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

Volume 6 of 22

Pages 1 to 250

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talking about and I don't know – I don't think that's something that I heard him say. I don't know if that came out of an interview from somebody or not, I would have to check and see.

Q That –

A I just don't know.

Q -- sounds like something you heard during the course of the investigation; right?

A I've heard that somewhere, but –

Q And that he molested them; right?

A That I don't know. Sorry.

Q Do you agree that he – a lot of the things that he said occurred, almost all of them, within that – I think you said April or you said maybe into early July; right?

A The abundance, yes.

Q And the majority of those statements are what I would consider – I'm gonna use the phrase "generic", where he's just saying, "I killed A.W. and L.G." or "I killed those girls"; right?

MS. DIENER: I object to the form of the question.

MR. ROZZI: It's cross examination.

THE COURT: Overruled.

MR. ROZZI: Thank you.

A Yes, there are those statements, along with others, yes.

Q Did you hear him early on in his period of incarceration, from December of – or November of 2022, through March of 2023, professing his innocence?

A Yes, he has professed his innocence.

Q And did you hear him doing it again July, August, September, October, the end of his stay?

A The end of his stay at Westville?

Q Well, the last, let's just say, five, six months that he was there.

A It would vary. There would be times that – there are times where he professes his innocence, and then he'll follow it up with an around the – I don't know how to explain it, but it's not a direct confession, but it'll be, you know, something along the lines of an excuse for why he said what he said, so he will go back to it, but yes, I mean, he's confessed his guilt and he's tried to confess his innocence.

Q And what – is it accurate to say that one of the contexts in which these confessions come up is him referring back to what he told prison staff in April, May, and June? Like does that come up often?

A That he talks about – I'm sorry, can you repeat the question.

Q Yeah. Like he might say, "Well, they said I confessed," like he might make a reference like that in a phone call; is that something you heard fairly routinely?

A Yes, but I don't consider that a confession.

Q Right, but he's referencing something that – he's referencing these statements that occurred in April, May, and June; right?

A Correct.

Q And that is part of the discussion even into the more recent past; right? Phone calls?

A I'm sorry, I just want to make sure I got – so –

Q So he's saying those – he said those things more recently in phone calls; right?

A Yes.

Q Even since he's been at Wabash Valley?

A He says that – he back – he goes back and talks about the time he made the confessions now?

Q Right. He's making references about the past and using the word "confessed" or "confession"; right?

A Well, he'll say, "Well, they say I confessed," you know, "If I confessed, then convict me and send me to jail so we can get this over with." You know, he'll attribute things like that, he'll say, you know, "If I confessed, then whatever. They say I confessed whatever."

Q Okay.

A So that's – yeah, that's kind of how he reverts back, I guess, if that answers your question.

Q Thank you. November of 2022, you told Ms. Diener, that he was suggesting to I think it was Kathy that, A, "If they want me to just get – do an interview with the police, I'll do that"?

A Yeah.

Q He was fine with that; right?

A Yes. He made the statement, "If this gets to be too much, go to the investigators and tell them I'll tell them – I'll talk to them and I'll tell them everything they want to know."

Q Okay.

A And that was it.

Q Kind of taking a chivalrous approach with his wife to this, "I'll –

A He what?

Q He was taking a chivalrous approach to his wife with this situation; right?
A I mean, I – that's a good assumption. I mean, I don't know – I don't really know what his motivation was, but yeah, that would – I would think that would be chivalrous on his end if that was the purpose, I suppose.
Q And you don't have any training in the field of psychiatry; right?
A I do not.
Q So you don't have any opinion about the impact that this long-term solitary confinement would have on his mental state, do you?
A No, not based on an educated – not based on an education or a degree, no.

MR. ROZZI: I don't have any further questions.

THE COURT: Ms. Diener.

MS. DIENER: No other questions.

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

MS. DIENER: I don't have other witnesses.

MR. ROZZI: May we approach, Judge?

THE COURT: Sure.

(Sidebar conference conducted.)

MR. ROZZI: You may be able to tell us this anyway, but would it be okay if we just break and just kind of finish our summaries in the morning?

THE COURT: Yeah, yeah.

MR. ROZZI: It'll probably be more condensed and a little bit more clear, frankly.

THE COURT: I would certainly hope so.

MR. ROZZI: Yeah. I almost can't breathe right now. My allergies are –

THE COURT: Okay.

MR. ROZZI: -- getting the best of me.

THE COURT: Yeah. And then we can talk about – he made a statement in June of 2023, that is documented in Dr. Wala's report where he talks about he feels his attorneys aren't listening to him, to what he wanted to do, he just wants to plead guilty. I need to inquire about that, because I – we all have an ethical obligation that if he wants to plead guilty, he can. I don't know if the State made an offer, doesn't matter. If the State made an offer, obviously –

MR. MCLELAND: No offer's been made.

THE COURT: Okay. So no offer's been made, but we need to resolve that because that's been brought up in this particular statement and that concerns me that if he's –

MR. ROZZI: Yeah.

THE COURT: -- accusing you in some fashion that you won't let him do what he wants to do, we need to put that –

MR. ROZZI: We probably should do that at a closed hearing. I would like to do it – I should say I'd like to.

MS. DIENER: I can tell you that there's another reference that is related (inaudible)

THE COURT: Okay. I don't have that record and I, obviously, haven't looked at any of the information that you guys have submitted here in your exhibits, I mean that's – these are all the actual reports, this is the summary. Okay. Yeah, let's call it a day.

MR. ROZZI: Okay. Thank you.

(Sidebar conference concluded.)

THE COURT: All right. Ladies and gentlemen, it's late, it's 6:30. I appreciate the advocacy of counsel. We're gonna go ahead and call it a day and then, tomorrow morning, before we begin – I believe that we've now resolved the motion to suppress, as well as the motion for admissibility.

MR. ROZZI: Agreed.

THE COURT: Okay.

MR. ROZZI: Thank you.

THE COURT: Then, we can offer final comments and summation about those particular matters tomorrow morning before we begin on the State's motion in limine and the Defendant's response to the State's motion in limine. Fair?

MR. MCLELAND: Yes, Judge.

MR. ROZZI: Fair. Thank you.

THE COURT: Okay. See everybody – we'll be reconvening at 9.

MS. AUGER: Thank you, Your Honor.

THE COURT: All right. Thank you. Jodie, you can go off the record.

(Off record at 6:32 p.m.)

(On record August 1, 2024, at 9:02 a.m.)

THE COURT: All right. Well, good morning, ladies and gentlemen.

MS. DIENER: Good morning.

THE COURT: We are back on the record in *State of Indiana versus Richard Allen*. I'll show the Defendant's here in person with counsel, Mr. Baldwin, Mr. Rozzi. I know I saw Ms. Auger earlier. There she is.

MS. AUGER: Sorry.

THE COURT: Show the State's here by Mr. McLeland, Mr. Luttrull, and Ms. Diener. We are now here on the final motion for the week's hearings, the State's motion in limine that was filed April 29th and the Defendant's response that was filed April 30th. Before we get to that, I know that counsel wanted to make their summations on the Defendant's motion to suppress that we concluded yesterday. I appreciate everybody's indulgence yesterday, I know it was a long day, but I wanted to get through that particular round of evidence before we continued with this morning. So, Mr. Rozzi, your summation on your motion to suppress.

MR. ROZZI: Thank you, Judge. I, too, appreciate the Court being patient with us yesterday. I – you know, there's such a volume of information in this case, and trying to do – on behalf of Mr. Allen, trying to do everything that we can to try and pare this down and really make it consumable, and so I do appreciate you were patient with us and letting us do our work yesterday. As I mentioned when we started yesterday morning, you know, there are some constitutional provisions that Mr. Allen believes applies in this case. One of those is the Fifth Amendment, one of those is the Sixth Amendment, one of those is the Fourteenth Amendment, due process clause, and then the corresponding provisions in the Indiana Constitution, Article 1, Section 14; Article 1, Section 13; Article 1, Section 12; and then there's this kind of unique situation with the Eighth Amendment regarding cruel and unusual punishment. Again, that provision doesn't, in my mind, apply directly, but that concept in the Federal Constitution is also connected with the due process clause and so, because of that, I do think that it's pertinent for me to raise. We talked about buckets, I'm

not gonna get into that too much more, you're probably already tired of hearing about buckets, but you know, there were the five buckets that I mentioned, plus at least one other that was mentioned by Ms. Diener. I appreciated her clarifying that, that was the – kind of the handheld video that was taken at various times when Mr. Allen was moved around the prison. And so those are the kind of pieces of evidence that exist as it relates to the incriminating statements. And as the Court knows, I have offered up to the Court two separate exhibits, one being a thumb drive that contained all the corresponding exhibits with the motion to suppress, and the memorandum, which I think is really just still a nice roadmap after we've heard the testimony for the Court to kind of use and just go through all of those corresponding exhibits. The second set of documents or the second exhibit was the thumb drive that contained what we believe to be the majority, substantial majority, of the incriminating statements or statements that derived from those incriminating statements throughout the case. And so again, what you're gonna see in there, if you were to read through all of that, which would, frankly, be pretty time consuming, I'm not so sure I have those practical expectations, but there's a good – you can sample it, and I think what you're gonna see is that there are incriminating statements made in April, May, June, maybe arguably July, and then there are references to those things later in time. So, for example, there might be a phone call in November that says, "Well, they say that I confessed," and so it's – you know, there's a footprint or fingerprints rather that were – for what had happened during this critical timeframe in April, May, June, and July. So I'm asking the Court to take those into consideration in that context. You know, the issue here in Rick Allen's mind is that the due process clause is really driving the train. This case was kicked

off, in the Defense's belief, by a violation of his due process rights when the safekeeping order was signed and he was shipped off to the prison without any due process hearing whatsoever; and in fact, I think it was approximately seven months before he was afforded a hearing, and if you want to be causal about it, I think the damage was kind of done at that point in terms of the impact of the incarceration or the detention circumstances on his physical and mental health. The statute itself, 35-33-11-1, does require a specific showing by the sheriff that he was in danger of serious bodily injury, death, or he was a threat to others. And again, because there was no hearing, there was no showing. So I think that that's kind of what kicked this thing off in terms of the constitutional violations and, you know, by the time we got here in June and July – I'm already starting to lose my sense of time – I think there was a hearing on the issue that the extreme, oppressive, and I guess unduly burdensome circumstances that he had had been dealing with were already existing. And in addition to that, in terms of the process, he's been now shipped to two different facilities. The distance between he and his lawyers is now greater than it even was before, which was quite the hurdle and burden in terms of communicating with him. He's been moved 200 and something miles from his family. He's almost 200 miles from this courthouse. And all of those things have kind of added to the circumstances, the burdensome circumstances, that have been placed upon him. I do believe that the circumstances surrounding his actual incarceration – in other words, what he's dealing with on a daily basis – are supportive of his due process claim, and that, again, is the fact that he was placed in this most-maximum of security facilities in a extremely solitary situation, an 8 by 12 cell. We talked about the circumstances in that cell, the concrete, the steel, the bed

on the floor, no table or chairs, tiny window, he basically stares at a barbed-wire fence, looks out at a barbed-wire fence, steel toilet that's right next to his bed, he's fed through a hole in the door. We've got some dispute about the lights, but there definitely is some testimony that those lights may have been on, in some fashion, whether they were dimmed or not, at all times. And then, maybe most significantly, you've got a video camera that's recording his every move. While he was in these circumstances, the evidence is that he was fighting off insects, that there were times when I think his rec schedule was – depending on who you believe, I think it's just a matter of nobody's really certain, but three or four hours a week, maybe up to five. That vacillated at times when he was on suicide watch to the extent where he might not even get any rec time, even though there was really never any evidence, especially leading up to April of 2023, that he was suicidal at all. You may recall that they placed him on suicide watch when he entered the facility, even though there were no suicidal concerns. And I don't even really think there were any even in April, May, and June. There was concerns about him self-harming, but there were no suicidal ideations; but despite that, he was stripped of even more privileges or more – again, I don't know what other word to use, amenities is not the right word in this case, but necessities, and that is to say that the suicide watch designation resulted in Mr. Allen then being stripped of his basic clothing, they put a smock on him and he got to sit around in a gown. And so, you know, that designation alone really stripped him down to the bare essentials, it's basically a Bible and a bed, that's what you got on the floor in a concrete cell. The length of the solitary confinement is probably the most significant aspect of this argument in terms of the due process clause. There is no doubt that Rick Allen was suffering from a

serious mental illness at at least some point during his stay, I would argue to the Court that he was suffering from a serious mental illness at all times, because he did have major depressive disorder that was noted in his intake records and the prison officials acknowledged that and as per Dr. Wala acknowledged that. They knew that from the beginning. She knew about his long history of battling depression and the extremes that were associated with that, hospitalization even at one point in time for treatment, and he fit the DSM-IV definition. She acknowledged that he fit the definition of serious mental illness when he was in that facility, despite the fact that they labelled him as a safekeeper so that they would not have to comply with the rules, regulations, and policies that are associated with that designation. A technical exception to accommodate their own needs and circumstances – they being the DOC – is not acceptable and should not be acceptable to this Court. What's going on in that man's brain ought to be the first and most important factor in terms of ensuring his safety; and by checking a box, the DOC ignored that, and I would ask you to take that into consideration. For 12 months, he was detained in a solitary cell – well, almost 13 I think if we really did the math – at Westville, despite the fact that there's an acknowledgement from the doctor herself that the threshold that the DOC recognizes for solitary confinement for individuals with SMI is 30 days. Twelve times the length of time that at normal inmate would be held under those circumstances. They violated their own policies, we've offered those up to the Court, those are all due process violations that are – that Mr. Allen has suffered from. In terms of – I'm gonna move on. In terms of these buckets, if you will, this is where things get a little bit more technical and I thought about this before I offered this evidence up to the Court, but we talk about the contact with the

family members, again I think that falls under the basic due process provisions. The circumstances surrounding Rick's detention overwhelmed him. This – these circumstances or these findings were supported by the Westville team themselves, his treatment team. Dr. Wala testified that the treatment team did find that he was engaging in psychotic episodes during this April/May/June period. I would also note to the Court that in the thumb drive that we had offered up to you, you will find – well, I actually know that you're aware of it, because you referenced it yesterday, but there's an independent neurological examination that was completed by Dr. Westcott, we offered that up as evidence, the Court has that. That examination is, I don't know, 125 pages, but a lot of it are references from the log sheets. But most importantly, for notetaking purposes, I would suggest that you take a look at pages 122 through 126 – excuse me, 122 through 126, and you will find in t ere Dr. Westcott's summary findings; number one, Mr. Allen has a long history of mental illness; number two, exaggeration/malingering can be ruled out – the word that the DOC used here was feigning I believe, that that could be ruled out; number three, Mr. Allen's current neuropsychological function documents impaired processing speed – I'm sorry, Mr. Allen's current neuropsychological functioning documents impaired process speed, problem solving, and verbal attention consistent with individuals who have chronic MDD, chronic major depressive disorder; number four, Mr. Allen experienced physical and mental health decompensation at Westville Correctional Facility; number five, the mental health decompensation fits criteria for major depressive disorder with psychosis; and number six, the etiology of Mr. Allen's psychosis is multifactorial. She references the presence of chronic and severe major depressive disorder present for decades before incarceration. She

references long-standing and well-established personality factors, that's the dependent personality discussion that I had with Ms. – Dr. Wala. She references physical decline in health and psychological consequences of solitary confinement, which we're talking about today. I'd ask the Court to take those things into consideration. One second, please. There's also, associated with these statements to the family members, the fact that it's our position that it's also a due process violation because it's a critical stage of the proceedings. I should say it's a Sixth Amendment violation because it's a critical stage of the proceedings. What was going on here with regard to Rick's communications with his family is, is that he had one line of communication with his family members other than Mr. Baldwin and I having to relay messages like carrier pigeons from hundreds of miles away at times to and from, and we would go to the prison, talk to him, then have to talk to his family, which is very impractical; but the point being is that the statements that he made to his family members were through a portal, a phone, that was monitored at all times and it's the only form of communication he has with his wife to talk about anything private in his life. And I understand, you know, there's a – you know, in this day and age, one of the most common tools for prosecutors to investigate individuals that have been arrested is to listen to phone calls. I mean, unfortunately, we're inundated with those in the normal course of our practice, and I understand that there are recordings associated with those. But in those circumstances, in almost every circumstance, those types of offenders are located in housing units where they have – where they're not confined to an 8 by 12 cell all day, where they're not cut off from all human contact, and where they are left with almost no time outside of the cell, even rec time in this case. And I did the math, 98 percent of the time,

basically, he was in that cell. But in a normal jail setting, people are interacting, their families get to come and they get to sit up front, you know, in the general area or they get to go to a meeting room and talk to them, and there's places where you can have conversations and you can talk about these things that are private and confidential and, usually, at that point, the most important thing in your life is dealing with your – the accusations of which you're confronted. Mr. Allen had none of those privileges afforded to him, and so I believe it's a critical stage in the proceeding and that is his ability to communicate with his wife, and I believe that the State actions interfered with that right, that fundamental right to privacy. Statements to the inmates and guards, these are all Fifth, Sixth and Fourteenth Amendment issues. Those guards and inmates were placed there by the prison and there's testimony that they were communicating with him about his circumstances. There's testimony that they were engaging others outside of the prison about the things that he was saying, they were spewing this information, basically having the public – I think I even heard some testimony about a Facebook video that may have existed. All of this was going on while Rick was enduring his conditions. Those are violations of the Fifth, Sixth, and Fourteenth Amendment. The statement to the warden and the chaplain – I actually had a chance to look at the chaplain's statement last night – this is not evidence, I'm just offer this up to the Court for convenience purposes – we didn't offer that up in that thumb drive, and when I looked at what I had from the chaplain, in my opinion, I didn't see anything, at least, that was warranted us offering it up. So maybe I was just confused, maybe the State feels differently, but I didn't give that to you, and I went back and looked at it last night because I couldn't find what I guess I had – I thought was in there, which was something

more incriminating. So the absence of that is because I chose not to offer that up. Dr. Wala, Fifth, Sixth, and Fourteenth Amendment violations, along with the state provisions, as well. Again, I believe that she's a State actor. I think she's the long-arm of the DOC. She worked in that facility daily. This is not something she – they just called in for a special assignment, you know, she works within those confines daily, she's trained by the DOC, she follows some of their policies, some of them, some of their policies and procedures, and so I believe that she is a long arm of the State. Her situation is much more complicated because of the statute that exists, this patient privilege statute, by the way, which is one of the most coveted relationships recognized in our society, similar to the attorney/client relationship; and the idea that that statute contains a provision, an exception that says, "Everything you say to me is confidential and private except if you're talking about a homicide," to me is, from a lawyer's standpoint, it's just really interesting, because if there's one thing that a waiver or a disclosure form should reference, it would be that, especially if the very man that you're addressing with that disclosure form is someone who's accused of that very crime. And so while I apricate that Dr. Wala testified that, at a couple different times during her lengthy relationship with him, she said, "You know, you really shouldn't talk about your case," the fact is she was pulling him out of his cell, they were pulling him out of his cell, taking him to the cage on a consistent basis, and putting him in an environment where he had an advocate, allegedly, that he was to communicate with. That's the whole purpose of a doctor/patient relationship. And so the idea that he would not have been notified or informed, that there wouldn't have been some informed consent with that, I'll say it's baffling to me. In some ways, I think it's probably a product of a

disjointed system of treatment that really doesn't focus on the offender, but it's wrong, it's just wrong on its fundamental level. And so I appreciate that there's a waiver and it, basically, says, "Llook, if you tell us that some inmate's gonna kill himself or you tell us that somebody's trafficking drugs in the DOC, you know we can disclose that," that's all good and those are safety and security policies; but what really matters is his constitutional right, and none of that's included in that waiver form. I would ask the Court to take that into consideration. I thought about whether or not I would make an argument that that statute is unconstitutional. Frankly, I looked at some of the case law, I couldn't really figure out how to do that. You know, it's just something that, as a unit here, we chose not to do, and I definitely believe – and I'm not saying it is constitutional, I'm just saying, in full candor to the Court, that's something that went through my brain, it's a thought that went through my brain, but at the end of the day, at the very least, to the extent that it – there is a constitutional claim, it is that he was not informed of that circumstance in this particular situation, that exception to the privilege that is to say. And then, on top of that, his relationship with Dr. Wala consisted of a – you know, a really disturbing circumstance, which is the fact that the best evidence of what she was – he was telling her and the things that he was communicating over the course of 12 or 13 months was destroyed. And you know, I think about all the experts that we deal with in this profession, ballistics experts comes to mind, you know, people that sit down in laboratories, doctors, things like that, that take these notes, a lot of times we call them bench notes, sometimes we refer to them as session notes, what have you, those are the most – that is the most accurate – those are the most accurate renditions of what occurred in real time and it's – that's where we are in this

case, and they were destroyed. And I offered up some basic recordkeeping policies through the American Psychological Association, all of which you have in front of you, that reflect that, in cases where litigation is part of the landscape, that psychologists ought to consider not only retaining those records, but protecting those records, how to secure those records; and in this case, it was the exact opposite, they were taken to the shredder, and so, because of that, we do not have the best evidence or any context in terms of what Mr. Allen was communicating to her in any respect. So I'd ask the Court to take that into consideration. And then, finally, to the extent that there was a doctor/patient privilege which would call into question, I shouldn't say – to the extent that there was a doctor/patient privilege that was created in this case and to the extent that because that existed, the statute regarding the exceptions is applicable, I would argue that that's – that may not be the case, and the reason why is because Dr. Wala herself ran afoul of various best practices in her industry during her relationship with Mr. Allen, and the Court heard evidence of that in the context of she was following this case personally well before he was involved, she continued to follow the case more aggressively as things were happening leading up to his arrest, and then even after assigned to him – this is tough for me to consume – even after being assigned to him, Dr. Wala decided that she was gonna start listening to podcasts on a daily basis when she was commuting, I think she said about an hour and a half commute to work one-way ever day, while she was treating him. Im additional to that, we know that she was using the DOC records to surf around and do investigative research on other suspects in this case for personal reasons. I don't know how that is acceptable by any standards, and the point here is, is that that conduct alone is enough to make

an argument that she wasn't acting as his psychologist, she was acting as his friend or as his companion or as his associate or however you want to describe that or as somebody who had personal interest in this case. I can't imagine how excited she might have been to see him when she was gonna meet with him at the prison, knowing she was this involved in his case outside of the scope of her employment, and that's unconscionable, certainly unconscionable in our profession if we were doing something like with a client and we were in a relationship. So for those reasons, I'd ask you to consider suppression of the statements that were made to Dr. Wala. And then, Judge, there are a number of cases that I've provided you on – that – I think I gave you a table of authorities, I'm pretty sure, I just want to make sure I did give that to you, yeah.

THE COURT: Well, no, you didn't give me a table of authority.

MR. ROZZI: Okay.

THE COURT: You gave me a table of the contents that were in that disk.

MR. ROZZI: May I approach?

THE COURT: You may.

MR. ROZZI: I might be duplicating. Actually, I didn't give you this because I amended it just slightly. Thank you. This would be marked as DD. I don't really know if it's an exhibit, it's a table of authority –

THE COURT: Okay.

MR. ROZZI: -- all of which are referenced in the memorandum and the motion – well, actually the memorandum. And then, there is the additional authority at the bottom there, which is the *Indiana Protection and Advocacy Case versus the Indiana Department of Corrections*, 2012. That's not in the memo, but

that's another table – that's another case that I'm asking the Court to take a look at. And you, actually – that case was one that I had submitted and I did it through an offer of proof, but I'm using it as an authority – it's a federal court case – today to make some arguments. So those are the cases I'm asking the Court to take into consideration. So I move to admit I guess DD to the extent that it's really an exhibit.

DEFENDANT'S EXHIBIT DD OFFERED

THE COURT: Any objection?

MS. DIENER: No.

THE COURT: All right. I'll show DD admitted without objection.

DEFENDANT'S EXHIBIT DD ADMITTED

MR. ROZZI: Thank you, Your Honor. I'm not gonna go through all these, with the understanding that you've probably looked through more case law than I have in the course of your career. I mean, you've been doing this for a long time, I trust that you can read these cases, and some of them you're gonna be familiar with. I'm gonna just say a few things about kind of the evolution of this issue, if the Court would permit me to do, and that is to say that the first thing – so first of all, the cases that kind of deal with this due-process issue about how people are treated by the State when they're in custody go back – way back to the 20s and 30s, probably even before that, but that's really when the law started to develop, and most of the cases you're gonna find include Fifth and Sixth Amendment violations. The Fifth Amendment, right against self-incrimination, which, obviously, typically applies before arrest, and then then the Sixth Amendment right to counsel, which basically applies after someone was arrested and the idea that they have the right to have an attorney at all

critical stages of the proceedings. So that's kind of the backdrop of the cases. What you'll find is that one of the big differences between the federal cases and the state cases is that, under federal law, there is generally a requirement that coercive police activity exists in order for you to find that a confession was involuntary; so in other words, you've gotta have some bad acts by the State actors. And the federal law's been kind of consistent with that, although that position's been argued at numerous times. The difference or the contrast is, in Indiana, that's not the case and I think you'll find that reference in *Lisenba*, it's one of those cases that's on your table of authorities, and I also think the other case – if I could have one second – was maybe the *Hurt* case, yeah, State – or *Hurt v. State.* And so Indiana has grappled with that circumstance; and as recently I think as 2012, in *Hurt*, there's an acknowledgement that, you know, we just have a totality standard here in Indiana. There's no standard of finding coercive activity, that's not a requirement, although I think it's arguable it exists in this case, but that's not a standard that would apply to Rick under an Indiana law, so I'd ask the Court to just take the general concept in mind. The other circumstances that you're going to see in these cases is the evolution of how the State has treated offenders going back to the 20s, 30s, where, for example, in the *Chambers* case I think there was a man down in Florida, a white man, who was found dead. Unfortunately, this was a time when our nation was, you know, engaging in some not-so-good acts when it came to race, and basically, the local sheriff rounded up about 25 to 30 black guys and said, "We're going to interrogate these guys and we're gonna hold them in confinement, separate them, we're gonna keep them for a few days, and eventually, somebody's gonna crack," and that's what happened. And that case kind of kicked off this

microscope, if you will, that – you know, of kind of analyzing how the State does business. And one of the holdings in that case or one of the references was that the rack, the thumbscrew, the wheel, solitary confinement, protracted questioning and cross questioning are all forms of unacceptable police tactics. Solitary confinement was in that language. And that – these confinement circumstances and the impact that they have on humans in any respect, whether it be in a prison or outside of a prison, have been a thread of the case law from that point, so I'd ask the Court to take that into consideration. The – you move forward and there's a few other cases, and I think it was important, the *Massiah* case is an interesting case, I'm sure the Court recognizes that name, it's been around for a long time. So Ms. Diener had raised the issue of, well, you know, these – those – she's – the State's basically saying there's no interrogation here, and I agree with that in a traditional sense. You know, Sheriff Smith didn't bring Rick Allen into a room and put him in a chair and, you know, deprive him of food and water for days upon end while he was asking him to confess, that's obvious, or we might not even be here. In *Massiah*, that wasn't the case either. In the *Massiah* case, what happened was, is that there were – there was a merchant marine, I believe, that was arrested. There was a tip that this merchant marine was smuggling drugs on a ship. The police investigated that tip, they searched the ship, they found the drugs, Massiah was arrested. They rounded up a co-defendant, and they immediately cut a deal with the co-defendant to work as an informant for them. Basically, they said, "Hey, all we want you to do, in exchange for a lesser sentence, is just to go associate with your buddy and tell us what's going on. And by the way, while you're doing that, we're going to put a wire on you." And so the co-defendant was wired up and he went about his normal

associations, one of those being with the co-defendant. They were in a parking lot one day, talking in a car, and you know, no police around anywhere and nobody pointing a finger at him, nobody interrogating him in the traditional sense, and he made some incriminating statements. They introduced those statements into evidence, he was convicted, and the – I believe it was the U.S. Supreme Court – give me a second – yeah, United States Supreme Court determined that that was unconstitutional, Fifth and Sixth Amendment violations. "Conduct by the State" – this is what the Court said, "Conduct by the State doesn't have to be willful and deliberate. This rule also applies to indirect and surreptitious interrogations, as well as those conducted in the jailhouse." So there's your portal to Rick Allen's circumstances, and a solid case itself. I would suggest to you that Rick Allen's circumstances, while not a traditional interrogation, involved what I would describe as a sophisticated system of surveillance – that's a lot of esses – that was founded in or grounded in a due process violation. So he gets whisked off to a prison without any say-so whatsoever, he gets confined in those circumstances, and the oppressiveness, the undue burdensome nature of those, are the foundation for this sophisticated system of surveillance where, the next thing you know, every movement that this man made, including using the restroom or going to the bathroom, was monitored by the police. And while I appreciated Trooper Harshman yesterday, it sounds like he's put a lot of time into this case – I think he and I apparently have one thing in common, that is we sit around and listen to a lot of video and audio – but it is a perfect example of how there is a fairly complex system – involved system's probably a better word, that was in place immediately when he got to Westville to collect and gather all of this evidence, which even included

videotaping his meetings with his lawyers, which again, I still haven't wrapped my brain around that one, but that's what it included and the evidence was clear that that's what it included. And so I would ask the Court to take that into consideration in terms of the totality of what occurred here. So at some point, Your Honor would go back to your chambers and you would say, "What am I gonna do here? How am I gonna deal with all this after listening to the State's arguments?" And I would suggest to you that you don't need to do a whole lot, because there's already been a judge that did this for you. And you heard me argue some of this during the proceedings, but as a citation of authority, I've referenced the case of *IPAS versus the Indiana Department of Corrections.* The citation's right there, the last one on Exhibit DD. And Judge Pratt, Southern District judge, dealt with this very issue. And I would direct the Court, when you do sit down and read that case – give me one second – direct the Court to – I gotta find my – direct the Court to access the court order in that case, the finding of judgment, which you can find on the – online on Lexis or Westlaw, and specifically page 5, if the Court would take that note, page 10, page 11, page 17, page 21, page 23, page 24, page 25. And on page 5, what the Court is going to find is that Judge Pratt herself identified – they're findings, you know, we all know what those are, lawyers know what those are. Basically, these are the things that the Judge is making her decision, these are the facts the Judge is adopting to make a decision, and I'll just share a few of those with you, one of the findings. "All segregation prisoners spend a great majority of their day locked in their cells, up to 22 hours and 45 minutes per day; for some prisoners, all day." Bullet point number two: "All segregation units feature individual cells." Bullet point number three: "The cells contain a bed and a sink/toilet unit. The

bed may be concrete or metal and is attached to either the floor or the wall." Bullet point four: "The cells are small. As an example, a segregation cell at WCU," she mentions, "is approximately 13 by 6." In this case, the testimony was 8 by 12, even smaller, 8 and a half by 12 and a half. "The cells at the CUU" – so it talks about the Pendleton cells being 8 by 10. Next bullet point: "The cells generally have a small window to the outside world." Next bullet point: "The doors on the cells vary. Most of the segregation units have solid doors with a small window" – the same solid door that he got his therapy sessions through a crack, that's what she's talking about here – "a small window in the door and a cuff port that opens up for the purpose of serving meals or securing a prisoner's arms before he or she is removed." Next bullet point: "Prisoners in segregation receive meals in their cells." Next bullet point: "The IDOC policy provides that prisoners in administrative segregation are offered one hour of recreation five days a week." Next bullet point: "At times, recreation may be suspended for long periods of time for institutional reasons." Suicide watch for Mr. Allen, that was the institutional reason. "When prisoners are released from their cells, even within the unit, to go to recreation or the showers, the prisoners are secured. Depending on the facility, the prisoners are placed in at least hand restraints and may be placed in leg restraints, as well. They are secured by one or two officers." Exactly what happened to this man. Next bullet point: "Hand restraints are secured when the prisoner, locked in his or her cell, puts his or her hands through the cuff port to be secured. The cell is then opened and leg restraints, if used, are placed on the prisoner. The prisoner may be cuffed behind his back or her back, they may be cuffed in front with a black box" – the cuff box we talked about – "which is security – a security cover placed over handcuffs."

There's a lot more. Those are the ones that apply specifically to this case. She goes on to say, page 9, "Although prisoners in segregation may leave their cells for recreation, showers, visits, and medical and mental health appointments, they are generally otherwise confined in their single cells." She goes on to say, "There is generally no correctional programing available for segregated prisoners, even in their cells, although prisoners may receive chaplain visits and have their own materials." Dr. Wala herself testified that basically her meetings with him are conversational, they're not in the form of therapeutic sessions. Next bullet point: "There are two correctional programs at the Westville Correctional Unit. Neither are mental health programs." So those are some of the findings that are in that case very similar, if not identical, to this case. Page 10, she defines a serious mental illness from a clinical standpoint as including major depressive disorder. And we know from the exhibit that you received, the DOC policy that I offered up and the Court took into evidence, that that, specifically on page 2, referenced this *IPAS* lawsuit and that it was incorporating this lawsuit, this litigation, into the actual – it says it in the actual DOC policy. Page 11, "There are two mental health units within the DOC, those units are New Castle and a special needs unit at Wabash Valley." No reference to Westville. Page 17, these are still part of her conclusions, "The mental health evaluation sequence is as follows" – and she goes through to talk about how they get intaked and how they have a meeting for 20 minutes or half an hour with somebody at the door and they take some notes. And then it says, "In practice, however, mental health treatment is principally limited to the issuance of medication, prisoner conversations with the mental health staff, and mental health staff's response to incidents of actual and attempted self-harm. There is no group therapy for

mentally ill prisoners in segregation." Exactly what Dr. Wala told this Court here yesterday. Page 21, she gets into talking about the impact of solitary confinement on an individual under the section titled "Mentally ill prisoners in segregation." She says, "The consensus of opinion in a professional body of literature on the subject presented in this case is that segregation is detrimental to people with serious mental illness because it makes their symptoms worse or because, at best, they do not get any better." And then she talks in more detail. "Based on the extensive evidence presented in this case, the Court finds that there are three roles in which segregation is harmful to prisoners with SMI" – serious mental illness – "the first, lack of social interaction." He had none. The second, "Such" – the second is that isolation involves significant sensory deprivation. Obviously occurred in this case. The third, permitting – the third is that, "The enforced idleness permits no activities or distractions. These factors can exacerbate the prisoner's symptoms of serious mental illness. The condition is known as decompensation." She listened to doctors, she was educated, and she made – generated an opinion that the solitary confinement circumstance was detrimental to his mental health. She goes on to talk about how that decompensation can result in hallucinations, memory problems, paranoia, depression, and many other symptoms. And then finally, there's more to be read here, I'm not gonna belabor the Court anymore. She says, "To reiterate" – she's summarizing – "the severe condition in the segregation units cause a predictable deterioration of the mental health of seriously mentally ill prisoners at the IDOC or – and the IDOC has expressly observed, diagnosed, and noted patient decompensation." Judgement in favor of the Advocacy – Indiana Advocacy Services, i.e., the inmates. So there's your roadmap right there, there's already

a judge that's tackled this issue, almost the exact same issues, in this state at Westville involving the solitary confinement unit so, you know, that oughta help the Court in making its decision. With that, Judge, I would rest. Thank you.

THE COURT: Ms. Diener.

MS. DIENER: Thank you, Judge. The Defense is making the argument today that the evidence supports a finding that his due process rights were violated such that it was a coercive factor to result in involuntary statements. They talk about the due process driving the train, that the safekeeping order is a violation, and that his solitary confinement overrides all of the other considerations before the Court in determining whether these statements should be admitted in his trial. The State would renew its motion to dismiss their efforts to suppress his statements made while in DOC. We again believe that their motion fails to state a basis in law for suppressing all statements by the Defendant in DOC, because the evidence presented – oh, I'm sorry, the case law that is cited by the Defense, which appears also in their filing today listing authority for the Court to consider, if you read beyond the headnotes, does not support applying the law in the way that they are asking this Court to do so. They admit in their motion it is a case of first impression, and I don't think that has changed at the conclusion of evidence. And so the State is asking that the Court dismiss the suppression motion in its current form and that the evidence presented supports that request. With regard to the subject matter of the motion to suppress, the State has the burden of showing that his statements were not in violation of the Fifth and Sixth Amendment or the due process clause which attaches those rights under the Indiana standard of beyond a reasonable doubt. Their claim that these statements are induced

does not – is not supported by the evidence. The State's witnesses all indicated that he was never interrogated, that he was being held pursuant to this Court's safekeeping order and that those that were having contact with him on a daily basis were following procedure based on the DOC's implementing of the Court's safekeeping order, constant visual and keeping him safe. So he did have lots of contact with corrections staff, but they're also complaining that he didn't have social interaction. He had people around him all the time. Did they have restrictions about engaging with him? Yes, but that was for his own safety and to avoid the implications of any sort of interrogation or influence. The right against self-incrimination is a very important right, but the evidence presented by the State and even by the Defense shows this Court that those rights were protected. No one interrogated him, people were following the safekeeping order, and Mr. Allen made the choice to make statements in certain situations that were incriminating to his case. So this Court could stop there and say there was no interrogation. Despite the fact that he was in custody, no one was actively questioning him or inducing him to make statements that would incriminate him. In fact, he was advised by his closest confidant, Dr. Wala, "It is not wise to talk about your case to anyone but your attorneys." She didn't say, "Talk to me about them." She didn't say, "I questioned him about it in order to give him services with that regard." In the very beginning, she said, "Do not talk about your case except to your attorneys, but I am here to help you with the mental health aspect of your circumstances. It is okay to accept that kind of assistance." So she's providing that assistance over the course of incarceration from November of 2022, through to December of 2023; and in April, he decides to start confessing, and not just in the confines of those counseling sessions with

Dr. Wala, where they may say that he feels the safest and feels like she is his confidant or friend, but to other people around him. And she continues to advise him, "It is not wise to confess to door companions, it's not in your best interest. You should talk to your attorneys." It's her obligation to record what he says and it also the obligation of the suicide companions to record what he does and says, because Dr. Wala is relying on those statements to keep herself abreast of his condition with regard to his mental health. When he starts to make statements to everyone around him in a multitude of circumstances beyond just talking to his family, so to door companions, to guards that are moving him within the prison, to nursing staff, to doctor staff, to mental health staff, it is clearly his choice to do so and he does it for a period of time. And the Defense claims that that is induced by the State, but the State has provided the Court, and it is supported by the testimony of Dr. Wala, who was closest to him, she cannot speak to his motivation for making these unsolicited statements that are incriminating. All she can do is record them and assist him with his mental health and advise him not to do so, but it's the State's burden to show that they are unsolicited, which we believe we have done. There has been not only Dr. Wala who says she did not interrogate him in that confidential situation, but she had no reason to think anyone else was interrogating him. He never expressed to her that he was being interrogated. The testimony of the warden indicated that he was provided with a written statement and a desire to confess and he did not question him. In fact, he got two requests and he just sent them to Internal Affairs and did not pursue them. He had no indication from Mr. Allen that he was being interrogated. He had frequent contact with Mr. Allen, had conversations with him to include his conditions to the extent that he could,

because he is subject to the safekeeping order, which came from Central Office, that said there shall be constant visual and he is to have video recording whenever he's moved. They did not audio record him in his cell, so he did have some extent of privacy. They did not audio record him when he met with his attorneys. They did not audio record him when he met with his family. If he chooses to make statements on a recorded phone line, it has long been established that detention facilities record phone calls and that the inmates, whatever their circumstances, pre-trial detention or otherwise, that their phone calls are recorded. That is not the place to have conversations about your offense. And that detention in DOC is not unique. They are doing their job. In fact, they are providing more services to Mr. Allen than he would ever have available to him in a county jail, that has been made clear. So not only has the State shown that these statements were not coerced by people, but the circumstances of his confinement are not designed to elicit statements from him, they are designed to keep him safe. He is a high-profile offender, there are people yelling at him to kill himself. There are self-harm incidences where the facility and Dr. Wala respond in kind to protect him to the extent of giving him Haldol when he is causing his own deterioration by refusing to eat, refusing meds, choosing not to sleep, refusing rec, refusing showers. It is Mr. Allen's decision not to engage in those things which would best improve his mental health in his situation as a pre-trial detainee. So Mr. Allen is making choices that no one else can make for him to further restrict himself beyond what the Court has ordered and beyond what DOC has done in keeping with that safekeeping order and to make sure that he is protected, not just from self-harm, but from the harm from others. And there's been a lot of reference to, "Well, he wasn't actively suicidal."

Mr. Allen, as you will notice when you read through the reports that you've been provided, that he is constantly referring to the desire to die, just not at his own hands. Number one, you'll notice that he says, "I'm a coward. I couldn't kill myself." And number two, he believes it's against his religious beliefs, because suicide would be a sin and he would go to hell. That brings me to the motivation for his confessions, which is important, because the motivation for him to confess is the best evidence against the idea that people around him or his circumstances are soliciting these incriminating statements. The testimony of Detective Harshman provides an overview, because he is in a position to speak to not only the conversations that Mr. Allen has with his mother and his wife, but also the statements that he is blurting out to staff around him at various times, including the door companions, and also in the circumstances of his meetings with Dr. Wala, and again also in his video movement to Medical. The overview is Mr. Allen found God on March 21st of 2023, and this had a great impact on his perspective and he shared that with anybody he could. Dr. Wala didn't necessarily make specific note of it, or at least didn't refer to it that way in her testimony, but in looking at her notes, you will find that there is frequent reference and she talks about his sudden religiosity, which is not uncommon to people in jail, and how it impacts his perspective. He starts confessing. First, he writes to the warden, "I want to confess to killing A.W. and L.G." Then he tells his wife and his mother and he wants to know if they will still love him if he committed this crime. He simultaneously is talking to all of his door companions. And when you look at the door companion sheets, not only is he confessing, but he's talking about how pleased he is that he found God, that being in prison has saved him in the sense of going to Heaven and knowing what

he needs to do to make things right, but he also wants to share that with the people around him. "Can I give my Bible away to someone who needs it?" Even suggests that maybe it could be given to the families of A.W. and L.G. So this religiosity is not just an artifact of his incarceration, it is something that changes his perspective, and his confessions are tied to this revelation that comes to him in late March of 2023. So he is confessing, he is talking with his family, and he is met with a negative response, "Don't talk about that. Don't call me." And he does, he stops communicating with his family, whether it's because they're not answering the phone or he chooses not to call, but over the course of that time when he's deteriorating, he's not eating, he's not sleeping, he's not going to rec and showers, he's not taking his meds. So in a period of weeks, he gets to the point where they have to medicate him, they give him – I had Dr. Wala speak about the day that she met with him and he was with Dr. Martin, he was covered in feces, and they're asking him to agree to an injection of Haldol, and he declines, all the while making statements that are specific to this crime; not a general, "I confess," but specific statements in a video with multiple people present, not just Dr. Wala, not just Dr. Martin, not just nursing staff, but also the guards who are required to move him and record him. And these are statements that are specific enough that only a person that was there would know these things or have these impressions about the crime. He stops talking to his family about it, but continues to talk to those around him, and that's why Dr. Wala has documents from April 4 and April 5 and May 2nd and 3rd, and 10th. He even asks her to stay with him while he calls his wife to confess again. And in that particular time period from April to May 10, he is medicated by Haldol, he gets some rest, he starts to take care of his daily needs that he has choices

over, eating, cleaning himself, going to rec, getting a shower, cleaning his cell. And you'll notice in her reports, not only does she make notes about his psychotic symptom, clear or unclear or significant, but she also talks about his attention to his own self-care, because that's an indicator of his mental health, and those things improve. In fact, he gets to the point where they are taking him off Haldol and he confesses even after that. When he makes the statement on May 3rd and May 10, her clinical impressions indicate that he is continuing to improve and that he is stabilizing. So it is the State's position that the evidence supports that the influence for Mr. Allen to confess is his own feelings of remorse and realization that he is now in a position of suffering the consequences of his own acts and he needs to reconcile that with the damage he has done to his family and that he may only see them in Heaven if he can get there. The State is following a safekeeping order that this Court issued. The statute that supports that safekeeping order, even though it predates this Judge's time in the case, and even though the due process hearing that they asked for happened after these statements, the safekeeping order statute does not say that the Court shall only order safekeeping after a hearing where attorney – where the defendant has the benefit of counsel. Safekeeping is an immediate need. If someone is in need of safekeeping, their circumstances are dire. And the county jail and the sheriff at the time obviously felt that he could not keep Mr. Allen safe or he would not have petitioned this Court in the way that he did in order to obtain a safekeeping order. The civil action with regard to the Eighth Amendment cruel and unusual punishment, which does not appear in the Defense motion, I will point that out, is a civil case about cruel and unusual punishment; but let's not miss the fact also that the evidence shows that the DOC policies were changed and the ones

that were provided to you by the Defense are dated in April of 2022. So that is a year prior to Mr. Allen's confessions, it is eight months prior to his incarceration in DOC, so their policies had already been ingested with regard to the *IPAS* case. The State's position is that that has no place in this analysis. The Defense argues that even his calls to his family should be considered – the monitoring of his calls should be considered a violation of due process, but they provide no law to support that argument. We would ask the Court to find that the State has shown beyond a reasonable doubt that these statements by the Defendant in DOC have been the result of Mr. Allen making the choice to make unsolicited statements to those around him, that it was not motivated by the circumstances of his confinement, because let's remember, the circumstances of his confinement have been consistent and many of the witnesses spoke to this, and I believe it has been shown beyond a reasonable doubt that the nature of the confinement has been the same from December of 2022, through the transfer from Westville is the period of time we're looking at, which is in December of '23. So he was making statements from April to June and then others scattered throughout, and those that have been made after this time period, although the Defense characterizes them as references back to his confession, that is not true either; he makes statements specifically about being the person who committed these offenses, not just a reference to his prior confessions. But nonetheless, the evidence has been that his treatment in DOC has been consistent; therefore, how can it be a factor that causes confessions from April to June, but not before and not after? And Mr. Allen's adjustment to his circumstances and his ability to function in those circumstances was not psychotic before April and has not been psychotic since. Does he have major depressive disorder? Yes, he does.

He's had it since his 20s. Does he have anxiety? Yes, he does. But major depressive disorder and anxiety are not serious mental illness. And the testimony about what was happening in April was not only brought on by his own choices in failing to accept the assistance he was being provided in DOC under circumstances that are common to all pre-trial detainees for murder, which is you're incarcerated and, oftentimes, you're in solitary for your own safety, but also that he was motivated by finding God and wanting to make things right. And when that did not go well and when it was not received by his family and when he was frustrated with lack of communication with his counsel, then he stopped, because it was no longer serving him. For those reasons, the State would ask that the Court find that the State has proved beyond a reasonable doubt that his statements were voluntary, that there is nothing in the law regarding custodial interrogation and rights provided under the Fifth Amendment, the Sixth Amendment, the due process clause, or Indiana Constitution Article I that would indicate that we have failed to meet our burden, that these statements were coerced either from interrogation or unintended coercion based on his circumstances. With regard to the Defendant's table of authorities regarding case law, all of those cases I believe appear in their motion and memorandum. The State has reviewed all of those and I would present to the Court that all of those cases deal with custodial interrogation except for – and there are some that say interrogation but no custody. With regard to *Massiah*, the federal agents wired a co-defendant and said, "Go talk to him about your case." It wasn't, "Go about your business"; it was, "Talk to him about this case so we can get evidence against him for the crime that you were involved in." That's very different from what's happening with Mr. Allen. In the State's

response, we cited cases of *Seay*, S-E-A-Y, *Carter, Curry, and Pruett.* I believe all of those are also helpful to the Court. I don't think it's necessary for me to go through them and apply them for the Court's benefit, because we did say in our response that I would be happy to provide a brief to the Court to assist in a timely resolution of this issue.

THE COURT: Thank you very much for your presentations. I appreciate it. You very much condensed the issues for my review. Are we ready then to proceed on the State's motion in limine?

MR. ROZZI: Could I have just a minute to clean up, maybe kind of (inaudible) just a second?

THE COURT: Sure. Do you need like a quick break or something?

MR. ROZZI: Well, maybe five minutes would be good.

THE COURT: Five minutes? All right.

MR. MCLELAND: Judge, before we take that break –

THE COURT: Yes.

MR. MCLELAND: -- can we approach briefly?

THE COURT: Sure, come on up.

(Sidebar conference conducted.)

MR. MCLELAND: (Inaudible)

MR. BALDWIN: Right here facing this way. I may (inaudible)

THE COURT: And just keep them – I mean, there's no reason to display those to the audience. They're nobody in this game. I'm the person that needs to see whatever evidence that you want to display, so –

THE BAILIFF: Quiet in the gallery, please. We're still on the record.

THE COURT: Thank you.

MR. MCLELAND: (Inaudible)

THE COURT: I mean, when we get to trial, that's a pretty different situation.

MR. MCLELAND: Sure.

THE COURT: And we'll have to take a look at a (inaudible), but for purposes of this hearing, I'm the fact-finder and I'm the one that needs to see whatever is on these boards, not the audience members, so if you could limit the display to me, I would appreciate that.

MS. AUGER: (Inaudible)

THE COURT: Well, and I saw that, but, I mean, there were times when (inaudible) flashing things around and it's – would be a little bit disconcerting when you don't expect to see, "Oh, wow, look at that."

MR. ROZZI: I just realized that my screensaver on my computer is my wife's face, and they were staring – you know, every time – and they're looking right at her, and I'm just thinking little things like that, I'm not, you know –

THE COURT: Does your wife know that her face is all over?

MR. ROZZI: No. That's what I'm saying, I didn't – I would usually not sit there and –

THE COURT: Okay.

MR. ROZZI: So we'll be (inaudible)

THE COURT: It just – that whatever's on the poster boards, that it – they don't need to be displayed to the audience.

MR. ROZZI: The full conversation.

THE COURT: Right, yeah, yeah, yeah. Okay. So like five minutes to just get organized and figure out where we are?

MR. ROZZI: So we're dealing with the State's motion in limine; right?

THE COURT: Yeah. That's the only thing we have left. Well, the State's motion and your response. And before we get into that, I think we can narrow it even further. Okay.

MS. AUGER: Thank you.

THE COURT: All right.

(Sidebar conference concluded.)

THE COURT: Let's take five. Jodie, you can go off the record.

(Off record at 10:14 a.m.)

(On record at 10:23 a.m.)

THE COURT: Okay.

MR. MCLELAND: We can get started, Judge. Mr. Luttrull went down to use the restroom, but that's fine.

THE COURT: Okay. All right, very good. So we are ready then to proceed on the State's motion in limine and the Defendant's response. That's our last motion for the scheduled hearings; correct?

MR. MCLELAND: Yes, Your Honor.

THE COURT: Mr. Rozzi, you ready?

MR. ROZZI: Yes. I'm sorry.

THE COURT: Okay.

MR. ROZZI: I was – yes, I'm ready.

THE COURT: Okay. So we're all organized now for the presentation on this. Is there any issue – I know I said this up at the bench earlier, but we might be able to kind of shorten this part of the hearing considerably. Is there

any dispute about the paragraphs 1 through 6 of the State's motion in limine? I mean, I know that the Defendant filed a response objecting to all of those things, but –

MR. MCLELAND: Are you –

THE COURT: I mean, it's pretty common practice, I mean, there's lots of case law, there's lots of rules that cover the things contained in the motion in limine on 1 through 6. So –

MR. ROZZI: May I?

THE COURT: Yes.

MR. ROZZI: Yeah. Judge, I mean, this is my view of it, and I guess I can just kind of group 1 through 6. You know, these are all requests that are covered by, primarily, the ethical rules, Rules of Professional Conduct, that is; and so, in my mind, you know, what the State is asking for here is to basically say, "You need to tell the Defense they need to follow the rules." I mean, that's really kind of what these requests are. "Any comments about counsel for the State that constitutes a personal attack on the attorney for the State or comments on the role of the State's attorney." Well, I can tell you I've read every one of those cases that were cited, and they're all cases where prosecutors have said things during trials that violate a defendant's right; for example, I think there was a case where the prosecutor was a drug prosecutor in that community and he basically said during the trial, "I don't like drug dealers and I'm bringing them down." And, of course, the defendant was charged with drug dealing and, of course, you can't inject those kind of comments into the record, and so that's just an example of – most of the examples I saw are actually directed to the prosecutor, of course, because the defendant's right are, typically, first and

foremost in these processes. So without me belaboring that, I think you've already got a pretty good feel for this. I guess to the extent we would object, I'm objecting because he's asking for a one-sided prayer for relief, and I think that the professional rules dictate how we act in trial. We can't inject our personal beliefs because the professional rules prohibit that in the middle of the proceeding, and so, you know, that's number 2. And then, number 3, the innuendos or references to those, they're all the same. The other set of these pertains to what we can do when we voir dire.

THE COURT: Um-hmm. (Affirmative response)

MR. ROZZI: And you – I'm sure you have a really good handle on that, knowing your background. You know, I think the general rule is we're not to condition jurors in the process, but there are definitely cases that exist that do allow us to question jurors on fundamental issues that they would be addressing during the trial, if they were selected. So, for example, there was case that said it's an error to deny the defendant's right to any interrogation of prospective jurors upon the subject of self-defense. Well, that's a material element of the case and it's one of those things that we can talk about. I mean, so I think what's the State's asking is, is for you to curtail conditioning, that's the word I've always kind of used, and that's all guided by the professional rules and the jury rules, and so we intend to follow them, and until there's some violation of that, I don't think there's any prayer that's necessary. And to the extent there is, it should go both ways.

THE COURT: Mr. McLeland.

MR. MCLELAND: Judge, I guess I' m gonna steal a line from the Defense when they – before they say something offensive about the State or

accuse me of being corrupt, so I'll say, with all due respect, I don't file these in every case. I don't file a motion in limine, because we all are held by the professional rules of conduct. I felt it necessary in this case given the prior filings by Defense, the prior actions by Defense. And in my motion, I'm not asking that this be one-sided. I think this applies to both the State and the Defense. These are standard rules that apply to professional conduct, but in this case, I think they're necessary given the prior actions from the Defense. I think it's necessary to talk about these things and remind and admonish the Defense that these are the rules and that these are expected to be followed by the Court. So that – those are the reasons for rules 1 through 6. I spoke with Mr. Baldwin before we went on the record today on this hearing. I think the real meat and potatoes of the motion is 7 through – excuse me, 7 through 12. Number 7, number 8, number 11, and 12 all deal with third-party motive, and we talked about that, and those all the same, just different aspects of third-party motive. Number 9 deals with geofencing and whether or not it was reliable enough to bring into evidence from the court. And then, number 10 just talks about the 404(B), which again, I think can be lumped in with number 1 through 6, standard, tons of case law. 404(B) applies to all witnesses, not just the Defendant, and so just wanted to remind the Defense that that does apply to all the witnesses and not just the Defendant, so I think 10 could be lumped in with 1 through 6. I think the real heart of the issue is 7, 8, 9, 11, and 12, Judge, with the majority of that focused on third-party motives.

THE COURT: Okay.

MR. BALDWIN: I agree, Judge. I'm gonna be handling most of the third-party, with Jennifer doing a little bit of it. I don't disagree with Nick. He's

also indicated that he believes the burden shifts once he raises the issue of – knowing the *Franks* memo and other fillings, that that's what we're doing. I don't – even if I disagreed with it, I just don't think it's practically – it would be practically wise for him to start. I don't know how it would happen. I think we, on the Defense side, need to present the evidence on third-party suspect and we're prepared to do that. And so –

THE COURT: Okay. So we all agree that paragraphs 1 through 6 and 10 are applicable mutually?

MR. BALDWIN: Yes.

MR. MCLELAND: Yes, Your Honor.

THE COURT: You know, you've never tried a jury trial in front of me, I run a tight ship and I hold you to the rules, I hold you to the ethical standards, I hold you to the case law, so as long as we're all on that same page. When I read this, I thought, "Are we really gonna argue whether or not we can attack each other in a court of law in violation of the ethics?" So I'm glad to hear that that is not the issue, that is not what we're going to be doing, so paragraphs 1 through 6 and 10 on the 404(B) can be granted, understanding that they are mutually applicable to both sides, so that we are really going to be focusing on 7 through 9 and 11 and 12.

MR. MCLELAND: Yes, Your Honor.

MR. BALDWIN: Yes.

` THE COURT: All right. Great. Thank you. All right. Then we are ready to proceed. So 7 through 9, I agree with counsel, that appears to be the Defense theory on the third-party perpetrators. Clearly, the case law is very clear that there has to be a nexus between the crimes and the third-party perpetrators.

So who's going first?

MR. BALDWIN: Judge, I would ask for a separation of witnesses.

THE COURT: Okay. I'll grant the request for separation of witnesses. Are you gonna reserve anybody, either of you?

MR. MCLELAND: Judge, I do have a witness, but I'm – what officers are you gonna call?

MR. BALDWIN: Who is it?

MR. MCLELAND: What officers are you gonna call? All the subpoenaed officer?

MR. BALDWIN: I'm gonna call Holeman, Cecil, and Vido likely.

MR. MCLELAND: Okay. Do you want the other subpoenaed officers separated, as well?

MR. BALDWIN: Yeah, just in case.

MR. MCLELAND: Okay.

MR. BALDWIN: Thank you.

THE COURT: Are they in the room?

MR. MCLELAND: They are, Judge.

THE COURT: Okay. So those of you that have been subpoenaed on this State's motion in limine and the Defendant's response are under a separation of witness order. You can't talk about the case among yourselves or with anyone else. You need to stay out of the courtroom until you are released from subpoena. You may speak with the attorney that subpoenaed you.

MR. ROZZI: Judge, can I just have one second with Mr. Baldwin on –

THE COURT: Sure.

MR. ROZZI: -- procedural matters?

THE COURT: Yeah.

MR. BALDWIN: Judge, what we're talking – if I may, what we're talking about is Detective Vido, he served some – a couple of purposes. Brad is handling one, the Kegan Kline argument. I'm handling the – most of the others or all of the others, and he has a multi-purpose and so he's like, "Do we want to do both at once?" And I – from the presentation standpoint, does the Court or the State object to that? Would they object if we called him twice? Would they mind doing both of those?

THE COURT: I have no preference.

MR. BALDWIN: Okay.

MR. ROZZI: I think it'd be clearer –

THE COURT: Okay.

MR. ROZZI: -- if you just heard one. Back to buckets, you can see how my brain is functioning. But I think it would cleaner if we did it that way, if that's all right.

THE COURT: All right. That's fine.

MR. ROZZI: Very good.

MR. BALDWIN: Judge, I have an opening statement that I think will help give context for everybody, I think it will help the State even.

THE COURT: Go ahead.

MR. BALDWIN: I'll start with *Joyner versus State* is what we look at, the Indiana Supreme Court in '97, "Evidence is relevant when it has any tendency to make the exitance of any fact that is of consequence to the determination of the action more probable or less probable. Evidence which

tends to show that someone else committed the crime logically makes it less probable that the defendant committed the crime and, therefore, meets the definition of relevant." So we look at the word "any tendency", does the evidence that we're about to show you, Judge, in a moment tend to show that there is a connection. And we will be calling today several law enforcement officers, two of those we have subpoenaed in are Kevin Murphy, who you heard from the other day, and also Todd Click. These are fact witnesses who, you know, for lack of better word, I think you will find support the Defense theory that there is a nexus. They were detectives on the case and they will be supporting I think through their words, through their testimony, the Defense theory that third-party suspects are involved in the crime. We also will have one fact witness named Amber Holder, who would be testifying concerning Brad Holder, who is one of the prime third-party suspects. We also will start with our expert named Dawn Perlmutter, who is a ritualistic crime scene murder expert. We will be tendering depositions, reports, photographs. I gave to the State a flash drive yesterday with – basically giving them the outline of what we're doing, and it may not be in the exact order, depending on how things go, but I'm gonna give that to the Court, as well. I think Nick is not going to object to that exhibit when we tender it, and that way, you will have that. I also have paper copies and the – you know, these hearings get a little bit unusual, 'cause they're not like trial. I'm gonna do my best to move along, so that you guys aren't here until 7, and so hopefully, we can move this along with everything that I've got ready. So here's what the preview of the evidence is: Until Richard Allen was arrested, law – you will find out, Judge, that law enforcement believed that multiple people were involved in this case, in the murders, that's what you're gonna hear. We believe

that, too. We believe the evidence supports that multiple people were involved in the murders of A.W. and L.G. How we – what evidence exists of that? First, Kevin Murphy will testify at some point in time that he started – that in the investigation of the murders around day 7 after the bodies were found; and from that day until the day that he no longer was working on the case, it was really only talked about that multiple people were involved in the crimes. You will hear him testify that it was always two or three people, maybe as many as five or six. It was really never one person. What other evidence will there be that it was multiple people? And this is important because, you know, our third-party suspects are multiple people. You're gonna either hear testimony or read a deposition that Tobe Leazenby, he believed that it was more than one person, he believed it was at least two people, and also that Tony Liggett shared the same belief. And the reason was there was too much to do in such a short period of time on the terrain where the bodies were found, and that's why at least those two always believed very specific evidence of what Tobe Leazenby said. Now, Liggett – Sheriff Liggett no longer subscribes to that belief. That change, you will learn, happened after Richard Allen was arrested and there needed to be only one person. What else? What type of evidence will you see related to only one – more than one person? The crime scene itself. You will hear about it and I will be asking the Court to take judicial notice of *Franks* 1, because in that there's the one section that talks about, in real great detail, everything that needed to be done, and I think that that is additional evidence of why more than one person was involved here, and that would be previewed. And then, the time of one hour and 17 minutes, that is additional evidence that we will be arguing that shows multiple people, multiple third-party suspects. You will also hear, Judge, that

the narrative, from the very beginning – I mean, from the very beginning of this case, this is a big deal that you will – we will be hounding on, that these murders happened from between 2:13 p.m. and 3:30 p.m., and that was locked in by day 7. Kevin Murphy again will testify to that, that as soon as he got on the case, there was never any other consideration at all other than A.W. and L.G. were dead and in the place where they were found on the 14th by 3:30 on the 13th. And what evidence do we have of that? Again, you're gonna hear that from Kevin Murphy and others, I suspect. You will hear evidence perhaps from Jerry Holeman that that's the case, that it's always been 3:30 is the end date. Now, what evidence will you hear that tends to show this? I talked about Murphy, his testimony, but also you're gonna hear a lot about the number 4:33 a.m., you're gonna hear a lot about that today. You're going to find out something quite unbelievable, and that is that, up until just a few months ago, May the 15th, to be exact, Chris Cecil, who you will hear from, didn't even know that L.G.'s phone turned on at 4:33 a.m. and connected with a tower, and the reason is – and I think he will say this – because the narrative from the very beginning was the girls died on the 13th by 3:30 p.m. There was no reason to look at anything on the 14th, and Chris Cecil didn't on her Cellebrite – or on her phone extractions, and that would be another example of what tends to show that they were stuck at this 3:30 p.m. end time, when the Defense believes that there's evidence that those girls were somewhere else. Well, what evidence cuts against that narrative that would tend to show that the girls were possibly somewhere else and not deceased by 3:30 p.m.? Well, you're gonna find something we call – the Defense calls the Blocher report, it's really – and you'll get this report – it's really a Steve Mullin report, but he talks about Blocher. You're gonna find out Mitch Blocher,

sadly, he has died, but he was an important guy in the State Police that understood how phones – the phones worked, and he was – had been involved in locating phones. Similar situation, somebody's missing, who do we go to? We go to Mitch Blocher and he's gonna be able to find the phone. And what you're gonna find out is that after Mitch Blocher reviewed these – the information from AT&T on the 13th, as these ping – and you'll hear about pings – pings were coming in, he analyzed the reports from AT&T, and what he concluded around 10 p.m. on the 13th was one of two things has happened, either that phone is no longer in working order or they're not in the area, those were the two things that Mitch Blocher said he concluded. Now, you will find out that the phone was not broken, it was in working order. How do you know that? Because you're gonna find out, again, that at 4:33 a.m., the phone turned on, somebody turned it on, and it connected to the tower. And you're gonna find out that then all these text messages that had been languishing out in the ethosphere, all these people that were trying to get ahold of L.G., trying to find out where she was, all those people from around Delphi and their family and friends, finally, at 4:33 a.m., 15 text messages matriculated. They hit the tower once the phone was on and it connected, and at 4:33 a.m., when the phone was turned on, that's where those emails landed. They're called SMS messages. So we know that the phone was working, you're gonna find that out. So that leaves us with they were out of the area, that was Mitch Blocher's second option there. Option one, it was broken. It wasn't broken. What other evidence is there that cuts against the narrative that these – L.G. and A.W. were deceased by 3:30 p.m.? Well, there is an access road; when you go down the hill, there is an access road down the hill, you will hear about that. Search party. You're gonna find out that there were hundreds

of people searching for A.W. and L.G. starting very early, 4:30, five o'clock, all the way up to around midnight, hundreds of people. And these – and A.W. and L.G. were not found very far from the bridge, a few hundred yards. Nobody saw the bodies on the 13th, they saw the bodies on the 14th. This supports and cuts against the narrative that A.W. and L.G. were deceased on – at – before 3:30 p.m. on or about – on the 13th and that they were where they were found on the 14th. There is no – we're gonna give you the – Judge, the autopsy report where there was no time of death, this is no body temperature. You're not going to find – be able to link back the time of death, so those are things that will also cut against the narrative that the girls were murdered by 3:30 p.m. We will then move into the phase of the Norse Paganism or Odinism part, and you're gonna hear – find out different people are gonna talk about that. One person that you're gonna at least get her deposition in is FBI agent Nikkole Robertson. It's very difficult to get those people in for a deposition. We did get her in for a deposition and she said in her deposition that the bodies were moved and staged and sticks – they were looking for any suspect that may have had rune-related items, like Ron Logan. Why is that? Because of the sticks that were on the body. The FBI reports that we entered into evidence earlier, they're not reports, they're emails. You know, we tender that in because on the March – I'm sorry, February 17th, they're talking about Norse Paganism that early. It's not like this was – just came out of nowhere, there is evidence of it, and here's what is said, "Focused on what may be called pagan ritual because of the placement of sticks and branches on the girls' bodies." That was between the State Police and the FBI. Everybody was aware of Norse Pagan, you know, possibilities there, at a minimum. Then you're gonna hear from Dr. Dawn Perlmutter. In fact, we're gonna probably put

her on first, 'cause she's gotta get on an airplane. You're gonna hear about her experience. She is a subject-matter expert in the area of atypical homicide and ritualistic crime investigation. What you're gonna hear from her is that's not a self-ascribed title, subject-matter expert in ritualistic crime investigations. That's how the federal government pays her, that's the designation under which she gets paid, as as subject-matter expert on ritualistic crime investigations and atypical homicide. You're gonna find out that she was written the book on ritualistic crime scene investigation, the law enforcement field guide, institute for the Research of Organized and Ritual Crimes. She has written chapters and introductions for encyclopedias, analyzing sacrificial violence, ritualistic crimes. These are peer-reviewed documents that she – this is – she has developed courses and taught courses to the FBI on ritual homicide investigations, ritualistic crime scene investigations, those that aren't homicide, just, you know, other different types of crimes, symbolic analysis methodologies, racially-motivated violent extreme, and she has written or taught classes on that. She is, no doubt, going to be considered an expert, and what she's going to do is give you a – what I would say a 30,000-foot view to start with of, "What I teach FBI to look for in ritualistic crime scenes." And what she's gonna tell you is – and we're gonna go through those – and what she's gonna tell you is this crime scene is textbook for ritualistic murders, textbook. And she will go through her analysis of why, and we will show you the crimes scene photos, so that you can see and she can point to what she is talking about and why this was a ritualistic killing. She will also talk about something called magical thinking. You will hear, Judge, that the BAU unit – I think this is what the State will be saying – they determined that this was not – ultimately, they determined this was not a

ritualistic killing, this was not Odinism or – and Dr. Perlmutter will say it's – that's because they're using the wrong methodology, they're using a Western-style methodology, and it's inappropriate. What you use is something called magical thinking. These are people that they're not – this is not about – she'll do a much better job than I would – this is not about trying to profile people, this is a different ballgame altogether. And she will talk to you about why the BAU unit, if it as accurate that they dismissed Nordic – Norse Paganism, why they did and why they did it incorrectly. After she gives you the 30,000-foot view, she's gonna drop down more to the third-party suspects, and what she's gonna tell you is you can't look at any single ritualistic crime scene and compare it to any other, because it's all very personal to the person or the people. Whoever committed these crimes, it's very personal to them, these runes – I would call them runes that were left behind, the sticks that were formationed up around A.W. and L.G., what was marked on the tree. The only people that know what that means really are the people who placed the sticks and marked the tree. And you will learn that the reason is, in part because of the technology and the Internet, there is not standardized form of Paganism, of Nordic Paganism. There isn't. Every – you will learn this from – she will go on and on and talk about that. So it's very personal to that person or to the people that committed the crime. Once she gets out of that, then we're gonna be going to the third-party suspects and she's gonna tell you, "This is how you find these people, because you need to see is there similarities between what that personally or those people personally left behind at the scene and what you can find in their house or on the Internet or on their Facebook page." And you're gonna find that Brad Holder, who is a prime suspect, he was – there is much reason to believe that he was involved and

certainly that evidence that you will see that tends to show that he was involved. What evidence are you gonna see here today that might tend to show that he was involved in the crime? Well, that he was the father of Logan. Logan dated A.W. He has – as you heard the other day, he has changed his story from, three days after the girls were murdered and found, he said, "I'd never met A.W." Then he changed it to one and then he changed it to two and, "I was at Patrick Westfall house on one of those with A.W." And he is also a suspect. What else is there that tends to show that Brad Holder was involved in these crimes? Well, you've already seen a preview of some of this on Tuesday. There's images on his social media that bear unmistakable likeness to the crime scene, a crime scene that was kept quiet and nobody knew about. For instance, the sticks that were formed – found on A.W. he wrote on his hand, you will see that, you've already seen that. And even Detective Purdy has already testified, yes, there is a likeness there. You will see the – the photo again of the painting that Brad Holder painted a year to the date that he was – this is – you will find perhaps curious, to the date that he was interviewed, he painted a painting and signed it the date – a year to the date – three days after the girls were found, a year and three days. And then, the posing of the body of the hanging man is similar to the way A.W. is formed or was found. You will see the faked crime scene photo that we talked about that we had to go to Georgia to get, that will be introduced again, and you will see that that is also a link that tends to show that Brad Holder was involved in this crime. You're then gonna hear, at some point, from Amber Holder, his ex-wife, and Amber's going to tell you that – a number of things. And we first learned of Amber through the 12-page – what I call the 12-page Odin report, that's the one that Kevin Murphy and – testified that he and Lieutenant Holeman

got into a little bit of an argument about in the hallway. This is how we found out about Amber. She's gonna come in and talk then and verify that what she – what's contained in that report is true. She told Kevin Murphy these things and he wrote them down. Well, what are those things? Well, probably the most – the biggest one, it tends to show that Brad Holder might have had something to do with his, is he told her, "Patrick Westfall and I got into an argument near a river in the woods over a ritual that went wrong." That will be one thing that she's going to testify about. She will also talk to you about how Brad Holder pre – I guess he pointed a finger at Patrick Westfall, "I didn't do this. Patrick Westfall and his crew did that." She will testify also about things that Kevin Murphy didn't include in his report, such as Brad Holder would cut his hand between the thumb and the forefinger and then bleed onto his altar. "And he even took my hand one time and cut my hand and bled onto an alter." You'll find out, by the way, Amber Holder is a Paganist. And then, Dr. Perlmutter will talk about the significance of that blood, and she will tell that, often, when human blood – once they get to the point where they're starting to spill blood, that's when things could really take a turn for the worst and that's when ritualistic sacrifice may happen. Next – and she will talk about several other things. She will also tell you that Brad Holder said that Patrick Westfall was wanting to elevate from animal sacrifices to something else. Patrick Westfall, you will find, has admitted that he was into animal sacrifices. He, at least on one occasion, sacrificed a chicken. And again, Dawn Perlmutter will talk about why that's important. You'll find out that Brad Holder had ceremonial knives, and that is important to Dawn Perlmutter. You will find out another reason to think that he might have a tendency to be involved in this case is that the FBI emails called him out early

on, "This is a guy that we're looking a hard." The State will talk about an alibi and they really are gonna rely heavily on that, but this – what you will hear today is, number one, that alibi doesn't apply if their timing is off, that's why that hard set that they have, the hard mindset of this is from 2:13 p.m. to 3:30 and the girls are deceased by then and that's the end, there is no other possibilities out there. But if you find, Judge, that – through the evidence that – and you think that they – there's evidence that tends to show that at least a possibility that the Blocher report and other things, that the girls were not there at 3:30, then Brad Holder's alibi is thrown out the window. You will also find that Brad Holder – and the police found this and you will hear about this – he posted on Facebook at 2 a.m. purportedly that he's – "I'm at the gym" on the now on the 14th, 2 a.m., "I'm at the gym, filled with testosterone." You will hear from his deposition testimony that that's the only time he's ever been to the gym at 2 a.m. was on February the 14th, the morning those girls died, and we think what the evidence will tend to show is that might have been his attempt to create an alibi while other people were taking the bodies back, alive or not, back to where they were ultimately found and then the phone – and that's when the phone's turned on at 4:33. You will hear testimony about or evidence about Patrick Westfall, he is an avowed Odinist. He has no alibi. These are things that tend to show – that you will find that tend to show that he was involved in the crime. He lived very close, within a few – two or three miles of where the girls were found. You will learn that he knows these woods. Johnny Messer, another guy that you will learn about in a moment, says that he and Brad Holder have been on the bridge and, again, Brad Holder said Westfall committed this crime. You'll also find out I think through Detective Cecil that when they interviewed Patrick Westfall, kind

of at my instance from a deposition, when they interviewed him last August, I believe it was the 17th, he – they wanted his phone. They knew that he knew they were gonna download his phone, and you will learn that he, basically, wiped his phone, Patrick Westfall had wiped his phone clean but for the days prior, a few days prior to going to the interview. Then we're gonna go down 125 miles from Delphi to Rushville, Indiana, and you're going to learn about Elvis Fields. Elvis – what evidence is there that tends to show that Elvis Fields was involved in this crime? Well, first of all, you're gonna hear about Kevin Murphy and Todd Click, another – the other officer. They're gonna say the evidence – there's – there is very compelling evidence that Elvis Fields was involved with Delphi, starting with this one, that Kevin Murphy will testify, as I think he already did, that when I – "We got his DNA" – you're gonna find out from the 12-page Odin report the reason that they are – the police went down – they even went down to Rushville is because he had – Elvis had confessed to his sister that he had done this. And so that, of course, caused the police, in the course of their investigation, to go down there and talk to Elvis. He denied it. They interviewed him, you're gonna learn that when they interviewed him, they wanted his DNA. And Kevin Murphy will tell you they explained what the DNA is, and then, when he dropped Elvis off at Elvis's house, Elvis walked out of the door of the car, stopped, turned around, and then asked the question, "If my spit's found on the girls and I can – on one of the girls and I can explain it, would I still be in trouble?" And that's, you'll learn, started a phone call to the Unified Command and now Elvis Fields is on the radar screen. Well, what evidence is there that you're gonna learn about that tends to show beyond that statement, which might just be a dumb statement, was there anything else that tends to show that Elvis, 125

miles away, knew about what was going on up in Delphi? Well, you're going to find out Elvis has admitted, he has admitted that Brad Holder was following him on Facebook, and you will see the Facebook posting of – that are side-by-side of – that they are imitating each other, it's not even that – Brad Holder would put out, you'll – just as an example, you'll see one with handcuffs with knives around or weapons, and Elvis did the same thing. Elvis will say very indignantly – well, you can read it in the deposition, it – the indignant – how indignant he was about it – "I wasn't following him. He was following me." He knew Brad Holder. And you will read that deposition, he knew of Brad Holder. Well, how might that happen? Well, you're gonna learn about Johnny Messer. Johnny Messer, this is another of that connective tissue that tends to show that these guys were involved in this crime. Johnny Messer was from Rushville. Johnny Messer knew Brad Holder and Patrick Westfall. Brad – Johnny Messer knew Elvis Fields. Now, Elvis Fields will lie – has lied about it and said, "I didn't know Johnny Messer." And Johnny Messer does admit that he knew them. And well, okay, well, that's a weird coincidence. Why might Elvis know Brad through Johnny? Well, Johnny was the recruiter – and Todd Click will testify to this – Johnny was the recruiter for the Vinlander, which is, basically, a social club for Norse Paganists, that's a way that you will kind of come to understand that, and Johnny Messer was a recruiter. Johnny Messer denies that he's a recruiter, but Todd Click will tell you, "I talked to people that Johnny Messer recruited. Here's their names." Tends to show that Elvis and a guy named Rod Abrams and guy named Ned Smith were three good buddies, they were recruited by Johnny Messer is what that will tend to show. Well, what else is there? Well, Elvis's alibi really is poor, and Kevin Murphy will address that. And then, Rod Abrams

and Ned Smith, they – you will find through deposition testimony and perhaps through testimony of Todd Click and Kevin Murphy, that Rod Abrams lied about where – he can't keep his story straight is what you'll find about where he was on February 13th, 2017. "I was up in Muncie. No, I'm down in Rushville. I know that I was in Muncie, but if my phone was up there, then probably it's not" – or it might be Ned Smith that says this, "But the hospital that we were at was preventing my phone from being pinged, so that's why you won't see the ping." You're just gonna hear a lot of evidence, Judge, about how they tried to cover their tracks about their alibis, and they didn't do a very good job of it. And you will hear that from Kevin Murphy, you will hear that from Todd Click, as well, and from the deposition testimony. I mean, you'll even find out that Rob Abrams, when he was asked in depositions, he was asked, Judge, "How do you remember February 13th related to Delphi, related to the Delphi murders? How do you know?" And you will read it in his deposition where he says, "Well, I was there on the 13th, and around noon, I watched the news and they were looking for the bodies, that's how I remember the 13th." Of course, the problem is that the girls weren't even lost at that point. And so – and then, "Well, are you sure that wasn't on the 14th?" "No, it was on the 13th. I didn't even find out the girls were murdered until three or four days later." And these – you're gonna find out these guys can't keep their stories straight. And all of that will tend to show that these guys are involved in the crime. I'm gonna try to go quickly here. Johnny Messer you will find out – how might he tend to be connected? Well, you're gonna hear from deposition testimony and a 12-page Odin report. Taylor Hornaday says that, "On or about Valentine's Day of 2017, Johnny Messer, my boyfriend at the time, was up in Delphi" – or well, I shouldn't say that, that wouldn't be accurate

– "was up there" – she believed that to be up here visiting his buddies Brad Holder and Patrick Westfall. And then, when he came back with his car, it had blood on it. Ultimately, you will hear I think Kevin Murphy say that when he was starting to put these pieces together, everything fell in place with what he had been told by Unified Command, that it was multiple people, it was organized, and that's what these – as things became into focus, it tended to show that these guys down in Rushville were working with the guys up in – Brad Holder and Patrick Westfall. The alibi also doesn't work for Brad Holder, by the way, if Brad Holder is acting as kind of the puppet master for a guy like Elvis, who you will hear from Kevin Murphy, was a guy that just wanted to belong and he wasn't very smart. And Brad Holder – it tends to show the possibility that Brad Holder, at a minimum, was kind of running the show. Brad and – we'll talk about the Ron Logan, but I can kind of preview it – or, I'm sorry, Kegan Kline. Anthony Shots was communicating with L.G., and that tends to show that he is a suspect that should be – we should be able to talk about. Ron Logan we will be talking about, and what tends to show that he might be as suspect is it's on his property, he lied about an alibi, these are things that you will hear. And so we think that we should be able to talk about them, as well. We don't have to prove what we just said, we just have to show that these facts tend to show that these third-party suspects may have committed these crimes, and I think it'll be pretty overwhelming, between Dr. Perlmutter and all the other evidence I've detailed. And so, at the end of this, we will be asking you to allow us to honor his Fourteenth Amendment right and Sixth Amendment right to defend himself against these allegations by showing the jury that these third-party suspects are very viable and that the State of Indiana and law enforcement just ignored them.

Thank you.

THE COURT: Mr. McLeland.

MR. MCLELAND: Judge, I'll try to be brief. I feel a little silly reviewing the law with you, and you probably know it a bit better than anybody here, but the law as Mr. Baldwin just cited, that's not accurate. It's not any evidence, if you show any evidence that somebody's involved, you can bring it in. And it's funny they bring up *Lashbrook*, that's a case that I've read several times over the past couple weeks; and what *Lashbrook* is, is a case where the trial court said, "You're not allowed to bring in that third-party evidence," and the Court of Appeals overturned that. And the evidence that they had in *Lashbrook* was that a third-party was having an affair with the victim, that the third party was with the victim the night before her death, that he worked – that the third party worked at the same place as the victim, that he was late to work the next day after he was out with the victim the night before, and finally that, in that case, the victim was strangled – or suffocated, and the bag that was used, inside that bag there was a hair found that was 98 to 99 percent probability belonging to the third party. There was strong, significant DNA evidence relating the third party to the victim and to the crime. And so the standard is not any evidence, that's not the standard. And there are other cases that I'm gonna argue in closing that talk about this and there's – those include *Pelley*, and we'll talk about some other ones, but what the standard is, Judge, is that it must be a direct, material connection between the third party and the crime, and that has to be established by admissible evidence. And so while the State may not object to these exhibits come in here, because I know the Rules of Evidence don't apply, the connection has to be based on evidence that would be admissible at trial.

Can't be based on hearsay, can't be based on speculation, can't be based on rumors, can't be based on a theory that the Defense has or conjecture, can't be based on 404(B) evidence. Has to be a direct, material connection between the third party and the crime. The Court can also consider alibis for those third parties. The Court can also consider the evidence the State has against the Defendant in considering whether or not this third-party evidence comes in. And so the first rule I was ever taught is that don't make an opening statement if you're not sure you can prove everything you say in that opening statement. I think you're gonna find, Judge, that when this evidence comes out, the State is able to debunk a lot of the things that Mr. Baldwin tells the Court. He characterizes it in a way that's just simply not true. And so while the Defense doesn't have to prove beyond a reasonable doubt that the person did it, they do have to prove that there's some connection to the crime. And you've heard Mr. Baldwin's argument, nowhere in that has he said, "I can place any of these people in Delphi at the time of the crime. I can connect them to the crime scene in any way through forensic evidence, actual evidence, digital evidence." He's given you nothing to say any of these people are connected to the crime. Simply because the State has someone as a suspect or interviews somebody that may have information or knowledge about the crime, that doesn't equal third-party suspect. So any person we investigated doesn't equal third-party suspect. If that were the case, then the standard would be any, there'd be no nexus they have to get over; but the hurdle that they have to get over, especially in *Lashbrook*, is significant DNA evidence that connects the third party to the crime. That was the standard in *Lashbrook.* That's a high hurdle to get over. And so the State still contends that the Defense cannot meet that burden and I'm gonna

ask the Court to grant the motion in limine in respect to the third-party evidence, Judge. Thank you.

THE COURT: You may call your first witness.

MR. BALDWIN: Call Jerry Holeman.

THE COURT: Where is he? There's chairs right out there. Why aren't they just sitting right out there?

MR. BALDWIN: They're trying to locate him. I'll just, to move things along, call – put on Dr. Perlmutter.

(Witness sworn.)

THE COURT: You may go ahead.

MR. BALDWIN: Thank you, Judge.

DIRECT EXAMINATION OF DR. DAWN PERLMUTTER

QUESTIONS BY MR. BALDWIN.

Q State your name and spell it for the record.

A Dawn Perlmutter, D-A-W-N P-E-R-L-M-U-T-T-E-R.

MR. BALDWIN: Judge, I think what I'm gonna do, just to help out, is I'm gonna – and I don't know if this'll help you, I don't know if you look on your computer or not, but I also have paper copies and whatever you prefer.

THE COURT: Paper.

MR. BALDWIN: Paper's better?

THE COURT: Um-hmm. (Affirmative response)

MR. BALDWIN: Okay.

Q I'm gonna hand you what I'm marking as – it's been marked as Defendant's Exhibit EE; can you identify that for me, please.

A That's my curriculum vitae.

Q Okay. And did you put that together?

A Yes.

Q And is it updated?

A It's about two years old. I – it's not updated.

Q Okay. Is there any big missing pieces, anything you want to add?

A Just a couple cases that I worked on and a training contract.

Q We may get to that. Let's start with some basic stuff. What do you do for a living?

A I'm the director of the Symbol Intelligence Group and an adjunct in the Philadelphia College of Osteopathic Medicine in their Forensic Medicine Program.

Q Before we move forward, I wanted to kind of go through your CV with your help. On page two – I think maybe – is it okay maybe if the Judge were handed that?

A Okay.

MR. BALDWIN: Do you want to follow along or –

THE COURT: Are we admitting this?

MR. BALDWIN: I'll move to admit.

DEFENDANT'S EXHIBIT EE OFFERED

THE COURT: Thank you.

MR. MCLELAND: No objection.

THE COURT: All right. So without objection, EE is admitted.

DEFENDANT'S EXHIBIT EE ADMITTED

Q On page 2, Dr. Perlmutter, it says that you are a subject-matter expert in the area of expertise and it lists symbols, symbolic anthropology, anthropological methodologies, atypical homicides, ritualistic crime investigation, and other

things. What does that mean to be a subject-matter area expert?

A It's a designation, it's a category like, you know, engineer or program manager, but subject-matter expert is also a government designation that equates to a specific paygrade.

Q Okay. So we'll get the – is it state government or US government that has given you that designation?

A US government.

Q And like who would pay you money?

A As I've consulted with the FBI on different projects and that is what I'm brought in as.

Q Moving forward, on page 3, there's a listing of books that you have written; is this a complete list of the books that you've written?

A Yes.

Q Okay. I want to focus on *Ritualistic Crime Scene Investigation*; what is that book about?

A That is a field guide for law enforcement if they're at a – crime scene analyst, if they're at a ritualistic crime, what to look for, what symbols, instructions on what to do.

Q Okay. And then, at the bottom there, selected encyclopedia entries and book chapters. I'll focus on the first one there, "Analyzing Sacrificial Violence", what is that about?

A That was a introductory chapter I did for a book with – that was edited that had a lot of different authors writing on different types of violent murders.

Q I see that "Blood Sacrifices" is one of the subheads there?

A Yes, yes.

Q Ritual – the next one is "Ritualistic Crime Survey", *Encyclopedia of Forensic and Legal Medicine*; what is that?

A That was the survey entry for the *Encyclopedia of Forensic and Legal Medicine* that is used in (inaudible) schools and in medical schools.

Q Have those entries been peer reviewed?

A Yes.

Q The next page is detailing law enforcement courses, development, instructions. Tell the Judge a little bit about generally what you do involving instruction.

A I train local, state, and federal law enforcement agents/analysts across every branch of government.

Q Going through some of those, Ritual Homicide Investigation, is that a course that you have taught?

A Yes. That's a training that I've done for over 20 years and that is, again, case studies of numerous different types of ritual homicides and what to look for and how they proceeded through different process and that kind of thing.

Q And you still teach that today?

A Yes, yes.

Q Okay. And did you say to whom you teach that to?

A Yes. To local, state, and federal officers.

Q What federal officers – agencies?

A Again, Homeland Security, sometimes DEA, just FBI, different agencies.

Q Now, the next one is Ritualistic Crime Scene Investigation. What's the difference between Ritualistic Homicide and Ritualistic Crime Scene, those two courses?

A The Ritualistic Crime Scene Investigation is everything except the homicides, like that can be theft of human remains, it can be blood rituals that are done with certain subcultures, mutilations, just every different type manifestation of – you know, can be narco-cults, Palo Mayombe, just different types of things that officers would come across.

Q That don't involve home.

A That – short of homicide.

Q Symbolic Analysis Methodologies, what is that class about?

A That's an advanced class that is for intelligence analysts and investigators on the actual methodologies. When they're analyzing different types of crimes, it's a lot of different – it's more than just behavioral analysis or investigative analysis. It gets into semiotics and hermeneutics and is just a – it's a very theoretical class teaching how to apply different methods.

Q Okay.

A Um-hmm. (Affirmative response)

Q And we'll talk about methodology later, I think, but the last one is Racially Motivated Violent Extremists and Militia Violence. What is that class about?

A That's the trainings I've been doing for the past couple years. Racially motivated violent extremists involves like white supremacy groups and, when I do these trainings, I focus on the identifiers, the – you know, all the different types of ideologies and religions that they hold and like – things like tattoos and rituals and initiation rights that would be associated with those groups.

Q What is your educational background?

A My background, I have three advanced degrees, two are in art and art history, which applies in terms of, again, methodologies; a doctorate in arts and

humanities from New York University, but that was interdisciplinary, so that involved anthropology, philosophy, and def – methodologies, I focused on methodologies.

Q Okay. And were – you said art history applies to –

A Art history is very relevant in that there's a methodology called iconography where a lot of these different religions and ideologies have like pantheons of gods and goddesses; so in art history, paintings, you know, historical paintings, literally they call them attributes that would go to each tradition and that shows up as identifiers at different scenes. So that's how that's applied.

Q Okay. What do you do – what are your kind of jobs at the Symbol Intelligence Group? What are your –

A Well, I do consulting, case consulting, and training, and we produce intelligence bulletins that are put out to, you know, the different fusion centers and across the country.

Q What would you say are your qualifications as an expert on ritual homicide and ritualistic crimes?

A I have worked on dozens of different ritual homicide cases, I have experience with that. I have worked on probably hundreds of ritualistic crimes, all at different phases, and have, you know, written literally – you know, written books on this and the text book on it, just – also have crime scene training and just a lot of years of experience.

Q Have you – when you said that you've been involved at various stages, what did you mean by that?

A Well, I may get called in while they're still at a crime scene, which, you

know, if it's an unusual or atypical scene, or I could be called in at a point where it's already being adjudicated in court and – or it could be a cold case homicide that – so all different points in time.

Q So you get called in maybe at the beginning, maybe at the middle, maybe at the end?

A Exactly.

Q All right. And have you ever testified in court?

A Yes. I've testified on three different homicide cases, a US case in the Vir – a case that involved ritualistic crimes in the US Virgin Islands, and other cases that involved ritualistic crimes.

Q And how often – how would you divvy up helping out, if you want to call it that, testifying on behalf of the defense, testifying on behalf of the prosecution?

A I've only testified for the defense once before. I primarily work with the prosecution.

Q Where did you work prior to the Symbol Intelligence Group?

A I worked at NES Associates in – they were based in Alexandria, Virginia, and they had contracts with the Department of Defense and an intelligence agency, I worked as a subject-matter expert there.

Q How would you say that your education and experience is relevant to law enforcement?

A I have – I'm applying a lot of the theoretical academic theories to law enforcement and have – literally train on what to look for, the different – because symbolism is a number of things, it can be graffiti, tattoos, codes, dates, insignia, so it crosses over a lot of different areas, it can cross over counterterrorism and just – there's – you get requests for information on identifying these different

things to determine if a group is violent or things like that.

Q What training, if any – I think I saw that you teach a class on it, so I'm presuming you have training specific to white supremacy or, as in this case we'll talk, called Norse paganism or Odinism; are you familiar with those?

A Yes. That comes under the racially motivated violent extremists – (coughs) – excuse me – and going back probably 25, years, I've been identifying the identifiers with that, I mean, because a lot of those groups, there's a lot of tattoos, there's a lot of initiation rights, there's all kinds of codes that – confiscated documents that have coded messages.

Q Are you an Odin expert would you say?

A I'm not – I wouldn't say I'm an Odin expert, I would say I'm a generalist in the symbols of all of these different groups, so I'm able to distinguish from somebody practicing Odinism versus Christian Identity, which is another white supremacist religion. So as a generalist, you're able to distinguish the different types of ideologies from what you're seeing at the scene.

Q Would it help if you had some water? (Inaudible) some water.

A I knew that would happen when I – thanks.

Q I want you to talk a little bit about – while we're on the topic of Norse paganism and Odinism and white supremacy groups, how would you describe – like is there a – one working way that Norse paganists operate or is it multiple different ways? How would you describe that?

A Well, Norse paganism is a huge category. There's neopagans that are non-violent. There's dozens of different groups, they practice differently, they're decentralized, they can be geographically located. Then, you have variations, you know, they worship different pantheons of gods. Then, you'll have racist

neopagans that are very popular in the prison system and much more violent and do blood rituals. So there's just a lot of different types of neopagans. I mean, some refer to themselves as Asatru or heathenism or Wic – there's a lot of different groups.

Q Would there – if there was a group that might say they're Odinists in Oshkosh, Wisconsin or a Norse pagan group in Columbus, Ohio, I mean, is there – would there be any similarities between these groups or –

A Well, if the Odinists, like other groups, they have general symbols that they share. The Odinists are – you know, follow Odin and Thor and certain gods and they have the same types of, you know, symbols, the hammer; but as they splinter off and have their own kindreds, they organize into kindreds, their rituals will be particular to that specific group.

Q Okay.

A So they will, generally, have certain things in common, but then, as they go into different areas, they – a lot of them do advocate for personal types of rituals.

Q Where would they – how would a group in – an Oshkosh, Wisconsin group come up with their ritualistic practices versus the Columbus, Ohio group?

A Well, everybody seems to originally organize on the Internet, social media is a huge part of this now, and they will have Facebook pages, meet-ups, they'll organize that way, or they will splinter from – the violent ones will splinter from like outlaw gangs and, you know, the Vinlander Social Club, and they just have different leaders and change as the different leaders take over.

Q And so is – there is no – is there a set way that anybody conducts a ritual or ceremony uniformly across the United States on any of this Norse stuff?

A Well, there are – just like there's general symbols, there's general things with rituals, like they're all nature-based ideologies, so they're – they tend to be conducted outdoors in wooded areas. They will, you know – all these different groups will have alters, that kind of thing, but then it gets more specific after that.

Q Okay. All right. Let's talk about methodology – well, what type of an – research methodologies. What type of analysis do you use when reviewing a case?

A It depends on the things found at the crime scene. I do use what is called symbolic anthropological methodology, which is different than behavioral analysis, which is based on psychological methods. The symbolic anthropology method focuses on the culture and it – you're determining the – you're interpreting the information from the person's point of view, their world view, as opposed to forms of psychopathology. So it looks at different cultures and ideologies.

Q So what does that – can you delve into that a little bit more, like the difference between the psych – how did you say that? Behavioral psychology –

A Oh, behavioral analysis is a – that is the preferred method with – well, that is how most agents are trained, because that's – it's based on Western logical, rational thinking, and that has – and it's also a form of what they used to call profiling, so they're – they'll interpret different types of behavior as either a personality – by somebody with a personality disorder or some type of psychopathology where, with an anthropological interpretation, the person may have done a violent – horrible, violent ritual but it's – in terms, it can be initiation right, as opposed to somebody who's psychologically – you know, a personality

disorder. They're completely different ways of looking at the same type of information.

Q Have you ever seen that be a problem in terms of law enforcement understanding what's going on at a crime scene?

A Yes. It happens quite often in these very atypical types of crime scenes. There's little – very little, if any, training on crime scenes that – I mean, you can walk in, you have terrible mutilations with animals and things written, just the worst types of, you know, symbols cut into people, and there – these different traditions, like, for example, Satanic ideologies, they do a lot of ritual murders and they have certain symbolism specific to them. They will usually dismember or mutilate, they'll have pentagram-type things there. If you have like Palo Mayombe, which drug traffickers do, they'll have like a cauld – an nganga, which is like a cauldron, with a human skull in it that was stolen from a grave. And so every different scene is specific, has very specific attributes and specific identifiers to the different groups and they're quite different and it goes to their particular traditions and what they're doing.

Q Well, how would it be though that law enforcement get it wrong? I mean, I know a pentagram is Satanist, I would think that I know that, at least, but how do law enforcement get it wrong sometimes?

A Well, it's just – again, it's a methodological – it's perspective. If you're only interpreting things from a form of psychopathology and somebody's doing these heinous murders, it could be viewed as a sexual sadist or it could be viewed as a serial killer and without attributing the ideology that goes with it. So it's just a – it's a different interpretation, it's a different perspective on it.

Q What is hermeneutics?

A Hermeneutics is another methodology that I apply when there's text or certain types of symbols. It's the interpretation of the – of – originally, the interpretation of Biblical text, but the methodology is taking ancient text or ancient types of writings and interpreting it in how it's being used today, how the person – the intentionality, how the person is applying it today. It's different than linguistics or philology, which translates what a code is. This is looking at trying to interpret it in how it's being used at, for example, a crime scene.

Q Okay. I want to talk about that just a second. Do – and I don't know if this is when we're talking about the behavioral – the Western thinking versus what you're talking about, but is it some – it is wrong to – for police to want to interpret, "Oh, I want to know exactly what this means" or "What did you refer to when you made an interpretation?"

A There's like linguistics or –

Q If you show up at a crime scene, I think it would be natural, you know, "What is this guy trying to say? What would he say? What do these symbols mean?" Is that important or is it more about – I'm just trying to figure out this, I mean –

A Well, it's very important in figuring out who did it. And the biggest distinction between sort of behavioral analysis and the anthropological approach is, with behavioral analysis, they're thinking rationally, it's a rational Western perspective, where most of the people doing these in these different ideologies and religions, they think magically. So magical thinking is a huge part of interpreting what is going on, because they're not thinking about it logically. So if they leave items there, it's not because they're leaving it, they accidentally left it. Everything has meaning, everything at the scene has meaning. They're either

doing it as an offering or to gain power, achieve certain things. That is the significant difference. You – the – from a rational – again, it's very hard to apply rational Western thinking to why somebody would do certain things.

Q That phrase "magical thinking", is that your phrase or is that kind of an industry phrase?

A It's a common term, it's used for, for example, people who are – like superstition would be a form of magical thinking. Prayer actually is a form of magical thinking. It's things that don't have a rational, logical cause and effect. So the cause and effect is that if you sacrifice a chicken, that it's gonna make you have good luck; that is not a rational way of thinking, that's a magical way of thinking.

Q Is Norse paganism or Odinism, is that – does that involve magical thinking?

A Absolutely, all of – yes.

Q Keep going. All of what?

A Well, most of these neopagan groups involve magical thinking.

Q Well, what part of Odinism or Norse paganism is magical, like what aspects of it?

A The whole belief system, the idea that – well, it's pre-Christian, so they are polygamists, they have a lot of different gods, and the rituals that are done, it's the belief if you have an alter and say certain things or arrange things a certain way that you are intervening in your life, you are making things happen, whether it's to – it's their way of prayer.

Q What are – we've heard about runes. What are runes as it relates to Odinism?

A Runes are – in Odinism, Odin was considered the father of the runes, he discovered them after he hung on the tree – the world tree for nine days; but runes are an ancient – well, they're a Nordic language and they're imbued with magical qualities. So there's different – there's Elder Futhark and Younger Futhark and they're used across the spectrum, a lot of different groups use runes, but they're very specific to Odinism as an identifier.

Q What about blood as it relates to magical thinking in Norse paganism religions?

A Well, blood rituals are part of Odinism, I mean the racist Odinist version where it would involve – there's a concept of blooding the runes, where you're kind of consecrating your runes. You could have an alter and being doing things with blood. So it's – also, some do animal sacrifice.

Q But is blood magical? It might not – maybe I'm just not saying that right.

A Blood is sort of the highest offering in – across – historically and across cultures, a blood offering was always one of the highest offerings, it represents life and death, the sacred and profane, so it – when it appears at a crime scene or is being used, it – the person usually under – the offender usually understands the meaning.

Q Is it personal to them or is it something that everybody that would walk onto the scene would say, "Oh, I know exactly what this means"?

A No. It's usually personal. A lot of these things are rituals that they're doing, personal rituals for their own – it's encouraged actually in a lot of these groups.

Q I'm gonna put on – just so – I don't know if the Court can read that, but I'm – it may not work here, but I want to talk about what are the indicators –

and you teach a class on this, so –

A Yeah.

Q -- you probably don't even need me to put this up here, but what are the crime scene indicators that you teach law enforcement to look for when they come on a scene? And I'm just gonna go through these one at a time, are these – these are items you gave me.

A Yes

Q Is that correct? We just kind of put it on a poster board so you can kind of guide us through it. Ritual murder crime scene forensic indicators. Number one, place of death. Why is that important?

A Well, the place of death is very indicative of the type of ideology you're looking at. And like I said before, the neopagan, the Odinists, are all nature-based ideologies, so they do their rituals in clearings, outdoors; in fact, they have – usually near bodies of water, because they're dealing with the natural elements. If you have, for example, an indoor homicide scene that's ritual murder, that – and I've had cases like that, where that's more indicative somebody's doing a copycat of a film or something. It's not – the place is very significant.

ATTORNEY JAMES LUTTRULL: Your Honor, may I just approach the board to make sure –

THE COURT: Sure.

MR. LUTTRULL: -- it's –

THE COURT: Yeah.

MR. LUTTRULL: -- I have a copy of – thank you, Your Honor.

THE COURT: You're welcome.

Q And we're – in a moment, we will be looking at – you will be looking at

crime scene photos as we're going through these various indicators. What about the date of death, that's another thing you gave us that is an indicator of a ritualistic crime scene –

A Yeah –

Q -- what does that mean?

A -- dates are significant. Sometimes homicides occur on – they can occur due to astrological moon phases, celestial events. They can occur on specific holidays, political or current events. So one of the things I always check are that particular date, if it equates to a certain ritual that different groups do on that date. So yeah –

Q We'll talk about that as it relates to this case in a minute. Now, cause of death is the third forensic indicator for a ritualistic murder crime scene. What does that mean –

A Cause of death is, of course, very, very significant, because usually in ritual murders there's a lot of torture, blood loss. You don't get bullet wounds. They're very – usually stab wounds and, again, involving torture as part of what they're doing.

Q Okay. So the cause of death can tell you something when you're on the scene?

A Yes, yes, and it can point to the different types of groups. Like I said before, certain – you know, like cartels will some – they do a lot of beheading ritual-type murders and then put the heads on alters, and you have Satanists who will carve symbols – different – they tend to do different type of things, so what they do is very important.

Q All right. Number four forensic indicator you have is the murder weapon.

What – why is that indicator of a ritual murder crime scene?

A Because the weapon of choice is usually a knife, a ceremonial knife. It's very rarely found at the scene. It's something that would be – an object that would be very important to the offender and it's – that's what makes it part of the ritual. They – it's a ceremonial object.

Q Next is the symbolism at the crime scene. What is that?

A Well, that's everything from things carved into – things hung at trees – on trees, carved – sometimes, again like I said, carved on victims. Interestingly, what happens a lot, which I train officers on, is with these outdoor scenes, they will use natural objects as part of the scene, they'll use branches either to create a circle or they'll use rocks or create symbols with the natural items at the scene.

Q Okay. Body disposition is also identified as the sixth ritual murder crime scene forensic indicator. What does that mean?

A How the body is positioned has very specific meaning to the offender. It's – you know, one of the ways of indicating that it's a ritual murder is that it's not a counter-forensic measure.

Q What is a counter-forensic measure?

A If somebody is just committing a crime and wants to get away with it, they will hide the body, bury the body, or to avoid biometrics they'll, you know, cut the fingertips off or things like that to avoid identification or to literally hide from – so that the police can't investigate either who the victim is or who the offender is. That's not what happens in ritual murders. They – the body is positioned in a very specific way that has meaning to the offender.

Q Is it – would it have meaning to anybody else that might walk onto the crime scene?

A It may not, you know. It's – that's the – that's what you're trying to interpret, what –

Q And lastly is atypical blood pattern; what does that mean?

A A lot of times, the blood of the victim is used as part of the rituals, it's used in the symbolism, it's used, a lot of times, on the body, it can be almost like to anoint the victim on their face or a lot of things – a lot of atypical, unusual things are done with the blood of the victims.

Q How would you define a ritual murder?

A A ritual murder is a murder that goes beyond conduct required for the killing that is not a counter-forensic measure and has unusual behavioral or symbolism.

Q What do you remember reviewing for this case to make some – form some opinions about whether this was a – what happened in Delphi, Indiana, on February 13th and/or 14th was a ritualistic murder?

A The actual items that I reviewed?

Q Yeah, just so the Judge has an idea of what you were basing – what you're basing your opinion on.

A I reviewed crime scene photos, the autopsy reports, the blood-stain pattern report, a report from BAU, I think Indiana State Police, and – I'm trying to – and some – a lot of social media postings, and a ceremonial video, and a police interview video.

Q What did you ultimately conclude about the scene there?

A I – in my opinion, this was a textbook ritual murder. It has all of the elements that are listed there and, when I talk about indicators, like, for example, when you're doing fingerprint analysis, you need like 12 to 15 matches to have

a good indicator. This has numerous indicators of the types of things you have at a ritual murder.

Q Okay. We're gonna go, actually, through the one through six, I don't know that we're gonna hit seven; but place of death, ritual murder crime scene forensic indicator number one, I'm putting this on the easel and then I'm going to hand the Court and mark it so that we know what the Judge was looking at.

MR. BALDWIN: I'm handing the Court Exhibit FF and would ask that it be admitted into evidence.

DEFENDANT'S EXHIBIT FF OFFERED

THE COURT: Any objection, Mr. McLeland?

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

THE COURT: I'll show FF is admitted without objection.

DEFENDANT'S EXHIBIT FF ADMITTED

Q So this is a crime scene photo. What about this crime scene photo causes you to believe that it applies to number one, place of death, that determines it's a ritualistic murder?

A The aerial view really shows, in a lot of these cases, that it's almost like a clearing; and in this case, it's surrounded by trees. And during these rituals, they have to separate designated sacred space from, like, profane secular space, that's – so they need a clearing to – where they do it. And this – and being near a body of water is very, very common, too.

Q Okay. I mean, the – it's significant to you that, where the circle is, that there's a space there?

A I put the circle in because it's typically referred to as casting the circle. When they – when – and even neopagans, when they do it, they separate the –

they're sanctifying the space for the ritual. I – you know, it might not be a perfect circle, but the fact that it was a clearing and they're not, like, you know, at – near – relatively close to the water.

Q So that was a – is that considered a strong indicator or just an indicator?

A It's a strong indicator.

Q Number two is the date of death that – does that date correspond to a holiday? What does your research reveal on that?

A Well, the only holidays that fall between February 13th and 14th is one – and there weren't any celestial events or anything at that time – is called Valisblot, it's an Odin holiday for the son of Odin, Vali, and it actually is a sacrificial holiday. The thing with the Nordic holidays is they're from sundown to sundown. So even though it's on the 14th, it starts on the 13th with sundown.

Q Okay. So the fact that these crimes occurred on the 13th and the 14th is because of Valisblot that – what does that tell – I mean, I know – I think it's kind of obvious, but what does it tell you?

A Well, the dates can be – they're not as strong an indicator, it's just another thing to look at, that any – it's a specific Odinist holiday. There's other dates like Samhain and Beltane, there's ones that are very specific to other groups, but none of the other ones fall in this area.

Q So is it a strong indicator, at least in this case?

A It's one indicator, yes.

Q All right. The next is the cause of death. Sharp-force injuries to the neck. Do you have – let's talk – tell why the cause of death in this case is an indicator, forensic indicator, that this was a ritualistic murder scene.

A Because with sacrificial – and there's different types of – like I said before,

there are different types of ritual murders, so they're done for different reasons, so, for example, there's exorcisms that are – that can be done with fire, people – I had a case where a little girl was burned to death in an exorcism. You have other cases where the bodies are dismembered for different reasons. But the specific slitting of the throat is indicative of a sacrificial offering or initiation type. It's to – that is – again, throughout history and across cultures, that's how sacrifice is done, it's by cutting the throat and letting the blood come out.

MR. BALDWIN: Okay. I'm going to move to admit just the autopsy reports as evidence of what happened to these girls.

Q And you – did you review the autopsies? I don't remember.

A I reviewed the reports and the photos, yes.

MR. BALDWIN: Move to admit Exhibits GG, which is the autopsy for L.G., and HH, the A.W. autopsy report.

DEFENDANT'S EXHIBITS GG AND HH OFFERED

THE COURT: Any objection?

MR. MCLELAND: No objection, Your Honor.

THE COURT: All right. Without objection, HH and GG are admitted.

DEFENDANT'S EXHIBITS GG AND HH ADMITTED

Q Is there anything more to be said about – that you haven't already said about cause of death related to this case as an indicator?

A No. That's –

Q Next, we'll talk about the murder weapon itself. I'll show you here this board and move to admit Exhibit A – II. Did you review this item?

MR. BALDWIN: I'm gonna move to admit II.

DEFENDANT'S EXHIBIT II OFFERED

THE COURT: Any objection?

MR. MCLELAND: No, Your Honor.

THE COURT: All right. I'll show without objection II is admitted.

DEFENDANT'S EXHIBIT II ADMITTED

Q And I don't want to talk about a third party yet, I just want to talk generally speaking.

A Yeah, that's an alter, it's an Odinist alter, which is indicated by the objects there, the – Thor's hammer, the candle, the runes, the rune pouch, the cer – the knife, personal photos, and the glass of mead or whatever that liquid substance was.

Q And it – would it be common that a knife might have even been used in a sacrificial ceremony might be part of this alter?

A Yes.

Q And, I mean, let's – I mean, we'll get into it, so we don't belabor the point. What do you – what – do you think that this is important in this case, this photograph, related to the third-party suspect?

A Yes.

Q Why is that?

A Because it indicates that the person thinks magically, is practicing Odinism, there's a ritual knife involved, and it's part of the social media images.

Q And this is – for the record, this is social media that was found on Brad Holder's Facebook page; is that correct?

A Yes.

Q All right. So next is symbolism at the crime scene, this one I want to be

very careful with, so bear with me. I don't want to talk about the third-party component of this yet, I just want to talk about the symbolism. We're on to the symbolism at the crime scene, which is the fifth forensic indicator. So this is –

MR. BALDWIN: And I'm gonna move to admit the paper version of this. Mark this exhibit as JJ, move to admit that.

DEFENDANT'S EXHIBIT JJ OFFERED

THE COURT: Any objection?

MR. MCLELAND: Judge, as long as we can explain a proper foundation. I guess I'm a little fearful of – I want to make sure this is clear: This is not a post from Brad Holder's Facebook page. This is something the Defense has created from collecting various portions of discovery. I don't want it to be mischaracterized as this is a post from Brad Holder's Facebook page.

MR. BALDWIN: Fair enough. As an officer of the court and going on in this case, I'll try to do that. The middle portion, foundationally, is a crime scene photo that we were given by the State of Indiana, as well as the photograph here on the right. We did – that was not given to us at the same time, we put those together. And then, this one is his Facebook post and we received that in discovery and we would be offering them together for purposes of demonstrative evidence.

THE COURT: All right. So with that understanding, I'll –

MR. MCLELAND: Yes, Your Honor, no objection from the State.

THE COURT: -- admit JJ.

DEFENDANT'S EXHIBIT JJ ADMITTED

MR. BALDWIN: Thank you.

Q But I really just want to focus at this time on the middle photo, because,

again, we're talking about symbolism at the crime scene. What is that indicative of as it relates to ritualistic murders?

A The branches were placed – carefully placed in that arrangement. It appears to be identical to the marking and it – it's – the person is creating some type of symbol. In this case, I – after reviewing everything in the context, it appears to be what's called a bind rune.

Q What is a bind rune?

A A bind rune is when you combine two or more runes and – to create personal symbols or to create – to combine the power of the two different things. It's done quite often and it's a very common type of practice which, you know – magical practice.

Q Sorry, I had to kind of do my thing while you were talking and I know that's probably distracting.

MR. BALDWIN: I'm gonna move to admit – this is LL – I'm sorry, KK, move to admit that.

DEFENDANT'S EXHIBIT KK OFFERED

MR. MCLELAND: No objection.

THE COURT: All right. Without objection, KK's admitted.

DEFENDANT'S EXHIBIT KK ADMITTED

Q I'm gonna hand you what's been marked as KK, although it's 19 on the copy I'm handing to you.

A Okay.

Q I want you to review that and just tell me what significance that is.

A The significance of this is the person is discussing on their post how they had put a mark on their body, it was a – the gebo rune, and felt like different

things were happening in their life, that it wasn't – the gifts the gods were giving him, both positive and negative, he felt he had to add another rune to it, which he did, the isa rune, over top, creating the bind rune. And then, literally at the end of the post, is, you know, repeating, "Isa rune, isa gebo, isa gebo," and then he combines the words "isabo". This is –

Q Isabo?

A This is indicative of somebody who's thinking magically, they are indicating that they believe that the mark they had put on was having certain things happen in their life, and that they added the second rune to control aspects of their life. So this, clearly, indicates somebody who believes in this type of rune magic.

Q And that is – for the record, that is a Facebook posting from Brad Holder; is that correct?

A Yes.

Q And this is the close-up version of that hand, the marking on his hand; is that correct?

A Yes.

Q Again, you talked a little bit a second ago about why is that significant to this compared to the stick arrangement found on that body?

A It's identical to it. It's somebody who – it's the exact same configuration.

Q Is there any way that's a counter-forensic activity, the three sticks found on this young woman?

A No. It would be – they're not hiding the body at all. It would not work. It doesn't function that way at all. And the – there were other indicators in what I reviewed of a number of runes being done in the sticks. There were a number of

social media photos of the scene, not just the marking, but sticks in the shape of runes. So there was – rune magic was being done in branches in the woods.

Q And we're talking about with this person named Brad Holder, you reviewed his social media pages –

A Yes.

Q -- and you saw lots of stick that were –

A They were specifically arranged as – into bind runes, they were done in wooded areas, and that was prior to the homicide.

Q Okay. See what the next – still on the symbolism at the crime scene, I wanted to look at the other – I wanted to look at the way that L.G.'s body was displayed. Well, I'll use this one. I'm going back to –

MR. BALDWIN: Judge, I don't know which exhibit that was.

THE COURT: FF.

MR. BALDWIN: FF.

Q Looking at the stick arrangements on L.G.'s body, does that tell you something about this forensic identifier symbolism at the crime scene?

A That had specific meaning to the offender. It's – in my opinion, it's intentional. The branches were placed in a very specific way. It's, obviously, not a counter-forensic measure because she's completely exposed. It could also – when interpreting this, it could also be a combination of the – positioning of her body could be considered like one type of symbol, the branches on top could be another. There's a lot of – there's a – it had – the important thing is that it had specific meaning to the offender and it wasn't to try to hide the body.

Q Did you compare that – when looking through the various – well, let me see if I can find this one here.

MR. BALDWIN: I might just have to mark this one. No, here it is. All right. This one will be the smaller version of what's on the poster board, this is called LL, move to admit that.

DEFENDANT'S EXHIBIT LL OFFERED

THE COURT: Any objection?

MR. MCLELAND: No, Your Honor.

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

DEFENDANT'S EXHIBIT LL ADMITTED

MR. BALDWIN: Thank you. Oh, I know I – I also move to admit whatever this would be – move to admit MM. MM. And I didn't want to make a poster of that.

DEFENDANT'S EXHIBIT MM OFFERED

THE COURT: Any objection?

MR. MCLELAND: No, Judge, as long as it's sealed.

MR. BALDWIN: No objection.

THE COURT: Okay. I'll admit MM and we'll seal it.

DEFENDANT'S EXHIBIT MM ADMITTED

MR. MCLELAND: Thank you, Judge.

Q Okay. Actually, if I might – just be careful with this, if you would. I'm gonna hand you the – what was just entered as MM at this – another copy of the – did you have a chance to look at what – I guess that would have been LL and MM?

A Yes. And the – these were – this is what I was referring to before with the arrangement of these branches in the woods, the arrangement of which they are, in my opinion, runes and being on these social media posts, and the one

arrangement is very similar, almost identical to the arrangement on – that's victim –

Q On the victim, okay. And what does that tell you? As you're trying to find – you know, you teach these classes, you're trying to find a suspect, what does all of this so far that we've been talking about tell you?

A Well, it tells me that – it's a process of what it isn't, and it's not – like I said, in the categories of Satanism or exorcisms or narco-cults or gangs. These are natural objects that are being used and consistent with social media postings with literally rituals that are being done in the same configurations. So it shows that it's a connection to that person.

Q For the record, LL was Brad Holder's Facebook post that was of the two sticks, runes, as you call them; correct?

A Um-hmm, yes.

Q That's your opinion.

A Specifically bind runes, bind runes.

Q Well, this, actually, is – we're looking at –

MR. BALDWIN: And I'm sorry, Judge, I can't remember which one this is. You've told me about three times.

THE COURT: FF.

MR. BALDWIN: FF.

Q We're looking at FF, the poster-sized version. And let's move on to that fifth – or the sixth indicator, body disposition, and from FF and the blown-up version, at least, can you comment on the way the body disposition is indicative of a ritualistic crime?

A Because of the – again, it's not, obviously, a counter-forensic measure.

The careful placement, positioning, the natural objects on top of the bodies, also the symbols at the scene. So body disposition and the cause of death inside that sort of creation of a sacred grove or the clearing area is – and all classic indicators of a ritual murder.

Q Okay. And I want to show you now – this is the blown-up version (inaudible). I'm gonna hand you –

MR. BALDWIN: I'll move to admit the NN, which is the smaller version for the Court.

DEFENDANT'S EXHIBIT NN OFFERED

THE COURT: Any objection?

MR. MCLELAND: Judge, no objection. Again the same clarification as before: This is an exhibit that the Defense have created, it's not from a Facebook post, it's a – I would say a triple side-by-side picture that the Defense has created.

THE COURT: Okay.

MR. BALDWIN: I agree, it is.

THE COURT: I'll show NN is admitted over – without objection with that qualification.

DEFENDANT'S EXHIBIT NN ADMITTED

MR. BALDWIN: Thank you.

Q Talking still about the fifth – I'm sorry, body disposition. What does this exhibit –

A The –

Q -- show you?

A -- middle image is a painting from a Face – a social media page of Odin

hanging –

MR. MCLELAND: Judge, I'm gonna object at this point. Can I ask some foundational questions?

THE COURT: Yes.

MR. MCLELAND: Okay. We clarified this as something that the Defense has created, now you're testifying this is from a Facebook page. Have you observed the Facebook page?

A I observed – no, I did not.

MR. MCLELAND: So you don't know where the image is from?

A It was in the images that I was given to review.

MR. MCLELAND: I understand that.

A Yeah.

MR. MCLELAND: But you don't know where the image came from?

A I didn't see it on a Facebook page.

MR. MCLELAND: I'm sorry, I didn't hear that. I'm sorry?

A I did not see the image on a Facebook page.

MR. MCLELAND: So safe to say you don't know where the image came from, but you saw the image and it was given to you from – by the Defense?

A Correct.

MR. MCLELAND: Okay. So, Judge, I guess I'd just ask the Court to I guess strike in their own mind that this is from a Facebook page. There's no foundation she can testify to that. I don't have any objection to being a demonstrative exhibit from the Defense, but beyond that, Judge, I object.

THE COURT: Okay.

MR. BALDWIN: As an officer of the court, I would say that this is

off of the – Brad Holder's Facebook page, it's a painting that he – I mean, I could give you the reference – in fact, I think we already did this on Tuesday, he laid the foundation that he painted this, made this painting, in his deposition. I have that. Maybe on a break, I can give that to you.

THE COURT: Okay. That's fine.

MR. BALDWIN: Thank you.

Q So what does this hanging man and the body disposition, which is the sixth indicator, why does that – what does that tell you about this third party who posted this?

A The positioning of the legs particularly are identical. The image itself is a very common classic – of the painting is a classic depiction of Odin. It's used in tarot cards, although tarot is not part of this, but it's an image that's very common of – in Odinism, where you have him depicted during sort of the primary event where he's hanging on the tree for nine days, discovering the runes, and that is significant because the classic image usually has the other leg bent, but the painting is the same leg and the same positioning of the leg as the victim. Also, in the painting and with the victim, the eyes and mouth are open.

Q If I were to represent, as an officer of the court, that this painting, and in low lighting you can't really see here, that Brad Holder – that the painting shows that it was signed and dated on February 17th of 2018, which is one year to the date that he was interviewed by police, would that mean anything or is that – am I just trying to be a defense lawyer and do defense lawyer things?

A Well –

Q If that's the case, then that's fine.

A No, dates do – anniversaries, commemorative dates have meaning to

people. It can be – it may have meaning, the fact that it's almost the year anniversary of the homicide.

Q But again, it goes to that person; right? The individual, the – what it means is the meaning to that person, so it would really be unfair for us to ascribe some meaning to that; would that be accurate?

A Again, these offenders are – they create the – everything's very personalized, these rituals are personalized, they – even though it's – starts out in the context of an ideology, they – there's, you know, so many different manifestations of these different ideologies that everybody personalizes it, they're encouraged to.

Q I want to put up – take a look at that or the corresponding – this is – you're looking at the bigger version of 00 or OO, if that's –

MR. BALDWIN: Oh, I'm sorry, may I – I move to admit OO.

DEFENDANT'S EXHIBIT OO OFFERED

THE COURT: Any objection?

MR. MCLELAND: No, Your Honor, no objection.

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

DEFENDANT'S EXHIBIT OO ADMITTED

Q Okay. So what – this was a crime scene photo. What is the significance of this as it relates to a forensic indicator?

A The significance is that – the stronger significance is that it's in the victim's blood and that it's a marking on the tree near – at the scene and it, in my opinion, is an intentional mark. It's not like an obvious symbol under, again, Satanism or other types. It appears to be consistent with ancient alphabets that are used quite a lot at these scenes. Sometimes you get Enochian or Eden or Arabic or

Hebrew, you get a lot of different ancient alphabets that they believe is – imbues it magically. This is most consistent with runes. And again, with runes, they are depicted a number of different ways online and historically, so they're stylized, there's different fonts, but that's what this appears to be. It's an intentional mark and the significant thing is that – which is very consistent with ritual murders is that the victim's blood is being used to create a symbol, which gives it a magical efficacy, it gives it more power to what the person's doing or thinking.

Q I think you read the blood spatter report and they don't view this as an intentional, they view it as something else, but –

A I'm not a blood spatter expert, I've taken some training in it, but I – this, to me, is an absolute intentional mark. It does not seem consistent.

Q Well, we'll move on to this. This is the big version; we'll look at that smaller version of that, which is right here.

MR. BALDWIN: Move to admit PP.

DEFENDANT'S EXHIBIT PP OFFERED

THE COURT: Any objection?

MR. MCLELAND: No, Your Honor.

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

DEFENDANT'S EXHIBIT PP ADMITTED

Q Tell the Judge what this is.

A These are three still images from a ceremony video that I –

MR. MCLELAND: Judge, I'm gonna object to the question. Maybe some foundational questions?

THE COURT: Sure.

MR. BALDWIN: I'll ask them.

MR. MCLELAND: Okay.

Q Did you – I – one of the things you said that you received earlier was a video of a ritual; is that correct?

A Yes.

Q And did you watch that video?

A Yes.

Q And did you – what did you then do with the video as it relates to this?

A I stilled three of the images to be able to discuss.

Q Okay. So you took still shots of them?

A Yes.

Q And then put them on this poster board – or I put them on the poster board, but thought the images would be good to (inaudible)?

A Yes.

MR. BALDWIN: All right. Move to admit.

THE COURT: We already did.

MR. BALDWIN: Already did.

Q What is significant about this to you?

A This was an Odinist ritual. The part that I – at the very beginning, they're in an outdoor wooded area near water, they are casting the circle, sanctifying the sacred space, which is how they initiated the ritual. They're using the symbolism – they're, you know – they're talking about Lagos, runes, and the water. So it's, essentially, a kindred or a group of people who are doing a Odinist outdoor ritual and then they're making offerings to a tree. Different people, at the end of the video, are bringing different things and placing it at a large tree.

MR. BALDWIN: Okay. And for the record, we laid the foundation for this on Tuesday. Brad Holder has identified the person touching the tree in this photo as Patrick Westfall and I would let you know that, Judge.

Q Now, I'm gonna put up kind of the same photo, but also a side-by-side that we created, the Defense, or maybe you did. Did you create that?

A Yes.

Q Side-by-side with the tree from the crime scene with L.G.'s blood –

MR. BALDWIN: And I am going to move to admit this as QQ, I'm guessing. Move to admit QQ.

DEFENDANT'S EXHIBIT QQ OFFERED

MR. MCLELAND: No objection.

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

DEFENDANT'S EXHIBIT QQ ADMITTED

Q Why did you do this side-by-side presentation of who I said is Patrick Westfall touching the tree in that ceremony in Fort Wayne, Indiana, and this crime scene photo?

A To indicate that, again, it was another indicator of the use of a tree as not – as part of the offerings, as part of the ceremonial type of thing that Odinists engage in. And in that video, he was the only one who did that type of offering. Other people did just – brought like bowls and things.

Q We're almost to the end of this. This is – take a look at that, let me find the one. This would be RR. Was this in the packet of stuff that you received from us?

A Yes.

MR. BALDWIN: Move to admit RR.

DEFENDANT'S EXHIBIT RR OFFERED

MR. MCLELAND: No objection.

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

DEFENDANT'S EXHIBIT RR ADMITTED

Q Why was this significant to you in terms of trying to assess third-party suspects in a ritualistic crime scene setting?

A This was a posting, a social media posting of an alter, an Odinist alter, again indicated by the objects on it, the ritual items. And the person who did the posting was talking about how he had put a rune in his own blood on the tree two weeks before and it was still there. And the date two weeks before would have been about two weeks after the homicides.

Q And now, to be clear, the person posting is not Brad Holder; is that correct?

A Correct.

Q But Brad Holder did like this post?

A Correct.

Q And is – and you circled – what is it that you circled there?

A The rune that was done in blood. Again, just another indicator that this is the type of ritual that – a blood ritual that was done by an Odinist group that identified themselves as the Asatru Warriors.

Q Now, when you – you've been saying all the way through here that it's personal – whatever each kindred or whatever, each individual person, what's personal to them. So is it – does it mean something when you see this – what you're calling a rune on this tree and there's a – what you were saying is a rune in L.G.'s blood on the tree, is that meaningful?

A Well, that he identifies as a rune. I mean, clear – the person identifies that

as a rune. And again, it's to demonstrate that this is a practice that was being done among these groups that are seeing each other online.

Q And lastly, I think we start wrapping up here, is this is going to be SS, I believe. Take a look at that.

MR. BALDWIN: And I will represent to the Court that S – and move to admit SS into evidence.

DEFENDANT'S EXHIBIT SS OFFERED

THE COURT: Any objection?

MR. MCLELAND: No objection.

THE COURT: All right. I'll show that as admitted without objection.

DEFENDANT'S EXHIBIT SS ADMITTED

MR. BALDWIN: I will submit to the Court that this was the – what I've – what the Defense calls the faked crime scene photo, it was found on –

MR. MCLELAND: Judge, I'm gonna object to him characterizing what the evidence is, 'cause the State doesn't agree with that characterization, and I think the evidence will show today that there's not a foundation for that, and so I object to that. I don't object to the picture being admitted and maybe something that she can consider in her analysis, but not to the characterization by the Defense.

THE COURT: Okay. I'll sustain the objection on the characterization.

MR. BALDWIN: This is a – I'll submit to the Court that this is a – foundationally was Trooper Purdy has said that he saw this on Brad Holder's – this image on Brad Holder's Facebook page, so I think that's what we've established.

MR. MCLELAND: I don't think that's what his testimony was, Judge. And he's here to testify today, so we can get that from him –

THE COURT: Okay.

MR. MCLELAND: -- if that's the case.

THE COURT: Okay.

Q Okay. What – can you – if this was on Brad Holder's Facebook page or a suspect's Facebook page related to the crime scene, what would this indicate to you?

A It – the depiction of two girls or young women posed with – in a similar manner with – one posed in a similar manner with tree branches on top of them, it's indicative of the crime scene positioning.

Q And again, when – is it common for people who may have committed a crime to go online and show kind of indicators of that crime scene on social media?

A A lot of the – in different cases, you're gonna have different things. Sometimes you'd find a diary or a book of spells or whatever they're doing. In other cases, you know, social media has become the way for people to sort of take – to show off, for lack of a better expression, their rituals and what they've done.

Q I'm gonna finish up here on direct examination with a couple questions. Based upon your kind of research once you received this case and were asked to look into it, did you – do you know whether there are any Odinists group or were any Odinist group in Indiana in 2016/2017?

A Yes. There were groups that splintered. You had the Soldiers of Odin that I think splintered into the Vinlander Social Club, which also had a branch of

Firm 22, which 22 is the alphanumeric code for V, so they're sort of the support and women members. And then, that might have also splintered into Gugenor's Path. So there were – and also, Soldiers of Odin, there was the outlaw Hammerskin Nation, the Vinlander Social Club splintered off of them, an extremely violent gang.

Q And you said earlier that these violent Odin gangs, were they white suprem – have – to they have white supremacy –

A These are all the racist Odinists, the white supremacist racist Odinists.

Q And did you say earlier that these are the splinter Odin groups that believe in blood sacrifice?

A They – yes. They've done murders. So to, you know – a ritual murder would be a progression.

Q Do you know or are you aware of whether there is any human sacrifice in Odinism?

A There are – there's literature that shows different cases of sacrifice every nine years and there's different references to it in some of the writings and literature of the –

Q Hang on a second. If there were some – if the BAU or the prosecution were to claim that what was going on there at that crime scene was called an undoing, would you agree with that assessment?

A No. An undoing is – from the behavioral analysis, is a symbolic reversal of a crime. It's when a person feels remorse or guilt and it – and they will either, you know, position the body so that they look like they're sleeping or they will cover the body with a blanket. They – they're not doing – they're staging, but they're not doing it as a counter-forensic measure, they're doing it out of the

remorse they feel. So with the way that they're so displayed, it – with undoing, you're trying to give the person sort of dignity in death. There is no dignity in the way that these girls were positioned. The only thing that might have some relevance is redressing does occur – dressing the body is an undoing behavior and it's usually done by someone who's familiar, you know, knows the person, a family member or, you know, something like that. So in that one aspect, it would possibly be an undoing, but I – one is a psychological concept, the other – in my opinion, they – it's a ritual and it was done for ritual purposes, not to – as a counter-forensic measure and not as a form of remorse.

Q Okay. Any doubt in your mind that this was a ritualistic killing?

A None at all.

MR. BALDWIN: No other questions.

THE COURT: Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

CROSS EXAMINATION OF DR. DAWN PERLMUTTER

QUESTIONS BY MR. MCLELAND.

Q Ms. Perlmutter, we talked about your education and we talked a little bit about where you're employed. Do you work exclusively for the government?

A I work with different departments. The university, the Philadelphia College of Osteopathic Medicine is a non-government one.

Q Do you also do consulting, like you are here today?

A Yes, case consulting.

Q And you get paid for those privately, as well; right?

A Yes.

Q Okay. So you do consulting or testifying work on the side, beside the jobs

at the university and the government?

A Yes.

Q And so it's part of how you make your living is testifying about these things?

A Yes.

Q Okay. What training do you have specifically to recognize when a crime scene is part of a Odinist ritualistic killing?

A The training I have is to identify different symbols and rituals that occur, so it's a process of elimination; and in this case, that's what I identified it as.

Q Okay. Well, let me back up. Any of the books that you've written, have they dealt exclusively with Odinism?

A Not ex – no.

Q Okay. Any of the training you've given to any kind of government department, have they dealt exclusively with Odinism?

A Not exclusively, but I have – they're definitely part of the one-day training I do on RMVEs.

Q Have you had any training specifically on Odinist ritualistic killings, that narrow field exclusively?

A No, and I don't know if there is any training on that available.

Q And so when – if that's true, which I think it is, that there is no training, how do you educate yourself about a discipline?

A Well, it comes from doing research, going to a lot of conferences. I've, you know – go to gang conferences. I trained – I've done lectures at those conferences. I did have another homicide case, it's an open investigation, but it clearly has similar types of symbolism.

Q We'll get to that part.
A Okay.
Q Do you agree there's a difference between a ritualistic killing and a gang killing?
A They are not always mutually exclusive. Depends on which gang and what they're doing.
Q Let me ask you this: If I'm in a break-off gang of Odinism, say the Hammerskins, and I murder somebody, does that mean the murder scene is an Odinist ritualistic killing?
A No.
Q Okay. So there's a difference; right?
A Yes.
Q If it's a gang killing and I just kill somebody and I'm an Odinist, that doesn't necessarily mean it's a ritualistic killing; correct?
A No, it doesn't.
Q Okay.
A And especially since they usually use firearms.
Q Let's say they don't, let's say they use a knife. Just because they use a knife doesn't mean it's an Odinistic ritualistic killing; correct?
A No.
Q Okay.
A It's the combination of –
Q Just – okay, we'll get to that, but just because it's done outdoors, does it mean it's a ritualistic killing?
A No.

Q Okay. In these Odinistic ritualistic killings, through your research, who is typically sac – what human or what kind of human is typically sacrificed in these ritualistic killings?

A It has meaning to the offender.

Q Okay.

A With the white supremacy groups, they target –

Q Minorities; right?

A Yes.

Q Have you ever seen a racist Odinist group target two young white females?

A They will do that if they can –

Q It's a yes or no.

A No.

Q Okay. By the name itself, racist, would mean some minority group; correct?

A Or race traitors.

Q Yes or no?

A Yes.

Q Okay. And so if a racist Odinist group killed a white female child, that would be – go against the racist part of their group; correct?

A But it could also be an indicator of other things.

Q But through your training and experience and what you've seen, you just testified, you – never, in your experience, have you seen a racist group kill a white child, that would be against what you're learned and what you've seen; correct?

A Correct.

Q Okay. To be a ritual, the name alone, at least to me, implies that it has to be done over and over and over. In these Odinistic ritualistic killings, have you seen that? Are these killings done over and over and over?

A That's not a correct definition of a ritual.

Q Okay.

A That's not how I would define a ritual at all.

Q Well, let's back up. How many Odinist ritualistic killings have you seen in your career?

A There is the open investigation that I – the other homicide case and that was in 2020.

Q And so there's an open investigation on that case?

A Yes.

Q And so I assume, with the investigation being open, that whether or not it's an Odinistic ritualistic killing is still open, as well –

A Yes.

Q -- correct? You talked about various – Odinists have general symbols they share, but the rituals are particular to the individual person; is that correct?

A Yes.

Q Are there any symbols in the ritual that are the same across the board?

A They use the hammer, they wear the pendants. Those are the general-type symbols. They get rune tattoos, raven tattoos.

Q I guess I didn't ask the question very well.

A Oh.

Q Are there any symbols left at ritualistic crime scenes that involve Odinism that are universal across the board?

A Universal? No.

Q When – whether it be the State or the defense team, when someone asks you to examine a crime scene, what evidence do you typically look at?

A I typically look at any kind of symbolic or forensic evidence, so the scene, the crime scene; autopsy; social media; computers; anything that falls within my areas of expertise, those –

Q Do you typically – does the party hiring you, do they typically give you all the evidence and let you sort through it or do they handpick which evidence you look at?

A They give me, I guess – pretty much give you everything and I review it.

Q And so when you're reviewing those things, is it important to look at the other people that were investigated?

A Yes.

Q Is it important to look at their background and any evidence that the law enforcement or defense may have on that person?

A Yes.

Q Would it be important to look at any depositions anyone's given?

A That – yes, it could be.

Q Would it be important to look at the suspect's deposition?

A Yes.

Q If somebody – if you come into a case after somebody's arrested, is it important to you to look at the defendant's statements?

A Yes, it can be.

Q Is it important to look at any alibi evidence?

A That, again, might get outside the realm of what I – what my area is.

Q And so if you were looking at social media posts of a person that was a suspect, it wouldn't be important to you to see if that person had an alibi?

A Again, that's not my area. I look at the symbolism, the forensics, the language that's used, the – that is nothing – I've never looked at that type of evidence before.

Q In this case, you reviewed the things that you looked at the Defense had given you; correct?

A Yes.

Q Did you examine anything outside of that?

A No.

Q So you never examined Brad Holder's interviews?

A No.

Q You never examined Brad Holder's Facebook page?

A No.

Q You never examined Brad Holder's deposition?

A No.

Q You never examined any evidence that showed where Brad Holder was that day?

A No.

Q Did you examine any evidence that the State has against the Defendant?

A No.

Q Did you examine any other suspect's information?

A I looked at a police interview with Patrick Westfall.

Q So you looked at the evidence – the only evidence you looked at is what Defense spoon fed to you or gave to you?

A I looked at evidence that was provided to me.

Q When you looked at the evidence, was it organized in the way that the exhibits are today? Were the side-by-sides given to you in that fashion?

A No. I did that.

Q Well, you didn't do all of them. Some of the side-by-sides that were presented in evidence today were done by the Defense as demonstrative exhibits; and were they given to you like that? Like the side-by-side of the stick – or the picture of Brad Holder's hand and the picture of A.W.'s body at the crime scene?

A That was given to me, but I had already – that was given me.

Q Okay.

A Correct.

Q So the side-by-sides that the Defense created, they were given to you in that fashion?

A That one, yes.

Q Okay. When you're looking at evidence, are there – I don't even know if there's an industry for what you do – but are there industry standards of what things you're to look at when examining a crime scene?

A Well, that's why the methodologies are so important. I mean, that's why I have crime scene training, go to the crime scene conferences. There are – the methodology is all those types of – that I listed: place, date, holiday – just all of the different – the causes of death, things like that.

Q So those are the industry standards, those place of death, date of death, cause of death; to you, those are the industry standards that someone in your position would look at to determine whether or not this was a ritualistic killing?

A Well, they're also the FBI's standards. I mean, they have the same

victimology, they have categories under that; they have out – they may call it different things, but it's in the same homicide manual that I've – you know, I've studied that, too. I'm familiar with – they're the same things that everybody looks at, except I go more specific into the symbolism.

Q So out of the things that you listed – place of death, date of death, cause of death, murder weapon – which is the most important?

A I would say the cause of death, it's the most significant, and the body positioning.

Q Let's talk about cause of death for a minute. You said that it was important that they were cut; correct? Their throats were cut?

A That they were – the exsanguination and, yes, the sharp force, correct.

Q Okay. Does it matter how they're – I mean, I've seen a lot of movies where, when they sacrifice, they come from one side of the neck to the other and cut it that way; is that what you mean when you talk about –

A No, it's not that specific. It's the fact that they died from the –

Q Knife wounds?

A -- sharp – yes.

Q And so the fact that someone died from a knife wound, that's the single – that's the most important thing you look at when determining whether or not this is a ritualistic killing?

A To the neck. To the –

Q Knife wound to the neck.

A Right.

Q That doesn't mean every killing where there's a knife wound to the neck is a ritualistic killing –

A No.
Q -- right?
A Absolutely not.
Q That doesn't mean that, if someone's an Odinist and they kill somebody with a knife wound to the neck, that doesn't mean it's a ritualistic killing; correct?
A Correct.
Q It's all very personal to whoever did the killing; correct?
A Correct, but it's in combination with all of the other things.
Q Well, let's go back to that. You said several times it's all personal to whoever did the killing. You're just guessing what these symbols mean, because only really the killer knows; right?
A I wouldn't say guessing. They – it's significant that somebody did a symbol in blood, it's consistent with other ritual homicide cases –
Q But it's significant to you. It may not be significant to the killer, and you don't know that; correct?
A I guess that's one way of saying it.
Q Talking about the cause of death, one of the things that you said is that there's signs, there's usually a lot of torture, usually a stabbing. When you looked at the crime scenes here, did you see any evidence of torture?
A No, there was no evidence of torture.
Q Were the victims bound in any way?
A No.
Q Were there any symbols carved in the body?
A No.

Q Do you know what murder weapon was used to kill the victims?

A I do not know if it was a serrated blade, I don't know.

Q Did you assume, from the evidence that you saw from the Defense, that it was a knife?

A I think I – I'm trying to – I remember reading the – it might have been referenced in the autopsy report, I'm not sure –

Q If a knife –

A -- or maybe the BAU report I think mentioned – somebody – there was mention that it was a serrated knife.

Q If a knife wasn't used, would that change your interpretation of the crime scene?

A If it were a bullet wound, that would.

Q What if it was a box cutter?

A That would not change the interpretation.

Q So any sharp object, in your mind, that's a symbol?

A It – in one case, it was a letter opener.

Q So yes is the answer?

A Yes.

Q Any sharp object, that's a symbol to you that this is a ritualistic killing?

A If they're using it –

Q Combined with everything else you saw?

A If they're using it in that situation to –

Q What's that situation?

A In an outdoor scene with a body positioned and in the woods near water, the one – positioning of the bodies, that whole combination.

Q Positioning of the bodies. Do you agree that A.W., her body is right where she died, it was not moved?

A I don't know with – she was dressed or redressed, so she had to be moved for that to happen. I don't know if she was moved from a distance, but her, you know –

Q Well, how do you know she was redressed before or after she died?

A I don't know if she was redressed before or after, but somebody had put clothes on her because she was wearing undergarments – to redress someone, you're manipulating the body, you're – I don't know if you're –

Q But you're assuming she was redressed after she died.

A I don't know.

Q I mean, you have to – right? – because you're saying to redress the body, you would have to reposition it. Well, if she got dressed before she died, there wouldn't be any positioning of the body.

A I didn't say that she was redressed after she died.

Q Okay. We'll move on. Do you know for sure that A.W.'s body was moved?

A I don't know. I think that her leg was positioned that way.

Q And what are you basing that on?

A I'm basing it on it doesn't appear to be a natural – it just – the sticks were placed on her, it –

Q No, no, no, we're not talking about the sticks, just her body. What gives you the indication that her body was positioned in that way?

A It's just in my opinion it's – that if you're dressing someone, that when you're putting pants on, that your leg is not gonna cross over. I think, you know, just the fact that, in combination with the other body being positioned.

Q But for that assumption to be correct, you're assuming that someone dressed her after she died and positioned her body that way while they – either while they were dressing her or after they dressed her.

A I'm not saying that she was redressed after she died.

Q And again, how do you know her body was – we're talking in circles here and I'll go all day if you want.

A No.

Q How do you know her body was positioned?

A Because it's consistent with the rest of the scene.

Q Okay.

A It's consistent with –

Q How is that consistent with the rest of the scene?

A It's consistent with L.G. being moved and positioned. The – if you do the aerial view, both their bodies seem to create – they appear to be positioned.

Q How do you know L.G.'s body was positioned?

A Oh, her body was moved.

Q That wasn't my question. How do you know she was positioned? I don't disagree with you she was moved. How do you know that the killer positioned her body in that specific way she was laying?

A Because of the combination of the branches that were put on her, the way she was displayed.

Q Let's talk about the branches for a minute. The aerial view of the picture is – did you see any other or any varying angles of the crime scene besides the aerial view that's been admitted into evidence?

A Yes.

Q And so did you see pictures of the crime scene from the water?
A I don't think I saw it from that angle.
Q Did you see the crime scene from the opposite side of the water?
A From the other side of the bank?
Q Yes.
A No, I don't think so.

MR. MCLELAND: Sorry, Judge, I'm just going through my notes here. There's quite a bit of exhibits, I want to make sure I cover everything.

Q Ms. Perlmutter, you talked some about the exhibits of Facebook posts from Brad Holder. Those Facebook posts alone, does that mean that Brad – can you tell from those Facebook posts alone that Brad Holder participates in Odinist ritualistic killings?
A I can tell that he practices Odinism and believes in magic –
Q Okay.
A -- and magical thinking.
Q I appreciate your answers, but it's gonna go a lot quicker if you just give me – you answer my questions. From those posts, can you tell that Brad Holder participates in Odinist ritualistic killings?
A No.
Q Okay. Can you tell from those posts that Brad Holder participated in this killing?
A No.
Q Can you tell from those posts if Brad Holder does animal sacrifices as part of his Odinist belief?
A No.

Q Can you tell that he does human sacrifices as part of his Odinist belief?

A No.

Q Is there anything in those posts that places him at the scene of the crime?

A No.

Q The symbols that you talk about seeing at the crime scene – and I'm trying to wrap my head around this – but when you go in to participate and examine a crime scene, do you go into it with the mindset of, "Okay, I'm specifically looking for what symbols I recognize"?

A No, not at all. I go in with an open mind to see if it's a symbol at all, if it's a – you know – or what – I go in very open minded.

Q Okay. If someone were to give you a picture of a symbol before you looked at a crime scene to say – I'm kind of – I'm trying to equate this to looking at cloud formations. If somebody – you know, if I go outside and they said, "Oh, look, I see a train in that cloud," it's hard for me to unsee that. If somebody gives you a picture of a symbol before you look at a crime scene and says, "Hey, I'm looking for this symbol. Do you see it in this crime scene?" do you think that affects the way you look at a crime scene?

A No.

Q You're able to separate that?

A It's actually part of the methodology, it's called bracketing. You have to bracket it out. It's something that you train to do.

Q And so when someone gives you a side-by-side photo, that's part of the methodology of examining a crime scene?

A You – as a professional, you look at it individually, and I have thousands of symbols that I compare things to.

Q When you talked about the things you would look at, you testified it would be – or typically, you would look at the suspect's deposition or any statement that suspect made; is that correct?

A If it's provided to me. I usually am given evidence that's relevant to imagery, symbolism, codes, or any kind of atypical trauma. I don't always get – occasionally, I'll get computers that's connected to like music or social media. I'm not usually given the other standard things you would get with an investigation, like alibis.

Q Do you agree that it'd be important – if these crime scenes are so personalized and individualized, would you agree that it'd be important to get as much background information about the suspect as possible?

A Yes. And sometimes I get writings or diaries or manifests.

Q In this instance, you got Facebook posts; right?

A Well, I get a lot of social media.

Q Sure.

A That I do get.

Q But you agree it's important to learn as much about the suspect's background as possible before making a determination because these crime scenes are so personalized?

A Yes.

Q And so if you come in – if you came into an investigation after someone was arrested, would it be important to you to have the background of the person arrested?

A Yes.

Q Would it be important to you to have any statements that person made?

A Yes.
Q And you didn't get that here?
A No.
Q Was this – was there any indication from you that this crime was sexually motivated?
A It did not appear that way.
Q Why did it not appear to be that way?
A The – from the autopsy reports, there was no indicators of sexual assault or –
Q So you're basing that just on that?
A And it just – usually there would be a sexual assault if they were sexually motivated, there –
Q Does there have to be indication in the autopsy report for there to be – for a crime to be sexually motivated?
A I guess not.
Q Fair to say a crime could be sexually motivated, but before the sexual assault occurs, the crime is committed; fair?
A Could you say that again?
Q Sure. The crime initially could be sexually motivated, but before any kind of sexual assault occurs, the person kills the victim.
A Yes.
Q If the Defendant said that, would that be important information for you to review before you made your analysis?
A That analysis starts going into the behavioral analysis aspect, the psychological, and I look at that that is not my area.

Q You said the sticks are – no doubt in your mind, the sticks are there for a symbol, as a symbol?

A They're – the ones on A.W., yes.

Q The one on A.W., but not L.G.?

A L.G., the – they're there because they have – they meant something to the offender. Whether they're an alphabet, a sigil, a rune, or – they had some meaning to the offender.

Q And you're confident they weren't for any kind of countermeasure or to cover up the bodies?

A Absolutely confident. They – how – they're not covering the bodies. They're absolutely not working that way, they're not functioning that way.

Q But if the crime scene's personalized to the individual, how can you make that assumption that they weren't put there to cover the bodies?

A Because the bodies aren't covered, so –

Q Not completely covered; right? But there's some coverage.

A Just minimal. That, I think, is just obviously not done to cover the bodies if they're not covered. I mean, I –

Q Is that what you're basing your opinion on? They're not for countermeasures, but they don't completely cover the body?

A It – yes.

Q And so, therefore, they must be symbols?

A No, not therefore it has to be symbols. It was some kind of – it was a ritual act – in my opinion, it was a ritual that was done that had meaning to the offender. There were a lot of ways in that scene that they could have covered the bodies, with leaves and things. That's not what was done. They were arranged

in a very specific manner.

Q If the Defendant made a statement that the branches are there intended to cover the bodies, would that change your opinion?

A No, I don't think it would.

Q So regardless of what the Defendant said, you're going with those are part of a symbol?

A I'm going with they had different meaning to the offender.

Q Would it change your mind that the Defendant here's admitted to killing the girls?

A No. It still –

Q Would it change your mind that he admitted to killing the girls and his defense team has admitted he has no Odinist ties; would that change your mind?

A No.

Q The blood on the tree, how confident are you that that is a symbol, as opposed to blood spatter?

A I'm extremely confident. It's an intentional mark; in my opinion, it's an intentional mark.

Q You have no training – or you have minimal training in blood spatter?

A Correct.

Q So how can you rule that out?

A Because of the appearance of it and the context that it's in with it being done at that scene.

Q What is – the context it's in? Can you explain that to me. What context is the blood on the tree in?

A I'm going from my experience in a number of cases where markings are

put on trees at these type of scenes in blood; and from my experience, this is consistent with that.

Q You've had other cases where you've examined crime scene where this marking has been left in blood at a crime scene?

A Not that specific marking.

Q But you don't – you have minimal training in blood spatter?

A Correct.

Q And you've ruled that out?

A Yes.

Q And you've ruled out contact and transfer, as well?

A Correct.

Q And we talked a little bit about this or Mr. Baldwin did, if the BAU examined the evidence in this case and said that it was a – the sticks were a form of undoing, your testimony is that they're wrong?

A My testimony is that's their perspective. They – they're trained to analyze it that way, that's how they're trained.

Q And so analyzing these crime scenes is all about the perspective you bring into it when you analyze it?

A No, it's about a completely different methodology, looking at it from the cultural anthropological methodology, as opposed to behavioral analysis.

Q And you used that methodology when you examined this crime scene?

A Correct.

MR. MCLELAND: Can I have just a moment, Judge?

THE COURT: You may.

Q Ms. Perlmutter, on the chart that Mr. Baldwin put up, there were seven –

there were seven things listed and he never really touched base on number seven, but number seven was atypical blood pattern and underneath it, it says, "Atypical blood pattern on victim's face." What did you mean by that?

A There appeared to be, on L.G.'s face, a inconsistent pattern with the blood. There was a reference to it I think in the blood spatter report.

Q Ms. Perlmutter, when did you first look at the evidence for this case?

A I think about three months ago.

Q So around – we're in July – I'm gonna say April of 2024?

A Yes. I should have –

Q That's when the evidence was given to you by the Defense?

A It was – I should have checked the date. Yeah, I think it was around April.

Q The exact date's not important, but around that time, sometime in April of 2024?

A Correct.

Q And you talked about that some of the evidence you used, maybe not all every time, but that evidence you used to make a determination of whether or not this is the – I think you used the classic or textbook ritualistic killing; is that correct?

A Yes.

Q And is it important for you to examine that evidence before you make that finding?

A Yes.

Q How important?

A It's important to examine the evidence.

Q I mean, common sense says it's important to examine that stuff before

making an analysis so your analysis is correct.

A Yes.

Q Is that fair?

A Yes.

Q Back on September 19th of 2023, did you appear on Court TV?

A Yes.

Q And you gave an analysis of this killing at that time; is that correct?

A Yes.

Q And prior to giving that analysis, had you observed any evidence from this case?

A I just read a *Franks* memo.

Q Did you observe any of the evidence from this case?

A No.

Q And on that television show – I hope I get this quote right – but you told them that this is a classic ritual murder; correct?

A From the description, yes.

Q And you told them that before examining the evidence the Defense had given you?

A Correct.

Q Now, you're in the business of consulting and testifying in these type of cases, you testified to that, that you get paid to do these things; right?

A Yes.

Q And so if you were there on Court TV, a national program, and say, "This is a classic ritualistic murder," then you change your story, that may hurt your business; correct?

A That is not what happened. I reviewed the report, which was very specific, and I gave my opinion and, looking at the evidence, if it was different, I would have changed my opinion.

Q Is it in your practice when you're examining crime scenes to look at motions filed by the defense to make an analysis of a crime scene?

A That was given to me by the Court TV people.

Q I understand that. Are there any other cases where you've examined a crime scene where you've looked at a motion from the defense to make an analysis of whether or not that crime scene is a ritual killing?

A That was – no, no. That was –

Q Goes outside your standards; correct?

A Yes, yes.

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

THE COURT: Mr. Baldwin.

RE-DIRECT EXAMINATION OF DR. DAWN PERLMUTTER

QUESTIONS BY MR. BALDWIN.

Q You said something about a serrated edge and that was in the – you believe in the autopsy report.

A It was either the autopsy or the BAU report. It was mentioned, I think, in one of the reports.

Q If it was in the autopsy report, would that – it's in evidence. Do you know if a box cutter has a serrated edge typically?

A I –

Q If you don't know, that's fine.

A I don't think they do.

Q Okay. You were talking and trying to answer and you said something about race traiting – a race traitor. What were you trying to say there? I think the question was has anybody ever seen racists who kill white people.

A White supremacists target minorities, Jewish people, and anybody they consider a race traitor. They also get into like gang – with each other. I mean, they will target members of their group that they feel didn't do certain things correctly or was an informant or there's a lot of other reasons they will target.

Q All right. And just for everybody's understanding that when you are an Odinist group with racist – kind of ties to racism, is – which is more prevalent in terms of – if – and I don't even know if you know the answer to this – which is the more driving force, the Odinism or the racism?

A They just go hand in hand, it's part of the – it's fundamental to the racist Odinism, because they feel that Christianity mongrelized the pure Aryan traditions, so they identify with what they think is the original warrior culture.

Q When you were asked by the State about this Defendant here not having any – the Defense has represented there is zero evidence that Richard Allen has any ties whatsoever to Odinism, runes, Norse paganism, any type of cult, would that be consistent with that crime scene, that's somebody that committed those crimes, somebody who has no knowledge of that?

A That would not be consistent.

MR. BALDWIN: No other questions.

THE COURT: Mr. Baldwin – or, I'm sorry, Mr. McLeland.

MR. MCLELAND: Thanks, Judge.

RE-CROSS EXAMINATION OF DR. DAWN PERLMUTTER

QUESTIONS BY MR. MCLELAND.

Q Ms. Perlmutter, you talked about race traitor; did either one of the victims fall within – to your knowledge, did either one of the victims fall within one of those categories you talked about under being a race traitor?

A I don't have knowledge of that.

Q So no, to your knowledge, neither one of them fell under one of those categories, either minority, Jewish, and I think you named something else.

A Informants and – the other – no, they don't.

Q Okay.

A No.

Q You said the driving force – Mr. Baldwin asked you what is the driving force, Odinism or racism, and you said they go hand in hand; does that mean they're equal?

A They – it's their – they see it as their religion, it's their belief system, so it's – I guess you can't separate the two.

Q Racism is so ingrained in the Odinism that that's what you mean when you say they go hand –

A It's intrinsic –

Q -- I think you said hand in hand?

A -- to it.

Q Intrinsic, okay.

A It intrinsic to it.

Q And so were – to your knowledge, were either one of these girls part of a minority that they would be racist against?

A Not that I know of.

Q Okay. Would it be unusual for a racist Odinist to kill somebody that they

don't classify as a minority or part of the race traitor?

A These – again, they splintered from violent gangs, so there can be – there can just be reasons, because they didn't participate in some organized crimes or whatever criminal activity they were involved in. They could be related to someone that they're, you know, retaliating against. There – it can mani – if can be that way, too. It can be – the motivation can be the combination of those things.

Q In this offense, did you have any information that played into your analysis that that was the case in this crime –

A I didn't have –

Q -- that the person – the killer was trying to get back at the victims for some reason? Is there any information that you had that was factored into your analysis?

A I didn't have a lot of information on the victims –

Q Okay.

A -- the victimology.

Q Would that be something important that you'd like to have in order to make your assessment or are you comfortable with making your assessment based on what you got?

A I am comfortable with making my assessment.

MR. MCLELAND: Just a moment, Judge.

THE COURT: Um-hmm. (Affirmative response)

MR. MCLELAND: I don't have anything else, Judge. Thank you.

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

THE WITNESS: Thank you.

THE COURT: All right. We're gonna go ahead – I'm – it's almost 1:30, I'm sorry that we went over, but I wanted to get her testimony done –

THE WITNESS: Thank you.

THE COURT: -- so she could be on her way. So we'll break for lunch. Be back here by 2:15.

MS. AUGER: 2:15?

THE COURT: 2:15.

(Off record at 1:32 p.m.)

(On record at 2:15 p.m.)

THE COURT: Okay. We are back on the record. Is the Defense ready to continue?

MR. BALDWIN: We are, Judge.

THE COURT: You may call your next witness.

MR. BALDWIN: Thank you. I'm just gonna do another deposition, I'd like to enter a deposition in. Before I do that and before I forget, I want to move to have this Court take judicial notice of *Franks* 1, 2, 3 and 4. I think we already did, but I don't know if all those pleadings were scanned or not.

THE COURT: I think you did it at the dismissal hearing, but I will take judicial notice of the pleadings that were previously filed.

MR. BALDWIN: Thank you. At this time, we would move in to evidence the deposition of Nikkole Robertson from April 17, 2024, particularly – I will read into the record the parts that I want the Court to consider, this is on page 36, lines 8 through 11. "Question: Now, you said that it appeared that the girls' bodies were moved and staged. What was your basis for that statement?" The answer is, "The crime scene photos." For the record, she is an FBI agent.

The next is page 40, line 16 through 24, "Again, is there something in particular that made you think that they had been placed?" "Answer: The way their bodies are resting, yes." "Question: And what about where their bodies are resting?" "Answer: How they're lying, how their bodies are lying." "Question: In terms of of where the arms and legs are or physically in that location where they're located?" "Answer: It's how their limbs look." Then, move on to page 75, line 17, "What was the purpose of looking at books?" "Answer: For anything that could be maybe rune-related or Nordic." "Why that?" "Answer: Just because of the potential of those sticks mean some – meaning something." And then –

THE COURT: May I interrupt? Are all of these marked in that deposition for my review?

MR. BALDWIN: Yes.

THE COURT: Okay. Thank you.

MR. BALDWIN: Yes, I've got them – if it's okay, I've both highlighted them, Judge, and put a little orange sticky.

THE COURT: Okay. And that would be then what? TT.

MR. BALDWIN: I'm sorry, what –

THE COURT: Defendant's Exhibit TT.

MR. BALDWIN: TT, okay. Last one, page – TT, page 84, "When you talked" – "Question: When you talked earlier about looking for books that might have runes or Nordic-kind of – I don't remember how you said it – how do you – you said runes or some Nordic?" "Answer: Yeah, Nordic." "Was that something that, on your own, you thought to do or have you talked to somebody that had said to you, 'Look, there might be these sticks on these girls and that means that the scene might be Nordic-related or rune-related, so go look for books or

anything that might have that type of topic as part of the book'? Was that something that you did on your own or do you think somebody else told you to do that?" "Answer: There was always the discussion of it, that it could potentially mean something." "Okay. And apparently, somebody" – "Question: And apparently, somebody thought, when you said it might mean something, that the something is potentially Nordic or runic in nature and that's what was left behind at the scene; is that true?" "Answer: Yes." And that's Defendant's Exhibit TT.

DEFENDANT'S EXHIBIT TT OFFERED

THE COURT: Any objection?

MR. MCLELAND: Judge, no, just I guess the request from the State – that's not a deposition that I highlighted or marked pages for the Court, and so I would just ask the Court to consider looking at perhaps the page before and after the mark to add some context to the highlighted portions.

DEFENDANT'S EXHIBIT TT ADMITTED

MR. BALDWIN: Call Jerry Holeman.

(Witness sworn.)

DIRECT EXAMINATION OF LIEUTENANT JERRY HOLEMAN

QUESTIONS BY MR. BALDWIN.

Q State your name for the record.

A Jerry Holeman, H-O-L-E-M-A-N.

Q Thank you. Lieutenant Holeman, are you familiar with what I think is commonly often known as sketch 1 and sketch 2?

A Yes.

Q Okay. I'm going to –

COURT REPORTER: Can you move your microphone? I can't hear Andy, but I can hear you two. Can you move the microphone to the other side of –

MR. ROZZI: Oh, sorry.

THE COURT: Oh, he's got his computer – yeah. Thank you.

Q I want to hand you – I'm gonna hand you UU and VV; can you identify those for me, please.

A Yes. They are sketches, sketch 1 and 2.

Q Sketch – which one is sketch 1?

A Depends on – which one was released first to the media?

Q Yes.

A This would be the first one that was –

Q Identify it by the number or the – I think it's –

A There's a number?

Q You want my glasses?

A I got some. Where's the number at?

Q It's on the – it's the exhibit sticker.

A Oh, okay. Yeah, UU, and there's a bunch of numbers, but yeah, it's UU.

Q UU is what – the first sketch released –

A Yes.

Q -- what we call sketch 1?

A Um-hmm. (Affirmative response) And then, VV would be the second sketch that we released.

MR. BALDWIN: Move to admit UU and VV.

DEFENDANT'S EXHIBITS UU AND VV OFFERED

ATTORNEY NICHOLAS MCLELAND: No objection, Your Honor.

THE COURT: All right. Without objection, those exhibits are admitted.

DEFENDANT'S EXHIBITS UU AND VV ADMITTED

Q And UU and VV, sketch 1 and 2, are the same guy?

A Yes.

Q Okay. And I got – can you see that?

A I do.

Q Those are the same guy; right?

A Yes.

Q And just so we're – so the Judge is clear: Sketch 1, which is this guy here, that is a sketch made by Sarah Carbaugh's description of what she saw; correct?

A Yes.

Q And sketch 2 is what Betsy Blair – the description she gave of the person she saw; is that correct?

A Yes.

Q Sketch 1 was the person that Sarah Carbaugh claims that she saw at around four o'clock, after you say that the girls were murdered; correct?

A That is correct.

Q And sketch 2 is the Betsy Blair sketch, is who Betsy Blair described that she saw probably around two o'clock, give or take, before the girls were murdered, as you say, on the 13th; correct?

A Yes.

Q And both of these guys, again, are the same guy; correct?

A Yes.

Q And both of these guys in sketch 1 and 2 are this guy, Richard Allen; correct?

A Yes.

Q They – but they don't look alike, do they?

A They have similar features, but one looks younger than the other, yes.

Q Okay. And you – it's fair to say that you need these guys to be the same guy for your timeline to work; would you agree?

A The evidence indicates that they're the same guy.

Q Okay. I understand that –

A Yes.

Q -- but that's – part of your theory of the timeline is dependent upon these guys being the same guy, sketch 1 and sketch 2; correct?

A Yes.

Q But that's not always the way that the State Police viewed sketch 1 and sketch 2, is it?

A I'm sorry, repeat the question.

Q The State Police didn't always view sketch 1 and sketch 2 as the same guy, did they?

A I've always viewed them as the same guy, yes.

Q Handing you what's been marked as Defendant's Exhibit WW, which is a Indiana State Police – it's called an e-mail update, I think there was also a press release sent out. Would you review that, please.

A Sure.

Q Tell me when you're done.

A I'm done. I'm finished, sir.

Q Thank you. They're talk – this is a press release talking about sketch 1 and 2; right?

A Yes.

Q And it says, "It's important to distinguish these points about the two sketches", first bullet point, "They are not the same person."

A Correct.

Q Okay.

A That's what that says.

Q Number – bullet point number two, "The person depicted in the originally released sketch is not presently a person of interest in this investigation"; correct?

A Yes.

Q Bullet point number three, "The sketch released on April 22nd –

MR. MCLELAND: Judge, I'm gonna object at this point. I think the exhibit speaks for itself. If he wants to admit it, he can admit it, the Court can review it.

MR. BALDWIN: I'll admit it.

DEFENDANT'S EXHIBIT WW OFFERED

THE COURT: All right.

MR. MCLELAND: No objection, Judge.

THE COURT: All right. I'll show WW admitted without objection.

DEFENDANT'S EXHIBIT WW ADMITTED

Q So, Detective Holeman, the State Police, while they're looking for the person that killed or people that killed A.W. and L.G., they thought sketch 1 and 2 were two different people?

A I think there was some confusion –

MR. MCLELAND: Objection, Judge. It calls for him to speculate what the ISP thought. He can testify as to what he thinks. But again, the document speaks for itself, Judge.

THE COURT: Sustained.

Q The press release that you read indicates that these are two different people?

MR. MCLELAND: Objection: Asked and answered.

THE COURT: Sustained.

Q After Richard Allen was arrested, sketch 1 and sketch 2 were considered to be just one person, Richard Allen; correct?

A Yes.

MR. BALDWIN: No other questions.

THE COURT: Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

CROSS EXAMINATION OF LIEUTENANT JERRY HOLEMAN

QUESTIONS BY MR. MCLELAND.

Q Lieutenant Holeman, sketches, are they a tool that law enforcement use to identify possible suspects in a crime?

A Yes.

Q And are you aware, in this offense, my understanding is that Ms. Carbaugh and Ms. Blair, they didn't want to do a sketch, but they were pressured by police to assist in the investigation; is that a true statement?

A Yes.

Q Okay. And the timeline – they asked you the question the timeline is

dependent on the sketches. That's not a true statement, is it? Our timeline isn't dependent on these sketches.

A No. It's dependent on the people that saw those people that they sketched.

Q So witness testimony?

A Yes.

Q Okay. And then, the last question he asked you was, "Once Richard Allen was arrested, it was ISP's view that these are the same people?" Has it always been your view that those sketches represent the same person?

A Yes, sir.

Q So ISP's view may be different; your opinion is that those represent the same person?

A Yes.

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

MR. BALDWIN: No other questions.

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

THE WITNESS: Thank you.

MR MCLELAND: Is he released from his subpoena?

MR. BALDWIN: Yes. Yes, from me.

MR. MCLELAND: Thank you, Judge.

THE COURT: You may call your next witness.

MR. BALDWIN: Thank you. Going through – it's not going to be a witness, it is going to be – Judge, if we have had prior exhibits, is it eas – which is easier for you, I just want to make it easier for you, if you have prior exhibits, do you want all – do you want me to refer back to those? I haven't been doing

that. Or would it be – is it better for you to have them all kind of bundled and, "Okay, this is on this hearing?"

THE COURT: Yes.

MR. BALDWIN: That way?

THE COURT: That would be my preference.

MR. BALDWIN: Okay. I'll move to admit XX, which are the emails between Doug Carter and the FBI that were referenced on Tuesday, I'll read it briefly into the record, the part that I want you to consider.

DEFENDANT'S EXHIBIT XX OFFERED

THE COURT: Are they marked?

MR. BALDWIN: No. I will do that, though.

THE COURT: I mean, that way that'd save me some time, if you'd just have them marked; then I know that those are the things that you want me to review.

MR. BALDWIN: Okay.

THE COURT: And is there any objection to XX?

MR. MCLELAND: No, Your Honor.

THE COURT: All right. I'll show those admitted without objection.

DEFENDANT'S EXHIBIT XX ADMITTED

MR. BALDWIN: This is from – reading into the record from the February 17 email, "Suspect 6 is being worked hard right now, too. He has ties to Bradley Holder, who we have been working. He may have ties to Vinlanders. DT squad apprised and tasked sources to collect any intelligent – intelligence which may assist." I think that's – for purposes of this hearing, that's the only thing that I would want referenced. Did I admit it?

THE COURT: Yes, you did admit it.

MR. BALDWIN: Next, I will move into evidence YY, which is – this is what I referred to in my opening as – I call it the Blocher report, Judge, but it is a report by Steve Mullin concerning his interaction or discussion with Sergeant Blocher. I'm gonna read into the record the second page.

DEFENDANT'S EXHIBIT YY OFFERED

MR. MCLELAND: Judge, I have no objection to the exhibit, just want to make a note for the record that it's the State's perspective at this point that this is – would not be admissible at trial, that it's hearsay. Mr. Blocher's not gonna be available to testify. This is a written statement in a police report, and so while I don't object to the exhibit, I don't think it's admissible at the trial level, Judge, and so – and I also don't believe it needs to be read into the record. If it's gonna be entered, the Court can consider it and it'll speak for itself.

MR. BALDWIN: Well, then let me mark which part I want.

THE COURT: YY then is admitted without objection with those provisos.

DEFENDANT'S EXHIBIT YY ADMITTED

MR. MCLELAND: Yes, Your Honor.

MR. BALDWIN: And, Judge, as it relates to that, I'm guessing at the very end of this hearing perhaps the State's gonna be saying, "This piece of evidence is inadmissible. That piece of evidence is inadmissible." Are you going – what's going to be your preference regarding that? Like arguing it now or arguing it in a – like in a memo afterwards?

THE COURT: If you want to submit memos, you certainly can. I mean, I – you can also argue it here.

MR. BALDWIN: Okay. And I want to move along, so –

THE COURT: Okay.

MR. BALDWIN: -- I'll move to – or Exhibit YY I move to admit into evidence for the purposes of reading – I'm not going to read it into the record, but –

THE COURT: Just marked it?

MR. BALDWIN: -- it's marked, yeah.

THE COURT: All right. Thank you.

MR. BALDWIN: Thank you. Would call Amber Holder.

(Witness sworn.)

DIRECT EXAMINATION OF AMBER HOLDER

QUESTIONS BY MR. BALDWIN.

Q State your name for the record and spell it, please.

A Amber Holder, A-M-B-E-R H-O-L-D-E-R.

Q Amber, how old are you?

A I'll be 31 in November. I'm bad with dates.

Q Dates aren't your strong suit?

A No, sir.

Q What do you do for a living?

A I'm a manager at Public Storage.

Q And how long have you been doing that?

A Almost two years now.

Q Was there ever a time that you were married to Brad Holder?

A Yes, sir.

Q Knowing that you're bad with years, can you kind of give us a sense of

when that was?

A Around 2018.

Q Okay. How was the – how – were – you were actually married; is that right?

A Yes, sir.

Q Did you have any children together?

A No.

Q And how was the divorce? Was it acrimonious? Were you angry at everybody? Do you have a grudge against him now or is it pleasant?

A It was pleasant.

Q Did – after the divorce, would you go talk to him from time to time?

A Yes.

Q Okay. Were there ever any occasions after you were separated where, you know, Brad Holder talked about the Delphi case?

A After we were divorced? No.

Q Okay. What about before you were divorced?

A Yes.

Q Were you separated or still together?

A We were still together.

Q Okay. Tell me about – what did Brad Holder tell you about the Delphi case, if anything?

A At the beginning of the marriage or in the middle?

Q Let's start at the beginning.

A When we first got together, he said that he didn't know anything about the Delphi case, that he didn't – he'd never met A.W. In the middle, he said that – when he was drinking, that he had a fight with Patrick next to a river and there

was some blood on a rock and that him and Patrick were fighting because Patrick wanted to up from animal slaughter to a different type of sacrifice.

Q Okay. Was what was ever going on at – near the water you said, was that – what was going on there that caused the fight in question?

A Brad said that they were next to the water and there was blood on a rock near it and that Patrick wanted to up sacrificing animals to humans.

Q Okay. Did Brad Holder ever cut his own hand as part of a ritual?

A Yes.

Q Tell the Judge about that.

A He was praying to the gods using incense in a metal bowl with flames and he sliced his own hand to use his own blood as like a type of sacrifice.

Q And where would the blood go?

A Into the pan that had the incense with fire.

Q Did he ever cut your hand in some way?

A Yes.

Q Was there any difference in how that happened or where the blood –

A No.

Q -- went? Did Brad ever tell – you said that early in the marriage he said he never met A.W.

A He said he never met A.W. and he didn't know anything about the Delphi case.

Q Okay. Did that change later on? Did he say that he knew something about it or knew who might have killed those girls?

A He said that – I brought it up because his son Logan, his middle son, kept having issues, and I sat down and talked to him and he said that he missed A.W.

And I asked who A.W. was, and it was his girlfriend that, apparently, got murdered. So then, I brought it up to Brad, and he was drinking a lot, and he said that Patrick killed A.W.

Q Did he say Patrick did that alone or with other people?

A He said others and that I need to keep my mouth shut.

Q And did he say why you needed to keep your mouth shut?

A If I talk, that they would kill me.

Q Do you know if Brad Holder owned knives?

A Yes.

Q Do you know how many knives approximately?

A No.

Q Was it lots of knives or just a few knives?

A He had some at the house that we were staying in and then he had some at his parents' house, but I don't know if he had any anywhere else.

Q And did he make his own knives or did he buy the knives, do you know?

A I'm not sure.

Q Oh. And can you describe what at least one of the knives looked like?

A The knife that he used to cut his hand to praise the gods and to cut my hand was a curvy blade with a wooden handle and it was rusty.

Q Okay. What about runes, did Brad Holder have runes? Did he –

A Yes.

Q Okay. Tell me about that.

A They're usually made out of animal bones, usually like an antler or something, but we cut it into like small circles and then you usually grab like a wood burner and put your runes on it, but yes, he did have some of his own

runes.

Q And you – what is your religion?

A I follow the old Nordic gods.

Q Okay. And what was Brad Holder's religion?

A He – when we first met, he said he followed the old Nordic gods. Found out he is – he was supposed to be a sixth-generation Christian preacher, and he decided to pick up my religion, but he was very confusing on that.

Q Okay. Did you and Brad ever pray to Odin or other gods?

A We prayed to our gods – well, my gods. Odin is the main god, but there is no such thing as Odinist.

Q Okay. Yeah, just – thank you for saying that, but you don't think – if I were to use the phrase "Odinist", you don't think that that's a real thing?

A No.

Q Why?

A You can pray to one god out of all the gods, but there isn't actually an Odinist.

Q Okay.

A And – sorry.

Q No, go ahead.

A Odin is very protective over children, so if – there would be no one in my religion to sacrifice children. We protect women, children, and the only time we hurt an animal is to use every part of that animal.

Q And again, what is your religion?

A I follow the old Nordic gods.

Q Old Nordic gods. Did Brad Holder ever tell you that Pat Westfall and his

crew killed the girls because one of the mothers was mixing with another race?

A Yes.

Q Was that – when did that conversation occur?

A That conversation occurred during the marriage. He said that A.W.'s mom was sleeping with a black man.

Q Did Brad ever warn you about Patrick Westfall? I can't – I know we talked about that, but I –

A Yes.

Q Why did he say you should be concerned?

A After we got divorced and I spoke to the two police officers at my house, they asked if I could go back and get more information. I went back and said that my best friend/sister was talking about dating Patrick, and he told me to stay – told us both to stay away from Patrick, because he's very dangerous.

Q Did he mention anything about a fire and Patrick Westfall?

A Um-um, no, sir.

Q Nothing you remember?

A Not that I remember.

Q Okay. Did you ever see any images on Brad's phone of kind of girls on a – on like a forest floor?

A Yes, sir.

Q Tell the Judge about that.

A I seen that Brad had multiple Facebooks and I asked him about it and he said that they kept getting – that he kept forgetting the passwords and that he kept making new ones. And I asked him about a picture I saw with two women in the woods, and he said those are his friends posing as dead bodies.

Q Okay. Why did he say there were two women posing as dead bodies in the woods? What was the purpose?

A He said that they were reenacting like a sacrifice, but his friends were playing and there was – they weren't actually dead.

Q And how many of those photos did you see?

A Two.

Q Did Brad Holder ever tell you whether or not he and Patrick Westfall sacrificed animals?

A Yes.

Q And what was the answer?

A He said that they went hunting for deer and stuff.

Q Okay. Is that – well, hunting would be different than sacrificing, I want to be clear.

A Well, hunting is kind of like a sacrifice.

Q Okay. Well, maybe I'm wrong. Sorry.

A 'Cause you would use the blood in a ritual, like praising the gods. Like Odin loved tobacco, you would lay a cigarette in the flames with the incense, you would also drop some type of sacrifice in there, either your blood or an animal's blood.

MR. BALDWIN: Thank you. I don't have further questions.

THE COURT: Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

CROSS EXAMINATION OF AMBER HOLDER

QUESTIONS BY MR. MCLELAND.

Q Ms. Holder, I may have missed this, but you – do you know the time period

you were married to Brad Holder, just the years? Like, you know, July 1st of – doesn't have to be that exact, but the years that you were married?

A Well, when he started drinking and saying all the stuff, I didn't want to keep me and my children in that household, so –

Q That's fine. Do you know the years you were married?

A 2018. It only lasted a couple months.

Q Okay. So just in 2018?

A I do believe so.

Q Okay. And during that time, he practiced – at least in part, he practiced the same religion as you did to the old Nordic gods?

A Yes.

Q And it sounds like – I don't want to put words in your mouth, but is it fair to say that he was conflicted on whether to practice the old Nordic god religion or Christianity?

A Yes.

Q Okay.

A He was – oh, I'm sorry.

Q That's okay. That's okay. Were –

A He was –

Q -- there other religions that he was thinking about practicing during that time?

A If he was, he didn't share.

Q Okay. You didn't know about it?

A Yes.

Q And so – but at least – or at a very minimum, he was carrying through

with practicing or praising the old Nordic gods with you, going through these ceremonies and whatnot with you at that time; is that right?

A Yes, in our bedroom.

Q Okay. And so when he would cut his hand, that would be to offer blood to the gods?

A Yes.

Q When he did that to you, I mean, was he – was that voluntary on your part?

A I was watching him do it and he only did it once.

Q No, I meant – but when he – you said you also – he also cut your hand; is that right?

A Yes, sir.

Q And did he hold you down and cut your hand or did you willingly participate in that to say, "Okay, I want to sacrifice my blood to the gods, as well. Cut my hand, too"?

A No, sir.

Q Okay.

A I was standing next to him, he grabbed my hand, it was very quickly, and he just did a small slice right here.

Q Okay. All right. You'd said that your – the religion your practice, the old Nordic gods, is that the religion that's very protective over children and no one in that religion would hurt children; is that an accurate statement?

A Yes.

Q Okay. And that's a religion that Brad Holder was practicing, at least in part, with you?

A Yes.

Q Okay. These statements that Patrick Westfall allegedly made, did you hear any of them yourself?

A No, sir.

Q And so you were getting those through Brad Holder?

A Yes, sir.

Q Were you ever in the same location when Patrick Westfall made these statements?

A Never met him.

Q You never met Patrick Westfall at all?

A No, sir.

Q So you never heard him make any of these statements that Brad Holder was talking about?

A No, sir, I did not.

Q Okay. All right. During the time you were married to Brad Holder, where did you live?

A We lived first in a upstairs like one-bedroom apartment –

Q That was a bad question. Which town did you live in? Sorry.

A Logansport, Indiana.

Q Logansport? Did you ever move outside of Logansport?

A After we were married?

Q No, when you were with Brad, sorry. That was a bad question. Did you ever move outside of Logansport while you were with Brad and married to Brad?

A No, sir.

Q Okay. During the time you lived with Brad, did you and Brad ever travel

to Delphi?

A No, sir.

Q Did you ever travel to the Monon High Bridge?

A No, sir.

Q Okay. Did you ever travel to Rushville?

A No, sir.

Q Do you know anybody by the name of Elvis Fields?

A No, sir.

Q What about Rod Abrams?

A No, sir.

Q What about Johnny Messer?

A No, sir.

Q Okay. Do you know, during the time you were together, was there ever an occasion that you knew that Brad Holder travelled to Delphi?

A No, sir.

Q Did he ever travel to the Monon High Bridge?

A Not that I know of.

Q Did he ever travel to Rushville?

A Not that I know of.

Q Did any of those people that I mentioned ever come to your house?

A No, sir.

Q Okay. And if Brad was practicing the same religion you were at that time, it would have been against your religion to hold any kind of sacrificial killing of a child?

A Yes, sir.

Q To even hurt a child?
A Yes, sir.
Q You said that Brad Holder owned knives. Do you own any knives?
A Yes, sir.
Q Are knives a big part – I don't want to say big part – are knives a part of your religion?
A Yes.
Q And so is it common for somebody who's practicing or who believes in the old Nordic gods to have knives?
A Yes, sir.
Q And when I talk about knives, I'm not talking about kitchen knives in a kitchen block, these are – I want to say ornate knives, but these are knives that I guess aren't the regular knives you would use in a kitchen; is that fair in saying?
A Yes, sir.
Q Okay. The runes you talked about that Brad Holder made, would you make your runes, as well – or runes for you, as well?
A Yes, sir.
Q And is that part of your religion, as well?
A Yes, sir.
Q Okay. The fact that you carry knives and that you make runes and that you worship the old Nordic gods, does that mean that you do sacrificial killings?
A No, sir.
Q Do you know anybody that you associate with that worships the old Nordic gods that participate in sacrificial human killing?

A Not that I know of.

Q Okay. Do – does everybody that worships the same religion you do, do they have knives like you and Brad Holder had?

A They might, but I'm not sure, sir.

Q Is it common?

A We like knives, swords, hatchets, machetes.

Q What about runes; is it common for someone who practices your religion to have runes?

A Yes, sir.

Q Okay. Do you know A.W.?

A No, sir.

Q What about L.G.?

A No, sir.

Q Were they ever at your house?

A No.

Q Okay.

MR. MCLELAND: Just a moment, Judge.

Q Amber, did you know Brad in 2017?

A No, sir.

Q When did you meet? Doesn't have to be exact day, just was it the end of the 2017? Did you get marr – let's back up. I'm sorry, let me withdraw the question. You said you got married in 2018; was it at the beginning of 2018?

A Maybe.

Q How long did you know him before you got married?

A Probably a couple months.

Q So safe to say if you met him, it may have been –

MR. MCLELAND: Well, let me rephrase that, Judge.

Q You met him a couple months before you were married. Did the two of you move in together right away?

A No, sir.

Q And you didn't know him before – I guess prior –

MR. MCLELAND: Well, let me back up, Judge. I'm sorry. These are bad questions.

Q When you were with him, where did he work?

A He said he worked at the landfill.

Q Okay. Did you have doubts about that?

A No, but I had never been there or seen him working there, so I was taking him at his words.

Q But he was working?

A He said yes.

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

THE COURT: Mr. Baldwin.

RE-DIRECT EXAMINATION OF AMBER HOLDER

QUESTIONS BY MR. BALDWIN.

Q Brad Holder, did he talk about Patrick Westfall as a former friend or a current friend when you were married to him?

A He said that he was a former.

Q And the reason that they're – they were former friends is related to what?

A Related to the argument they had next to the river.

Q Okay. Was that part of a ritual? Was the argument over a ritual that

happened?

A I'm not sure. He didn't go very well into detail.

Q Something about blood on a stone and –

A Yes.

MR. BALDWIN: Okay. And – all right. I have no other questions.

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

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

THE WITNESS: Thank you, ma'am.

THE COURT: You may call your next witness.

MR. BALDWIN: Thank you, Judge. I would call Kevin Murphy.

(Witness sworn.)

DIRECT EXAMINATION OF OFFICER KEVIN MURPHY

QUESTIONS BY MR. BALDWIN.

Q State and spell your name for the record, please.

A Kevin Murphy, K-E-V-I-N M-U-R-P-H-Y.

Q Thank you. What does everyone call you?

A What's everybody call me?

Q Murphy?

A Murph.

Q Murph is good. All right, Murph, why are you here?

A I have a subpoena.

Q Give us a little bit of background, I know you did this on Tuesday, but we're back on the record, so just a brief background. What do you do now?

A I'm a police officers, the name of the town is Beverly Shores, Indiana.
Q How long have you been doing that?
A Two years.
Q And then, before that?
A I did the shop teaching for a while after I retired from State Police in the Valpo Community Schools, a short stint at Valpo University, and then I did court security, like the officers do here, in Porter County, which is in Valparaiso.
Q And then, before that, that was the State Police?
A State Police from June of '95 to July of 2021.
Q All right. And did you leave on good terms?
A Yes.
Q Meaning you retired?
A In good standing, yes.
Q In good standing, okay. I want to direct your attention to your involvement – were you involved in the Delphi investigation, murder investigation?
A Yes, I was.
Q And can you give the Judge an idea of the timeframe in which you were involved?
A The first day would have been right after Martin Luther King, Jr. Day, which would have been February 21st of '17 –
Q Okay.
A -- and all the way through October 1st of 2019.
Q And I can't remember you – I think I asked you Tuesday, but did you – were you on this Delphi death investigation the entire time and that's what you did the minute you got up or was it days that you didn't work on that?

A There were some days when we had details at the FBI Joint Terrorism Task Force. The main office was in Indy, but we worked out of a sub-office in Merrillville.

Q What kind of – when you first got involved, what – just give the Judge an idea of what – were you in a room and there's a bunch of people? Did you meet one-on-one with somebody? How did that all go down?

A Early on in the investigation, we were in the old Delphi town hall upstairs, sometimes hundreds of officers. We'd get down here 8, 8:30, and usually have a briefing and go over what had transpired the day before and then the tips and leads we were all going out on and often divided in two-people teams.

Q And how much information were you being given in the mornings at these briefings and who was giving the information?

A The information generally came from Unified Command, oftentimes it was Lieutenant Holeman, it might be Sheriff Liggett, it might be Detective Kevin Hammond, just depending on the day.

Q And then, I'm presuming that that wasn't the only time that you received information at these briefings in the morning. Were there other conversations, private or – not private in the sense that it's whispering, but just as a matter of course in the investigation, talking from one person to another? Were those – were there those kinds of conversations, as well –

A Yes.

Q -- outside of briefings? Give me an example of what – how that might come to be.

A I remember early on I went out a lot with my classmate, who's a lieutenant at Bremen, Lieutenant Chad Larsh, and we seemed to go out on a lot of the tips

that involved the most terrain, the most difficult people to find, because we'd been SWAT team members and worked well together and we were always teamed up during those years, so we did a lot of details that were sometimes more difficult to get to.

Q What was your understanding of the timeframe of when the girls were killed, what was your understanding and what was that understanding based on?

A So approximately after the last evidence of them being on the bridge, which was – I think was 2:13, it might have been 2:15, so from that general window of 2:15 to about 3:30 that afternoon, so about an hour and 15-minute timeframe.

Q And when and where did you get that as the chunk of time that it took for those girls to be abducted and murdered?

A It was generalized from that end of the bridge to where they were found the following day on the 14th that a fair window of how long it would have taken for everything to transpire would have been an hour, an hour and 15 minutes.

Q And was there ever – to your knowledge, was there every any consideration that the time of death was sometime outside of those two frames, 2:15 and 3:30?

A I had never actually heard any time of death in the time I was here.

Q Again, when was the first time that you were on the case, that –

A Starting February 21st, which is a week to the day after the girls were found.

Q Okay. What was the – your understanding, if you have one, of the – based upon readings or based upon information you were receiving from anyone as to how many people were involved in the murders?

A Based on the crime scene, the specifics of it, the intricacies of it, it could

have been as few as two or three or even maybe five or six, and those two numbers always stick out in my mind, maybe two or three, but possibly five or six.

Q And the entirety of your tenure working on the Delphi murder case from February of 2017 to – when was it?

A October of '21 – or, I'm sorry, October of '19.

Q 2019?

A Yes.

Q Was it always the same, two or three people or four – what'd you say? – five to –

A Five to six. Yes, generally, it was.

Q Okay. Was there a time when you got involved in a part of the investigation that took you to Rushville, Indiana?

A Yes, there was.

Q Tell the Judge about how that happened and what happened with that investigation.

A Prior to Christmas of 2017, actually the week of Christmas if I'm right, we received a tip that stated a subject from Rushville, Indiana, had admitted to a family member that he was involved in this crime.

Q Okay. And who was that person that was – had I guess confessed to the crime or admitted participating in the crime?

A Yes. His first name is Elvis, last name is Fields.

Q Okay. And I know you said that came in from a tip. Do you know who the tipster was?

A The tip was difficult to understand, but I think it ultimately came when

my investigative partner, Greg Ferency of Terre Haute PD, did the – somehow got it to our command center and it came from a woman by the name of Misty Moore.

Q Okay.

A And she was associated with family members through Rushvill of a sibling of Elvis Fields.

Q All right. So once you heard that there had been some type of statement made by Elvis Fields, involvement in the murder, what then did you do?

A Detective Roland Purdy and I went down there, I believe the date would have been January 7th, it was a Monday after the holiday of 2018.

Q Okay. And what did you do when you went? You said you went down to Rushville?

A We met here in Delphi at the command center, the old Nipsco building, and we went to Rushville, Indiana, where we had prearranged to talk to the sister of Elvis Fields.

Q Okay. And after you talked to the sister of Elvis Fields, what did you – what then did you do?

A We got a hold of Unified Command. We thought this was a very sustainable tip, something that needed to continue to be investigated, and we continued to investigate it from that point on.

Q What made you think that it was worthy of being investigated?

A The information provided to us by the sister was very specific about the crime scene and what had occurred and it just seemed like information that no on else would have known.

Q Okay. And then what happened next?

A A day later, we met up with one of our sergeants in the Drug Enforcement

Section. The following day I believe was a Wednesday. We met up again with Mary Jacobs and attempted to have her, through a recorded call, speak with Elvis, who was living with a sister by the name of Joyce Moffitt in a little village called Dunkirk, Indiana.

Q Okay. And what happened then?

A We did the controlled phone call. She was very anxious about it. We tried to keep her calmed down during the call and Elvis didn't really give any indications of any involvement, and then the call went south when she just blurted out, "Elvis, why did you kill those two girls?"

Q Okay. That caused the call to go south?

A Immediately, yes.

Q Okay. What happened after that?

A Through the process, I had met with Prosecutor Nicholas McLeland about the lead we had. He said something to the effect of, "If it's got legs, run with it. Keep me in touch. Go get them."

Q Okay.

A And Roland Purdy and I eventually made arrangements to take Mary Jacobs for a polygraph, I don't remember the exact date, but it was within a couple of weeks after that, at the Indianapolis lab, and we were there for that entire polygraph, the two of us, we watched the polygraph.

Q What was the purpose of the polygraph?

A Just the request of our Investigations Division to see would there be any indications of deception or was she truthful, was she believable.

Q And did the results of the polygraph caused you to continue on or to stop?

MR. MCLELAND: Judge, I guess I don't really have a valid objection

for this question, but this absolutely is not admissible at trial level, so I'm not sure the Court should consider it for a third-party motive, so I am gonna object. Anything about a polygraph is not admissible at trial, there's no exceptions that I know of –

MR. BALDWIN: No.

MR. MCLELAND: -- and so I'm gonna object to the question, Judge.

MR. BALDWIN: I agree with him.

THE COURT: All right. Sustained.

Q After the – after – I don't know how else to say it, 'cause I don't know, it's a polygraph. After the polygraph, what happened?

A We still continued our investigation.

Q Okay. And in what form?

A We found, after that event, the possibility of more people being connected to the crime between the town of Rushville PD – or the town of Rushville and Delphi.

Q Are you still working with Roland Purdy at that time or are you working with other people?

A At some point, Roland Purdy was assigned or reassigned to his FBI task force, it's out of Fort Wayne, I believe, but I started working primarily with Greg Ferency, who provided the initial tip on Elvis Fields –

Q Okay.

A -- and due to the nature of Rushville being where it is, we developed a liaison through their PD who, at the time, was the assistant chief, Todd Click.

Q And so there's kind of three guys, let's go through kind of what each guy doing. What was Ferency's primary role, if he had one?

A Mainly, he did the social media aspects of the case, larger part what was going on in Delphi, and the Rushville end of it was handled by Todd Click, but it just came upon me that my entire focus was on Elvis Fields.

Q Okay. So what was the next thing then that happened with Elvis Fields?

A We talked to him a couple times. I remember Lieutenant Holeman and I even did some sort of interview that was recorded and we documented with Elvis Fields, and I believe he even consented to a swab for DNA.

Q And what happened after that swab was taken with Elvis? Did he stick around and answer questions or –

A When we finished up with him at the PD, he didn't have a ride home, I remember it. I felt bad for the guy, so I got him back to his trailer in Rushville. I don't know that I could get you there today, but I remember getting him back to his trailer in Rushville.

Q And what happened, if anything, when you dropped him off?

A I dropped him off and he kind of walked towards his trailer, and then he turned around. I'm like, "Where's this going?" And he walks back and I roll down my window and I go, "What is it, Elvis" or whatever I said. "I got a question for you." I said, "Yeah." He goes, "That swab I did, if that happens to show that my spit is on one of the girls, but I can explain that away, am I in trouble? Do – you know, do I have a problem?" And I'm like – my response was with the generality of, "If you can explain away why something like that happened," I said, "you're good." And then I was just stunned and started making calls.

Q Who did you call?

A My first call was to Jay Harper.

Q And was he a part of Unified Command at that time?

A Yes.
Q Okay. And then what? Who did you call, if anybody, afterwards?
A I might have called Steve Mullin, I'm not really sure, that's going way back, but I'm positive my first call was to Jay Harper.
Q What – did you, as an investigator, consider that question that Elvis asked you to be important in terms of the investigation?
A I made a mistake that day.
Q You made a mistake?
A I made a mistake
Q What was the mistake?
A I should have thought about what I just heard, even though I followed command, followed the chain, and I should have just said, "Elvis, let's go get some food; let's go get some food, let's go back to the PD, and let's talk." And I should have opened that up further and I didn't, because it just didn't seem like, without the – not support, but the resources of another officer, that it's something I should have done, and I thought we could at least revisit it immediately in the next couple days.
Q Okay. So you have some – this sounds like you have some regrets about how that was handled on your end?
A I do. I'm human and, you know, we make mistakes every day, and I feel that was a mistake.
Q Okay. Well, what – after – I mean, that does seem like kind of big deal, what he said or what he asked. What happened then?
A I documented that entire day, did my typical Word document, put in the supplement, might have emphasized or highlighted what he said in exact words

because I felt that it was so shocking.

Q Sorry, I don't mean to turn my back to you, but –

MR. BALDWIN: I'm sorry, this is gonna be – have to be one of those things, Judge, I have – I can't locate the (inaudible) report from a couple days ago. I don't know – do you know what I'm referring to, Judge, as –

THE COURT: I do not. I'm sorry.

MR. BALDWIN: Okay. That – no, that's fine.

THE COURT: His report?

MR. BALDWIN: Yes.

THE COURT: Yes, I do.

MR. BALDWIN: You do know what I'm talking about? Okay.

THE COURT: It was Defendant's S.

MR. BALDWIN: Thank you. Defendant's S.

Q You were here the other day, I handed that to you; and just remind the Court of how that thing got put together, how your report got put together.

A When I went out – I'm sorry.

MR. BALDWIN: Now do you want me – for purposes of –

THE COURT: Oh, you've got another one? Okay.

MR. BALDWIN: I found it. I'll go ahead and – thank you.

Q I'm gonna hand you Exhibit ZZ, and just take a look at that and tell me what that is. Have you had a chance to review that?

A Yes.

Q What is it?

A This is a print-out of a lengthy Word document that I completed on all the aspects or ties between Rushville and Delphi.

Q How many – like what type of timeframe are we talking about to put something like that together? Is it days? Weeks? Months? Years?

A This took a couple weeks to put together. It might not seem like that, but just to get all of it factually organized and the correct order.

Q Well, I'm talking about in terms of how much time does that document span? That's probably not a great question. Like the first time, the first entry is January, when would your last entry be?

A Well, this started with January, 2018, the first time we met Mary Fields, and this included several months of –

Q It was several months?

A -- documentation, yes.

Q Was there – can you just tell the Court – part of what this hearing is about is trying to establish whether there's links between different people and – the murderers in this case and Rushville, people from Rushville. Can you talk about what lengths, if any, did you, Ferency, Click, and anybody else find that you thought linked Elvis Fields and others, perhaps, to the Delphi murders?

A Elvis Fields and his roommate, Rod Abrams, as well as a subject down in Rushville, Johnny Messer, who's somewhat of a Vinlander wanna-be recruiter, and then up this way in Delphi with Patrick Westfall and Brad Holder became like our five that were the pieces that put all the puzzle together.

Q What do you mean by that?

A Just the link between the two communities and what had transpired throughout our investigation with what we thought might have happened.

Q Okay. What – how were – let's start with this: How were they linked? How did – what links did you find between Brad Holder, Patrick Westfall up in Delphi

and Elvis, Rod, and did you say Ned Smith?

A Ned Smith as well who's –

Q Down in Rushville?

A Rushville.

Q Yeah.

A Greg Ferency and I worked together and he did Facebook gatherings of investigations. I know he did slides, he put everything together, and we were able to put together that all these people seemed to know each other and know each other through their circle.

Q Okay. And but why would that necessarily mean that they're involved in the murders just because they all know each other?

A Part of what we considered is that they seemed to know things that no one else would know unless they were involved or there.

Q Okay. Does that include Brad Holder?

A Yes.

Q And what do you know – and I believe – Greg Ferency, that was more of his thing was the Brad Holder end of it?

A Yes.

Q But did he share with you what his investigation involved?

A Yes, he did.

Q Okay. What was it about the investigation that caused you to think that Brad Holder knew things that – about the murders that he should not have known?

A Postings on Facebook that Greg and I talked about and he showed me that mimicked what was the crime scene.

Q Well, I've entered some into evidence. If I handed you some documents, would you be able to tell me if it's something that you had seen through Greg Ferency?

A Yes, sir.

Q Okay. I'm going to hand you what's been marked for today's hearing as Defendant's Exhibit KK; have you ever seen that?

A Yes.

Q Okay. What was the significance of that?

A This looks, to me, to be a symbol, often referred to as a rune, that – runes are on the hand of Brad Holder.

Q Okay. And what does that – why is that indicative of the potential that he was involved in the crime?

A It was – this marking on his hand, to a person with common sense, closely resembles the way one of the victims was marked at the crime scene.

Q Handing you JJ; can you tell the Court what that is.

A There's sticks on A.W.

Q Okay. It's tough to look at for you? I'm sorry.

A Yeah, it's tough.

Q Why?

A It sucks.

Q How long did you work on this case?

A Two and a half years. I don't want to look at that anymore.

Q I'm sorry. Is that – that's an example of one of the things that you think links Brad Holder to the crime; is that correct?

A Yes.

Q And then you had Elvis down in Rushville, saying, "What if my spit is found on the girls," and then he is – what links did Brad Holder have to Elvis?

A Elvis is a – he's a follower, he's a wanna-be, he would mimic almost every day,Greg Ferency told me, the kinds of things that Brad Holder would post on Facebook.

Q Did you ever see the Facebook photos that mimicked each other?

A Yes.

Q If I handed you those, would you be able to identify what you saw?

A Yes, sir.

Q Okay. I'm gonna mark these. I'm handing you what's been marked as AAA. There's no photos in this other than what I think are Facebook photos or images. Tell me when you're done reviewing that.

A Sir, I'm good.

Q Are those images that – are they familiar to you now that you've looked at them?

A Yes.

Q Tell the Judge what they are.

A These are Facebook holding – or Facebook postings from Holder and Elvis where Elvis mimics Holder.

Q Okay. Is – do you think that – well, describe to the Judge – I mean, she can see it, but describe the first one that you see.

MR. MCLELAND: Judge, I'm gonna object. The exhibits speak for themselves at this point. They've been admitted, the Court can look at them. He's identified that he's seen them.

MR. BALDWIN: That's fine.

MR. MCLELAND: I'd like to look at them, so I can know which ones he's identifying; but other than that, I'm gonna object to going through each photo and have him describe them, the Court can consider those.

THE COURT: Okay.

MR. BALDWIN: I'll move on.

THE COURT: Did you – you haven't moved to admit them yet.

MR. BALDWIN: I do move to admit.

DEFENDANT'S EXHIBIT AAA OFFERED

THE COURT: All right.

MR. MCLELAND: Can I just take a look at them, just so I know which one – I don't have an objection, I just want to see the ones. No objection.

THE COURT: All right. Without objection, I'll show AAA, Defendant's, is admitted.

DEFENDANT'S EXHIBIT AAA ADMITTED

MR. BALDWIN: Judge, while I'm – thank you, Judge. While I'm thinking about it, I would ask to take judicial notice of – for purposes of this hearing of Kevin Murphy's testimony from last – this past Tuesday, on day 1 of this three-day hearing, July –

THE COURT: Yes.

MR. BALDWIN: Thank you.

Q Did you think that those images, the – like, for example, the first one had brass knuckles, and brass knuckles with weapons around. Is there any way that could just be a coincidence?

A No, it's not a coincidence.

Q How in the world would Elvis Fields ever even learn the name of Brad

Holder?

A Through being in Rushville, he had an association with Johnny Messer, who had an association with those up here, and I'll just say it, they were proclaimed either Vinlanders or wanna-be Vinlanders, which is a crazy faction of Odinism.

Q Okay. And did Elvis Fields know Johnny Messer?

A Yes.

Q And did Johnny Messer know Brad Holder?

A Yes.

Q Did you and Greg Ferency ever ask for search warrants for Elvis's home?

A I recall we did.

Q Do you know if any search warrants were ever authorized?

A I don't remember that, sir.

Q That's fine. Was Brad Holder ever a suspect in this case, to your knowledge?

A In what we were doing, yes.

Q What do you mean by that?

A In what we were investigating, yes.

Q Okay. What about at the morning briefings in 2017, was Brad Holder a suspect then?

A No.

Q Were you reporting your work to Unified Command on a regular basis?

A Every day.

Q Okay. You talked about Rod Abrams and Ned Smith; who are they, so the Judge knows?

A Ned Smith owns a paving company out of Rushville, Indiana, and Rod Abrams and Elvis Fields worked for him seasonally, time to time, when they did paving jobs in Rushville, and this came from investigations and observations by Todd Click.

Q Did Rod and Ned, in the course of the investigation, ever say where they were and where Elvis Fields was in November of – in February of 2017?

A What was the date, sir?

Q I forgot what I even asked you, but – oh, did – when the girls were killed, did Rod Abrams and/or Ned Smith ever provide an alibi or an explanation to where they were?

A Visiting a sick friend at Ball Memorial Hospital in Muncie, called Lamont Stanley.

Q Okay. Was there anything funny about their alibi that you remember?

A They said they couldn't use cell phones there because of the hospital and not having a signal, I remember that specifically.

Q Okay. And – but they did both say that they had cell phones, but they just – if you pinged them, they wouldn't be able to –

A Yes.

Q But is that – kind of relay for me how that conversation happened.

A It was more with Rod Abrams I remember, than with Elvis. I remember actually, at one point, well-documented, interviewing Rod Abrams, I might have even been alone without another officer that day, and he told that story. And I remember we checked in on it and the way I recall it is they weren't at that hospital that day, that alibi was not true.

Q Did they say that Elvis was with them, if you remember?

A He was. They said he was.

Q They said he was. Well, what about Elvis's alibi? What alibi did he give for February 13th, 2017?

A I'm not remembering it.

Q That's fine. Do you remember an email about a ceremony – do you remember anything about a ceremony in Fort Wayne that Brad Holder and Patrick Westfall were involved with? If you don't, that's fine.

A I do not, sir.

Q Okay. That's fair. In your opinion as an investigator, was there links to – between Elvis Fields and Brad Holder?

A Yes.

Q And was there links between Brad Holder and the murder of A.W. and L.G.?

A Were there links?

Q Were there evidence of links between Brad Holder and the murders of A.W. and L.G.?

A I'm not understanding the word "links".

Q Yeah, it's not a great question. Was –

A I'm sorry, I don't understand.

Q No, no, no, that's fine. Were there any links that, in the course of your investigation or Greg Ferency's investigation that he shared with you, that linked Brad Holder to the murder scene? I guess we kind of went over it a little bit, those photos that you saw, the hand runes. Why was that important to you as an investigator?

A The symbolism that somebody posts, particularly on social media, that

identically in my mind, as a human being, mimics a crime scene is not a coincidence.

MR. BALDWIN: No other questions.

THE COURT: Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

CROSS EXAMINATION OF OFFICER KEVIN MURPHY

QUESTIONS BY MR. MCLELAND.

Q Officer Murphy, good afternoon.

A Sir.

Q I want to talk about this: When you first became involved in the case, it was in February of 2017; is that right?

A Yes.

Q And I just want to clarify: I wasn't the prosecutor then, and so I don't know if you – you may have spoke to me at some point, but I know you said you spoke to me, you may have, but I wasn't the prosecutor in 2017; agreed?

A Yes.

Q Okay. All right. Make sure I clarify that.

A Sir.

Q Yeah?

A It would have been in 2019 I spoke with you.

Q Okay. Okay, thank you. I want to talk about – and I just want to jump right into it. I want to talk about this encounter you had with Elvis Fields when you dropped him off at the house that day and he made the comment about spit on the girls. My recollection is that you made some comment recently that you didn't believe what Elvis was saying and you thought he was playing with you;

do you remember that conversation?

A Sir, I do.

Q Okay. And do you still believe that?

A I don't know what to think. I'm just gonna be straight-up honest with you –

Q Sure.

A -- I just don't know what to think anymore.

Q But at that point, you had a conversation with me and you said, "Look, I think Elvis was just toying with me and it, frankly, pissed me off."

A Correct.

Q Okay. You also have had some doubts about Mary Jacobs' I guess information; is that a fair statement?

A I can explain that, sir.

Q That's fine, let me ask you some questions. When you went to interview Mary Jacobs in her home, you noticed that she had an overwhelming amount of I want to say medication to deal with mental health?

A Yes, sir.

Q And that caused you to put her credibility in question; is that fair?

A As soon as I saw it, I gave up for a minute.

Q And I – and you had some issues with Elvis, as well; is that right?

A Yes, sir.

Q And I think one of the statements you made to me is that you think Elvis and Mary Jacobs are full of crap.

A Yes.

Q So we have these Facebook posts from Brad Holder that cause you to

continue to investigate that angle; correct?

A Yes, sir.

Q Through that investigation, were you able – ever able to place Brad Holder in Delphi at the time of the crimes?

A No, sir, we were not.

Q Did you ever look at Brad Holder's work records through your investigation?

A I did not.

Q Okay. Were you ever able to place Elvis Fields in Delphi at the time of the crime?

A No, sir.

Q And in fact, you ran his phone and phone records show that his phone remained in the Rushville area during the time of the crimes?

A That is correct.

Q Were you ever able to place Johnny Messer in Delphi at the time of the crimes?

A No, sir.

Q What about Rod Abrams or Ned Smith?

A We were not, as well.

Q And what about Patrick Westfall?

A He lives here. He lived here at the time.

Q But were you able to place him at the scene of the crime when the girls were killed?

A No.

Q Okay. During all these interviews that you had with Elvis and Rod and

Ned and Brad Holder, at any time did any of them admit to you that they were involved in the killing of A.W. and L.G. in any way?

A They did not.

Q Did you ever find any physical evidence tying them to the crime through your interactions with them?

A No.

Q I believe Elvis was interviewed a total of three times; is that right?

A At least, sir.

Q And I believe one of the times was at least three hours long; does that refresh your memory?

A Yes, sir.

Q And during all those interviews, he denied consistently that he had anything to do with the girls; is that correct?

A Yes, sir.

Q Even denied knowing the girls?

A Correct.

Q He said he didn't know the names, didn't know what they were talking about, he denied ever being in Delphi; is that right?

A Yes, sir.

Q Okay. You also had some concern about the distance between Delphi and Rushville. And is it fair to assess – you have to answer out loud, I'm sorry. Did you have some concerns about the distance between Delphi and Rushville?

A Yes.

Q In terms of the ability of these people in Rushville, the ability of them to get up here and commit this crime?

A Yes.

Q Were you ever able to confirm that Elvis Fields knew Brad Holder?

A I was not.

Q Okay. The Facebook post that you talked about from Brad Holder and that you reviewed here in the court today, did you actually examine Brad Holder's Facebook page or are those pictures that Greg Ferency showed you?

A Greg Ferency showed me.

Q Okay. And you agree those pictures that you were shown today and entered into evidence, they don't show anything involved in the killing of A.W. and L.G.; would you agree?

A I agree.

Q The pictures that were shown to you are pictures of jars and sticks and arrowheads and those kind of things; correct?

A Yes.

Q None of those pictures directly link Brad Holder or Elvis Fields to the killing of A.W. and L.G.?

A Yes, correct.

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

THE COURT: Mr. Baldwin.

MR. BALDWIN: No other questions.

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

MR. BALDWIN: Oh, I'm sorry, I do. I'm sorry.

THE COURT: Okay. Sorry, go ahead.

RE-DIRECT EXAMINATION OF OFFICER KEVIN MURPHY

QUESTIONS BY MR. BALDWIN.

Q I forgot to ask you this: Was there something significant – I think it's mentioned in your report – that Elvis talked about, blurted out something about a gang? Do you remember that?

A Mary Jacobs talked about that at length the morning that Roland Purdy and I first met her.

Q Tell me about that.

A That on the morning of February 14th, when he, in her words, got back from Delphi and handed her a coat that she said was blue in color with blood on it, that he said, "I'm now with a group and we're kind of in a gang," and I didn't know what meant at that point.

Q Did Elvis ever ask or talk about being part of a gang?

A He did not to me.

MR. BALDWIN: Okay. Okay. No other questions.

THE COURT: Mr. McLeland –

MR. BALDWIN: Hold on. Hold on, Judge.

Q Do you know whether Johnny Messer, Patrick Westfall, and Brad Holder would take photographs together or were ever seen in photographs together?

A Yes, they were.

Q This is BBB, handing you BBB. Can you tell us who's in that photo?

A Brad Holder, Johnny Messer, and Patrick Westfall – my apologies.

Q That's fine.

A It's a bad picture.

Q Yeah, it's not a good photo.

MR. BALDWIN: Move to admit Defendant's BBB.

DEFENDANT'S EXHIBIT BBB OFFERED

MR. MCLELAND: No objection. No objection.

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

DEFENDANT'S EXHIBIT BBB ADMITTED

MR. BALDWIN: Now I'm done, Judge.

THE COURT: All right. Any re-cross, Mr. McLeland?

MR. MCLELAND: Judge, thank you.

RE-CROSS EXAMINATION OF OFFICER KEVIN MURPHY

QUESTIONS BY MR. MCLELAND.

Q The picture you just looked at, Officer Murphy, was Elvis Fields in that picture?

A No.

Q What about Rod Abrams or Ned Smith?

A They are not in that photograph.

Q Okay. Do you recall a deposition that you gave involved with this case?

A Yes.

Q Do you recall Mr. Baldwin asking you, "As you sit there right now, based on your investigation of the Odinism angle, what was going on at the crime scene, do you feel satisfied that it was fully investigated, meaning Elvis, Patrick Westfall, and Brad Holder?" Do you remember that question?

A Yes, sir.

Q Do you remember your answer?

A Yes.

Q What was your answer?

A Yes.

Q You feel that it's been fully investigated into those three individuals?

A I don't know. I don't –

Q Well, your answer was yes at the deposition.

A My yes was –

Q Okay.

A Yes at the deposition.

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

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

THE WITNESS: Thank you. I apologize for crying in the court.

THE COURT: No apologies necessary, sir.

MR. BALDWIN: He's released.

THE COURT: You may call your next witness.

MR. BALDWIN: Judge, at this time I would move to admit the deposition of Elvis Fields. I've marked particularly what I want you to pay attention to, and that is page 25, where – "Question: In 2016 and 2017, you had heard Brad Holder's name because he was mimicking you on Facebook?" Elvis's answer was, "Yes." Let me make sure there's nothing else I want you to highlight. Page 16, line 1 through 5: "Brad Holder mimicked me." And that's it. And that would be CCC, which is Elvis Fields' deposition.

DEFENDANT'S EXHIBIT CCC OFFERED

THE COURT: Any objection, Mr. McLeland?

MR. MCLELAND: Your Honor, no objection. I want to enter the same deposition with the pages that I have marked. I've got them highlighted and I've got them marked with yellow stickers on the pages I want you to consider. I can – I don't want to read into the record everything, 'cause I think

that takes too long. I'm more than happy to recite the pages, but they are marked, Judge, so –

THE COURT: Okay.

DEFENDANT'S EXHIBIT CCC ADMITTED

MR. MCLELAND: -- whatever's most convenient.

STATE'S EXHIBIT 18 OFFERED

THE COURT: No, that's fine, just as long as they're marked. So that would be State's Exhibit 18. And I – is there any objection to State's 18?

MR. BALDWIN: No.

THE COURT: Okay. Show 18's admitted without objection.

STATE'S EXHIBIT 18 ADMITTED

MR. BALDWIN: And I also – now, page – I – and, I'm sorry, I didn't – I marked it, but I forgot to tell you, page 10 – 9 is that he said, "I don't know Johnny Messer." So I marked that page, as well.

THE COURT: Okay.

MR. BALDWIN: Todd Click.

(Witness sworn.)

DIRECT EXAMINATION OF TODD CLICK

QUESTIONS BY MR. BALDWIN.

Q State your name for the record, please.

A My name is Todd Click.

Q Spell it into the record, please.

A Todd, T-O-D-D, Click, C-L-I-C-K.

Q What do you do for a living?

A I am currently a parole agent with the State of Indiana.

Q And how long have you been doing that?
A I have been with Parole since March of this year.
Q What did you do before that?
A I was a police officer with the Rushville Police Department.
Q And how long were you with the Rushville Police?
A February 6th of 2001, until December 31st of 2021.
Q Was there an occasion where you were a part of an investigative team focused on the Delphi murders?
A Yes, I was.
Q How did you get involved in that?
A Sometime in June of 2018, Detective Greg Ferency and Detective Kevin Murphy came to the Rushville Police Department to interview an individual by the name of Elvis Fields. They requested to use our interview room. They asked if I could operate the recording equipment for them. I was the head of our Criminal Investigations Unit at the time, so I provided assistance to them.
Q And did that kind of evolve into something more over time?
A After the interview, they asked me kind of what I thought about the interview. I kind of gave them a brief opinion of what I had seen. They asked me if I was familiar with Elvis Fields and I told them that I was, so then we went – we then went back to my office and discussed Mr. Fields for a brief period of time.
Q Okay. What then did you do?
A I'm sorry?
Q What was your next kind of involvement in the investigation?
A I believe it was in August of 2018, Detective Ferency called me and said

that a lady by the name of Mary Jacobs had made some recordings of a conversation that she had had with her sister, asked if I would go and pick up that digital recorder and provide him with the recording.

Q Okay.

A And then, it was about a week or two later, Detective Ferency called me and said that Mary Abrams had made another recording with her brother, Elvis, and he asked if I could go and get that recording and provide it to him.

Q Okay. What's your next memory about your involvement in the investigation?

A Detective Ferency asked me if I could try and find some type of link between Elvis Fields and the Delphi area. I searched through the Rushville Police Department's database, trying to see if there might be any correlation between Mr. Fields and Delphi. I originally contacted Detective Ferency and told him that I was initially unable to come up with any type of connection between Elvis Fields and Delphi. It was at that time that Detective Ferency told me that a subject by the name of Brad Holder and a subject by the name of Patrick Westfall were possible suspects in the homicides and they – Detective Ferency asked if I would review their Facebook pages to see if I might find anything that might be of a Rushville link, so I did that.

Q What'd you find?

A I initially did not find anything on Mr. Westfall's Facebook page. Then, when I was scrolling through Facebook page of Brad Holder, I found a photograph of approximately six individuals wearing Vinlander t-shirts, and one of those individuals I immediately recognized as Johnny Messer, and that Johnny Messer was from Rushville.

Q Okay. What, then, did that cause you to do, if anything?
A At that point, I had known, from previous dealings, that Johnny Messer's uncle was a man by the name of Billy Messer, and that Billy Messer and Elvis Fields briefly lived together for a period of time, and then I relayed that information to Detective Ferency.
Q Then what happened?
A It was at that point that Detective Ferency and Detective Murphy decided that they were going to come to Rushville to try and interview Mr. Johnny Messer.
Q Okay. Did you find whether or not Elvis and Johnny Messer knew each other?
A We eventually did through interview and interrogations.
Q Did Johnny say that he knew Elvis or – and vice versa?
A Initially, Johnny denied knowing Elvis Fields, but then, in subsequent interviews, he did admit that he did know Elvis and that he used to take firewood and beer and cigarettes and some groceries over to their house periodically.
Q Okay. I think where you had left off was they wanted to interview Johnny Messer. Who was "they"?
A That would have been Detective Murphy and Detective Ferency.
Q What happened of significance, if anything, when – with that interview?
A They interviewed him, they interviewed him about his involvement with the Vinlander group. He – or I should say Johnny Messer initially said that he was a part of the group, but he was not real big into the Odinism aspect and that he knew Patrick Westfall fairly well, but what not real familiar with Brad Holder.
Q Okay. And was Patrick Westfall – did they ask him whether he was – he helped recruit for the Vinlanders? Was that a part of that conversation?

A Yeah, we did ask him if he had done any type of recruiting for the Vinlander group and he denied that he was any type of recruiter for the group.

Q Okay. Did you investigate whether his claims that he was not a recruiter were accurate?

A Yes, I did.

Q And what did you find out?

A Johnny had spoken with several people from Rushville about the Vinlander group, and I found three specific individuals that he actively tried to recruit to join the organization.

Q Do you remember their names?

A Yes. One was a individual by the name of Brandon Mansfield, one was an individual by the name of David Fields, and one was an individual by the name of Josh Moore.

Q Okay. So is it your belief, based upon what Johnny's answer to you was when he said, "I'm not a recruiter," based upon finding those people, was he – did you think he was being truthful or –

A No, he was being dishonest when he said that he was not a recruiter.

Q Okay. What happened, tell me, next in the involvement of this investigation.

A Okay. Eventually, we conducted a interview with Elvis Fields and Ned Smith.

Q Okay. And what, if anything, did you learn that was of note from those interviews?

A I specifically asked Mr. Fields about some of the incriminating statements that he had made to his sister. He denied ever making those statements, denied

knowing Johnny Messer, denied knowing Brad Holder, and denied knowing Patrick Westfall.

Q Did he ever tell you, he being Elvis, that "I don't know Brad Holder, but I follow him on Facebook" or "He follows me on Facebook"? Was there anything like that?

A There was no conversation like that that was said to me, no.

Q Okay. Later on, did you find out that they did have some connection to each other, Elvis and Brad Holder?

A Detective Ferency had conducted an investigation using some Facebook posts that he had compilated between Brad Holder's Facebook page and Elvis Fields's Facebook page, and there was some very similar photos that he had put together as kind of a side-by-side comparison of Mr. Holder and Mr. Fields.

Q Did you think that there was a similarity in those photos?

A When I initially saw those photos, I was skeptical, but kind of kept an open mind. As the investigation progressed and kind of the totality of the information kind of came together, I could see where those Facebook posts that Mr. Holder did and Mr. Fields did were similar in nature and seemed to be linking.

Q Okay. Well, what was it about the totality? I mean, what else was going on that would cause you to think, "Yeah, maybe these guys are looking at each other's posts or mimicking each other's posts"?

A Well, there was – it wasn't so much mimicking each other's posts, but we started finding other individuals that Mr. Fields and Mr. Holder had in common together.

Q And who is that?

A One of those individuals was named – a gentleman by the name of Josh

Chrisman.

Q Tell the Court about Josh Chrisman.

A Mr. Chrisman was originally a member of an organization called Sons of Odin that later transformed into a group called the Patriot Guard. During 2016, there was a Make America Great Again rally that occurred in Indianapolis where the Vinlanders and the American Guard got together. They said that they were providing security there because there was supposed to be some Antifa groups that were supposed to be there at the rally. After the rally, the Vinlander group and the American Guard group all went back to a house owned by the name – by a gentlemen of name Mickey McGinley, and then that's where Mr. Chrisman and Mr. Holder and Mr. Westfall, Johnny Messer, they all kind of partied together that evening.

Q Okay. But you said that Chrisman was also connected to – not just to Brad Holder, but also to Elvis?

A That is correct.

Q What's that connection?

A Okay. So Elvis would do some side work, and he worked at a hog barn in Rushville that was owned by Flynn Livestock. Some of the semi-truck drivers would pay Mr. Fields $20 to load and unload their semis for them. Mr. Chrisman was a semi-truck driver for the Flynns, who would transport livestock from the hog barn to different areas in the state.

Q Okay. And how did Elvis get connected with that or why do you think that?

A Through interviews with people that worked at the hog barn and also an interview later on with Johnny Messer, we learned that Elvis would specifically

load and unload hogs for Mr. Chrisman and would sometimes go on deliveries with him.

Q And where would those deliveries go?

A Some of those deliveries were to Whiteman Pig Farm and Indiana Packers here in Delphi, and then another location was the Tyson plant in Logansport.

Q Okay. And so what did all of that – and that – was that your work, your investigative work, all of that?

A Yes.

Q Okay. And what did all of that investigative work tell you about the connections between Elvis and Brad Holder?

A Well, there was a common denominator between the two of them and that was Mr. Chrisman.

Q And – but also Johnny Messer, he was also a common denominator?

A Yes, that is correct.

Q Okay. And how would it be that, based upon your investigation, Elvis would get up to Delphi, if he did?

A We – or I had learned through an interview with another person that worked at the hog barn, he told me that Elvis would sometimes go on these deliveries to Delphi with Mr. Chrisman and another semi driver by the name of Douglas Ed Hunt. Through my – the course of my investigation, that also – that individual also said that Mr. Chrisman had a girlfriend that lived in the Delphi/Lafayette area, and that every time he would make a delivery up this way, he would meet with his girlfriend and he would meet with his friends that were in this area. I found that on February 13th of 2017, Mr. Chrisman took a load of hogs from the Whiteman Pig Farm to a slaughterhouse up in Michigan called

Abbyland, and that that delivery left on February 13th of 2014 [sic]; however, he did not make the delivery to Abbyland until February 14th of 2017.

Q Okay. If it was admitted into evidence earlier, just before you got on, Elvis Fields admitting that he had been following – or his story was he was mimicking – Brad Holder was mimicking Elvis Fields's Facebook page, and I know this is after the fact, but how did – would that information impact any thoughts that you had on the investigation?

A The only impact that it had on me was that it suggested that or it was a connected between the two that Elvis Fields and Brad Holder and Josh Chrisman knew each other.

Q Okay. Just give me a second. At some point in time, you learned that Richard Allen had been arrested; is that correct?

A Yes.

Q What, if anything, did that cause you to do?

A Initially, when I heard of the arrest, I was kind of shocked and confused. Throughout the course of the –

MR. MCLELAND: I'm gonna object at this point. What is this relevant to any third-party motive or connecting a third-party to the crime?

THE COURT: How's it relevant?

MR. BALDWIN: Well, apparently, we're not playing nice here, but what goes on here is, you're gonna find out, is Mr. Click sends a letter to the prosecution, who doesn't turn it over to us for 90 days and I think that's relevant to, you know, us not getting information that is – goes toward third-party suspect.

THE COURT: I'm aware of that letter, it's been presented in other

hearings, so I'm not sure what the relevancy is of it in this particular hearing.

MR. BALDWIN: It actually is, I think, in *Franks* 1, which you have taken judicial notice of, so I'll move on.

THE COURT: Thank you.

MR. BALDWIN: I have no other questions.

THE COURT: Okay. Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

CROSS EXAMINATION OF TODD CLICK

QUESTIONS BY MR. MCLELAND.

Q Mr. Click, when you – I'll try to start here at the beginning. When you reviewed the Facebook pages of Brad Holder and Patrick Westfall – are those the two Facebook pages you reviewed?

A There were several pictures from the two from –

Q Did you review the Facebook pages of Patrick Westfall and Brad Holder?

A Yes, I did.

Q Okay. During your review of those Facebook pages, did you see any pictures that linked either Brad Holder or Patrick Westfall to the killing of A.W. and L.G.?

A No, I did not.

Q And you said that Messer spoke to several people and tried to recruit Vinlanders and that Johnny Messer knew Elvis Fields. Did you ever – and throughout your investigation, did you ever find any evidence that Elvis Fields and Johnny Messer would hang out at social events together?

A Not social events, no.

Q Did you find any evidence that they ever hung out at all?

A I had testimonial evidence that Elvis Fields had been to one of Johnny Messer's residences at one time.

Q Were you able to – were you ever able to confirm that?

A Unfortunately, no. The original person that I spoke with passed away from cancer and I was unable to do any follow-up questioning with him.

Q And you said when you conducted the interview, you conducted an interview of Elvis and Ned; is that – Ned Smith; is that correct?

A Yes.

Q Did you conduct any other interviews?

A Yes, I did.

Q Okay. That's a bad question. Did you conduct any interview with Patrick Westfall?

A No.

Q What about Brad Holder?

A No.

Q What about Johnny Messer?

A Yes, I did.

Q When you interviewed Johnny Messer, did you ask him to search his phone?

A No.

Q Why not?

A At that time, it had been several years since the murders had occurred and I did not believe at that time that we had any information that would lead us to believe that evidence of that murder would have been on his phone at that current time.

Q What about when you interviewed Elvis Fields, did you grab his phone?
A No, I did not.
Q Is it the same answer as what you said for Johnny Messer? Why didn't you grab Elvis's phone?
A Initially, when I first interviewed Elvis, I don't believe he had a cell phone at that time.
Q What about Ned Smith, did you ask him for his phone?
A No, I did not.
Q Why not?
A Ned Smith was never a suspect initially in my eyes.
Q Now, you talked about the Facebook pages and how they're – the photos were similar. Maybe I misheard you, but do you think Brad Holder and Elvis were trying to mimic each other?
A It appeared that one person was trying to mimic the other, yes.
Q Okay. And when you talked to – well, did you talk to Mr. Chrisman?
A Yes, I did.
Q And did you ask him about Elvis Fields?
A At – when I – no. When I originally talked with Mr. Chrisman, I did not have the knowledge that there was a connection between him and Mr. Fields.
Q After you found out about that knowledge, did you go back and talk to him?
A I attempted to and he would not talk to me again.
Q Okay. And so you were never able to confirm that Elvis rode with Chrisman on any deliveries?
A I did not have any direct evidence of that, no.

Q Okay. Did you have any direct evidence that Elvis rode with anybody on any deliveries?

A Just testimonial evidence.

Q Okay. Were you ever able to find any link between Brad Holder and the killing of A.W. and L.G.?

A Could you be more specific?

Q Sure. Were you ever able to place Brad Holder in Delphi at the time of the killings of A.W. and L.G.?

A No, I was not.

Q Through your investigation, did you ever find any evidence linking him to the crime scene?

A There was test – well, that's kind of hard to answer.

Q Okay.

A I had learned that – from Johnny – the interview that I did with Johnny Messer that Brad Holder liked to take sticks and form them into the shape of runes, and I knew that runes had been found placed on the girls at the crime scene, but as far as any direct evidence that Mr. Holder was the one that was directly responsible for putting those runes on the girls, I was never able to find any direct evidence to that.

Q And I'll try to make this quicker: The people you're investigating, were you ever able to tie any of them to the – were you ever able to place any of them in Delphi at the time of the crime?

A No, I was not.

Q Were you ever able to find anything that directly ties them to the crime scene?

A I would say – I think I know what you're asking, and the answer would be no.

Q Were you ever able to confirm that Johnny Messer had introduced Elvis to Brad Holder?

A No, I was not.

Q Now, you did an interview with Detective Vido of the ISP on August 30th of 2023; do you recall that?

A Yes.

Q And do you recall telling Detective Vido about your investigation and your conclusions from that investigation?

A I remember that we spoke briefly, about an hour, and I kind of summarized the investigation that Detective Ferency and Detective Murphy and I had conducted.

Q Sure.

A Yeah.

Q Now, I'm sure you're aware the Defense believes that this was done by this group of people – Patrick Westfall, Brad Holder, Elvis Fields – and that it was a ritualistic killing of the girls.

A Yeah.

Q Have you heard that theory from the Defense?

A Yes, I have.

Q Is that what you believe?

A No, it's not.

Q What do you believe happened?

A I believe that there was an Odinistic ritual that was occurring that the girls

were present for. I believe that the girls made fun of what had occurred or what was occurring, and I believe that the girls were killed out of anger. I believe that – in my opinion, I believe L.G. was killed first and I believe A.W. was killed as – after the fact, because she was a witness.

Q And you believe Brad Holder and Patrick Westfall were both on the bridge that day; correct?

A That is my belief, yes.

Q And you believe the girls went to the bridge to meet Logan Holder?

A That is correct.

Q And you believe that Elvis and Johnny Messer participated?

A I believe they were present, yes.

Q In the interview with Detective Vido, you said you believed that, but – let me make sure I get this right – but there was no smoking gun or concrete evidence, it was just strong circumstantial stuff?

A That's correct.

Q Okay. Did you get an opportunity to – well, let me back up. What is your understanding of when the girls were abducted and killed? What timeframe?

A The timeframe that I was originally told is that the girls would have been abducted off the bridge roughly around the 2:30 p.m. timeframe and that they would have been killed sometime in between the time that they were abducted to the time that the search party began, which I believe was, if I remember correctly, maybe around 5:30 p.m., six o'clock p.m., something like that.

Q Throughout your investigation, is that the timeframe you worked on for the death of the girls? Or is that the timeframe you worked within for the death of the girls?

A That was the timeframe that was popular for the investigation.

Q Did you have an opportunity, through your investigation, to see any alibi evidence for Brad Holder?

A No, I did not.

Q Did you have any opportunity through your investigation to see any evidence or whether or not Logan Holder was in school that day?

A No, I did not.

Q Did you look at any alibi evidence for anyone else in that group? Patrick Westfall?

A No; no, sir.

Q Elvis Fields?

A Yes, I did.

Q Okay. What alibi evidence did you see from Elvis Fields?

A Well, Elvis originally said that he and Ned Smith and Rod Abrams were at a hospital in Muncie on that day, and then later told me that they weren't sure what they were doing that day and that they believed that they were shopping for a Valentine's Day present for Ned Smith's girlfriend.

Q Did you ever see any evidence from – any information from Elvis Fields's phone?

A No, I did not.

Q Okay.

MR. MCLELAND: Just a moment, Judge.

Q Officer Click, what facts can you articulate here in court today that show that a ritual was performed on February 13th, 2017, when the girls were killed?

A The only thing I can testify to is what I was told by Detective Ferency, and

the information that Detective Ferency had told me was information that was developed by the BAU of the FBI, was that the crime scene indicated that it was a – that the murders and the – I guess I should say that the sticks formed on the girls were of Odinistic nature

Q Did you collect any evidence, you personally through your investigation, that led – that pointed to the fact – or pointed to that a ritual was held that day the girls were killed? Did you find anything?

A No, sir.

Q Okay. Did you find anything through your investigation that placed Elvis Fields, Patrick Westfall, Brad Holder, or Logan Holder, or Johnny Messer on the Monon High Bridge the day the girls were murdered?

A There was no direct evidence, no.

Q Did you find any evidence through your investigation that placed any one of those people in Delphi on February 13th, 2017?

A No, sir.

Q Is it fair to say that your belief of what happened that day is just a theory?

A I – my belief is based on testimonial evidence that we had obtained and based on some of the training and experience that I have received throughout my police career.

Q Is that testimonial evidence that Special Agent Ferency gathered through interviews that he did and he reported back to you?

A Part of it was collected, yes.

Q Okay. What interviews did you do that tied any one of those people to the murder of A.W. and L.G.?

A There was no direct evidence that we were able to obtain, and that was

basically due to – we were past retention periods on certain things, such a cell phone records and banking records.

Q You said that, in your report to – or in your interview with Detective Vido, you said there was strong circumstantial stuff; what did you mean by that?

A I think when you took the totality of some of the testimonial evidence that we had gathered from people, that led us to – that led me to my belief of the theory of what I believe or how the girls were killed that day.

Q And I hate to keep circling back to this, but do you recall any specific testimonial evidence that led you to that belief? You talked about the BAU and what Special Agent Ferency reported to you. Do you remember any testimonial evidence within your investigation that led you to that belief?

A It was just a totality of everything that we had done throughout our investigation.

Q Can you give me those – the totality – those facts that encompass that totality?

A We knew that Brad Holder and Patrick Westfall were Vinlanders who practiced Odinism. The BAU report basically stated that the crime scene had Odinistic tendencies to that, and we knew that Mr. Holder had a direct tie to one of the victims of the homicide.

Q Is that the totality of the testimonial evidence that led you to your belief?

A In a nutshell, yes.

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

THE COURT: Mr. Baldwin.

QUESTIONS BY MR. BALDWIN.

Q Did you ever interview Taylor Hornaday?

A Yes, I did.

Q Was there any significance about her testimony or her statement related to this – the crime?

A I guess I – could you be more specific?

Q Yeah, it's a terrible question. I'll move – but was – what was the substance of the interview related to Johnny Messer and anything that – his involvement in Delphi, if any?

A It was mainly our testimony – through the interview with Taylor Hornaday, we were basically able to learn a better timeline of Johnny's involvement with the Vinlander group, and we were able to determine some other crimes that Mr. Messer had been involved in.

Q Did – were you a part of an interview where she talked about Johnny being up there in Delphi during February 17 – I'm sorry, February 13 and 14 of 2017?

A Yeah, Taylor did indicate that she believed Johnny Messer was up in the Delphi area around Valentine's Day of 2017.

Q And did she talk about the condition of her vehicle when she came back?

A She said that there was a – said there was some type of red substance that was found on the side of her vehicle that she believed was blood. She originally thought that he may have struck a possum or something along those lines.

Q But that was after she had been up – after she thought he had been up visiting Brad Holder and Patrick Westfall in Delphi the weekend that the girls – or the days that the girls were killed?

A That is correct.

MR. BALDWIN: No other questions.

THE COURT: Mr. McLeland.

MR. MCLELAND: Yes.

RE-CROSS EXAMINATION OF TODD CLICK

QUESTIONS BY MR. MCLELAND.

Q Mr. Click, when you interviewed Taylor Hornaday, isn't it true she said just "up there", not "up there in Delphi"?

A Yes, that's correct.

Q And so she didn't say, "up there in Delphi"; she said "up there"?

A That is the words that she used.

Q And I think she clarified later on that "up there", she – when she said "up there", she meant Indianapolis; is that correct?

A Johnny did use terms for Indianapolis "up there", and he also used the term "up there" for the Delphi area.

Q And do you know whether or not Taylor Hornaday's vehicle and the spot she talked about, whether or not it was processed by crime scene techs?

A Yes, it was.

Q And was it?

A Yes, it was.

Q And was it blood on the vehicle?

A I never found the results of what the crime scene techs did.

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

MR. BALDWIN: No other questions.

THE COURT: All right. Thank you, Mr. Click. You may step down. You may call your next witness.

MR. BALDWIN: Judge, we're trying to figure out how – what to cut out and so forth, if we could take five or ten minutes.

MR. MCLELAND: Before we do that, Judge, and I don't want to step on Mr. Baldwin's toes, but I want to introduce Taylor Hornaday's deposition, and this might be a good time to do that.

MR. BALDWIN: Yeah.

MR. MCLELAND: I've highlighted the pages, since we just spoke about her testimony.

THE COURT: Okay.

MR. MCLELAND: And so the State would move to do that, and I've highlighted the pages – or the sections I want the Court to consider.

STATE'S EXHIBIT 19 OFFERED

THE COURT: Any objection?

MR. BALDWIN: No.

THE COURT: Okay. So whatever the number is – so this is State's 19, the deposition of Taylor Hornaday, admitted without objection.

STATE'S EXHIBIT 19 ADMITTED

MR. MCLELAND: I'm sorry, Judge. I thought it would be an appropriate place to do that.

THE COURT: That's fine. That's fine. All right. Well, why don't we take ten minutes.

MR. BALDWIN: Yeah, that's great.

THE COURT: Jodie, you can go off the record.

(Off record at 4:24 p.m.)

(On record at 4:37 p.m.)

THE COURT: Okay. All right, we are back on the record. And is Defense ready to continue?

MR. BALDWIN: Yes.

THE COURT: All right. You may call your next witness.

MR. ROZZI: Judge, just for roadmap purposes, we're gonna transition to Kegan Kline.

THE COURT: Okay.

MR. ROZZI: I'm gonna call Mr. – Trooper David Vido.

THE COURT: Okay.

(Witness sworn.)

MR. ROZZI: May I?

THE COURT: Yes.

MR. ROZZI: Thank you.

DIRECT EXAMINATION OF TROOPER DAVID VIDO

QUESTIONS BY MR. ROZZI.

Q Trooper, why don't you state your name and spell it for the record, please.

A David R. Vido, V-I-D-O.

Q Okay. And tell the Judge where you work.

A For the Indiana State Police Lafayette post.

Q And how long have you worked for the State Police?

A Approximately ten years.

Q All right. And you're a detective; right?

A Yes, sir.

Q And just to get to the point: You've been involved – have you been involved in this investigation, the Delphi case, basically from its inception?

A Briefly in 2017, for a few months, and then I was assigned full-time April, 2019.

Q So 2017, basically shortly after the homicide, and then, in 2019, kind of on a full-time basis?

A Yes, sir.

Q Is that a fair way of describing this?

A Yes, sir.

Q And in the course of your duties, is it – did you work – let me just ask this: Did you work with Nikkole Robertson?

A I did not at that time.

Q Okay. Did you in '19?

A I did not.

Q Okay. All right. Were you a member, so to speak, of the Unified Command and kind of the patrol unit?

A In – after 2019.

Q Okay. So you were kind of one of the brass that was meeting on a consistent basis and talking about the investigation?

A I wouldn't say brass, but I'm – I don't hold that rank, but I was a part of the core team.

Q Okay. Thank you for that. And during – let's kind of go back to 2017. Was there a time period very early in this investigation where the law enforcement or the investigative team was seeking out information regarding L.G.'s phone?

A Can you repeat –

Q There were contacts that she was having on those phones – on her phone?

A In 2017?
Q Yes.
A Yes.
Q And is it fair to say that early on that it was discovered that she was communicating with others, just people who lived in the outside world, people outside of Delphi?
A That's correct.
Q And was one of those individuals identified, at least on her phone, as someone by the name of Anthony Shots?
A Yes, sir.
Q And my recollection is, is that the communications – well, strike that. Were there communications between L.G. and this Anthony Shot profile?
A Yes, sir.
Q And my recollection is that those came on both Snapchat and I think it was Instagram; is that generally accurate?
A I believe it was just Snapchat.
Q Just Snapchat? Okay.
A That at least I was able to find records for.
Q Okay. And so did you, ultimately, conduct an investigation into the identity of this Anthony Shots profile?
A So in 2017, I did not. I was not a part of that investigation in 2017. I started the investigation into Anthony Shots around March of 2020.
Q At that time, had there already been an investigation into the identity of the Anthony Shots profile, who was behind that?
A Yes, sir.

Q So you were working with somebody else's kind of investigative work product?

A That's correct.

Q All right. And is it fair to say that that individual was an individual by the name of Kegan Kline?

A Yes, sir.

Q Okay. And just –

MR. ROZZI: May I approach?

THE COURT: You may.

MR. ROZZI: Thank you.

Q Just for the sake of kind of talking about the scope of what you were doing, I want to hand you what's been marked as Exhibit DDD; do you recognize that general exhibit?

A Yes, I do.

Q Okay. And is this – the first page, is this a press release from the Indiana State Police?

A That's correct.

Q And the press release is dated December 6th of 2021?

A Yes, sir.

Q And is it fair to say – correct me if I'm wrong, I'm trying to get to the point here – that this press release, in summary, is asking for assistance, public assistance, with regard to this fictitious profile identified as Anthony Shots?

A Yes, sir.

Q So you're really reaching out to the public at large and saying, "Anything anybody knows about Anthony Shots, please tell us"?

A That's correct.
Q Okay. And page 2 and 3, are those pictures, essentially there's four on page 2, four on page 3, photographs of this – well, is that – are those photographs that were associated with the Anthony profile – Anthony Shots profile?
A Yes. This individual's name is not Anthony Shots, but associated with that profile.
Q The profile, okay. And so were those photos included in the press release?
A I believe so.
Q So you actually attached the photos of a real human; right? Somebody – this is a real, live human; correct?
A Yes. Vince Kowalski, yes.
Q Who is it?
A Vince Kowalski.
Q Okay. I didn't recall that, so thank you for that. And this was offered up because you were seeking assistance regarding this profile?
A Correct.

MR. ROZZI: Move to admit DDD.

DEFENDANT'S EXHIBIT DDD OFFERED

MR. MCLELAND: No objection.

THE COURT: All right. Without objection, DDD's admitted.

DEFENDANT'S EXHIBIT DDD ADMITTED

Q So then Indiana State Police and the Unified Command casted a pretty wide net as it relates to interest in the Anthony Shots profile; right?
A Can you clarify that?
Q Well, you were seeking public assistance through a public portal; right?

Advertising, basically.

A Asking for assistance for that, yes.

Q It's a formal press release done by the Indiana State Police?

A Correct.

Q And the intention of that is to disseminate that information really around the world theoretically; right?

A Right, to try to obtain information, correct.

Q Well, and is it fair to say that at some point, through the work of your investigators, it was determined that there was a gentleman by the name of Kegan Kline – I shouldn't say gentleman – there was a man by the name of Kegan Kline who was associated with that profile?

A Yes, sir.

Q And where did Mr. Kline live?

A In Peru, 67 East Canal.

Q And so when was it, just generally speaking, that Kegan Kline was first approached about his association with the Anthony Shots profile?

A I believe that was February 25th, 2017.

Q Okay. So did you participate in that initial contact?

A I did not.

Q Okay. Are you fully familiar with all the facts and circumstances that occurred, generally speaking, during that contact?

A I would say generally, yes.

Q In other words, there was a report – now, who actually reached out to – who actually made that first contact, if you recall?

A That would have been Tracy Kunstek with the State Police and I believe

Agent Willum (phonetic) with the FBI.

Q Who was the FBI agent?

A Agent Willum I believe was his name.

Q Willum? And is it accurate to say that there was confirmation that there were communications between Anthony Shots and L.G. leading up to February 13th of 2017?

A Yes, sir.

Q And even on that day?

A Yes, sir.

Q Okay. So that's undisputed in your mind that there were communications between the two?

A Yes, sir.

Q Do you believe that Kegan Kline was the communicator, at least on the Anthony Shots end?

A For the most part.

Q Do you – are you – do you believe that there may have been more than one communicator?

A It's possible.

Q And would the other communicator have been his father?

A Tony Kline, yes.

Q Okay. Whom he lived with?

A Correct.

Q So Tony Kline also was kind of consumed into this investigation, along with his son, Kegan; is that correct?

A That's correct.

Q And you're generally familiar with all the – familiar with the circumstances associated with the investigation surrounding those two people?

A Yes, sir.

Q During the course of your investigation, did you discover that Kegan Kline actually owned a firearm?

A Yes, I did.

Q Did you recover a firearm from him and, essentially, process that as evidence in this case?

A I do not believe we were able to locate that firearm.

Q Okay. You saw some photos that he had a firearm; right?

A That is correct.

Q And was that firearm of interest to you?

A It was.

Q Okay. Tell the Judge why.

A It was a Smith and Wesson .40-caliber firearm.

Q And just to kind of get to the point: Is it fair to say that after – that when the crime scene was processed, there was recovered from that scene an unspent round near the bodies of the girls?

A That is correct.

Q Okay. And if I recall – I seem to recall this – that it was a .40-caliber round; right?

A Yes, sir.

Q And so one of the reasons why you were interested in this firearm is because it was the same caliber as the round that was found at the crime scene?

A That is correct.

Q But you were not able to recover the gun; right?
A No, sir.
Q Is this – is it accurate that there are actually pictures of him with the gun?
A I don't recall pictures with him, but there was pictures with his friend, Derk Hayes, I believe with the firearm.
Q Okay. And then, ultimately, when Kegan Kline was interviewed in this case, is it accurate to say that law enforcement learned that he had various electronic devices that he was communicating with to people outside of his household?
A That is correct.
Q Basically, the public; right?
A Yes, sir.
Q And I just – I'm kind of going down the list, he had at least one, if not two, iPhones; is that right?
A I believe so.
Q A Samsung phone; do you generally recall that?
A Yes, sir.
Q A tablet or maybe more than one tablet?
A I believe it was one tablet.
Q I think I even saw where he had in iPod, which kind of took me back in time, but –
A Yes, sir.
Q Okay.
A I think so.
Q And do you agree that all of those items or at least the majority of them

that was discovered had content that was associated with child pornography?
A Yes, sir.
Q And is it fair to say that during this investigation in this case that the idea that sex may have been a motive was pretty obvious amongst Unified Command?
A As in the –
Q That they may have been – that the idea that there may have been some sexual motive to this crime was common knowledge amongst the Unified Command?
A Yes, sir.
Q Okay. So there was a real interest in getting – in the fact that Kegan Kline had all of this child pornography, essentially, in his possession; right?
A A separate case was developed to investigate just that, yes.
Q Okay. But that consistency between with what you believed may have happened and this case at the crime scene – strike that. There was a consistency between what you believed might have happened in this case at the crime scene with some of the materials you were finding, as well?
A I guess I don't understand the question.
Q That's probably because it was a poor question, let me withdraw that. Do you agree that there was a belief that sex may have been a motive in the Delphi case?
A Yes, sir.
Q And do you agree that, obviously, that would have involved two minors?
A Yes, sir.
Q And do you agree that Mr. Kline had a lot of material on his phones and tablets and electronic devices that related to sex with minors?

A Yes, sir.
Q And is it accurate to say that a lot of the Kegan Kline/Anthony Shots profile material was current; in other words, he was transmitting this material close in time to the crime in this case?
A There – it spanned over years.
Q Leading all the way up to that point; is that fair?
A Yes, sir.
Q And so you – at some point, your investigative team decided that they were gonna administer a polygraph to him; is that right?
A To Kegan Kline?
Q Yes.
A That was before I was involved.
Q But you're aware that that happened?
A Yes.
Q Okay. And so there were resources being exhausted on him in terms of his potential involvement; right?
A Yes, sir.
Q And is it fair to say that he was denying, early on in the investigation, any connection whatsoever with L.G.?
A Yes, sir.
Q And he was denying responsibility for any of this child pornography that existed?
A Yes, sir.
Q He was lying to you, basically, your investigative team, back in 2017, when he was approached; right?

A At first, yes.
Q My recollection in reading the reports is he was pretty much lying about everything that you asked him about or your team asked him about.
A At first, yes.
Q And I recall seeing in one of your reports that he actually – I think it was around the time that he was polygraphed – went back and wiped out some information on one of his phones.
A Yes, sir.
Q Do you remember that?
A I do.
Q And – all right. I think he just basically deleted all the apps that he was communicating with; is that accurate?
A There were specific ones, Snapchat and some other ones.
Q And did you find that to be evidence or information that suggested that he may have some culpability in this case at that time?
A It's unknown because the material was lost, so –
Q So is that something, as an investigator, that was of interest to you?
A Yes.
Q And that it could have been connected with his involvement in this case?
A Sure.
Q Now, going back to the – there was in interview of Mr. Kline, and I'm sure you're familiar with it, February 25th of 2017; does that sound generally –
A Yes, sir.
Q -- accurate?
A Yes, sir.

Q Thank you. And do you recall that during that interview, I think early on – well, strike that. Do you acknowledge that that occurred at his dad's home and his home in Peru?

A Yeah. Yes, it occurred in one of our vehicles that we have that was parked outside.

Q Okay. And do you recall that in that interview initially he denied his responsibility; right?

A Yes, sir.

Q But then, at some point during the interview, he started to change his story, basically?

A That's correct.

Q And I remember – correct me if I'm wrong – but like he, actually, was kind of beating himself up, saying that he was a piece of crap and things like that; right?

A I believe so.

Q And then, eventually, he acknowledged that he had been lying to the police about his connection with the Anthony Shots profile?

A Yes, sir.

Q And ultimately, is it accurate to say that you were able to confirm, undeniably, that he was Anthony Shots, basically? That he was the person who was operating that profile online?

A Yes, sir.

Q And communicating with L.G. in that respect?

A Yes, sir.

Q All of it on the day that the girls came up missing?

A Don't know if he was the one communicating that day, but he did admit to creating and using that account, yes.

Q But those communications were coming from a device that he had possession of or that he had control of?

A Of the account, yes.

Q And did you learn also from Mr. Kline that in the week or so after the girls came up missing, that he and his father went off to Las Vegas?

A They did go to Vegas, yes.

Q And did you learn that his father had, at some point, offered him some money to stay out there?

A The Vegas trip was pre-planned and I believe the money to stay out there was later.

Q Okay. So there was an offer of some kind?

A Af – yes, after they came back.

Q There was some question about why and whether – the significance of it; right?

A Correct.

Q Do you acknowledge that he was not able to offer you up an alibi for February 13th that you could corroborate?

A That is correct.

Q Okay. What I recall is that he may have said he was with his girlfriend or something; right?

A He gave multiple different stories to investigators then and then throughout my interviews, as well.

Q Could you say that again for me.

A To the investigators in 2017, he gave information on what he was doing and then it did change a little bit over time.

Q So he gave inconsistent stories about his alibi over the course of the investigation?

A Correct.

Q But you were never able to clear his alibi, any of those versions; right?

A We were able to disprove a lot of – pretty much everything that he had said.

Q Okay. So he gave you a story, said, "Hey, I was there on February 13th," and then you later proved that that wasn't true?

A That is correct.

Q So the further you went, the more – the harder it got to even identify where he was on February 13th?

A Ultimately, we were able to, through his phone data, show that he was at his residence, using his phone that day.

Q It was just – phone was at the residence; right?

A Correct.

Q Whether or not he was using it, you don't know; right?

A There was some data, I was told, that it was being used at that time.

Q Well, but his father also had access to it; right?

A Potentially.

Q And he lived with his father?

A Correct.

Q And you had concerns about his father's involvement in this case, as well?

A Correct.

Q Now, do you recall Mr. Kline admitting to law enforcement that he actually did exchange some of these – or did exchange these photo – I think they were admitted on DDD here, 2 – page 2 of 3, with L.G.?

A I believe so, yes.

Q And he was, essentially, offering these up as, basically, an alter ego or some kind of – I guess an alter ego; right?

A Correct.

Q Do you recall him telling law enforcement that he'd actually deleted information regarding his communications with her?

A He did admit to I believe blocking her and deleting the application he was using to communicate with her.

Q Okay. Trying to destroy proof that he was communicating with her?

A I'm sorry?

Q Destroying proof that he was communicating with her?

A Communicating with her and probably the other underaged individuals.

Q He did actually say that he had been communicating with some of her friends, too, in the week or so leading up to this; right?

A That is correct.

Q And I recall in one of the video conversations – I have a note here it was at 2:13 – that there was a suggestion from one of the law enforcement officers that he had some of the same physical characteristics as the picture of what we refer to as Bridge Guy in this case; you remember that?

A You'd have to clarify that.

Q Okay. You don't recall that, him saying that? Strike that. What I recall from watching the video is that there was some suggestion by the interviewer

that Mr. Kline had some of the same physical characteristics as the person in the bridge video; do you recall that?

A Was that from the February 25th interview?

Q I think – I'm not gonna say, 'cause I don't know, I just – I see it here marked as 2:13 on the video.

A Okay. I don't recall.

Q Okay. If you don't, you don't know. You saw Mr. Kline; right?

A Multiple times over the years.

Q And just from a physical standpoint, are there some similar characteristics between him and the person that's in that bridge video?

A I would say he was bigger.

Q When you saw him?

A Throughout the years, yeah.

Q And when did you first actually have physical contact with him?

A That would have been August of 2020.

Q Okay. So three years after the video was taken; right?

A That's correct.

Q Do you remember him failing that polygraph exam?

A I'm sorry?

MR. MCLELAND: Judge, objection. It's not admissible at the trial level. It can't be considered by the Court – or shouldn't be considered by the Court, so I'm gonna object to that question.

MR. ROZZI: Judge, this isn't a – we're not in a trial, this is a pre-trial hearing where the Rules of Evidence are relaxed, and I think the relevance of this is, is that because he showed some deceit, that they continued to

investigate him as it related to the crime, so it shows that he maintained – he became – I'm sorry, that he continued to be a person of interest, that's why I'm asking to introduce it, not because I'm asking –

THE COURT: I understand what you're saying, but the nexus has to be proved by admissible evidence in a trial and that's what the objection is; and since a polygraph's not admissible in the trial, that's why I would sustain the objection.

MR. ROZZI: I appreciate that. May I comment on that?

THE COURT: Sure.

MR. ROZZI: Judge, my view is, is that that may not be accurate, because again, in a hearing like this, the Court's allowed to accept hearsay evidence that may not be admissible at a trial and so, by analogy, I think that the Court could accept evidence about his participation in a polygraph.

THE COURT: Okay. Thank you. Move on.

MR. ROZZI: Thank you.

Q My notes suggest, I do recall this generally, that there was an interview on August 21st of 2020; did you do that interview?

A With?

Q With Tony Kline?

A With Tony Kline, yes, that's correct.

Q Okay. And that was at the – was that the Carroll County Sheriff's Department?

A Peru State Police post.

Q Oh, I'm sorry. Okay. And I recall that at that time, you had some tips that you were working with that suggested that Tony Kline may have been involved

in some murders; do you recall that?

A I do not recall that specifically.

Q All right. Were you aware that he had a history of some violence?

A That is correct.

Q Okay. And I do recall that some of that involved like domestic-related violence; is that right?

A Yes, sir.

Q And did you have conversations with him about him assaulting his wife at one point?

A I'm not sure if I did during that interview or not.

Q Do you recall having a conversation with Tony Kline about him assaulting one of his own kids who was about four or five years old at the time?

A I believe so.

Q And that he had actually shoved a child's head in a toilet; do you recall that?

A Yes, sir.

Q And do you recall having a conversation with Tony Kline about him putting a shotgun to Kegan's mother's head at one point?

A I don't know if I spoke to Tony about that, but I do remember Kegan making statements about that.

Q And do you recall Kegan making statements about the fact that his dad kind of had a bad leg at one point and suggested he looked a little like the video of the Bridge Guy?

A I believe he did make – Kegan did make a statement about his father's leg.

Q He even said that his dad wore clothing similar to that?

A I believe so.
Q Now, fast-forwarding, is it accurate to say that there was a time when – well, Kegan Kline was, ultimately, arrested for crimes in Miami County; is that right?
A That is correct.
MR. ROZZI: May I approach?
THE COURT: You may.
Q Handing you what's been marked as Defendant's EEE, if you'll just take a look at that. Generally familiar with that document?
A Yes, sir.
Q Okay. Is this an abstract of judgement? That's what it says at the top; right?
A Yes, sir.
Q Basically, a sentencing order that reflects Mr. Kline's convictions from his Miami County case?
A Correct.
Q And is it fair to say, just to summarize, and the Judge can discern, she can sort through those, basically, is it accurate that when the State Police investigated Kegan Kline in this case, the Delphi case, that that resulted in him being charged with numerous offenses in Miami County related to child sex acts?
A It was a separate case that was spurred from this investigation, yes.
Q Okay. It was prompted by this investigation?
A Correct.
Q Basically, you unearthed information regarding child pornography and those types of things that then was taken by another investigative team and

investigated?

A Law enforcement did in 2017, yes.

Q Okay. And the result of that was – I don't remember how many charges there were, I'm trying to count Roman numerals. Do you remember how many charges he –

MR. MCLELAND: Judge, the State has no objection admitting the piece of evidence. It speaks for itself. The Court can review it.

MR. ROZZI: Thank you. And ask the Court to take judicial notice of it.

THE COURT: I'll show EEE admitted without objection.

DEFENDANT'S EXHIBIT EEE ADMITTED

Q All right. So he was charged with a couple dozen counts involving child pornography and dissemination of that pornography, those types of thing; right?

A Correct.

Q They were all referenced; right?

A Yes, sir.

Q On Exhibit EEE; right?

A Yes, sir.

Q And ultimately convicted, if this is a reflection of his convictions; correct?

A Yes, sir.

Q Handing you what's been marked as FFF; is this a copy of, the – essentially, the case report that stemmed from his Miami County charges?

A I would say a small version of it. I don't think it's a complete report.

Q Oh. But it's a nice summary of kind of how that all was kicked off from there; right?

A Yes, I believe this is the start of it.

Q Okay. Very good. Thank you. I noted on the – on page 2 here there were a number of phones that were referenced here: iPhone, iPhone, Samsung, Samsung, Nextbook Tablet. Are these, as far as you're aware, the phones that you would have recovered in the course of this investigation that prompted the Miami County case?

A So this investigation was separate from itself at that point. They took those devices for this – that case there.

Q The Miami County case?

A Correct.

Q But it's the same phones that you actually recovered, your team?

A Correct.

Q And the other electronic devices?

A Correct.

MR. ROZZI: Move to admit FFF.

DEFENDANT'S EXHIBIT FFF OFFERED

MR. MCLELAND: No objection.

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

DEFENDANT'S EXHIBIT FFF ADMITTED

MR. ROZZI: And, Judge, I'm gonna have to make a copy of that when we're done, 'cause I didn't –

MR. MCLELAND: That's okay.

MR. ROZZI: -- I didn't give one to Nick. Thank you.

Q And then, finally, so is it fair to say that there was a point in time when Mr. Kline's case or while Mr. Kline's case was pending in Miami County that he

began communicating with your investigative team about his involvement in the Delphi murder case?

A Correct.

Q Or the Delphi murders?

A Yes, sir.

Q And I recall he was doing that through his lawyer at the time; right?

A Yes, sir.

Q And is it accurate to say that there was an occasion when there was an interview set up of him, I believe it might have been over at the Air Force base, but I could be wrong; is that accurate?

A That's correct.

Q Can you tell the Judge approximately when that was?

A I believe that took place in August of 2022.

Q August of 20?

A '22.

Q So we're talking about a timeframe that's – it's pretty obvious, I guess – a couple months before Mr. Allen was arrested?

A Yes, sir.

Q All right. So at that point, there was a significant amount of resources that were directed toward Kegan Kline and his potential involvement in this case; is that accurate?

A That is correct.

Q And you were one of those guys that was heading the charge, so to speak?

A Yes, sir.

Q And I believe, am I correct in saying that Officer Holeman might have been

involved in that interview with – at the Air Force base?

A There – yes, there was a core team that was involved with that, yes.

Q Okay. And then, Mr. Kline's lawyer; right?

A That is correct.

Q And then, during that interview, I recall – it was a videotaped interview; correct?

A Yes, sir.

Q From that interview, did your team – well, strike that, let's just get to the point. Did Mr. Kline admit that he was at the trail on February 13th, 2017, to your team?

A He advised that he was in the area with his father at that time.

Q Okay. So – and he lived in Peru; right?

A That is correct.

Q And we're talking about Delphi, so he's saying he's in another place, here in Delphi?

A Yes, sir.

Q Okay. When you say "in the area", I mean, you're talking about here in Delphi?

A Yes, he said that.

Q And did he acknowledge specifically that he was actually at the cemetery that's located near the trail that –

A That is correct.

Q -- where the girls were found, basically?

A Yes, sir.

Q And if I had to estimate – you can correct me if I'm wrong – that cemetery's

probably within two or three or four hundred yards from the crime scene?

A I'm not sure on the exact distance, but it is in that area, yes.

Q Okay. That's not an unreasonable way to view the distance between the two; right?

A Again, I don't know the exact –

Q Okay.

A -- distance.

Q All right. Is it – have you been in the cemetery?

A I have.

Q Okay. Is it fair to say that the cemetery butts right up against the wooded tract where the girls were found?

A That is correct.

Q Contiguous, as lawyers would say; right?

A Yes, sir.

Q And so at that point, did your team then set up or make arrangements to actually have Mr. Kline transported to that location to describe to your team what had transpired on February 13th, 2017?

A Yes, to describe the way that was taken –

Q Okay.

A -- to the cemetery, the way that they drove there.

Q You were interested in the route; right?

A Yes.

Q You're also, I'm assuming, interested in where he said he went; right? His destination?

A Correct.

Q And is it fair to say that his lawyer did not participate in that part, you just took him on your own in a car without his lawyer present?

A I did not.

Q Okay. One of your –

A Law enforcement team did, yes.

Q And that was by arrangement; right? It wasn't like you did that without his lawyer's permission?

A Correct.

Q Did Trooper Holeman do that?

A Yes.

Q All right. And is it accurate to say that Mr. Kline told your team in this formal interview that he had taken his father to that cemetery?

A I don't remember which one said that they – or what he said who drove, but they both went to that cemetery, yes.

Q Well, if I recall, I think he said something about driving a Jeep of some sort.

A Yes, it was their red Jeep that they had.

Q And is it accurate to say that he communicated – that he said that his father, at one point, got out of that Jeep and walked into that wooded area?

A That is correct.

Q And did he say that his father came back at some point later in time, within I'm gonna say an hour or two, I'm just kind of estimating?

A Yes, sir.

Q And did he tell you that that occurred during daylight hours?

A Yes, sir.

Q And this was on the day when the girls came up missing?
A Correct.
Q And is it – did he tell your team that when his father came back his father actually had blood on his pants?
A Yes, sir.
Q And that his father got back in the car with him?
A I'm not sure if he said it was on his pants, but he said that he had blood on him, had somewhere.
Q Did he tell you that his father, ultimately, did not speak specifically about what he had done when he was in the wooded tract?
A That's correct. I believe he said that they had a good time and –
Q His father said that they, meaning he with somebody else, had a good time?
A Correct.
Q Referring that he was with somebody else in the wooded tract?
A Correct.
Q This is – to be fair, this is what Kegan Kline told your investigative team?
A That is correct.
Q And it was of interest enough that you made arrangements to actually transport him out there to go through all this story with him on the site?
A Correct.
Q At the site, I should say; correct?
A I'm sorry, can you repeat?
Q At the site, I should say.
A At the cemetery?

Q Yes.
A Yes, sir.
Q And is – did Mr. Kline also communicate to you that, at some point after that, there was some form – some type of weapon that was discharged – or discarded is the word I'm looking for – in the (inaudible)?
A That's correct.
Q Tell the Judge what he told your team.
A He told us before he – they got home, they went over the bridge and he threw a cell phone into the river and I believe he said his father threw a knife into the river.
Q Okay. And so was your – was it, I mean, a logical extension that that knife may have been used in this crime?
A That's correct.
Q So what'd you do as a team to try and recover the evidence?
A We organized a search of that river.
Q Okay. And that's the Wabash River; right?
A That is correct.
Q And this was how many years after – or when was it that you would have done that search?
A So that would have been August of '22.
Q So not a lot of chance of finding anything five years later; right?
A We actually found quite a lot of things from years past.
Q Just other items; right?
A Sure.
Q But you didn't find a knife or the cell phone?

A We found multiple cell phones, multiple knives I believe, I think a firearm or two.

Q Okay.

A We found multiple items, different items.

Q Did you find either a knife or a cell phone that you, with some level of confidence, identified with the story that Mr. Kline had given you?

A No, sir.

Q Okay. But you expended resources to try and get that done; right?

A Yes, sir.

Q Dive team, all that kind of stuff?

A Yes, sir.

Q And at some point even after that, did you – did your team make efforts to try and connect the dots, I guess I'll say, between the Kline family and Mr. Allen?

A Not at that time.

Q Let me give you some context: So ultimately, Mr. Allen's arrested a couple months later; right?

A Correct.

Q After his arrest, were there efforts by your team to try and connect Mr. Allen with the Kline family?

A That is correct.

Q And those efforts were, basically, interviewing people in and around the Miami County area?

A Yes, sir.

Q Did you learn, at some point, that Mr. Allen had actually lived in Miami County?

A Yes, sir.

Q And that his wife had actually lived – Mr. Allen's wife had lived in Miami County?

A That's correct.

Q Did you also learn, at some point, that either one of them, Mr. Allen or his wife, lived somewhat near Mr. Tony Kline?

A On Second Street.

Q In the same neighborhood?

A I wouldn't say it's the same neighborhood.

Q It's somewhere relatively close, five-minute drive or so?

A Yes, sir.

Q Okay. And is it fair to say that you were never able to actually connect Mr. Allen or his wife with the Kline family?

MR. MCLELAND: Objection, Judge: Asked and answered.

THE COURT: Overruled.

Q Let me ask it again, just – is it accurate to say that you were never able to connect Mr. Allen or his wife with the Kline family?

A We interviewed multiple people that, in their mind, said that there was no doubt that they knew each other, but we were not able to find anything that – to prove that they were together at one point or –

Q That they were associating on a consistent basis or anything like that?

A Correct.

Q Okay. And there was never any kind of digital communication recovered that suggested there was a connection between the Klines and the Allens?

A Not that we recovered, no.

Q And you tried to do that?

A Yes, sir.

Q And so ultimately –

MR. ROZZI: May I approach?

THE COURT: Yeah.

Q Handing you Exhibit GGG, take a look at that. This is quite a healthy packet of – stack of documents, but to get to the point: Is this fair to say this is a probable cause affidavit that was prepared, in part, by you?

A Yes, sir.

Q And it's – I didn't count the pages, I'm guilty of that, it's probably at least 20 pages; would you generally agree with that?

A Yeah. I believe it's over that, yes.

Q Okay. And your name is on the back with an affirmation clause; is that right?

A Yes, sir.

Q And, basically, is this a summary of what you – the information that you used to seek a warrant in this case?

A In the separate case of – the child pornography case.

Q You were assisting with that; right?

A I took it over in 2020.

Q Okay. And there's a lot of information in this –

MR. ROZZI: I move to admit the probable cause affidavit.

STATE'S EXHIBIT GGG OFFERED

MR. MCLELAND: No objection.

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

STATE'S EXHIBIT GGG ADMITTED

MR. ROZZI: Thank you. Judge, there's a – on the front page here, I don't know – I guess if you want to delete or white that out or whatever.

THE COURT: That's fine.

Q So basically, is it fair to say this is a nice summary of the information that you would have pulled from those phones that were of interest in this case, all of his digital devices?

A Within the child pornography case, yes.

Q Okay. But they're the same digital devices that you discovered in the course of this investigation; right?

A So those devices were seized under this case in the Miami County case.

Q Okay. I think – let me just make sure I'm clear: You were interviewing Kegan Kline because of the Anthony Shots profile?

A That is correct.

Q In the course of that, those interviews, you discovered all of these electronic devices; right?

A Once the search warrant was served on their residence, from that yes.

Q And then, those devices had all of this what I'm just gonna call inappropriate material on them; right?

A That is correct.

Q And does this report reflect kind of the totality of the material that was found on the devices? And basically, everything's blacked out on here; right?

A For that case, yes.

Q Because of the content?

A Correct.

MR. ROZZI: Okay. Did I admit that? I did.

THE COURT: You did.

Q Just in summary here, I guess, at the conclusion: Is it an accurate statement to say that Kegan Kline lied at various times to law enforcement throughout your investigation?

A That is correct.

Q And I think what I'm gonna hear is you believe – is it accurate to say that even – he may have been lying to you about him even going to the cemetery that day?

A That is correct.

Q He lied so many times, you don't know what the truth is; is that generally accurate?

A We were able to disprove pretty much a majority of the lies.

Q Okay. So every time he lied to you, you were able to prove that he was lying to you?

A That is correct.

Q So we don't really know what the truth was in some instances, because he was not credible; right?

A Correct.

MR. ROZZI: One second, Your Honor. I think Mr. Baldwin's – I'm gonna finish, rest, and then let him question Mr. Vido. Mr. Baldwin has a few questions regarding I think this third-party stuff. Is that okay if we just do it now?

MR. BALDWIN: It's like two or three questions.

MR. ROZZI: I'm a little bit – he has some questions of Mr. Vido that

he would like to ask about –

MR. BALDWIN: He interviewed Brad Holder and Patrick Westfall and I was gonna ask him.

THE COURT: Okay. You want to just get into that, then?

MR. BALDWIN: Oh, you want me to go now?

THE COURT: Yeah, go ahead.

MR. BALDWIN: Okay. Thank you.

DIRECT EXAMINATION OF TROOPER DAVID VIDO

QUESTIONS BY MR. BALDWIN.

Q Last fall, you interviewed Patrick Westfall and Brad Holder; is that right?

A I believe it was August.

Q Yeah, August. I think Patrick Westfall was August the 17th, I believe; does that sound right?

A That is correct.

Q He had been told ahead of time, "Hey, can you come in here? We want to ask you some questions"; right?

A Yes, sir.

Q He brought his phone?

A Yes.

Q You asked him if you could look through his phones, did an extraction on his phone?

A Yes, sir.

Q And you found that he had no information or data prior to I think August the 10th of 2017, just seven days earlier; is that right?

A The extraction was completed by Investigator Mullin and then that

information was given to him, I don't ever recall looking through that information.

Q All right. And then, as it relates to Brad Holder, you also interviewed him, I think it was August 30th; is that right?

A Yes, sir, that sounds right.

Q And you did not ask him for his phone; is that correct?

A I did not.

Q Why did you not ask him for his phone?

A At that time, we didn't – conducting tips and following up on tips and people that we're looking into, we didn't always ask for phones, just another way that we could get more information. We already had his work records and buccal swabs on file for Brad.

Q Okay. But he did – you were aware when you talked to him that he told a new story about how many times he had met A.W.; right?

A I don't believe I was aware at that time.

Q So are you aware of it now?

A Since it had been mentioned in this, yes.

Q Okay. So he told you – what Brad Holder told you was, "I met A.W. two times, once at Patrick Westfall's house"; correct?

A I believe he said that he had saw her a couple times. I don't recall saying at Patrick Westfall's house.

Q Okay. I think we'll put that into evidence.

MR. BALDWIN: No other questions.

THE COURT: All right. Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

CROSS EXAMINATION OF TROOPER DAVID VIDO

QUESTIONS BY MR. MCLELAND.

Q We'll start with Kegan Kline, Detective Vido. The message that was sent from the Anthony Shots account to L.G., you were only able to see that a message was sent; is that correct?

A That is correct. We were not able to retrieve the content of the message.

Q Fair enough. The portion where Kegan Kline said that he and his father went to the cemetery and he rode with the police and took them the route that they traveled, you were able to disprove that; correct?

A That is correct. We –

Q There's video on that road that he took and there was no red Jeep that he said he was driving that passed by that video?

A That is correct.

Q So you were able to disprove that he was in Delphi on that day and that he lied?

A Correct. And the information that he was providing, it seemed like it was coming from his discovery from his other case.

Q So Mr. Rozzi asked you this, we used a ton of man hours and a ton of people to investigate Kegan Kline; would you agree with that?

A Yes, sir.

Q And through all that investigation and all those man hours, were you ever able to connect Kegan Kline to the crime scene?

A No. We were never able to place Kegan or Tony in the crime scene like we were able to with Richard Allen.

Q Were you ever able to place Kegan Kline or Tony Kline on the trails that

day?

A No, sir.

Q Were you ever able to place them in Delphi?

A No, sir.

Q In fact, the piece of evidence that you have is that Kegan Kline's phone was at his house and that was being used?

A His phone was there and I believe Tony Kline's phone was there, as well.

Q Okay. And that's at their house in Peru?

A That is correct.

Q Okay. I want to move on to the Odinism. You did interview – talked about interviewing Patrick Westfall and Brad Holder. I'm gonna show you two reports that are gonna be marked as 20 and 21; and can you identify these for the Court?

A Yes. These both are my reports from my interview with Patrick Westfall and Brad Holder.

Q On August 30th of 2023?

A Or Brad Holder and August 17th, 2023, for Patrick Westfall.

Q I apologize. Thank you for correcting me. Those are true and accurate copies of the reports that you submitted?

A I believe so.

Q And did you make those reports close in time to the interviews?

A Yes, sir.

Q And so do you think those reports accurately reflect the information that was exchanged in those interviews of those two people?

A Yes, sir.

MR. MCLELAND: Judge, the State would move to admit what's

been marked as 20 and 21, I believe.

STATE'S EXHIBITS 20 AND 21 OFFERED

THE COURT: Any objection?

MR. BALDWIN: No.

THE COURT: All right. Without objection, 20 and 21 are admitted.

STATE'S EXHIBITS 20 AND 21 ADMITTED

Q Mr. Vido, just a couple more questions. When you went to re-interview those two in August of 2023, why did you do that?

A I was told by Lieutenant Holeman that, during his deposition, the defense team requested law enforcement to look back into them.

Q So it wasn't because that you – it wasn't because you gathered new information or information that they were associated or tied to the killing of A.W. and L.G.; is that correct?

A That's correct.

Q You purely did it because the defense team asked you to – asked ISP to do it?

A Yes, sir.

MR. MCLELAND: All right. I don't have any other questions, Judge.

THE COURT: Mr. Rozzi.

MR. ROZZI: Just one or two.

RE-DIRECT EXAMINATION OF TROOPER DAVID VIDO

QUESTIONS BY MR. ROZZI.

Q Let's just get back to Kegan Kline for a second; okay?

A Yes, sir.

Q Do you acknowledge that there is more than one route to that cemetery

that we discussed earlier, there's more than one route from Peru; right?

A Right, I believe so, but I believe the route that he took law enforcement on, he would have passed the Hoosier Harvestore video.

Q Okay. If I recall him talking, he was a little unsure about exactly how he got there at first, wasn't he?

A I can't recall.

Q Okay. But do you acknowledge there is more than one route that you could access that cemetery from in that area?

A I believe so.

Q There's actually three ways to get in there; right?

A I don't know.

Q You haven't gone out there and looked around to kind of investigate the geography?

A I have. There's two different ways on that road you can go, yes.

Q All right. Is one of those the other route – at least one of the other routes doesn't have a camera, there was no cameras that you were able to collect to track traffic; right?

A Correct.

MR. ROZZI: I have nothing further.

MR. BALDWIN: I did on the Brad Holder video interview.

RE-DIRECT EXAMINATION OF TROOPER DAVID VIDO

QUESTIONS BY MR. BALDWIN.

Q The State just asked you if there was nothing new that caused you to interview him, it was basically the Defense had wanted you to do that; is that correct?

A Yes, sir.

Q But then something new did develop and that was Brad Holder's story changed from zero the first time that – zero times that he had ever seen A.W. the first time he was ever interviewed back in 2017, three days after the girls were killed, to one time when he did say, "I did meet Brad Hold" – or Brad Holder said, "I did meet A.W. one time," when he talked to you; is that correct?

A I did not interview him in 2017; but looking back at my report, he said that they saw each other – him and – A.W. and Logan saw each other a few times and it was supervised.

Q And – but Brad Holder met her one time is what he told you?

A I don't recall exactly.

Q Okay. I'll move the audio or the video in. I apologize, I was wrong, it was at my deposition where he said he met A.W. two times, once at Patrick Westfall's house. You, as an investigator – you are an investigator; correct?

A Yes, sir.

Q Do you think that's worth renewing an investigation now that you have heard that there's evidence that the first time Brad Holder talked about his knowledge of A.W. he said, "I didn't know her" and you one time, if that's what the video shows, and then later changed that to two times, once at Patrick Westfall's house?

MR. MCLELAND: Judge, I'm gonna object. Is the question whether or not he's gonna renew the investigation knowing that information?

MR. BALDWIN: Is it worth renewing an investigation?

MR. MCLELAND: How does that relate to third-party motive?

MR. BALDWIN: Because then, if he says yes, then again, you know,

that goes toward our contention that there's a third-party suspect.

THE COURT: Overruled.

A Can you ask the question?

Q Sure, it's a little convoluted. But if it's true that Brad Holder had told one story right after the girls died about how many times he met A.W., then a few years later when you interviewed him, he said, "I met her one time," and then changed it a few years later to add another two times, once at Patrick Westfall's house, would that be worth re-looking at Brad Holder as a suspect just based upon that information?

A So that's not what sparked the – to reinterview or look at him, because that's during the interview that happened?

Q Sure.

A I don't believe so, because we have the work records and he already spoke to law enforcement and we already had those records.

Q What if Brad Holder was not at the scene then, but he was there at 2:30 or 3 in the morning? Would that matter to you?

A I guess I don't understand your question.

Q Well, it's late and it's not a great question. I'll move on. But you say you just – that doesn't matter to you, what I just said?

A I've interviewed many, many people during this investigation and they do sometimes remember things after the interview or before and –

Q Well, if you had a son that dated a person that was violently murdered and you – three days later and you said, "Yeah, I never met her", you think, six years later, you're gonna all of a sudden remember that, "Oh, yeah, I did meet her one time," and then change that again to a second time with another sus – that he

met her at another suspect's house?

A I couldn't answer that question.

MR. BALDWIN: No other questions.

THE COURT: Anything else, Mr. McLeland?

MR. MCLELAND: Just briefly.

RE-CROSS EXAMINATION OF TROOPER DAVID VIDO

QUESTIONS BY MR. MCLELAND.

Q I want to go back to Kegan Kline. The route that Kegan Kline described that he took, if you know, is that the most direct route from Peru to the crime – to the cemetery?

A It would have been from the Hoosier Heartland to that road, yes.

Q Okay. And Kegan Kline rode with law enforcement and took them on that route?

A I believe so. I was not in the vehicle.

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

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

MR. MCLELAND: Is he released from his subpoena, Judge?

THE COURT: Is he released from subpoena?

MR. BALDWIN: Yes.

THE COURT: All right. Thank you, Detective. You're free to go.

MR. BALDWIN: I got a bunch of stuff I can just pump in right – real quick. I think we're done with witnesses. Move to admit Brad Holder's video of – that Trooper Vido took on August 30, 2023. With it I have attached, Judge –

I'm attaching the things I want you to pay attention to. Mark it on that and then I'll attach this.

DEFENDANT'S EXHIBIT HHH OFFERED

THE COURT: So that – HHH?

MR. BALDWIN: That's HHH, Brad Holder interview, August 30, 2023, with – I'm attaching things that I want –

THE COURT: Is there any objection?

MR. MCLELAND: I'm sorry, Judge –

THE COURT: No, it's all right.

MR. MCLELAND: What are we admitting?

MR. BALDWIN: Brad Holder video by Trooper Vido, gonna attach these –

MR. MCLELAND: That corroborates with the report that I admitted?

MR. BALDWIN: I – yeah, I think.

MR. MCLELAND: Okay. No objection, Judge.

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

DEFENDANT'S EXHIBIT HHH ADMITTED

MR. BALDWIN: I'm adding the things that –

MR. MCLELAND: They correspond. That's fine.

MR. BALDWIN: Next is III, 2016 ceremony, Fort Wayne ceremony, that shows the still shots of earlier in Dr. Perlmutter's –

DEFENDANT'S EXHIBIT III OFFERED

MR. MCLELAND: No objection.

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

DEFENDANT'S EXHIBIT III ADMITTED

MR. BALDWIN: Taylor Hornaday deposition. I know that Nick's put his in. I move to admit with my areas that I want you to look at.

DEFENDANT'S EXHIBIT JJJ OFFERED

THE COURT: Any objection?

MR. MCLELAND: No, Your Honor.

THE COURT: Without objection, JJJ is admitted.

DEFENDANT'S EXHIBIT JJJ ADMITTED

MR. BALDWIN: Rod Abrams videotaped interview number 2. These are all – he has three videos and they're all on the same disk here, 1, 2, and 3. I move to admit those and I've included some areas I wanted the Court to look at.

DEFENDANT'S EXHIBIT KKK OFFERED

MR. MCLELAND: No objection.

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

DEFENDANT'S EXHIBIT KKK ADMITTED

MR. BALDWIN: Rod Abrams' deposition with the date, page numbers, and lines that I want the Court to look at.

DEFENDANT'S EXHIBIT LLL OFFERED

MR. MCLELAND: No objection.

THE COURT: All right. Without objection, L is admitted – LLL, I'm sorry.

DEFENDANT'S EXHIBIT LLL ADMITTED

MR. BALDWIN: Johnny Messer interview of October 23rd, 2018, with the part that I want the Court to look at.

DEFENDANT'S EXHIBIT MMM OFFERED

MR. MCLELAND: No objection.

DEFENDANT'S EXHIBIT MMM ADMITTED

MR. BALDWIN: Ned Smith video and the area, the time print that I want the Court to look at is Exhibit NNN.

DEFENDANT'S EXHIBIT NNN OFFERED

THE COURT: And I'm sorry, that was what?

MR. BALDWIN: N is the Ned Smith video.

THE COURT: Oh, Ned Smith, okay. I'll show NNN admitted without objection.

DEFENDANT'S EXHIBIT NNN ADMITTED

MR. MCLELAND: No objection.

MR. BALDWIN: And then, lastly, Ned Smith deposition with the page numbers and – that I want the Court to look at. That would be OOO.

DEFENDANT'S EXHIBIT OOO OFFERED

MR. MCLELAND: No objection.

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

DEFENDANT'S EXHIBIT OOO ADMITTED

MR. BALDWIN: And last would be Garrison – Tina Garrison report dated – well, at the top left-hand corner it says September 21, 2022. I've highlighted the last paragraph on the last page that I want the Court to look at.

DEFENDANT'S EXHIBIT PPP OFFERED

MR. MCLELAND: No objection.

THE COURT: And I'll show that as admitted without objection.

DEFENDANT'S EXHIBIT PPP ADMITTED

MR. BALDWIN: That's all that I have.

THE COURT: Could counsel enlighten me on who Jerry Kline is in

your pleading?

MR. ROZZI: Jerry Kline?

THE COURT: Yeah.

MR. ROZZI: Yeah. I'm sorry, that is Kegan Kline's father. I think I might have referred to him as Tony.

THE COURT: That was my other question: Who is Tony Kline? Kegan Kline's –

MR. ROZZI: Yeah, that's his father, and I think he also goes by Jerry Kline. Call Mr. Vido back up to clarify that.

MR. MCLELAND: I have no objection to the Court taking notice of that, Judge. I don't know that we need to re-call Mr. Vido. I think all the parties here know that it's – Anthony and Tony are the same person, Judge, so I have no objection to the Court considering that.

THE COURT: Okay.

MR. ROZZI: Well, but Jerry –

THE COURT: So Mr. Tony Kline is Jerry Kline listed in your pleading? 'Cause there's a Kegan Kline and a Jerry Kline.

MR. ROZZI: Listed in my pleading?

THE COURT: I'm sorry, in Mr. – in the State's pleading. Who is Jerry Kline?

MR. MCLELAND: Judge, I'm not sure. I probably meant Tony – Anthony Kline or Tony Kline.

THE COURT: Okay.

MR. MCLELAND: It's – sorry, Judge. It's Jerry Anthony Kline, and so they're the same person, I just did it twice. His real – his middle name is

Anthony, everybody calls him Tony –

THE COURT: Okay.

MR. MCLELAND: -- and his first name's Jerry, so I apologize about that, Judge. It gets a little confusing 'cause of the –

MR. ROZZI: Tony and Jerry are one in the same person.

THE COURT: Thank you.

MR. ROZZI: That's Kegan Kline's father.

THE COURT: Okay. All right. So the Defendant is done with this part of the proceeding, Ms. Auger?

MS. AUGER: Pardon?

THE COURT: We're done with this – with your presentation?

MS. AUGER: Your Honor, we have very brief information about Ron Logan.

THE COURT: Okay.

MS. AUGER: Sorry. We previously – you'll be happy that we don't have witnesses. We previously admitted FBI Special Agent Nikkole Robertson's deposition and we would specifically ask that you review the search warrant, which was attached as an exhibit in which Mr. Rogan [sic] – I'm sorry, it's late – Mr. Logan admitted – or in which it notes that Mr. Logan lied about his whereabouts on February 13th, 2017. Additionally, there is – and we know that, obviously, the bodies, L.G.'s body and A.W.'s body, were found on Mr. Logan's property on February 14th, 2017. There is also, Your Honor – if you look at Exhibit H to Ms. Robertson's deposition, that is a note of the items found by Special Agent Robertson, Special Agent Davies at the time, noting three things: A wall calendar on Mr. Logan's wall, noting the date that the young ladies

disappeared and the date that they were found; she notes finding a blue sweatshirt in the laundry room, and we know that witnesses said that the person they saw on the bridge, at some point, had on a blue sweatshirt; and we would also note that – that's it for Mr. Logan, Your Honor.

THE COURT: Okay.

MS. AUGER: There's also – when you're – another motion in limine filed, paragraph 9 on the State's motion in limine, which is any reference to geofencing and/or testimony from Kevin Horan about geofencing or the findings from any geofence search that is not relevant or is for the purpose of confusing the issues. So there are a couple different issues. I think, traditionally, most people would say that a geofence warrant refers to a Google warrant. I don't believe that's what Mr. McLeland is speaking of here. I think he's probably – because Mr. Horan is a former special agent with the FBI, he was head of their CAST team, which is the Cellular Analysis Surveillance Team, and they review cell phone records, they obtain and generally review cell phone records. Special Agent Horan did that, he generated several spreadsheets of individuals in the area. There was a map generated and we believe it's absolutely part of the investigation and the Defendant's – Mr. Allen's Fourteenth Amendment due process rights to talk about the investigation, to talk about the fact that other people or devices were present near the scene where the bodies were located. And so, additionally, if he – Mr. McLeland is referencing to the return on the Google warrant, there is absolutely data in those returns that we believe are relevant, placing potential other suspects at the scene. And given that they did that as part of their investigation, I certainly feel that we should be talking about that. In particular, Your Honor, there is a device at the cemetery shortly before

the murders. We know from Detective Murphy's testimony that the general consensus was two to five or six people involved in this and we believe that's the source of one of those people, and we believe that we should be able – be allowed to speak about that. Your Honor, I have – unless anybody from the State has a response to that about Mr. Horan, I have one other issue I'd like to bring to the Court's attention.

MR. MCLELAND: You want me to go on?

THE COURT: Sure.

MR. MCLELAND: Okay. Judge, I'm not an expert in geofencing, I'm not an expert in Google warrants. This was the Defense's opportunity to call witnesses to talk about those things if they wanted to. My understanding of geofencing is it's not an accurate science. I think Special Agent Horan – or retired Special Agent Horan will even tell you we don't use it for probable cause because it's so inaccurate. Just because a data point on a map through a geofence shows that a phone was there, there's a radius of – a radius within where that phone can be, and it can be anywhere from 15 meters to 25,000 meters, and so I would ask the Court to grant the motion in limine. If, during the trial, the Defense can present evidence that the geofencing is reliable information that the jury can consider, the Court would be able to hear that and make a determination then. But right now, the knowledge that the State has is that information is unreliable, it's wholly unreliable, and it's only entered for the Defense to be able to say, "Well, the pinpoint on this phone showed here; therefore, he must be in the crime scene." Again, not an expert at geofencing, that's not my understanding. The pinpoint is the center of a circle of a radius of where the phone could be, and that could expand – some of those expand to include even Tippecanoe County.

And so unless the Defense can show that this is accurate enough to say the phone was in the area of the crime scene at the time of the crime, the State believe it's unreliable and believes it should be kept out, Judge.

MS. AUGER: Your Honor, first of all, Mr. McLeland's statements certainly are not evidence, they're some ideas about what he thinks things mean, number 1. Number 2, there are two different sources of data that we're discussing, and I don't know if he's referring to geofencing as all of the cellular data they gathered, but what happened first was the State went and obtained what they call tower dumps. So they sent search warrants to Sprint, AT&T, Verizon, T-Mobile, and they received data back from those companies. Some of that data's more reliable than others. What Kevin Horan did – and this doesn't necessarily to go the identity of one person, but it goes to the quality of the investigation. Kevin Horan is gonna testify he left a list for Unified Command to follow-up with. Whether they followed-up with those people and how they followed-up with them is absolutely relevant and absolutely part of Mr. Allen's Fourteenth Amendment right, due process right, to present a defense and to speak about the quality of the investigation. Whether Kevin Horan identified certain phones, he put them on the map. I don't disagree, those aren't pinpoints, but they are people in the area that should have been investigated, and so, of course, we're allowed to talk about the quality of the investigation, who they followed-up with, who they cleared, who they didn't when they knew that these people were in the area. We're not saying that they were at this specific location, neither is Mr. Horan, no one's saying that, but the issue is they had a list of suspects that weren't properly vetted and that's what we will be referring to in the course of this information. That's with the cell phone data and, Your Honor,

it's different with the Google data. The Google data is very accurate, within three to five meters. Any time – if you have Google open on your iPhone, if you have an Android, any time you pass by a – something that grabs your location – this is why, you know, if I go to the mall in Indianapolis and I'm walking in Keystone Mall, sometimes I shop at Williams-Sonoma – I shouldn't say that – but I get ads for Williams-Sonoma, because my phone knows where I am and knows where I'm walking into that area. So the Google location is much more accurate than most of the cell phone tower information, but the individuals that we're referring to come from those Google returns, and those are in – those are relevant. We can show it not only through Google data, we can also show it through video from the Hoosier Heartland – or Hoosier Harvestore? I always get that wrong, I'm sorry. So is not identifying certain people, but again, it goes to the nature and quality of the investigation, which is always his right to discuss at trial. Thank you.

THE COURT: Okay. Anything else on that?

MR. MCLELAND: Judge, I guess her saying the statements I make is not evidence, that cuts both ways. The only things she's told you today are her statements. She's not put anything in evidence for the Court to consider the accuracy of those things, and so just ask the Court to consider that when looking at the motion in limine. Thank you.

THE COURT: And then, paragraph 11.

MS. AUGER: Pardon me, Your Honor?

MR. MCLELAND: Paragraph 11.

MR. BALDWIN: 11.

THE COURT: Of the motion, the State's motion. That's how the