he said --

3 Q What'd he say?

4 A He said, no, Ann is still pissed off at you about
5 you giving the child up for adoption. They said it was wrong
6 for me to do that. So she was still pissed. She was still
7 angry. She was angry about it. And she was pissed off at --
8 she didn't like Victoria. So I said, well, damn.

9 Q So where did you go?

10 A So at the beginning -- in the beginning --

11 Q That night. That very night when he dropped --

12 A That very night?

13 Q Or day when you got there. He drops the kids at
14 Blankenship, and where did you go?

15 A I remember first of all going to his mom's house.
16 And -- yes. That --

17 Q Okay. Who went to his mom's house?

18 A Me and Victoria.

19 Q How long were you at his mom's house?

20 A She was stating -- he was stating that you could
21 only be here for a couple of weeks, so we're going to have to
22 get you into an efficiency, you know, and then you're going to
23 have to get a job and find a place to stay, you know,
24 apartment for you and Victoria.

25 Q Okay. I thought he was getting you a job at

1 Bally's?

2 A Yes. That happened later.

3 Q Oh. Okay.

4 A Yeah, that happened. I said, well, I was job
5 searching and trying to get work, find work, you know,
6 immediately.

7 Q Okay. So when he brings you back that first day you
8 said he brought you and Victoria to his mother's, Miss
9 Dorothy. How long were you and Victoria at Ms. Dorothy's?
10 Days, weeks, months?

11 A I'd say for a good -- for a good three weeks and a
12 half, I think.

13 Q Did -- after -- well, were you looking for a job
14 while you were at Miss Dorothy's?

15 A Yes, I was.

16 Q Okay. Did the kids get enrolled at school?

17 A Yes. The younger children.

18 Q All of them?

19 A Yes. It was -- they needed their birth certificates
20 to get then enrolled. That's right. You need -- but Ms. Ann
21 enrolled the younger children to Fitzgerald Middle -- not
22 middle school, but Elementary.

23 Q Would that be Taharah and Taquanda?

24 A Yeah, Taharah, Taquanda, and Shabazz. Shabazz went
25 to Sedway.

1 Q What about Mahlica?

2 A Or later on he went to Sedway. Mahlica -- Mahlica

3 went to West. Yes, I believe it was West. Because she was

4 like --

5 Q Why didn't Shabazz and Mahlica go to the same

6 school?

7 A Shabazz -- wait a minute. Shabazz went to

8 Fitzgerald. Shabazz I think went there. And then he went to

9 Sedway Middle School.

10 Q Okay. What about Victoria?

11 A Victoria went to Desert Pine.

12 Q So she went to school.

13 A Yes. She went to school. She went to school.

14 Q Did there come a time shortly after you got back

15 from Utah that Fred took you and Victoria for a drive?

16 A Yes.

17 Q When he took you for a drive whose car were you in?

18 A We were in his car.

19 Q Okay. Because you didn't have a car; right?

20 A I didn't have a car.

21 Q Where did you go?

22 A We were talking, and -- in front of his mom's house,

23 apartment. And then we had -- then we went to the store.

24 Then we went to some park, and then we went up by the

25 mountains. It was dark.

1 Q Okay. When you went to the store what was
2 purchased, if anything?
3 A Wine coolers.
4 Q Okay. Then where did you go?
5 A And then --
6 Q You said a park and then where?
7 A To the -- some mountains -- what's the street,
8 Owens? And we went all the way up to I think where some cars
9 were parked or something.
10 Q Okay. Were you guys -- who was -- did anybody drink
11 the wine coolers?
12 A Yes.
13 Q Who?
14 A I did.
15 Q Who else, if anyone?
16 A Victoria.
17 Q Did Fred?
18 A I think he had -- I think he had some beer or
19 something.
20 Q Okay. Did somebody give Victoria --
21 MR. MacARTHUR: Objection, Your Honor. Leading.
22 THE COURT: Overruled. You may proceed.
23 BY MS. LUZAICH:
24 Q Did somebody give Victoria some alcohol?
25 A Yes.

1 Q Who?
2 A Fred.
3 Q And was that in the car?
4 A That was in the car.
5 Q Okay. So when you went up to this mountain what
6 happens?
7 A Fred got in the backseat.
8 Q Where were you in the car?
9 A I was in the front seat.
10 Q Where was Victoria?
11 A She was in the backseat.
12 Q So then Fred got in the backseat. And then what?
13 A And then he started touching her.
14 Q Was he saying anything?
15 A I can't really remember what he was saying. But --
16 Q He was speaking, but you don't remember what he was
17 saying?
18 A Correct. I -- he was saying how pretty she looked,
19 I think, or something like that. Some words.
20 Q Were you drinking?
21 A Yes.
22 Q You said Fred was touching her. Where was he
23 touching her?
24 A On the breast.
25 Q How do you know that?

1 A Because it was a glimpse -- the light was dark, but
2 it was a glimpse of light.

3 Q Could you see what he was doing?

4 A Yes.

5 Q What else happened in the car?

6 A He started kissing her. He started pulling down her
7 pants.

8 Q What else?

9 A And he started having sex with her.

10 Q When you say having sex what do you mean
11 specifically?

12 A He started putting his penis inside her vagina.

13 Q Did she want him to do that? Actually, that was a
14 bad question.

15 Was she doing anything that would indicate one way
16 or another whether she did or did not want him to do that?

17 A I can't say. It's --

18 Q Was she crying?

19 A No. I don't remember her crying.

20 Q What did you do?

21 A I sat in the front seat.

22 Q Were you and Fred intimate during this time frame?
23 Not at that moment, but during this time?

24 A Yes.

25 Q This is October 2005. How old was -- sorry, August

1 2005. How old was Victoria?

2 A I believe she was 14.

3 Q I think you testified it was 2007. Sorry about

4 that. August 2007.

5 A I believe she was 14.

6 Q Where did -- well, after that happened what did you

7 guys do?

8 A We went back to Miss Dorothy's house.

9 Q Did there come a time that he moved -- I'm sorry,

10 that you moved from Miss Dorothy's house to someplace else?

11 A Yes.

12 Q Where did you move to?

13 A We moved to -- he moved us to -- there was a

14 hotel/efficiency across from Walmart on Las Vegas -- old Las

15 Vegas Boulevard. It was called American or Budget Inn or

16 something like that.

17 Q Okay. And what kind -- when you say efficiency,

18 what kind of place was it?

19 A It was a hotel with a kitchen, a bedroom, a small

20 eating area.

21 Q Had you found a job yet?

22 A Not yet. I was still searching. And then I was

23 putting in applications, and then Fred calls me and says, hey,

24 call this guy named Joby Baldwin of Bally's Housekeeping.

25 Q Did you get a job while you were living in those

1 efficiency-type apartments?

2 A Yes, I did.

3 Q Was Victoria going to school while you were there?

4 Was she involved in school?

5 A Not -- she -- we was waiting for her birth

6 certificate to come. I couldn't register her or get her in

7 until then. Desert Pine is I guess a little strict with that.

8 I don't know. But then when I got her birth certificate I

9 enrolled her.

10 Q Okay. While you were living at those efficiency

11 apartments did Fred continue to come -- well, did Fred come

12 over?

13 A Yes.

14 Q When he would come over would there be times that

15 you and he engaged in sex?

16 A Yes.

17 Q Now, when I'm talking about you and Fred having sex,

18 it's consensual sex; correct?

19 A Yes.

20 Q When you were living in the efficiency apartments

21 would he come over and be with Victoria?

22 A Yes, he did.

23 Q How would you know that?

24 A One of the times I was there. Other time I was job

25 searching and I -- he had put me in the streets.

1 Q What do you mean by he put you in the streets?
2 A Prostitution. I was out --
3 Q How did he do that?
4 A Excuse me?
5 Q How did he do that?
6 A Well, you know -- you know, you're not having a job
7 so, you know, we gotta have some money so we could take care
8 of Taharah and Taquanda, you know, the other children at 966
9 Blankenship. And so I was just basically actually started in
10 the streets then. And then I think before then, too.
11 Q When you say he put you in the streets, how is it
12 that he did that?
13 A He said that, well, you need to be making some money
14 because you have no money and I know you're job searching but
15 you have no money right now. So he said, you know, that you
16 need to just get out in the streets and, you know, make some
17 money.
18 Q Did you want to do that?
19 A No.
20 Q Why didn't you tell him no?
21 A Because. He was threatening me.
22 Q How was he threatening you?
23 A He threatened me and my family to put us out, you
24 don't make enough money, we can't afford to take care all of
25 these kids, you know. And so I just did it.

1 Q Did he tell you what to do, how to do it?
2 A Yes.
3 Q What did he tell you do and how to do?
4 A He said, just stand -- you know, stand there, you
5 know, get someone's attention. Or sometimes we would go to a
6 hotel, casino hotel and try to lure -- you know, he said try
7 to lure somebody, you know -- sit there and act like you're
8 having a drink and, you know, someone comes approaching you,
9 try to talk to them, you know.
10 Q Did he take you places to do that?
11 A Yes.
12 Q Where did he take you to do that?
13 A We went to Terrible's at one time. We went to -- on
14 the Strip we went to I believe it was Caesars Palace one time.
15 It was I think the Rio. And then I would walk the streets,
16 too.
17 Q How would you get to a location to walk the streets?
18 A Walking. Catching a bus, walking.
19 Q The times that he would take you somewhere would he
20 also -- would he stay there, or would he come get you later,
21 or did you walk home?
22 A Sometimes he would come and get me. Sometimes I
23 would have to get home on my own.
24 Q What about the money? What would you do with the
25 money?

1 A I would have to give it to him.
2 Q When did that start?
3 A Originally when did it start?
4 Q Uh-huh. Yes.
5 A It was actually when I first came down in December
6 '04. December '04.
7 Q Did you ever -- well, you said he threatened your
8 family, put you out on the streets.
9 A Yes.
10 Q Did he ever threaten you physically?
11 A Yes.
12 Q How did that come about?
13 A He would beat me up.
14 Q Describe that for me.
15 A We would get in an argument and then we'd start
16 fighting. You know, he would just hit me, punch me, you know,
17 kick me.
18 Q Where were you when that happened?
19 A Different places. I remember it was Trish Lane, and
20 then it was in a car, and then it was sometimes -- and then it
21 was -- it was over wherever he was staying at and then
22 wherever I was staying at, like at the -- at the efficiency
23 and then at the apartment. We finally got an apartment on
24 Walnut Road.
25 Q When did you get an apartment on Walnut Road?

1 A It was in October, around the mid, end of October
2 2007, because I just got the job at Bally's.

3 Q Okay.

4 A And still in the streets.

5 Q The apartment on Walnut, where is that?

6 A That is off of -- it's by Craig. It's right off of
7 Las Vegas Boulevard, the old part.

8 Q So it's here in Las Vegas [inaudible]?

9 A Yeah.

10 Q And so were the efficiency suites in Las Vegas?

11 A That was a little further down.

12 Q But in Las Vegas?

13 A Yeah, in Las Vegas.

14 Q Okay. Did he continue to come over to the Walnut
15 apartment while you -- well, did he come to the Walnut
16 apartment while you lived there?

17 A Yes.

18 Q Did he -- well, would he come get anything from you
19 at the Walnut apartment?

20 A Yeah. He would come and get the money.

21 Q And what -- did you have to give him any certain
22 amount of money?

23 A Whatever I had. It better had be in the hundreds.

24 Q And what would happen if it wasn't?

25 A I would get beat up. We'd argue, fight.

1 Q Was there one particular --
2 A One time -- one time I just didn't give up the
3 money. I mean, I told him I was short, and he beat me up
4 really bad. He sodomized me and just -- it was just bad.
5 So --
6 Q When you say he sodomized you, what does that mean?
7 A He fucked me in my ass. Yeah.
8 Q Did you want that to happen?
9 A No.
10 Q I have to ask you that for the record.
11 A No, I didn't want it to happen.
12 Q Was he saying anything when that was happening?
13 A He said, you stupid bitch, you know, I need my
14 money, I want that money, you know. I said, I'm really tired,
15 I was feeling bad. And, I don't give a fuck. You know --
16 Q Where was Victoria, do you know?
17 A -- you're not doing what you're supposed to do, you
18 know.
19 So Victoria was there. I was in my bedroom. He
20 beat me up in my bedroom. And I had to wake up and be bright-
21 eyed, bushy tail, hi, welcome, welcome to Bally's, you know.
22 You know. So.
23 Q While you were living there at the Walnut apartment
24 would he come over and see Victoria?
25 A I -- one time he did.

1 Q Only if you know.

2 A A couple -- two or three times I seen him come over.

3 Other times was gone, working in the streets. So I was hardly

4 home.

5 Q Was there an occasion that he wanted something from

6 you and Victoria, an occasion or more?

7 A Yes.

8 Q Tell me about that.

9 A There was one time he wanted me and Victoria to have

10 sex with this dildo and a vibrator.

11 Q What is a dildo?

12 A It's a fake penis.

13 Q Fake, made of some sort of material?

14 A Yeah.

15 Q Was there a particular one that he wanted you and

16 Victoria to use?

17 A Yes.

18 Q Can you describe it.

19 A It was a double head.

20 Q What did he want you to do?

21 A He wanted me and Victoria to have sex with that.

22 Q Can you be a little more specific.

23 A At the same time.

24 Q What did he say?

25 A Here, you guys use this.

1 Q What did he do, I guess?

2 A He said, you guys use this, I want you to -- you get

3 on one side, she gets on the other and --

4 Q Did he watch?

5 A Yes.

6 Q Did he participate?

7 A Yes. Afterwards.

8 Q After. Okay.

9 A Uh-huh.

10 Q And did you do what he told you to do?

11 A Yes.

12 Q Why?

13 A Because he threatened me and my family. He would

14 say anything to get what he wants. So -- and our livelihood,

15 my family, going to put us out in the streets, not going to

16 back to Utah, I lost my place, it was already I think up for

17 rent. So I was just like trapped in a horrible, nasty,

18 horrible trap. He threatened to kill us. He threatened to

19 kill me and Victoria, my family. And a bunch of crazy shit.

20 Q The dildo that you just described, where were you

21 when he did that to you?

22 A We were in the efficiency.

23 Q Okay. Oh. That was in the efficiency?

24 A Yes.

25 Q And did that happen one time, or more than one time?

1 A It happened more than one time. It was one time at
2 the Walnut Road and then one time there, as I remember.

3 Q Did he want -- or did he cause you and Victoria to
4 do anything else together?

5 A To have oral sex.

6 Q Specifically what is oral sex?

7 A Eating each other out.

8 Q Part of your body touched a part of her body?

9 A Yes.

10 Q What part of your body?

11 A My mouth on her vagina and then her mouth on my
12 vagina.

13 Q And did he watch?

14 A Yes.

15 Q Then did he participate?

16 A Yes. Well --

17 Q What?

18 A He ate her out after. And --

19 Q Were there occasions that -- well, did you utilize
20 anything during this time frame?

21 A A vibrator.

22 Q Okay. Let me ask it better. Did you do anything to
23 change your demeanor? Did you use drugs at all?

24 A Yes, I did.

25 Q What were you doing?

1 A I was using coke.

2 Q Why?

3 A Coke and a few pills, sometimes sleeping pills and
4 sometimes other pills I didn't even know. And drinking and
5 mixing it up. Because I felt bad what happened. I didn't
6 like what happened. It was wrong. I'm sorry. But I was -- I
7 was feeling so down and bad and being in the streets I felt
8 like shit.

9 Q Did there come a time that your being in the streets
10 kind of ended?

11 A Yes. I was arrested.

12 Q When were you arrested?

13 A September 2009.

14 Q And I'm going to go back for just a second. I'm
15 sorry. Do you know for how long did you and Victoria live in
16 the Walnut Street apartment?

—17 A Oh. Until 2008. The recession was about to hit
18 real bad, and he said, well, why don't you guys just move out
19 of this apartment and move in with me and Ann, Ann has
20 forgiven you, you know, she's cool now.

21 Q Were there times -- well, did you get to see the
22 kids, Taharah, Taquanda, Shabazz, Mahlica, from the time he
23 dropped them off at 966 Blankenship until the time you moved
24 out of the Walnut apartment?

25 A Sometimes.

1 Q How would that come about?

2 A I would say -- I would just say, you know, I want to
3 see them, and sometimes they would bring them over.

4 Q Who would bring them over?

5 A Ann or Fred.

6 Q And when they would bring them over then what? Like
7 would they bring them over and stay, would they drop them?

8 A They would bring them over and they would drop them
9 off and then they would leave, and then they would come back
10 and get them.

11 Q How much later?

12 A About -- sometimes a few hours later, sometimes a
13 couple days later.

14 Q Okay.

15 A Like if it was the weekend and school was out.

16 Q So you said in 2008 or so the recession hit and he
17 said, move into the house?

18 A Correct.

19 Q Was there a time that Victoria was with Miss
20 Dorothy?

21 A I think there was a time like when we moved on 966
22 Blankenship, and then something happened where, well, you go
23 to Miss Dorothy for the weekend or something. She needed some
24 help around the house or something like that while everyone
25 was staying in the house, 966 Blankenship.

1 Q Okay. So you and Victoria move into the house at
2 966 Blankenship. That was around when?

3 A That was in the summertime.

4 Q Of 2008? Or '09?

5 A It was between 2008 and 2009. It was summertime. I
6 think it was 2008. Yeah, 2008, summertime, July.

7 Q Okay. So you said you were arrested in September of
8 2009. So you continued to work the streets even after you
9 were at Blankenship?

10 A Yes.

11 Q And --

12 A Until 2009, September.

13 Q And when you worked the streets while you were
14 working at -- or, sorry, living at Blankenship, what'd you do
15 with the money?

16 A I had to give it to him.

17 Q Did you continue working at Bally's while you were
18 living at Blankenship?

19 A Yes.

20 Q So when you moved into Blankenship what was his
21 demeanor towards you?

22 A Oh, you move in with us and, you know, kids continue
23 to go to school, Vicky could start going to Canyon Springs or
24 West.

25 Q Let me ask it better. You had said that there were

1 times when he would kick you, hurt you, beat you up, things of
2 that nature. Did that stop when you went to Blankenship?

3 A No. No.

4 Q What happened at Blankenship?

5 A A few times -- I got -- this was several times. One
6 time I didn't have enough money, I got beat up. And then one
7 time Shabazz got into like a fight or a discrepancy or
8 something like that at Fitzgerald, and so he got I think
9 expelled or just, what do you call it, detention -- no.
10 Expelled, I guess. And so he gets back in school. I said,
11 well, you know, I had to sign papers or something like that,
12 get him back in school. And then he says -- well, he walks up
13 to me. I'm just coming from work and I'm pouring a glass of
14 Chardonay or white Chardonay, and he says, hey, Shabazz is
15 back in school now. I said, oh, wonderful, wonderful, great,
16 let's hope he doesn't do nothing else bad, you know, don't
17 mess up. And he hauls off and hits me. And I'm like -- I'm
18 watching Glitter, my -- looking at my little picture screen,
19 my little DVD player, whatever, and so he hits me and blackens
20 my eye. I'm like, what the fuck. And so I'm getting up -- I
21 was sitting on a bed and he, you know, he socks me, okay. And
22 he -- I said, what's -- why did you do that. He said, well,
23 you were being sarcastic. I said, no, I wasn't, I was being
24 happy for him, okay, I'm tired, exhausted, yay, he's back in
25 school, you know. And so he just walks away. And then --

1 there was a lot of incidents that happened then. It was just
2 horrible.

3 Q How long did you live at Blankenship?

4 A Until 2010, August.

5 Q And what caused you to leave in August of 2010?

6 A I just wanted to go. I just wanted to get away from
7 him. I wanted to take my whole family, but I couldn't.

8 Q Where did you go?

9 A I went to the St. Andrews apartment.

10 Q When you say you wanted to take your whole family
11 but you couldn't, why couldn't you?

12 A Ann had temporary custody of Taharah and Taquanda.

13 Q How did Ann get temporary custody of Taharah and
14 Taquanda?

15 A She took me to these lawyers. I signed some papers.

16 Q Why?

17 A Because I was working crazy hours and I was hardly
18 home, I was in the streets. And she was a good friend. I
19 thought to myself they couldn't have a better mother. She's a
20 good person. And I see that she was taking care of them and
21 helping them with their schoolwork and everything. And --

22 Q Do you know when you went to the lawyer and signed
23 those papers?

24 A It was sometime in 2009. Yeah.

25 Q So nobody forced you to do that? I mean, you did

1 that voluntarily?

2 A Said it'd be a good idea for you to do that. Fred
3 and Ann suggested that.

4 Q Okay. And by then, by Ann having temporary
5 guardianship she could do things like take them to the doctor
6 and things of that nature; correct?

7 A Right. Correct.

8 Q So when you moved out of the house in 2010 you said
9 you couldn't bring the other kids.

10 A Correct.

11 Q So they stayed there. Sorry. So Taharah and
12 Taquanda stayed at Blankenship; correct?

13 A Yes, ma'am.

14 Q Who went to St. Andrews?

15 A It was me, Victoria, Mahlica, and Shabazz.

16 Q When you went to St. Andrews did Fred continue to
17 come there?

18 A Yes.

19 Q Did he continue to ask you for anything?

20 A Yes.

21 Q What did he ask for?

22 A He continued to ask me for some money because they
23 -- he said, I have your children and they're expensive.

24 Q Did you still have sex with him at St. Andrews?

25 A Yes.

1 Q Do you know -- do you know did Victoria? Only if
2 you know personally, saw.

3 A Oral sex as far as would see.

4 Q Did Fred ever --

5 A He probably did come over to see her.

6 Q Okay. Did Fred have a key to the apartment?

7 MR. MacARTHUR: Objection as to speculation.

8 THE COURT: I'm sorry. I didn't even hear the -- I
9 didn't think the question was finished. Go ahead.

10 MR. MacARTHUR: It was the previous question.

11 THE COURT: Okay. What was the previous question?

12 MS. LUZAICH: Did Fred have sex with Victoria if she
13 knows personally.

14 THE COURT: Okay. If you know.

15 THE WITNESS: I'm not -- I mean, I remember --

16 BY MS. LUZAICH:

17 Q If you don't know, you don't know. That's fine.

18 A I remember oral sex. I remember that. Okay.

19 Q Did you see that?

20 A Yes.

21 Q Okay. Did Fred have a key to the apartment at St.
22 Andrews?

23 A I think so. I don't remember.

24 Q When you were at St. Andrews did you meet a lady
25 that helped you?

1 A Yes.

2 Q Do you remember her name?

3 A It was Victoria's friend she met at one of the

4 churches, Miss Rose.

5 Q Did Miss Rose help you guys and give you some stuff?

6 A She brought a tree over for Christmas and some

7 utensils, cooking utensils because we just had moved in.

8 Q Did she bring you some furniture?

9 A Yes. It was a little -- a little pink, purple couch

10 or something like that.

11 Q Did Victoria continue to be friendly with her?

12 A Yes.

13 Q Did there come a time that you guys left the

14 apartments at St. Andrews and moved somewhere else?

15 A Yes.

16 Q Where did you go?

17 A We went to -- we moved to Henderson.

18 Q And what's the address that you moved to in

19 Henderson? Or at least the street?

20 A It was -- it's 1100 Center Street, Apartment 1623.

21 Q And do you still live there now?

22 A Yes.

23 Q When did you move there? About.

24 A Apartment -- I mean it was 2011, the end of October.

25 Q Who moved to Center Street?

1 A It was me, Mahlica, Victoria, and Shabazz.
2 Q And did the defendant have a key to the Center
3 Street apartment?
4 A Yes, he does.
5 Q Did he continue to come see you there?
6 A Yes.
7 Q Did he continue to ask you for any money?
8 A Yes.
9 Q What'd he ask you for?
10 A He asked for money for the kids.
11 Q And were there occasions that you had sex with him
12 at Center Street?
13 A It was I think twice. Twice, three times, I think.
14 He said, it's so far away, so far away.
15 Q When you guys left the Blankenship house and moved
16 to the St. Andrews apartment and to the Center Street
17 apartment did the young kids, Taharah and Taquanda, were they
18 able to see you?
19 A They were able to see me.
20 Q How did they do that?
21 A Ann would bring them or Fred would bring them.
22 Q The Center Street apartment is really far from
23 Blankenship; correct?
24 A It's very far.
25 Q When you were at Center Street did you actually get

1 to see them for more of an extended period of time at some
2 point?

3 A Yes.

4 Q Now, did there come a time that you found out that
5 Victoria had spoken to police?

6 A Yes.

7 Q Do you remember when that was?

8 A It was 2010, I think. No. Excuse me. 2011, end of
9 2011, 2012.

10 Q Were you working at the time?

11 ~~—~~ A I was working, yes, at a pizza place.

12 Q What pizza place?

13 A Sbarro's Pizza. Monte Carlo.

14 Q Did there come a time you left Bally's?

15 A Excuse me?

16 Q Did you stop working at Bally's at some point?

17 A Yes.

18 Q When did you stop working at Bally's?

19 A April 2011.

20 ~~—~~ Q Why did you stop working at Bally's?

21 ~~—~~ A Because I was fired.

22 Q When did you start working at Sbarro?

23 A I started working at Sbarro's May. May the 9th,
24 Monte Carlo, Sbarro's Pizza Place at the eatery.

25 Q May of what year?

1 A May 2011.

2 Q Okay. And did you work there for a long time?

3 A Yeah, for about -- yeah, long time. A good while.

4 It was a 24-hour pizza place, so I got some hours in.

5 Q Okay. So did -- could it have been December of 2011

6 that Victoria spoke to police?

7 A Yes.

8 Q How did you find out that Victoria had spoken to the

9 police?

10 A I was coming home about 2:00 o'clock in the morning

11 from making pizza, working at the pizza shop, and Mahlica was

12 telling me the police came and questioning everybody in the

13 house. Yeah.

14 Q Victoria wasn't living there at the time; right?

15 Was she staying with Rose?

16 A She was staying with -- well, she was living there

17 at the time, and then she started staying with Miss Rose.

18 Q Okay. Now, you said Mahlica told you at 2:00

19 o'clock in the morning that the police had been there. You

20 didn't talk to the police right away, did you?

21 A No, I didn't. Because they were gone -- they were

22 gone. By the time I made it home they were gone.

23 Q All right. But it was a few days before you talked

24 to them; correct?

25 A Yes.

1 Q When you did talk to them did you talk to a
2 detective?

3 A Yes.

4 Q Did -- what did he ask you about?

5 A He asked me about Victoria. He asked me about Fred.

6 Q Okay. When you talked to the Henderson detective in
7 2011 you weren't entirely honest, were you?

8 MR. MacARTHUR: Objection, Your Honor. Leading.

9 THE COURT: Overruled. You can answer.

10 BY MS. LUZAICH:

11 Q Were you entirely honest?

12 A I left out a few things.

13 Q A lot of things maybe?

14 A It was embarrassing, you know.

15 Q Okay. But you did leave out a lot of things;
16 correct?

17 A Correct.

18 Q Did you also talk to somebody from Child Protective
19 Services in -- right around that time frame?

20 A Around that time frame.

21 Q Do you remember her name? Bobbie Tibbs?

22 A Bobbie.

23 Q Were you at least trying to be helpful with Bobbie?

24 A I was trying. I was trying.

25 Q Okay. You didn't have custody of Taharah and

1 Taquanda at the time; correct?

2 A No.

3 Q Did there -- was it after that that the girls
4 Taharah and Taquanda were able to spend some time with you
5 over the summer?

6 A Yes.

7 Q Now, was there also a time while you were at -- I
8 can't remember, is it Walmart -- Walnut or Center Street that
9 the defendant got violent with you in another way?

10 A Yes.

11 Q What else did he do?

12 A He got violent with me many times at Walnut. He hit
13 me, threatened me, told me to go -- I came home and he beat me
14 up. He told me to go back in the streets. I was tired, I was
15 exhausted. He said, this is not enough money so you get your
16 ass back out there.

17 Q Was there a time that you actually I mean in one
18 particular occasion worried for your life?

19 A Yes.

20 Q What was that?

21 A When he threatened me and just threatened my family
22 and wanted to start -- put them out, you know.

23 Q Was there a time that he strangled you?

24 A Yes, there was a time that he strangled me.

25 MR. MacARTHUR: Objection, Your Honor. Leading.

1 THE COURT: Sustained. You're leading her.

2 THE WITNESS: Yes, there was a time that he
3 threatened me.

4 BY MS. LUZAICH:

5 Q I'll ask another question. Thank you.

6 Well, was there something else that he did to you?

7 A Well, at 966 Blankenship he had -- he was sick, and
8 he asked me for some medicine, you know, do you have any cold
9 medicine or some kind of Ny-Quil or something, because he
10 wasn't feeling too well. So I said, hold on, hold on, you
11 know, still trying to be all bubbly, cheery, you know. I'm
12 just trying to cheer him up. So I gave him some -- I think I
13 had some penicillin around and some kind of medicine, and so I
14 go in the bedroom, I give it -- I give the medicine to him,
15 and I kissed him on the cheek, and Miss Ann was laying in the
16 bed next to him. I kiss him on the lips, I believe the cheek,
17 and I said, hope you feel better. And then he jumps up. I go
18 walk in the room. He jumps up. He said, what did you do that
19 for, don't you see Miss Ann, don't you see Miss Ann all laying
20 there; I said, I thought it was all right. Because me and
21 Miss Ann and Fred had sex at one time, so I thought it was
22 cool. So but she -- and then I guess it's a different story
23 at 966 Blankenship. I guess they're supposed to be like
24 almost husband and wife thing going on. Anyway, he jumps up,
25 he runs in a room. He took this wire, this fucking -- this

1 cord, this real thick cord he plugged up in the hallway to dry
2 something in the hallway, whatever. And he wraps it around my
3 neck. He said, you stupid bitch, what the fuck, what are you
4 thinking. You know, I just gave you a kiss. I was crying
5 because I was hurt and hurting. I just gave him a kiss
6 because at the time I still loved him. At the time. And so
7 he's choking me and hitting me in my rib cage just really bad.
8 And I was -- it was so sad, because the girls were getting
9 ready for school, and Mahlica was standing there looking like
10 -- you know. And they dare not -- you know, they dare not
11 show love. No one there could show love, because that would
12 be like favoritism. You could never show love. No love. So
13 it was like -- you were like zombies. You could not do
14 nothing in that house.

15 So he was choking me and choking me, and everybody
16 was walking -- peeking in the hallway, hurry and peeking in
17 the room, saying, is Mom going to be okay; because he had this
18 fucking -- this giant cord around my neck and I couldn't
19 breathe. And he kept hitting me. And it was just -- yeah.

20 Q Did you call the police?

21 A No, I didn't at that time.

22 Q Why?

23 A The same -- same shit was going to happen. Like I
24 called the police one time on him when -- it was a day when he
25 wanted me to sign some Social Security papers or something for

1 me or something, like I was crazy or whatever. Anyway, he
2 said, here, sign these papers. I said, what are you talking
3 about; no, sign these papers. I said, I'm coming home from
4 work. And you didn't do it right, or something happened or
5 whatever. And he started cursing at me. I said, I don't have
6 to be bothered with this shit. So I walked out of his
7 bedroom. Him and Ann was sitting there on a bed, and so she
8 says, well, just sign the papers. I said, no, I'm not being
9 bothered with this shit, I don't want to do it, this is
10 ridiculous. And so he started going after me. I was walking
11 down the hallway, to other hallway. It had two like -- kind
12 of a split hallway.

13 So I was walking down the hallway. He said, come
14 the fuck back here, where the fuck you going, where you going.
15 I said, I'm walking away, I'm walking away. And he grabs he,
16 turns me, he kicks me in my leg and kept kicking me, and, get
17 your ass back here. And, you know, so I'm standing -- I'm
18 standing there. I said, what do you want me to do, you know.
19 And then he says, well, you need to sign these papers, get
20 these papers right. I said, get what right, you know. And so
21 he starts throwing boots, bitch, can't you remember. He took
22 those ugly brown ugly work boots of his, those beige -- those
23 big old combat and just starts throwing them at me like I'm
24 George Bush or something. And so he starts throwing and just
25 kept throwing, just kept throwing shoes at me. And I just

1 started crying. And he goes, you know, just --

2 And before that happened he pushes me on the bed and
3 starts hitting me and -- just awful, just all fucked up.

4 Q So you said you called the police?

5 A You know, I went to work -- I had to go to work the
6 next day and clean about 16 rooms. I was upset. I started
7 crying because I couldn't clean my rooms because my leg was in
8 pain. I was in pain. So I called Joby. I started crying, so
9 they said, we're going to call Tony up, then we're going to
10 bring you down here, bring Tina down, she can't do it, she's
11 too upset.

12 So Joby -- I go to Joby's office and I told him what
13 happened. So they called the police, what they call forensic.
14 They call the police to the hotel.

15 Q Who called the police?

16 A Joby.

17 Q Who's that?

18 A And Tony. That's my boss. That was my boss at
19 Bally's.

20 Q Okay. So somebody at Bally's called for you?

21 A Right.

22 Q Okay. Is that the only time that you called the
23 police out of any of the incidents that we've talked about or
24 that -- I should say that the police were called by you or on
25 your behalf out of all --

1 A On my behalf when I came home they said, well, give
2 us a call before you get in the door, and then we're going to
3 come and we're going to go talk to Fred and ask him what's --
4 yeah. And so I did that.

5 Q Did you call?

6 A I called him. They opened -- Ann opens the door,
7 and the police just walk in the house. And they said, we want
8 to talk to Frederick Harris. And Ann says, okay, come in. So
9 they go -- I said, he's probably back straight in his bedroom.
10 So they go in his bedroom and talk to him, whatever. And that
11 was it. Said something to him and then they left, and they
12 escorted us out. They -- me and Victoria left, I think, and
13 Bazz. And then -- not Bazz, but me and Victoria, I think.
14 One of my children left with me and we went to a hotel. Then
15 he says, well, I'm sorry. I had nowhere else to go. I had to
16 come back. And then before he let me in the house he -- it
17 was getting like really, really cold, and so he grilled me and
18 grilled me and snapped pictures and had me on cameras, you
19 know, talking to me, you know. And -- yeah. Just some crazy
20 shit.

21 Q And then you continued to live there for a time
22 after that?

23 A Yeah, a little time after that.

24 Q When Taharah and Taquanda came and stayed with you
25 in the summer of -- in Henderson the summer of 2012, after

1 Victoria had talked to the Henderson police that following
2 summer, did they tell you something -- without telling what,
3 did they tell you something about the defendant?

4 A Yes.

5 Q And did they tell you that they had told anybody, as
6 well?

7 A Yes.

8 Q Who did they tell you they had told?

9 A They -- when I came home --

10 MR. MacARTHUR: Objection, Your Honor. Hearsay.

11 THE COURT: Sustained.

12 BY MS. LUZAICH:

13 Q In light of the fact that they told you they had
14 told somebody, what did you say?

15 A When Taharah and Taquanda had came to the house for
16 the summer, yes, Taharah had told Victoria --

17 MR. MacARTHUR: Objection, Your Honor. Hearsay.

18 THE COURT: Sustained. I'm not quite sure she's
19 answering your question. But we're going to -- we're going to
20 take a recess. Is it a good time to take a recess?

21 MS. LUZAICH: Oh, sure. Sure. Of course.

22 THE COURT: Okay. During this recess you're
23 admonished not to talk or converse amongst yourselves or with
24 anyone else on any subject connected with this trial, or read,
25 watch, or listen to any report of or commentary on the trial

1 or any person connected with this trial by any medium of
2 information, including, without limitation, newspapers,
3 television, the Internet, or radio, or form or express any
4 opinion on any subject connected with this trial until the
5 case is finally submitted to you.

6 We'll be in recess till 4:15. Thank you very much.
7 4:15.

8 (Court recessed at 4:01 p.m., until 4:18 p.m.)
9 (Jury is present)

10 THE COURT: Do I have a stipulation from the defense
11 as to the presence of the jury panel? Do I have a stipulation
12 from the defense?

13 MS. ALLEN: Yes, Your Honor. Sorry.

14 THE COURT: And the State?

15 MS. LUZAICH: Yes.

16 THE COURT: Okay.

17 MS. ALLEN: Usually you go to them first. I
18 apologize.

19 THE COURT: I'm switching it up.

20 MS. ALLEN: It's late in the day. It's really
21 dangerous to do that to me.

22 THE COURT: Ms. Luzaich, you may continue with your
23 direct examination.

24 MS. LUZAICH: Thank you.

25 //

1 BY MS. LUZAICH:
2 Q The kids, Taharah and Taquanda, came and stayed with
3 you in the Henderson apartment over the summer of 2012.
4 That's where I left off; right?
5 A Yes. Yes.
6 Q All right. Just so that we're on the same page.
7 And you said that the kids had told you something
8 about Fred. And because of, remember, hearsay laws, we're not
9 going to talk about what they said, and that they had told
10 somebody. Because they told you that they had told somebody,
11 did you at least feel that something could be handled?
12 A Yes.
13 Q Okay. Did you learn later that Taquanda had called
14 CPS in September of 2012?
15 A Yes, I learned that.
16 Q And that there was a CPS investigation, as well as a
17 police department investigation?
18 A Yes.
19 Q And this was a different police department, right,
20 Metro, not Henderson?
21 A Correct. I believe.
22 Q So did there come a time in the future, so in
23 September-October of 2012, that you actually spoke with
24 somebody from CPS and somebody from Metro?
25 A Yes.

1 Q Do you remember who you spoke to?
2 A I don't remember their name.
3 Q Okay. Could it have been somebody named Sholeh from
4 CPS? Does that sound familiar?
5 A Oh. Yes.
6 Q And Detective Madsen from Metro?
7 A Yes.
8 THE COURT: Do you mean Metro or Henderson?
9 MS. LUZAICH: Metro.
10 THE COURT: Okay.
11 BY MS. LUZAICH:
12 Q And when you talked to them were you more
13 forthcoming with them, were you more --
14 A Yes.
15 Q -- open with them than with Henderson?
16 A Yes.
17 Q And even did Detective Madsen ask you after you
18 spoke with them to go home and kind of write some of your
19 thoughts on paper so that you could share that information
20 with them?
21 A Yes, they did.
22 Q And did you actually write it and give it to them?
23 A Yes, I did.
24 Q In the piece of paper that you wrote did you
25 actually talk about the car incident with Fred and Victoria?

1 A Yes.

2 Q And the things that happened at the efficiency?

3 A Yes.

4 Q And at Walnut?

5 A Yes.

6 Q And about the defendant sending you out to the
7 streets?

8 A Yes.

9 Q Did you talk about Fred beating actually all the
10 kids?

11 A Yes.

12 Q And did you talk about participating in sex acts
13 with Victoria?

14 A Yes.

15 MS. LUZAICH: Thank you.

16 I would pass the witness.

17 THE COURT: Cross-examination.

18 MR. MacARTHUR: If it pleases the Court, I would
19 expect that my cross-examination will go past 5:00 o'clock.
20 If you'd like me to start it and interrupt it, I will.

21 THE COURT: You can start it. I'll let you know
22 when --

23 MR. MacARTHUR: Okay.

24 THE COURT: -- you need to wind it down. Do you
25 want like a five-minute warning?

1 MR. MacARTHUR: Please. That would be great.

2 THE COURT: That's fine.

3 MR. MacARTHUR: I appreciate it, Judge.

4 CROSS-EXAMINATION

5 BY MR. MacARTHUR:

6 Q Good afternoon, Tina.

7 A Good afternoon.

8 Q We've never met before today; is that correct?

9 A Correct. I don't remember seeing you.

10 Q Okay. In fact, I think the first time we saw each
11 other was earlier today. I held the elevator open for you.

12 A Right. Yes.

13 Q Okay. But we've never had a conversation or
14 anything like that before; is that correct?

15 A That's correct.

16 Q You've come to court to testify before; right?
17 Different court, different day?

18 A Yes.

19 Q Okay. On this case, these facts?

20 A Yes.

21 Q Okay.

22 A Right.

23 Q And before you come to court do you also have a
24 conversation with the District Attorney a day or two previous?

25 A Yes.

1 Q Okay. And during that conversation that you have
2 with the District Attorney does she ask you the same kind of
3 questions in her office that she's going to ask you in front
4 of the jury?

5 A Yes.

6 Q Okay. And you give her the answers that you expect
7 to provide when you're under oath?

8 A Yes.

9 Q Okay. And with regard to preparation for this trial
10 when did you do that -- well, first of all, did you do that
11 with Ms. Luzaich, or did you do that with somebody else, the
12 -- let me withdraw that. I don't want to be confusing. We
13 lawyers call that a pretrial conference, okay.

14 A Yes, I had a conference Friday, this past Friday.

15 Q Okay. So last Friday.

16 A Yes.

17 Q Today's Thursday, so almost a week ago.

18 A Yes.

19 Q Okay. And was that conference with Ms. Luzaich in
20 the DA's Office, or somebody different?

21 A It was with Miss Lisa.

22 Q Okay. And in having that conference with you did
23 Miss Lisa make documents available to you?

24 A Yes.

25 Q Okay. And would those documents have been your

1 previous testimony at preliminary hearing?

2 A Yes.

3 Q And any statements that you've written out to the
4 police or CPS?

5 A Yes.

6 Q Okay. She made all of those available to you;
7 right?

8 A Yes.

9 Q And you were able to refresh your recollection of
10 things that you'd said in the past before you came in to
11 testify today; is that correct?

12 A Yes.

13 Q Okay. Let's go back chronologically to the very
14 beginning of the story, or at least your testimony. You were
15 coming from Monroe, Louisiana; is that correct?

16 A Correct.

17 Q Okay. And you had met Fred while you were a
18 cocktail waitress?

19 A Yes.

20 Q And about six months later you had come to Las Vegas
21 to visit him; is that correct?

22 A Right.

23 Q Okay. Now, at the time in which you came to Las
24 Vegas to visit Fred did you know that you were pregnant at
25 that time?

1 A No. I didn't know I was pregnant.

2 Q Understood. And that pregnancy, it resulted in a
3 birth, and you put that child up for adoption; right?

4 A Correct.

5 Q Okay. When was that child born?

6 A Joe, little Joe -- Joseph, he was born -- he was
7 born -- I'm trying to think the exact date. It was July the
8 20th.

9 Q July 20th. Okay. And so did he carry to term? Was
10 he premature, or --

11 A I carried him term.

12 Q Carried him term. Okay.

13 A I had a C section.

14 Q And so he would have -- you would have gotten
15 pregnant with someone at the time around say October of 2004;
16 is that fair?

17 A Yes.

18 Q Okay. And so when you came to Las Vegas it was in
19 January 2005, or is it December 2004? Do you remember?

20 A December 2004.

21 Q Okay. So at that point you'd only been pregnant for
22 two and a fraction of months; right?

23 A Yeah.

24 Q Okay. Did you have any reason to think that this
25 was Fred's child?

1 A No.

2 MR. MacARTHUR: Okay. Court's indulgence.

3 BY MR. MacARTHUR:

4 Q All right. Before coming to visit Fred in Louisiana
5 [sic] -- let me back up. I'm going to withdraw that question.

6 I think you already know that I'm going to be asking
7 you some pretty direct personal questions. I don't want you
8 to feel like I'm attacking you. Is that all right?

9 A Fine.

10 Q Did you have some issues in Louisiana where you may
11 have left your younger children in the care of your oldest
12 daughter, Victoria?

13 A Left the care -- left my children in the care of
14 oldest daughter Victoria?

15 Q Yes. My question specifically is did you ever have
16 an allegation or a complaint made by someone else against you
17 that you would go out at night and leave your younger children
18 in the care of your oldest daughter, Victoria?

19 A No. It was TT Pat -- Patricia, a friend of mine,
20 that would come to the house. Because I was working at the
21 lounge late. She would come to the house and see about them.

22 Q Okay. And I understand you're explaining who was
23 watching them. But my question specifically is did you ever
24 have a complaint made against you that you were leaving your
25 children unattended or that they were being attended by

1 Victoria?

2 A No, I don't remember that.

3 Q Okay. Are you familiar with the Department of
4 Social Services in Louisiana?

5 A Yes.

6 Q Okay.

7 A But I never met them, I never seen them in
8 Louisiana.

9 MR. MacARTHUR: Okay. Court's indulgence.

10 BY MR. MacARTHUR:

11 Q Would it refresh your recollection if you saw a
12 document that referenced Department of Social Services in
13 Louisiana?

14 THE COURT: I'm not quite sure she indicated she
15 needs her memory refreshed. But you can probably ask it a
16 different way.

17 MR. MacARTHUR: Understood, Judge. Thank you.

18 BY MR. MacARTHUR:

19 Q You said that -- you said that you don't recall
20 anyone ever having made that complaint against you; is that
21 correct?

22 A They may -- someone may have made a complaint --

23 Q Uh-huh.

24 A -- okay, but I was never approached by them in
25 Louisiana, okay.

1 Q Okay. Fair enough.

2 A Because there was a friend of mine that watched them
3 when I lived on Bert Jones Lane. A friend of mine from the
4 church, Riverside, would come and see about the children, some
5 people of the church.

6 Q Okay. Now, you made it clear that you never had
7 contact directly with the Department of Social Services in
8 Louisiana, but you said that somebody may have complained. Do
9 you specifically remember whether somebody complained or not?

10 A I really don't -- I don't really recall them --
11 someone making a complaint. When I came home after work there
12 was no one -- none of the children came to me and said, hey,
13 Mom -- or none of my friends that was watching over them came
14 to me and said, hey, CPS called or such and such called or --
15 I don't remember that.

16 Q Okay. Do you think it might refresh your
17 recollection if you were to be able to review the contents of
18 such a complaint? Would that refresh your recollection?

19 MS. LUZAICH: Well, objection. Can we approach?

20 (Bench conference)

21 THE COURT: All four lawyers are present. Ms.
22 Luzaich, go ahead.

23 MS. LUZAICH: You can't refresh her recollection
24 with a document that she's never seen. What she's saying is
25 that she was never approached. If somebody calls and makes a

1 complaint, that's just speculation.

2 THE COURT: There might be another way. I mean, she
3 hasn't said -- well, first of all you have to say, do you need
4 your memory refresh, and then you say, is there something that
5 will refresh your recollection?

6 MR. MacARTHUR: Any document can actually be used
7 for refreshing recollection. The critical question is whether
8 or not it jogs her memory. Now, if she reads it and say, I
9 don't remember this ever having happened, I can't read it into
10 the record. One, it's not evidence, and, two, it didn't
11 refresh her recollection. But you can use -- I could write a
12 stickie note random words if it refreshes your recollection.

13 THE COURT: You can say, will this stickie note
14 refresh your recollection, so whatever it is that you have you
15 can say, well, would reviewing the transcript, the preliminary
16 -- whatever --

17 MR. MacARTHUR: That's what I said.

18 THE COURT: -- refresh your recollection. But,
19 again, I don't think she's indicated she needs her memory
20 refreshed. Tell me what you're trying to get at, and then
21 maybe I'll understand better.

22 MR. MacARTHUR: Okay. The Social Services in
23 Louisiana opened an investigation against her, saying that she
24 was staying out all night, that she was buying her kids junk
25 food, et cetera. I mean, it's contained in here. I asked --

1 THE COURT: Well, is that a CPS thing for buying her
2 kids junk food?

3 MR. MacARTHUR: Well, that was one of -- I was
4 keeping it short.

5 THE COURT: Okay. All right. I got it.

6 MR. MacARTHUR: At any rate, I asked her if she
7 remembered anyone having made that complaint. She said she
8 didn't specifically recall.

9 THE COURT: Okay.

10 MR. MacARTHUR: I thought by reading it she might
11 remember that complaint. Now, the reason why she never had
12 direct contact is because her kids had already been
13 transported to Las Vegas by the defendant's brother before
14 Department of Social Services caught up with her.

15 MS. LUZAICH: Which is why none of this is
16 admissible --

17 THE COURT: Okay. So --

18 MS. LUZAICH: -- through this witness unless you
19 have somebody from Social Services to come say there was a
20 complaint.

21 MR. MacARTHUR: Well, you know that -- you've
22 already stipulated that we can bring these in through CPS.

23 MS. LUZAICH: No, I didn't. No.

24 MR. MacARTHUR: Maybe you'll get out of that.

25 MS. LUZAICH: Local records, not --

1 THE COURT: I mean, I understand she said that
2 maybe somebody complained but she was never approached; right?

3 MR. MacARTHUR: She said she was never approached by
4 Department of Social Services, right.

5 THE COURT: Right. Got it.

6 MR. MacARTHUR: But I'm trying to find out if by
7 reading this -- and I won't read it out loud, but if by
8 reading this does this remind her of the complaint being made.

9 MS. LUZAICH: But you don't know that she knows
10 there was a complaint --

11 THE COURT: Right. That's the point.

12 MS. LUZAICH: -- because her kids left.

13 MR. MacARTHUR: Once she reads it she'll say whether
14 she remembers or not. If she says she doesn't remember, I
15 can't.

16 THE COURT: Okay. I believe she's already said she
17 doesn't know if someone filed a complaint against her. But
18 you can ask her again. It's my understanding she said
19 somebody could have filed a complaint but I don't know about
20 this witness.

21 MR. MacARTHUR: Maybe she's not aware because she
22 doesn't remember. And I'm trying to refresh her recollection.

23 THE COURT: Okay. Well, why don't you ask her, did
24 someone make a complaint, are you aware of anyone making a
25 complaint?

1 MR. MacARTHUR: She said, I don't recall anyone
2 having made a complaint against me.

3 THE COURT: That's what I thought.

4 MR. MacARTHUR: Right.

5 THE COURT: Okay.

6 MR. MacARTHUR: And so I would like to ask would it
7 refresh your recollection if you read this document. If she
8 says no, then I'm stuck --

9 MS. LUZAICH: Then we're done with it.

10 MR. MacARTHUR: -- and I've got to move on.

11 MS. ALLEN: We're not going to read it into the
12 record.

13 THE COURT: And the document is?

14 MR. MacARTHUR: Our CPS received a report from the
15 Department of Social Services in Louisiana.

16 THE COURT: Saying there was a complaint?

17 MR. MacARTHUR: Right.

18 THE COURT: All right. I mean, it's not coming in
19 if she doesn't remember it.

20 So what's the next question you're going to ask her?

21 MR. MacARTHUR: Well, if she says, I don't -- if she
22 says, I don't remember, then I move on to my next topic. If
23 she says, I do remember, then I read the basis of that
24 complaint.

25 THE COURT: Okay. Go ahead.

1 (End of bench conference)

2 BY MR. MacARTHUR:

3 Q All right, Ms. Duke. I was gone for a little while,
4 so let me start that question over.

5 Do you think it might refresh your recollection to
6 look at the contents of a document I have in front of me
7 related to Department of Social Services in Louisiana?

8 A Okay.

9 THE COURT: You can approach and show her the
10 document.

11 And he just is going to show you a document. Don't
12 read it out loud, just take a look at it.

13 BY MR. MacARTHUR:

14 Q Just as the Judge said, there's two documents. I've
15 highlighted the areas that I'm going to question you about.
16 And when you've had an opportunity to read it let me know when
17 you're ready.

18 THE COURT: And just let us know when you're done
19 reviewing the documents.

20 (Pause in the proceedings)

21 THE WITNESS: I'm through glancing over them.

22 THE COURT: Okay. All right.

23 BY MR. MacARTHUR:

24 Q Having reviewed those documents, does that refresh
25 in your mind --

1 A Yes, it does.

2 Q -- whether or not --

3 A Yes. I was --

4 Q Now, hold on. I don't want you to answer a question

5 yet. We've got to be careful how we put things into our

6 record.

7 A Okay.

8 Q So it did refresh your recollection that a complaint

9 had been made, yes?

10 A Yes. When I --

11 Q Hold on. And I promise I'll give you an opportunity

12 to explain it.

13 And the complaint, generally speaking, referred to

14 you not being home in the evening and the children being left

15 with Victoria; yes? At least according to --

16 MS. LUZAICH: Well, objection. Hearsay.

17 MR. MacARTHUR: Right. You're right. You're right.

18 Withdrawn, Judge. I think the State's right.

19 THE COURT: Thank you.

20 MS. LUZAICH: Move to strike.

21 THE COURT: It's stricken. Well, when the

22 objection's sustained it's stricken. Or should be

23 disregarded.

24 MR. MacARTHUR: Thank you, Judge.

25 THE COURT: Go ahead.

1 BY MR. MacARTHUR:

2 Q I'm going to go ahead and let you say whatever it is
3 that you wanted to say before, Ms. Duke. Go ahead.

4 A Okay. I do recollect a complaint when -- not during
5 a time when I was working at the lounge, but during the time
6 when I left Louisiana, left Louisiana December.

7 Q Uh-huh.

8 A And that's the only time during -- that's what I
9 remember.

10 Q Okay. Do you recall the complaint being in writing
11 that you did not attend to your children's hygiene needs?

12 MS. LUZAICH: Well, objection. Hearsay.

13 THE COURT: Sustained.

14 MR. MacARTHUR: Okay. Court's indulgence.

15 (Pause in the proceedings)

16 BY MR. MacARTHUR:

17 Q Without going into detail as to what's inside the
18 document you just read, is this related to the instance in
19 which you left Louisiana to see Fred in Las Vegas, or is this
20 a different instance?

21 A That's the same -- that's --

22 Q Did that question make sense? I can try to simplify
23 it. I apologize.

24 A Yeah. Can you --

25 Q Sure.

1 A -- ask a different way than to --

2 Q The complaint that was referenced here that you

3 read, is it talking about the time when you left Louisiana to

4 visit Fred in Las Vegas, or is it talking about a different

5 time period?

6 MS. LUZAICH: Well, I'm sorry. Hearsay. I mean,

7 he's specifically asking what's in the document.

8 THE COURT: No. I actually think she already

9 answered that --

10 MR. MacARTHUR: Okay.

11 THE COURT: -- from what I understand. If you leave

12 out the "or."

13 MR. MacARTHUR: All right.

14 THE COURT: I mean, my understanding was she

15 testified this was about when she went to Las Vegas.

16 MR. MacARTHUR: I recall that now, Judge.

17 THE COURT: Is that accurate, ma'am?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Okay.

20 BY MR. MacARTHUR:

21 Q All right. Once you arrived in Las Vegas I believe

22 your direct testimony was that you had been here for about a

23 week before Fred made arrangements for his brother to pick up

24 your children.

25 A Yes.

1 Q Okay. Now, when you came to Las Vegas did you leave
2 Louisiana expecting to move here?

3 A No. I didn't really leave Louisiana expecting to
4 move here to Las Vegas. I expected to visit and then come
5 back and maybe make a decision whether I want to live in Las
6 Vegas or not.

7 Q Understood. Now, how long did the bus ride take
8 from Monroe to Las Vegas?

9 A I think it took -- from Louisiana I think it took 16
10 hours, I think. A long ride. Because they had to have delays
11 from Louisiana to Las Vegas they had layovers.

12 Q Sixteen hours? Less than a day?

13 A Sixteen hours or more, I think.

14 THE COURT: Did you say Monroe, Louisiana?

15 THE WITNESS: Yeah, Monroe, Louisiana.

16 THE COURT: And it was only 16 hours?

17 BY MR. MacARTHUR:

18 Q Could it have been longer than 16 hours?

19 A It's probably longer than 16 hours. Longer. It was
20 a long time.

21 Q Okay.

22 A Long time.

23 Q Okay. So after you'd arrived in Las Vegas you were
24 then here for about a week when he made arrangements to
25 transport your children.

1 A Yes.

2 Q Okay.

3 THE COURT: And by he you mean?

4 MR. MacARTHUR: Fred.

5 THE COURT: Thank you.

6 BY MR. MacARTHUR:

7 Q Okay. And so what is it that helped you decide that
8 you should move to Las Vegas? What happened in that time
9 period of travelling and being in Las Vegas that made you want
10 to move here?

11 A Well, Fred was telling me about the job
12 opportunities, the schooling, Ann could help you with the
13 kids. He said it would be better.

14 Q Okay. And during this visit to Las Vegas did you
15 have an opportunity to meet Lealer or Miss Ann Cooks?

16 A Yes, I did.

17 Q Okay. And when you met her did Frank [sic]
18 introduce her as his girlfriend or at least a woman he was
19 involved with?

20 A Yes. I had a chance to meet her. I believe she was
21 the first person I met.

22 Q Okay. And to ask that question again, did he
23 introduce her as a woman he was involved with?

24 A He introduced Ann to me as a friend and someone he
25 got involved with later on after we met in Louisiana, we had

1 sex in Louisiana, me and Fred, and then after six months he
2 got with her and he told her about me and me about her.

3 Q Okay. All right. So he didn't keep Lealer a secret
4 from you?

5 A No.

6 Q Okay. Now, during the State's questioning of you I
7 think early on you had said that once your children arrived
8 you and they lived with Lealer --

9 A Yes.

10 Q -- at her apartment. Is that correct?

11 A Correct.

12 Q And Lealer also had a daughter there; is that
13 correct? Kira?

14 A That daughter or some named Shakara.

15 Q Shakira or Sakara?

16 A Uh-huh.

17 Q Okay.

18 THE COURT: Is that a yes?

19 THE WITNESS: Excuse me?

20 THE COURT: Is that a yes? You have to say yes or
21 no.

22 THE WITNESS: Oh. Yes. Yes. Correct. Yes.

23 BY MR. MacARTHUR:

24 Q And this was an apartment; right?

25 A It was a house on Trish Lane.

1 Q Oh. Okay. So Lealer had an apartment --
2 A Fred is the one who had the apartment.
3 Q -- I mean, had a house --
4 A Yes.
5 Q -- Trish Lane. Okay. How many bedrooms were there
6 in this house?
7 A There were three. Three bedrooms.
8 Q And there was you, your five children, Lealer, and
9 Shakira; is that correct?
10 A Yes. And her mother.
11 Q And her mother. Okay. Is it fair to say that those
12 were kind of cramped quarters?
13 A It was a little cramped.
14 Q Now, I believe that you may have testified that
15 while you were looking for work there were times in which you
16 left the children alone with Fred.
17 A Yes.
18 Q Did you testify to that?
19 A Yes.
20 Q Miss Duke, are you aware of whether or not you've
21 previously stated that you never left your children alone with
22 Fred back in '05 before you went to Utah? Do you know if
23 you've said that?
24 A I don't remember -- I believe --
25 Q Don't let me distract you when I walk around. Do

1 you think you've --

2 THE COURT: What are you going to be referring to?

3 MR. MacARTHUR: Okay, Judge.

4 THE COURT: If you'll just --

5 THE WITNESS: They weren't -- they was -- they was
6 with his children and -- okay.

7 MR. MacARTHUR: It's in a report, page 9 of 22,
8 dated -- well, at the least the headline date is March 12th,
9 2013.

10 MS. LUZAICH: Well, objection in if that he's going
11 to refresh recollection, refresh with a statement, not --

12 MR. MacARTHUR: She asked me --

13 THE COURT: I asked. I thought he was going to
14 refer to part of a transcript. And I have a binder of
15 transcripts up here. I was trying to do it quietly. And I
16 apologize.

17 MR. MacARTHUR: It's quite all right. It's your
18 courtroom.

19 THE COURT: I wasn't as quiet as I intended to be.
20 So I apologize.

21 MR. MacARTHUR: No problem, Judge.

22 THE COURT: You have about five minutes.

23 MR. MacARTHUR: Thank you, Judge.

24 BY MR. MacARTHUR:

25 Q Do you think it might refresh your recollection if

1 you were able to see an incident report where you had talked
2 to a police officer about that matter?

3 MS. LUZAICH: And, I'm sorry, that's my objection.
4 If he's going to impeach her with her statement, he should
5 show her the statement, not a police officer's paraphrasing of
6 a statement.

7 MR. MacARTHUR: Well, first, she says she doesn't
8 remember having said that, Judge.

9 THE COURT: Okay.

10 MR. MacARTHUR: So I have to refresh her
11 recollection as to whether she did or not.

12 THE COURT: I'll give you permission to approach.

13 MR. MacARTHUR: Okay.

14 THE COURT: You let her look at the document. And
15 the question pending is -- will you just state it again,
16 because I don't want to mess it up.

17 MR. MacARTHUR: Sure.

18 BY MR. MacARTHUR:

19 Q Do you think you may have told a police officer in
20 the past that you don't ever recall having left your children
21 alone with Fred, that you always left them --

22 THE COURT: And the response was?

23 THE WITNESS: I don't remember leaving them alone --
24 well, I remember leaving them alone with him, but his kids,
25 his teenagers was there, everybody was there.

1 THE COURT: Okay. And so the question was alone
2 with your client; correct?

3 MR. MacARTHUR: Yes.

4 THE COURT: Okay. And she said -- and your response
5 was, you left them with him, but other people were there? Is
6 that accurate?

7 THE WITNESS: Teenagers his kids, teenagers. They
8 were playing video games and stuff like that.

9 THE COURT: Okay. So do you want to rephrase it,
10 him without any other adults?

11 MR. MacARTHUR: Sure. I think I can move forward,
12 Judge.

13 THE COURT: Thank you.

14 BY MR. MacARTHUR:

15 Q Ms. Duke, is it your recollection that you always
16 left them with Miss Dorothy, the defendant's mother?

17 A It was with Miss Dorothy. Sometimes they were at
18 Tinker Town. And sometimes they were at Trish Lane at the
19 house with Shakara, and sometimes Ronnie was there that was
20 Ann's cousin. And he's grown. He's --

21 Q So, regardless of what you've said earlier today in
22 response to a State's question, is it your recollection now
23 that you never left your children alone with just Fred, there
24 were always other people present?

25 MS. LUZAICH: Objection to the form of the question.

1 THE COURT: Okay. Can you restate the question.
2 The objection is to the form of the question. Can you restate
3 the question.
4 BY MR. MacARTHUR:
5 Q In fact, you never left your children alone with
6 Fred, you always left them with Fred and other people; is that
7 correct?
8 A Yes. But when I would come home they said -- they
9 would be with Miss Dorothy in the morning, and then sometimes
10 I would come home and they said, well, Fred came and picked
11 them up. And I'm, okay.
12 Q So --
13 A SO it was kind of -- it was nerve wrecking [sic].
14 THE COURT: Do you understand the question?
15 THE WITNESS: Were they totally lone with Fred?
16 THE COURT: Ma'am, do you understand the question?
17 Look at me. Do you understand the question?
18 THE WITNESS: Yes, I understand the question.
19 THE COURT: Okay.
20 THE WITNESS: I'm trying to understand.
21 THE COURT: I'm not sure, so --
22 MR. MacARTHUR: I liked her question better, Judge.
23 I'm willing to adopt hers.
24 THE COURT: Go ahead.
25 //

1 BY MR. MacARTHUR:

2 Q Was there ever a time in which you left your
3 children totally alone with Fred?

4 A I have to think. I believe so.

5 Q Okay. And so --

6 A I believe so. It's been so long ago.

7 MR. MacARTHUR: Back to the original question,
8 Judge.

9 BY MR. MacARTHUR:

10 Q Would it refresh your recollection as to whether
11 you've said something different in the past if I were to show
12 you a --

13 THE COURT: Go ahead. You can approach.

14 THE WITNESS: I may have. I may have.

15 THE COURT: Okay. He's going to show you a
16 document.

17 Can you point her to where you want her to review.

18 MR. MacARTHUR: Absolutely.

19 THE COURT: Just review it. Don't say anything out
20 loud. Let us know when you're done reviewing it.

21 BY MR. MacARTHUR:

22 Q It's just the second paragraph. I've already
23 highlighted the sentence I'm going to ask you about. You
24 don't have to read it out loud. Just let me know when you're
25 ready.

1 Okay. Did that refresh your recollection as to --
2 A Yeah.
3 Q -- what you might have said in the past?
4 A Uh-huh.
5 Q Okay. And so if you told the Henderson Police that
6 you didn't ever recall having left your children alone with
7 Fred, you thought that you always left them with Miss Dorothy,
8 do you think that that statement that you gave them would be
9 more correct, or what you said in response to the State's
10 question today? Which one do you think would be more
11 accurate?
12 MS. LUZAICH: Well, objection.
13 THE COURT: Sustained. The objection's sustained.
14 Is this a good time for you, Mr. MacArthur?
15 MR. MacARTHUR: Yes, Judge.
16 THE COURT: Okay.
17 MR. MacARTHUR: It's fine.
18 THE COURT: All right. Before we do end for the
19 day, thank you, ma'am, you're done with your testimony today,
20 so thank you very much for being here today.
21 THE WITNESS: You're welcome.
22 THE COURT: You are going to be required to come
23 back on Monday. You understand that; correct? And so if
24 you'll just speak with the District Attorney that has
25 subpoenaed you here today so they can give you further

1 instructions on when you need to return on Monday. But with
2 that, thank you very much, and you may step down, okay.

3 THE WITNESS: Thank you.

4 THE COURT: Ladies and gentlemen of the jury, before
5 you leave I just want to remind you that tomorrow's Friday, so
6 you don't need to be here on Friday. You do need to return o
7 Monday morning. Same thing. Come up to the fourteenth floor,
8 10:30. We will start at 10:30. And, again, the court marshal
9 will be here. I do have a Monday morning calendar, so I just
10 want to remind you don't ever come in the courtroom unless the
11 court marshal asks you to come in. So just stay out in the
12 hallway. When all of you are here, again, 10:30, we will
13 resume trial.

14 Does anyone have any questions before we leave for
15 the weekend? And don't forget on the left-hand side you can
16 take that piece of paper out that tells you where you are,
17 what floor you're on, what my name is, and what the phone
18 number is to chambers in Department 12.

19 During this recess you're admonished not to talk or
20 converse amongst yourselves or with anyone else on any subject
21 connected with this trial, or read, watch, or listen to any
22 report of or commentary on the trial or any person connected
23 with this trial by any medium of information, including,
24 without limitation, newspapers, television, the Internet, or
25 radio, or form or express any opinion on any subject connected

1 with this trial until the case is finally submitted to you.
2 You're further admonished you may not communicate
3 with anyone, including your fellow jurors, about this case on
4 your cell phone through email, Blackberry, iPhone, text
5 messaging, Twitter, any blog or Website, through any Internet
6 chat room or any other social networking Website, including,
7 but not limited to, Facebook, MySpace, LinkedIn, and You Tube.
8 Thank you very much for your attention. Have a great weekend.
9 I look forward to seeing you on Monday. Thank you for being
10 here.

11 (Jury recessed at 4:54 p.m.)

12 THE COURT: Anything outside the presence? And how
13 do you guys think we're doing?

14 MS. LUZAICH: No. Although, just for the record, I
15 did provide Ms. Allen with Rose Smith's phone number. The
16 Court asked me to. I did.

17 THE COURT: Oh. Okay. All right.

18 MS. ALLEN: I did. I got an email.

19 MR. MacARTHUR: Your Honor, there's one more matter
20 I think we should do outside the presence --

21 THE COURT: Sure.

22 MR. MacARTHUR: -- just so I don't step on this on
23 Monday.

24 THE COURT: Sure.

25 MR. MacARTHUR: In preparing trial with Betsy she

1 had informed me that she'd had a stipulation with Ms. Luzaich
2 that our CPS documents could be discussed with CPS staff when
3 they came in to testify in order to avoid bringing each
4 individual CPS worker to testify to them.

5 Now, when we were at the bench Ms. Luzaich advised
6 that, hey, that stipulation was limited. And I took her word
7 for it. I don't have a reason to think that I'm being
8 shorted. But I need to understand the limitation so that I
9 don't accidentally try to use a document she's not agreeing
10 to.

11 THE COURT: All right. Ms. Luzaich, go ahead and
12 state it for the record so that Mr. MacArthur can hear it.

13 MS. LUZAICH: Ms. Allen and I had talked about it,
14 and I understand they're trying to limit the expenditure of
15 getting witnesses and stuff, so I don't have a problem at all.
16 My concern was that very often the notes in CPS records are
17 somebody's interpretation of what they were told. So I just
18 asked her, will you let me know what you want to get in. And
19 as long as -- I mean, very often I won't object, but sometimes
20 I will. And that came up specifically in the last trial I did
21 where the defense tried to get in -- you know, have Sue
22 testify about what Joe wrote that Joe thought somebody else
23 had said. And I had had a conversation with that individual,
24 and it was not my understanding that that's what the meaning
25 was.

1 So Ms. Allen gave me a long list of excerpts -- or
2 -- excerpts, is that the right word -- that she wanted to talk
3 about. And I did not have -- there was one that I objected
4 to. I explained why. It was the defendant's statement.

5 THE COURT: Okay.

6 MS. LUZAICH: And when she realized that she agreed.
7 So the things that she had indicated to me I didn't have an
8 objection to. So it is not an unlimited you can bring in
9 everything. And my objection to the Louisiana stuff is nobody
10 -- nobody here spoke to anybody there, it's just a piece of
11 paper. We don't know where the information came from. At
12 least with our local records I generally know where the
13 information came from. So that's a really long answer to your
14 short question.

15 MS. ALLEN: And obviously I don't really think that
16 that part is any concern right now, because she admits that --

17 MR. MacARTHUR: Right. She essentially admitted it.
18 So that one's moot.

19 THE COURT: Exactly.

20 MR. MacARTHUR: But I didn't want to -- I didn't
21 want to try to use another CPS document in the future and run
22 into that objection.

23 MS. ALLEN: I'll give you the list that I have, and
24 I don't think it's --

25 THE COURT: All right. And then if there's anything

1 outside of that list, then we can --
2 MR. MacARTHUR: Talk about it then.
3 THE COURT: -- talk about it and resolve it.
4 How do you think we're moving?
5 MR. MacARTHUR: Slowly.
6 MS. ALLEN: Oh, I don't know.
7 MS. LUZAICH: Well, right now we are. But Tina --
8 the two longest witnesses are going to be Tina and Victoria.
9 THE COURT: Okay.
10 MS. LUZAICH: Would you agree with that?
11 MR. MacARTHUR: Yes.
12 MS. ALLEN: Yeah.
13 MS. LUZAICH: Everybody else is going to be shorter.
14 MS. ALLEN: No. Taharah's not.
15 MR. MacARTHUR: Oh. Taharah, yeah.
16 MS. LUZAICH: Well, she's not going to be this long.
17 THE COURT: Okay.
18 MS. LUZAICH: We got through with her in one --
19 MS. ALLEN: Yeah. But it's a prelim, and that's --
20 I mean, just --
21 THE COURT: Well, if you guys can let me know, I
22 mean, I can shorten breaks, I can shorten lunch break.
23 MS. ALLEN: I honestly don't know.
24 THE COURT: If you can just give me an idea, because
25 we're already going into next Monday.

1 MS. ALLEN: The only thing that Taharah --
2 MS. LUZAICH: It's possible. I mean, I hope not,
3 but --
4 MS. ALLEN: My only warning on Taharah honestly is
5 that that's a prelim and you're just looking for probable
6 cause, so you're not looking for extensive -- and it's going
7 to be I think a little more extensive. And now that I have
8 the CPS records, I do have more to cross her on. So that's
9 the only thing.
10 MS. LUZAICH: Oh. Good point.
11 MS. ALLEN: And she's -- if you thought this was
12 bad, just wait. She can't answer yes to anything.
13 Everything's uh-huh, huh-uh. I need to correct her.
14 MS. LUZAICH: And she can't really read.
15 MS. ALLEN: She can't read.
16 MR. MacARTHUR: She's illiterate.
17 MS. ALLEN: So you can't refresh her with documents.
18 MR. MacARTHUR: And so refreshing recollection is
19 difficult.
20 MS. ALLEN: It's like a -- yeah.
21 THE COURT: Okay. Well, then you were giving her
22 documents and --
23 MR. MacARTHUR: No, not Tina. Taharah.
24 THE COURT: Oh. Okay.
25 MS. ALLEN: No. Taharah.

1 MR. MacARTHUR: Another witness down the road.

2 THE COURT: All right.

3 MS. ALLEN: Yeah, that's rough. She's rough.

4 THE COURT: Okay. So do you have a remedy in mind
5 for that?

6 MR. MacARTHUR: I suppose we --

7 THE COURT: No?

8 MR. MacARTHUR: -- should approach the State about,
9 hey, if we have a document and it's foundation and you gave it
10 to us and, you know, there's nothing wrong with it, maybe we
11 can just go straight to, in fact didn't you say.

12 THE COURT: Or we have to excuse the jury, have
13 myself or somebody else read it to the witness, and then bring
14 the jury back in, you know. Because generally when you ask
15 somebody, you know, would this refresh your recollection, they
16 look at it, they read it. But if I have a witness that can't
17 read, somebody has to read it to the witness. And you can't
18 do that in front of the jury panel.

19 So just keep that in mind.

20 MS. ALLEN: Yes.

21 THE COURT: And I'll do that. I don't have a
22 problem doing that, but I don't want to excuse the jury, bring
23 them back in, excuse the jury. So you're going to have to
24 very -- you're going to have to organize your examination very
25 well so that those questions could be all at once and we can

1 do it all at once.

2 MS. ALLEN: That's my witness, and honestly the
3 other part of that is --

4 THE COURT: Yeah, Ms. Allen. I've been watching
5 you. Whoa. You can get comfortable in like 30 seconds.

6 MS. ALLEN: Yeah.

7 (Off-record colloquy)

8 MS. ALLEN: Anyways, I was just saying something to
9 Lisa about Taharah. And they're CPS records, and so a lot of
10 that I can get through CPS, too. And the detective. Because
11 they made these statements to them.

12 THE COURT: Okay.

13 MS. ALLEN: So if she can't remember or if she's
14 like, I don't know, I don't know, that's -- I mean, then you
15 can talk about prior inconsistencies.

16 MS. LUZAICH: I agree that "I don't know" and "I
17 don't remember" are inconsistent. So if she says, I don't
18 know, I don't remember, it can come in through the detective
19 or whoever took the statement. I'm not going to give a hard
20 time about that.

21 THE COURT: Okay. I just want to make sure everyone
22 knows I have that one juror that absolutely can't go past
23 5:30.

24 MS. LUZAICH: Yes.

25 THE COURT: But I'd be willing to start at 8:00

1 o'clock.

2 MS. LUZAICH: I can't get her at 8:00.

3 THE COURT: Okay. I'm just -- I'm just saying what
4 I'm willing to do.

5 MS. LUZAICH: To move things along.

6 THE COURT: To move things along.

7 MS. ALLEN: No. I can -- I mean, it just depends --
8 if the Court gives me enough latitude as far as -- and I hope
9 you don't mind that I do get comfortable. Sorry.

10 THE COURT: No. I just thought it was funny. I
11 thought, wow, I'm impressed.

12 MS. ALLEN: If the Court gives me --

13 THE COURT: I don't mind at all.

14 MS. ALLEN: If the Court gives me enough leeway,
15 then I can either make arrangements -- I know you can't go
16 past 5:30. I can make arrangements for the kids and I can be
17 here earlier. I just need to rearrange morning calendar.
18 That's the only thing. Because I don't have anybody to cover
19 for me. Like I'm a sole practitioner, so --

20 THE COURT: Okay. But it looks like the State can't
21 go at 8:00 o'clock.

22 MS. LUZAICH: I can definitely not go at 8:00.

23 THE COURT: Okay.

24 MS. LUZAICH: I'm just not that --

25 THE COURT: I can shorten breaks, I can go 10

1 minutes, I can shorten lunches, I could even let the jury stay
2 here for lunch. It just depends on how -- I mean, do you all
3 have to be someplace else after next week?

4 MS. ALLEN: No. I'm good. I can go to the next
5 week, but I don't know about everybody else.

6 THE COURT: I mean, I can go into the third week,
7 but --

8 MS. ALLEN: Yeah, I'm good. My next trial's not
9 till the end of April.

10 THE COURT: Okay. Well, we'll see how it goes.

11 MS. ALLEN: Thank you.

12 THE COURT: All right. Thank you. Have a good
13 weekend, everybody.

14 (Court recessed at 5:03 p.m., until the following
15 Monday, May 31, 2014, at 10:42 a.m.)

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STATE'S WITNESSES

| | | | | |
|-----------|----|-----|--|--|
| Tina Duke | 73 | 140 | | |
|-----------|----|-----|--|--|

* * *

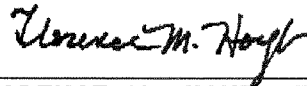
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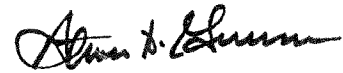
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DATE



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA

Plaintiff

vs.

FREDERICK HARRIS, JR.

Defendant

.....

CASE NO. C-291374

DEPT. NO. XII

**Transcript of
Proceedings**

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

JURY TRIAL - DAY 4

MONDAY, MARCH 31, 2014

APPEARANCES:

FOR THE STATE:

ELISSA LUZAICH
KRISTINA A. RHOADES
Deputy District Attorneys

FOR THE DEFENDANT:

BETSY ALLEN, ESQ.
JONATHAN MacARTHUR, ESQ.

COURT RECORDER:

KRISTINE CORNELIUS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, MONDAY, MARCH 31, 2014, 10:38 A.M.

2 (Court was called to order)

3 (Jury is present)

4 THE COURT: Good morning. Do the parties stipulate
5 to the presence of the jury panel?

6 MS. ALLEN: Yes.

7 MS. LUZAICH: Yes, Your Honor.

8 THE COURT: Okay. You can recall your witness.

9 MS. LUZAICH: State would call Tina Duke.

10 TINA DUKE, STATE'S WITNESS, SWORN

11 THE CLERK: Thank you. Please be seated. Would you
12 please state your full name, spelling your first and last name
13 for the record.

14 THE WITNESS: Tina Rene Duke. T-I-N-A R-E-N-E,
15 Duke, D-U-K-E.

16 THE CLERK: Thank you.

17 CROSS-EXAMINATION (Continued)

18 BY MR. MacARTHUR:

19 Q Good morning, Ms. Duke.

20 A 'Morning.

21 Q How are you this morning?

22 A So-so.

23 Q Okay. We hadn't gotten very far into cross-
24 examination before we left on Friday [sic], and so I've got
25 quite a few questions for you. Are you all right to proceed?

1 A Excuse me?

2 Q Are you all right to proceed?

3 A I'm all right.

4 Q I mean, you seem uncomfortable. I mean, is there

5 anything I can do to make you more comfortable before I start?

6 THE COURT: You can just go ahead and start.

7 THE WITNESS: I'm just not felling too well this

8 morning.

9 THE COURT: Okay. And you'll let me know if you

10 need a break or if there's anything you need; correct?

11 THE WITNESS: Yes, ma'am.

12 THE COURT: Okay. But you're feeling well enough to

13 proceed; correct?

14 THE WITNESS: Yes.

15 THE COURT: Okay. Do you need any water or anything

16 like that?

17 THE WITNESS: I'm okay.

18 THE COURT: Okay. Thank you. And thank you very

19 much for being here.

20 MR. MacARTHUR: Thank you, Your Honor. If it please

21 the Court.

22 BY MR. MacARTHUR:

23 Q Ms. Duke, I'm going to go through my questions

24 chronologically, so I'm going to start back in 2004-2005.

25 Now, we had talked a little bit about the

1 circumstances under which you had left to come to Las Vegas in
2 December of 2004 on a bus. Do you remember that conversation?

3 A Yes.

4 Q Okay. And you had said that you believed that you
5 had left your children in the care of -- I think you had said
6 a church. Is that correct?

7 A I -- in the care of a friend of mine, a lady friend
8 I had met at one of the centers.

9 Q Okay. Would that have been the Riverside Baptist
10 Church, or a different center?

11 A That was a different friend. It's been so long I
12 can't even remember her name.

13 Q Okay. If I say the Riverside Baptist Church, is
14 that located in Louisiana?

15 A Yes. Riverside Baptist. We were members.

16 Q Okay. And were they helping you in some respect
17 before you came to Las Vegas?

18 A Yes.

19 Q How so?

20 A Like I was staying at one -- me and my family were
21 staying at one of their places, one of the members' homes.
22 She had two different homes that she owned.

23 Q Okay. And when was that? What time period are we
24 talking about?

25 A It was May -- wait a minute. It was in May, in

1 June.

2 Q 2004?

3 A Yes, 2004, before I started working at Faces.

4 Q Okay. And once you had come to Las Vegas, you

5 relocated here and Fred's brother brought your children out,

6 this is now January of 2005; is that correct?

7 A Yes.

8 Q Okay. And you said that you were pregnant with your

9 sixth child, Joseph?

10 A Yes.

11 Q Okay. And you -- I believe you testified in your

12 direct examination that Joseph was placed up for adoption in

13 Utah; is that correct?

14 A Yes.

15 Q Okay. And didn't you in fact have contact with like

16 an agency or an -- an agency or entity in Utah that helped you

17 arrange for the adoption?

18 A Yes.

19 Q Okay. And was that a church-affiliated agency, was

20 that a government agency?

21 A It was a private agency.

22 Q Okay. And was the private agency church affiliated?

23 A I believe they were Christians.

24 Q Okay. Might they have been Mormon?

25 A Excuse me?

1 Q Might they have been Mormon?

2 A Perhaps maybe Mormon. You know.

3 Q Okay. And this agency helped you relocate to Utah;
4 is that correct?

5 A Yes, they did.

6 Q And they helped you find housing?

7 A Yes. Because that's their procedure. That's what
8 they do.

9 Q Understood. These are services they provide; right?

10 A Right.

11 Q Okay. And they also helped you find employment; is
12 that correct?

13 A Yes. They gave me some information and -- yes.

14 Q Did they also help you obtain medical care or
15 prenatal care?

16 A Yes.

17 Q Okay. And once Joseph was born they helped place
18 him with a family that adopted him; is that correct?

19 A Yes. He was born at a private hospital, VIP.

20 Q Okay. Now, when you returned from Utah, this is now
21 about 2007, August; is that correct?

22 A Yes, correct.

23 Q Okay. This is after the CPS case is closed in Utah.
24 That closed in summer of 2006; right?

25 A Can you repeat the question.

1 Q Sure. While you were in Utah you'd had some issue
2 with CPS --

3 A Yes. Yes.

4 Q -- involving the children; right? And they had your
5 children for about six months; right?

6 A Yes.

7 Q And they reunified you --

8 A Correct.

9 Q -- after you completed parenting classes, et cetera.
10 Now, that would have been about summer of 2006, correct, maybe
11 August of 2006 when they gave you the kids back?

12 A 2006. It was June, when they got out of school.

13 Q Okay.

14 A Of 2007, yes, when they got out of school in June.

15 Q Okay. And then you came to Vegas in August of 2007;
16 yes?

17 A Yes.

18 Q Okay. Now, upon arriving in Las Vegas did you and
19 your family immediately go and live with Fred and Lealer on
20 Blankenship?

21 A Yes.

22 Q Okay. And when I say your family, did everybody in
23 your family go to Blankenship, or just some of them?

24 A Yes. My family and I stayed with Miss Ann.

25 Q Okay. Do you recall if four of your children,

1 Mahlica, Shabazz, Taharah, and Taquanda, went to live with
2 Fred and Miss Ann, but that you and Victoria went to live with
3 -- well, first in a hotel and then spent some time with Fred's
4 mother, Miss Dorothy?

5 A Oh. Yes, that's right. I'm thinking about
6 something else. I'm sorry. When you mentioned stayed with
7 Miss Lealer Cooks, that was in '05.

8 Q Okay. Right.

9 Q You mentioned Lealer Cooks on Trish Lane. Yes.
10 Okay. Now, this was in '07 --

11 Q Right.

12 A -- August you're talking about.

13 Q Right. '07 --

14 A Okay.

15 Q -- after you've come to Las Vegas from Utah.

16 A Yes.

17 Q Okay. And so who went to stay with Fred and Lealer
18 and who did not?

19 A It was Taharah, Taquanda, and Shabazz and Mahlica.

20 Q Okay. And when did you and Victoria go?

21 A Me and Victoria went to stay with Miss Dorothy.

22 Q And Miss Dorothy is the defendant's mother?

23 A Yes.

24 Q Okay. And how long did you live with them before
25 you were able to obtain your own apartment on Walnut?

1 A We stayed with Miss Dorothy for about four weeks, as
2 I can remember. Four weeks.

3 Q About a month?

4 A About a month.

5 Q Okay. And then you moved into the apartments on
6 Walnut?

7 A Then we went to an efficiency, and then we went to
8 the apartments on Walnut.

9 Q Okay. Now, moving forward, I'm going to skip ahead
10 a few years. There was a point at which you and Victoria were
11 living together and you made contact with a woman by the name
12 of Rose. Do you know who I'm talking about?

13 A I didn't contact Rose, okay. That was Victoria's
14 friend.

15 Q Okay.

16 A Victoria brought her to the place on -- the St.
17 Andrews Apartments.

18 Q Understood.

19 A Commerce and Craig.

20 Q And is it -- am I also correct in that Rose is a
21 woman of faith, she has strong affiliations with her church?

22 A Yeah. But I heard different about her.

23 Q Okay. And I'm not going to ask you to testify to
24 anything people told you. I'm only going to ask you about
25 things that you know from personal experience or having

1 witnessed.

2 A She appeared -- she seemed, she appeared to be.

3 Q Okay. And did she at any point provide assistance
4 for you and your daughter through her church affiliations?

5 A She brought this couch over, some utensils, cooking
6 utensils to St. Andrews because we just had moved in there.

7 Q Uh-huh. Okay. Now, in listening to your testimony
8 on Friday [sic] I believe you had testified a little bit about
9 Fred you said had pimped you out, that he had forced you to
10 work as a prostitute.

11 A Yes.

12 Q Do you remember testifying to that?

13 A Yes.

14 Q Okay. And, if you would, tell me when is it that
15 you say that this -- that he did that. When did he start
16 pimping you out?

17 A Actually was in '05, end of '05.

18 Q And I believe --

19 A '06.

20 Q -- that's what you said on Friday [sic], as well; is
21 that correct?

22 A Yes.

23 Q Now, before I go any further would you agree that
24 there's been many occasions where you've had communications or
25 you've given statements to CPS or the police authorities --

1 withdraw the question. I need to tighten that up a bit,
2 Judge.

3 Are there several instances where you've given
4 statements that you've been able to review in this case?

5 A Yes.

6 Q Okay. And do you recall having given statements to
7 CPS back in 2008?

8 A 2008?

9 Q Yes. Do you remember if there was an
10 unsubstantiated claim of sexual abuse investigated by CPS back
11 in 2008?

12 MS. LUZAICH: Objection. Assumes facts not in
13 evidence.

14 THE COURT: Sustained. You just need to rephrase
15 it.

16 MR. MacARTHUR: Understood, Judge.

17 BY MR. MacARTHUR:

18 Q Okay. Well, let me work backwards. You're
19 testifying here today; right?

20 A Yes, I am.

21 Q And you're under oath; right?

22 A Yes.

23 Q Okay. Do you remember having come to this
24 courthouse and testifying in a preliminary hearing last year,
25 in 2012?

1 A Yes.

2 Q Okay. And you were under oath there, also; right?

3 A Yes.

4 MS. LUZAICH: Well, objection. Form of the
5 question. Last year was not 2012.

6 BY MR. MacARTHUR:

7 Q Sorry. 2013. And I apologize. And I don't mean to
8 confuse you.

9 Before testifying there there was an investigation
10 by the Henderson Police Department about what we're discussing
11 here; right? You remember giving them a statement, as well,
12 speaking with a detective?

13 A Yes.

14 Q Okay. And were you aware that that statement was
15 recorded?

16 A Yes.

17 Q Okay. And that would have been about September or
18 October of 2012; correct?

19 MS. LUZAICH: Objection. Assumes facts not in
20 evidence. Henderson Police?

21 BY MR. MacARTHUR:

22 Q Do you recall --

23 THE COURT: I'm sorry?

24 MR. MacARTHUR: I'm sorry?'

25 MS. LUZAICH: I don't know if he's intentionally

1 trying to confuse her, but --

2 THE COURT: I don't think he's intentionally trying
3 to confuse her.

4 Can you just rephrase the question, please.

5 MR. MacARTHUR: Certainly, Judge. I apologize if
6 there's any confusion.

7 THE COURT: That's okay.

8 BY MR. MacARTHUR:

9 Q Do you recall --

10 MS. ALLEN: Court's indulgence.

11 (Pause in the proceedings)

12 BY MR. MacARTHUR:

13 Q Do you recall when you gave your most recent
14 statement to the Henderson Police Department?

15 A I remember 2012.

16 Q Okay. And would that have been about September,
17 October 2012?

18 A That was early 2012. January.

19 Q Was there also --

20 THE COURT: January 2012? Because he asked you --
21 Did you ask her September-October --

22 MR. MacARTHUR: I did.

23 THE COURT: -- 2012?

24 MS. LUZAICH: Can we approach?

25 THE COURT: Sure.

1 (Bench conference)

2 THE COURT: I'm not sure whether there's --

3 MS. LUZAICH: She did talk to Henderson in January

4 of 2012, but he's asking it like it was Metro. Metro was

5 September of 2012. She's answering correctly, and he's making

6 it sound like she's --

7 MR. MacARTHUR: I thought it was Henderson both

8 times.

9 MS. LUZAICH: No.

10 MR. MacARTHUR: Okay. Then I'm -- it's my mistake.

11 THE COURT: I have [inaudible] --

12 MS. ALLEN: -- no purpose in that. He's just asking

13 her, ma'am, when did you give the statement to Henderson. She

14 said 2012. That's her recollection. He's not --

15 MS. LUZAICH: But it's accurate. He's making it

16 sound like it's not.

17 MR. MacARTHUR: Just tell me which one's Metro and

18 I'll fix it.

19 MS. LUZAICH: Metro was September of 2012.

20 MR. MacARTHUR: Okay.

21 MS. LUZAICH: Henderson was January.

22 MR. MacARTHUR: I'll just change it. I thought they

23 were both Henderson.

24 MS. LUZAICH: No.

25 THE COURT: Okay. Well, quite frankly, she

1 corrected everybody accurately; right?

2 MS. LUZAICH: I know. But just when he's asking it
3 and the way he makes it sounds like it's wrong when it's not
4 wrong. And that's --

5 MS. ALLEN: Okay.

6 (End of bench conference)

7 THE COURT: Okay, Mr. MacArthur, you may continue.

8 MR. MacARTHUR: Thank you, Your Honor.

9 BY MR. MacARTHUR:

10 Q And I think I understand where the confusing part is
11 now, and I apologize if this is my fault.

12 Did you have occasion where you gave one statement
13 to the Las Vegas Metropolitan Police Department and another
14 occasion where you gave a statement to the Henderson Police
15 Department? Does that help?

16 A Yes.

17 Q Okay. And do you recall whether you spoke with the
18 Las Vegas Metropolitan Police Department in September of 2012,
19 or was that Henderson?

20 A That was -- that was in September that was with
21 Metro.

22 Q Okay.

23 A Okay.

24 Q So September 2012 with Metro. Do you recall giving
25 a statement, as well, to Henderson Police Department in

1 December 2011, January 2012?

2 A Yes.

3 Q Okay. And in each of these instances are you aware
4 that your statements were recorded?

5 A Yes.

6 Q Okay. And did you have -- did you get an
7 opportunity from the prosecutors to be able to review those?

8 A I briefly reviewed those, yes.

9 Q Okay. So one more thing before we go on. With
10 regard to the statements you made to Henderson and Metro the
11 older one in time, which I believe you is December of 2011,
12 January 2012, I believe you testified that not everything that
13 you said in that statement was true. Is that fair? The first
14 statement.

15 A The first statement?

16 Q Yes.

17 A Everything I said is to the best of my ability.

18 Q Is that always the case? Have you always given the
19 most truthful statement possible?

20 A Yes.

21 Q Okay. Yesterday Ms. Luzaich asked you if in the
22 most recent statement to the police, talking about September
23 of 2012, if you were a bit more honest in that statement. And
24 I believe you said yes. Do you remember her asking you that?

25 A Yes.