Appellate Case No. 25A-CR-00591

STATE OF INDIANA	)	IN THE ALLEN SUPERIOR COURT
	)SS:	
COUNTY OF ALLEN	)	CAUSE NO.: 08C01-2210-MR-1

STATE OF INDIANA,
Plaintiff,

VS.

RICHARD M. ALLEN,
Defendant.

THE HONORABLE FRANCES C. GULL, PRESIDING

The Transcript

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identification has been discredited and no longer in place in the Indiana State Police?

A I am aware that there's been concerns about these types of hair comparisons in the forensic science community.

Q Aside from the fact that you were doing male-specific – searching for male-specific information in the sexual assault collection kit, the other examinations, were you focusing only on limiting your search to male DNA?

A No. Outside of the evidence collection kits and the other body swabs that were taken from L.G., I was just looking for enough DNA to amplify and develop a DNA profile. The intimate samples from L.G. and the samples from the evidence collection kits I screened under laboratory protocols, looking for the presence of male DNA and determining a stopping point, essentially, on those samples based off of how much male DNA was present.

Q All the other items that you examined, you couldn't tell the swab or the hair or the cutting, whether it was male or female, before you tested it; correct?

A Right. That type of determination is made during the quantification step, whether there's indication of male DNA and human DNA. The amount of I guess female DNA can kind of be inferred from a comparison of male and human DNA.

MR. LUTTRULL: Just one moment, Your Honor. I think I'm about finished.

Q Was there any resource within the Indiana State Police DNA Laboratory that you believed would be helpful that you did not employ here on this – in your analysis and investigation?

A In my review of the evidence for this case, I feel like I have exhausted a lot of the resources that we have, if not all of the resources that we have in our

laboratory. There wasn't – there's nothing that comes to mind when I think about other disciplines that could have been or should have been considered in the evidence that I've looked at.

MR. LUTTRULL: Thank you. I have no further questions.

THE COURT: Ms. Auger.

RE-CROSS EXAMINATION OF STACY BOZINOVSKI

QUESTIONS BY MS. AUGER.

Q There are other labs with greater capabilities than yours; correct?

A I would hate to say greater. Each laboratory has different procedures and different processes in place for DNA analysis.

Q There are labs that can do things that your lab can't?

A Yes, ma'am.

Q Okay. And you sent off cigarette butts for forensic genealogy; correct?

A Yes, I did facilitate sending off those samples.

Q Because you didn't have the ability to do that at the Indiana State Police Lab; right?

A That's correct.

Q And would you agree with the idea that hairs without roots can provide mitochondrial DNA, which can be useful for genealogy purposes?

A Yes, hairs without roots could be used for – or could have mitochondrial DNA performed on them. I'm not sure if the mitochondrial results can be used in genetic genealogy other than maybe assigning like a maternal haplo-type group, but again, I'm not a mitochondrial DNA analyst at this time.

Q Are you aware that it can provide information on maternal lineage?

A Yes, ma'am. That's the maternal haplo type that I was referencing.

Q And it can also be used to predict externally visible characteristics, such as eye, hair, and skin color.

A That type of externally visible characteristics is not coming from mitochondrial DNA, so those types of conclusions are based off of SNP analysis or SNP markers.

Q Okay. And you can get the SNP markers from the hair shaft?

A If – yes, through that –

Q Okay. Thank you.

A -- analysis.

Q Now, you sent hair, 72 or the 36 they received, hairs off to the FBI lab for microscopic comparison –

MR. LUTTRULL: We're outside the scope of re-direct, Your Honor. We've been over this. I would object.

MS. AUGER: No. He asked her about microscopic hair comparisons is well discounted.

MR. LUTTRULL: I did.

MS. AUGER: Yeah.

THE COURT: And now you're talking specifics; is that what you're doing again?

MS. AUGER: Well, if – I mean –

THE COURT: Answer my question so I can rule on the objection.

MS. AUGER: Yes.

THE COURT: Overruled.

MS. AUGER: Thank you. Sorry, didn't mean to hinder the process, so I apologize.

Q You sent microscopic – you sent 72 or 36 hairs off the FBI for a microscopic hair comparison; correct?

A Yes.

Q They didn't ask for it, you sent it and asked them to do it; right?

A Who didn't ask for it?

Q The FBI didn't ask to receive the hairs, you sent them to them and asked them to test the hairs.

A Oh, yes, sorry, I wanted to clarify.

Q Sure.

A I sent that hair on behalf of my investigators, who did ask for it, so that's why I wanted to clarify. The FBI did not request those hairs, yes.

Q Okay. And that was in – and they responded in 2020; right?

A The report is dated from 2020.

MS. AUGER: Thank you. Nothing further.

THE COURT: Does anybody on the jury have any questions for Ms. Bozinovski? Would counsel approach.

(Sidebar conference conducted.)

THE COURT: "What type of quality control is necessary when testing for DNA reagents?"

MS. AUGER: For DNA what?

THE COURT: Reagents.

MS. AUGER: Oh.

MR. LUTTRULL: I don't know if we had reagents, but she can answer it.

THE COURT: (Inaudible)

MS. AUGER: Yeah.

MR. LUTTRULL: Sure.

THE COURT: "Do you need to do repetitive testing to validate your results?"

MS. AUGER: That's fine.

MR. LUTTRULL: What type of testing?

MS. AUGER: Repetitive.

THE COURT: Repetitive.

MR. LUTTRULL: Oh

THE COURT: "She testified that has presumptive and confirmatory" – so not sure if that's a question. "Do multiple people perform various phases of the analysis?"

MR. LUTTRULL: Yeah, good question.

THE COURT: "How do you handle chimeras?"

MS. AUGER: Handle what?

THE COURT: Chimeras, C-H-I-M-E-R-A-S.

MR. LUTTRULL: I don't even know that that is.

THE COURT: I know it's –

MR. LUTTRULL: I think I've seen that word before.

MS. AUGER: Yeah.

THE COURT: The next question is, "Does a generational chimera weaken over generations or can the contributor be isolated?" Are we in a rabbit hole? Are we gonna ask this question? I mean, that never came up in either of your cross – your cross, your direct, re-cross, re-direct.

MR. LUTTRULL: I'm assuming she would know, but I'll object to it.

MS. AUGER: I mean, I think if she can answer it, she can. I don't know –

MR. LUTTRULL: I don't even know what the question's asking.

THE COURT: I don't either.

MR. LUTTRULL: No. I just don't want to ask it.

MS. AUGER: Yeah.

THE COURT: So just ask "How do you handle chimeras?"

MS. AUGER: Yeah.

THE COURT: And then ask her –

MR. LUTTRULL: I'm fine with that.

THE COURT: "Are your storage refrigerators for standards locked at all times, even if inside the locked laboratory?"

MS. AUGER: Yeah.

MR. LUTTRULL: That's fine.

THE COURT: "What personnel – what restricted access policies are in place?" And it says, "What personnel restricted acc" – this says restricted access regarding personnel –

MR. LUTTRULL: What personnel have access.

THE COURT: "Can toxic drugs or inhalants alter the DNA strands?" Wow.

MS. AUGER: Can you read it one more time, I'm sorry.

THE COURT: "Can toxic drugs or inhalants alter the DNA strands?" I think what they're getting at is if you put, like, chloroform over someone's face, can that alter the DNA. I mean –

MS. AUGER: That's fine.

THE COURT: "What is PCR, an analyzer or methodology?" Polymerase chain reaction.

MS. AUGER: Yeah.

THE COURT: Okay. Can we just ask "What is PCR?" 'Cause then she can describe –

MS. AUGER: Yeah.

THE COURT: I know what it is –

MS. AUGER: I think that would be – yeah, it'd would be –

THE COURT: Okay.

(Sidebar conference concluded.)

JUROR QUESTIONS OF STACY BOZINOVSKI

QUESTIONS OF THE JURY, READ BY THE COURT.

Q What types of quality control is necessary in the testing for DNA regents?

A DNA reagents are – go through – you prepare them through a series of steps that are – a protocol that's followed, that's logged. The date and time of reagents being prepared is logged, as well. And we adhere to expiration dates from manufacturers as far as the chemical components of our reagents. So a lot of our reagents we make in-house from chemicals that are bought from manufacturing companies. And then, as far as the use of reagents, we do a quality control on the reagent to make sure that it's working appropriately by testing a positive and a negative control to ensure that it's giving us the expected results when doing our testing.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: I have no questions on that.

THE COURT: Ms. Auger?

MS. AUGER: No questions.

Q Do you need to do repetitive testing to validate your results?

A Within the scope of a forensic case, no, there's not a need to do like a duplicate test or reproduce a test as a confirmation of any sort. I will say that as something that is considered as part of our validation studies, we'll consider, you know, testing multiple samples to ensure that we're getting, you know, consistent results from a sample.

THE COURT: Mr. Luttrull?

FOLLOW-UP EXAMINATION OF STACY BOZINOVSKI

QUESTIONS BY MR. LUTTRULL.

Q And the results of those validation studies are that you get – do you get consistent results or not?

A Yeah, it's really dependent. That's kind of within the scope of a sensitivity test and a validation sample or even like a concordance test, we'll make sure that it's yielding reproducible results in that validation. If we're reaching a sensitivity level that isn't yielding reproducible results within validation, then that's kind of how we help determine our thresholds for when we can make interpretations on a sample. So if a validation study will show you're not getting reproducible and consistent results, then that might fall outside of the scope of what is something that we would incorporate into our procedures.

THE COURT: Ms. Auger?

MS. AUGER: Nothing.

JUROR QUESTIONS OF STACY BOZINOVSKI

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Do multiple people perform various phases of the analysis?

A Not within our laboratory. So we have a case is assigned to an analyst and that analyst works the case all the way through for the majority of cases. Occasionally, you'll have an analyst that may only do the serological examination in a case and so they'll do all that screening and determining what body fluids are present, and then a separate analyst may do to the DNA analysis, but for the most part, most cases in our laboratory are completed by one analyst all the way through.

THE COURT: Mr. Luttrull.

FOLLOW-UP EXAMINATION OF STACY BOZINOVSKI

QUESTIONS BY MR. LUTTRULL.

Q So if I understand – make sure I understand you correctly, are you saying that every exam that you talked about and the items that you examined in this case, that you were the only one who conducted all phases of the exams?

A In all the results that we've talked about here today, I am the only that did those examinations. I didn't have a assistant or a technician or another analyst doing those testings.

MR. LUTTRULL: Thank you.

THE COURT: Ms. Auger?

MS. AUGER: No.

JUROR QUESTIONS OF STACY BOZINOVSKI

QUESTIONS OF THE JURY, READ BY THE COURT.

Q How do you handle chimeras?

A I think that the question is referring to chimeras, and that's a good question. So individuals that are chimeras may have a very unique DNA profile where some of their body fluids might be consistent with one profile, but perhaps

another body fluid could have a different profile. I personally have not seen that in my analysis. So if something like that were to arise, we would – we definitely would have to – if that was something that we expected in a case, then that would be something that would have to be considered. So typically, we have – excuse me. In our past request for labs form, we would have a question for has an individual been transfused, because a transfused individual is someone who might exhibit two different DNA profiles, one from their donor and one from their own DNA. That hasn't come to mind in any case that I can think of, but in that instance, we would need to have a DNA profile from both of those kind of body fluid sources to be able to compare back to an unknown profile.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: Thank you. I have no questions on this.

THE COURT: Ms. Auger?

MS. AUGER: No questions.

Q Are your storage refrigerators for samples locked at all times, even if they are inside a locked laboratory?

A Not necessarily. We have a – personal evidence storage boxes within a freezer. If I have evidence or extractions within that personal storage box, then it is locked, but we do consider our laboratory secure once the laboratory space is secure, so we don't always need to lock those personal evidence storage just for the refrigerator. My personal dry storage is always locked.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: Nothing.

THE COURT: Ms. Auger?

MS. AUGER: No.

Q What restricted-access policies are in place with personnel?

A So the – our laboratory is structured in a way that you have a – to badge to get into the laboratory, so that's monitored. Only certain individuals can get into the laboratory area itself, so only biology analysts can access that area. No one outside can get into the laboratory areas or even individuals from other units can't access our laboratory without being escorted into our unit. As far as the overall laboratory, contributors can come in to just a couple of entry points into the laboratory. If they want to get beyond those guest areas, then they are escorted at all times and don't have access to the overall laboratory, as well.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: I have no questions.

THE COURT: Ms. Auger?

MS. AUGER: No questions.

Q Can toxic drugs or inhalants alter the DNA strands?

A I'm not really sure. I think that the effects of drugs could affect like maybe – maybe like the morphology of cells, I've seen that where I believe like a sperm cell could be affected by that type of drug use, but I can't say whether it would affect – I don't believe – obviously, we all have cellular material in our body, but it shouldn't affect whether there's DNA that can be left behind by someone who might have had a toxic exposure to a drug.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: No questions.

THE COURT: Ms. Auger?

MS. AUGER: No questions.

Q And what is PCR?

A PCR standards for polymerase chain reaction, and that's the method that we use during amplification to make millions of copies of DNA. So I know I mentioned 25 to 50 cells that need to be left behind in a sample. In order to actually visualize that little bit of cellular material, I need to amplify it and PCR is that process in which I can make millions of copies of it.

THE COURT: Mr. Luttrull.

FOLLOW-UP EXAMINATION OF STACY BOZINOVSKI

QUESTIONS BY MR. LUTTRULL.

Q And when you make those copies, are you changing the DNA?

A Essentially, no. If there's a sufficient amount of DNA present, then it's making copies of the DNA that's present. It's when you get into a like a low template quantity, where there's just a very little bit of DNA, then you – your amplification process could cause some effects that I wouldn't – I'd hesitate to say change it, but may give you some effects that aren't necessarily accurate.

MS. LUTTRULL: Thank you.

THE COURT: Ms. Auger?

MS. AUGER: No.

THE COURT: All right. Thank you, Ms. Bozinovski. You may step down.

THE WITNESS: Thank you.

THE COURT: You may call your next witness.

MR. LUTTRULL: Thank you, Your Honor. The State will call Pat Cicero.

(Witness sworn.)

MR. LUTTRULL: Just one moment, Your Honor, if I may select some

items.

THE COURT: Sure.

DIRECT EXAMINATION OF MAJOR PATRICK CICERO

QUESTIONS BY MR. LUTTRULL.

Q Would you state your name for the jury, please.

A Yes. My name is Patrick Cicero, C-I-C-E-R-O.

Q Tell the jury where you're employed, sir.

A I'm employed with the LaPorte County Sheriff's Office, where I currently hold the rank of major.

Q And how long have you worked for the LaPorte County Sheriff's Department?

A I've worked with LaPorte County for over 24 years.

Q And what are your current duties, sir?

A As the major, I'm mostly in charge of our Civil Division, I handle the civil employees and our captains, a lot of budgetary issues. I'm the third in charge of our agency.

Q And what positions have you held at the LaPorte County –

A When I first started, I was a patrol officer. I was promoted very quickly, approximately a year later, to the rank of detective, where I remained for the majority of my career. I was in our detective bureau for over 20 years with the last approximately nine years being the chief of detectives. Prior to my tenure with the LaPorte County Sheriff's Office, I was also an officer with the Indiana University Police Department in Bloomington. I was also an officer with the Amtrak Railroads, assigned to the Chicago division.

Q And what training have you received as a – as an officer, both in your

investigative jobs that you've held and any other jobs?

A Sure. As an officer, we all go through standardized training to be law enforcement officers in the state of Indiana. Most of my training is around the forensic disciplines and I was a crime scene investigator starting approximately 2002, and remained as such to this day as a crime scene investigator. Forensics is – forensics are my specialty and many facets of forensics and crime scene investigations more for the field type of investigations, training in blood-stain pattern analysis, crime scene reconstruction, just a litany of different types of trainings I've taken over 20 years.

Q And that include not just as a crime scene investigator, but when you mentioned blood-stain pattern analysis and crime scene reconstruction, does that also include entomology?

A Yes. I – as a crime scene investigator in the state of Indiana, we received entomology training, but I have received specialized entomology training over the years to where it's mostly focused on the investigative approach and the collection procedures for crime scene investigators.

Q And do you have any certifications in any of the subspecialties of detective or investigation work?

A So I'm a certified crime scene investigator for the state of Indiana. I'm also on the certification board for the State, and so I certify crime scene investigators throughout the state as they go through their futures as crime scene investigators to ensure that we're maintaining standards.

Q And by being certified, does that require you to attend a seminar or several seminars or do you have to prove or demonstrate some level of expertise in order to be certified?

A Yes. So with our certification program in the state of Indiana, it requires a certain amount of training, years of service as a crime scene investigator. There are proficiency tests, a written test, as well, and you must show your work. The certification program is – lasts three years and then you can get a recertification.

Q What training have you received in blood-stain pattern analysis?

A Over my career, I have attended numerous training venues, at least three 40-hour courses in just the basic blood-stain pattern analysis, advanced courses in blood-stain pattern analysis, just – one of the venues was just dealing with fabrics. And then, I've attended several conferences over the years where there'd be break-off sessions talking about blood-stain analysis or certain areas of blood-stain pattern analysis. During reconstruction type – crime scene reconstruction training, blood-stain pattern analysis is very synonymous in working together with the reconstructive model.

Q And what professional organizations are you a part of?

A I'm with the International Association of Identification and I'm also with the International Association of Blood-Stain Pattern Analysts.

Q Why are you a part of those organizations?

A The organizations, they provide guidance, updates with training, as well as standards, and being a part of a professional organization keeps you fresh with the current trends.

Q How many blood-stain pattern analysis cases have you been involved in where you've worked and approached it from a – incorporating your blood-stain pattern analysis expertise?

A Over the years, I've probably investigated several hundred investigations where blood was present at the scene and needed to be at least documented or

analyzed. This analysis or these analyses are not just for death-related investigations, we use them for assaults, battery, we use them for even car-crash investigations where we can, you know, place the driver where he or she may have been.

Q And is all that in LaPorte County where you've done that work?

A No. I have done work for Lake County, Porter County, St. Joe County, Jasper County, Starke County, Lawrence County near Bloomington, of course Carroll County, and I was asked to work on a case in Las Cruces, New Mexico, years ago.

Q Have you testified as a blood-stain pattern analysis witness expert?

A Yes. This is my 34th time testifying in a court of law.

Q And have you given lectures on the areas of these subspecialties of crime scene investigation that you've mentioned?

A Yes. For blood-stain pattern analysis, I have been instructing at the Indiana law enforcement academy, teaching the crime scene investigator course, for the past I believe nine or ten years. I have taught at St. Joseph's College in Rensselaer, which is now closed, both the basic and advanced courses there. Again, talking about blood-stain pattern analysis, I'm on a rotation now with the National Forensic Academy at the University of Tennessee. I've taught many lectures concerning crime scene investigations to not only our officers, but other agencies. For the last 18 years, I have been employed with the University of Tennessee as their instructor for Forensic Entomology for the Crime Scene Investigator, and I still maintain that – my tenure there. So I – it's something I've done for many years of different disciplines with the crime scene investigation umbrella, if you will.

Q I'm gonna hand you what we've marked as State's Exhibit 285, Major Cicero; can you identify that for me.

A Yes. This is my CV or curriculum vitae.

Q And does it, in further detail, describe your experience and your education and training in crime scene investigation and the subspecialties that you've mentioned?

A Yes, sir.

MR. LUTTRULL: I would move the admission of State's Exhibit 285, Your Honor.

STATE'S EXHIBIT 285 OFFERED

MS. AUGER: No objection.

THE COURT: All right. Without objection, 285 is admitted.

STATE'S EXHIBIT 285 ADMITTED

MR. LUTTRULL: May I pass the exhibit?

THE COURT: You may.

STATE'S EXHIBIT 285 PUBLISHED

THE COURT: You may proceed.

Q I'm not sure if I asked you, I may have: How long have you been involved in blood-stain pattern analysis?

A It's over 20 years now.

Q Would you, please, describe that field; is it correct, I've called it a subspecialty of crime scene investigations? Is that accurate?

A It's just a part of crime scene investigations.

Q Would you, please, describe that for the jury, please.

A Sure. Blood-stain pattern analysis is a field of study that relies upon a

fact that blood is a fluid and, as such, it adheres to our physical laws; therefore, blood under similar conditions reacts in a repeatable, predictable, and measurable manner. As analysts, we examine the size of the blood stains within the pattern, the shape of the blood stains within the pattern, the volume of blood within the pattern, its distribution within the pattern, and the location of the patterns within the crime scene. Ultimately, our goal is to provide the best explanation for the events that created the blood stains.

Q And how do you know that a particular blood-stain pattern is consistent with certain actions if you weren't there when it happened?

A As I stated, blood is a fluid, it reacts in a predictable, measurable, repeatable fashion. We know through studies, experimentation, visiting the scene, knowing what had happened, that the blood will react in a very similar manner depending upon the volume and the force applied to blood. It is repeatable, testable, measurable. The theory of blood-stain pattern analysis is the fact that it is a fluid, it will react in that manner.

Q What are some characteristics – would you summarize for the jury the characteristics of blood stain that can be examined as you make determinations.

A Well, the characteristics are the size of the blood stain, that, you know, depending upon on the size, can tell us as to the type of force or energy that may have been applied to blood. If we compared it to water, for example, and I put water into my – the palm of my hand and I smacked my hand, we know what would happen as people who've lived on this planet for a while, that it'll go in many different directions, it'll actually turn into water drops, as opposed to a body of water. We look at the shape of the stains, whether they're round or elliptical, because we have a principle of the stain shape in vector principle,

whereas the stain's shape could tell us as to the direction to which it came from. We look at the amount of stains, the volume of blood. We look at the location of the patterns within the crime scene, whether they're low or they're high. It's gonna give us indication as to perhaps where the victim or the assailant was located. Overall, all these characteristics provides us with a way to provide the best explanation as to what occurred. As a result of that, we have what's referred to as taxonomy or the characteristics for blood stains; okay? And it provides us with how do we explain what they are, we give them names as to whether the blood stains are impact patterns or if they're just transfer stains or if it's just a pooling or saturation, so we have a lot of terminology that we have developed over the years to describe what we're seeing at these scenes.

Q And you have studied the various physical properties of blood; is that correct?

A Yes.

Q And the characteristics of blood stains that give you information about how the blood got there?

A Yes. We're talking about the properties of blood of being cohesive, where blood wants to stick together. Blood is also adhesive, so if I have an object or even my hand, blood is ad – has adhesive qualities or wants to stick on my hand. But when forces are applied to blood, that's when it's propelled or flung off. Blood, of course, has – like any kind of fluid, has a certain viscosity, as well.

Q What is crime scene reconstruction?

A Crime scene reconstruction is a discipline that incorporates all different disciplines and their results. So as a reconstructionist, I will utilize blood – the results of a blood-stain pattern analysis, I will utilize results of a shooting

reconstruction, I will utilize the results of what a pathologist determined, whatever the labs may have determined to be evidence, and it – this is all data. And this data's put into a formula, if you will, of how we look at the data and try to determine the best explanation as to what occurred. We use the topics and premises of superposition, lateral continuity, these are all terms that we used as to what happened first. The chronology. We use Locard's Exchange Principle. All these principles applied to crime scene reconstruction, and ultimately, we put it into what's called a event sequence to determine what is the best explanation as to what occurred with the data given.

Q You've been taught this crime scene reconstruction, as well as the blood-stain pattern analysis.

A That is correct.

Q And have you actually performed those – that in the field, like you have with blood-stain pattern analysis?

A I have, several times.

Q And have you taught crime scene reconstruction like you were taught and like you practiced in real-life cases out in the field?

A Yes, I have.

Q And who have you taught?

A I've taught the attendees at the Indiana Law Enforcement Academy.

Q And are those, I assume, primarily from Indiana?

A Yes, mostly Indiana. We've had some Illinois students, as well.

Q And have you – as you said, you testified in blood-stain pattern analysis. Have you testified in crime scene reconstruction?

A Yes. Certain portions of the reconstruction were always included in our

analysis of the scene.

Q And what – you mentioned the National Academy at the University of Tennessee, the National – did I get that right? National Forensic Academy?

A Yes, the National Forensic Academy with the – Tennessee's Law Enforcement Innovation Center.

Q And you've taught there. What various topics and disciplines have you taught there?

A Well, as of recently, blood-stain pattern analysis; but for the last 18 years, I've taught primarily Forensic Entomology for the Crime Scene Investigator. I have taught topics as far as what's called scatter investigations, to where – when body parts are scattered, how to document and collect those. And I work with forensic anthropologists on other areas of interest, such as time since death and working with exhumation techniques.

Q Were you asked to assist in this particular case and provide insight and analysis on blood-stain pattern analysis, as well as crime scene reconstruction?

A Yes.

Q And when did you begin your involvement in this matter?

A It was February 12th of 2024, is when I first had communications with the Prosecutor's Office here.

Q Would you tell the jury what you did to prepare yourself; what materials did you review?

A I reviewed numerous files of photographs on a flash drive, I reviewed reports, specifically autopsy reports, the diagrams, laboratory reports. I'm sure there's additional data that I reviewed.

Q Did that include the DNA reports prepared and signed off on by Stacy

Bozinovski?

A Yes. Yes, it did.

Q And the photographs, did that include, among them, photographs obtained by the crime scene investigators, Sergeants Page, Datzman, and Olehy?

A Yes.

Q And not just the photographs that the jury may have seen, but all of the photographs that they did, at least that were provided to you, you examined those?

A That is correct.

Q What about the autopsy photographs, did you examine those?

A Yes, I did.

Q And you mentioned reports, the autopsy report?

A Yes, sir.

Q And what about personally examining things; did you go to the scene, this location where this crime occurred?

A Yes. On April 4th, 2024, I visited the scene, and on April 5th, I examined the clothing worn by A.W.

Q And the clothing worn by her, specifically what items did you personally examine?

A I examined a pair of jeans; a dark-colored hoodie sweatshirt; a pink shirt, sleeveless shirt; a gray sports brassiere; and a black regular brassiere; and a pair of shoes, canvas shoes.

Q I'm sorry if you mentioned it, did that also include a black hoodie sweatshirt?

A Yeah, it was a dark-colored, black or dark blue, it was a dark-colored –

Q With the name German on it?

A That is correct, sir.

Q I'm gonna hand you what's been marked for identification purposes as court Exhibits 286, 287, and 288; are you – do you recognize these photographs?

A Yes, sir.

Q And were they three of the many photographs you reviewed of the crime scene?

A Yes, sir.

MR. LUTTRULL: I believe we've agreed – these were three that were not admitted previously, Your Honor, that's why they're being shown now, and I would move the admission of 286, 287, and 288.

STATE'S EXHIBITS 286 THROUGH 288 OFFERED

MS. AUGER: Is 286 with the ruler?

MR. LUTTRULL: Yes.

MS. AUGER: And 288 A.W.?

MR. LUTTRULL: 287 is the lower part of the tree, and 288 is a cropped photograph of A.W.

MS. AUGER: No objection.

THE COURT: All right. Without objection, 286 to 288 inclusive are admitted.

STATE'S EXHIBITS 286 THROUGH 288 ADMITTED

MS. AUGER: Woah, that's not admitted. Oh, yeah, it is. I'm sorry. Has that been admitted?

MR. LUTTRULL: It has, yes.

MS. AUGER: What exhibit is it?

MR. LUTTRULL: May we approach?

THE COURT: Yeah.

(Sidebar conference conducted.)

MR. LUTTRULL: Those are fair questions. My problem is, I know every one of the photos now have been offered into evidence. I cannot assert to the Court that I know the exhibit numbers on any of these.

THE COURT: No, but I remember seeing that one. 18, 19, and 20.

MR. LUTTRULL: I apologize, if you want me to make the record with the exhibit numbers, I'll have to take a recess and examine them, but I'm prepared to go ahead, if you are. I'm certain that they were all in evidence.

MS. AUGER: I believe you that they've been admitted, but just for the record I think it's important to have an exhibit number.

THE COURT: They have an exhibit number, 286, 287, 288. So are you telling me we need to take a break?

MR. LUTTRULL: Let me see if I can do it this way, Your Honor.

THE COURT: Okay.

(Sidebar conference concluded.)

Q We're looking, for the record, at State's Exhibit 20. Is this a diagram that you recognize?

A Yes, it is, sir.

Q And, in fact, are you familiar with the photographs on which it's patterned or copied upon in its preparation?

A Yes, sir.

Q And would it assist you in describing and talking about the facts of this case?

A Yes. It provides some accurate depiction of the spatial relationships between blood evidence and where the decedents were located.

Q Thank you.

MR. LUTTRULL: Just one moment, Your Honor.

Q You've testified that you went to this location that this diagram depicted and walked that scene yourself.

A I did, yes, sir.

Q And you did so after you examined the photographs of the scene?

A Yes.

Q And would you tell the jury how that assisted you.

A Again, when I referred to the term "spatial relationships", specifically to the left of the diagram you see a darker-grey somewhat of a circle and it's labelled "tree", it assisted me – the distance between that small tree and the large tree and where the decedents were located in the scene, approximately of course. Being the tree itself also assisted in that I suspected there was a lean to the tree, there is a natural lean to the small tree that is, as well. So it just assisted spatial relationships and the topography itself. The area to which the decedents were located, it's almost a – somewhat of a bowl or a depression, if you will, where, as you get closer to the small tree, it actually raises up an elevation.

Q This next photograph, is this one that you reviewed?

A Yes, it is, sir.

Q And –

MS. AUGER: Is there an exhibit number?

MR. LUTTRULL: I'm sorry, I know it's an exhibit, I have it here, but I do not know the number. I can provide it for you later.

STATE'S EXHIBIT 38 PUBLISHED

Q And was this one of the photographs that you examined?

A Yes, one of many.

Q Would you be comfortable, sir, in coming down and I may be able to ask you questions with referring to the screen on this and subsequent photos. Does that photograph show the bowl area that the girls were found?

A It's – it does. Depth perception is a little difficult based upon this two-dimensional photograph, but as you – oh, I'm sorry. Did I do that?

Q You may have, but it's fine.

A Okay. As we get farther towards A.W. and L.G., the topography loses elevation, it's almost like a bowl, if you will. This is the small tree I was referring to in the diagram. L.G. is next to the larger tree.

Q And the tree in the foreground, the smaller tree that you referenced – have you heard a phrase "blood-stained tree"?

A Yes, sir.

Q And where approximately – it's not a close-up, but can you – are you familiar with where on that tree and point the jury where blood was documented via photographs, as you can see it?

A Sure. So when I'm approximately four feet from the base of the tree is a blood stain that is located at this location. (Indicates) I'm sorry.

Q That's fine. That'll work.

A The – on the – and I believe there'll be additional photographs just on the – well, I mean, on the – right around the corner of this stain, approximately four feet again, are additional blood stains, as well as right below the stain on this – the right side of the tree are additional stains. If we can bring it back – at this

location, approximately I believe it was two to three feet from the tree – and this is going towards I believe the northeast of the tree, there is a blood stain on the ground, as well.

Q And when you said approximately four feet, the upper portion of the blood stain, the middle of what we're looking at of that tree, that's because you've seen measurements from the ground to that location?

A Yes. There's other photographs with a scale within the photographs.

Q And it's just right around – just under four feet?

A Approximately.

Q This next photograph –

MS. AUGER: Before we go, can – Your Honor, can the record reflect that Major Cicero was referring to Exhibit 38?

THE WITNESS: Thank you.

MR. LUTTRULL: I believe that's correct. I would agree with that.

THE COURT: But it's State's Exhibit 286, '87, and '88; correct?

MR. LUTTRULL: 286 and 287 and 288, Your Honor –

THE COURT: Those are the photos.

MR. LUTTRULL: -- are the photos that were not in evidence and that have been a part of this presentation.

THE COURT: Okay.

Q What do we see here?

A This is just a closer exposure of the tree with a blood stain that is at this location, again approximately four feet from the base of the tree, and you see the decedents in the background.

MR. LUTTRULL: For the record, that is Exhibit 39.

MS. AUGER: 37.

MR. LUTTRULL: 37. Thank you. Yes, 37.

STATE'S EXHIBIT 286 PUBLISHED

Q I'm now showing you what's been admitted into evidence as State's Exhibit 286. Was that a close-up of that tree with a measuring device?

A Yes. It's a close-up of the blood stain upon that tree with the scale to provide reference as to how large it is. Utilizing the scale, it measures approximately 1.37 inches across this horizontal stain here and I believe it's 5.9 inches from the top of the stain to the bottom of this specific stain, so it's not – it looks large on the screen, but it's not a very large stain. As well, in this area of the pattern, there were additional stains that measure approximately less than one to three millimeters in size. And with blood-stain pattern analysis, we measure in metric. These stains were round and consistent with what's referred to as spatter, and spatter, S-P-A-T-T-E-R. It's not splatter, it's spatter. And that is a mechanism to which – when force is applied to blood, some type of force, blood becomes individual drops and made contact with that tree. This stain, the large stain that I just described, is consistent with what's referred to as a transfer stain, and a transfer stain is nothing more than a bloody object coming in contact with the tree. Likewise, there are stains on peripheral of this stain right here that are also several contact stains, contact transfer, if you will. This particular stain on the right of this stain in the center is also consistent with a transfer stain.

Q So you have used a – previously used a designation to describe the shape of an upside-down L; is that correct?

A That is correct, I described this as an upside-down L.

Q And around that upside-down L are various, as you described, spatter to – as the jury's looking at it, to the left, and then a larger-than-the spatter, a portion right there adjacent to the vertical part of the upside-down L, right there?

A Yes, sir.

Q And then you're saying around the corner, around the tree, you see other – there's photographs of other blood on that tree?

A Yes, sir.

Q What are we looking at here? This is State's Exhibit 287.

STATE'S EXHIBIT 287 PUBLISHED

A Yes, sir, I believe this is the blood stain that's approximately two feet from the base, more on the north side of the tree, and it's consistent with transfer stains. And the area located here – (indicates) – in the photograph and here – (indicates) – you see it looks a little bit darker. That is consistent with blood accumulating, there's more volume and, as it dries, it became dark brown, almost black.

Q Did I put that photograph in upside down, sir?

A I don't believe so. I'm – but then again, I'm not real sure, sir. But then again, maybe you did, because the leaves are up here.

Q It looks like I had flipped it. My apologies. If you would take State's Exhibit 287 and walk – I'd ask you to walk towards the jury and show that in its proper configuration, right side up.

MS. AUGER: Which exhibit is that?

THE WITNESS: 287, ma'am.

MS. AUGER: Thank you.

Q Thank you. That wasn't a test, Major Cicero. It was my error. The - this

photograph and we'll be getting the exhibit number for it very shortly is – what's going on in this photograph?

A The crime scene investigators applied a chemical that's called Leucocrystal violet, and what occurs with the chemical is that it will stain blood to help with contrasting colors. What we see with the color of the bark, it sometimes mars blood stains or it confuses us. So utilizing the chemical, it really brings out the contrast.

Q Is this a chemical that you've used in your crime scene work and your blood-stain pattern analysis?

A Yes, sir, several times.

Q And what did you find significant about this photograph?

A The enhancement to, you know, view it better provided me with some better insight as to specific areas of this larger stain that's in the middle. The hypothesis was developed that because this area, the horizontal part of the upside-down L, was very squared and it was something that we don't normally commonly see with just a transfer. Likewise, this stain that's over to the right of the large stain in the middle of the photograph also presented some interesting detail, where the margins are – they're uniform, they're smooth and uniform and even, so the hypothesis was developed that this was more consistent now with a – what's referred to as a pattern transfer. And what a pattern transfer is, is we have an object that would leave repetitive patterns that appear the same.

Q And does this same violet color appear to be on the other portions of this bark, not just the spot adjacent to the vertical portion, but over here to the right; is that – or left; is that correct?

A It appears that way, yes, sir.

Q And would that be where you have seen blood on the previous photographs?

A I did not see that with my naked eyes without the enhancement. It's just the color of the bark could somehow, you know, be very faint stains on bark, as well. It brought it out.

Q That chemical's reacting; is it reacting to blood?

A That's what it's intended to do, yes.

Q And that's what's happening here?

A To the best of my knowledge, as to how they applied it, I believe so.

Q And we have here – where is this particular application of the chemical on the tree?

A I believe this is also the north side of the tree that the previous exhibit we saw was approximately two feet above from the base of the tree itself, and as we can see, it looks more voluminous, but that's just the stain itself. Very faint stains will come up because of the chemical.

MR. LUTTRULL: For the record this is State's Exhibit 53, previously thought it was 52.

Q Did you – did this help you in your analysis of determining the best explanation for how the blood was applied to the tree?

A Yes. It's all consistent with a transfer, so some bloody object would come in contact with the tree.

Q And it's – this photograph with the law enforcement's evidence markers 1 and 2 in the left-hand foreground, you're familiar with this photograph?

A Yes, I am.

Q And how does this help – how did this help you understand the location?

A The CSIs who investigated this, from what I understand, utilized evidence marker number 1 as the location where there was a blood stain approximately two feet to the I believe north or northeast of the tree. This blood stain in itself, located here, is an accumulation of blood, and it's not just drips that were falling, it was a – larger than just drips, consistent with, more likely, a small pooling, but because of the surface of the leaves and the ground, we didn't really see a pool per se, but there was an accumulation there. What I believe is to be more stains were identified at placard number 2. It was not as voluminous to create a pool, but there were stains that the CSIs discovered there.

Q This next photograph shows 3 and 4 evidence markers by the police, 3 and 4 in the right-hand side, we're looking at this photograph, and how does this – how did you consider this photograph when you were doing your exam?

A For context, here is the small tree with the upside-down L. (Indicates) So between the tree and where the decedents are laying, 4, when I originally viewed these photographs, I thought was possibly either another blood stain that was observed, whether it be multiple drips or a small accumulation, and I thought – it was my understanding that 3 was possibly a larger pooling of blood. 4 may represent that pool of blood, 3 may be something of a different nature, but they're identifying something that they observed there, I was not quite sure when I observed it.

Q You know that there is a larger – the largest pool – collection of blood at the scene in that – it's in this photograph; is that correct?

A It is. This dark location here in the photograph – (indicates) – is what's referred to as a pool of blood and it was in the process of coagulation. What coagulation is, is when we have a pool of blood, blood, with its clotting factors,

will retract into a gelatinous mass. We'll see separation of serum as a result of that contraction of blood, which it would be consistent with that separation of plasma that would more likely soak into the ground.

Q This next photograph showing the body of L.G. in the foreground, A.W. in the background. These next few photographs I think will describe – I'd like you to look at and then tell the jury what you're learning from them. Was there anything about this specific photo you wanted to point out?

A With this specific photo, I wanted to point out that the blood stains that were under L.G.'s right leg – specifically you see in this photograph the calf, the ankle, and the bottom of the foot here – or the side of the foot in this.

Q State's Exhibit 40, looking at previously admitted, and this photograph looking towards the girls with the blood in the foreground; is that correct?

A Yes. This is the large pooling of blood and coagulate of blood at this location. There's also blood that extends outward towards L.G. that was not part of the coagulant or the pooling.

Q You may try to stay to the side there –

A I'm sorry.

Q -- as much as possible, so all the jurors can see.

A So here is the pooling and the coagulant. (Indicates) And here these leaves and branches are stained. (Indicates)

Q State's Exhibit 39.

A So the coagulant or the gelatinous mass of blood is here – (indicates) – and as we go farther towards L.G., you can see that these leaves are stained, this stick is stained, and it continues on. This is L.G.'s right leg. Here's the bottom of her foot. It's not in focus, but there's a blood stain on the bottom of her foot

and here's the gelatinous mass and the blood stains – I'm sorry – the blood stains on the leaves leading up to her final location. This is a more close-up shot, exposure of the bottom of the foot, where we see blood stains on the bottom of the foot. This is consistent with transfer.

Q And when you say transfer, again what do you mean?

A So a bloody object came in contact with the bottom of her foot.

Q And when you say an object, what could that be?

A It would be consistent with L.G. moving and basically walking on blood.

Q This photograph, looking down on L.G.'s body, what did you observe in this photograph from a blood-stain pattern perspective?

A On the lower torso and the torso are numerous blood stains consistent with flow patterns. A flow pattern is a volume of blood and bas – due to gravity, the blood will flow downwards based upon the gravity force. The stains that are marred are referred to as altered stains, meaning that it goes through the flow patterns and creates what appears to be transfer stains. So this is a complex pattern in the fact that they're overlapping each other and flows had occurred. You can see that, at some point, the best explanation for the appearance of the flow is that L.G. was upright. You can also see with the flows that they've changed direction going downwards, and you can also see subsequent alterations or transfers through the flow patterns. Around her neck and her upper chest –

Q You may try to stand over on –

A Yes.

Q -- this other side, please, and see if that –

A Around the neck and upper chest area, there are numerous blood stains

consistent with alterations and transfer, as if something was coming in contact with the area. On L.G.'s face were numerous flow patterns extending to her face, moving downward to – it appears to be going downward to her right side of her face. You can see a flow pattern that goes up over her cheek and down towards the bottom of her face, a flow pattern that's observed on the – going from the right eye downward to the ear. And on the hand, we observed the voluminous amount of blood on the hands, to include the cuticles, where it coagulated and dried like a scab.

Q And that would be both hands; correct?

A That would be both hands, just in this photo is the left hand.

Q When you mentioned the – some kind of flow to the right of her right eye, did you examine that and examine that from other photographs?

A I did.

Q This is the left hand?

A This is L.G.'s left hand. Again, in the cuticles, there's a significant amount of blood that just coagulated and almost became like a scab like, just a voluminous amount of blood on the hands, transfer stains or altered stains on the wrist and forearm, as well.

Q This photograph, again the branches have been removed, and you see that collection of blood. Did – when you – well, we'll move on to – was there anything specific about this photograph that you wanted – that helped you analyze it?

A It's just a closer shot of the blood stain and the flow patterns on the face, as well as this flow pattern exhibited signs of dilution, meaning that there was some type of moisture mixed in with the blood.

Q And in your experience, what would have that been?

A Absent a raindrop or water, it could be consistent with a tear.

Q Is the pool shown from a different vantage point in this photograph?

A Yes. The pooling is located here – (indicates) – the coagulation pooling.

Q We have the – now the right hand?

A Yes, this is the right hand. Similar to the left hand, a voluminous amount of dried blood on the hands, within the cuticles. We can see a flow pattern, I'm not quite sure as to the direction of the flow. Several different transfer stains and alterations. This is –

Q The left hand from another angle; is that correct?

A Yes, the left hand from another angle. You can see that the hand – a voluminous amount of blood. You can see that some blood had been basically transferred off or maybe she had touched something to remove that blood.

Q Now we're looking at the photograph showing the right thigh of L.G.

A Yes, this is L.G.'s right thigh. This consists of blood stains, voluminous drips of blood stains with subsequent flows. This is the top of the right thigh. This pattern is consistent with what's referred to as a projected pattern. A projected pattern is a volume of blood which is ejected out of a breach from one of the larger vessels, such as an artery or a vein. Positioning is of such with the flow patterns going downward – gravity will take over, that's the energy that's applied – that the leg would have had to have been somewhat underneath the injury itself for the blood to project out of the wound, which we know is the neck, and land upon the leg like that.

Q If L.G. had been standing when that blood hit her thigh, would you see a different pattern?

A What we would see are the flow patterns flowing downward towards the

knee and the lower leg, as opposed to the side of the leg.

Q Given the injuries to her neck and given this pattern here, do you have an opinion for the jury as to her positioning when those – that blood pattern landed on her thigh?

A The best explanation for the appearance of this particular projected pattern is that L.G. would probably have been seated at one point for the wound to be somewhat over the leg and to come straight down and then for the flow patterns to have occurred while the blood was still wet.

Q Now, we've seen from a more straight-on view the – that pattern on the thigh. What do you see here, sir, that you can tell the jury?

A This just reinforces the fact that this is a projected pattern. We see the individual drops that were voluminous. We also see what's referred to as these little arms that called scallops, that is showing energy, and the type of energy that's applied with this type of projected pattern is what's called hydrostatic pressure, meaning it's the cardiovascular system pumping out blood and the blood hitting – voluminously hitting the leg, creating that pattern and, of course, the subsequent flows are also an indication of the volume of blood.

Q I believe we have a close-up here of L.G.'s face. Did you examine that closely before coming to your conclusions?

A Yes, sir.

Q You had testified about altered blood pattern; would you tell the jury what you mean by altered blood pattern.

A Any blood pattern that is – originates and it has a subsequent alteration, usually where – in the realm of the transfer stains, where we call it a swipe, where blood is on an object and you can see movement, or a transfer stain that's

referred to as a wipe, where blood is existing one like the leg, for example, and something just wipes through it. We see many of these on the body itself.

Q And did you find what you believed to be, on the body of L.G., altered blood patterns?

A Yes. Consistent with the legs, with the projected pattern, where especially going into the interior portion of the leg there's alters – alterations, as well as the torso area, where something wiped or swiped through the blood, so it's an altered state as a result.

Q This close-up view, does this show us the area of – a closer view of the area on the eye?

A Yes. So extending from the eye down to the ear, as we can see, it gets lighter and lighter and still maintaining, on the peripheral of the stain, a darker appearance. This is textbook consistent with dilution.

Q With all the blood under her nose and extending down from that, across the – her right cheek, does it give the appearance that she is bleeding from her nose?

A It gives the appearance, but we know from the post-mortem or the autopsy that she did not have injuries to her nose. What would have happened is the blood being fluid and it takes the path of least resistance, gravity would have occurred where her head would have had to have been lower than the – where the blood source was located, so it's indicative of movement.

Q Do you believe L.G. was moved after she died or after she was unconscious?

A Yes.

Q And would that movement have resulted in this distribution or this pattern

of blood?

A Yes, it could have, yes.

Q This is the photograph of before she is moved or her body is being moved, but before she is removed from the location. Tell the jury what you found significant about this photograph showing the back and the leaves adhering to her back.

A Along the leg, there's blood staining – oh, I'm sorry, sir. There's blood staining on the leg, as well as – and this is the right leg. As we observed on previous photographs, I've noted the blood on the side, underneath on the interface between the ground and the leg and along the backside and what – again, my apologies. What we see is also, because of the adhesive nature of blood, the leaves are sticking to the blood.

Q This is the photograph showing after L.G. has been moved that night. And examination, did you find anything significant about this photograph?

A Yes. It was just a little bit of blood on these leaves located here where L.G. was discovered. This would indicate that she is no longer bleeding, because if she was, she was still alive and bleeding, we'd expect to see a pooling.

Q Now we're gonna look at some photographs of A.W.; is that correct?

A Yes, sir.

Q What did you find significant about this photograph?

A There was – according to the DNA reports and crime scene photographs, this is the only area of blood for A.W. It – you can see that there is what appears to be a small pooling to the right of her right arm and shoulder. The injury to A.W. is on the left side of the neck and I believe we'll see better photographs of the area underneath the body and in this dark hoodie sweatshirt, that it's very

much saturated. Also of interest is her final positioning, I described it as a somewhat pugilistic pose, meaning – pugilistic is almost like boxing, but her hands are up and bent at the elbows and close to her body.

Q And did you examine a multitude of photographs of that sweatshirt while it was on her body and then you also viewed the sweatshirt up close, personally observing it; correct?

A Yes. That occurred on April 5th, 2024.

Q Now the sleeves have been pulled down. What did you notice about the – this photograph?

MR. LUTTRULL: And this is – for the record, this is State's Exhibit 288.

STATE'S EXHIBIT 288 PUBLISHED

A What I noticed about this photograph, contrary to what we've observed with L.G., there were no blood stains observed on A.W.'s hands. Likewise, I observed many different photos of A.W. at the crime scene and different views, different angles, different lighting, and I could not observe any blood stains that were on the sleeves or the arms of the – A.W.

Q Now, you examined several autopsy photographs, as well, did you not?

A I did.

Q And in fact, did you see anything different on her hands at the autopsy?

A The autopsy photos, her hands did have blood on them, her arms and hands.

Q That was – was she wearing the sweatshirt at the time when – in the autopsy when she had the photographs with the blood on her hands?

A I have no data that anything was taken off of A.W.

Q But in those photographs, she was not wearing the sweatshirt, was she?
A I understand your question. Yes, she was not wearing the sweatshirt at the time in the autopsy.
Q And you visited this scene yourself?
A Yes, I did.
Q And you know that they had to be carried out with the assistance of some kind of a cart; is that your understanding?
A That's what I was informed, yes.
Q And you know what that hill's like between them and the area of the cemetery up above; correct?
A It's very steep.
Q And in your experience – how many death scenes have you been to?
A Hundreds, sir.
Q Would it be unusual for the blood to – what would be the normal course of the blood when she has been placed into a bag and moved up that hill and transported to a van to go the morgue?
A Sure. Well, blood – it should be noted that in my analysis and my report, I noted that blood was still wet and dried and coagulated. Movement of the body within a body bag could somehow affect all the saturation if blood stains were still wet on the actual shirt or the sweatshirt itself. So during transport, manipulation of the body, picking the body up, it could – more blood stains could transfer as a result of those actions.
Q In fact, in these photographs, you saw – see no blood, the crime scene photographs of A.W.'s hands?
A That is correct, neither the hands nor sleeves; and there's many other

photographs of her hands and sleeves, as well.

Q Given your personal observation of this sweatshirt and your examination of the photographs at the crime scene, would removal of that sweatshirt have changed or altered the blood pattern on her body in any way?

A More than likely, yes.

Q This photograph is another, now the hands are still within the sweatshirt. What did you find important about this photograph?

A As you stated, the hands are in the sweatshirt, the sticks were removed at this point when these photos were taken, and noted the flow patterns that are going up the chin, defying gravity. This is also consistent with her positioning is blood stains on her – under her chin and over her chin are not consistent with her final resting place.

Q Was blood coming from her mouth? Is that where that blood would come?

A According to the autopsy report, there was no injuries to the mouth. This is more consistent with the blood coming from the actual wound itself and going over the chin and into the mouth.

Q A close-up of that view of the injury to the neck?

A Yes. This is where the injury's at. It's my understanding the jugular vein was breached, which would create a lot of blood loss, and this is a coagulation of wet and dry blood on the face. This is a –

Q Is this her right hand?

A Yes, it is her right hand. Again, no blood noted on the hand.

Q We have another view of the right hand.

A Yes, the right hand with no blood on the inside of the hand or sides of the hand or fingers.

Q Did you consider this, with the torso exposed and her – did you consider this to be significant?

A Yes, it's significant due to the absence of blood on the gray brassiere below the breast line. There's no blood stains observed on the shirt, nor the torso area. This would be consistent with A.W.'s was wearing this at the time she was – she passed away.

Q Now the left hand.

A Again, the left hand, no blood noted on the hand whatsoever.

Q And this view of looking down on her and seeing the blood on the chin.

A So the –

Q What did you note here?

A Just a close-up shot of how the blood flowed up and over, around the chin, indication that she was moved at some point when the blood was still liquid in that location. You can also see saturation stains here on the dark sweatshirt, which again, you can't see any type of redness or saturation on the sleeves.

Q So this is a dark sweatshirt, but you said blood is very visible on that?

A Yes, you can still see the blood.

Q But when you examined blood on the sleeves and the cuffs, you didn't see that discoloration?

A Not in the crime scene photos, no, sir.

Q When you say something about being moved or she was moved or moved, what movement do you see as illustrated by these photographs of A.W.?

A In order for these blood stains to have occurred and the appearance of the flow patterns, it appears as though that A.W.'s head would have had to have gone back or the blood source would have had to have been above in order to

create these flow patterns that go over the chin.

Q I want to go to this – back to this photograph and ask you, Major Cicero, did you consider how you believe the best explanation for the blood on the tree, which is the left part of this diagram?

A Based upon the blood evidence and the context of this scene, the blood letting occurred somewhere in this general area – (indicates) – because blood, especially to the injuries that were to L.G. and all this blood that's on the outside of these different locations, this not-scaled diagram, all belongs to L.G., from what I remember of the report.

Q So except for the blood near the body of – or under the body or near the body of A.W., are you saying all the blood, according to your review of the reports, was whose blood?

A L.G.'s. So the blood-letting event would have occurred somewhere here, the beginning of it – (indicates) – and this is a result of both carotid arteries being breached, as well as the jugular vein. Blood would be almost instantaneous and would be very voluminous. It is a normal reaction, from my experience in observing others who were victims, that the victim or the decedent would put their hands in the area of the blood loss, hence staining your hands. And we observed the hands on L.G.'s hands.

Q So what you saw on L.G.'s hands is what you're accustomed to seeing at homicide scenes, death scenes?

A With that type of breach of such an artery or both arteries and the jugular vein, yes, we would see a lot of blood on their hands.

Q Can you tell the jury, Major Cicero, where you believe – the best explanation for where you believe L.G. would have been when she was

injured/wounded and where she moved from that point to where she was found.

A She would have been injured here initially in this vicinity. (Indicates) Movement would have made – would have been to this location, where again, she continued to bleed. And here, this very large pooling that you saw, the coagulation, is where L.G. most likely succumbed to her injuries.

Q And which part of your body – of her body do you think was most likely – where do you think it was positioned in relation to the pool?

A It's likely that her positioning of the neck would be in this general vicinity, her head and neck in this general vicinity, for the blood pooling to have occurred. These subsequent blood stains that you see between the pooling and her body was a result of L.G. most likely being dragged to that location and transferring the blood.

Q In considering the photographs and your visit to the scene, can you tell the jury what would have been – if – let me back up. From the perspective of the creek, would L.G.'s body have been exposed – more exposed if it were at the large pool or behind the tree? Where would her body –

MS. AUGER: Objection, Your Honor.

Q -- be most visible?

MS. AUGER: Objection to the reference behind the tree. There's –

THE COURT: Rephrase your question.

MS. AUGER: Thank you.

Q Her movement there adjacent to the tree, was she – in that position where she was found, would her body be more visible or less visible to someone from a perspective at the creek?

A At her current location, she'd be less visible, because this tree is actually

almost like two trees, it's a very wide base and the trees kind of separated off.

Q I'm gonna ask you, Major Cicero, the same question about A.W., about her movement, where you believe she was when she was injured, when her neck was cut, and where she moved to until she was – succumbed to those injuries.

A Based upon the lack of blood evidence anywhere else but this location, it's – the best explanation is that she succumbed at this location here, where she's observed.

Q And where do you believe she was – given the evidence that you reviewed or the blood on her and her injuries and where the blood was not, where do you believe she was when her throat was cut?

A Based upon the blood stain evidence, the context of the scene, she was at this location.

Q In what position, sir?

A She was mostly likely in the supine position.

Q As she was found?

A As she was found.

Q Have you observed crime scenes with victims suffering neck injuries, either this type or even less serious?

A Yes, yes.

Q What is unusual to you? Is there anything unusual to you about the lack of blood on the hands of A.W.?

A It's very unusual not to have any blood on the hands, in this case also the sleeves, which were over the hands at the time. There's no information or evidence to show that she died immediately, this would have taken some time.

Q How many times have you seen, in cases where there's been serious neck

injuries, where there is no blood on the victim's hands?

A I've never seen it, not from an artery like that or a massive blood loss wound, they would always have some type of transfer stains on their hands or in their clothing.

Q In A.W.'s case, it was a vein; do you agree?

A Yes, it was a jugular vein that was breached.

Q What would be the explanation as to why there's no blood on – that you can discern on the sleeves and cuffs and no blood on the hands of A.W.?

A There could be multiple explanations, such as she was bound, but there's no evidence of that. Pathology would be the one to tell us if potentially she was unconscious or she was restrained.

THE COURT: Would counsel approach, please.

(Sidebar conference conducted.)

THE COURT: We need to take a break. We've got some jurors that are having some difficulty.

MR. LUTTRULL: Okay.

(Sidebar conference concluded.)

THE COURT: Ladies and gentlemen, we're gonna take our break. While you're outside the courtroom, please, keep your minds open. Please don't form any opinions or conclusions about anything. You can discuss the evidence you've heard, but please, only do that if all 15 of you are present in the jury room at the same time and, please, don't deliberate. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 4:12 p.m.)

THE COURT: All right. Let's take 15 minutes, folks.

(Off record at 4:13 p.m.)

(On record at 4:28 p.m.)

THE COURT: All right. Mr. Luttrull, are you ready to have the jury come back in?

MR. LUTTRULL: We are, Your Honor.

THE COURT: Ms. Auger?

MS. AUGER: Yes, Your Honor. Thank you.

THE COURT: Okay.

THE BAILIFF: All rise.

(Jury in at 4:31 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: You may continue.

MR. LUTTRULL: Thank you, Your Honor.

Q Major Cicero, with regard to A.W., did you consider whether she was – all the garments on her body were placed on her body after death? Were you asked to examine whether that was –

A Yes, I was.

Q And now dealing with the upper clothing, which we know was the black bra, the gray bra, and pink top, and the sweatshirt, what is your opinion about whether she was wearing those items at the time she was killed?

A It's my opinion, based upon my review of the clothing saturation, that she was wearing it at the time that she was killed.

Q Why do you conclude that?

A The saturation stains were primarily on the interior portion of the sweatshirt. If she was completely naked at the time and dressed after the fact,

we would expect to see blood transferred to other parts of the clothing on the upper body, as well as her body itself. Also, dressing a person who is deceased after the fact with the blood stains on the head – I'm sorry, the chin, dressing somebody would most likely alter those stains, alter those stains on her mouth, as well.

Q And did you see any sign or any indication that that had happened?

A No, I saw no sign like that.

Q Are you familiar with the term "core body temperature"?

A Yes, I am.

Q And what is that?

A It's when investigators like crime scene investigators obtain a core temperature at the time of death to evaluate what's referred to as algor mortis, the cooling of the body, which, as a rule of thumb is by textbooks, appears to be approximately 1.5 degrees per every hour.

Q Of cooling?

A Of cooling, yes.

Q And what methods are used when core body temperature is taken?

A For at least crime scene investigators or coroners at the scene, the only known method that I'm aware of that's somewhat accurate would be rectal temperature, sir.

Q And you've been a crime scene investigator; right?

A Yes.

Q And you've taught crime scene investigation.

A Yes.

Q You've been tested on it.

A Yes.

Q Would you recommend – should the officers at this crime scene have taken a body – core body temperature via the rectum of either of the girls?

A Based upon this investigation, I would say no. This is only because inserting something, an object like a thermometer, into someone's rectum could potentially, one, create injury, which were – it's my understanding in reviewing this case that there was concern for sexual assault, and also you want – you never want to introduce anything that would potentially affect potential DNA in a sexual assault.

Q Regarding predation and entomology, you know what I mean by those terms?

A Yes.

Q You defined entomology. What do we mean by predation –

A Predation –

Q -- in this context?

A I'm sorry, sir?

Q In this context.

A Predation is the animal activity that would consume a decedent.

Q And do you have any experience in studying – in addition to the entomology you said that you studied, in studying predation and having experience with studies of bodies out in the open environment, such as these were?

A Yes. So my experience and tenure at the University of Tennessee Anthropological Research Facility, which is also known as the Body Farm, again, I've been there for 18 years, and primarily I do entomology, but part of the

entomology studies also is how entomology is affected by predation; and what we've learned over the years is that when predation does occur, it creates a blood source for the entomological specimens to be attracted to. Normally, entomology, the – it's the blowfly, is attracted to the nose, mouth, and ears, and the eyes when somebody passes. When there's a blood source, flies detect that and they will lay their eggs in there, as well.

Q Did you see any sign of entomology, of blowfly activity, with relation to these victims in all the crime scene photos and reports that you reviewed?

A No, I did not.

Q Would you be surprised if, in this location in Indiana, that you would have, in the middle of February, blowfly activity?

A I would not expect to see blowfly activity. Blowflies are active when it is above approximately 50 to 51 degrees Fahrenheit. Blowflies are not active at night, and it's my understanding the victims had visited this location at potentially – had been there overnight, and were not seen at any time in the nighttime. Blowflies are not active until in the later mornings, either. But regardless of that, their – climate is always going to affect blowfly activity.

Q Would you expect to see – in this region, in the area where the girls were found, would you be surprised not to see any predation activity at this time of year for an extent of perhaps as long as 22 hours before the girls were found?

A I am not surprised that we didn't see predation on the bodies. As I stated, I've been doing research and doing my job at the University of Tennessee's Anthropological Research Center, and there's been times where, when I arrived, bodies had been laying out for weeks at a time and it had no predation. Predation animals that would be consistent with this area in central Indiana could be

coyotes, vultures, possum, rats. But keep in mind that as the – the cooler temperatures. Similar to entomology, we would – entomology, blowflies smell, they have sensors in their – on their body and they can determine that there's decomp and flesh for them to lay their eggs. Similar to predators, if it's cold, if there's not a lot of odor, also you have to take into consideration that we're in a little valley, if you will, next to a body of water, that could all have an effect on predation.

Q Major Cicero, have – do you consider – based upon crime scene reconstruction and the blood-stain patterns that you observed here, do you have an opinion as to the minimum number of individuals required to kill A.W. and L.G.?

MS. AUGER: Objection, Your Honor. This is completely outside Mr. – or Major Cicero's area of expertise and it's just complete speculation.

MR. LUTTRULL: I think he's fully demonstrated that it's nothing close to being outside of his expertise; and he's not only been a crime scene reconstructionist, but he's taught it and has practiced it for a number of years, and I believe he can answer that question.

THE COURT: Overruled.

A At least one person could have committed this crime. Obviously, one person had to have committed this crime, but at least one person committed this crime, it's possible based upon the context and all the information that's obtained at this point.

MR. LUTTRULL: Thank you. I have no further questions. You may return to your seat.

THE COURT: Ms. Auger.

CROSS EXAMINATION OF MAJOR PATRICK CICERO

QUESTIONS BY MS. AUGER.

Q At least one, possibly more?

A I can't rule that out.

Q Okay. Now, Major Cicero, you were not asked to view this case until February of this year; right?

A That is correct.

Q Do you – did you drop something?

A I think it was – it was this tissue, it's okay.

Q Okay. So that's seven years after the crime?

A Yes, that is correct.

Q And in 2017, you were at the same place, the same location, doing the same thing, you're in LaPorte doing blood spatter, crime scene investigation; correct?

A That is correct, yes.

Q And so there's no reason you couldn't have come out in 2017, other than you weren't asked?

A That is correct.

Q You were not able to view the blood at the scene in person?

A Correct.

Q You were stuck with using photographs?

A That is correct.

Q And in seven years, you would agree with the proposition that a forest can change?

A I would agree, yes.

Q Undergrowth, trees grow, things are cut down, things like that?
A Yes, ma'am, I agree.
Q Now, you spoke about the location of the bodies being in a bit of a bowl; is that right?
A That's how I described it, but it was kind of a depression area, seems like it was a little bit of a bowl, if you will.
Q Okay. So they were in the lowest part of the topographical area; is that correct?
A I cannot say the lowest part, there could be other areas in the forest that's lower, but in that particular scene that's what it appeared to be, yes.
Q Other than the creek, did you see anywhere lower?
A I didn't walk the entire forest, but I'm assuming that there probably may have been.
Q When you were out there on April 4th of 2024, did you see any areas that were lower?
A I don't recall.
Q You talked about the tree with the blood and the blood transfer.
A Yes, ma'am.
Q And are you aware that others have referred to that as the "F tree"?
A Yes. Yes, ma'am.
Q Now, L.G. was mobile when her neck was cut?
A The evidence would show that, yes, ma'am.
Q And mobile for a moment after that?
A Yes, ma'am.
Q Blood is flowing down her neck and shoulders?

A Yes, ma'am, that'd be consistent.
Q And there's a lot of blood?
A Based upon those injuries, yes, I would agree with that.
Q And L.G.'s blood was found in several areas of the crime scene.
A That is correct, yes, ma'am.
Q And at some point, she was then sitting down; correct?
A Based upon the blood stain evidence, it appears as though, yes.
Q And then she was moved to the area where her body was eventually located?
A I would agree, yes.
Q Are you aware – you've reviewed the autopsy reports?
A Yes, I did.
Q And are you aware of L.G.'s weight?
A I was. I don't know it right now. I remember her height, but not her weight, ma'am.
Q Okay. Two hundred pounds?
A If that's what the report says, I would agree.
Q Okay. I'm going to show you what was previously marked as State's Exhibit 36; have you seen this?
A I have, yes, ma'am.
Q Okay. And is it your testimony that L.G. was drug from here to here? (Indicates)
A I believe the – you'd have to go lower, as far as – are you talking about just her foot? Her head is –
Q Body.

A Her body was, obviously, yes.

Q Okay. There are a lot of leaves between the blood pool and her feet.

A Yes, ma'am.

Q There are no marks in the leaves to indicate that she was drug; correct? You can come down, if you'd like.

A Oh, sure. Well, yes, there's still leaves there.

Q Okay.

A But there's also leaves on her body, as well.

Q Thank you. That's all.

A Okay.

Q Sorry.

A No, sorry.

Q I thought you wanted – needed (inaudible).

A Yeah. Thank you.

Q Now, you said several of the flow patterns on L.G.'s face were not consistent with her final resting spot.

A Correct.

Q And do you mean that, at some point, her neck was above her chin?

A Yes, her head would have been back at some point, based upon the prints of those flow patterns.

Q So her torso, her neck were above her face?

A I would agree, yes.

Q So someone lifted her body to create that?

A Well, somebody would had to have lifted it, yes, for her neck to be lower than her body, yes.

Q Okay. And the same with A.W.'s body.

A Not necessarily.

Q Okay. Well, you – earlier, you testified that her – the flow pattern was not consistent with her final resting spot.

A Correct.

Q And you testified that she died in the spot where she was.

A Yes, ma'am.

Q That is where her wound seems to have occurred.

A Yes, ma'am.

Q And so for the flow pattern to be altered, at some point, her torso, her neck, had to be raised?

A When I answered the question, I was talking about her being lifted. I don't know if she was lifted or not, but yes, her positioning would have had to been her neck was or her chin was lower than the actual injury itself or she could have been turned, based upon the flow pattern, her neck back. Because our bodies can articulate in so many ways, it's hard to tell as to how the positioning was exactly, but in order for blood to flow, it's gonna have to be below the – her chin's gonna have to be below her neck.

Q So at some point, her neck is higher?

A Yes.

Q And her body was never moved?

A No.

THE COURT: Do you need this photo anymore?

MS. AUGER: Pardon?

THE COURT: Do you need that photo?

MS. AUGER: Yes. Thank you. I'll take that back.

Q Now, Major Cicero, when you do diagrams such as Exhibit 20, which I now have displayed on the TV, it's important to document the important pieces, important markings, items at the crime scene.

A I would agree.

Q And that would be important to document the marks that identify what is happening.

A It could be, yes.

Q And there are no mark – there's no indication on Exhibit 20 that indicates drag marks.

A I agree.

Q Earlier, you testified that L.G.'s body was moved to the other side of the tree and that made it difficult to see from across the river.

A Yes, ma'am.

Q But it made it easier to see if you're coming down from the cemetery.

A I don't know if it'd make it easier or not, ma'am.

Q Well, it would be on the other side of the tree; right?

A She – I would disagree with that.

Q Okay. Would you agree with me that the placement – or agree with the proposition that the placement of L.G.'s body, in terms of concealment, completely depends on the viewer's point of view and the direction?

A I would agree with that, yes.

Q If someone wanted to conceal the bodies, there are plenty of leaves at the scene.

A Agreed.

Q Plenty of sticks at the scene.
A I don't know about other sticks, but I can't say that there wasn't.
Q Okay. And you've actually seen bodies, in your experience, that have even concealed by leaves and sticks.
A Yes, I have.
Q But maybe 3 percent of these bodies were covered by sticks?
A If we're looking top down, then yes. From a different angle, it would be increased.
Q How much of the actual body was covered?
A Which part of the body, ma'am?
Q The – if you take all of L.G.'s body, what percentage was covered by a stick?
A Very small.
Q Very small.
A Very small amount.
Q And the same with A.W.?
A Agreed, yes, ma'am.
Q At the time the crime scene was being analyzed in February 14th, 2017, it would have been highly appropriate to document any type of drag marks that you saw.
A Yes, that would be appropriate.
Q And that could be done by putting down evidence markers?
A Yes.
Q Could be done by making notations on diagrams?
A Yes.
Q Did you talk to Lieutenant Jerry Holeman about your analysis?

A No, I did not.

Q You testified that the lack of blood – you'd never seen a lack of blood such as on A.W.'s hands in a death investigation involving a neck?

A Correct.

Q And that could be by multiple people holding her down?

A If there's multiple people, yes.

Q Could be by someone washing her hands afterwards?

A I'm sorry?

Q Could that – the lack of blood on A.W.'s hands be by someone washing her hands afterwards?

A Someone washing her hands, ma'am? I can't rule that out.

Q In your work as a crime scene eval – or investigator – I apologize – have you ever photographed cartridges from crime scenes?

A Oh, yes. Yeah, several times.

Q And would it be appropriate to hold a cartridge to get the whole side of the cartridge as you're photographing it?

A At the crime scene?

Q Yes.

A I don't know if I'd use the word "appropriate". I mean, as long as it's documented. We would do – if we're documenting a cartridge casing, it's always best to do it in a lab or a controlled setting, but we should document where it is in place, absolutely.

Q Okay. And is it important to document the entire bullet or cartridge at the scene?

A I would think so, as long as it's documented at the scene where it's located

and we can somehow, you know, put it back where it needs to be, but it's always best to bring back evidence in a controlled environment and use a copy stand to document it, so you can get actual macro shots, if need be. But as long as it's documented in the scene, I think that'll suffice.

Q Is there anything that would prevent you from documenting the entire cartridge at the scene?

A Unless we're concerned about other evidence, such as fingerprints or anything, so you don't manipulate it as much, then yeah; but if there's no concern for that, then you can pick it up and document it. It wouldn't be wrong, but it's always best – I always tell crime scene investigators document them in place, collect it appropriately, obviously label it so you're not getting anything confused, 'cause especially a bullet's fungible, and later documentation at a copy stand in a controlled setting.

Q You have to somehow get the bullet from the – or the cartridge from the ground into the envelope.

A Yes, however they did that, yes.

Q And you could photograph as you're doing that with no additional handling?

A Oh, you could, yes.

Q Oh?

A Yes.

Q And in all of your testimony here today and all of your work on this case –

A Yes, ma'am.

Q -- did you find anything at the crime scene, in the photographs, in anything that you reviewed, that links Richard Allen to the murder of A.W. or

L.G.?

A No, I did not.

MS. AUGER: Thank you.

THE COURT: Mr. Luttrull.

RE-DIRECT EXAMINATION OF MAJOR PATRICK CICERO

QUESTIONS BY MR. LUTTRULL.

Q Consider all of the photographs that you saw, both at the scene and at the autopsy, consider the crime scene, not just the diagrams, but the actual photo, putting all that together, do you believe L.G. was dragged across a bloody pool to the site where she was found?

A Yes.

Q Why?

A There's blood staining that extends from the coagulation to her final location. There's blood staining on the right side of her body and the bottom of her leg that would have been drug through that to create this. So yes, I didn't see drag marks, but I can state that being there at the scene was also beneficial that there's multiple thick – multiple layers of leaf fall, it was very thick. You may not see drag marks because the leaves are on her leg because of the adhesive nature of blood.

Q Did you believe her left arm extended above her head next to that tree was in a natural position where she would collapse or fall?

A No. I theorized or hypothesized, that is, that her arm was used as a mechanism to pull her through the large blood stain, the pooling.

Q And one thing that that – among the things that this blood pattern evidence shows you, one thing is the position of L.G. at some point when her

thigh was stained with several blood spots, her right thigh; is that correct?

A Yes. The –

Q What was the position of her body when that happened?

A The position of her body would have had to have been the leg was on the ground, if you will, for those flow patterns to occur because of gravity. For the projected pattern to occur and with her leg being in that position, the best explanation is she was in a seated position when the projected pattern was ejected out of the breach in either the carotid artery or the vein.

Q How many times was she stabbed, according to your study of the photographs and the autopsy report?

A I believe at least three, if I recall correctly, at least three.

Q If she were in a sitting position and her head was pulled back or went backwards, would that put her in a position where her – the level of the neck was below – was above her face?

A I'm sorry, sir, can you say that again?

Q If she were in a sitting position and her head went backwards, could her head go backwards to where her face was below her neck?

A I believe it all depends upon the topography of the land for that to happen. I believe the best case or the best case – I mean the best explanation is the moment when she is – when the body is dragged, it would automatically pull up the upper torso and the head would, most likely, fall back, hence providing the flow patterns to go across the face.

Q And why did you find the leaves on her back significant, L.G.'s back?

A Because blood, one of its properties is it's adhesive or adhesion, if you will. So blood is very sticky, so seeing the layer of leaves on the back would indicate

that leaves, obviously, stuck there. It came from that location. Again, when I visited on April 4th, I noted multiple leaves and a very thick layer of leaves in that area, 'cause it's a forest.

Q You were asked about the tree being called an F tree and you said you were familiar that some had called it that.

A Yes.

Q And – but you didn't?

A Yes, I called it the upside-down L, and the only reason I did that was because the lower horizontal part of an F didn't connect, so I said, "Well, that's an L. That's not an F." But I can see why the investigators called it an F, because of the hue or the tone of the bark appeared reddish, but when we added the Leucocrystal violet, it stains the actual blood, and we had a separate little transfer stain that I interpreted as a pattern transfer.

Q And when you say the best explanation is that was a transfer application – a transfer contact with a bloody object to that tree, did you have a bloody object in mind as the best answer for that?

A Based upon the volume of the tree – the volume of blood upon that tree and the available voluminous stains that would have been on the decedent's body, it's height upon the tree, as well, we hypothesized that it was potentially her hand, which had a voluminous amount of stains on it, could have been maybe part of her arm, so we created a hypothesis that that's what created this.

Q Sir, can sexual assault occur without DNA of the suspect left behind?

A Absolutely.

Q And without any physical injuries?

A Yes.

Q In your opinion, did these injuries to L.G.'s neck, did they have to be inflicted at the same time or could they have been inflicted at different times?

A They could have been inflicted at different times. Any of the injuries would have produced a tremendous amount of blood based upon it being a carotid artery or a jugular vein.

MR. LUTTRULL: Thank you. I have no further questions, sir.

THE COURT: Ms. Auger.

MS. AUGER: Thank you, Your Honor.

RE-CROSS EXAMINATION OF MAJOR PATRICK CICERO

QUESTIONS BY MS. AUGER.

Q Major Cicero, you shared with us your hypothesis; is that right?

A Yes, ma'am.

Q And a hypothesis is a supposition; yes?

A I would agree.

Q A proposed explanation?

A Yes.

Q You have no idea how that transfer got on that tree?

A No, to absolutely say that it was just a hand. Could there have been other methods? Yes.

Q Now, it's important at the crime scene to take complete photographs and document everything at the scene.

A I would agree.

Q And people like you later have to rely on those photographs.

A Yes, agree.

Q Because those document important things.

A Yes. Yes, ma'am.
Q And you take pictures of material things, things that are important?
A Yes. Yes, ma'am.
Q You said the injuries could have been inflicted at different times?
A Yes. I can't rule out that all of – at least three – I may be wrong on that number – were inflicted at the very same time. Maybe I – did I even understand your question?
Q I'm not sure I understand your answer. Did you say you can't rule out that all three happened at the same time?
A Correct, I can't rule out that it happened at the same time, nor can I rule out that it happened one of the carotid arteries or jugular vein was breached first and then later, the others were breached, but I don't know.
Q And you can't rule out that A.W. and L.G. were killed at the same time?
A No, I can't.

MS. AUGER: Thank you.

THE COURT: Does anybody on the jury have any questions for Major Cicero?

(No response or indication from any juror.)

THE COURT: All right. Thank you, Major. You may step down.

THE WITNESS: Thank you, ma'am.

THE COURT: Where are we at?

MR. MCLELAND: Judge, may we approach briefly?

(Sidebar conference conducted.)

MR. MCLELAND: Judge, this is to revisit – we still haven't talked about making some Google search records of Mr. Allen. Obviously objected,

since she didn't have a certification for those. I was gonna pull those up and copy those. I guess my thought is (inaudible) I'd like to admit them. We have the certification. David Vido, who we'd like to introduce them, like to admit them, and at that point,(inaudible) a Google record, I just didn't – wasn't really sure how the Court wanted us to do that. Go ahead.

MS AUGER: Well, the proper authentication of an Internet search involves if they can show no one else had access, no other people had access to that account.

MR. MCLELAND: I guess I should have (Inaudible) he said – he's indicated in the interview that he was the sole owner. I – we don't have any information that multiple people – all the information we have from the interview with Steve Mullin (inaudible).

MS. AUGER: I mean, I can go back and show it's their burden to ask the proponent to show that no one else had access to that.

THE COURT: (Inaudible) that nobody else's has had access but (inaudible)

MS. AUGER: Well, I would ask to have a hearing outside the presence of the jury, if there's gonna be evidence that other people did have access to that.

MR. MCLELAND: I don't know who she's referring to who would have access to it.

MS. AUGER: Kathy Allen used that email address, and everyone in the home – they both were living there and had access to that. If they left – left Google open and whoever was on it, and, in fact, some of those searches were probably hers.

MR. MCLELAND: Yeah, I don't know. That's the first I've ever heard that. All of the indication we've had is that this is Rick's email, that this email's registered to him. It did return back with all his demographic information. He admits in the interview with Steve Mullin this is his email account. All indications are it's his.

THE COURT: Do you want to do it now or –

MR. MCLELAND: I don't – excuse me, Judge. I don't – I wouldn't have anything else to put in a hearing, besides what I told you now –

THE COURT: Oh.

MR. MCLELAND: -- that based on the evidence that – the interview that's gonna be admitted, that part's not gonna be redacted, there's information that he says this is his email address.

THE COURT: And you've got case law?

MS. AUGER: Yes.

THE COURT: With you?

MS. AUGER: You want me to grab it?

THE COURT: All right. Well, let's do this. Let's let the jury go for the night and then do this.

MR. ROZZI: Do you want to just give these to the bailiff to hand out to them and collect the other ones? These are the ones I made copies of. Remember, they're the five.

THE COURT: Yeah.

MR. ROZZI: I did it over lunch. I went through and checked them all, just to make sure I stapled them right. I don't know if you were gonna – you said you were gonna take the ones back that we had given them before.

THE COURT: Or we can let them have them –

MR. ROZZI: And then, as far as –

THE COURT: -- and I just think they can also have these.

MR. ROZZI: I'm fine with that. I stapled these together, so that they were kind of consecutive.

THE COURT: Sure, okay. That's –

MR. ROZZI: But I'm – you just want to give them to you and then you give them to the bailiff or do you want to do it formally like –

THE COURT: No, just give them to them.

MR. ROZZI: Okay.

(Sidebar conference concluded.)

THE COURT: All right. Well, ladies and gentlemen, the attorneys and I have a couple housekeeping matters that we need to attend to, and rather than stand over there and do that, we're gonna go ahead and let you go home for the night. Again, while you go on about your business then the rest of the afternoon and the evening, please, remember what I've told you about not talking about the case since you will be in the company and under the supervision of the bailiffs. Please don't discuss the case or deliberate in any fashion. Mr. Rozzi has copies for you of his exhibits. I'm sorry, what numbers were they?

MR. ROZZI: Q through V.

THE COURT: Q through V. And those were the microscopic drawings that there appeared to be some confusion as to whether or not you actually had all of the copies. He's going to provide to you those specific copies. Actually, why don't you give those to the bailiff, and we'll make sure that you have those in the morning; okay? So please have a safe and a peaceful evening

and we'll see you all in the morning. Sure, just set them right there and we'll have them available in the morning, then. Okay.

THE BAILIFF: All rise.

(Jury out at 5:12 p.m.)

THE COURT: You may be seated. All right. So, Mr. McLeland, over at the sidebar, you indicated that you had authentication you wished to present.

MR. MCLELAND: Judge, yes. The State would move to admit – we have a Google search history for Mr. Allen with the letter of authentication from Google for that search history related to an email by the name of foojacka0@gmail.com. A warrant was issued for that account. The subscriber information came back belonging to Richard Allen with that email, a date of birth, and a phone number. Mr. Allen also confirmed that this is the email that he uses at the interview with Steve Mullin October 13th of 2022, which has been admitted and stipulated into evidence and the jury's gonna see tomorrow, we hope. And so with that and the certification, the State would move to admit those records into evidence and ask the jury to consider those. And I've provided a copy to the Defense.

THE COURT: So I'm having Jodie marks this as State's –

MR. MCLELAND: I'm sorry, Judge.

THE COURT: No, no, no, you're fine.

MR. MCLELAND: I should have done that.

THE COURT: State's Exhibit 289. Ms. Auger.

MS. AUGER: Thank you, Your Honor. If I could have one moment. I would point the Court that – ask the Court to view *Watson v. State*, 134 N.E.3d 1038 at 1041, which was a case where the defendant, who was charged with

some sexual acts against his stepdaughter, attempted to introduce Internet searches of a sexual nature that were made on a tablet between July 29th, 2016, and October 12th, 2016. As the proponent of the evidence, the Court found that they were required to show that he was the only person who had access to that account, and the Court noted that the evidence established that both the alleged victim and the defendant shared the tablet, both had used it on different occasions, and therefore, the Court held that that evidence of that Internet search was inadmissible.

THE COURT: Do you have a copy of that case?

MS. AUGER: I do. Mine is underlined and highlighted a bit.

THE COURT: Yeah, I have not – I can't access my search history on –

MS. AUGER: Okay.

THE COURT: Yeah. Thank you.

MS. AUGER: Sure.

THE COURT: Anything else, Ms. Auger?

MS. AUGER: Were you speaking to me?

THE COURT: Yes. Anything else, Ms. Auger?

MS. AUGER: Well, Your Honor, I don't – I think that it's the State's burden as a proponent to show that no one else had access.

THE COURT: I understand that. I'm asking you if you have anything else as it relates to your objection to State's Exhibit 289 other than *Watson versus State*.

MS. AUGER: I have no other legal authority, Your Honor.

THE COURT: Okay. Thank you. And does the State have any

response to the objection? Obviously, I'm gonna have to take it under advisement to review the certification and the case law. Does the State have anything else?

MR. MCLELAND: Judge, it's been a while since I've read *Watson*; I have read it, but I got to admit, it's probably been five or six years, and so I'll reread that tonight, but what I remember from *Watson* or what I remember from that opinion is that the State is not bound by a hundred percent accuracy that only one person could have used this, there has to be – there's a reasonableness test, Judge, and, based on the information, is it reasonable that this account belonged to that person. And so I think that, given what we've provided the Court, there is a reasonableness, coupled with the interview on the 13th. And so I'll reread *Watson* tonight, Judge, but that's what I remember the burden is from the State, and so I'll just leave the Court with that.

THE COURT: Okay. All right. Well, I'll take the – something else?

MS. AUGER: Well, we have – Your Honor, we have Kathy Allen, if we need her. She will testify about whether others had access to that computer and used it.

THE COURT: Okay. All right. Is there anything else then before we recess? I do have one thing I need to bring up with you, but is there anything else that counsel has?

MR. MCLELAND: No, Your Honor.

MR. BALDWIN: No.

MR. ROZZI: I'd like to talk to the Court, if we could, just about some technical issues, maybe whittle down –

THE COURT: Okay.

MR. ROZZI: -- where we are for the record.

THE COURT: Sure. Okay. Could we have a sidebar, please.

(Sidebar conference conducted.)

THE COURT: Okay. I'll stand over here, so people won't read my lips. Okay. I'm asking counsel to – from today forward, when we recess for the evening – the jury has been followed by this individual who was seen on a camera over by their hotel this morning. So I – to prevent them from leaving and then getting into their cars, I would ask that we just kind of have a ten-minute delay. It's gonna take the bailiffs ten minutes from when they leave the courtroom to get downstairs, load up the vans – they have a chase car and a front car – and get the chase car and the front car out and sandwich in the vans to get them out of here. I haven't yet – we've just gotten the word from my detail that that has happened. So it's a ten-minute delay. She's in the courtroom and she's been spotted on cameras. We've got police on both – all of the hotels that we've been utilizing.

MR. ROZZI: Can we get a picture of her so I can –

THE COURT: She's in the courtroom.

MR. ROZZI: Could you show me who she is.

THE COURT: And we have her vehicle and she's been live-streaming the entire thing outside. So it's – this is crazy we have to do this, but this is what we're gonna have to do. So the other thing I wanted to bring up is you filed a motion to – Mr. Ives filed a motion to quash your subpoena and anything he's gonna testify to, he has responded that it's all work product, according to his attorney's motion.

MR. BALDWIN: We've already told him –

MR. ROZZI: We've told him to stand down, yeah.

THE COURT: All right. So we're gonna – I'll just grant the motion to quash.

MR. ROZZI: Yeah.

MR. BALDWIN: Yeah.

THE COURT: Okay. Okay. So –

MR. MCLELAND: One more issue to address about tomorrow, while we're all sitting up here.

THE COURT: Okay.

MR. MCLELAND: We gave them the redacted videos today –

THE COURT: Oh, okay.

MR. MCLELAND: -- with the redacted – where in the transcript we redacted them, the page reference. My hope is (inaudible) –

MR. BALDWIN: Uh-huh. (Affirmative response)

MR. MCLELAND: -- that we'll play those two first thing in the morning.

THE COURT: All right.

MR. MCLELAND: They're an hour each.

MR. BALDWIN: Um-hmm. (Affirmative response)

MR. MCLELAND: I'll play (inaudible)

THE COURT: Okay.

MR. BALDWIN: Yeah.

MR. MCLELAND: Obviously, that's –

MR. BALDWIN: Did you get that?

MR. MCLELAND: -- ready for tomorrow.

MR. BALDWIN: Did you get that to Brad?

MR. MCLELAND: We gave it to Max and he put it –

MR. BALDWIN: Oh, okay.

MR. MCLELAND: -- somewhere.

MR. BALDWIN: Okay. Good.

MS. AUGER: That was a good idea.

MR. MCLELAND: Yeah. But that's – I would like to do that tomorrow, if you guys have a chance to –

MR. BALDWIN: Yeah, we'll be ready.

MR. MCLELAND: -- 'cause it seems to flow fast.

THE COURT: Okay.

MR. BALDWIN: We'll be ready.

MR. MCLELAND: Thank you.

MR. BALDWIN: Yeah, no problem.

THE COURT: Let me just check with my guy and see if he's – yeah.

(Sidebar conference concluded.)

THE COURT: All right. Well, thank you, ladies and gentlemen. I'll go ahead and grant the motion to quash that was filed by Mr. Ives. I will take under advisement the Google search information. And I've been advised that the time has passed, so we are done, unless there's anything else we need to do. Thank you for the update on where you expect to be tomorrow.

MR. MCLELAND: Nothing from the State's perspective, Your Honor. Thank you.

THE COURT: Anything from the Defense?

MR. ROZZI: Nothing, Your Honor.

MR. BALDWIN: Thank you.

THE COURT: All right. We are done. Jodie, you can go off the record.

(Off record at 5:22 p.m.)

(On record October 29, 2024, at 9:03 a.m.)

THE COURT: All right. Well, we are on the record. Good morning, ladies and gentlemen. We are here on *State of Indiana versus Richard Allen*, 08C01-2210-MR-1. I'll show the Defendant's here in person with counsel. The State is here by the prosecutor and his deputies. The juror members have now assembled. Are we ready to proceed, Mr. McLeland?

MR. MCLELAND: Judge, the State is, yes.

THE COURT: Mr. Rozzi?

MR. ROZZI: Yes, Judge. We may need a quick sidebar before we start to just talk about some technical things.

THE COURT: Okay. Come on over.

(Sidebar conference conducted.)

MR. ROZZI: So this is kind of the way this went down, we're talking about two interviews of Richard Allen conducted by the police, the two interrogations that they're getting ready to play.

THE COURT: Okay.

MR. ROZZI: There's one on the 13th and one on the 26th. So the 13th was redacted and we've looked at that and there's no issues with that one.

THE COURT: Okay. And that's October 13th?

MR. ROZZI: October 13th, 2022.

THE COURT: Okay.

MR. MCLELAND: I labelled it. I just put it as State's Exhibit, even though I think we're stipulating to it. I think, technically, he moved to – Mr. Baldwin moved to admit it. I put a State's Exhibit sticker on it.

THE COURT: Okay.

MS. DIENER: 'Cause we prepared the redacted version, yeah.

MR. ROZZI: The 26th is – so there's a few issues with this one. The polygraph – or the redactions are mostly polygraph references.

THE COURT: Okay.

MR. ROZZI: There are a couple of different instances where Trooper Holeman leaves the room and comes back, you know, kind of a typical interrogation kind of stuff that I think we're all kind of used to seeing, and they redacted those. I don't have a problem with them doing that, except I think the jury should know – I think it's important that they know the context, that he's leaving and so – then coming back.

THE COURT: Can you see him leaving or is it –

MR. ROZZI: I don't think so.

MR. MCLELAND: I don't think so. We, basically, took it out to make it shorter, that's all.

THE COURT: Okay.

MR. ROZZI: Yeah, so –

MR. MCLELAND: But obviously, –

MR. BALDWIN: You know, and we don't –

MR. MCLELAND: -- made it shorter.

MR. ROZZI: But I have a transcript where it references, hey, he's

leaving and coming back. We thought maybe we'd give that to you and you'd explain it to the jury, let them know when he leaves the room.

THE COURT: Do you care?

MR. MCLELAND: I don't care.

THE COURT: I mean, I think –

MR. MCLELAND: No, I'm fine with it.

MR. ROZZI: -- they need context of that.

THE COURT: No, no, no, and I don't have a problem with that –

MR. ROZZI: Yeah.

THE COURT: -- but since I don't know any of that –

MR. ROZZI: I have it marked.

THE COURT: Okay.

MR. ROZZI: The other thing is that there's a reference – I'm looking for the page – yeah, so there's a reference here that says – this is Jerry Holeman talking, Trooper Holeman, "I'm telling you, we collected the weapon on the 14th, and we found the girls dead on Ron Logan's property back by the creek, next to the bridge that you were on," they redacted that, as well, 'cause it has Ron Logan's name in it. I don't think it should be redacted, but I'm not gonna sit here and quibble about it. We're gonna make an objection, just because it needs to be consistent with our third-party motive position in this case, that we believe that third-party –

THE COURT: Okay.

MR. ROZZI: -- evidence should come in and I don't want to acquiesce to this just because –

THE COURT: I understand.

MR. ROZZI: -- it has Ron Logan's name.

THE COURT: I understand.

MR. ROZZI: We'll just lodge that objection.

THE COURT: Okay. Okay.

MR. ROZZI: Then, the other thing I actually just noticed – it is what it is, I just noticed it, but the last redaction at the bottom –

THE BAILIFF: Folks in the gallery, they're making a record over here. You're talking and the microphones are picking it up.

MR. ROZZI: -- they redacted the part where he was arrested and there's no reference in here to anything involving polygraphs, so –

MR. BALDWIN: And I understand you may have thought that we wouldn't want him arrested or something. I think in a normal case, a good defense would be barking up a tree about that, but we're not.

MR. ROZZI: I mean, it's already redacted, we can't show them now, because we're sitting here almost ready to tee it up, so maybe what we could do is just put in the transcript page to show them the end and they can have the transcript, that's what I'm thinking we may do, just offer that up.

THE COURT: Just that last page?

MR. ROZZI: Yeah. We'll we're gonna have to, clearly, redact the polygraph stuff –

THE COURT: Right, right, right, right.

MR. ROZZI: -- but the end here, I think that's part of it. They arrested him. And I think, for context, you know, that should be in there.

MR. BALDWIN: Or maybe the Judge could even read it into the record, I don't know.

MR. ROZZI: Okay.

MR. MCLELAND: I don't have a problem. We took it out for obvious reasons, I didn't think the Defense would like it, so –

THE COURT: Okay.

MR. MCLELAND: To save it time (inaudible), but if they want it in, I don't have a problem with it. I can have Jerry Holeman – if we could limit the scope of his testimony, I could have him get up there and introduce that and say, "There are parts of the video where I step out that we cut out and we've cut out the end where he's actually put in handcuffs." I don't – or you can do it.

MR. ROZZI: You want to just read it to them, let them know the end was redacted and the parties –

THE COURT: That's fine.

MR. ROZZI: -- are just reading it into the record?

THE COURT: Sure.

MR. ROZZI: I'll go get you the –

THE COURT: Let me see it, so I know what I'm reading.

MR. ROZZI: Yeah, it's this part only.

THE COURT: Is it question and answer?

MR. ROZZI: Let me go see if I can get that other –

MR. MCLELAND: Our intent's to play these first, then.

THE COURT: Okay.

MR. MCLELAND: It's about an hour each, so it's gonna be two hours of them watching.

THE COURT: Okay.

MR. MCLELAND: And I'm hoping we can do both of them, I've got

them all here, so I'm hoping.

MR. ROZZI: These Post-Its are the references to him coming and going.

MR. MCLELAND: I highlighted them, too.

THE COURT: Okay.

MR. ROZZI: 'Cause there's two of them.

THE COURT: Okay. So I should have this on the bench with me as we go –

MR. ROZZI: Yeah, you can follow along, yeah.

THE COURT: -- just so I can follow along. And then, I will tell the jury at the very beginning – I will tell them at the beginning that – I don't want to write on this –

MR. ROZZI: It's a copy, it's just a copy. I mean, I understand you're using it, so it could be part of the record, but it's just one of the copies. I've got the original.

THE COURT: So you want me to tell them that portions of the interview have been redacted, as they don't pertain to this investigation?

MR. ROZZI: Yeah, by agreement of the parties or something.

MR. MCLELAND: So there's –

MR. ROZZI: I think that's fine, just kind of keep it neutral. The page 79 might be – should be in there, actually, the end of this, so – so yeah, it would be –

THE COURT: Okay. So with that –

MR. ROZZI: -- it'd be lines 18 through –

MS. AUGER: You want me to get a Post-It?

THE COURT: No. But this – you want me to –

MR. ROZZI: Yeah, just read it in, yeah.

THE COURT: It's gonna stop right here, "You've had your fucking opportunity" –

MR. ROZZI: Um-hmm. (Affirmative response)

THE COURT: -- and then he leaves the room and then you want me – R.A. is your client, so I'm, "Fuck. Fuck you, police. Oh."

MR. ROZZI: Yeah.

THE COURT: Okay.

MR. ROZZI: And then –

THE COURT: So you want me to read this?

MR. ROZZI: Yeah, I mean, if the Court's willing to do that.

THE COURT: That's fine.

MR. ROZZI: That'll save us bringing a witness up and –

THE COURT: No, that's stupid –

MR. ROZZI: And then, the second page –

THE COURT: -- as long as we're all in agreement on it.

MS. AUGER: Yeah.

MR. MCLELAND: No objection.

MR. ROZZI: -- is page 80, it just kind of trickles over into the next page. All right?

THE COURT: Yeah.

MR. ROZZI: Thank you.

MS. AUGER: Thank you.

THE COURT: Okay.

MR. MCLELAND: I'm gonna go ahead and put the first one in. There will be a little bit of a lull when we change out. The other issues is somebody broke the wheels on the thing last night, so it may take us a little bit to get it positioned so the jury can see it.

THE COURT: Oh, nice. Okay.

MR. ROZZI: (Inaudible)

MR. MCLELAND: Possibly, but that's beside the point. We're gonna try to get it positioned where they can see.

THE COURT: Okay.

MR. MCLELAND: So that's gonna take us a little bit at this point.

THE COURT: 'Cause you're gonna have to like pick it up and – okay.

MR. MCLELAND: Correct.

THE COURT: Okay.

(Sidebar conference concluded.)

THE COURT: Okay. All right. So by agreement of the parties, we're gonna – the State's gonna introduce the two statements from October, I think it was 13th and October 26th. You want me to explain to the jury at the time that the interviews are being played, prior to them being played, that portions of the interviews have been redacted, as they don't pertain to the investigation, by agreement of the parties. And then, at the – I have the full transcript, which I appreciate, Mr. Rozzi. At the end, there is a portion at the end where the State redacted Mr. Allen being arrested and you want me to read that portion of the interview beginning on page 79, line 18, concluding on page 80 at line 5. Although I don't need to say, "And further the witness sayeth not." Okay. So

I'm not gonna – okay. So with that understanding, with the redactions, are we ready to go?

MR. MCLELAND: Judge, yes. Just so the record's clear, the State would move to admit what's been marked as State's Exhibit 290, which is the redacted interview from October 13th of 2022, and State's Exhibit 291, which is the redacted interview of Richard Allen from October 26th of 2022.

STATE'S EXHIBITS 290 AND 291 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. So without objection, I'll show those items admitted, and then publication will occur when the jury comes back.

STATE'S EXHIBITS 290 AND 291 ADMITTED

MR. MCLELAND: Correct, Your Honor. And I can move this again and, I guess, have the – get it set up and ready to go.

THE COURT: Okay. All right. Gentlemen.

THE BAILIFF: All rise.

(Jury in at 9:14 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. All right. Well, good morning, ladies and gentlemen. It's nice to see you back this morning. I'll give you a moment there to get all settled in. We have provided to you Defendant's Exhibits Q through V, as in Victor, those will be images that we – I think there was a little bit of confusion earlier on whether or not you had all of those; so out of an abundance of precaution, I've asked the Defendant to provide those to you in stapled packets, so you have that now. I think it was on the top of your materials. Again, we have extra copies of – extra pads of paper and pens, so just continue

to let us know what your needs are as we are getting through the trial. And again, as we have parted company, ladies and gentlemen, and you've had the opportunity to have access to your electronic devices for purposes of communicating with your families and to check your work emails – I know this is the time of year where everybody is having to re-enroll in their insurance, and I think all of us have had that experience, so I know that several of you have had, as well, so I hope that you've been able to accomplish that. So to that end, ladies and gentlemen, have you read, seen or heard any media accounts concerning this case.

A (All jurors answer in the negative.)

THE COURT: Have you discussed this case with anyone?

A (All jurors response in the negative.)

THE COURT: Have you permitted anyone to discuss this case with you?

A (All jurors respond in the negative.)

THE COURT: Have you conducted any research into this case?

A (All jurors respond in the negative.)

THE COURT: And has anybody persisted in attempting to discuss this case with you?

A (All jurors respond in the negative.)

THE COURT: All right. Well again, ladies and gentlemen, thank you for your continued compliance with the Court's directives to avoid outside influences. I believe we are ready to continue. Mr. McLeland.

MR. MCLELAND: Judge, on Saturday, the State and the Defense talked about interviews done between Steve Mullin and Tony Liggett and Richard

Allen on October 13th, 2022, and then Jerry Holeman and Richard Allen on October 26th of 2022. The parties have stipulated to a redacted version of those and I've admitted those into evidence as State's Exhibits 290 and 291, and we've discussed with the Court and with the Defense and, with the Court's permission, I would like to play the two videos, redacted videos, first starting with October 13th and then moving into October 26th as a way to publish that to the jury.

THE COURT: Okay. And, Mr. Rozzi, I know that you and the State had the opportunity to discuss the redactions. And, ladies and gentlemen, the redactions are just portions of the interview that have been removed that don't pertain to the investigation, so that you're not wasting a bunch of time with people not having anything to do with this case, so that's the purpose of that. Any objection to the publication then, Mr. Rozzi?

MR. ROZZI: No, Your Honor.

THE COURT: All right. Thank you very much. You may proceed.

MR. MCLELAND: And, Judge, we may have to reposition the TV. Not only that, we may have to work with the volume, so I'll need a little bit of feedback from the jury. I want to make sure that everybody can see and hear it. So the first question is: Can everybody see – can the jury see the screen sufficiently enough or should I move it?

THE COURT: Everybody can see? Okay.

MR. MCLELAND: Okay. I may have to play with the volume a little bit, Judge –

THE COURT: Okay.

MR. MCLELAND: -- but we'll go ahead and get started here.

STATE'S EXHIBIT 290 PUBLISHED BY PLAYING

THE COURT: Gentlemen, we're gonna have to take a quick break. All right. Well, ladies and gentlemen, we're gonna go ahead and take our morning break. While you're outside the courtroom, please, keep your minds open. Please don't form any opinions or conclusions about anything. You may discuss the evidence that you've heard so far, but please, only do that if all 15 of you are present in the jury room at the same time, and, please, don't deliberate. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 10:46 a.m.)

THE COURT: All right. Let's take 15 minutes, folks. Jodie, you can go off the record.

(Off record at 10:47 a.m.)

(On record at 11:05 a.m.)

(Sidebar conference conducted.)

MR. MCLELAND: Listening to the redacted version and there's a question, "Have you ever been on Ron Logan's property? Have you mushroom hunted there?" It's not redacted. I've looked, I can't find it in the transcript, but he says it's in there.

THE COURT: Okay.

MR. MCLELAND: But I don't want it be thought that the State opened the door for some kind of third-party. I can't find it in the transcript and I don't want to hold up the jury. I don't have a problem if it's in there, as long as it's agreed that it's not me opening the door.

THE COURT: Okay.

MR. ROZZI: Yeah. They're general references to him anyway,

they're not references to him being a suspect, so I'm fine with that.

THE COURT: Okay. So you're okay with it?

MR. ROZZI: I'm not gonna make any arguments, yeah.

THE COURT: Okay.

MR. MCLELAND: I was okay if they come in, so –

THE COURT: Okay. Perfect. All right. And this is the one where you want me to, at the very end – at the very end?

MR. ROZZI: Yeah, yeah, yeah, right.

THE COURT: Did you – you want me to say anything about him going in and out or was that –

MR. ROZZI: Yeah, I think we should just let the jury know.

THE COURT: But –

MR. ROZZI: I just feel like the context is important. It's an interrogation.

MR. MCLELAND: The video's already in there, so are you gonna (inaudible) I think we've established that. You can let the jury know –

THE COURT: That there are moments where Trooper Holeman is leaving?

MR. ROZZI: Yeah, that's fine.

THE COURT: Are you okay with that, Nick?

MR. MCLELAND: I'm sorry?

THE COURT: Where I just say there are moments where Trooper Holeman leaves and reenters.

MR. MCLELAND: Yeah. This is an hour and 34 minute video, there's times cut out there that – we didn't think it was gonna be more than an

hour, even though I thought it was –

MR. ROZZI: That's more than one lie I counted.

MR. MCLELAND: Yeah.

THE COURT: Okay.

MR. ROZZI: Yeah. I think maybe the context form is, just like the first video, there's a few occasions where out of the –

THE COURT: Okay.

MR. ROZZI: They saw that on the first video.

THE COURT: Yeah. Okay. I can do that. All right.

(Sidebar conference concluded.)

THE COURT: Okay. Then, I will just inform the jury when they come back in that there are moments where, like in the other video, where the officers are leaving and re-entering the room; and then, by agreement of counsel, I'll be reading that last little bit at the very end where it's redacted, but there is still activity that you would like me to share with the jury, those pages –

MR. ROZZI: Agreed.

THE COURT: -- page 79 and 80, those couple lines.

MR. MCLELAND: Yes, Judge.

MR. ROZZI: Agreed.

THE COURT: All right. All right, gentlemen.

THE BAILIFF: All rise.

(Jury in at 11:10 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. All right. Well, ladies and gentlemen, we're now going to publish the other interview for you. And as I told

you on the first interview, there are portions that have been redacted that just kind of cut out some dead time and things that aren't pertinent to the investigation, and again, moments where the officers are entering and exiting the room.

MR. MCLELAND: Thank you.

THE COURT: Mr. McLeland.

STATE'S EXHIBIT 291 PUBLISHED BY PLAYING

THE COURT: All right. And, ladies and gentlemen, there's a little bit at the end of this that the parties have asked me to read you a transcript of. Detective Jerry Holeman left the room, and you saw that. Rick Allen says, "Fuck. Fucking police. Oh." Detective Jerry Holeman re-entered the interview room and stated, Jerry Holeman, "All right. Stand up. Put your hands behind your back. You're being detained for the murder of A.W. and L.G." Rick Allen, witness, complies with that directive. Jerry Holeman then states, "Hang on. I want to make sure those don't tighten up. Are they okay right now?" Rick Allen: "Yeah." Jerry Holeman: "And they should not tighten up this way." And then Detective Jerry Holeman and Richard M. Allen leave the interview room. That concludes our proceedings for this morning, ladies and gentlemen. We're gonna go ahead and break for lunch. Again, while you're outside of the courtroom, please, keep your minds open. Please don't form any opinions or conclusions about anything. You may discuss the evidence that you've heard, but please, don't have any deliberations, just have discussions. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 12:47 p.m.)

THE COURT: You may be seated. All right. Is there anything that

we need to discuss outside the presence of the jury, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: No, Your Honor.

THE COURT: Okay. All right. Well, we'll be in recess till about 1:45. And if everybody would just kind of sit tight for a moment, till the jury gets back to the jury room, we'll then allow you to leave. Jodie, you can go off the record.

(Off record at 12:48 p.m.)

(On record at 1:45 p.m.)

THE COURT: Okay. We're back on the record. I see Ms. Diener and Ms. Auger have not rejoined us, but are we ready to proceed, Mr. McLeland?

MR. MCLELAND: Yes, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: Yes, Your Honor.

THE COURT: All right. Gentlemen.

MR. ROZZI: Judge, could we have a quick sidebar?

THE COURT: Sure.

(Sidebar conference conducted.)

MR. ROZZI: I was just thinking about some mechanics again. So we're getting ready to get some DOC people in here, so some of these confessions are gonna come in, and I thought maybe I would just go ahead and make my objections now –

THE COURT: Okay.

MR. ROZZI: -- and incorporate everything that I argued in the

hearings in July –

THE COURT: Okay.

MR. ROZZI: -- the last three days in July, I think the 31st might have been –

THE COURT: July 30th to August 1st.

MR. ROZZI: There you go, yeah.

THE COURT: It was on the 31st.

MR. ROZZI: So I'll just go ahead and incorporate those. That way, we're not, you know, doing this –

THE COURT: Okay.

MR. ROZZI: -- on the fly here.

THE COURT: Okay.

MR. ROZZI: And then, the same thing with regard to the testimony from the guards, inmates, other prison officials about his demeanor and all that, those were arguments we made in Fort Wayne –

THE COURT: Correct.

MR. ROZZI: -- in Allen County, on those dates you gave me. I'd like to move to incorporate those, as well.

THE COURT: I think it was the 17th of –

MR. ROZZI: Of – I've lost my (inaudible)

THE COURT: I don't know what even today is. It was the 17th of October, 'cause we started jury selection October 14th and then –

MR. ROZZI: Yeah, you're right, it was during that.

THE COURT: -- the motions were after that. I think it was after we picked the jury, you all came back and we argued the motions and then we all

came down here later.

MR. ROZZI: So I move to incorporate those legal arguments, as well.

THE COURT: Okay.

MR. ROZZI: And then that way, we're not making any objections.

THE COURT: I appreciate that.

MR. ROZZI: Okay.

THE COURT: That way – because you've made a great record at all of those hearings, so I think we can – and I'll grant your motion to incorporate all of those –

MR. ROZZI: Okay.

THE COURT: -- into these proceedings.

MR. ROZZI: Very good.

THE COURT: Thank you.

(Sidebar conference concluded.)

THE BAILIFF: All rise.

(Jury in 1:47 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Well, welcome back, ladies and gentlemen. I hope lunch was okay for you. We are ready to continue. Mr. McLeland, you may call your next witness.

MR. MCLELAND: Your Honor, the State of Indiana would call John Galipeau, please.

(Witness sworn.)

DIRECT EXAMINATION OF JOHN GALIPEAU

QUESTIONS BY MR. MCLELAND.

Q Will you state your name, please.

A John Lawrence Galipeau.

Q Mr. Galipeau, I'm gonna ask you to keep that good speaking voice up. The microphone doesn't amplify for the Defense or for the jury, it only amplifies for the audience, so we just need to be able to hear you, so speak loud enough for us; okay?

A Yes, sir.

Q Will you spell your last name for me, please.

A G-A-L-I-P as in Paul, E-A-U.

Q Back in 20 – the year 2023, where were you employed?

A 2023, Westville Correctional Facility.

Q And is that part of the Department – Indiana Department of Corrections?

A Yes, sir.

Q And was Richard Allen a person that was being held at your facility at Westville?

A He was.

Q And where within your facility was he being held?

A A Pod, A-1107.

Q Was he in a cell by himself?

A He was.

Q And can you give me the dimensions of the cell that he was being held in.

A I believe it's 12 by 8.

Q And how does that size relate to the sizes of cells in that pod?

A They're all the same-sized cell, sir.

Q And so he was in the same-sized cell as other people within that unit; is that correct?
A That is correct.
Q What is the cell referred to as or does the cell have a name?
A The cell he was in was referred to an observation cell.
Q And why was he in that cell?
A Typically, a person would be in an observation cell if they were under any sort of mental health orders or suicide watch.
Q Did he have a bed in that cell?
A Yes, he did.
Q Did that bed have a mattress?
A Yes, it does.
Q Was that mattress different from the mattresses issued to other individuals within your facility?
A No, sir.
Q Did he have a bed frame for that mattress?
A Yes.
Q And where is that bed frame located?
A It was bolted to the floor.
Q And why was it bolted to the floor?
A So a person can't go under the bed if they're on some kind of suicide watch, we have a constant observation.
Q And was there time when he – when Richard Allen was in your facility that he was on suicide watch?
A Yes, sir.

Q Was there time that he was in your facility that he wasn't on suicide watch?
A Yes, sir.
Q Okay. Was the Defendant allowed to shower?
A He was.
Q How many times a week?
A I believe three times a week.
Q Is that different than other individuals in your facility?
A No, sir.
Q Did he have a toilet in the cell?
A He did.
Q Was he provided clothing?
A He was.
Q How many sets of clothing?
A I believe three sets of clothing.
Q Is that different than other individuals in your facility?
A No, sir.
Q Was he required to wear that clothing while it was soiled or dirty?
A No, sir.
Q Did he have an opportunity to have that clothing cleaned?
A Three times a week, sir.
Q Did he have access to an electronic tablet?
A He did, two of them.
Q And what could he do with that electronic tablet or what capabilities did that tablet have?

A He could download some apps, listen to music, order commissary, make phone calls.
Q Did he have recreational time?
A He did.
Q When did he have recreational time?
A I believe rec's offered five times a week.
Q And was that different than other individuals within your facility?
A No, sir.
Q Was he allowed the same amount of rec time as other individuals in your facility?
A Yes, sir.
Q Was he seen by medical personnel on a regular basis?
A Daily when he was on suicide watch.
Q Was he seen by mental health professionals, as well?
A Yes, sir.
Q And did the medical personnel and mental health personnel keep you updated on his mental health and his physical wellbeing?
A They did.
Q Was he afforded face-to-face visits with family members?
A I believe on at least two occasions he was.
Q Were other individuals within that unit afforded face-to-face visits?
A No, sir.
Q Was he allowed visits with his attorney?
A He was.
Q During the time he was in that unit, was he observed by – were the other

inmates assigned to his cell to observe him?

A Yes, sir.

Q And why is that done?

A They were suicide companions to document behavior.

Q And what is the role of a suicide companion?

A Just to document behavior.

Q At some point, was that changed from inmates to correctional officers?

A It was.

Q Tell me why that happened.

A I changed them to correctional officers for more privacy when he got his legal mail.

Q And how often did you observe Richard Allen?

A For the first few months, I'd say almost daily, but at least a few times a week.

Q And when he first came to your facility, what was his behavior like?

A He was quiet for the first month or so.

Q At some point, did his behavior change?

A It did.

Q Can you tell me about that.

A It changed the day he got his legal mail, I don't know how many pages it was, but his behavior started becoming erratic the day he got that.

Q And tell me what you mean by erratic.

A Ripping up the legal mail, washing his face in the toilet, defecating in the cell.

Q And is it at that point that you changed his companions from inmates to

correctional officers?

A Correct.

Q During this time, would you continue to see him on a regular basis?

A I saw him a few times weekly.

Q Would he request for you to come talk to him?

A Sometimes he did, yes.

Q During the time that you observed him, would you ever initiate conversations with him?

A No.

Q During the times that you had conversations with him, what would he say to you?

A Sometimes he would confess to what he did or sometimes he would ask for a chaplain and sometimes he would ask for a Bible, I think he told me his tablet wasn't working, but the conversations were very limited.

Q The times he would confess to you, do you know how many times he confessed to you?

A At least twice in person and a few notes or requests for interviews that he wrote.

Q I'm gonna show you what's been marked as State's Exhibit 292; can you just tell me what that is.

A That's a request for interview that I received on 3/5.

Q Tell me about – this is a request for interview form that you've seen before?

A Yes.

Q And this is a form used in your facility?

A Correct.

Q And when is this form used? For what purpose?

A Anytime they want to have communication with somebody, whether it be a counselor or myself.

Q When you say "they", who do you mean?

A Counselor, unit team manager, captain, major, deputy wardens, myself, medical –

Q Do you –

A -- mental health.

Q Sorry.

A No, go on.

Q Do you recognize this request for interview form?

A I do.

Q And who is requesting – the request for interview form from?

A Richard Allen.

Q And who is it addressed to?

A Warden.

Q And were you the warden?

A I was.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 292.

STATE'S EXHIBIT 292 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 292 is admitted.

STATE'S EXHIBIT 292 ADMITTED

MR. MCLELAND: And would ask permission of the Court to be able

to publish that to the jury, please.

THE COURT: You may.

THE WITNESS: You want me to read it?

MR. MCLELAND: Not yet.

THE COURT: Oh.

STATE'S EXHIBIT 292 PUBLISHED

THE COURT: You may proceed, Mr. McLeland.

MR. MCLELAND: Thank you, Your Honor.

Q Mr. Galipeau, when did you receive this request for interview?

A March 5th, 2023.

Q And again, you said it's from Richard Allen?

A Correct.

Q And can you read that to the jury, please.

A It said, "I am ready to officially for confess killing A.W. and L.G. I hope I get this opportunity to tell the family sorry."

Q When you received this request, what did you do?

A I gave it to Internal Affairs.

Q Did you go down and see Mr. Allen?

A No.

Q Were there other times that he admitted to you?

A Yes.

Q Were there times that he had apologized to you for what he had done?

A Yes.

Q Did he give you any other details about what he had done besides, "I confess to killing A.W. and L.G."?

A I believe he mentioned something about when he worked at CVS, with a boxcutter that he had disposed of.

Q Do you recall how he said he disposed of it?

A In a dumpster at CVS.

Q And did he mention how he used that boxcutter or what he used it for?

A No, sir.

Q During this time, did you have that information that he was also admitting to other people?

A I did.

Q What information did you have?

A Just what was on the door sheets.

Q And what information was that?

MR. ROZZI: Judge, I'm gonna object to no firsthand knowledge and hearsay.

THE COURT: Hearsay.

MR. MCLELAND: I'll move on, Judge, it's fine.

THE COURT: Sustained.

MR. ROZZI: Thank you.

Q After he made these admissions, was he treated any differently by your facility?

A No, sir.

Q Was he still given the same treatment in terms of recreational time and shower time?

A Yes, sir.

Q Was he still given the same tablet access?

A He was.
Q Were you able to observe Richard Allen while he was at your facility?
A Yes, sir.
Q And is Richard Allen here in the courtroom today?
A He is.
Q Can you describe what he's wearing, please.
A Looks like khakis and a flannel-type shirt.
Q Is he sitting to my right, your left?
A My right.
Q Oh, yes, both rights, sorry.

MR. MCLELAND: Judge, will you let the record reflect that the witness identified Richard Allen?

THE COURT: The record will so reflect.

MR. MCLELAND: I don't have any other questions, Judge. Thank you.

THE COURT: Mr. Rozzi.

CROSS EXAMINATION OF JOHN GALIPEAU

QUESTIONS BY MR. ROZZI.

Q Nice seeing you again, Warden.
A Nice seeing you.
Q So Westville Correctional Facility – let me ask you this first: You were the warden at Westville back in November of 2022, when Mr. Allen showed up at the doorstep; right?
A I believe it was October, yes.
Q Oct – late October/early November, we on the same page?

A Right.
Q And so you were running the facility; right?
A Correct.
Q The buck stopped with you, so to speak?
A Hope so.
Q All right. And he landed at your facility as the result of a safekeeping order that was issued by a judge in this county; right?
A Correct.
Q And that safekeeping order was an order that you were familiar with generally, you understood what a safekeeping order was?
A Correct.
Q And in this particular case, that safekeeping order resulted in the DOC essentially taking custody of Mr. Allen while his case was pending; right?
A Yes, sir.
Q As opposed to you being in charge of somebody who's already been convicted?
A Correct.
Q Big difference; right?
A Sure.
Q And your primary job as the warden of the prison where the safekeeper, Mr. Allen, was located was to ensure his safety and security while he was awaiting trial?
A Correct.
Q And to the extent that didn't happen, falls on you; right?
A Correct.

Q And Westville Correctional Facility is a medium-security facility; right?
A Minimum to maximum.
Q Okay. That's technically how it's classified, at least by the State; right?
A Sure.
Q And in that facility, what'd you tell me, maybe 2000 or 3000 offenders in total?
A About 3000.
Q Okay. And those offenders in that facility have various types of felony convictions; right?
A Correct.
Q Murder?
A Sure.
Q Rape?
A Yes.
Q Arson?
A Yes.
Q Robbery?
A Yes.
Q We could go through the whole list; right?
A Yes, we could.
Q The worst of the worst; right?
A All convicted, yes.
Q Okay. And that facility actually has a maximum-security unit within the medium/max prison?
A Correct.

Q And we've talked about that in – with different acronyms, but I think you called it MCC.

A Correct.

Q I've referred to it as the WCU. Is that the same?

A Same thing.

Q Okay. And there's a couple of those maximum-security units around the state; right?

A Correct.

Q One of those is down in Wabash Valley?

A Correct.

Q And one of them I think is in Pendleton?

A Yes.

Q And then, of course, the – was there one in Miami County, too, maybe?

A Not that I'm aware of, no.

Q Okay. And then up at Westville?

A Correct.

Q All right. And you would generally agree with me that Westville's quite an outdated facility at this point?

MR. MCLELAND: Judge, I'm gonna object to relevance.

MR. ROZZI: It goes to the environmental conditions at the prison, which he was responsible for, pursuant to the safekeeping order.

THE COURT: Well, let's limit it to that timeframe, then.

Q Yeah. Well –

A The maximum-security building was built I believe in 1996, making it one of the newest facilities in the Department of Correction.

Q Okay. But that facility's gonna be out of use here in a few months, isn't it?

A The general-population side of the facility, yeah, in a few years probably.

Q They're shutting it down and they're building a brand-new prison right next to it.

A Right.

Q Okay. And those conditions there are just no longer suitable for housing offenders in general, are they?

A They're suitable.

Q Okay.

MR. ROZZI: May I approach, Judge?

THE COURT: You may.

Q I'm gonna hand you what I've marked as Defendant's Exhibit QQ; just take a look at that, if you would, and I'll ask a few questions about it. Let me know when you're through with that.

A I'm fine, sir.

Q Did you get a chance to look at it?

A Yes.

Q Okay. Does that look like an overhead view of Westville Correctional Facility?

A It does.

Q And just to kind of orient here, would you agree with me that that view at the top of the image there is basically the existing facility and then kind of the bottom half would be the new facility that's being constructed?

A It looks like it, yes.

Q Okay. It – does it generally mimic the conditions that you're familiar with up at Westville?

A It does.

MR. ROZZI: I'd move to admit QQ.

DEFENDANT'S EXHIBIT QQ OFFERED

MR. MCLELAND: I don't see the relevance, Judge, but I have no objection.

THE COURT: Okay. Without objection, then, QQ is admitted.

DEFENDANT'S EXHIBIT QQ ADMITTED

MR. ROZZI: Thank you. May I publish, Judge?

THE COURT: You may.

DEFENDANT'S EXHIBIT QQ PUBLISHED

THE COURT: You may proceed, Mr. Rozzi.

MR. ROZZI: Thank you, Judge.

Q Mr. Galipeau, just to kind of orient the jury about the location where Mr. Allen was housed, would you agree with me that, basically, this top half here is the existing Westville Correctional Facility?

A Yes, sir.

Q I would blow this up, if I could. I'm sorry. This is the best we could do with the technology.

A It's okay.

Q Can you see it okay?

A I can.

Q Do you want me to give you this –

A No, I'm good, I can see it.

Q And do you generally agree with me that if you were gonna get into this prison, you were kind of coming into the administration building here at the top left?

A Correct.

Q You go through some metal detectors and a razor-wire fence right in this area; right?

A Right.

Q And then, basically, if I recall from being up there, once you get inside the facility here, you got to go to the back grounds, which is the WCU unit or the maximum-security unit?

A That is correct.

Q So it's this kind of pod up here on the top of the screen that has the five different – I don't know if those are octagons or whatever shape those are; right?

A Four pods, yes.

Q But before you get into that – this particular area, there's actually another razor-wire fence that you've got to go through, two fences I think maybe.

A Correct.

Q And then you're, essentially, at the doorstep of the WCC, and then you gotta get inside, which is, obviously, secure; right?

A Correct.

Q So it's kind of a prison within a prison, is that a fair way of describing it?

A It used to be.

Q And that unit, the WCCU – or WCU I should say, is the most-secure unit in the state of Indiana.

A It's one of them.

Q One of three; right?
A Yes.
Q We've talked about the other two, one in Pendleton and one in Wabash Valley?
A Sure.
Q You don't get any more secure than that?
A It's secure.
Q Really secure?
A It's pretty good.
Q Okay. And most of the felons, if not the majority of them that are in there, are in there for conduct violations, aren't they?
A Majority, yes.
Q It's a place where people go – where you sent people in the DOC to be punished if they do things wrong, isn't it?
A I wouldn't say punished, but yes, they're convicted.
Q Okay. And we've talked about this kind of recently, I suggested to you that they refer to this as the hole and you said, yeah, in the Hollywood movies they do; right?
A I don't recall that.
Q Okay. You don't recall us talking about that?
A No.
Q Do you want me to refresh your memory or do you believe that that's true?
A I mean, we can. I'm not denying it, I said I don't remember it.
Q Okay. All right. And if someone breaks the rules in that facility, the WCU or the MCC facility, you're out of options, like that's the only place you can send

them; right?

A Yes. We're not out of options, but it's the only – we can transfer them.

Q To another secure facility just like it?

A Sure.

Q Okay. And you said earlier when Mr. McLeland was questioning you, you have a few cells in there that you use for suicide watch; is that right?

A Four of them.

Q So there's – just to help the jury here, there's four pods in there, A Pod is where A-1107 is, where Rick stayed; right?

A Correct.

Q And then there's B Pod, C Pod, and D Pod?

A Correct.

Q Okay. And so each of those pods, if I recall, have about 50 to 60 units or cells in them?

A Fifty-five.

Q Okay. And one – there's one designated pod in each unit which is a suicide pod?

A One designated cell –

Q Suicide cell –

A -- in each pod, yes.

Q Suicide cell. And that's – Rick was in the A Pod suicide cell?

A Correct.

Q Okay. And when you put – in a normal circumstance, when you place an offender in one of those suicide cells, they're typically in there for very short periods of time.

A Correct.
Q You told me maybe a day or up to a week.
A Possibly, yes.
Q But for the most part, the other 54 cells are used for punishment, to house people that are dangerous?
A Used to segregate them, correct.
Q Okay. Because they've committed violations in the prison system –
A Yes, sir.
Q -- in general population? And the only difference in terms of the inside of the cell, as I understand it, between the other 54 cells in this pod and the suicide cell is the bed?
A And the camera.
Q Okay. Yeah. Thank you for reminding me of that. That's pretty important. The bed in the suicide cell, as you said, is bolted to the floor, the bed frame.
A Correct.
Q Okay. We'll see it on the video at some point. But you mentioned that the mattresses are all the same as they are in the other 54 units; right?
A Correct.
Q They're four or five-inch thick little mattresses; right?
A Assuming, yeah. I don't know the thickness of it, but yeah.
Q But in this case, Rick Allen's bed was – or mattress was laid on top of a metal slab that's bolted in the floor?
A Correct.
Q A couple inches off the floor?
A Yes.

Q It's basically on the floor; right?

A Well, it's a couple inches off the floor, yes.

Q Okay. Now, you've been in the DOC, as I understand it, for – you were in the DOC – I correct myself – when we last spoke, for about 28 years?

A Yes.

Q And you were the warden at Westville for five years leading up to Rick's detention?

A Correct.

Q And you – you're not aware of any other circumstance where someone who was a presumed-innocent detainee was held in solitary confinement in that prison, are you?

A Not that I had, no.

Q And he was held there for over a year, wasn't he?

A Yes, sir.

Q Thirteen months.

A Correct.

Q And you're not aware of any other unit in the state similar to that where a pretrial detainee was housed like Mr. Allen, are you?

A Not that I'm aware of.

Q But you applied all the same rules with Rick as you applied with these other offenders?

A Correct.

Q You made that perfectly clear earlier; right?

A Yes, sir.

Q Equal treatment.

A Yes, sir.

Q But all those other people had been convicted of crimes, hadn't they?

A That is correct.

Q Heinous crimes.

MR. MCLELAND: Judge, this has been asked and answered.

THE COURT: Sustained.

MR. ROZZI: I'll withdraw.

Q We talked about suicide watch; do you remember that?

A I do.

Q You said Rick was on suicide watch during a part of his stay.

A Most of his stay.

Q Okay. And in fact, when he got there, when he showed up, he was on suicide watch immediately, wasn't he?

A He came to us on suicide watch.

Q And there was nothing – there was no information that suggested he was a threat to himself, was there?

A I'm unaware of the mental health notes.

Q Okay. Well, would you defer to his psychologist, Dr. Wala, in that regard? Would she be in a better position to make those calls?

A She would.

Q Okay. But he was placed on suicide watch immediately?

A Correct. He came on suicide watch.

Q I'm sorry?

A He came to us on suicide watch from another psychologist.

Q Do you know where he came from?

A I don't.
Q You ever bother to look at his chart to see where he came from?
A I haven't.
Q You ever bother to look at his chart to see anything about his history?
A No, sir.
Q Like, "Hey, has this guy ever been to a prison before?"
A I don't look at histories, sir. We have 3000 inmates, I don't look at histories.
Q Well, but this guy was different; right?
A Didn't even know him.
Q Okay. But he was a safekeeper.
A Correct.
Q And you've never heard of a safekeeper being in that pod in 28 years; right?
A Not in that pod, no, sir.
Q But you didn't think, "Hey, I'm gonna go look at his file, because this is a little unusual"?
A No, sir.
Q Okay. So he gets placed on suicide watch and you put him in a cell with his bed four inches – two to four inches from the floor and a camera; right?
A Correct.

MR. MCLELAND: Judge, objection: Asked and answered. We've covered this already.

THE COURT: Sustained.

Q There a camera in the room?
A Yes, there is.

MR. MCLELAND: Judge, objection again. That's been asked and answered. We've already covered this.

THE COURT: Sustained.

Q Tell the jury where the camera's located.

A It's located on the ceiling, I believe on the right-hand side up top, out of reach.

Q Twenty-four hours a day he's on film; right?

A Yes, sir.

Q And there's no privacy in that cell whatsoever, is there?

A Not a lot.

Q There's a door with a window; right?

A Correct.

Q A metal door?

A Yes, sir.

Q And there's a video camera, as you mentioned. There's a toilet in that cell?

A There is.

Q 8 by 12; right?

A 12 by 8, yes.

Q Okay. In fact, you told me it might be 8 and a half by 12 and a half.

A It was close.

Q Little detail; right?

A Yep.

Q And the lights are on in there; right?

A I mean, he has access to dim the lights.

Q Okay. But there are lights on in there because it's a suicide cell; right?

A Oh, there are, yeah.

Q Okay. And you told me at one point that his window was damaged; right? The window to the outside?

A Damaged and replaced.

Q And if I'm not mistaken, that window's just kind of a narrow slat – right? – in the wall.

MR. MCLELAND: I guess I'm gonna object to this, the relevance of the size of the window.

MR. ROZZI: Conditions in his cell, environmental conditions.

THE COURT: Overruled.

Q You agree with me?

A I agree it's a narrow window, yes.

Q And outside of that window, he's just looking at a razor-wire fence; right?

A I suppose, yes, sir.

Q Okay. Now, the toilet in his room is next to his bed; correct?

A It's to the right of it, yes.

Q A couple feet from his head where he would lay; right?

A Yes, sir.

Q Steel toilet?

A A what toilet?

Q Steel toilet?

A Yes.

Q Concrete cell?

A Yes.

Q Metal door?

A Yes.
Q Now, to contrast that, there's another side to this prison which is the general population; right?
A Yes.
Q And in the general population, you – well, let me back up. Would you agree with me that, in the WCU, these inmates cannot have any contact with other inmates outside of their cell?
A I mean, they can vocalize.
Q Right. They yell at each other through the doors.
A Sure.
Q But they're not allowed to have any interaction with other inmates?
A Not physically, no.
Q So Mr. Allen, for 13 months, was isolated basically in a space of his own?
A Yes, sir.
Q No social interaction?
A Well, no physical interaction.
Q Okay. Well – so the social interaction is them yelling?
A Sure.
Q Now, in general population, the inmates can have contact with each other.
A Yes.
Q Right? To contrast – compare and contrast Mr. Allen's circumstances.
A In general population, there's typical – I'd say average-sized dormitory, it's probably 80 inmates in an open-style, military-style barracks, so sometimes they have too much contact.
Q Okay. They can sit down and talk to each other?

A Yes.
Q Play cards?
A Yes.
Q Watch TV together?
A Well, they can.
Q Okay. They're able to move about freely?
A Most of the time.
Q And they go to the bathroom in a separate room; right?
A Correct.
Q They get to eat their meals together?
A Yes.
Q Rick Allen got to eat through a hole in his door, didn't he?
A Well, it was delivered through the hole in his door, but he –
Q It's called a cuff port; right?
A Correct.
Q It's a little slit in the door where they stick the food in?
A Correct.
Q And then, he gets to take that food and sit on the ground and eat in his – on his bed, doesn't he?
A He can sit on his bed, yes.
Q Got no table in there, does he?
A No.
Q I think at one point there might have been a cardboard box in there.
A For his TV.
Q Okay. And there's no desk in there?

A No.

Q No chair in there?

A No.

Q When the inmates in general population move around, they're not shackled or restrained, are they?

A Not unless they're in restrictive setting.

Q Okay. But if they're in the general population in the dorm setting –

A No.

Q -- they move freely; right? Correct?

A Move around the dorm freely, yes.

Q Okay. Now, you mentioned earlier that Rick got rec; right?

A He did.

Q And I think you told me that you thought it was four days a week. Earlier, you testified I think five.

A I believe it's five. Lockdowns are Tuesdays and Sundays, I believe, so I believe five.

Q A couple days there, they're locked down altogether; right?

A Tuesdays.

Q Okay. Maybe Thursdays, as well?

A I don't recall.

Q Okay.

A Possibly though.

Q But when the inmates in general population have rec, they get to go outside, don't they?

A Depending on the weather, yes.

MR. ROZZI: May I approach – or approach the TV here?

THE COURT: You may.

Q Just to orient the jury, at the top of this exhibit – let's just start at the top here, on the top left quadrant. When you come into the facility, on the left you see this large structure right here?

A I do.

Q Okay. And next to it, is this a big – kind of a big yard or field?

A Correct.

Q Is that a rec yard?

A No.

Q Is there a basketball court there?

A Inside of our dorm, there is.

Q Okay. Well, there's a – there's – in this green space here to the left, there is a – looks like a concrete slab or this colored slab.

A Maybe there is. There's a slab out there for our dorms, our Level 1 offenders.

Q Okay.

A It's hard to see.

Q Okay. When they go out to rec; right?

A Correct.

Q Did Rick Allen ever get to go out to there and go to rec?

A No.

Q Now, down here, as you come in to the right, there's another green space; you see this just on the right here?

A I do.

Q Is that another rec area?
A No.
Q Okay. What is that?
A I believe that's – it's just a grass field. There's no tower there.
Q Okay. And then, moving kind of around to the bottom here, kind of the bottom top half of the photo here, there's another dorm; right?
A It looks like our (inaudible) dorm.
Q Okay. And they've got a rec yard over here, just off the northeast corner of that?
A It's not used no more. It's an old rec yard.
Q It ever was?
A Years ago.
Q Rick Allen didn't get to use any of that space; right?
A No.
Q And then, down here on the bottom right, as we move around, there's a baseball diamond here; right?
A Looks like it.
Q And that's a rec area?
A Yes, sir.
Q Did Rick Allen get to use that space?
A No.
Q Then, moving up here, there's another large grass area. Is that another rec area?
A I believe it's just a large grass area.
Q It looks like it might have a little bit of a track around it or walk ways; is

that what you recall or not?
A I don't recall a rec area outside there, no.
Q Rick Allen get to use any of that?
A No.
Q Then moving up, there's another ball diamond; right?
A That's the GSE.
Q Okay. And rec area where these offenders go?
A Correct.
Q Rick Allen get to use any of that?
A No.
Q What about this green spot here just below the WCU, is that a rec area?
A I don't believe so, no.
Q Rick Allen's rec area was right here in this little quadrant here at the WCU; right?
A Correct.
Q And in fact, he got to go to rec in a room that was about 10 by 15, didn't he?
A I don't know the dimension of the room. There's indoor and outdoor rec and –
Q Okay.
A -- and so –
Q Do you recall telling me that one of the rooms, the rec room he was in, was 10 by 15?
A I'm sure that's accurate.
Q I'm sorry?

A That's probably outside rec. The inside rec's –

Q You think that's accurate?

A Probably.

Q Okay. And when you say outside rec, there's still a roof over this facility, isn't there?

A Outside rec there's a screen, so you can get fresh air.

Q Yeah. So it's kind of like a cage; right?

A I mean, it's an outdoor rec area.

Q Okay. Well, there's walls on all the sides except – well, walls on all the sides, isn't there?

A It's a prison.

Q I understand it's a prison.

A Yes.

Q A place where you put people who are convicted of crimes.

A Potentially.

Q Is that it?

A Potentially.

Q Okay.

A Or safekeepers.

Q Four walls; right?

A Correct.

Q And a screen over it?

A Correct.

Q Is it fair for me to call that a cage?

A I mean, I refer to it as a rec area.

Q Indoor rec?
A Correct.
Q How big's that space?
A I'm not sure. It's probably double the size of the outdoor rec.
Q Okay. And it's right there in the WCU; right?
A Correct.
Q So he just, basically, comes out of his cell and walks down the hallway?
A That is correct.
Q And in neither one of those do they get to socialize with anybody; right?
A Not physically.
Q Okay. There's a pull-up bar I think you said in one of those rec rooms?
A There's a pull-up bar, the outdoor's got a basketball net, and I believe the indoor rec we put ellipticals in there, as well.
Q Okay. And he gets to go in there about four or five hours a week?
A Correct, if he chooses.
Q That's if he's not on suicide watch?
A Correct.
Q 'Cause when you're on suicide watch, you get your rec restricted, don't you?
A Most of the time, yes.
Q And there's no card games to be played by him, is there?
A No.
Q No board games; right?
A No.
Q He's not even allowed to have playing cards in his cell, is it?

A There's games on the tablet.
Q But not playing cards?
A Correct.
Q You said he got some movies on his tablet; right?
A He could.
Q He's got to pay for those?
A Yes, sir.
Q Music, you gotta pay for that?
A Correct.
Q He gets some phone calls -
A He does.
Q -- in that cell; right?
A Yes.
Q And those are recorded, aren't they?
A Not to attorneys.
Q Well, but the other calls are.
A Yes.
Q He can't talk to his wife in private, can he?
A They're recorded.
Q Right. GTL is the company that does that for you?
A Correct.
Q And so he also has a tablet that he can send messages on; right?
A I believe so, yes.
Q Those are monitored, as well, aren't they?
A Yes.

Q No privacy there?
A Limited.
Q And there were times when he didn't have a tablet, weren't there?
A When he broke his, yes.
Q And you said he could have been without a tablet for a month or more on occasion in there?
A He could have.
Q And in fact, at one point, GTL was really behind on the tablets, weren't they?
A For the general pop, they were.
Q Yeah. And I understand you said that – when he broke the first one or it broke, you gave him one right away to replace, didn't you?
A Pretty quick, yes.
Q But that was early on, wasn't it?
A That was after he broke his tablet.
Q Okay. And – but there were other times where he went without a tablet because of this backlog?
A No.
Q Okay. The mental health order, when he was on the mental health order, would he also be monitored when he went and took a shower?
A Yes.
Q And so you said earlier that the rec time when he was on suicide was reduced; right?
A Correct.
Q And basically because he's under constant observation; correct?

A And in a kimono gown.
Q Okay. I was just gonna get to that, I appreciate you transitioning for me.
A You're welcome.
Q One of the real differences when you're on suicide watch is that your clothing circumstances change too, doesn't it?
A Depending on what level. On constant, yes.
Q The level he was on, it changed, didn't it?
A He was on constant.
Q And constant observation; right?
A Correct.
Q And so when you're on constant observation, you don't get your regular prison clothes, do you?
A That is correct.
Q You guys issue a kimono or a smock is what they call it?
A Yes, sir.
Q And, basically, it's just a gown that goes over the top of the person, the inmate; right?
A It's a gown and, yeah, it covers from the shoulders to below his knees.
Q And it's got some straps on the side that you kind of hook together; is that right?
A I believe so.
Q Okay. And so when someone's on suicide watch, their restrictions actually tighten up, don't they?
A Yes.
Q You have less of everything?

A You do.
Q Now, you mentioned visitation, you thought Rick got two visits; right?
A At least two that I recall.
Q And you recall one of those visits at least that we were there, Mr. Baldwin and I?
A On several, yeah, yes, two or three.
Q Okay. Well, let me clarify: There was a visitation that occurred with Mr. Allen's family; right?
A I believe two.
Q That was his wife?
A Correct.
Q Okay. And that happened in a different building within Westville; right?
A Yes, sir.
Q And Mr. Baldwin and I were there?
A Yes.
Q He was transported down there by several guards?
A Correct.
Q And he was fully shackled; right?
A Until he got there.
Q We've talked about this before, haven't we?
A We have.
Q Handcuffs?
A During transport, yes.
Q Leg shackles?
A Yes, sir.

MR. MCLELAND: Judge, I'll object. This has been asked and answered. He said he was fully shackled.

THE COURT: Sustained.

MR. ROZZI: Well, we haven't talked about the nature of the restraints.

THE COURT: Sustained.

Q Tell the jury what restraints he had on him.

MR. MCLELAND: Judge, again I'm gonna object. It's been asked and answered, he said he was fully shackled.

THE COURT: Sustained.

MR. ROZZI: I think that we're entitled to tell them what that means.

THE COURT: That's not what you asked.

MR. ROZZI: I asked him to explain to the jury how he was restrained.

THE COURT: That's the question.

MR. ROZZI: I'm sorry, ma'am, I –

THE COURT: That is not the question that you asked.

Q Would you explain to the jury what "restrained" means in this circumstance.

A Sure. They're restrained with hand restraints and leg irons and a transportation lead.

Q Hand restraints, leg irons?

A And a transportation lead.

Q Okay. Is there a belly chain also –

A Yes.

Q -- that's part of that?
A Yes.
Q Okay. And then, with those hand restraints, is there a box that goes over them?
A Yes.
Q Further secures them?
A So you can't tamper with it, correct.
Q Okay. And you said a lead?
A A lead.
Q And how have I referred to that in the past?
A I refer to it as a lead.
Q What'd I say?
A I believe you said a dog leash.
Q Very similar though, isn't it?
A No.
Q Okay. It's a nylon, you know, strap with a hook on the end, isn't it?

MR. MCLELAND: Judge, I'm gonna object. This has been asked and answered.

THE COURT: Sustained.

Q And so that visit, you had guards stand by him while he was visiting with his wife, didn't you?
A Correct.
Q We've talked about this before, they were a couple feet away from him during the visit. He was on constant watch; right?
A He was.

Q And there's no privacy in any of that, was there?
A He had a visit.
Q There wasn't any privacy, was there?
A I mean, all visits are recorded.
Q All right.
A General pop, too.
Q And you said if he stood up during that visit, the visit would be terminated; right?
A With anybody.
Q Yep. He was treated just like everybody else?
A Better.
Q Okay. No food or snacks during the visit?
A Not for anybody.
Q If he'd have went to the bathroom, his visit would have been terminated?
A That's policy.
Q No water for him?
A Correct.
Q Water would terminate his visit?
A Correct.
Q No water for his wife?
A Correct.
Q Had to terminate the visit if that happened; right?
A Correct.
Q Water fountain right next to him the whole time, wasn't there?
A Yes, sir.

Q Bunch of vending machines right behind us?
A Correct.
Q Phone calls. So you said earlier those phone calls are monitored unless they're attorney calls you said; right?
A Correct.
Q How do they determine which ones are attorney calls and which ones aren't?
A I think he flags them as attorneys.
Q Do you know that?
A Do I know that?
Q Yeah.
A No.
Q Okay. So you're just guessing; right?
A I'm not guessing. I mean, attorney calls aren't recorded. I don't know how he did it, but no, that's not a guess.
Q Is there any form of communication from that cell to the outside world, other than those attorney calls, that's not monitored?
A Is there any sort of communication? Mail.
Q From inside Richard Allen's cell to the outside world, other than where he may flag us –
A Mail.
Q -- that's not monitored?
A Mail.
Q You don't monitor the mail?
A They scan it.

Q Well, we took some discovery up there in March, didn't we?
A I don't recall.
Q You didn't know that?
A Know what?
Q That we took a box of discovery up there to give him.
A Okay.
Q And it took two weeks for them to get it to him, because they had to sort through the box. Did you know that?
A I don't recall.
Q Okay.
A I just recall the legal mail coming in.
Q They actually take the documents that get sent to these people and they check the documents for trace evidence of drugs, don't they?
A Not on his circumstance. The legal mail was sent in and I believe it was roughly 400 to 500 pages. I asked – 'cause we copy all legal mail. I asked if the legal mail was to be copied and they said, no, just give him the originals, so that's what I did. So his legal mail was not copied.
Q Okay. And it took some time to get through that process, didn't it?
A Excuse me?
Q It took some time to get through all that process, didn't it?
A It was a lot of pages.
Q We even had restrictions when we went to visit him, didn't we?
A Of course.
Q At first, we were allowed to take our phones in there; right?
MR. MCLELAND: Judge, I'm gonna object.

A Correct.

MR. MCLELAND: None of this is relevant.

MR. ROZZI: Judge, it's all relevant because it goes – it has a tendency to prove that the conditions that this man endured for 13 months impacted his mental health.

THE COURT: How is whether you can bring in a phone relevant to that specific issue?

MR. ROZZI: It's relevant because it impacted our ability to communicate with him and represent him in an effective way.

THE COURT: Sustained.

MR. ROZZI: Thank you.

Q The rules changed when we were coming up there, didn't they?

MR. MCLELAND: Judge, I'm gonna object again. I don't know what the relevance of this is.

MR. ROZZI: I'll move on.

THE COURT: Thank you.

Q You taped Richard Allen's meeting with his lawyers, didn't you?

A I had them taped, yes.

Q Okay. You had a camcorder up there at the prison; right?

A Yes.

Q And when we met with him, you had an officer holding that camcorder, taping our visits with him from outside the room.

A Unfortunately, yes.

Q All right. You took us in a specific room and you made him sit in a specific chair, didn't you?

A Yes. We made a visitation room for him.

Q Facing the camera?

A Correct.

Q Camera focused on him at all times while we were talking to him about his case?

MR. MCLELAND: Judge, objection: Asked and answered.

THE COURT: Sustained.

Q Let's talk about the use of force; that's something that occurs from time to time in the WCU, doesn't it?

A Everywhere in prison, unfortunately.

Q Okay. And there was never a time when Rick was any meaningful threat to any of your staff, was there?

A I don't – clarify the "meaningful threat."

Q Where he was a threat to their physical safety.

A Well, if you don't follow orders, that's – you can be a threat, yes.

Q Okay. But there was never a time when Rick exhibited any of those behaviors, was there?

A Yes, there was.

Q Okay. Well, when was it?

A I believe it was twice we had to use force on him; ironically, both after attorney visits –

Q Okay.

A -- when he refused to take his hands out of the cuff port.

Q Yeah. He was inside of his 8 by 12 cell?

A Correct.

Q With the door locked?
A Correct.
Q And he wouldn't move his hands from the cuff port; right?
A So we could not secure the door, correct.
Q Right. So you give him a little zap of electricity twice, didn't you?
A After several times to tell him to put his hands back in.
Q A real threat, wasn't he?
A Non-compliant, yes.
Q Because if you're non-compliant enough, that's how you get treated, isn't it?
A The cuff ports need to be closed for safety reasons, yes.
Q He was treated just like all the other convicted felons, wasn't he?
A He was treated better.
Q Now, Mr. McLeland asked you about these people that you – these inmates that would sit at his door. You're familiar with that program?
A Yes.
Q Call them companions; right?
A Suicide companions, yes.
Q It's part of some program at the prison where people can participate and get some credit for it; right?
A I don't know about credit, but they get paid for it, yes.
Q Okay. And so there's some incentive for these inmates to be part of this companion program?
A Sure.
Q And, basically, the companion is required to sit at the door of whatever or

whoever it is that they're monitoring, in this case, Mr. Allen; correct? Basically, they do shifts?

A They do what?

Q They do shifts; right?

A Yes.

Q And they're given a pen and some paper?

A Correct.

Q And they're basically asked to make observations and document those in writing?

A Correct.

Q Pretty much everything that the offender's doing in that cell, they document it?

A Correct.

Q What he's saying?

A Yes.

Q How he's acting?

A Yes.

Q And the times that those things are going on; right?

A Yes.

Q Could be as frequent as every five minutes you might report on somebody's behaviors?

A Yes.

Q And that was the case here?

A Correct.

Q And these companions, unfortunately, are convicted felons; right?

A They are.

Q And some of them are convicted of crimes of dishonesty?

A I assume so.

Q And at some point, you testified earlier, you pulled the companions, didn't you?

A I did.

Q The rules of the companions, the companion program rules, prohibit them from actually talking with the offenders, don't they?

A Well, we'd hope that happens.

Q But they're not supposed to talk to them; right?

A They're not counselors, no.

Q All right. And they're certainly not supposed to take anything that goes on, any information that they obtain from their companionship, and communicate that to anybody else, are they?

A We would hope not.

Q But that happened here, didn't it?

A I'm sure it did.

Q You had some breeches, didn't you?

MR. MCLELAND: Judge, I'm gonna object to the relevance of this.

MR. ROZZI: Yeah, the relevance is, is that there was a safekeeping order in place. He was responsible for carrying that out to ensure his safety and security and that was breached by these companions, who spread this information all over.

THE COURT: Overruled.

Q That's what happened didn't it?

MR. MCLELAND: Judge, I'm gonna object again. Unless Mr. Rozzi can prove how this somehow affected Mr. Allen's safekeeping or his mental health or had any – or that even Mr. Allen knew about that, I don't see how this is relevant.

THE COURT: Sustained.

Q You had problems with the companions, didn't you?

A Not really, no.

Q Well, you removed them, didn't you?

A I removed them when he got his legal mail for his protection –

Q Well, let's talk about that.

A -- and privacy.

Q You don't have any idea what was in that legal mail, do you?

A Nor did I want to.

Q All right. You don't know what he – you don't even know what he read, do you?

A No.

Q Okay. You just know he got legal mail and it happened to be around the same time that you were talking about these other things.

A The same day.

Q April 3rd; right?

A I don't know, it was the same day though.

Q Some of those companions documented behaviors on the log sheets?

A Correct.

Q And those log sheets are then directed – there's a process that – for those log sheets getting to the administration; right?

A Getting to Mental Health, yes.
Q They don't just take them back to their cells is my point with them.
A No.
Q And that's what happened in this case, they were all funneled to Mental Health?
A Yes.
Q And those records, ultimately, were turned over to the State, weren't they?
A Correct.
Q Now, the guards that you have – you had replaced these companions with guards at one point; correct?
A Yes.
Q And those guards don't have any formal mental health training, do they?
A No.
Q And you mentioned earlier there was reference to this 292, this letter – Exhibit 292, this letter that was directed to you; right?
A Yes.
Q And this letter came about the time he got this legal – he got his legal mail, didn't it?
A I don't recall, I put a date on the letter.
Q Okay.
A I believe it was March.
Q Okay. It was the – about the time he started acting up; right?
A Fair enough.
Q You know what I'm talking about; right?
A Yes.

Q When it started getting pretty bad in the cell?
A He started making it pretty bad, yes.
Q Okay. Well, and I – the feces, all that stuff; right?
A Right.
Q Is there any other – did you generate any other document – well, strike that. Did you generate a report that reflects your receipt of this letter?
A I believe I turned over a few to Internal Affairs, I'm not sure when.
Q You – so you think you prepared a report or you're not sure?
A Did I prepare a report?
Q Yeah, a report.
A No, I was just – if I got a request from him, we gotta turn it over. I don't know what you mean by prepare a report.
Q Well, you didn't generate any kind of an incident report that, "Hey, I got a letter from Rick Allen" –
A No.
Q -- anything like that?
A No. It's very common to get those.
Q And you said that there are other times where he said things to you that were incriminating.
A Yes.
Q You didn't prepare any reports with regard to any those, either, did you?
A No.
Q There's not any documentation other than your word here today that those things occurred, are there?

MR. MCLELAND: Objection: Asked and answered.

THE COURT: Sustained.

MR. ROZZI: I'm sorry?

THE COURT: Sustained.

Q No reports; right?

MR. MCLELAND: Again, Judge, the objection was asked and answered.

THE COURT: Sustained.

Q He started engaging in these bizarre behaviors in April; right? 2022 – or 2023?

A I don't remember the exact date, but I remember when they occurred, yes.

Q That sound about right?

A Sounds about right.

Q Now, these statements that you were talking – that we were talking about a minute ago, most of these occurred at his cell door; right?

A Correct.

Q And I think you told me that the only real proof of those existing, other than you testifying, is things that other inmates or guards may have written in their log sheets.

A Correct.

Q And, at some point, you told me – well, strike that. Have you ever read a log sheet where someone was recording incriminating statements from an inmate?

A No, I typically wouldn't get log sheets.

Q Well, this was a first?

A Yes.

Q Law enforcement was coming up to the prison and meeting with your guards while this was going on, weren't they?
A I don't recall.
Q Do you ever remember a situation where law enforcement was interested in what someone was doing, an inmate at the prison?
A That had to do with Mr. Allen?
Q Yeah.
A I don't recall, no.
Q Or any other inmates in his situation?
A We've had law enforcement come in and talk to staff for various reasons, but I don't remember any law enforcement talking to staff for Richard Allen reasons.
Q But you told me that you don't recall any situation where law enforcement had come up there because someone was confessing to something; right?
A Say that again.
Q You told me that you didn't recall a situation in the past –
A And I still don't.
Q -- where law enforcement was coming up there because somebody was confessing to something.
A Correct.
Q In terms of his overall state of mental health while at the DOC, especially Westville, you would have to refer to his psychologist, wouldn't you?
A What do you mean refer to him?
Q Ms. Wala – Dr. Wala would be in a better position to have an opinion about his mental health status?

A Oh, sure.

Q You never talked to the Carroll County sheriff about Mr. Allen's circumstances at that prison while he was there?

A Not that I recall.

Q No one from the Sheriff's Office never came up to check on him?

A Not that I recall.

Q Now, at some point, after 13 months, Rick was moved; right?

A Yes.

Q To Wabash Valley.

A Yes.

Q And you knew that we were trying to get him out of there, didn't you?

A Yes.

Q We've been here in court over it twice, haven't we?

A Three times.

Q Okay. And finally, that happened, didn't it?

A It did.

MR. MCLELAND: I'll object to this line of questioning. I don't see what the relevance of this, whether or not his attorneys were able to get him moved. I don't see the relevance in that.

THE COURT: Sustained.

Q So he was moved and it wasn't your choice; right?

A It wasn't my choice, no.

Q In December of 2023, he just was gone one night; right?

A He moved.

Q And you were on his MDT team, weren't you?

A A what team?
Q The MDT team or the medical team?
A I would pop in, yeah.
Q Okay. It's, basically, a team of four or five administrators and doctors that make decisions about inmates; right?
A I mean, correct. I'm not –
Q And Rick had a team?
A I'm not assigned to that team.
Q You're not?
A No. I mean, I'd pop in, but – on occasion, but I'm not assigned to that team.
Q You didn't know anything about why he got moved to Wabash Valley; right?
A No.
Q Even though you were the warden?
A That's right.
Q You said basically it all happened over an email; didn't it?
A I'm not sure how it happened, but Westville moves, you know, a lot of inmates –
Q Did you ever –
A -- every day.
Q Sorry, go ahead.
A I said we move a lot of inmates every day.
Q Did you ever follow-up and get an explanation for why he was, all of a sudden, gone?

A I wasn't curious to.
Q Life in prison can be pretty tough on people, can't it?
A It's an adjustment.
Q Especially on one's mental health?
A Correct.
Q And detaining somebody in the super-secure unit like the WCU can be tougher, can't it?
A It's an adjustment.
Q Major adjustment; right?

MR. MCLELAND: Objection: Again, asked and answered.

THE COURT: Sustained.

Q Especially for someone who has never been to prison before; right?
A I don't know his history, but it's an adjustment, yes.
Q Did you ever review any of the in-cell video in Mr. Allen's cell?
A I have.
Q Okay. When did you do that?
A Why would I do that?
Q When did you do that?
A I'm not sure. When an incident occurred in his cell, I would review it.
Q Okay. You don't work for the DOC anymore, do you?
A Correct.
Q You got fired, didn't you?
A I got let go.

MR. MCLELAND: Objection: This is outside the scope of direct.

THE COURT: Sustained.

MR. ROZZI: Judge – Judge, may I?

THE COURT: It's outside scope of direct.

Q You were responsible for his safekeeping, weren't you?

A Yes.

Q And that responsibility – you breached that responsibility, haven't you?

A I have breached that?

Q Yes.

A How so, sir?

Q By neglecting your duties.

A I did not neglect my duties.

Q Okay. Well, I asked you what happened to you and you weren't honest with me, were you?

A About what?

Q About your transfer.

A What about my transfer?

Q You said you were laterally transferred to the girls' school, weren't you?

MR. MCLELAND: Judge, I'm gonna object to this line of questions, it's well outside the scope of direct.

THE COURT: It's outside the scope.

MR. ROZZI: Judge, 607, I'm entitled to impeach this witness through Rule 607. Bias, prejudice, his motive to misrepresent is all in question under Rule 607, and it's the State's – or it's the Defense's position that he has a motive to misrepresent the truth because it goes directly to his violating the safekeeping order, which he was responsible for, and it impacted that man's safety and security and that's why it's relevant.

THE COURT: The objection was that it's outside the scope of direct.

MR. ROZZI: Well, I think it's relevant because he – I understand that's his objection, but it's not a proper objection. It's relevant because he talked about the safekeeping order and how the buck stops with him.

THE COURT: I appreciate that, but I'm the one that decides if it's outside the scope, and it is outside the scope of direct –

MR. ROZZI: Thank you.

THE COURT: -- which is why I've sustained the objection.

MR. ROZZI: Thank you. I don't have any further questions.

THE COURT: Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

RE-DIRECT EXAMINATION OF JOHN GALIPEAU

QUESTIONS BY MR. MCLELAND.

Q Mr. Galipeau, maybe an unfair question, but do you know about what time or what day he got – when he first received legal mail?

A I don't. I want to say it was in the spring, maybe in March or April possibly.

Q Now, you said that Mr. Richard Allen was on suicide watch; is that correct?

A Correct.

Q During the time he was with you, why did you place him on – or why was he on – placed on suicide watch?

A Dr. Wala put him on suicide watch for a conversation that they've had that was private to me, so typically I wouldn't be involved in those decisions, I would just follow the orders.

Q And those were coming from his mental health provider?

A Correct.

Q And in general, why is someone placed on suicide watch? What is the point of that?

A To keep them safe.

Q Mr. Rozzi talked about taping the attorney visits. When attorneys come to visit individuals at your facility, are all those meetings taped?

A They are.

Q Are the audio portions – is there audio to those tapes?

A No.

Q And then lastly on the door sheets, those are something used by the mental health providers; is that correct?

A Yes. The door sheets go to the mental health provider, so you can get updates and feedback.

MR. MCLELAND: I don't have any other questions, Judge.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF JOHN GALIPEAU

QUESTIONS BY MR. ROZZI.

Q Earlier, you said he came in on suicide watch and now you're saying Dr. Wala put him on suicide watch.

A He came in on a different suicide order. Once we got him, we referred him, within seven hours, and he was continued on suicide watch.

Q And within your facility, the majority of time he was in there, he was up on suicide watch; right?

A For a lengthy period, yes.

Q Which meant he had less privileges than all the others?

A Correct.

Q And Mr. McLeland asked you about the attorney visits being taped and you said all visits are taped; right?

A Correct.

Q Now, when the other attorneys come in, they go into a little room there when they walk in the door and they meet with the inmates or the clients in a room, like an attorney room with a window, glass; right?

A What facility are you talking about?

Q At the WCU.

A You're the only attorney I've ever seen in there.

Q Oh. So there – all the other attorney visits didn't occur?

A No, I've never seen an attorney in there.

Q Okay. All right. And when two lawyers did show up, put a video camera on us and sat there and watched us visit with our client, didn't you?

A Because that room doesn't have a camera. If it was in general population, those rooms are full of cameras.

Q You also sat inmates at the door when we were meeting – or other guards at the door when we were meeting with our clients, didn't you?

A Well, you can't do constant watch, sir.

Q All right. No privacy, is there?

A Not when you're on suicide watch.

MR. ROZZI: I have nothing further.

THE COURT: Does anybody on the jury have any questions for Mr. Galipeau?

(No response or indication from any juror.)

THE COURT: No? All right. Thank you, Mr. Galipeau. You may

step down.

THE WITNESS: You're welcome.

THE COURT: You may call your next witness, Mr. McLeland.

MR. MCLELAND: Judge, State of Indiana would call Ethan Drang, please.

(Witness sworn.)

DIRECT EXAMINATION OF ETHAN DRANG

QUESTIONS BY MR. MCLELAND.

Q Will you state your name, please.

A Ethan Drang.

Q Mr. Drang, you don't need to lean into the microphone. It doesn't amplify for us. We just ask you to use your best outside voice so that everybody can hear you; fair enough?

A Okay.

Q All right. Will you spell your last name for me, please.

A D-R-A-N-G.

Q And, Mr. Drang, were you once employed with the Department of Correction?

A I was.

Q And which facility were you employed in?

A Westville Correctional Facility.

Q And how long were you employed there?

A I'd say a little – about two and a half years.

Q And before being employed with the Department of Corrections, did you go through any special schooling or training to become a correctional officer?

A I went through the Indiana Department of Corrections training.
Q And what shift within the Westville facility did you work?
A It was called H Group.
Q And what facility within that – or what unit within the facility did you work?
A I worked all over the facility.
Q Are you familiar with an individual by the name of Richard Allen?
A I am.
Q How do you know Richard Allen?
A He was an inmate at Westville Correctional Facility.
Q And did you interact with him while he was at the facility?
A Yeah.
Q And tell me about that interaction.
A He was placed on suicide watch and they placed an officer there to do that watch.
Q Tell me what that – when you're on suicide watch, what does that entail or what do you have to do?
A Just sit in front of his cell door and supervise him, take notes – it's really a log, and log all the events that would occur throughout the day, whatever he's doing, whether he spoke to me, whatever he's doing, if he's sleeping, just kind of like put a 15-minute update log on there.
Q And why do you fill out those logs?
A They're just state logs. That was my post for the day, and I was just completing my duties.
Q Were you ordered to do that?

A I was.
Q I'm gonna show you what's been marked as State's Exhibits 293; are you familiar with this document?
A I am.
Q And what is this document called?
A The suicide companion watch report.
Q And is this a suicide companion watch report that you filled out?
A It is.
Q How do you know that?
A My name is on there and so are my initials.
Q And where are your initials on the document?
A Initials E.D.
Q And on the left side of the document, does it give you a date and time?
A It does, 4/5/23.
Q And would this document accurately reflect what you observed when you were on watch for Richard Allen?
A Yes, sir.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 292, please – or 293, I'm sorry.

STATE'S EXHIBIT 293 OFFERED

MR. ROZZI: Objection: Relevance. I don't know what –

THE COURT: How's it relevant?

MR. MCLELAND: Just, it has admissions by Mr. Allen within this document.

THE COURT: I'll show 293 admitted over objection, then.

STATE'S EXHIBIT 293 ADMITTED

MR. MCLELAND: And, Judge, would ask to publish the same to the jury.

THE COURT: You may.

STATE'S EXHIBIT 293 PUBLISHED

THE COURT: You may proceed, Mr. McLeland.

MR. MCLELAND: Thank you, Your Honor.

Q Mr. Drang, are these sheets made in real time?

A Yes, sir.

Q And so are you writing down what Mr. Allen is doing and what Mr. Allen is saying when he does it?

A Yes.

Q So it's not a situation where you're observing in the cell and going back and making a report later, is it?

A No, I was sitting outside of his cell and then writing down whatever occurred.

Q So I want to draw your attention to this suicide companion watch report. What is the date of this report?

A 4/5/23.

Q And what time do you start observing Mr. Allen on that day?

A 6 a.m., at shift change.

Q And I want to draw your attention to around 8:46 a.m. that day; did you hear Mr. Allen make a statement?

A The – asking me if I wanted to take his Bible.

Q I want to draw your attention to April 5th of 2023, at 8:46 a.m.; what did –

what statement did make on that date and time?

A Oh. "I think coming to prison cured my depression and anxiety. It allowed me to find God. Do you want my Bible?"

Q And then, what occurred later on that day, on the second page, at 9:52 a.m.?

A He slipped a yellow envelope with a request slip inside under the door. Request slip stated that he wanted to confess for killing A.W. and L.G. He also stated he hopes he can apologize to the families.

Q Now, is that something he told you or something you read on the slip?

A That was something I read on the slip.

Q Did you hear him make other confessions?

A Not to my knowledge.

Q How long did you observe Richard Allen while he was in that unit?

A Like over time?

Q Correct.

A Since he got to Westville and then up until I quit.

Q And did you observe him on a consistent basis, meaning every time you worked the shift?

A Yes, sir.

Q And how long – what periods of time did you observe him during the shifts?

A We split them up between four hours each person, depending on how many officers we had throughout the day.

Q And through your training and experience as a correction officer, do you go through any kind of training or education to recognize someone dealing with a mental health issue?

A I'm no mental health professional, but we do get a bit of training on when it comes down to like mental health or if someone is feeling a certain type of way, almost like a de-escalation tactic.

Q So tell me about that training; do you learn to observe signs of someone suffering from a mental health issue?

A Not – no.

Q Do you have any training to determine when someone is faking a mental health illness?

A No.

Q And is Richard Allen in the courtroom here today?

A Yes.

Q Can you identify him, please.

A He's in the khakis and the plaid shirt.

MR. MCLELAND: Judge, will you let the record so reflect?

THE COURT: The record will so reflect.

MR. MCLELAND: I don't have any other questions, Judge. Thank you.

THE COURT: Mr. Rozzi.

MR. ROZZI: Thank you, Judge.

CROSS EXAMINATION OF ETHAN DRANG

QUESTIONS BY MR. ROZZI.

Q Officer Drang, you don't work at the DOC anymore?

A No. It's just Ethan Drang now.

Q Mr. Drang, April 5th, 2023, is the date this log sheet was completed; right?

A Yes, sir.

Q And at 7:19, 7:21, 7:25 in the morning, Mr. Allen is crying?
A Yes.
Q He's screaming?
A Yes.
Q Is – from a mental health standpoint, he was in a pretty bad way, wasn't he?
A I'm no mental health professional, I can't determine that.
Q Okay. But his emotions were shifting rapidly, weren't they?
A He was emotional that day, I'd say so.
Q In fact, he told you he kind of liked it in the WCU; right?
A That's what I wrote.
Q All right. That's strange in and of itself – isn't it? – somebody would like it in that place.
A To each their own.
Q There's not much in that place that's likeable, is there?
A I can't speak for everybody.
Q Well, you work there; right?
A I worked there, yes.
Q Some of the employees leave there depressed, don't they?
A Like I said, I can't speak for everybody.
Q And then he says it's the prison system that cured his depression; right?
A Where was that at?
Q 8:46 a.m.
A Yeah, he said, "I think coming to prison cured my depression and anxiety."
Q He wasn't getting any treatment in there, was he?

A He was able to speak with Mental Health daily.

Q Yeah. The mental health provider comes by the door of his cell and asks him how he's doing, don't they?

A We would pull him out and he'd get to speak to Dr. Wala himself.

Q Yeah. Once a week maybe?

A It was offered a lot, actually. I can't really recall how many times, but it was offered plenty of times.

Q Took him down the hallway?

A Yeah.

Q Put him in a cage?

A Yeah.

Q And let him talk to his doctor?

A Yes, sir.

Q That's where the therapy goes on in there, doesn't it?

A Yes, sir.

Q It's a cage, isn't it?

A He's behind a cage door, yes.

Q And on this day, he slipped a letter under the door; right? An envelope?

MR. ROZZI: May I approach?

THE COURT: You may.

Q Is that right?

A Yes, sir.

Q This look like it?

A Yeah.

Q Says he wants to – this is State's Exhibit 292; right?

A What is the date on that?
Q Well, there is no date on it.
A Okay.
Q There's a handwritten note with a date on here –
A Okay.
Q -- of March 15th, 2023.
A Yeah, that's what I recall.
Q This is what you saw; right? "I hope I get the opportunity to tell the victims I'm sorry – the families I'm sorry"?
A Yeah, that's what I wrote down here.
Q The inmates in there get mental health codes?
A Yes.
Q What was his code?
A I'm not sure on all that.
Q Okay. You know anything about his mental health history when you were in there?
A I do not know.
Q Nobody educated you about that?
A No, sir.

MR. ROZZI: I don't have anything further.

RE-DIRECT EXAMINATION OF ETHAN DRANG

QUESTIONS BY MR. MCLELAND.

Q Mr. Drang, Mr. Rozzi asked you if he was suffering from a mental health or mentioned that. Do you have any training to recognize whether or not someone is suffering from a mental health episode?

A No, I do not.

Q The training and experience that you talk about when you become a correctional officer to talk about mental health triggers, is that something you learned in that class?

A Yes. That'd be like receiving phone calls from their families and then whether they just skip out on a meal because they're upset that they're not at home, stuff along those line. I'm not – like I said, I'm no mental health professional.

Q Any of those triggers that you learned about in that class, did you see any of those when you observed Richard Allen?

A Yes.

Q Okay. Which ones did you see?

A When he would be on the phone with his wife or coming back from anywhere, just being outside the cell and going back in the cell, there'd be a trigger there.

Q What would be the trigger?

A Just going back into the cell. I'm not really sure, I'm not a mental health professional, I'm sorry.

MR. MCLELAND: I don't have any other questions, Judge. Thank you.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF ETHAN DRANG

QUESTIONS BY MR. ROZZI.

Q So something as simple as walking outside of the door and then back into the cell triggered these symptoms?

A Yeah, sure.

Q Pretty fragile, wasn't he?

A By fragile, what do you mean?

Q Mental – from a mental health standpoint.

A I can't answer that.

MR. ROZZI: I have nothing further.

THE COURT: Does anybody on the jury have any questions for Mr. Drang? Anybody else? Would counsel approach.

(Sidebar conference conducted.)

THE COURT: "Were there contents in the yellow envelope slid under the door on 4/5/23 at 8:05 a.m. as noted on your log?"

MR. MCLELAND: I'm okay with that.

MR. ROZZI: Yeah, that's fine.

THE COURT: "What did the contents say? What were they, if anything?" So this kind of depends on what his answer is, it says, "Were they contents?" If he says no, then I don't – next question.

MR. MCLELAND: No objection.

MR. ROZZI: That it?

THE COURT: No, that's it.

(Sidebar conference concluded.)

JUROR QUESTIONS OF ETHAN DRANG

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Sir, were there contents in the yellow envelope he slid under the door on April 5, '23, at 8:05 a.m., as noted in your log?

A Yes, there were.

THE COURT: Any response?

MR. MCLELAND: No, Your Honor.

THE COURT: Or any follow-up? I'm sorry, any follow-up?

MR. ROZZI: No.

Q Okay. What were the contents? What were they, if anything?

A The contents would be a request slip. The request slip, they were – it was almost like a mailing system, they'd be able to send it out through the mail and that request slip could go to whoever they designated it to go to.

THE COURT: Any follow-up, Mr. McLeland?

FOLLOW-UP EXAMINATION OF ETHAN DRANG

QUESTIONS BY MR. MCLELAND.

Q The contents of that envelope, the request slip that you testified about – I don't know where the actual exhibit went, but State's – is this the contents of the envelope?

A Yes, sir.

Q Okay.

MR. ROZZI: What are you showing him? 292?

MR. MCLELAND: 292, but I don't know where State's Exhibit 292 went. I guess what I would ask the Court is to remark this as 292.

THE COURT: You may. It may have gotten into the packet that the jury had, I don't know, but we can –

MR. MCLELAND: May have, Judge.

THE COURT: We can remark it, that's fine, that's not a problem, 'cause it was admitted without objection.

MR. MCLELAND: It was, Judge, and I don't know what –

MR. ROZZI: I don't think I – maybe I took it. Sorry. No, this one's stapled to my exhibit.

Q So let me do this a little cleaner. I'm gonna show you what's been marked as State's Exhibit 292; is that what was in the manila envelope that Mr. Allen shoved under the door on April 5th?

A Yes, sir.

Q Okay. So that's the contents of the envelope?

A Yes.

MR. MCLELAND: Okay. I don't have any other questions, Judge.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF ETHAN DRANG

QUESTIONS BY MR. ROZZI.

Q 292 has a note here in the top right corner, doesn't it?

A Yes.

Q What's that say?

A Does it say reviewed?

Q Received maybe?

A Yeah, that was not on top of the request when that was under the door.

Q It's got a date there? What's the date there?

A 3/5/23.

Q March 5th, 2023; right?

A Yes.

Q 11:47?

A Yeah.

Q You received this letter from Mr. Allen on April 5th, didn't you?

A Yeah, April 5th.

Q That's what the log sheet says?

A Yeah. I just had to count it, sorry.

Q There's no way Galipeau could have had this on March 5th, is there? It didn't exist.

A To my – that was in my yellow – like I have no more answers, I'm sorry.

Q Can't explain it, can you?

A No.

Q He doesn't work for the DOC anymore, does he?

MR. MCLELAND: Judge, objection.

A I don't know, sir. I am not sure.

THE COURT: Sustained.

MR. ROZZI: Nothing further.

THE COURT: Thank you, Mr. Drang. You may step down.

THE WITNESS: Thank you.

THE COURT: You may call your next witness.

MR. MCLELAND: Judge, the State of Indiana would call Michael Clemons, please.

(Witness sworn.)

THE COURT: You may proceed.

MR. MCLELAND: Judge – I'm sorry.

THE COURT: No, go ahead.

DIRECT EXAMINATION OF MICHAEL CLEMONS

QUESTIONS BY MR. MCLELAND.

Q Would you state your name, please.

A Michael Clemons.

Q Mr. Clemons, I'm gonna ask you to use your best outside voice. The microphone, it doesn't amplify for us, and so I have to be able to hear you, along with the defense counsel and the jury. Fair enough?

A Yes, sir.

Q Speak up just a little bit more.

A Sorry.

Q Will you spell your last name, please.

A C-L-E-M-O-N-S.

Q And how are you employed?

A I'm a correctional officer at the Westville Correctional Facility.

Q And how long have you been employed there?

A About four years now.

Q And did you have to go through any kind of special training or education to be a correctional officer?

A Yeah. We have – there's a program when you start.

Q And how long is that program?

A I'd say around two months, maybe a little more than that.

Q And you work at Westville Correctional Facility; is that correct?

A Yes.

Q What shift do you work?

A I work on the H Group, which is a day shift, one of the two day shifts.

Q Okay. Can you tell me what the hours of those shifts are.

A 6 a. to 6 p.m.

Q And what unit within the facility do you work at?

A A Pod.
Q And are you familiar with an individual by the name of Richard Allen?
A Yes, I am.
Q How do you know Richard Allen?
A He was placed at Westville under our care for –
Q And did you have an opportunity, while you were employed at Westville, to monitor Richard Allen?
A Yes.
Q Can you tell me about that.
A Well, I was his companion.
Q Why were you asked to monitor him?
A I was a suicide companion.
Q Can you tell me what that is?
A I just watch over him and document whoever they have me on every 15 minutes.
Q And were you asked to observe and document Richard Allen?
A Yes.
Q And did you do so?
A Yes.
Q And in the course of doing that, did you fill out any kind of paperwork?
A Yes, I did.
Q Will you tell me about that.
A We have a companion sheet and we wrote down what – it was like 10 to 15 minutes we wrote down whatever –
Q After you're completed with those companion sheets, what do you do with

them?

A They were turned in to my lieutenant, I believe.

Q And do you fill out those companion sheets in real time, meaning while you're there observing Mr. Allen?

A Yes.

Q I'm gonna show you what's been marked as State's Exhibit 294; can you tell me what that is.

A This is a suicide companion sheet.

Q And whose initials are down the right side of that?

A Those are my initials.

Q And who filled out this companion?

A I did.

Q And what is the date?

A It is 4/6/23, but it's scribbled out on the side and it says 4/7/23.

Q And you believe you're the author of this companion sheet?

A Yes.

Q And you recognize this companion sheet?

A I recognize the sheet. I mean, there were a bunch.

Q Sure. But you recognize the initials down the right side, as well?

A Yes.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 294.

STATE'S EXHIBIT 294 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 294 is admitted.

STATE'S EXHIBIT 294 ADMITTED

Q Mr. Clemons, I want to draw your attention to April 7th, 2023, at 7:30 a.m.; did you make a notation or document what Richard Allen said at that date and time?

A Yes.

Q Can you read to the jury what you documented.

A It says, "Offender says, 'God, I am so glad nobody gave up on me after I killed A.W. and L.G."

Q And is that your writing?

A That is.

Q I want to draw your attention to later that day, 8:01 a.m., what did Richard Allen say?

A At what time?

Q 8:01 a.m.

A "Offender says, 'I, Richard Matthew Allen, killed A.W. and L.G. all by myself, nobody helped me."

Q Now, you document these one time in your report. Did he say these things multiple times?

A I'm real – I don't know.

Q Okay. I want to draw your attention to 8:03 a.m., what did Richard Allen say?

A "Offender says, 'I'm not crazy, I'm only acting like I'm crazy."

MR. MCLELAND: Judge, the State would move to publish the suicide watch companion sheet to the jury, please.

THE COURT: You may.

STATE'S EXHIBIT 294 PUBLISHED

THE COURT: You may proceed, Mr. McLeland.

MR. MCLELAND: Thank you, Your Honor.

Q Mr. Clemons, when he made these statements at 7:30 a.m., 8:01 a.m., and 8:03 a.m., would that be something that you would write down immediately?

A Yeah. I was told to write down everything he said, so –

Q And so you would do that as he was saying those things?

A Yes.

Q And how long did you observe – well, let me back up. How many months were you stationed to be a suicide companion for Mr. Allen?

A It was – I couldn't tell you the exact amount of months, but it was a good amount of time.

Q And what hours or what blocks of shift – of your shift would you be a suicide companion watching Mr. – a suicide companion with Mr. Allen?

A There was a point when we had one officer do the whole 12 with him. Then, I think – I believe they divided it in like half or – so –

Q But would you be – would you observe Richard Allen each shift you worked?

A Yeah, I'd say yeah.

Q And what was his behavior like – and did you observe him from the time he was Westville until the time he left?

A Can I – can you repeat the question?

Q Sure. Did you observe him from the time that he came into Westville until the time that he left Westville?

A Yeah, when I was posted on A Pod, yes.

Q And what was his behavior like when he first arrived at Westville?
A Normal.
Q At some point, did his behavior change?
A Yeah.
Q Do you know when that was?
A I don't know exactly when.
Q How did his behavior change?
A He just started acting different.
Q How was he acting different?
A He'd say like random things, I don't – like – I don't –
Q You don't recall anything specific?
A Yeah, yeah, not anything specific.
Q Okay. Can you identify Richard Allen?
A Yes.
Q Is he here in the courtroom today?
A Yes.
Q Where is he sitting?
A He is sitting two seats to your right.

MR. MCLELAND: Judge, will you let the record so reflect?

THE COURT: The record will so reflect.

MR. MCLELAND: I don't have any other questions, Judge. Thank you.

THE COURT: Mr. Rozzi.

MR. ROZZI: Thank you, Judge.

QUESTIONS BY MR ROZZI.

Q Officer Clemons, you actually gave a statement to a couple of investigators back on August 9th, 2023, didn't you?

A Yes.

Q And they were there to try to get information from you about what Rick was doing at the prison; right?

A Yeah.

Q You said you were told to sit there next to his cell and write down everything that he says, didn't you?

A Yes.

Q There were inmates that were doing that before you, weren't they?

A Yes.

Q And there were some problems with those inmates doing that, weren't there?

A I mean, I don't – I'm not the one that makes those decisions.

Q Okay. Well, that changed overnight, didn't it –

A When I came in, yes.

Q -- from inmates to guards?

A When I came in, yes, one day, yes.

Q Okay. And back on April 7th of 2023, Rick Allen never said anything to you specific about what he did to those girls, did he?

A Is that this day? Is that the date of this document that I'm looking at?

Q Yeah.

A On here, no.

Q He never mentioned how he killed them?

A It didn't say anything specific.
Q Not why he killed them?
A No.
Q Just basically generic confessions; right?
A That's on the sheet.
Q I'm sorry?
A That's what's just –
Q At one point, he was actually referring to you as God, wasn't he?
A At one point, yes.
Q And there was a reference – directing your attention to this Exhibit 294, at 8:03 a.m.; do you see that entry?
A Yes.
Q And it says, "Offender says, 'I'm not crazy, I'm only acting like I'm crazy"; right?
A Yes.
Q That was actually him responding to some of the other inmates that were yelling at him, wasn't it?
A I don't know exactly.
Q Well, would it help you refresh your recollection if I showed you your statement from August 9th?
A Yes.

MR. ROZZI: May I approach, Your Honor?

THE COURT: You may.

MR. ROZZI: Give me another second.

Q Directing your attention to page 11, if you'd take a look at lines 4 through

13, read those to yourself. Let me know when you're done.

A Yeah. It says that I said that it's – I was pretty sure that's why he might – may have said that.

Q There were a bunch of other people yelling; right?

A Yes.

Q So it wasn't like he said that just without context. But you didn't report that in the – you didn't report the rest of that in your –

A No, I didn't –

Q -- log sheet; right?

A No, I didn't document what the other offenders said.

Q Thank you. In fact, some of those same inmates were harassing him quite frequently, weren't they?

A I don't know.

Q Okay. Well, they were telling him that he ought to kill himself?

A They probably said that, yes.

Q Called him a baby killer, didn't they?

A I don't know exactly what they said.

Q Okay. Well, you reported some of that in your statement, too, didn't you?

A Yes.

Q The others on the unit knew who he was, didn't they?

A Yes.

Q And why he was there?

A Yes.

Q They can be pretty evil on that unit, can't they?

A I don't – I'm not –

Q Some bad guys in there, aren't there?
A I'd say yes.
Q You've been at the prison for three or four years now?
A Yes.
Q Seen a lot of different inmates; right?
A Yes.
Q And you said you didn't have any formal education in the field of mental health?
A No.
Q So to the extent that you – strike that. You would have to defer to his doctor as it relates to his mental health condition, wouldn't you?
A I don't know any –
Q You know Dr. Wala?
A Yes, I knew Dr. Wala.
Q You know that she was treating him from time to time there?
A Yes.
Q She'd be in a better position to have an opinion about his state of mental health; right?
A Yes, she would.
Q And you told the officers, back in August, 2023, that you've dealt with crazy people before; right?
A With mental health codes and such.
Q Right. What was Rick Allen's mental health code?
A I wasn't aware he had one.
Q Okay. People with mental health codes are the ones that you referred to

as crazy back then; right?

A Maybe as like the general public would see as crazy.

Q What's that?

A Maybe as like someone would interpret as crazy, yes.

Q Okay.

A As close to crazy as you could be.

Q You just assumed he was normal functioning, didn't you? You assume that he was normal functioning and he didn't have a mental health code?

A Yes, sir.

Q If you found out he was a mental health code D, would your opinion change about his behaviors?

A What does a mental health code D entail?

Q Do you even know?

A I don't know the actual codes, no.

Q Okay. Do you recall having to taze him one time back there?

A I never had to taze him personally.

Q Were you there when he got tazed?

A I was.

Q He was in his cell, wasn't he?

A Yes.

Q And he wouldn't take his hands out of the port that they serve the food through, would he?

A Yes, sir.

Q He wasn't a threat to you, was he?

A I mean, when the hands are in the cuff port, there's a – have to get the –

our policy at the facility is we have to get the hands back in the cuff port.

Q Right. Somebody leaves their hands in the little port in the door, you gotta –

A Yes.

Q -- taze them if they won't take them out; right?

A Yeah, so they can't reach and grab and pull on us.

Q How big's that cuff port?

A It's a box about like this big. (Indicates)

Q Okay. Can you just walk away for a minute and wait for him to take his hands out of the cuff port?

A We never walk away from an open cuff port.

Q Okay. They're not going anywhere, are they?

A I mean, no.

Q It's the most-secure unit in the state of Indiana, isn't it?

A Yes, it is. I would think so.

Q Mr. McLeland asked you about his changes in behaviors; remember that a few minutes ago?

A Yes, sir.

Q You said he started out normal; right?

A Yes, sir.

Q And then things changed?

A Yes, sir.

Q But you couldn't remember anything specific?

A No.

Q Did you ever see him banging his head on the wall time and time again in

his cell?

A Personally, no, sir.

Q Okay. Did you ever see him rubbing his feces all over his body in his cell?

A No, sir.

Q Okay. Did you ever see him eating his own feces at any time?

A I don't know.

Q Did you ever hear that any of those things happened to him from other officers?

A No.

MR. ROZZI: Okay. I don't have anything further.

THE COURT: Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

RE-DIRECT EXAMINATION OF MICHAEL CLEMONS

QUESTIONS BY MR. MCLELAND.

Q Mr. Clemons, when you were observing the change in behavior from Mr. Allen, did you think his behavior was genuine?

A No; no, sir.

Q Mr. Rozzi asked you if he was acting crazy and you said he was acting crazy, and if you didn't believe his behavior was genuine, did you think he was crazy?

A No, sir.

Q Why not?

A It was my opinion that I didn't think he was crazy because of the way this – it happened so fast, it was very – it was like a switch.

Q So he'd go from acting normal to acting crazy and switch like that?

A Yes.

MR. MCLELAND: I don't have any other questions, Judge.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF MICHAEL CLEMONS

QUESTIONS BY MR. ROZZI.

Q Flipped a switch; right?

A Yes, sir.

Q He might have just lost it; right?

A Yes, sir.

Q Prison can get to a man, can't it?

A I'm sure it can.

Q Now, Investigator Mullin asked you during that August 8th interview whether or not you thought he was crazy, didn't he?

A Yes, sir.

Q And you said, "I don't think he's crazy"; right?

A Yes, sir.

Q And he asked you to explain that to him, didn't he?

A Yes, sir.

Q And you said, "I've never thought that. I mean, I've dealt with crazy people."

A Yes, sir.

Q And you described crazy people as somebody like with mental health codes and stuff; right?

A Yes, sir.

Q They actually have an official code?

A Yes, sir.

Q If you found out he was a mental health code D, might that change your opinion about his behavior back in April of 2023?

A It may.

MR. MCLELAND: Judge, I guess I'm gonna object, just a foundational question. Do you know what mental health code D means?

A No, I do not.

MR. MCLELAND: Then, I'll object to the question. I don't think it's a proper question to ask this witness.

MR. ROZZI: May I rephrase the question?

THE COURT: Yes.

Q You know that there are mental health codes; right?

A Yes.

Q You just don't know which letters are which?

A Yes, sir.

Q If you found out he had a code, would that change your opinion about what his actions were?

A It may.

MR. ROZZI: I have nothing further.

THE COURT: Does anybody on the jury have any questions for Mr. Clemons? Would counsel approach.

(Sidebar conference conducted.)

THE COURT: "Is it possible that when filling out companion reports, you were documenting when Mr. Allen could be shouting out to other inmates?"

MR. MCLELAND: I'm okay with that.

MR. ROZZI: Yeah.

(Sidebar conference concluded.)

JUROR QUESTIONS OF MICHAEL CLEMONS

QUESTIONS OF THE JURY, READ BY THE COURT.

Q All right. Sir, is it possible that when filling out companion reports, you were documenting when Mr. Allen could be shouting out to other inmates?

A I guess it would be possible.

THE COURT: Okay. Any follow-up, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: No, ma'am.

THE COURT: All right. Thank you, Mr. Clemons. You may step down. And could I have that exhibit, please. All right. You may call your next witness.

MR. MCLELAND: Judge, State of Indiana would call Michael Roberts.

(Witness sworn.)

DIRECT EXAMINATION OF MICHAEL ROBERTS

QUESTIONS BY MR. MCLELAND.

Q Will you state your name, please.

A Michael Roberts.

Q And, Mr. Roberts, I'm gonna ask you just to speak up. The microphone doesn't amplify, so everybody's got to be able to hear you, so use your best outside voice; fair enough?

A Yeah.
Q Okay. Would you state your name again, please.
A Michael Roberts.
Q That's great. Thank you. Will you spell your last name, please.
A R-O-B-E-R-T-S.
Q And, Mr. Roberts, how are you employed?
A Through State of Indiana through Westville Correctional Facility.
Q Is that part of the Department of Corrections for the State of Indiana?
A Yes.
Q And how long have you been employed there?
A Eight years.
Q And did you go through any kind of special schooling or training to be a correctional officer?
A We went through our normal amount of training and we have our recertification every year to follow with it.
Q So you go through annual training, as well as the initial training that you went through?
A Yes.
Q What does the annual training consist of?
A All our policies that we go over, all our daily what we're gonna go through, what we should expect, any new policies that have been brought up, go over, and how we're supposed to conduct ourselves throughout our shifts.
Q And what shift did you work?
A I worked I Group, daytime shift, 6 a.m. to 6 p.m.
Q And what unit within the facility did you work at?

A I worked at WCU, which is the segregation unit.
Q And are you familiar with an individual by the name of Richard Allen?
A Yes.
Q And how do you know Richard Allen?
A I was assigned to be companion at the door, to watch him.
Q He was also housed within the WCU; is that correct?
A Yes.
Q And so you're familiar with him as an inmate in that unit?
A Yes.
Q And were there times that you were assigned to watch his cell as a suicide companion?
A Yes.
Q And were there certain logs or documentation you filled out while acting as a suicide companion?
A Yes. We were supposed to log everything he said and did throughout our watch.
Q And did you do that?
A Yes.
Q And did you note those things that he said and did in real time?
A Yes.
Q Meaning you did it as he was doing those things?
A Yes, I wrote it down as he did it.
Q And so would your reports accurately reflect what Mr. Allen was doing and saying during the times you would monitor him?
A Yes.

Q I want to show you what's been marked as State's Exhibit 295. Are you familiar with this packet of documents?

A Yes.

Q And what are those documents?

A Our logs of everything that happened for that day for the shift that he said or did.

Q And who is the author of those documents?

A I am.

Q And how do you know that?

A It has my signature and my handwriting.

Q And down the right side of the document, are those your initials?

A Yes.

Q And during the left – down the left side of the document, are those the date and times you observed Mr. Allen?

A Yes.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 295.

STATE'S EXHIBIT 295 OFFERED

MR. ROZZI: Just one second, Your Honor, I'm trying to get organized here. Is this my copy, Nick?

MR. MCLELAND: Yes.

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 295 is admitted.

STATE'S EXHIBIT 295 ADMITTED

MR. MCLELAND: Judge, what I'd ask the Court to do is to publish

this to the jury and then allow the witness to go through them, it's a – there's a lot of stuff on the documents – allow the witness to go through them and point out the questions I'm – I guess point out the spots in the documents that I'm gonna reference questions for.

THE COURT: Okay.

MR. MCLELAND: Does that make sense?

THE COURT: That's fine. Yeah. So you just want the jury to follow along as you go?

MR. MCLELAND: Just follow – yes, Judge, thank you.

THE COURT: Okay.

MR. MCLELAND: That's a way better way better way to phrase it than what I did.

STATE'S EXHIBIT 295 PUBLISHED

THE COURT: Everybody has a copy. You may proceed.

MR. MCLELAND: Thank you, Judge.

Q Mr. Roberts, I'm gonna draw your attention to the suicide companion watch report from April 7th and I'm gonna draw your attention to 12:45 p.m. Can you tell the jury what Mr. Allen said on that date and time.

A "Dear Lord, forgive me for molesting A.W., L.G., and Chris."

Q Then I want to direct your attention to 1 p.m.; what did Mr. Allen say?

A "Dear God, molest – Dear God, forgive me for molesting A.W., L.G., Kevin, and Chris."

Q And then direct your attention to 1:45 p.m.; what did Mr. Allen say?

A "I want to confess. I know a lot more."

Q I now want to draw your attention to the next page, April 13th, and I want

to draw your attention to 8:15 a.m.; what did Mr. Allen say on that date and time?

A "What more do I got to do?"

Q I'm gonna draw your attention to suicide companion watch report from April 23rd, the next sheet, and draw your attention to – sorry, it's actually the third sheet – draw your attention to 2 p.m. that day; what did Mr. Allen say?

A "I killed A.W. and L.G. My wife wasn't involved. I would like to confess."

Q I want to draw your attention to the next page, on April 26th of 2023, and I want to draw your attention to 5:06 p.m.; what did Mr. Allen say?

A "Can I talk? Can you listen? I killed A.W. and L.G."

Q What about at 5:15 on that same day?

A "How do I prove that I'm sane – how do I prove that I'm insane?"

Q And draw your attention, lastly, to June 18th, the next page, and draw your attention to 3:30 on that day; what did Mr. Allen say?

A "Why are you doing this? Do you know God? Do you know why I'm here? I killed A.W. and L.G."

Q Then finally, on June 21st, the last sheet in that packet, gonna draw your attention to 3:15; what did Mr. Allen say?

A "Do I make you mad? Have I told you about my wife? I killed A.W. and L.G. Should I lay down?"

Q And again, are you documenting these things in real time as Mr. Allen's stating them?

A Yes.

Q And did you observe or were you assigned to the WCU the entire time that Mr. Allen was housed in that facility?

A He came to the facility a day before my shift started, so he was there a day and then, after that, my shifts were involved with him and watching him.

Q And were you asked to watch him on a consistent basis?

A Yes.

Q Any idea how many hours that you spent as a suicide companion for Mr. Allen?

A I couldn't count off the top of my head, but it was a lot.

Q When he first arrived at the facility – back up – when you first started observing Mr. Allen, what was his behavior like?

A When he first came in, he was normal, coherent, talkative, maybe a little scared, 'cause you're scared when you come to prison the first time, but just like a normal person being locked up.

Q At some point, did his behavior change?

A After about a month and a half, two months, three months, he started changing his behavior, acting abnormal, changing himself, making it seem like he was not there, he couldn't hear you, couldn't talk. He was acting up.

Q During your experience with the Department of Corrections, did you ever have any training to identify an inmate who's suffering from a mental health issue?

A Yes.

Q Tell me about that.

A We go through RHU training, which is restricted housing unit, and then we also go through how to recognize certain signs that someone has a mental disorder, about if they can be dangerous one day and nice the next, but we're taught how to handle it, we're taught how to recognize it, and how to report it.

Q And do learning those signs help you keep the inmates safe?

A Yes.

Q When Mr. Allen's behavior changed, did you notice any of those signs that you were taught to recognize?

A Yes.

Q What signs did you see?

A He began doing more and more outrageous things to make you look at him, to make you gasp, make him – get the attention to himself. So if he would try to act up, he would wait for you to watch him, watch what he's doing, and then, I don't know what he got out of it, but he would act up when we're watching. He wouldn't act up when we're not watching.

Q And so from your training and experience, was that an indication that he was suffering from a mental health issue?

A It more so pointed to that he was more acting up, instead of actually having something.

Q Do you recall Mr. Allen visiting with the chaplain at times?

A The chaplain would come and talk to him, he would try to talk to him. A lot of times, he ignored him, but the chaplain would talk and, a lot of times, he would want to talk about getting a Bible or –

MR. ROZZI: I'd object to hearsay.

THE COURT: Sustained.

Q So you do recall there were times that Mr. Allen would speak to the chaplain?

A Yes.

Q During those times he would speak with the chaplain, what would Mr.

Allen say?

A It depends on the day, but he would – a lot of times, he would talk about his family. A lot of times, I tend to not listen to what they are saying, just to keep it more private, 'cause it's religious, but from what I was hear – did hear or understood, he was talking about his family, about what he wanted, how his day was, just seeing if he's in a good mood or not.

Q Did he ever make a statement – did Richard Allen ever make a statement of the chaplain that, "I can't choose God over family"?

A If he said it, it wasn't in front of me.

Q Okay. And is Richard Allen here in the courtroom today?

A Yes.

Q Can you tell the Court what he's wearing.

A Glasses on his head, striped shirt, gray pants, black shoes.

MR. MCLELAND: Let the record so reflect.

THE COURT: The record will so reflect.

MR. MCLELAND: I don't have any other questions, Judge. Thank you.

THE COURT: Mr. Rozzi.

CROSS EXAMINATION OF MICHAEL ROBERTS

QUESTIONS BY MR. ROZZI.

Q So one of the repeated themes that you observed was that Mr. Allen's primary concern was for his family?

A A lot of times, he would mention his family, but then, a lot of times, he would mention other things, other people, and then he would just mention things that didn't make sense.

Q Well, he definitely was concerned about his family, his wife?
A Yes.
Q You also gave a statement to – or you gave a statement to officers back on August 8th, 2023, at the prison?
A Say that again.
Q You gave a statement – you interviewed with some officers back on August 8th, 2023, at the prison?
A Yes.
Q And they asked you – spent quite a bit of time with you, asking you questions about all this?
A Yes.
Q You've been at the DOC for six years?
A At the time, it was six years, yes.
Q Okay. And you worked in – on the WCU unit, the max security unit, for how many?
A Since COVID, like a year before COVID, so five or six years, give or take.
Q And you were assigned to A Pod right before Rick arrived?
A Yes.
Q When was that?
A When I was assigned to W – to A Pod? I'd have to – I don't know the exact date.
Q Any idea?
A 2020 I started A Pod.
Q Okay.
A I was on A Pod for a year when he came in.

Q Okay. So it wasn't right before he arrived, it was a year before?
A I've been on A Pod, yes.
Q All right. Your memory's not quite so good today; right?
A I mean, it's – I worked in – what do you mean?
Q If I told you he got there in November of 2022, would that sound about right?
A I mean, I don't know dates off the top of my head.
Q Okay.
A A lot of stuff has happened between now and then.
Q I understand. I understand. You said when he got there, he was kind of scared and he wasn't talking to anyone; right?
A Yes.
Q But he didn't have any altercations with staff or anything like that, did he?
A No, not at first.
Q He was fine, wasn't he?
A Yes.
Q Pretty docile, kept to himself?
A Quiet, yes.
Q And then you said that his behavior seemed pretty normal from about January to April; right?
A Yes.
Q And then you said he only acted up when his lawyers came?
A Yeah. The first time that I was there when the lawyers came, and the day after is when he started showing signs of everything else.
Q Okay. So just one time?

A More than once.
Q How many times did his lawyers come when you were there?
A When I was there, at least four times.
Q Okay. And who did you see?
A What do you mean? His lawyers?
Q Did you see his lawyers?
A Yes.
Q And who did you see?
A The two that would always come. Sometimes they would bring interns, sometimes they wouldn't.
Q Okay. And who were they? Did you ever talk to them or have any interaction with them?
A I never talked with them. The only thing I ever talked to him is he asked my name one time, and that was the intern asking me.
Q Okay. And you said you had some – or you don't have any formal mental health education, do you?
A Other than what the State provides for training, that's –
Q All right. You haven't gone to college and gotten any kind of degrees in mental health?
A Not mental health, no.
Q Okay. You're just talking about whatever they're – the training is that they give all the officers when you show up?
A Just the training and my experience through it.
Q Okay. Do you have any certificates or anything referencing your completion of any training?

A Yes.
Q And where are those?
A All in my State profile.
Q What's the definition of serious mental illness, do you know? The DOC?
A I don't know what their definition is, but I know what my definition is.
Q Okay. You have your own?
A Of what a mental illness is? Yes.
Q Serious mental illness.
A Yes. That's when something's affecting your head and making you act out.
Q Okay. That's what serious mental illness is?
A Yes.
Q Okay. When you're acting up?
A Not just acting, it's actually involved when you have a mental illness.
Q So when something's affecting your head and making you act up; right?
A I mean, you can have something in your brain make you act up, you can just have impulses that do it, but yes.
Q As far as your log sheets are concerned, you were pretty detailed, weren't you?
A Yes.
Q Keeping logs. And State's Exhibit 295, you reported a number of things in these pages that Richard Allen did while he was at the DOC; right?
A Yes, sir.
Q You said that he told you he molested Dawn?
A Yes.
Q Did he tell you who Dawn was?

A Nope.
Q Okay. And he told you he molested A.W.; right?
A Yes.
Q Told you he molested L.G.?
A Yes.
Q He told you he molested a person named Chris?
A Yes.
Q And he also told you he molested someone named Kevin, didn't he?
A Yes.
Q And at one point, he started smearing feces all over himself, didn't he?
A Yes.
Q He'd do his business in the toilet or in his food tray and then he'd rub it on the walls?
A Yes.
Q All over his cell he was doing this, wasn't he?
A Yes.
Q And you said he was a pain in the butt; right? 'Cause you had to do more work.
A I mean, someone doing that for attention for that is inconveniencing what – on top of what we have to do, it's making us do more, yes.
Q Okay. Inmates only do that stuff for retaliation; right? That's what you said?
A Not all of them. All of them that have mental issues that they do that and their impulses that do it. Others do it just to get attention 'cause they know it inconveniences the COs.

Q All right. But you distinguished somebody who just rubs it on themself from somebody who eats it, didn't you?
A What do you mean?
Q You said, well, if somebody's just rubbing it on himself, that's one thing; but if they're eating it, they have a disorder. That's what you told the officers, didn't you?
A Not necessarily you have one, but it's definitely different things to rub it on yourself and to eat it.
Q All right. Those are two different things to you?
A Yes.
Q One of them, the first one, you're pretty used to; right?
A Seeing people, yes, rub – yes.
Q But once somebody starts eating it, then they're in a whole different class of crazy, aren't they?
A It takes more internal to do that, yes.
Q Okay.
A Some will do it, some people won't and that's where they draw the line with it, but if they're gonna take it that far, yes.
Q You said, "So I've dealt with ones that have a disorder where they actually eat their own feces"; right?
A Yes.

MR. MCLELAND: I'm gonna object. It's been asked and answered.

THE COURT: Sustained.

Q So there's a difference between those two things; right?

MR. MCLELAND: Objection, Judge: Asked and answered.

THE COURT: Sustained.

MR. ROZZI: I haven't asked that.

THE COURT: You asked it. He answered that.

Q If I told you that he was eating his feces, would you change your opinion then about his state of mental health when he was there?

A I'd have to observe it. If I didn't observe it, I can't take other people's word for it.

Q You agree that working in a prison is tough?

A Of course it is.

Q Tough environment, isn't it?

A Yes.

Q You deal with the worst of the worst in there, don't you?

A Yes.

Q On a daily basis?

A Yes.

Q And it's hard to have sympathy for people in a place like that, isn't it?

A I mean, it's one thing to have sympathy towards somebody, but to understand them, I can understand why someone would act up first time they're coming in or doing it, but sympathy is having an emotional attachment to somebody and I try not to get attached to somebody so nothing goes one way or the other.

Q There were a lot of other inmates in there around Rick, weren't there?

A Yes.

Q About 55 other cells in that pod?

A Give or take, yeah. Some of them were empty, some were not. They get

filled every day.

Q And they would frequently yell at him, wouldn't they?

A Not when he was sitting in his cell they wouldn't yell out to him.

Q Okay. Well, when he got out of his cell, they would yell at him, wouldn't they?

A They'd usually do that to everybody with certain cases, they'll yell at them down the way.

Q Tell him to kill himself?

A Yes.

Q Call him a baby killer?

A Yes.

Q All the regular stuff; right?

A Yes.

Q That's a normal day in the WCU, isn't it?

A Yes, for – yes, those kind of offenses, yes.

Q It's a form of entertainment for these other offenders, isn't it?

MR. MCLELAND: Objection: Calls for speculation.

THE COURT: Sustained.

Q Now, the officers specifically asked you about one of these incidents where he smeared feces on himself, didn't they?

A Yes.

Q And you said he had it on his face for about two hours; right?

A Yes.

Q And at some point, he realized he didn't like it; right?

A Yes.

Q So he would wipe it off of himself?
A Yep.
Q He wasn't getting a reaction like he wanted?
A Yes. I didn't give him any reaction to it, I just –
Q Just ignored it?
A -- observed it and wrote down what he was doing.
Q Yeah. Didn't call your supervisor to come in and help?
A I contacted a supervisor as soon as it happens.
Q But after two hours, somebody showed up, didn't they?
A Someone came up right away and then they contacted Mental Health for her to come, but she was at her home at the time, 'cause it was the weekend, so it took time for her to come in.
Q At least two hours?
A I don't know the exact time, but when we – I contacted my supervisor and I contacted Mental – told them to contact Mental Health.
Q Okay. But you said he wasn't getting the reaction he wanted; right?
MR. MCLELAND: Judge, again, objection. Asked and answered.
MR. ROZZI: I'll move on.
Q So what's the threshold for how long somebody has to sit there with feces on their own face to be crazy? You tell me.
A What do you mean?
Q Well, how long do you have sit there like that before you would believe that that was a genuine action by somebody?
A Just that action alone won't determine if I believe they are crazy or not.
Q Oh, okay. If your grandma did that to herself, would you feel that way?

A Depends on the day.

Q You think she might have something wrong with her?

A My grandmother had dementia, so yes.

Q Yeah. If your brother did something like that to himself, you think –

MR. MCLELAND: Judge, I'm gonna object. What's the relevance of this?

THE COURT: Sustained.

MR. ROZZI: I'm drawing an analogy.

THE COURT: Sustained.

Q He told you in some of the other statements that his grandpa molested him?

A Yes.

Q That he wanted KFC?

A Yes.

Q At one point, he actually asked you to read him his last rights, didn't he?

A Yes.

Q And he had suicidal ideations, didn't he?

A He never said outright that he's gonna kill himself, he just said that he wants to die or he doesn't want to be alive anymore.

Q You also said that he did – spent a lot of time walking back and forth in that cell, didn't he?

A Yes.

Q Are those inmates on A Pod allowed in-person visits?

A Not since –

Q Are they allowed in-person visits, I'm sorry?

A Not since COVID happened they haven't.
Q Okay.
A They can do video visits, but not in-person visits, just because it's segregation.
Q They don't allow too many people off that unit, do they?
A No.
Q Not even his lawyers?
A Lawyers are allowed to visit.
Q Which is extremely rare, isn't it?
A Yeah. Well, lawyers do come to the back and they are in-person visits, but it's – it needs to be monitored.
Q It's a mental health – A Pod is a mental health unit for long-time offenders, isn't it?
A Yes.
Q You remember Richard Allen tapping his head on the wall?
A Yes.
Q Time and time again over the period of a very long period of time?
A Yes.
Q And you talked about how you didn't have any sympathy for him there, did you?
A I never said I never had sympathy for him.
Q Well, you questioned the authenticity of that action, didn't you?
A Well, he was hitting his head on the wall, he wasn't slamming his head on the wall, he was just tapping it, and normal tapping is normal for people that are – don't have anything to do.

Q But he did it over a really long period of time, didn't he?
A Yes.
Q And at one point, his entire face was black and blue from it, wasn't it?
A When signs started showing, I – that's when I told him to stop it, that's when I informed my supervisors.
Q That's what he looked like the next day, didn't he?
A If you tap your head on a wall for a long time, yes.
Q His entire face was black and blue?
A The entire face wasn't black and blue. It was swollen, but it wasn't black and blue.
Q And there was a long period of time where he was refusing his meds and his rec and his food and showers, wasn't it?
A Yes.
Q And you were aware that these companions were also watching him?
A At first they were watching him, yes.
Q And these people were violating the rules of their own program, weren't they?

MR. MCLELAND: Objection, Judge. Foundational questions?

THE COURT: Yes.

MR. MCLELAND: Do you know – did you investigate any time any rules were violated by suicide companions?
A That's more so handled by the supervisors, but they – when I was –

MR. MCLELAND: Hold on. Were you part of any investigation into any violations of rules by inmate companions?
A No.

MR. MCLELAND: Judge, I'm gonna object to the question. It calls for speculation.

MR. ROZZI: I'll rephrase it.

THE COURT: Sustained.

Q You told the officers that these companions were telling people in general population and all this stuff was spreading like wildfire, didn't you?

A Yes.

Q So they were taking what he was saying in the cell, going back to general population, spreading the word, the good word?

A That's how it usually happens.

Q And you said that in May, June, and July, you used the words, "Rick Allen accepted what was happening to him"; right?

A You have to point to it. Which one?

MR. ROZZI: May I approach?

THE COURT: You may.

Q Would it help to refresh your recollection, look at your statement with the officers?

A Sure.

Q Direct your attention to page 32, lines 3 through 7.

A 3 through 7, you said? Okay.

Q Can you give me an idea of what his May, June, and July looked like as far as his behavior? "Not what he did in the beginning, but it's also more so he's accepted what's happening to him"; right?

MR. MCLELAND: Judge, I'm gonna object. He's reading it into the record. To help refresh his recollection, that's fine, you need to ask him a

question. It's improper impeachment.

THE COURT: Sustained.

Q Is that what you said?

MR. MCLELAND: Judge, all that did was get around the objection I just made. If he's got a question for him, that's fine, but that's a improper way to impeach a witness.

THE COURT: It is improper impeachment. Do it –

MR. ROZZI: Thank you, Judge.

THE COURT: -- correctly if you'd like to do it.

Q Did you say to those officers in your August 8th interview that Rick Allen had accepted what was happening to him?

A Yes.

Q He came to terms with it; right?

A Usually people that go to prison accept it after a while, yes.

Q He accepted he was in jail for the first time in his 50 years of his life, didn't he?

MR. MCLELAND: I'm gonna object, Judge. It calls for speculation, asked and answered.

THE COURT: Sustained on speculation.

Q He accepted he was thrown into the most-secure unit in the state of Indiana?

MR. MCLELAND: Objection, Judge: Asked and answered.

THE COURT: Sustained.

MR. ROZZI: He didn't – he hasn't answered that.

THE COURT: He answered the question, sir.

Q He accepted that he'd been completely isolated from society for months and months?

A If that's how long he's been locked up, then yes.

Q He accepted he had to sleep on a metal slab on the floor?

A He had a mat that – when he was in his cell.

Q About that big, wasn't it?

A That's what the State provides, yes.

Q He accepted that he had to use the toilet in front of others?

A There was nobody else watching him other than the companions.

Q He accepted that he gets food through a hole in the door?

A That's how all inmates in segregation accept their food.

Q But all those other inmates have been convicted of crimes, haven't they?

A Yes.

Q He gets the privilege of showering three times a week?

A He was offered showers, yes.

Q And he accepted that he gets to pace back and forth across his cell for entertainment; right?

A That's up to him what he wants to entertain himself with.

Q And he accepted that, instead of normal clothing, he got to wear a gown, didn't he?

A That's usually what happens when you go on suicide watch is you get put in the gown, so it's for your own safety.

Q So when they – when you're on suicide watch, you have less privileges and more restrictions; right?

A Yes.

Q And all this stuff is recorded, all the time that he was in there, wasn't it?
A Yes.
Q Directing your attention to Exhibit 295; do you have that in your hand, sir?
A Yes.
Q The first page there is your log sheet from April 7th, 2023; right?
A Yes.
Q Let me direct your attention to the 1:15 timestamp; do you see that, your entry there?
A Yes.
Q So read that to the jury, if you would, please.
A Which specific one?
Q Strike that. What did Richard Allen tell you at 1:15 p.m.? There's three entries there.
A At 1:28, he said to me, "I will never again smoke in my life."
Q Okay. This is in the 1:15 column; right?
A Yes.
Q Okay.
A It was between 1:15 and 1:30.
Q You said he was sitting in a corner?
A Yes.
Q And what's the next thing there you said? Raining in place?
A Ran in place.
Q Ran in place?
A Yes.

Q Naked?
A Yes.
Q For five seconds?
A Yes.
Q "I will never again smoke in my life," he said; right?
A Yes.
Q And then, at 1:30, you made some other entries there?
A Yes.
Q What did he say to you at 1:30?
A "God, I'm sorry for wasting your time."
Q What else did he say?
A "I'll never smoke, cheat on my wife again. I'm a Libra."
Q Turning your attention to the second page, April 13th, 2023, at 8:15 a.m., you see that?
A Yes.
Q So at this point, he's rolling around on the ground?
A Like rolling back and forth, yes.
Q Would you have called Mental Health at this point so they could intervene?
A No, because he wasn't trying to self-harm, he wasn't making statements, he was just rolling on the ground. He could be entertaining for himself. A lot of them, inmates, do that in their cells.
Q Okay. That's all there is to do in an 8 by 12 cell at the WCU, isn't it?
A Work out and read –
Q All right.
A -- that's about it.

Q And roll around on the floor?
A If they choose to do that, then, yes.
Q That's what –you just said that's what they do sometimes.
A Yeah.
Q That's common up there, isn't it?
A Rolling on the ground?
Q Yeah.
A Not super common, but a lot of them do weird things in their free time.
Q Ever seen animals at a zoo do that?

MR. MCLELAND: Judge, I'm gonna object to relevance.

THE COURT: Sustained.

Q 8:45 entry on April 13th, drawing your attention to that.
A Yes.
Q See that?
A Yes.
Q He said, "I swear I never cheated on a cigarette"?
A Yes.
Q "Thought I was eating pizza"?
A Yes.
Q Officer Clemons [sic], you said you had some mental health training; right?
A Through the State, yes.
Q And you've worked in that prison for how many years?
A Eight years.
Q Would you agree with me that putting somebody in solitary confinement in a setting like the WCU is detrimental to their mental health?

MR. MCLELAND: I object to the form of the question, Judge.

THE COURT: Sustained.

Q Would you agree –

MR. ROZZI: Thank you.

Q Would you agree that putting someone in a cell like that in the Westville Correctional Unit could be detrimental to their mental health?

A Detrimental to their mental health? It just depends on how okay they are in their head or it's mostly for to keep them safe from the outside or the outside safe from them.

Q Okay. But I'm talking about from a mental health standpoint.

A I'm not a mental health professional.

Q Is there anything about locking somebody up in one of those units for weeks and weeks and weeks and months and months on end that's good for them?

MR. MCLELAND: Objection, Judge: Asked and answered.

Q Anything?

THE COURT: Sustained.

MR. ROZZI: No, I haven't asked that.

THE COURT: He said, "I'm not a mental health professional."

Q Well, you've got training, don't you?

A I have training, yes, but I'm not a mental health professional.

Q Is there anything about that environment that makes somebody better?

MR. MCLELAND: Judge, I'm gonna object. It's been asked and answered. He gave him answer to the question.

THE COURT: Sustained.

MR. ROZZI: I don't have any other further questions.

THE COURT: Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

RE-DIRECT EXAMINATION OF MICHAEL ROBERTS

QUESTIONS BY MR. MCLELAND.

Q Officer, you testified that an inmate in their cell, they can read and they can exercise. Can they also have an opportunity to go to rec?

A Yes.

Q They also have an opportunity for a Bible; is that correct?

A Yes.

MR. MCLELAND: I don't have any other questions, Judge. Thank you.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF MICHAEL ROBERTS

QUESTIONS BY MR. ROZZI.

Q I also saw a note in one of the entries that said he got some crayons every now and then; do you recognize that?

A From mine? Point to –

Q Yeah, the mental health providers would come by and give him some crayons.

A I don't know the mental health provider, so I don't know what they give them.

Q Do you remember seeing them around the cell?

A Mental health provider?

Q Yeah.

A Yeah, she was around. We would bring him out and they would put him in the little cubicle where she would do her talk with him.

Q You're talking about him going down to the cage where he had his therapy sessions; right?

A It's a cubicle where they would have privacy from anybody that's within earshot of his cell.

Q Yeah. It's a tiny, little room – isn't it? – 3 by 3 maybe.

MR. MCLELAND: Objection: Asked and answered. He testified to what it is.

THE COURT: Sustained.

Q Describe to them what it looks like.

MR. MCLELAND: Judge, objection. He just did – it's asked and answered. He just –

MR. ROZZI: He said it was cubicle, I'm asking him to describe –

THE COURT: Overruled.

MR. ROZZI: -- it in detail.

THE COURT: Overruled.

A It's a square room, there's a table where someone can sit in front of each other and then there's a side part where, if it's a – if the person has a mental issue, a mental code, they sit in there. That way, they're not attacking whoever they're talking to, Mental Health –

Q They talk to the counselor through a grate – the gate, don't they?

A Yes.

Q And that's where Rick Allen sat, isn't it?

A Yes.

MR. ROZZI: I have nothing further.

THE COURT: Does anybody on the jury have any questions for Mr. Roberts? Would counsel approach.

(Sidebar conference conducted.)

THE COURT: "Is everything you log on your suicide companion report also video recorded?"

MR. MCLELAND: I'm okay with it.

MR. ROZZI: I'm okay with that.

THE COURT: "Do you know if these recordings are saved?"

MR. ROZZI: Okay with that.

MR. MCLELAND: Okay with that.

THE COURT: "What would happen if someone had feces on them? Would they give them something to help clean up or would they go to the shower to get clean?"

MR. ROZZI: I'm okay with that.

MR. MCLELAND: I'm okay with that.

THE COURT: Can I just kind of combine them?

MR. ROZZI: Yeah.

THE COURT: "You state that he looked to make sure he was being watched. When would he not be watched if he was on suicide watch?"

MR. ROZZI: I'm okay with that.

THE COURT "Do the cameras in the cells only video record?"

MR. MCLELAND: I'm okay with that.

MR. ROZZI: I'm okay with that.

MR. MCLELAND: I think you should ask it in conjunction with that.

I mean, the question I would have is, is it video and audio, so I don't know if you can combine those two, but I think that's what they're asking.

THE COURT: Okay. And then we'll have to take a break.

MR. MCLELAND: All right.

(Sidebar conference concluded.)

JUROR QUESTIONS OF MICHAEL ROBERTS

QUESTIONS BY THE JURY, READ BY THE COURT.

Q Mr. Roberts, is everything you log on your suicide companion watch report video recorded or audio recorded?

A I believe it's video recorded and audio recorded. There's a camera in the room, so yes.

THE COURT: Any follow-up, Mr. McLeland?

FOLLOW-UP EXAMINATION OF MICHAEL ROBERTS

QUESTIONS BY MR. MCLELAND.

Q Do you know if that camera has audio or not?

MR. ROZZI: Asked and answered. He just said, "I believe it has audio."

THE COURT: He did.

MR. MCLELAND: Sorry, Judge.

THE COURT: Mr. Rozzi?

MR. ROZZI: No.

JUROR QUESTIONS OF MICHAEL ROBERTS

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Do you know if these recordings are saved?

A Like on a database, yes, but I don't know what happens from it after that

point.

Q A daily basis, is that what you said?

A Like a database, like a hard –

Q Okay, a database. I'm sorry –

A -- hard drive.

THE COURT: -- I didn't understand. Mr. McLeland?

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

MR. ROZZI: No.

THE COURT: Mr. Rozzi?

Q What would someone – strike that. What would happen if someone had feces on them? Were they given something to help clean up or would they go to the shower to get clean?

A We usually pull them, we take them to like the – there's a shower that's separate from everywhere, so nobody's watching them or hears them or whatever, but we take them to the separate spot and we have them wash. If they don't wash, we wash with a medical person there. And then we have porters or like cleaners that come and clean their cell.

THE COURT: Any follow-up, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: No, ma'am.

Q You state that he looked to make sure he was being watched. When would he not be watched if he was on suicide watch?

A When I would be looking at my paper, writing my logs. If I would just look the other way for whatever noise is coming down the end of the hallway with the

other inmates, if somebody was walking in.

THE COURT: Go ahead.

MR. MCLELAND: No questions. Thank you.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF MICHAEL ROBERTS

QUESTIONS BY MR. ROZZI.

Q Well, the camera would be on?

A Yes.

Q And there's somebody in a control unit that's watching that camera.

A Yes.

Q So – and you said that you might not be watching him at times 'cause you're doing other things?

A If I'm logging – the only times I didn't have my eyes on him is if I was logging it on the paperwork or if there was a noise on the range.

Q You spend a lot of time drawing anime at the prison?

A I mean, I'm known for drawing, yes, doodling.

Q Anime?

A Not just anime.

Q Okay. Other things?

A Yes.

Q You did that while you were working a lot.

A I mean, in my free time.

MR. ROZZI: Nothing else.

THE COURT: All right. Thank you, Mr. Roberts. You may step down, and I'll take the exhibit, if you don't mind. Thank you. Well, ladies and

gentlemen, this would be an appropriate time for us to take our afternoon recess. While you're outside the courtroom, please, keep your minds open. Don't form any opinions or conclusions about anything. You can discuss the evidence, but please, don't deliberate or come to any conclusions. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 4:10 p.m.)

THE COURT: You may be seated. And would counsel just approach briefly.

(Sidebar conference conducted.)

THE COURT: I know you had indicated you wanted to get through all the DOC, so we're on the third, so we've got six more to go. Are they gonna be as long as him or as long as Mr. Clemons and Mr. Drang?

MR. MCLELAND: I'm expecting them to be a little – all about the same.

THE COURT: Okay.

MR. MCLELAND: We'll be asking them the same, 'cause there are sheets with each one.

THE COURT: Okay. Okay.

MR. MCLELAND: (Inaudible) the Odin group, yes.

THE COURT: Okay. So we can theoretically get through all of these people?

MR. MCLELAND: That's my hope, but we might have to go a little later tonight –

THE COURT: Okay.

MR. MCLELAND: -- even if it's just to get them done, so we can

send them back up.

THE COURT: Okay.

MR. MCLELAND: Or down south.

THE COURT: That's fine.

MR. MCLELAND: I have one, two, three, four, five left.

THE COURT: Oh, okay.

MR. MCLELAND: I think I have five left.

THE COURT: You have five, okay.

MR. MCLELAND: I think.

THE COURT: We can get through five.

MR. MCLELAND: We've done four, the warden was three –

THE COURT: Right. Okay. So – all right.

MR. MCLELAND: I have nine altogether.

THE COURT: You have nine altogether.

MR. MCLELAND: Eight correction officers –

THE COURT: I misunderstood that yesterday.

MR. MCLELAND: That's fine.

THE COURT: Okay. Very good.

MR. MCLELAND: (Inaudible)

THE COURT: Yeah, we're done.

(Sidebar conference concluded.)

THE COURT: All right. Let's take 15 minutes, then. Thank you.

(Off record at 4:12 p.m.)

(On record at 4:29 p.m.)

THE COURT: Okay. We're back on the record. Is the State ready

to have our jury come back?

MR. MCLELAND: I am, Judge.

THE COURT: Okay. Mr. Rozzi, are you ready?

MR. ROZZI: Yes, ma'am, I am. Thank you.

THE COURT: Thank you. Yeah, we've turned the air on. It's really hot in here with all of these people and –

MS. AUGER: Thank you.

THE COURT: It said it was at 74, so it feels a lot hotter than that up here, and I'm looking out at the audience and lots of fanning going on.

THE BAILIFF: All rise.

(Jury in at 4:31 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. All right. Thank you, gentlemen. All right. Mr. McLeland, you may call your next witness.

MR. MCLELAND: Your Honor, the State of Indiana would call Officer James Early, please.

(Witness sworn.)

MR. MCLELAND: Thank you, Judge.

DIRECT EXAMINATION OF JAMES EARLY

QUESTIONS BY MR. MCLELAND.

Q Officer, before we get started, I'm gonna ask you to speak up, use your best outside voice so that I can hear you, so the jury can hear you, and the people at the defense table. That microphone, it doesn't amplify for anybody but the audience, so we really struggle at time to hear people. Fair enough?

A Yes, sir.

Q You don't need to lean into the microphone, just talk normal; all right?
A Yes, sir.
Q Will you state your name, please.
A James Early.
Q And will you spell your last name for me, please.
A E-A-R-L-Y.
Q And how are you employed?
A With the State of Indiana, Department of Corrections at Westville Correctional Facility.
Q And how long have you been employed as a correctional officer?
A Since November of 2016.
Q And when you were – came on as an employee of the Indiana Department of Corrections, did you go through special training or schooling to be a correctional officer?
A Yes, sir, training.
Q Can you tell me about that.
A Went through several weeks of everything from personal protection to manipulation to restraints, mental health, some medical training.
Q And what shift do you work at the Department of Correction?
A I Group, which is a day shift from 5:45 a.m. to 6 p.m.
Q And what unit within the facility do you work with?
A Custody.
Q And are you familiar with an individual by the name of Richard Allen?
A Yes.
Q How are you familiar with him?

A He was held in an area where I worked at Westville.
Q And when did you first come in contact with Mr. Allen, if you know?
A Late October – I'm sorry, late 2022.
Q And at some point when Mr. Allen was housed at the Westville Correctional Facility, were you asked to be a suicide companion for him?
A Yes.
Q And how often did you do that?
A I was rotating throughout regular shifts; but for several months, at least a part of every shift.
Q And so would you see him on a consistent basis?
A Yes.
Q And would you work as a suicide companion on a consistent basis?
A Yes.
Q And as you're participating and acting as a suicide companion, would you fill out paperwork coinciding with that task?
A Yes.
Q Can you tell me about that.
A It was a suicide companion sheet and watch sheet that we would – it was on a 15-minute schedule that we – and anything that happened in between, but at least every 15 minutes, documentation needed to be made, but anything that happened at any time would be documented, but every 15 minutes there would need to be an entry into the log.
Q And while you were doing those logs, did you make those entries in real time?
A Yes.

Q I'm gonna show you what's been marked as State's Exhibit 296; are you familiar with this packet of documents?

A Yes, sir.

Q And what are those?

A It is the entry from October – I'm sorry, from April 8th, 2023, and April 9th, and May 1st of '23.

Q And do you know these sheets to be suicide companion watch reports?

A Yes.

Q And who is the author of these reports that you're holding?

A I am.

Q How do you know that?

A My name is in the top and my initials at the end of each entry.

Q And would these entries reflect what you observed and what you heard from Mr. Allen during these time periods as a suicide companion?

A Yes, sir.

MR. MCLELAND: Judge, the State would move to admit what's bene marked as State's Exhibit 296, please.

STATE'S EXHIBIT 296 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 296 is admitted.

STATE'S EXHIBIT 296 ADMITTED

MR. MCLELAND: And, Judge, I'd ask the Court permission to go through the same procedure to publish these to the jury so they can follow along with my next line of questioning.

THE COURT: You may.

MR. MCLELAND: Thank you, Judge.

STATE'S EXHIBIT 296 PUBLISHED

THE COURT: We're missing one.

MR. ROZZI: I'm sorry.

THE COURT: Juror 12 needs one.

MR. MCLELAND: I had an extra one, so it makes sense. Does everybody have one now?

THE COURT: Yep.

MR. MCLELAND: Okay. Thank you, Judge.

Q Officer Early, I want to draw your attention to the first sheet, April 8th of 2023, and I'm gonna draw your attention to 4:33 p.m. Can you tell the jury what statement Richard Allen made on that date and time.

A Yes. He – at 4:33 p.m., he said, "I am ready to confess," while he was pacing back and forth. Then he said, "I swear to God, I killed A.W. and L.G. Fuck me running."

Q Now I want to draw your attention to the last sheet in that packet, May 1st of 2023, I'm gonna draw your attention to 8:50 a.m. What statement did he make?

A Say the time one more time, please.

Q Sure. May 1st of 2023, at 8:50 a.m.

A At 8:50, Mr. Allen was walking, mimicking Officer Early's movements, and asking random questions, "Can I confess to the warden and Dr. Wala?"

Q And those entries that you've testified to, did you make those in real time?

A Yes.

Q Meaning you made those state – or you made those entries when Mr. Allen

made those statements; is that correct?

A Yes.

MR. MCLELAND: I don't have any other questions, Judge.

THE COURT: Mr. Rozzi.

CROSS EXAMINATION OF JAMES EARLY

QUESTIONS BY MR. ROZZI.

Q Were you aware that he had already written a letter to the warden back in early April, April 3rd, 2023, confessing to these crimes?

A No.

Q But he told you he wanted to confess to the warden and Dr. Wala on May 1st, 2023; right?

A Yes.

Q You been at the prison since – you said you started 2016?

A November, 2016.

Q First time you ever remember having a safekeeper in that unit, isn't it?

A Yes.

Q And you said you interacted with Rick shortly after he arrived?

A Yes.

Q He was a quiet guy?

A Yes.

Q Docile?

A Yes.

Q Nonconfrontational?

A Yes.

Q You said he looked like he was a deer in headlights when you first saw him

come in the prison.

A Yes.

Q And at some point, you said his behavior just changed; right?

A Yes.

Q He flipped the switch I think were the words you used.

A Yes.

Q Almost like he lost his mind. That's what you said, didn't you?

A Your words.

Q What's that?

A I've never used those words. He just changed.

Q You listened to your recording; right?

A Yes.

Q You said he was eating the Bible?

A Somebody told me that he was eating a Bible.

Q And that disturbed you because you were a Christian; right?

A They told me that, saying, "You might want to – you might not want to go down there, Early. He's eating a Bible."

Q They knew you were a Christian's what you were saying?

A Yes.

Q But he never said anything of any detail about how he killed these girls, did he?

A Just that he did it.

Q All right. All of the confessions were generic, weren't they?

A To the point.

Q And you said at one point his behavior started getting more bizarre?

A Yes.
Q He was dipping a cup in the toilet and drinking out of it?
A Yeah. He was standing in front of the toilet and he was just sitting there, sort of thinking about it. Again, I was looked at his back or at his back side, and then he finally took a dunk, took a drink, thought about it, spit it out, and sat down and ate the tray that he had been provide earlier.
Q He was sticking a fork in his genitals?
A A spork.
Q A spork?
A A spoon/fork combination.
Q And was sticking his fingers in his rear end?
A Yes.
Q And he started collecting his feces and you said rolling it into balls; right?
A And lining it up.
Q And he covered himself with feces, spit, and vomit you said.
A Yes.
Q But then, after a few months, he calmed down; right?
A Yes.
Q And I think you said he was fairly docile in August when you saw him just before your interview with the police.
A Yes. I started working in another section of the prison and – but I worked one shift back there.
Q Directing your attention to 296, you have that in front of you, sir?
A Yes.
Q There's an entry there on April 8th, 2023, at 4:29 p.m.; do you see that?

A At the top, yes.

Q And could you tell the jury what words Rick Allen spoke to you on that day that time?

A I noted he was yelling, "Foxtrot, fuck, foxy lady, fuck me running."

Q Did any of that mean anything to you?

A No. He just, from time to time, would mumble things.

Q Say things that made no sense at all; right?

A Sometimes.

Q Let me direct your attention to April 8th, 2023, at 5:46 p.m.; did you make an entry there?

A April 8 at 5:23?

Q 5:46, sir.

A Geez, I'm sorry. Yes.

Q Is that the reference to him drinking toilet water?

A It's one of them.

Q Or is that some other diff – is that something different than what you said earlier?

A That would be a different one. This was at a different time.

Q Tell the jury what you observed at that time, April 8th, 5:46 p.m.

A He was attempting to drink toilet water again, and he – bottles of hot sauce were available off commissary and he had a bottle of hot sauce, and he was drinking that, as well, mixed with the two.

Q What's that last line say, the second line there?

A It appeared that he was urinating on his mat.

Q Directing your attention to the second page of this exhibit, you made an

entry on April 9th, 3:39, those were observations of Mr. Allen that you made?
A Yes.
Q Tell the jury what your observations were.
A 3:39, he was laying on the floor mumbling and raising his arms.
Q And again at 3:55, same thing basically, mumbling?
A Yes.
Q Laying on the floor; right?
A Yes.
Q Directing your attention to April 9th, 2023, at 3:38 p. – 4:08 p.m.; do you see that entry?
A Yes.
Q Was he sitting on the floor mumbling again?
A Yes.
Q He do a lot of mumbling when you were watching him?
A Yes.
Q That was kind of common for him?
A Yes.
Q Directing your attention to page 3 of this exhibit, April – May 1st, 2023, at 9:15 a.m.; do you see that entry?
A Yes.
Q Did he tell you he was already dead?
A Yes.
Q And then the next entry, May 1st, 2023, at 9:30 a.m., was he then pacing and mumbling again?
A Yes.

Q Let me direct your attention to May 1st, 2023, at 10:15 a.m.; you see that entry near the bottom?

A Yes.

Q Did you make observations of Mr. Allen at that time?

A I did.

Q And what were those observations?

A He was awake and saluting staff, asking for World War III.

Q Okay. And 15 minutes later, he was asleep; right?

A Yes.

Q And that was at 10:30 in the morning?

A Yes.

Q You're sometimes warned about offenders who have mental health on that unit; is that right?

A There are security management plans that are put in place for offenders that have had histories like that, yes.

Q And you said you're kind of used to seeing crazy people back there on that pod; right?

A It comes with it, yes.

Q You were not warned about any mental health issues with Rick, were you?

A No.

Q So as far as you knew, you thought he was perfectly normal in terms of his mental health?

A Yes.

MR. ROZZI: I don't have anything further.

THE COURT: Mr. McLeland.

RE-DIRECT EXAMINATION OF JAMES EARLY

QUESTIONS BY MR. MCLELAND.

Q Officer Early, what did you think about the behavior that Richard Allen was displaying; talking about this bizarre behavior, what did you think about that?

A It just seems -- seemed orchestrated. It was – he had a normal look to where his eyes were big and he was just sort of there, taking it all in, and – but he was always – it was "Yes, sir", and "Would you like rec and shower today?" "Yes, sir." And would also say thank you. And then, he just – and he went – I escorted him multiple times and, all of a sudden, he just would become dead weight or he'd decide to drool that day. That's – but he would come out of it if he had a question, if there was something that he wanted; if he wanted to use the phone, he would come out of the drooling session to ask for the phone.

Q Specifically with the toilet incident, when he was drinking toilet out of the water, you spoke about he kind of took a breath before he did it; do you remember that testimony?

A I do. I was –

Q What is your thoughts on that?

A He was – it's like you're about to jump in cold water, you're just thinking about it like, "I don't really want to do this, but I'm gonna do it." And he did.

MR. MCLELAND: I don't have any other questions, Judge. Thank you.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF JAMES EARLY

QUESTIONS BY MR. ROZZI.

Q That cell door is a solid steel door, isn't it?
A Correct.
Q And it's got a small window, doesn't it?
A Correct.
Q And you'd have to kind of make an effort to look in there through the window, wouldn't you?
A I can see in there pretty good.
Q And so what you're observing is what's going on on the other side of that door; right?
A Correct.
Q And the toilet's in the back of the cell; right?
A Correct.
Q Pretty close to where he puts his head when he sleeps at night; right?
A Toilet on this side –
Q About three feet?
A -- bed on this side. Yeah, about three, four feet in between.
Q And you question the authenticity or the genuineness of his actions is what you're saying?
A Correct.
Q Are you aware that he was banging his head on the wall in his cell time and time again until he was physically injured by that? Did you know that?
A Never that he did in front of me on my shift or I would have noted it, but he made a lot of different movements.
Q Okay. Are you aware that he was defecating in his hands and smearing that all over his body at one point?

A I watched him do it, yes.

Q Okay. And do you question the genuineness of those activities, too?

A That's not the first time I've seen that and so it's – wasn't new to me, but I've never had anybody just do that because it's always – there's a reason behind doing it and it was just – after watching him go through the spork incident and the toilet water drinking incident, it was just – it seemed to come off as somebody that was just doing the next thing that he could do. Like when I seen him with the spork and going into his genitals, it was like he knew that that hurt and that wasn't for him, that the other end was easier, so he went that way, and the logical progression was to – feces comes, so –

Q That's what's next?

A That's what's next.

Q And you've seen that a number of times in there?

A Yes.

Q People in there, convicted felons; right?

A Yes.

Q Some of the worst people in society?

A They're pretty bad sometimes.

Q Some of the most heinous people you could possibly come into contact with?

A Sometimes.

Q And for those kind of people, rubbing feces around their cell or on their body is kind of normal behavior; right? You see that from time to time?

A Normal for where we're at, not necessarily normal behavior.

Q Yeah, normal for the WCU?

A It happens back then – back there, but you only have so many tools at your disposal to try to get what you want, and that sometimes grabs attention.

Q There's something about that place that makes people do things like that, isn't there?

A Well, there's something about that action –

MR. MCLELAND: Judge, I'm sorry, I didn't hear the question to be able to object or – I couldn't hear what Mr. Rozzi's saying, I'm sorry.

MR. ROZZI: There's something about that place that makes people do things like that was –

MR. MCLELAND: Just, I'm gonna object to that. It calls for speculation.

MR. ROZZI: He works there.

THE COURT: Well –

MR. ROZZI: I don't think it calls for speculation.

THE COURT: Sustained. You can narrow it down.

MR. ROZZI: Thank you.

A I would say that – not that it drives you to do that. The – if you're back there for more than a day or two, being housed back there, you realize that that's something that people do and it's a tool that you can use to get what you would like.

Q And then, if that doesn't get the attention that's warranted, then you start eating it; right?

A I've seen that.

Q That's normal behavior at the WCU?

A If you are attempting to do something. There are people back there that

just do that for their normal and – but there are people that use it as a tool to get what they want, like I said before. So it draws attention right away because it makes everybody around them – when it starts permeating the air, the people that live in the – adjacent to him start getting a little upset about it, so it draws a lot of attention.

Q Is there some other act that you've seen in the WCU from an offender that you're like, "Hey, you know what? Now that guy's serious"?

A No. I – it's – and it's not even – I wouldn't even put it that way, I would just – that it really isn't a case by case basis of what you're doing, but it's – most of the time, it's to get something.

Q You weren't aware of any mental health issues that Mr. Allen may have suffered from when he came into that unit, are you?

A None at all.

Q You think there are people in there that are really sick, that do have mental health issues?

A I do.

Q Do you think that that can be one of the reasons why they act this way?

A I think anybody under that type of environment could – for long enough could have some issues, but it's – some people are put back there because they act that way, some people are put back there and then start acting that way.

Q Did you know Rick Allen was put back there because he was awaiting trial in this case?

A Well, we were told we had a safekeeping coming in, and I had not had that happen in my time there.

Q Yeah.

A So –

Q If you found out that Rick Allen did have a serious mental illness, might you feel differently about his actions?

A Only if it affected my day-to-day operation of how I was doing something. I'm – then I would be aware of it, but I – it wouldn't change what I do other than taking precautions.

Q My question is this: If you found out that he had a serious mental illness, would you feel differently about the genuineness or the authenticity of his actions?

A Mental health, that wouldn't come into the – I do the same operation no matter who I'm dealing with, so I just take different precautions. So I wouldn't have any thought whether or not he was – why he's in there has nothing to do with my day-to-day, it's just – how he acts is how I interact with him, so if – there were – I have no feeling what any of them are in there for. It's not why I'm there, so –

Q Are you done?

A Yes.

Q Earlier, Mr. McLeland asked you what your opinion was about whether or not he was acting genuinely; do you recall that?

A I do.

Q And what I gleaned was that you weren't convinced that this was genuine, that he might have been faking it.

A That would be fair to say.

Q So my question is: If you found out that he had serious mental illness, might you feel differently about that opinion?

MR. MCLELAND: Judge, that's been asked and answered.

THE COURT: Overruled.

MR. ROZZI: Not – I'm sorry.

A No. I have – you know, a lot of people back there have security management plans and they're severe mental illness and, other than taking precautions, I have no – for my personal safety and the safety of the officer with me and the offender safety is all that comes into play. Doesn't matter whether they're – you know, if I have – it doesn't matter, I just – I do the job the same way. So it does – I don't know if I'm saying that right, but it wouldn't matter if I knew that he was – you know, it wouldn't matter to the way I'm doing my job, so –

Q Appreciate that. You're treating everybody back there the same?

A Yes.

Q Rick Allen wasn't quite like every other offender in this facility, was he?

A No. He was what we call safekeeping and he just had access to things and a lot more visitors than most.

Q Based on your experiences as somebody who's worked there for several years, if somebody had a serious mental illness and they were locked up in solitary confinement for weeks and months on end, do you agree that that probably would be detrimental to their mental health?

A Yes.

MR. ROZZI: I have nothing further.

THE COURT: All right. Does anybody on the jury have any questions for Mr. Early? Would counsel approach.

(Sidebar conference conducted.)

THE COURT: "Do you know how long Mr. Allen was on suicide watch?"

MR. MCLELAND: That's okay.

THE COURT: "Was Mr. Allen in the same cell for 13 months?"

MR. ROZZI: Okay with that.

MR. MCLELAND: I'm okay with it.

THE COURT: "If someone's on suicide watch, what is allowed to be in the cell with them?"

MR. ROZZI: I'm okay with that.

MR. MCLELAND: Yes.

THE COURT: "Is there anyone in the courtroom that was a fellow employee of yours?"

MR. ROZZI: I don't have any clue what that means.

MR. MCLELAND: Yours being the witness or –

THE COURT: Yeah, I would assume.

MR. MCLELAND: I don't have a problem with it. It's an appropriate question. I don't know what he's gonna say, but –

THE COURT: It's appropriate, if he knows. (Inaudible) there's DOC in the back that are lawyers.

MR. MCLELAND: Yeah, that's what I was looking for, they're sitting in our seats.

THE COURT: And they're allowed to be –

MR. ROZZI: I don't think it's relevant to anything that we've talked about. That's my opinion and I'm not trying to be a jerk about it.

THE COURT: I don't disagree.

(Sidebar conference concluded.)

JUROR QUESTIONS OF JAMES EARLY

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Mr. Early, do you know how long Mr. Allen was on suicide watch?

A Well, he was – when he came in – I don't know exactly when he got to Westville, but when he came into Westville, he was taken directly back to the same cell that he was in, other than a receiving cell when he got there, and then taken to his permanent cell, was in a suicide watch cell from when he first got there and that was just where he was placed because it was the safest place for him. The way it is at Westville is it's open dorms in general population, and back there are the only individual cells we have. So it's not like a traditional prison, it's open dorms, so that's the only place he was at.

THE COURT: Mr. McLeland, any follow-up?

MR. MCLELAND: No, Judge. Thank you.

THE COURT: Mr. Rozzi.

MR. ROZZI: No, ma'am.

Q Was Mr. Allen in the same cell for 13 months?

A To my knowledge, yes.

THE COURT: Mr. McLeland?

MR. MCLELAND: No, Judge.

THE COURT: Mr. Rozzi?

MR. ROZZI: No, ma'am.

Q When someone is on suicide watch, what is allowed to be in the cell with them?

A It can vary, but he – as far as – he didn't have any restrictions. And being

in safekeeping, he was allowed to have a – you can sign up for a tablet, anybody can, and get it. He was given a tablet that ha Wi-Fi and he could have a portable – or it was a just hand-held phone that we would give him, the same phone that other offenders used. He'd ask for a phone, we could give it to him. If he wanted to go the rec yard, he could have a phone there. He would get reading material. He could have a – he asked for a Bible, got a Bible. There's other just literature that was around that he could read. Any material that was provided to him by his counsel. Other than that, food items, you know, three meals a day are passed through the door to him.

THE COURT: Mr. McLeland, any follow-up?

FOLLOW-UP EXAMINATION OF JAMES EARLY

QUESTIONS BY MR. MCLELAND.

Q Was he also allowed to have commissary?

A Yes.

Q Did that allow him to have food in addition to the three meals a day?

A Yes.

Q Did that also allow him to have extra clothing?

A Yes.

Q And he was allowed to have that in the cell with him?

A Correct.

Q Did he have access to a TV at some point?

A I do not believe he had a TV.

Q All right.

A They are available back there, but I don't believe he had one.

MR. MCLELAND: Okay. I don't have anything else, Judge. Thank

you.

THE COURT: Mr. Rozzi.

FOLLOW-UP EXAMINATION OF JAMES EARLY

QUESTIONS BY MR. ROZZI.

Q You said he could get a phone like other offenders is what you said?

A Yeah. There's phone privileges –

Q Is that what you said?

A Yes.

Q He's not an offender though, is it?

A It's an offender felon is what it's called, so get the phone like the offenders back there do.

Q Like all the other people that have been convicted of crimes. You were grouping him in that category, weren't you?

A Well, he was part of my rounds.

Q I understand that. It's easy to do because –

A Yeah.

Q -- he just falls in with all the rest of them; right?

A Except that we recorded everything we did with him and he was in a cell with a camera, where the others were not. He was –

Q You talked about what he had in – the question was generally what he had in his cell. It's actually true that when he was on suicide watch, they wouldn't give him blankets; right?

A I would not be the one that made that decision, so I'm not sure if he had a restriction on blankets or not.

Q There's a suicide blanket that actually is administered to these people,

isn't there?

A It's a smock.

Q Yeah.

A It's not really a blanket. It's like a Fred Flintstone-type garment.

Q Yeah. I referred to it as a caveman –

A There you go.

Q -- gown one time; does that sound right?

A Yes.

Q And do you agree that it's not very concealing, that you have to be kind of careful when you wear those things, 'cause there's places –

A It's down past that. It's past that. It's –

Q Okay. Let me finish. Let me finish.

A -- down past anything you can be modest about.

Q Can I finish, please?

A Um-hmm. (Affirmative response)

Q That there are areas on your body that you have, like your private parts, you gotta be a little careful about when you've got those smocks on; right?

A Sure.

Q There's an adjustment period of learning how to wear one of those; right?

A I would think so.

Q It kind of looks like a flak jacket that you just flip over you, doesn't it?

A Yes.

Q And there are times when they actually take away things when you're on suicide watch, they give them to you in the evening, like your blanket, then they take them in the morning; right?

A I don't work nights, so not something I would do.
Q Okay.
A Or that I'm familiar with.
Q You mentioned commissary; right?
A Commissary is done, but it's done on night shift.
Q Offenders can get commissary; right?
A They can.
Q And sometimes there's – there's a lot of rules about how to get commissary, isn't there?
A There's restricted items and there's certain things you can't order, and so –

MR. MCLELAND: Judge, I'm gonna object at this point. It's outside the scope of the question from the jury. The State doesn't have an opportunity to redirect, and so I'm gonna object.

THE COURT: Sustained.

MR. ROZZI: I have nothing further, Your Honor.

THE COURT: All right. You may step down, but may I have the exhibit, please.

THE WITNESS: Yes.

THE COURT: Thank you.

THE WITNESS: Sorry.

THE COURT: You're fine. All right. You may call your next witness.

MR. MCLELAND: Thank you, Judge. The State of Indiana would call Officer John Miller, please.

(Witness sworn.)

DIRECT EXAMINATION OF JOHN MILLER

QUESTIONS BY MR. MCLELAND.

Q Mr. Miller, good afternoon. I'm struggling with hearing people today and so I'm gonna ask you to speak up and use your best outside voice when you're testifying. This microphone, unfortunately, does not amplify for us above the railing here, so myself, the jury, the Judge, and the Defense, it only amplifies for the audience. And unfortunately, I'm just having a hard time hearing people today, so I'd ask you to use your best outside voice and just speak as loudly as you can for me. Fair enough?

A Not a problem.

Q Perfect. Will you state your name, please.

A John Miller.

Q And will you spell your last name for me, please.

A M-I-L-L-E-R.

Q And how are you employed?

A I'm a correctional officer at Westville Correctional Facility.

Q And how long have you been employed there?

A Approximately six and a half years.

Q And before you became a correctional officer, did you have to go through special training or schooling to become a correctional officer?

A You go through correctional training through the facility.

Q And what shift do you work?

A A Group, night shift.

Q And can you tell me the hours of that shift, please.

A 6 p.m. to 6 a.m.

Q And what unit do you work in within the facility?
A I work in A Pod, WCU segregation.
Q And are you familiar with an individual by the name of Richard Allen?
A Yes, sir.
Q How are you familiar with him?
A I watched over him while he was at our facility.
Q And did you start observing him as soon as he came to the facility?
A No.
Q Okay. When did you start observing him?
A A few months after he arrived.
Q And at some point during your tenure as a correctional officer doing your duties, were you assigned to be a suicide companion for Richard Allen?
A Yes.
Q And if you recall, when did that begin?
A Around January or February of '23.
Q And did that continue throughout Mr. Allen's stay at Westville?
A Yes.
Q And did you monitor him as a suicide companion on a regular basis?
A Yes.
Q And so each time you came on shift, was there a period of time during your shift that you were assigned as a suicide companion?
A Yes.
Q Okay. I want to show you what's been marked as State's Exhibit 297. Can you tell me what this document or what this packet of documents is.
A This is a suicide companion watch sheet.

Q And is this watch sheet something you fill out while you're assigned as a suicide companion for Richard Allen?

A Yes.

Q And who is the author of this sheet?

A Myself.

Q And how do you know that?

A My initials are on it.

Q And what time period or what day is this watch sheet from?

A 4/9 of '23.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 297 into evidence.

STATE'S EXHIBIT 297 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 297 is admitted.

STATE'S EXHIBIT 297 ADMITTED

MR. MCLELAND: And, Judge, I would ask the Court permission to go through the same procedure with the jury, so they can follow along as Mr. Miller testifies.

THE COURT: You may.

MR. MCLELAND: Thank you.

STATE'S EXHIBIT 297 PUBLISHED

THE COURT: You may proceed, then.

MR. MCLELAND: Thank you, Your Honor.

Q Mr. Miller, I'm gonna draw your attention to that State's Exhibit, and again, you testified that's your watch sheet from April 9th of 2023; is that correct?

A Yes.
Q I want to draw your attention to 6:58 a.m.; can you tell me what Mr. Allen said on that date and time?
A "I killed A.W. and L.G."
Q And while he was doing this, what was he – what actions was he doing in the cell?
A Started flushing paper down the toilet.
Q Then want to draw your attention to the next page, at 7:04 a.m.; can you tell me what Mr. Allen stated then.
A He stated that the funniest joke is how he killed them.
Q And what was he doing at that time?
A Then he started to shout foul words at his shadow.
Q I'm gonna draw your attention to 7:24 a.m., on that same page; what did Mr. Allen state during that time?
A "I got what I deserved for what I did, and I hope I burn in hell for what I did."
Q Draw your attention to the next page, at 7:55 a.m.; what did Mr. Allen say then?
A "I'm sorry for what I did, for killing them, but I don't care, kill me."
Q And was he crying during that time?
A Yes.
Q And draw your attention, on that same page, at 7:58 a.m.; what did Mr. Allen say?
A "I'm sorry I killed those kids."
Q Draw your attention to the next page, please – I'm sorry, it's the – actually,

let me make sure I got this right. Okay. I'm sorry, Mr. Miller, that's the last entry I want to draw your attention to.

MR. MCLELAND: Judge, I don't have any other questions.

THE COURT: Mr. Rozzi.

MR. ROZZI: Thank you, Judge.

CROSS EXAMINATION OF JOHN MILLER

QUESTIONS BY MR. ROZZI.

Q You've been there at Westville for five or six years?

A Yes.

Q And you're – you said you were OIC on A Pod?

A Yes.

Q That means you're like an officer in charge?

A Yes.

Q On the midnight shift?

A Correct.

Q And your first contact with Rick was back in November of 2022?

A Yes.

Q You described him as – that demeanor was normal?

A Yes.

Q That he was kind of respectful, that in all aspects he was respectful?

A All aspects was respectful.

Q Seemed emotionally stable when he arrived?

A Yes.

Q At least as mentally stable as somebody can be that gets there; right?

A Yes.

Q You said – I think you testified a few minutes ago that you started with your companion duty I thought you said in January – yeah, January or February of 2023.

A Yeah.

Q Is it possible that it might have been more like in April, when they pulled all the inmate companions?

A It could have been. I'm not a hundred percent sure of the timeframe.

Q The prisoners that were watching him were kind of being vulgar, weren't they?

A I wasn't on the range hearing them speak vulgarly. When we were out there, they weren't speaking at all.

Q Do you recall providing or giving a statement to law enforcement officials on August 17th, 2023?

A Yes.

Q And during that statement, did you tell those officials that the companions were being more vulgar to him and not being a companion?

A Yes.

Q Is that what you said?

A We did not hear the vulgarity, but we were told of the vulgarity.

Q You don't dispute that you told the officers that?

A No.

Q You're just qualifying that you didn't hear it with your own two ears?

A Yes.

Q And that's what caused the companions to be pulled, one of the reasons; right?

A Yes.
Q And you said in April he started refusing more meals, as April grew closer?
A Yes.
Q So like in March that would have started happening?
A Yes.
Q And you said he wasn't talking in a sensical manner; right?
A No, he was not.
Q And he went through a personality switch that you said, quote, you have not ever seen here.
A No.
Q That's what you said.
A I have not ever seen it.
Q But that's what happened to him; right?
A Yes.
Q Now, there were times when he talked to you – when you were monitoring him, he was talking to you about his circumstances; right?
A Yes.
Q I think you said that he said he didn't believe that somebody had turned him in.
A Yes.
Q And he told you he probably killed his family?
A Yes.
Q And his own – he probably killed his own grandkids?
A Yes.
Q He told you that he molested his sister?

A Yes.
Q He told you to kill him so his family could still be alive?
A Yes.
Q And he told you he was sorry for everyone he killed, as if to say he killed many others?
A Yes.
Q He told you he may have touched his daughter were the words you used?
A Yes.
Q And he told you at one point that he was actually getting an erection in his sleep over all this; right?
A Yes.
Q And these log sheets here that Mr. McLeland – in 297 that Mr. McLeland offered up, there's a reference in here to Old Bear Claw hypnotizing him; right?
A Yes.
Q He was talking about Old Bear Claw?
A Yes.
Q Does that make any sense to you at all?
A No.
Q He was pacing around the cell, hitting the walls; right?
A From time to time, yes.
Q He hit the door with his head and his hands, you reported that in your log sheets.
A Yes.
Q You said he cried, sang, and he yelled out curse words.
A Yes.

Q And he continued to do these things over a period of days, maybe even weeks, didn't he?

A Yes.

Q I noticed on here I'm starting to see a trend that he does a lot of mumbling; is that right?

A Yes.

Q Do you agree with me that there are people that end up on that unit, A Pod, or in the WCU that have mental health issues?

MR. MCLELAND: I'm gonna object to the form of the question, Judge.

THE COURT: Sustained.

Q Do you – I'm sorry. Do you agree that there are people that come to that unit that have mental health issues?

A Yes.

Q And would you agree that if somebody had a serious mental illness and they were locked in one of those cells for weeks and months at a time, that it could actually be detrimental to their mental health?

MR. MCLELAND: Judge, a few foundational questions?

THE COURT: Yes.

MR MCLELAND: Well, Judge, I'm not gonna ask foundation, I'm just gonna object to speculation.

THE COURT: Sustained.

MR. ROZZI: May I ask a – oh, I'm sorry, you said sustained?

THE COURT: Sustained.

MR. ROZZI: Okay. Thank you.