Appellate Case No. 25A-CR-00591

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

STATE OF INDIANA,
Plaintiff,

VS.

RICHARD M. ALLEN,
Defendant.

THE HONORABLE FRANCES C. GULL, PRESIDING

The Transcript

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that could have been very help in telling the story about what was happening in this case.

Q Was there a specific piece of data that you felt would be helpful that was missing because of that?

A The main piece of evidence that I felt was missing is a file called the current power log, and that tells you exactly when a phone shut off, and that one only stays for basically every time you shut it on, the next time you shut it off, the previous stuff is wiped out; so basically, one cycle of on/off, you're gonna lose data. And so, you know, I didn't have any idea from that log when the cell phone shut off on February 14th of 2017. And it also contains a lot of other information about what's happening on the cell phone, since – such as if it went into airplane mode.

Q Now, there are current power log entries on First Sergeant Cecil's timeline.

A Yes.

Q So some of that data did remain on the phone; is that right?

A Some of it is there. There is a lot of it from October of 2017.

Q But the last time it switched it off, that is now missing?

A Yes.

Q All right. Now, Stacy, can you tell us – you examined the data from the phone –

A Yes.

Q -- is that correct?

A Yes.

Q And if you could, tell us your process.

A Sure. So when I first started this case, I asked, you know, what are your

two main priorities and we'll start with that, because time and budget is always an issue, and at the time it was, "We want to see what was going on in the Apple Health database, so what was going on with steps and distances," and then the other main point of concern was what was happening on the phone at 4:33 a.m. on the 14th to make it suddenly receive all these text messages, what happened then, what happened right before it, so that's where I started.

Q And were you – in terms of – let's start with the Apple Health data.

A Certainly.

Q Well, let me ask you – I'm gonna backtrack, I'm sorry. Did you download the knowledgeC database?

A I did, yes.

Q Okay. And tell the jury, if you could, what the knowledgeC database is, what it does.

A The knowledgeC database is one of the main databases that is tracking a lot of what you were doing on your phone and what is happening on your phone. So as your screen comes on and off, it records that. It can also record your battery percentage. It records the app that you were looking at and for how long, so it can tell that you're switching between Snapchat and then you're going in to send an email, it's logging all sorts of information like that, so it's very insightful as to what you were doing on the phone and what was happening.

Q And that is information that is direct from the extraction; is that correct?

A Yes, I exported it straight from the extraction.

Q Okay. And then, did you also pull out part of those as kind of separate exhibits?

A Yes, I did.

Q All right. So first of all, let's just start with –

MS. AUGER: Your Honor, I'd move to admit Defendant's Exhibit TTT, which is the knowledgeC database.

DEFENDANT'S EXHIBIT TTT OFFERED

MR. MCLELAND: Judge, I'm gonna need time to examine that.

MS. AUGER: That is the knowledgeC.

MR. MCLELAND: I haven't been shown that before today, so I don't know what is contained in the zip drive. So, Judge, I'm gonna need a moment here to examine that.

Q All right. Well, while they're looking at that, let's do this – Stacy, you also examined First Sergeant Christopher Cecil's timeline.

A I did.

Q And that has previously been admitted as Defendant's Exhibit E. Does that look familiar to you?

A Yes, that looks familiar.

Q Okay. And you also reviewed Christopher Cecil's August 18th, 2024, report, which is State's Exhibit 227?

A Yes.

Q Now, with respect to Exhibit E –

THE COURT: Excuse me. Before we go on, would counsel approach.

(Sidebar conference conducted.)

THE COURT: You've moved an exhibit, he's asked for time to review it, and we're going on to other things while he's reviewing.

MS. AUGER: Okay. I can give him time. That's fine.

MR. MCLELAND: I just need to quickly review this –

MS. AUGER: That's fine.

MR. MCLELAND: -- and see what it is.

THE COURT: And why didn't we get this before five minutes ago?

MS. AUGER: Well, they've had it since 2017.

MR. MCLELAND: So you're saying it's part of the extraction?

MS. AUGER: Yeah.

MR. MCLELAND: It may be. I didn't see the zip drive.

THE COURT: Okay. So you didn't have the zip drive?

MR. MCLELAND: Right.

THE COURT: Okay. How long's it gonna take you to –

MR. MCLELAND: Just give me 40 seconds to see what it is.

THE COURT: Okay.

(Sidebar conference concluded.)

MR. MCLELAND: Okay, Judge, the State's had a chance to examine Defendant's Exhibit TTT and I have no objection.

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

DEFENDANT'S EXHIBIT TTT ADMITTED

MS. AUGER: Thank you.

Q Okay. Stacy, you –

MS. AUGER: Your Honor, is it all right if she comes down?

THE COURT: Sure.

MS. AUGER: Thank you.

A Okay.

MR. MCLELAND: Judge, can we scoot the TV back at all so –

MS. AUGER: Can you –

MS. DIENER: We can see it.

MS. AUGER: I don't want to touch your very expensive –

MR. MCLELAND: You've been touching it the whole trial, now you don't want to?

MS. AUGER: No, I actually haven't, but I will. I'm happy to.

MS. DIENER: Not too much, 'cause I want them to be able to see it. There you go. Okay.

MR. MCLELAND: Okay. Thank you.

MS. AUGER: Can everybody see it?

Q Okay. You stand here.

A Okay.

Q Please. Okay. This is a lot of stuff.

A It is a lot of stuff.

Q Okay. Can you explain to us what this is and how you interact with data such as this.

A Sure. So this is the knowledgeC database that I was speaking about earlier where it's recording, you know, your power percentages, your screen going on and off, and what app you're looking at. There's tons of information stored about it, and one of the main things in there, of course, besides the action, is the date and the time as being recorded, as well. But this is a huge database and it does not end here at column L, it continues to go on, and a lot of the really meaningful information to the naked human eye in terms of words that we can understand tends to be at the end of the database, so if you can continue to scroll –

Q Why don't I do it over here?

A Okay.

Q Okay.

A I'm just motioning this way.

Q Yeah. So we're scrolling right.

A Yes.

Q And this is all data?

A Yep.

Q Okay.

A So the data that stops at column AG in the database, and this is also a view that's very similar to what I would see in a database. A database is very similar to working in an Excel spreadsheet, it's just a little more fancy, it does some more-complicated things, but viewing one table looks just like this in the database viewer that I use.

Q Now, at the end then, in column AH, there is a column titled Z Metadata Viewed as Text; what – can you explain that.

A Yes. So typically when I'm in my database viewer, and as I mentioned AG, which is called Z Metadata, is the last column, so if you scroll all the way over to the right when you're looking at it, this is gonna be the last thing you see. And depending on the type of information that's in there, if it's more complicated and robust data, the database viewer is gonna just say "blob". That's what mine shows. Other ones might show it a little bit differently, but mine says "blob". And so one of the things I first do is I will go into that column and change the view and see what I can see when I'm looking at it as text to see if I can see any human words that I recognize.

Q Why do all these columns start with Z?

A I don't know, you'd have to ask Apple why they name things the way they name things.

Q But they're all Z?

A They do a lot of Z stuff. They like tab Z, they like tab ZZ, and ZZZ, and so you've got a table that just has a lot of columns starting with Zs at the beginning of the names for whatever reason they chose.

Q Okay. I'm gonna put that down. If you want to –

A Okay.

MS. AUGER: Now, Your Honor, may I publish Defendant's Exhibit P?

THE COURT: You already published PPP.

MS. AUGER: I didn't publish it earlier.

THE COURT: Oh, Defendant's P. Okay, wait a second. Yes, you may publish.

MS. AUGER: Thank you.

THE COURT: How are you publishing it?

MS. AUGER: Pardon?

THE COURT: How are you publishing?

MS. AUGER: On the screen.

THE COURT: On the display.

MS. AUGER: Thank you.

DEFENDANT'S EXHIBIT P PUBLISHED

Q Now, Stacy, this is First Sergeant Cecil's timeline; is that correct?

A Yes.

Q And generally speaking, are there things on his timeline that you agree

with?

A Generally, yes.

Q Are there items on this timeline you do not agree with?

A There are a few items that I disagree with.

Q And are there items on the timeline that you were able to dig a little deeper and get us some better answers?

A Yes, I was.

Q Okay. Let's start with the things that you do not agree with as it relates to this timeline.

A The things that I don't agree with were the date and time that some of the iMessages, Facetime phone calls, and some of the voicemails were delivered onto L.G.'s iPhone between the 13th and 14th of February, 2017.

Q Was – turn this on for a moment. Was there a time when L.G.'s cell phone did not connect to a cell phone tower?

A Yes. I noticed throughout the course of the afternoon on February 13th, there were times where it was not connected to a cell phone, just off and on.

Q And when was the last time that L.G.'s cell phone connected to a cell phone tower on February 13th, 2017?

A The last time it connected to the cell phone tower on February 13th was 5:45 p.m. that day.

Q When is the next time the cell phone reconnected to a cell phone tower?

A It next reconnected to the cell phone tower the next day, February 14th, 2017, at 4:33 a.m.

Q Now, in your field of digital forensics, is it customary and usual for you also to review records from cell phone providers?

A Yes.

Q And did you, in fact, review any records from L.G.'s cell phone provider?

A I did.

Q What did you review?

A I reviewed information related to the pings being sent to the cell phone and also location information that was logged by AT&T.

Q Now, I'm gonna show you Defendant's Exhibit QQQ.

A Yes.

Q Can you, please, tell us what that is.

A This is a report, a log from AT&T called the historical precision location information, and –

Q And I'll stop you there.

A Okay.

MS. AUGER: Your Honor, I'd move to admit Defendant's Exhibit QQQ.

DEFENDANT'S EXHIBIT QQQ OFFERED

MR. MCLELAND: A few foundational questions, Judge. Is this the entire log that you looked at when examining the historical precision location information?

A I looked at more records than this.

MR. MCLELAND: Okay. And do you have training on how to accurately read the historical precision location information?

A I received this training when I was in the FBI.

MR. MCLELAND: And when was that?

A Would have been sometime during my time there, probably 2009, when I

started doing more of the cell phones.

MR. MCLELAND: And did that – at that time, you couldn't have possibly considered the information with cell tower networks and network engineering for cell towers in 2017; correct?

A Maybe.

MR. MCLELAND: Have you had any training on this since 2009?

A I have not had any formal training, it's been conversations taking place at conferences where somebody's presenting information of their research or just, you know, keeping up with information and trends through research and reading on the Internet, as well.

MR. MCLELAND: Have you had any training in any kind of network engineering or network capability here in Carroll County in – from 2017?

A I have not.

MR. MCLELAND: Do you work for AT&T?

A I do not.

MR. MCLELAND: I don't have any other foundational questions, Judge. The State objects. I don't believe this is the complete log, at this point, and so I'm gonna object to completeness, Judge. And I can't remember, did we stipulate to this on the stipulations?

MS. AUGER: We did.

MR. MCLELAND: Okay. Then I don't have a problem – a foundational problem, Judge, but – a foundational issue, but I think there's more to this log than just this page. And the other objection is I'm not sure she's qualified to talk about what's within this log.

MS. AUGER: May I follow-up?

THE COURT: Sure.

Q Stacy, are – the form of this record, the historical precision location information, has the form of that changed at all since you received your formal training?

A No, it's the same basic format.

Q Okay. And you attend seminars related to your expertise and your work. Do they present on things like this?

A Yes.

Q And you continue to attend those seminars?

A I do.

Q Would there be anything about anything that happens in Carroll County that would affect this report?

A Not to my knowledge.

MS. AUGER: Your Honor, two things: First, in terms of completeness, I didn't want to overwhelm the jury. This is page 1 of several hundred pages, but this contains the pertinent time period that we're referring to. The way the doctrine of completeness works, as I'm sure the Court is aware, that if Mr. McLeland wants to admit the rest of the document, he can certainly do so.

THE COURT: Anything further, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

THE COURT: All right. I will show QQQ is admitted over objection.

DEFENDANT'S EXHIBIT QQQ ADMITTED

MS. AUGER: May I publish, Your Honor?

THE COURT: Yes.

DEFENDANT'S EXHIBIT QQQ PUBLISHED

Q I'm gonna give you that.

A Okay.

THE COURT: You may proceed.

MS. AUGER: Thank you, Your Honor.

Q Stacy, what does the AT&T historical precision location information, identified as Exhibit QQQ, tell us about L.G.'s cell phone's connection to the cell phone tower between 5:44 on February 13th, 2017, and 4:33 a.m. on February 14th, 2017?

A It tells us the date and time of that last connection, along with the location – the approximate location of where the cell phone was connecting at, and it's giving that location by giving the longitude and the latitude.

Q Now, what lines are – should we be looking at here?

A So for the location, they're over towards the right, just the longitude and the latitude, that's giving you a location.

Q Okay.

A And then, if you work to the left, you have the connection time, which here is displayed in GMT, so we actually need to subtract five hours from this time.

Q I'm gonna stop you for a moment. Can you tell us what GMT is?

A GMT stands for Greenwich Meanwich – Greenwich Mean Time, and it's used interchangeably with UTC time, which is Universal Coordinated Time, and that time is basically gonna be the time that it is in London. It's kind of a global time. So wherever you are, if you say, you know, one o'clock GMT, people know what you're talking about, one o'clock GMT, they don't have to figure out, "Oh, you said in Eastern", you know. So when you're talking across the globe, this is

the time that you're gonna use is GMT or UTC.

Q Are items stored on cell phones and cell phone records, are those commonly stored as either UTC or GMT?

A No, they're actually stored, especially on an iPhone, in a wild array of different time formats, and a lot of them are just like number, number, number, number, number, and it starts from like the number of seconds from January 1st, 1970. So there's a lot of crazy times, but when we do our exams, we're putting everything in UTC time, in that Universal Coordinated Time, so that way, no matter where you were when you did your exam, what time zone anything happened in, we're all talking about the same time, you know, one o'clock UTC.

Q And on – when it says connection time GMT, how does that relate to the time in Delphi, Indiana, on February 13th and 14th, 2017?

A On February 13th and 14th of 2017, GMT was five hours ahead.

Q So all of these times, we need to subtract –

A Yep.

Q -- five hours?

A Subtract five hours, yes.

Q Okay. Now, on this QQQ, there's an item 1.

A Yes.

Q And what does that line associated with item 1 tell us?

A That is the last connection date and time of L.G.'s cell phone.

Q What was the last date and connection time?

A It was at 2/14/2017 at 9:33 a.m. GMT, so if we subtract the five hours, that would be 4:33 a.m. on the 14th.

Q And line 2, the next line down, can you share with us what that tells us.

A Yes. That one has a connection of February 13th, 2017, at – this says – the raw data says 22:44, which would be 10:44 p.m. GMT time, and now we're gonna subtract the five hours to get to your local time, so we're gonna be at 5:44 and some seconds p.m.

Q Was there also data on L.G.'s cell phone that correlated with this – that her phone did not connect between 5:44 on the 13th and 4:33 on the 14th?

A Yes. There were numerous pieces of data that showed it last connected on the 13th at 5:45 p.m. We see a call come in and then, after that, it says, you know, it's disconnected and it's trying to reconnect. And then it also logs when your apps, the things you're doing, are using data and how much data it's using, and there was no data logged in between those two times, and those two times being, basically, 5:45 p.m. on the 13th and then no data being used until the 14th at 4:33 a.m.

Q Now, the timeline we looked at earlier, I think I've still got it up, First Sergeant Cecil's timeline shows – does it show iMessages coming in between 5:44 and 4:33?

A It does.

Q Okay. How would that happen?

A So an iMessage is very similar to a text message except this is Apple's proprietary method of sending short messages and this was invented a long time ago because you used to have to pay per every text message you said – sent, so to get around that, on an iPhone you could send the iMessages, which use data instead, and the data could include using Wi-Fi, so people would use this to message over Wi-Fi. And today it still holds true, if you do not have a cellular data connection, if you do not have a Wi-Fi connection, you cannot send or

receive those iMessages. But in between that iMessage going from me to you, it hits the Apple server, and the Apple server will put a date and timestamp on it as to when it was sent from the sender to the receiver.

Q So even though there are items in the timeline and they're timestamped between 5:45 and 4:33, is there evidence that the phone actually received those at those times?

A There is evidence that it did not receive those messages at those times, some of them. Again, it was intermittent throughout the day, so some iMessages were coming in on time and some weren't.

Q Was there any iMessage that came in between 5:45 on the 13th and 4:33 on the 14th?

A Yes, but – well, it was not delivered then.

Q Right. Okay. I –

A Sorry.

Q Words are important. So even though it was timestamped, it wasn't delivered until another time?

A Correct.

Q And would that – was that time after 4:33 a.m. on the 14th?

A I'd have to go back and look to see what the timestamps were specific to those iMessages.

Q Okay. Now, according to the timeline, if we look at lines 450, 451, 452, 453, 454, and 455, there are some calls backgrounded.

A Yes.

Q Do you know when L.G.'s – and then, if we go on down, there's some other – there's a voicemail at – on line 480 that is timestamped six o'clock, which is

the line in pink right there.

A Yes.

Q Did any of those – let's start with phone calls. Did any of the calls that are timestamped between 5:44 and 4:33, did you find evidence of when those actually arrived on the phone?

A I could not find evidence of when the missed calls were missed on the phone, but I could find evidence of when the voicemails were left from those missed calls.

Q And what did you find as it pertains to the voicemails?

A So there were numerous voicemails left between 5:45 p.m. on the 13th and between the morning of the 14th at 4:33 a.m., but they were not delivered to the phone during that timeframe.

Q When were the majority of them delivered?

A They were not delivered to the phone until – well, the voicemail recordings were not recorded on the phone until the 17th of February.

Q And is that another log on the phone?

A That is another log. I can see when you receive your voicemails.

Q Now, as part of your work, do you ever – are you familiar with the concept of a cell phone ping?

A Yes.

Q What is a cell phone ping?

A A cell phone ping is basically a technical way to say from one technical device to another, "Hey, are you out there?" And so when you ping, you'll say, "Hey, device, are you there?" If it is and it receives it, it'll say, "Yes, I am." And then it'll send that message back and then, hopefully, the sender of the ping

receives that message back that yes, they're there. Very simple version of how that works.

Q And are cell phone pings – how are those different from the cell phone tower data that we just kind of looked at from L.G.'s phone?

A The differences I see is that AT&T is repeatedly trying to ping that cell phone after 5:45 p.m., it's doing it periodically, and it never successfully pings that cell phone again until approximately 4:33 a.m. on the 14th.

Q So are there three data points that all confirm that there's no cell phone tower connection between 5:45 on the 13th and 4:33 on the 14th?

A There's at least three.

Q And what are those?

A The AT&T pings, when the voicemails are delivered, and then the lack of data usage being logged.

Q Okay. Now, I'm gonna move on. Let's talk Apple Health data.

A Okay.

Q How does an iPhone record or log iPhone health data – or health data?

A So only Apple truly knows the secret sauce of how it's doing all of the recording for the health data, but foundationally what it's doing, it is measuring the movement and the vibrations of the phone to figure out, you know, your steps, and it – there is hardware built into the phone that helps it figure that stuff out.

Q I didn't ask, so let me back up back to 4:33 a.m.

A Okay.

Q And I forgot to ask you a question. Do you have an explanation for why the phone, if it was stationary in one place, under a shoe under a body, between

5:44 on February 13th, 2017, and 4:33 a.m. on February 14th, 2017, do you have an explanation as to why it did not connect to the tower between 5:44 on the 13th and 4:33 on the 14th?

A I could find no evidence on the phone to suggest what happened, so I can only conclude something external to the phone changed.

Q What might that be?

A It could be any number of things.

Q Can you tell us some of them.

A The phone could have moved. The phone signal could have been being blocked during that time by a – several different methods. I think those are the main ones that I think of off the top of my head.

Q What about metal?

A I'm sorry, what?

Q What about metal?

A Oh, metal? I suppose metal – metal can also block cell phone signals. Think about like when you go into a building and you're in an elevator, that's where your calls tend to drop.

Q But we don't know what happened?

A I could find no evidence of what happened on the phone.

Q Okay. And I apologize for that. Now we go back to the Apple Health data.

A Okay.

Q And so did L.G. – well, let me ask you this: Is there research on the accuracy of steps recorded, distance recorded, and elevation?

A Yes, there is.

Q Okay. Can you tell the jury about that.

A Yep. So this research comes from the Forensic Science Institute in The Hague in the Netherlands, if you're familiar with that, but anyways, they're a big deal and they do a lot of really good forensic research. And so they decided to go out and research this Apple Health data and they documented, you know, it's logging all of your steps and elevation changes and distance changes, even if you did nothing to set it up, but they set out to figure out just how accurate is it, and their research demonstrated that there are a lot of different things that can impact how accurate it is. They did note that steps tend to be the most accurate. Distance can be off as much as 30, 40 percent either way. They also said the type of motion that you're doing can greatly impact it, as well. So if it's more vigorous motion, you're gonna get credit for a bunch of extra steps, a bunch of extra distance, where if you're hardly moving, such as like a casual walk, very slow, start, stop, it's not gonna log it or not log very much of it, 'cause there's just not enough difference to detect those changes.

Q Now, First Sergeant Cecil, in State's Exhibit 227, on page 8, outlined some Apple Health data as it relates to steps and distance.

A Yes.

Q And did you agree with what he has in his report as to steps and distance?

A Yes. I saw the same information.

Q Is there a circumstance in which a phone can move, but it's not recorded in Apple Health?

A If the phone is moving in a vehicle, it can note the difference between driving in a vehicle versus a person walking, so it's not gonna give you step credits for driving in a car, even though there was distance traveled.

Q And does an iPhone 6s, such as L.G. had, does that log steps or movement

if it is powered off?

A No, it does not.

Q Do you know whether L.G.'s phone was dead when it was found on February 14th, 2017?

A Well, when it was found, my understanding is it was powered off. Again, I'm missing that log, I didn't have any data in the log to say exactly when it shut off.

Q And was there any activity on L.G.'s cell phone after 4:35 a.m. on February 14th, 2017, that would suggest that her phone was on?

A No, there was no data logged, nothing logged.

Q Okay. Now, the timeline created by First Sergeant Cecil, is this kind of a general analysis of what was contained in a Cellebrite and Axiom report?

A Yeah. I would say it's general, maybe more high-level. It doesn't have all the details, but it's got a lot of good data points of where it's coming from, times, and what happened overall.

Q Okay. And I'm going to direct our attention – when you reviewed this – well, I think we already talked about that. Okay. So I want to look at line 458 of First Sergeant Cecil's report.

A Yes.

Q And it says knowledgeC, audio output route, 2/13/2017 – we're gonna adjust this for military time – 5:45:45, audio output route start time. Do you see that?

A Yes, I see that row.

Q Do you agree with that?

A Yes, I agree it's written there.

Q Okay. And if you look at First Sergeant Cecil's report on page 4, does he address audio output route?

A Yes.

Q And what does he tell us about that?

A He says in his description box that the research is incomplete, but depending on the value, it could mean any number of things based on the numbers written there. So, for example, 0, not known; 1 – if there's a value of 1, it means a headset is plugged in; 2, a headset is unplugged; or 3, is call activity; 4, user-selected speaker; or 8, unknown. And it also said that it could relate to the device's built-in microphone, receiver, speaker, or headphones, and that it may also include information about Bluetooth Mac addresses, Bluetooth device name, and protocol.

Q Do you agree that the research is incomplete?

A No. Now, in 2024, this research is complete.

Q And does the research now confirm these numbers that First Sergeant Cecil has in his report?

MR. MCLELAND: I'm gonna object, Judge. It's a leading question.

THE COURT: Sustained.

Q What does the research now tell us concerning the numbers contained in First Sergeant Chris Cecil's report?

A The research today tells us that there are known numeric values; for example, number 1 is headphones.

Q And were you able to dig a little deeper and find out what happened at 5:45:24 as it relates to an audio output route start time?

A Yes, I was.

Q And is that contained in the knowledgeC database?

A Yes, it is contained in the knowledgeC database.

MS. AUGER: Your Honor, if I could publish.

THE COURT: Publish what? I'm sorry.

MS. AUGER: The – I forget what exhibit it is, it's the knowledgeC database. TTT.

THE COURT: You published that before by display.

MS. AUGER: Oh, okay. I'm sorry.

Q Back to TTT, you pulled out a couple of rows of data to make it easier for us to look at; is that right?

A Yes.

Q Okay. And so if we look at audio output route, are these the lines of data that you pulled out?

A Yes, those are the lines of data I pulled out directly from the knowledgeC database.

Q Okay. Can you step down and explain this to us, please.

A Yes.

Q All right. What does this mean?

A Okay. The main thing we want to know about here is just this Z_PK19600, just – this is just the row number assigned in the database for tracking purposes. And then, all the way through here is not very meaningful to the case.

Q Should I scroll right?

A Keep scrolling to the right.

Q Well –

A And scroll back a little.

Q That was a little too far, wasn't it?

A Yeah, that's a little too far.

Q Sorry.

A We want to see some dates and times.

Q Okay. So this date is 2/13 at 1:38. Should I scroll down?

A Yeah. There were several audio output events that day, this is the first one, but if you scroll to the bottom of this tab, you'll see the last one of the day.

Q Okay. And what does this – the information here tell us?

A This information tells us at – on 2/13 at 10:32 p.m., this record was created.

Q Okay.

A And then, if we move over, we have some more dates and times.

Q If we look at Z start date in red, which is the last column there on the right –

A Yes.

Q -- in red, what does that tell us?

A That tells us when this event first started happening, which is at 5:45 p.m. Eastern on the 13th.

Q When did it end?

A It ended at the, in column Y, Z end date, at 2/13 at 10:32 p.m.

Q And if I – should I scroll to the right?

A Scroll over to the right.

Q Oh.

A That's fine.

Q I keep doing that.

A Go over one more.

Q Oh, now I'm at the top.

A There we are. Just a tiny bit.

Q Now, when the column next to Z start date, where it says V – Z value double, what does that tell us?

A This is the numeric values that First Sergeant Cecil was talking about in this report. So in this case, it's logging the number 1.

Q And according to Chris Cecil's report, what does that mean?

A Number 1 means the headphone.

Q Headphone what?

A A headphone being inserted.

Q Okay. And is there additional data in here that tells us – confirms that those are wired headphones?

A Yes. So when I was viewing it in my database viewer, it said "blob", so the first thing I did was view the text information about the blob to learn more about what type of data it was, so I could convert it to the appropriate viewable format. But immediately when I looked at it as text, I could see in here entries for (inaudible) headphones and then the words "wired headphones".

Q Okay. Thank you. You can go ahead and have a seat.

A Okay.

Q Stacy, I have an iPhone 6s; and what are these?

A Those are headphones.

Q Wired headphones?

A Wired headphones.

Q And when it says audio output start at 5:45 on February 13th, 2017, can

you demonstrate for us what that means?

A Yes.

Q Hand you the wired headphones and the cellphone.

A So what happened was, was somebody took a headphone jack and inserted it into the hole at the bottom, because this was probably your most typical headphone – I won't say most typical, it was a typical way to listen to sound on your phone – and they inserted it into the hole at the bottom at 5:45 p.m. on the 13th.

Q What happened at 10:32 on February – 10:32 p.m. on February 13th, 2017, to L.G.'s cell phone?

A Then someone removed that cable from the phone. And I should clarify that the phone can't tell if it was specifically like these headphone cables or if it was like an aux input cable when you want to connect your phone to your car to listen to music, but it's – definitely says some sort of cable that looked like this was plugged into the phone and then later removed on the 13th.

Q Is that – are those pretty secure connections?

A They are.

Q Can you think of any explanation for a aux port or headphones being plugged in and unplugged that does not involve human interaction with that phone?

A I cannot think of any explanation that does not involve humans.

Q What was the practical effect for that cell phone at 5:45 on February 13, 2017, by plugging in an aux port or headphones?

A By plugging in the cable, you would stop sound from coming out of the phone.

Q As if you wanted to hide it?

MR. MCLELAND: Objection, Judge. That's a leading question. Calls for speculation.

THE COURT: Sustained.

MS. AUGER: Withdrawn.

Q What happened immediately before an aux port or headphones were plugged into that phone?

A There was an incoming phone call like milliseconds apart from – milliseconds right before the headphone cable was inserted.

Q Stacy, I want to go back real quick to Apple Health data, there was an – also an entry at 2:32 p.m. about flights climbed?

A Yes.

Q What does that mean?

A Those are floors, steps climbed.

Q And is each flight approximately ten feet?

A Yes.

MS. AUGER: Thank you. Nothing further.

THE COURT: Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

CROSS EXAMINATION OF STACY ELDRIDGE

QUESTIONS BY MR. MCLELAND.

Q Ms. Eldridge, I want to start with a little bit of your information on your CV. What training have you had on cell phone extractions?

A I received training on conducting cell phone extractions myself back when I was in the FBI, and recently my training is just about the manner in which they

should be conducted in order to get the most data off of them, the different states that a phone can be in, and how it impacts the data that you're able to extract off of the phone.

Q And that training, are you talking about the training that started in February of 2023?

A What did I have listed as February of 2023? Can you refresh my memory?

Q Sure. You have Magnet Forensics, Magnet Virtual Summit, SANS Applying the Findings of Verizon DBIR, you have several there that begin in February of 2023. You said most recently you had some training on – I forget the words you used, but on how to extract the stuff. Is that the training you're talking about from February, 2023, to current?

A There would have been some high-level topics discussed back in February, 2023, but the most current information would have been from April of this year, and then I also attended more training in October of this year, which has not made it onto that CV yet.

Q And that – this training you received most recently, tell me again what is that training for? Is that on how to extract information from cell phones?

A The training is about how to – it focuses primarily on how to process that extracted data appropriately.

Q And prior to that training, the other training you had is when you were with the FBI?

A Yes, that I have documented, yes.

Q And what year was that?

A In I believe 2009.

Q So between 2009 and April of '24, you didn't have any training on how to

extract or how to organize the information from a cell phone extraction; is that fair?

A Not that I can recall.

Q Okay. And then, when you talked about testifying four times prior, it looks like the testimony in 2007, 2009, and 2011 – well, 2007 and 2009, those dealt – did those deal with computers?

A Yes, they did.

Q Did the testimony in 2011 deal with computers or cell phones?

A I think it involved both.

Q Okay. But you don't have the name of that case?

A I don't. I've been trying to find it. My apologies.

Q And then the testimony in July of 2024, it dealt with a cell phone; is that correct?

A Yes, it specifically dealt with an iPhone.

Q But it dealt with video from that iPhone; is that correct?

A The primary focus was a video on the iPhone, but there were questions about how did it get there, the activity surrounding it, so there was a lot of database examination required in that case, as well.

Q But from my understanding from the transcript, your testimony was focused on just the video.

A Yes.

Q Okay. And so is this the first time that you've testified about knowledgeC databases and cell phone extraction analysis?

A I would say that my previous testimony this year in July involved testimony about cell phone analysis.

Q Let's say the one in July did. Besides that, have you ever testified about any cell phone analysis or extraction or analysis of extractions?

A Of cell phones, no.

Q Okay. You stated you examined the information that – the extraction from Brian Bunner and then the report from Christopher Cecil in this case; is that correct?

A My primary focus was the extraction from October, 2017, which was from Mr. Bunner, but then I also did one of Mr. Cecil's, as well.

Q Okay. Did you get any other information pertaining to this case to review in conjunction with those things?

A Just the AT&T ping records.

Q Did you get any information about the facts involved with the case, for example, where the bodies were found, how they were killed, anything like that?

A I received a rough location of where the bodies were found and where the cell phone was found. Other than that, nothing much, other than there was another female with L.G.

Q Okay. Did you go to the location where the cell phone was found?

A I did not.

Q Okay. But you did have information of not only the GPS location of where the cell phone was found, but where within the crime scene it was found, meaning underneath the shoe underneath the body of A.W.?

A Yes, I was told that.

Q You had that information, as well; correct?

A Yes.

Q Okay. And through the reports that you examined, did you have an

opportunity to examine all of Christopher Cecil's information that he gathered?

A No, I did not have an opportunity to review all of the information that's been gathered by him between 2017 and 2024.

Q What information did you narrow your scope to?

A My scope was narrowed down to, at first, reviewing the Apple Health data, the steps, elevation changes, and then what happened at 4:33 a.m. to cause those text messages to suddenly came [sic] in, and then I also worked backwards to see what was happening on the cell phone during that day.

Q So how far back into February 13th of 2017 did you go?

A I looked closely all the way back to approximately 10:50 a.m., when the phone entered low-power mode on the 13th.

Q And did you agree with the information that Chris Cecil reported up until 5:40 p.m. of that day?

A Not all of it.

Q Okay. Did you get an opportunity to review the video that was found on the phone?

A Yes, I did review the video.

Q Did you agree with the timestamp that was on that video?

A I found no evidence of manipulation or changing it.

Q So yes, you agreed with the timestamp of that video?

A Yes.

Q Okay. Did you agree with the GPS location of that video?

A Yes.

Q And did you agree that the GPS location changed four seconds into the video?

A I did not examine that that closely.
Q Did you agree with – you said you reviewed the Health – Apple Health data, I'm sorry.
A Yes.
Q And you agreed with that information that he had about the Apple Health data?
A That was – I said I saw the same information in Axiom as what is in his written report.
Q So that would lead me to believe that you agreed with what he had in his report was accurate; is that correct?
A I agree that the numbers and the data extracted and pasted into the report. I could not speak to perhaps any opinions he made in that, 'cause I do not recall his – any opinions, if any, were documented in there.
Q That's fine. But the numbers entered in, the dates, the times, the steps, the distance, you agree that that data is accurate?
A Yes, I agree with the steps and the numbers.
Q Okay. And so in that Apple Health data, you saw that the last recorded movement was at 2:32 p.m.; is that correct?
A In the Apple Health database, that reports – sorry, I want to try to figure out how to explain this.
Q I don't need you to explain it, I just –
A Well –
Q You reviewed that data; right?
A I did review that data.
Q And you saw in that data that the last movement that he had recorded for

the phone on February 13th was 2:32 p.m.; correct?

A Yes. But there is more step and elevation change data logged in a different database that is not reported out as Apple Health data that goes later.

Q Well, we may get to that, but –

A Okay.

Q -- you had an opportunity to review that health app data and you saw the last movement was at 2:32 p.m. on February 13th?

A Yes.

Q And you agree, from that data, that the phone did not move between 2:32 p.m. on the 13th and 4:33 a.m. on the 14th?

A I agree that it did not log any movement.

Q Okay. And so talked about the health app data and how it registers movement. Do you know – well, let me ask you this: You testified that the way it registers movement are by machinery or an accelerometer and a gyroscope within the phone; is that correct?

A I didn't use any of those terms.

Q Okay. How does it measure movement?

A It's looking for vigorous motion and activity.

Q And that would lead one to believe that the phone has to move in order to register movement; is that correct?

A I believe it has to bounce up and down.

Q So that – the movement doesn't have to be great, it can be a bounce up and down for it to register movement on the health app data?

A There has to be some detectable motion, yes.

Q Okay. And you testified that it may not register if it is traveling in a vehicle.

A Yes.

Q And I would assume, if it's traveling in a vehicle and it doesn't register movement, the phone is sitting stationary, not moving; correct?

A Seems logical.

Q Okay. But if the phone has moved in the vehicle, it then could possibly log movement through the Apple Health data?

A It's a possibility.

Q Okay. And you agree at least with the log that you reviewed from Christopher Cecil's report and that you agree with shows that there was no movement logged through the Apple Health data from February 13th at 2:32 p.m. until the rest of the life of the phone?

A Correct.

Q Okay. Now, between 2:32 p.m. on the 13th and 4:33 a.m. on the 14th, could you find any information showing that the phone was turned off?

A No, there was no evidence that the phone was turned off that I could find.

Q Now, in Christopher Cecil's, report you talked about the phone being out of service at I believe 5:45 p.m.

A Right. That's the last known time it had service.

Q Before that, it was in service?

A It was in and out of service before that time period, as well.

Q Okay. So if it was in and out of service, that means sometimes it could receive calls, if it was in service, sometimes it wouldn't –

A Correct.

Q -- correct? This may be a silly question, but my common experience has been that a phone – if you're in a poor-service area, a phone can be sitting

stationary and it can go in and out service without moving; do you agree with that?

A I've had that same experience, yes.

Q Okay. And do you know what kind of service is available in the area where the crime scene is located?

A No.

Q Were you able to study the topography or the land contours in the area where the crime scene is located?

A I did not.

Q Were you able to speak to a network engineer of any kind about what kind of service was available through L.G.'s phone in February of 2017?

A I did not.

Q And so is it reasonable for the jury to believe that the phone, even though it wasn't moving, could have been going in and out of service at that time?

MR. AUGER: Could you be more specific about the time?

MR. MCLELAND: Sure.

Q Between 2:32 and 5:45 p.m. on the 13th.

A I'm sorry, could you, please, repeat the question.

Q Sure, sure, sure. I know that's a little confusing. I'm trying to work backwards. The phone stopped moving at 2:32, but it continued to get phone calls, Facetime calls, iMessages, and text messages after that for a period of time.

A Yes.

Q And your testimony is that it continued to get those until 5:45 p.m. on the 13th?

A Intermittently, yes.

Q Intermittently. And you testified that the phone didn't move between that – didn't register any movement on the Apple Health data between that time; correct?

A That is what I testified, yes.

Q And then after that, it went out of service, and you're saying it didn't receive calls, even though calls are logged on Christopher Cecil's report; is that – am I understanding that correctly?

A That was about the voicemails being recorded then.

Q Okay. But after 5:45, it continues to get Facetime calls?

A It does not continue to receive Facetime calls after 5:45 p.m.

Q Okay. And then, at 4:33 a.m., it gets a bunch of activity, messages and things of the like; is that correct?

A Yes.

Q Now, could that explanation be that the phone was bouncing in and out of service and, for some reason, it bounced back into service at 4:33 a.m.? Would that be an explanation for why all those came in?

A That could be an explanation.

Q Okay. And it seems a likely explanation, knowing that there's no movement shown on the health – Apple Health app data; right?

A I don't know, I don't have any factual evidence that I could see on the phone to render that opinion.

Q You didn't find any evidence within the knowledgeC database that the phone had moved?

A Not in the knowledgeC, no.

Q It seems to me that to plug in the headphones, you'd have to move the

phone in some way; correct?

A I think there's a difference between moving a phone across a room, across an area, versus picking up a phone.

Q But if the phone's moved across a room or moved across an area, that would register in the health app data; right?

A It might, it might not.

Q If the phone was picked up or bounced, as you said before, that might register in the health app data?

A It might, it might not.

Q So plugging in headphones could register in the health app data?

A It could. I did not test that.

Q You testified that one of the reasons the messages might have come in at 4:33 was the phone was moved; do you recall that?

A I'm not sure that I said that today.

Q Okay. I thought when Ms. Auger asked you for an explanation of why the voice – or the text messages came in at 4:33 a.m., you said the phone could have been moved.

A I said I didn't have any evidence as to what happened, but then she asked me for possible explanations.

Q Okay. But you don't have any evidence showing the phone was moved at 4:33 a.m.?

A I don't.

Q You also said there could be a signal blocker, is that – was your testimony?

A Yes.

Q Did I write that down right?

A Yeah.

Q Can you tell me what that is?

A A signal blocker is something that will stop your cell phone from receiving the data connections to the cell phone tower, so you couldn't make or receive calls or connect to the Internet.

Q And so that would be something a person would have to have on them to block the signal; is that right?

A Yes.

Q Okay. And then your third explanation was metal from a building?

A Yes.

Q But in order to get into a metal building, the phone would have to move?

A It would have to be moved vigorously.

Q Yep. So seems to me the most likely explanation was that the phone was going in and out of service, as opposed to these other explanations; would you agree?

A I don't have any evidence to base an expert opinion on that.

Q Well, you do though, because the phone was going – you have evidence the phone was going in and out of service; correct?

MS. AUGER: Your Honor, he's asking her for her most – for the most likely scenario and she says she doesn't have that expertise.

MR. MCLELAND: She's given expert opinion today, Judge, on possibilities. I'm showing how unrealistic her possibilities are, and that the realistic possibility's the phone was going in and out of service, which she's testified to.

THE COURT: Overruled. If she can answer.

Q So you know the phone was going in and out of service from 2:32 p.m. on?
A I could see evidence on the phone that it was going in and out of service between 2:32 p.m. in the afternoon and 5:45 p.m. in the afternoon. Then, after that, all I saw was that it was out of service for many hours until 4:33 a.m.
Q And the information from the Apple Health data you have is the phone is not moving?
A Not during that time, correct.
Q So if it's going in and out of service and it's not moving, is the most realistic explanation for why those text messages came in at 4:33 a.m. is, at that point, it reconnected to the service provider or the tower?
A That could be a likely explanation.

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

THE COURT: Ms. Auger.

MS. AUGER: Thank you.

RE-DIRECT EXAMINATION OF STACY ELDRIDGE

QUESTIONS BY MS. AUGER.

Q Stacy, how often do you work with the knowledgeC database in the course of your work?
A It is one of the main databases that I work with. I also teach about it as part of my adjunct professing job.
Q So even though you may not frequently need to testify about it, do you feel that you're very knowledgeable about it?
A Yes. I specifically teach mobile forensics classes at a university.
Q Did you review all of the pertinent information you felt you needed between – regarding L.G.'s cell phone from February 13th, 2017, and February 14th, 2017?

MR. MCLELAND: Judge, objection, it's a leading question.

THE COURT: Sustained.

Q Was there any information you felt that you should have reviewed that you did not?

A I felt that I reviewed the most important information in the number of hours I had.

Q And is there anything that you would have reviewed that then would have changed any of your opinions do you think?

A Well, if I would have had a full file system analysis from February of 2017, I could have reviewed more information; but other than that, I think this is the priorities.

Q Now, Mr. McLeland asked you about cell tower service and if you were familiar with cell tower service, if you'd studied the topography around the area when – where the bodies were found; you recall his questions?

A Yes.

Q Is there a test, a service that law enforcement or experts can provide that actually tests where service exists and where it doesn't?

MR. MCLELAND: Judge, a few foundational questions, please?

THE COURT: Okay.

MR. MCLELAND: Ms. Eldridge, are you familiar with what capabilities Carroll County Sheriff's Department or the Indiana State Police have at their disposal?

A I do not know.

MR. MCLELAND: Were you aware of what capabilities they had in February of 2017?

A No.

MR. MCLELAND: Were you aware of what resources were available in the investigation into the deaths of A.W. and L.G. back in February 13th of 2017?

A No.

MR. MCLELAND: Were you aware of what resources were available to the FBI during that time?

A No.

MR. MCLELAND: Judge, I'm gonna object to the question. It calls for speculation.

MS. AUGER: Your Honor, they asked whether she studied topography and about cell phone service, and so I think it's definitely relevant and responsive to that if there are things that could be done that can test that.

THE COURT: The objection is speculation. Answer that.

Q Oh. Ms. Eldridge, what is a drive study?

A A drive study is kind of what it sounds like, you drive around and you see what sort of signals you're getting from whatever you're trying to measure; so in this case, it could be cell phone towers.

Q Do you know if that is something that the FBI CAST team engaged in?

A Yes. And there was a document leaked in 2019 on the Internet all about the stuff FBI does with that.

Q Do you know if they had that available to them in 2017?

MR. MCLELAND: I object to that, Judge, again same objection, it calls for speculation.

MS. AUGER: She can say if she doesn't know.

THE COURT: If she knows. Overruled.

A Theoretically, it would have been a service available.

Q Mr. McLeland asked you about having to move a phone to plug in an aux cord; you recall his questions?

A Yes.

Q If A.W.'s body was not on top of this cell phone at 5:45 p.m. on February 13th, 2017, would the phone have had to have been moved?

A No, not necessarily.

Q And do you know where that phone was located when it was found on February 14th, 2017 –

A It was like –

Q -- other than under the shoe under the body?

A No.

Q And the same question: If A.W.'s body was not on top of the cell phone at 10:32 p.m. on February 13th, 2017, would the phone had to have been moved?

A No.

Q And could it be that the phone didn't have to be moved enough to log a step?

A Yes, that's correct.

Q And if the phone is in a vehicle, it doesn't – does it necessarily log movement?

A No, it doesn't.

Q And one final thing, Ms. Eldridge: If, at 4:33 a.m., the phone is somewhere else and powers down, would it log movement –

A It would not –

Q -- after that?
A -- log movement after that, no.
MS. AUGER: Nothing further.
THE COURT: Mr. McLeland.

RE-CROSS EXAMINATION OF STACY ELDRIDGE

QUESTIONS BY MR. MCLELAND.

Q If the phone was not in a vehicle, but was being carried by someone, with your knowledge and expertise, would it log movement through the Apple Health data?
A If it was being carried?
Q Correct.
A It depends on where the phone is when it's being carried –
Q Okay.
A -- as to how much gets logged, if anything.
Q Okay. And so, if it was carried from a phone to the middle of a woods, would it log data in the health app data or movement?
A Are you asking me if someone was just carrying the phone itself –
Q Right.
A -- in their hand?
Q Right.
A It would log movement.
Q Okay. And if it hit a bump in the car, a bump enough to affect the phone, it would log movement through the Apple Health data?
A It would, but it would depend on, like, how many bumps. I do not believe just one bump would be enough to –

Q Okay.

A -- log a whole bunch of steps.

Q Not necessarily a whole bunch of steps, but it would log some movement?

A From the research I read, it kind of takes a little bit for it to get going, to realize that it's in motion, so maybe.

Q If the phone was underneath the shoe underneath the body of a victim and someone moved that body, pulled the phone out, plugged the headphones in, and then put it – unplugged the headphones and then put it back underneath the body, would you think that would register movement through the Apple Health data?

A I don't know.

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

THE COURT: All right. Does anybody on the jury have any questions for Ms. Eldridge? And would counsel approach.

(Sidebar conference concluded.)

THE COURT: "Did you ever write your own report from the timeline of events for L.G.'s iPhone 6s?"

MR. MCLELAND: No objection.

MS. AUGER: No objection.

THE COURT: "Would any of the knowledgeC database information be related to L.G.'s iPad if she had it linked with her iPhone S?"

MR. MCLELAND: No objection.

MS. AUGER: That's fine.

THE COURT: "Or would the iPad have a separate knowledgeC database?"

MR. MCLELAND: No objection.

MS. AUGER: I don't think that's relevant.

THE COURT: We're asking about the iPhone and if it's linked to the iPad, and then it said "Or would the iPad have –

MS. AUGER: Oh, I –

THE COURT: -- a separate knowledgeC database."

MS. AUGER: Okay. Can I look at it – I'm kind of a visual person – just a sec? Oh, I'm sorry, I didn't mean to –

MR. MCLELAND: Judge, if I could, ask the separate – ask the first one –

THE COURT: Right.

MS. AUGER: Yeah.

THE COURT: I mean, it's broken into questions.

MS. AUGER: I – yeah.

THE COURT: There was a question mark at the end.

MR. MCLELAND: I don't have any objection to it.

MS. AUGER: I got it.

MR. MCLELAND: (Inaudible)

THE COURT: Yeah.

MS. AUGER: Yes, that's fine.

THE COURT: Okay. "Can you tell by iPhone data if the phone was on silent or if the ringer was volumed to vibrate?"

MS. AUGER: That's fine.

THE COURT: "Is there a device or piece of equipment that, if inserted into the audio jack, would disable or scramble the phone's signal for a

period of time?"

MR. MCLELAND: Objection.

MS. AUGER: An objection? Okay.

MR. MCLELAND: If she knows, I guess I believe on that one, but typically (inaudible)

THE COURT: Okay. "Were you able or would you be able to review Richard Allen's historical precision location if he was using a Google Pixel phone from a provider called Tang?"

MR. MCLELAND: No objection.

MS. AUGER: That's fine.

THE COURT: Is it Tang or Ting?

MS. AUGER: Ting.

MR. MCLELAND: Ting.

MS. AUGER: Ting.

MR. MCLELAND: T-I-N-G.

THE COURT: That's that orange stuff. Ting. "How common was Ting as a provider in 2017?" Is that an if you know?

MR. MCLELAND: Yeah.

MS. AUGER: That's definitely an if you know.

MR. MCLELAND: I don't know if she can answer that, but I think you can ask.

THE COURT: "Would water or moisture affect movement?"

MR. MCLELAND: No objection.

MS. AUGER: That's fine.

THE COURT: "Are there other ways" – or no – "Are there other ways

or apps that register phone movement other than Apple Health?"

MR. MCLELAND: No objection.

THE COURT: "Did L.G.'s phone have those tools?" Okay. So –

MR. MCLELAND: That would have been one of our questions –

THE COURT: Okay.

MR. MCLELAND: -- so I don't object to that.

THE COURT: And "If so, what did those tools tell you?" This is a multi-part. So are there other ways or apps, did her phone have it, and if so, we can say – if she says yes, the phone had them, what did the measurements tell you?

MR. MCLELAND: That's if she answers yes.

MS. AUGER: Yeah.

THE COURT: But, I mean, if she – did she have those tools; and, if not, then we're done with it.

MS. AUGER: Right.

THE COURT: Okay. And then, are we – can we take a break? I don't know where you're at with your case, I don't know if you've got another witness.

MS. AUGER: Yeah, we can take a break.

THE COURT: Okay.

(Sidebar conference concluded.)

JUROR QUESTIONS OF STACY ELDRIDGE

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Ms. Eldridge, did you ever write your own report on the timeline events – timeline of events for L.G.'s iPhone 6s?

A No, I did not because of the limited time.

THE COURT: Any follow-up, Ms. Auger?

MS. AUGER: No.

THE COURT: Mr. McLeland?

MR. MCLELAND: No, Your Honor.

Q Could any of the knowledgeC database information be related to L.G.'s iPad if she had it linked with her iPhone 6s?

A If it is – if anything is syncing, it logs that. I do not believe, of the top of my head, there was any syncing involved between the iPad and the iPhone.

THE COURT: Ms. Auger?

MS. AUGER: No.

THE COURT: Mr. McLeland?

MR. MCLELAND: If there was syncing involved, would – well, I'll retract that question, Judge. I don't have any questions.

Q Would the iPan [sic] – if so, would the iPad have a separate knowledgeC database?

A The iPad has its own knowledgeC database. Typically, what's synced is not the data in the databases, it's things like your preferences and your pictures and files, videos, text message.

THE COURT: Ms. Auger?

MS. AUGER: No.

THE COURT: Mr. McLeland?

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

Q Would water or moisture affect movement?

A I do not know.

THE COURT: Ms. Auger?

MS. AUGER: No.

THE COURT: Mr. McLeland?

FOLLOW-UP EXAMINATION OF STACY ELDRIDGE

QUESTIONS BY MR. MCLELAND.

Q Judge, I hope this isn't outside the scope, but would water affect the port or the plug-in for the earbuds for the phone?

A I have no knowledge that it would.

Q Okay. In your expertise, you've never experienced that water damage to a phone would affect what's able to be plugged into the phone?

A Water damage could affect what could be – still be plugged in and work, but it wouldn't suddenly log like a headphone as plugged in all the time.

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

JUROR QUESTIONS OF STACY ELDRIDGE

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Can you tell by the iPhone data if the phone was on silent or if the ringer was volumed to vibrate?

A I did not look at that information.

THE COURT: Ms. Auger?

MS. AUGER: No.

THE COURT: Mr. McLeland?

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

Q If you know, is there a device or piece of equipment that could be inserted into the audio jack to disable or scramble the phone signal for a period of time?

A I did research for that and I was unable to find anything.

THE COURT: Ms. Auger?

MS. AUGER: Nope.

THE COURT: Mr. McLeland?

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

Q Were you able or would you be able to review Richard Allen's historical precision location if he was using a Google Pixel phone through a provider called Ting?

A If they have it available. I do not know what they store.

THE COURT: Ms. Auger?

MS. AUGER: Nothing.

THE COURT: Mr. McLeland?

FOLLOW-UP EXAMINATION OF STACY ELDRIDGE

QUESTIONS BY MR. MCLELAND.

Q Would you have to have the phone that he had on February 2nd of 2017, to be able to do that?

A No.

MR. MCLELAND: Okay. No other questions, Judge.

JUROR QUESTIONS OF STACY ELDRIDGE

QUESTIONS OF THE JURY, READ BY THE COURT.

Q If you know, how common was Ting as a provider in 2017?

A I am unaware.

THE COURT: Ms. Auger?

MS. AUGER: No.

THE COURT: Mr. McLeland?

MR. MCLELAND: No questions, Judge. Thank you.

Q Are there other ways or apps that register phone movement other than Apple Health?

A Yes, there are many different apps that can record movement; for example, WhatsApp records your movement.

THE COURT: Ms. Auger?

MS. AUGER: No.

THE COURT: Mr. McLeland?

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

Q Did L.G.'s phone have those tools?

A I did not specifically look at anything – any other things other than Apple Health.

THE COURT: Ms. Auger?

MS. AUGER: No.

THE COURT: Mr. McLeland?

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

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

THE WITNESS: Thank you, Your Honor.

THE COURT: All right. Well, ladies and gentlemen, this is an appropriate time for us to take our afternoon recess. While you're outside the courtroom, keep your minds open. Please don't form any opinions or conclusions about anything. You may discuss the evidence, but please, only do that if all of you are together in the jury room at the same time and, please, don't deliberate. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 3:46 p.m.)

THE COURT: All right. Let's re – be back at four o'clock, please. And, Jodie, you can go off the record.

(Off record at 3:46 p.m.)

(On record at 4:06 p.m.)

THE COURT: All right. We are back on the record. Are we ready to go?

MS. AUGER: Yes, Your Honor.

THE COURT: State?

MR. MCLELAND: Yes, Your Honor.

THE COURT: All right. So before we bring the jury back in, members of the court security staff that are in the back of the courtroom have advised the Court that folks in the back – folks are talking in the gallery. I've asked you repeatedly to not talk, it's distracting, we're picking some of your conversations up, and I'm pretty sure you don't want me to know what you're saying. Stop talking. If the court security staff observes anybody speaking in the courtroom, they will tap you on the shoulder and escort you out of the courtroom and you will not be permitted back in for the proceedings. I hope I have made that perfectly clear, no talking. Could we bring in our jury, please.

MS. AUGER: Your Honor, we're going to have Ms. Eldridge in the courtroom while Mr. Cecil and Mr. Bunner testify.

THE COURT: Any problem with that?

MR. MCLELAND: No, Judge, no objection.

THE COURT: Okay.

MS. AUGER: Thank you.

THE BAILIFF: All rise.

(Jury in at 4:09 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. Ms. Auger, you may call your next witness.

MS. AUGER: First Sergeant Christopher Cecil.

(Witness sworn.)

DIRECT EXAMINATION OF FIRST SERGEANT CHRISTOPHER CECIL

QUESTIONS BY MS. AUGER.

Q First Sergeant Cecil, can you give us your full name and rank again, please.

A Yes, ma'am. Christopher D. Cecil, C-E-C-I-L, and First Sergeant.

Q And you are a First Sergeant with the Indiana State Police?

A Yes, ma'am.

Q You previously testified.

A Yes, ma'am.

Q And, First Sergeant Cecil, when you previously testified, we admitted Defendant's Exhibit E; can you identify that for us?

A Yes, ma'am. This is the table that I prepared as part of my examination.

Q That's the time – we've been referring to it as a timeline; is that an accurate way to refer to it?

A That's correct.

Q And there is a note on there, a log, I think it's line 452 or 458, about audio output start.

A Yes, ma'am.

Q You know what that is?

A I do not know.

Q And are you able to discuss, in your area of expertise, reasons why a cell phone would connect to a tower?

A No, I am not. I don't have that education.

MS. AUGER: Nothing further.

THE COURT: Mr. McLeland.

CROSS EXAMINATION OF FIRST SERGEANT CHRISTOPHER CECIL

QUESTIONS BY MR. MCLELAND.

Q Mr. Cecil, you were here, present in the courtroom, when Ms. Eldridge gave her testimony; is that correct?

A Yes, I was.

Q And this – I'm gonna get the line wrong, but this log in the timeline, line 458, or the log you just reviewed with Ms. Auger, you understand that to be a log of an audio – well, what do you understand that log to be?

A According to what Ms. Eldridge testified to, it has to do with – specifically she says it has to do with a headphone been inserted into L.G.'s iPhone.

Q And at the time of your report, were you able to clearly identify that's what happened at that point in time on the log?

A No.

Q And you did research that fact; correct?

A Yes.

Q And the most recent research you found on that issue was back from 2022; is that correct?

A Yes, sir.

Q And the research that you conducted, from what you learned, you weren't able to definitively say whether or not headphones were plugged in at that time; is that a fair statement?

A Yes, sir, that's correct.

Q Now, the jury question or one of the jury questions, I believe, talked about could water damage cause that issue. Do you remember hearing that jury question when Ms. Eldridge testified?

A I do remember.

Q And you had an opportunity to review that or look that up over the break; is that correct?

A Yes, sir.

Q And you did that by just doing a quick Google search; correct?

A Correct.

Q And you found that –

MS. AUGER: Your Honor, I'm gonna object to hearsay.

THE COURT: Hearsay.

MR. MCLELAND: I don't think it's hearsay, Judge. He was able to review – look up the question and review the information he collected from that question. He's not saying what somebody else said or anything like that, it's his knowledge from a search that he did during the break.

THE COURT: Overruled.

Q So you were able to look up some reasons why that would happen; is that correct?

A Yes, sir.

Q And you found, through your search, that water damage or dirt within the headphone socket could cause the phone to register that a headphones – or headphones were inserted into the phone; is that correct?

A Correct.

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

RE-DIRECT EXAMINATION OF FIRST SERGEANT CHRISTOPHER CECIL

QUESTIONS BY MS. AUGER.

Q What Google site?

A I'm sorry?

Q What Google site?

A I Googled it, there's multiple different returns when I searched that through Google.

Q Which ones?

A There's one called –

Q Anything credible?

A These are like troubleshooting for persons who experienced their phone is in headphone mode, so it would be from different forums from Apple or (inaudible) or many different sites.

Q Okay. But you couldn't find – you researched this when you originally did your report; right?

A No, ma'am.

Q No? Okay. So you put in a line on your timeline that you previously testified was accurate, reliable, didn't need to be modified, changed, or edited, and you said you didn't know what that was; right?

A That's correct.

Q And it wasn't important at all –

MR. MCLELAND: I'm gonna object to the form of the question, Judge.

THE COURT: Well, she hasn't finished her question.

MR. MCLELAND: I understand, Judge.

MS. AUGER: I'll rephrase it.

Q Did you look into the accessory out function –

A No.

Q -- during your Google search?

A No.

Q Do you normally – when you're doing digital forensic analysis in criminal cases, do you normally do your research by checking out Google?

A Not normally, no.

Q You normally look for peer-reviewed articles?

A That's correct.

Q Like you did when you drafted your report?

A Correct.

Q Would you – Mr. Cecil – or First Sergeant Cecil, are there things out on the Internet that aren't reliable?

A Yes.

Q Are there things on the worldwide web that aren't accurate?

A Yes.

Q Are there things out on the worldwide web that are false?

A Yes.

Q And in science, do you like worldwide web information or peer-reviewed research articles?

A Peer-reviewed is the preferred.

Q Was there any other sign of water damage on that phone?

A I did not look for that, ma'am.

Q Did anyone?

A Not to my knowledge, ma'am.

Q And since it was recovered on February 14th, 2017, it has been in the sole possession of law enforcement; is that right?

A Yes.

Q And so if anyone wanted to find out if that phone had water damage in any other area, who would have that information?

A Law enforcement would be able to do that.

Q Okay. What about dirt?

A Law enforcement would be able to look for that.

Q Was there dirt on the phone when it was found?

A I do not know.

Q First Sergeant Cecil, you have had – you and the State Police have had seven and a half years to determine this information; is that correct?

A That's correct.

Q And you're coming here after doing a Google search; is that right?

A That's correct.

MS. AUGER: Nothing further.

RE-CROSS EXAMINATION OF FIRST SERGEANT CHRISTOPHER CECIL

QUESTIONS BY MR. MCLELAND.

Q Is it your understanding that the phone was found under a shoe underneath the body of A.W.?

A Yes, sir, that's correct.

Q And it was found in the middle of the woods?

A Yes, sir.

MR. MCLELAND: Okay. No other questions, Judge.

THE COURT: Does anybody on the jury have any questions for First Sergeant Cecil?

(No response or indication from any juror.)

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

MR. MCLELAND: Judge, is he released from his subpoena?

MR. BALDWIN: Yes.

THE COURT: Is he released –

MS. AUGER: Yeah.

THE COURT: -- from subpoena? Yes, he is released from subpoena.

MR. MCLELAND: All right. Thank you, Your Honor.

THE COURT: You may call your next witness.

MS. AUGER: Thank you. Brian Bunner.

(Witness sworn.)

DIRECT EXAMINATION OF LIEUTENANT BRIAN BUNNER

QUESTIONS BY MS. AUGER.

Q Sir, can you state your name, please.

A Brian Bunner.

Q What do you do for a living?
A I work for the Indiana State Police.
Q Okay. You previously testified?
A Yes.
Q You did some work on L.G.'s cell phone?
A Yes, ma'am.
Q When was that?
A February 15th of 2017.
Q Have you done anything since then on L.G.'s cell phone?
A Her physical phone or extractions?
Q Either.
A Yes.
Q Please forgive me, I forget your rank, and I'm trying to be –
A It's lieutenant.
Q Lieutenant.
A Yeah.
Q Thank you. I'm sorry.
A It's okay.
Q Lieutenant Bunner, do you know what audio output start means in the extraction material?
A No.
Q During a break, did you do any Google searches?
A No.

MS. AUGER: Nothing further. Thank you.

THE COURT: Mr. McLeland.

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

THE COURT: Does anybody on the jury have any questions for Lieutenant Bunner?

(No response or indication from any juror.)

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

THE WITNESS: Thank you.

MR. MCLELAND: And, Judge, is he released from his subpoena, as well?

MS. AUGER: Yes.

THE COURT: And you are also released from your subpoena.

MR. MCLELAND: Okay.

THE WITNESS: Thank you.

THE COURT: Thank you.

MR. MCLELAND: Thank you, Your Honor.

THE COURT: All right. Ms. Auger, you may call your next witness.

MS. AUGER: Your Honor, may we approach?

THE COURT: Yes.

(Sidebar conference conducted.)

THE COURT: Where are we at, Ms. Auger?

MS. AUGER: I think we are out of witnesses today. We may rest, we just would like to have a night to kind of consider where we are.

THE COURT: Okay. So do you anticipate additional witnesses?

MS. AUGER: If we do, it'd be very short in the morning.

THE COURT: Is the State anticipating rebuttal?

MR. MCLELAND: Perhaps one, Judge; I think one for sure, but that's all I can tell you right at this moment, but he's out of town and I guess I wasn't expecting them to rest, so I – we had planned on having him on Thursday.

MS. DIENER: Yeah, we had a list for tomorrow and we thought we'd be into Thursday, so –

MR. MCLELAND: So we'll have to see what we can do.

MR. ROZZI: Mind if I grab my list?

THE COURT: Oh, no.

MR. ROZZI: Just 'cause I don't have it.

MS. DIENER: I have it.

MR. ROZZI: You know, for us the last three would be the possibilities tomorrow I think, kind of just discussing them at breaks, so we're not gonna call Pearson and we're not gonna call Duncan, and if you would like to call – we'd appreciate if you would, please, call Mr. Harshman and let him know that he's good to go.

MR. MCLELAND: Okay.

MS. DIENER: Okay.

MR. ROZZI: These three –

MR. MCLELAND: I can call our people –

MR. ROZZI: These three –

MR. MCLELAND: -- or just text them.

MR. ROZZI: -- we may call and they're –

MS. DIENER: I don't have a number for her, but I –

MR. ROZZI: Oh, well, we'll take care of it.

MS. DIENER: -- I do for him.

MR. ROZZI: Yeah.

MS. DIENER: Okay.

MR. ROZZI: Yeah, we'll take care of it.

THE COURT: Okay. So that leaves these three; are these professional witnesses or parties that can –

MR. MCLELAND: Tony Liggett, Jerry Holeman, and then Kathy Allen.

MR. ROZZI: Kathy Allen are the three.

THE COURT: Those are your three witnesses?

MR. MCLELAND: Which I can get Liggett and Holeman here, I can get Liggett here tomorrow, he's fairly close.

MS. DIENER: He asked what time tomorrow and I said I don't know yet, so –

MR. ROZZI: Yeah. I mean, 9 would make sense.

THE COURT: Okay. And then you'd have a rebuttal that you'd need to get here and to get –

MR. MCLELAND: Right.

THE COURT: You start working on that and –

MS. DIENER: Yep.

MR. MCLELAND: We will do that right now. We'd planned Thursday, but we'll – we're –

MS. DIENER: Yeah. I told them –

THE COURT: -- hopefully able to get him here.

MS. DIENER: Yep.

MR. MCLELAND: He's in Florida, so we'll do our best. Okay.

Judge, while we're here talking, let's say we – I assume – are you expecting us to go right into closing on Weds –

THE COURT: What is today?

MS. DIENER: Today is Tuesday.

MS. AUGUR: That's frightening.

MR. ROZZI: Very good question, I have the same –

THE COURT: Today is Tuesday?

MR. MCLELAND: Yes.

THE COURT: Okay, yeah, (inaudible)

MS. AUGER: Okay.

MR. MCLELAND: So would – would you expect –

MR. ROZZI: Well, I mean, I don't want to wait too damn long, get on with it.

THE COURT: I would expect that we would be starting –

MR. ROZZI: The next morning?

THE COURT: -- first thing.

MR. ROZZI: Oh, yeah, yeah.

MS. DIENER: Okay.

THE COURT: But we can talk about –

MR. MCLELAND: Okay.

THE COURT: -- at our next break.

MR. ROZZI: Tomorrow's – today's Tuesday?

MS. DIENER: Perfect. It is Tuesday.

MR. MCLELAND: I keep thinking today's Thursday.

MR. ROZZI: If we get done tomorrow –

MS. DIENER: Election Day, that's how I know.

MR. ROZZI: -- are – we fire up on Thursday morning and get done; right?

MR. MCLELAND: Tomorrow is Wednesday.

MR. ROZZI: Tomorrow is Wednesday.

THE COURT: Tomorrow's Wednesday, okay. And that (inaudible)

MR. ROZZI: Yeah, I know.

THE COURT: I need like a little calendar, 'cause we keep asking each other, "What is today?" All right. Well, let's be done for the day. We'll just indicate to the jury – what do we want to say?

MR. ROZZI: Well, it's 4:15 – I think – I thought cross on them might be a little longer today –

THE COURT: Okay.

MR. ROZZI: -- you know, because some of that got cut out and – who are you guys thinking on rebuttal? Who's coming from Florida?

MR. MCLELAND: Dr. Martin.

MR. ROZZI: Oh, okay.

MR. MCLELAND: I think that's what we have coming right now. We're talking about it.

MS. DIENER: Yeah.

MR. MCLELAND: I know we had other (inaudible), we'll see, so we're gonna talk about it tonight.

THE COURT: All right. Let's release them for the day and we do our ten-minute –

MS. DIENER: Wait.

THE COURT: -- dance here.

MR. ROZZI: Okay.

THE COURT: So we can do that, talk about it.

MS. DIENER: Okay.

MR. ROZZI: Okay.

MS. DIENER: Thank you.

(Sidebar conference concluded.)

THE COURT: All right. Well, ladies and gentlemen, that will be the balance of what we have for you for today, so we're gonna go ahead and call it – I know it's a little bit early, but it's 4:30 almost. So while you go on about your own business then the rest of the afternoon and the evening, please remember what I continually have told you as we part our company: That you cannot talk about the case amongst yourselves, since you will be in the company of the bailiffs and under their constant supervision. So have a pleasant evening and we'll see you tomorrow morning at 9.

THE BAILIFF: All rise.

(Jury out at 4:25 p.m.)

THE COURT: All right, you may be seated. All right. Then, counsel, if we can just briefly speak over here. Did you wish – yeah, up here real quick.

(Sidebar conference conducted.)

THE COURT: Okay. So today is Tuesday, November 5th. So tomorrow is Wednesday, November 6th.

MR. BALDWIN: Yes.

THE COURT: So you're anticipating resting tomorrow?

MR. BALDWIN: Yes, yes.

THE COURT: And them, you will be in the position to present –

MS. DIENER: Rebuttal.

THE COURT: -- rebuttal witnesses tomorrow. Then, if that's the case, then I don't know where we're gonna be at with the witnesses that you guys are gonna call and how long that's gonna take –

MR. BALDWIN: We'll let them know by the end of the – I'm sorry to interrupt, Judge. We'll let them know as soon as we – let everyone know what we're gonna do and then –

THE COURT: Like where you're at?

MR. BALDWIN: Yeah.

MS. AUGER: Yeah.

MR. BALDWIN: Yeah, tonight.

MR. ROZZI: By the end of the evening, yeah.

MR. BALDWIN: Yeah.

THE COURT: So you definitely have three witnesses for sure?

MR. BALDWIN: Well –

MR. ROZZI: No, I'm saying those would be the only three.

THE COURT: Those would be the only three.

MR. ROZZI: Yeah. I was trying to eliminate the others, just so that we could get that out of the way now.

THE COURT: Oh, okay.

MR. ROZZI: Yeah.

THE COURT: So potentially three.

MR. ROZZI: Yeah.

MS. AUGER: Right.

THE COURT: And then, we have – again, I don't – I still think releasing them and starting Thursday.

MS. AUGER: Yeah.

THE COURT: 'Cause that's not fair to you guys.

MR. BALDWIN: No.

THE COURT: And I don't want to do that to you and I don't want to do it to the jurors, so – and we haven't talked about how long you're asking for closing or what the request is going to be for closing and who's doing closing for each side.

MR. MCLELAND: Right now, it's me. I might talk for maybe two hours tops.

THE COURT: I mean, that's reasonable?

MR. ROZZI: I think that's reasonable, yeah.

THE COURT: Okay. You agree with two hours?

MR. ROZZI: Yeah, that's –

MR. BALDWIN: I don't know that we're going to do this, Judge; but in other courts that I practice in with my partners and others associates in my firm, we do a split close, where one does a part half and the other one – I don't think we're doing that, but if we –

MR. ROZZI: No, we're –

MR. BALDWIN: -- decided to do that, would that be something that you would allow?

THE COURT: As long as you're staying in the timeframe.

MR. BALDWIN: Okay.

MR. ROZZI: Yeah, yeah, I mean just because of the volume of

information, we may do something like that.

MR. LUTTRULL: You're not gonna ask the jury how long they want final arguments to be?

THE COURT: No.

MR. MCLELAND: That two hours, is that including rebuttal, as well?

THE COURT: Um-hmm, yeah.

MR. MCLELAND: Okay.

THE COURT: So you'd have to split your time up.

MR. MCLELAND: Okay.

THE COURT: And I'm happy to give you however much time, like we did (inaudible)

MR. ROZZI: I mean, can we just kind of do this on a gentlemen's agreement here, like we have two hours. If it's getting verbose and we're completely ridiculous, you can stop us?

MR. MCLELAND: I'm good with that.

MR. BALDWIN: You want her to stop us?

MR. ROZZI: I mean, you know –

MR. BALDWIN: The Judge?

MR. ROZZI: -- what I'm saying, like you'd call – you might say, "Hey, we need to move along," you know what I mean.

MR. MCLELAND: I'm all right, I don't expect to (inaudible)

MR. ROZZI: Yeah, like we're doing voir dire or something.

MR. MCLELAND: Bring a (inaudible)

MR. BALDWIN: Yeah.

MR. MCLELAND: Two hours and 45 minutes, that's –

MR. ROZZI: Yeah. If I can muster up two hours of energy, you should be proud of me, because I don't know that I'm gonna be able to do that on Thursday.

MR. MCLELAND: So I'm okay with the Judge doing that.

MR. ROZZI: Yeah.

THE COURT: Okay. And that's fine.

MR. MCLELAND: Yes.

THE COURT: It's important that you guys have the time that you need –

MR. ROZZI: Yeah, yeah.

THE COURT: -- make your spiel to the jury, and they're gonna want to hear your spiels, they're gonna want to hear your perspective and hear what you've got to say –

MR. ROZZI: Yeah, yeah.

THE COURT: -- about the evidence.

MR. MCLELAND: They've had some questions of everybody.

MR. BALDWIN: They'd have some.

THE COURT: (Inaudible)

MR. BALDWIN: Okay.

THE COURT: (Inaudible) security indicate (inaudible)

MR. ROZZI: Sure, that's fine with me.

MS. AUGER: Thank you.

MR. ROZZI: I mean, assuming that they're okay with it, yeah.

MR. BALDWIN: Thank you.

(Sidebar conference concluded.)

THE COURT: All right. Well, thank you for that opportunity, ladies and gentlemen, to just kind of have a conversation on the record but at sidebar about where we're at with the next steps in the trial. So we'll see everybody here tomorrow morning at nine o'clock. And I appreciate that you guys have been working well into the evening and communicating with each other very well to let you – each side know where the other side is, so we'll see everybody tomorrow morning.

MS. AUGER: Thank you.

MR. MCLELAND: Thank you, Judge.

THE COURT: You can go off the record.

(Off record at 4:30 p.m.)

(On record November 6, 2024, at 9:03 a.m.)

THE COURT: Well, good morning, ladies and gentlemen. We are back on the record in *State of Indiana versus Richard Allen*, 08C01-2210-MR-1. I'll show the Defendant's here in person with counsel. State's here by the Prosecutor and his deputies. The jurors have reassembled and are awaiting our direction. Are we ready to proceed, Mr. Rozzi?

MR. ROZZI: Yes, Your Honor.

THE COURT: Mr. McLeland?

MR. MCLELAND: Yes, Your Honor.

THE COURT: Let's bring in our jury, please. Could you turn your table mic on, Mr. Rozzi or Ms. Auger. Thank you.

MS. AUGER: You're welcome. Thank you. Sorry.

THE BAILIFF: All rise.

(Jury in at 9:05 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. All right. Well, good morning, ladies and gentlemen. It's nice to see you back this morning. Gave you a minute there to get kind of all settled in, get your things ready. I think we are ready to proceed. Mr. Rozzi, you may call your next witness.

MR. ROZZI: Judge, the Defense rests.

THE DEFENSE RESTS

THE COURT: Mr. McLeland.

MR. MCLELAND: Judge, may we have a brief sidebar, please?

THE COURT: Yes.

(Sidebar conference conducted.)

MR. ROZZI: What was that?

MR. MCLELAND: I just knocked my computer down.

MR. ROZZI: Oh.

MR. MCLELAND: Judge, since the Defense told us last night they would have a couple additional witnesses, we tried to (inaudible) travelling a distance. So we think our first rebuttal witness will be here at 10 or so and then we should be ready to go. We'll have three witnesses all together: Bre Wilber, Brian Harshman, and then Dr. Martin. Bre Wilber's gonna be our first and she's –

MS. DIENER: She's Indianapolis.

MR. MCLELAND: Indianapolis.

MS. DIENER: And I got ahold of her last and asked her to

(inaudible).

MR. MCLELAND: So they're all on their way.

THE COURT: Okay.

MR. MCLELAND: In the meantime, I'd like to reoffer the Cass County video for you to consider that evidence based off the Westville testimony about his personality, some evidence that they offered, and that's based off Dr. Westcott's testimony.

MR. ROZZI: Judge, our position on that is clear that we were instructed by the Court to keep this confined to that April, May, and June timeframe –

THE COURT: Um-hmm. (Affirmative response)

MR. ROZZI: -- and we made a concerted effort to do that. I think the last information that Ms. Westcott said she'd reviewed was in February of 2024, which was six, eight months before that. You know, there was no testimony from her, and I purposely steered away from any of the profiling or anything like that, because I didn't want, you know, to violate the Court's directions in that regard, so you know, our argument is, is that, you know, there's – there are no facts to support that we opened the door and it's still a 403 problem, either that or it's a 404 problem, as well.

MR. BALDWIN: If there was any door opening, it was – yeah.

MR. ROZZI: Yeah. They're trying to prompt it by their questions, and I appreciate fully – I mean, I understand that that's the way the game is played, but the witness has been instructed to stay away from that, and in fact, even yesterday with Dr. Grassian, I – you know, those were the instructions that I've given them; I said, "We're not talking about any of these things, it's just the

stuff that occurred in April, May, and June." And so we don't believe they've opened it, that's just not happened.

MS. DIENER: Judge, may I respond?

THE COURT: Yeah.

MS. DIENER: Polly Westcott specifically testified that he was fragile like an egg, passive, and avoidant of conflict, that is an impression that she left with the jury. We believe that we should be able to respond to that.

MR. ROZZI: Based on – she testified around what he showed up as –

MS. DIENER: Yeah.

MR. ROZZI: -- when first in DOC, and his – that was his condition when – that's what she was testifying to. Again, staying within the timing boundaries that the Court has imposed upon us.

THE COURT: Well, and we agreed, I mean, I think the testimony was she was kind of describing his broad personality – you know, demure was not the word (inaudible) to this type of evidence; however, I think the probative value is substantially outweighed by the prejudicial effect on the jury to consider that evidence. I think you got there, but I think the prejudicial impact is so strong that the jury is gonna to – that (inaudible) and it happened while he (inaudible) so I think it's relevant, but the 403 value is just it's horribly prejudicial.

MR. MCLELAND: Judge –

MR. ROZZI: And the other issue – oh, sorry.

MR. MCLELAND: No, go ahead.

MR. ROZZI: On the other issues, he said Bre Wilber was one of the

witnesses.

MR. MCLELAND: Brian Harshman, and we're good to go, and then Dr. Martin.

MR. ROZZI: Okay. So Martin's gonna be more mental health stuff, clearly.

THE COURT: So I hate to send the jury out –

MR. ROZZI: Well – sorry, oh, sorry.

THE COURT: What were you gonna say?

MR. ROZZI: I guess I had a thought, I kind of started – so then, we would have surrebuttal.

THE COURT: Yeah.

MR. ROZZI: So keep Martin here, 'cause if I get restricted, I'm gonna – we're gonna talk about it, then I'm gonna, you know, call him on surrebuttal. 'Cause we deposed him, we know what he's gonna say.

MR. MCLELAND: Well, he's driving from Chicago right now. I think he left at 7 or 8, but I'm not sure if that's Chicago time or our time, so –

THE COURT: Okay.

MR. MCLELAND: -- I didn't ask that.

MS. DIENER: Yeah, we had an estimate of 10:30 at the earliest.

THE COURT: All right. Well, why don't we do this, I'm just gonna tell the jury that there are some – we have some witnesses that we need to get (inaudible) and, rather than keep them waiting here, they'll just go back.

MR. MCLELAND: And we'll notify – 'cause I'm hoping it's sooner.

THE COURT: Okay.

MR. MCLELAND: As soon as Bre Wilver gets here –

MS. DIENER: I didn't want to do like one witness and then break –

MR. ROZZI: Yeah, no, right.

THE COURT: Right. I'd rather do it this way.

MS. DIENER: Okay.

THE COURT: Okay.

MR. MCLELAND: Thank you, Judge.

(Sidebar conference concluded.)

THE COURT: Well, ladies and gentlemen, there are several witnesses that will – are not quite available yet, so we're gonna – rather than keep you waiting while we have that discussion, we're gonna give you a break. While you're outside the courtroom, please, keep your minds open. Please don't form any opinions or conclusions about anything. You may discuss the evidence, but please, only do that if all 15 of you are present in the jury room at the same time and, please, don't deliberate. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 9:13 a.m.)

THE COURT: You may be seated. All right. So you'll us know – you'll let me know when your witnesses arrive. Is there anything we need to discuss outside the presence of the jury?

MR. MCLELAND: Nothing from the State's perspective –

MR. ROZZI: No.

MR. MCLELAND: -- Judge, besides what we discussed at sidebar –

THE COURT: Okay.

MR. MCLELAND: -- but that's on the record, so the State's satisfied, Judge.

THE COURT: Okay. Could we do this: I do have potential jury instructions for counsel; could we, perhaps, have that conversation, settle jury instructions, as least, and order of argument, and then we can await the arrival of the State's witnesses. If you'll just give me a moment, Jodie's gonna go run and grab those – they're sitting on that little table, just grab the whole thing – and then we can settle instructions. I didn't receive any instructions from either side. I provided the pattern jury instructions that you are familiar with from prelims, so those should be the same as what we would be doing in finals, as well as the charging information, the statutory elements. I included the instruction, at the Defense request, that the Defendant is not going to testify.

MR. ROZZI: Yes.

THE COURT: I included the prior inconsistent statement pattern jury instruction. Since we've had quite a few prior inconsistent statements, I think that would be helpful to the jury in making their deliberations. And then, the standard instructions. Jodie's got your copies for you. I'm sorry, I haven't signed them. I wasn't anticipating having this discussion quite just yet, but since we're all here, let's use the time that we have. So I'll give you a few minutes to review the instructions and then let me know when you're ready to discuss them.

MR. ROZZI: Can – are we gonna take a recess?

THE COURT: Yeah, go ahead.

MR. ROZZI: Oh, okay.

MS. AUGER: Thank you. Sorry.

MR. ROZZI: Okay. I didn't want to just walk out.

THE COURT: No. Jodie, you can go off the record while the

attorneys talk.

(Off record at 9:15 a.m.)

(On record at 9:51 a.m.)

THE COURT: All right, we're back on the record. I asked counsel to review the Court's proposed final instructions. I didn't receive request for instructions from either side, but I have provided the pattern instructions, which is what I normally provide to the parties. Does the State have any objection to the instructions as proposed?

MR. MCLELAND: No, Your Honor.

THE COURT: Does the Defendant?

MR. BALDWIN: I – the – Judge, the pa – let me see if I can find that – whether he testified or not, that instruction, was that the pattern? We couldn't get – pull it up. I'm guessing it is, if you say that it is. It just – it seemed like it was missing a part. They're not numbered yet, so – there it is. I have it as page 11. Isn't – I'm sorry, we could look it up now. We were down in the basement and I couldn't pull up the pattern; but in the trials that I've been in with this, the pattern, I always remember the end part being, "The Defendant did not testify. You should not consider that in any way," or something like that. But I trust you, if that's what the pattern is and that's what you gave, then I don't have an objection if that's what the pattern is.

THE COURT: This might be a modified pattern based on prior defense attorneys' requests to explain it more.

MR. BALDWIN: If it's not the Indiana pattern, I would – we would request the Indiana pattern on – at the page 11 instruction, starting, "Under the law of Indiana, a person charged with the commission of a crime is a competent

witness to testify."

THE COURT: So you don't want all the extra language that's been previously requested by other defense lawyers? I just want to make sure I'm understanding.

MR. BALDWIN: I apologize, let me –

THE COURT: I'll have my staff prepare one.

MR. BALDWIN: We'll just keep it. That's fine, Judge. I mean, I've reread it. I didn't know – it's fine. I appreciate it.

MR. ROZZI: Judge, we do have – I would like – if the Court would give us until maybe later this afternoon, close of business, to submit a preliminary – or a final, proposed final, on the jurors' ability to judge the credibility of the incriminating statements by Mr. Allen. I don't know – that's certainly not one of the patterns, but I think there's case law that supports that. I'd like to – if the Court would just give me – give us until the end of business, we can email one or submit it in that manner. If we need to talk about it tomorrow, that's fine, it's not overly complicated.

THE COURT: So you want an instruction on –

MR. ROZZI: That just instructs the jury that they are the judge of the credibility of the statements, and this goes back to our discussion before about the Court's the gatekeeper with regard to whether or not they're voluntary or involuntary, and the jury is entitled to judge the credibility of the witnesses. I'm kind of doing this – winging it a little bit, I apologize for that, but I think the *Stanger* case, S-T-A-N-G-E-R, is one of the cases, and I just – I'm asking for just a little bit more time to offer that up to the Court.

THE COURT: Does the State know what he's referring to?

MR. MCLELAND: I don't, Judge. I – just a preliminary review of the instructions, I think credibility of a witness is addressed in the instructions, I think that would be sufficient; but I'm not familiar with the *Stanger* case, Judge.

THE COURT: So you'll have that by the end of the day?

MR. ROZZI: Yeah, I can get it by the end of the business, that's fine. Is it okay if I just email it to the Court and copy Mr. McLeland?

THE COURT: That's fine.

MR. ROZZI: And we can talk about it tomorrow, if needed. Okay. I don't have anything else, Judge.

MR. BALDWIN: Thank you.

THE COURT: And I've had my staff, then, send me the actual pattern without the extra language on the Defendant not testifying, and then we can discuss that one, as well, if you want to have those read.

MR. BALDWIN: Thank you, Judge.

THE COURT: Or one or the other. All right. Do – can we talk about order of argument before we recess, then?

MR. MCLELAND: Yes, Your Honor.

THE COURT: The jury rules give the Court the authority to instruct the jury with case-specific instructions, after which counsel make their presentation of their final arguments. At the conclusion of the State's rebuttal, the jury rules give the Court the authority to give them, then, the balance of the instructions, which are the general instructions at the back of your packet on how to weigh the evidence and how to conduct their deliberations. I've been doing that since the jury rules changed 10 or 15 years ago, permitting that type of presentation, with the understanding that I think it does help the jury as

they're listening to your final arguments, that they have the specific framework of the law as it relates to the charges, the statutory elements, the definitions and all that that goes with that. That's been my practice for 15 years since that changed. Does the State have any objection to that?

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

THE COURT: Does the Defendant have any objection?

MR. ROZZI: No.

THE COURT: Okay. And I know we talked yesterday about the length of argument. I'd initially said two, two and a half hours. You guys seem to think that that's gonna be sufficient for you, and you'll monitor your time. Obviously, if it goes past – much past two and a half hours, I might be clicking a pen or tapping to kind of go, "Hey, can we wind things up here?" But you've presented a lot of evidence to this jury, they've had a lot of witnesses testifying, I want to make sure you have all of the time that you both need to present your argument. So does that accurately reflect our conversation yesterday about the length of argument, Mr. Rozzi?

MR. ROZZI: It does.

THE COURT: Mr. McLeland?

MR. MCLELAND: Yes, Your Honor.

THE COURT: So – and if you change your minds about a warning salvo, I'm happy to just say, "Could you, please, wrap it up." I don't want to cut you off midstream –

MR. ROZZI: Yeah, I understand that.

THE COURT: -- but if it becomes a normal – and opportunity to just kind of remind you gently of the timeframe. I know, as a former trial

attorney, you kind of get going and lose track of time, so – I know there's a clock right up there, but we're not watching the clock.

MR. ROZZI: Well, there's a pointer stick over there on the table, I'll give that to you and you can prod us. I think we'll be fine. I think Mr. McLeland and I had a conversation yesterday that we would do this on a gentlemen's basis and, you know, kind of two, two and a half hours would be that –

THE COURT: All right. So –

MR. ROZZI: -- period, and I think we'll be able to deal with that.

MR. BALDWIN: Will there be a break between?

THE COURT: There will have to be.

MR. ROZZI: Yeah.

THE COURT: When the State finishes its preliminary argument, we'll take a break, the Defendant will then present his preliminary argument, and we'll break, and then the State will have the opportunity to present its rebuttal and – I mean, two hours is a lot for these folks to be sitting in these really uncomfortable, hard chairs, so I think it would help them to have the opportunity to refresh themselves a little as they then anticipate the next argument, so yeah, we'll be taking breaks.

MR. BALDWIN: Okay.

MR. ROZZI: Judge, I may just use this table and maybe move it over a little bit, you know, maybe closer to this line, if that's okay with the Court. I could anticipate that happening.

THE COURT: Oh, putting your things on the table?

MR. ROZZI: Yeah, maybe, because –

THE COURT: That's fine. Or you can move that big old podium,

however you want to do it.

MR. ROZZI: Okay.

THE COURT: I mean, just make sure to give the jury plenty of personal space, so they don't feel crowded.

MR. ROZZI: Okay.

THE COURT: All right. Anything else that we need to talk about before we recess and go off the record? No? All right. Jodie, you can go off the record and we'll be in recess until the State lets us know where we're at with witnesses.

MR. MCLELAND: Thank you, Judge.

(Off record at 9:59 a.m.)

(On record at 10:25 a.m.)

(Sidebar conference conducted.)

MR. ROZZI: We were up talking with the staff and they told us, when we broke out with the instructions, it was – they were still fully 40 more minutes out, and so –

THE COURT: Well, we were just told five. Are your folks here?

MR. MCLELAND: Yep.

THE COURT: Oh.

MR. MCLELAND: We've got everybody here.

THE COURT: Okay.

MR. MCLELAND: But we can wait however long.

MR. ROZZI: So I told the jailers, so they took Mr. Allen downstairs.

THE COURT: Oh, all right.

MR. ROZZI: And Mr. Baldwin ran back to Logansport to get some

notes.

MR. MCLELAND: Everybody's here.

MR. ROZZI: I mean, that's what we were told. I was listening to what – I'm not saying anybody misrepresented anything, but I talked to Trooper Holeman and that's what he told me, so –

THE COURT: Okay. Well –

MR. ROZZI: -- I don't know what else to do.

MR. MCLELAND: We – I did tell him about a half hour, but we got everybody here, so I talked to Mr. Rozzi that we've got our witnesses here, we can go whenever.

MR. ROZZI: Well, I'm just call – I mean, it's not gonna be hard to get Rick back up here, obviously.

THE COURT: Oh, right, he's just downstairs.

MR. ROZZI: I just didn't want him sitting in the courtroom. These guys are like, "What are we doing?" So I just told them what I was told.

THE COURT: Um-hmm. (Affirmative response)

MR. ROZZI: They made their decision, so really –

MR. MCLELAND: (Inaudible)

MR. ROZZI: Let me do that, let me just step out and see what we can do.

THE COURT: Okay.

MR. ROZZI: So –

MS. AUGER: I just ran downstairs.

THE COURT: Okay.

MR. ROZZI: That's okay?

THE COURT: All right. Go call and get Mr. Allen up here.

MR. ROZZI: Okay.

(Off record at 10:26 a.m.)

(On record at 10:30 a.m.)

MR. ROZZI: It's still gonna be 25 minutes before he gets here. They're hustling. I don't know what else to tell you. We're just trying to work within the timeframes we were given, so-

THE COURT: All right. Well, we can't do anything if your co-counsel's not here, so I guess we'll go off the record.

MR. ROZZI: I'm sorry. I just deal with the logistics.

THE COURT: All right. Well –

(Sidebar conference concluded.)

THE COURT: Sorry, ladies and gentlemen, we have no attorney here to conduct cross, so we'll have to again go off the record. Jodie, you can go off the record.

(Off record at 10:30 a.m.)

(On record at 10:56 a.m.)

THE COURT: All right. We are back on the record. Is the State ready with its witness?

MR. MCLELAND: Yes, Your Honor.

MS. DIENER: Yes.

THE COURT: Defense ready?

MR. BALDWIN: Yes.

THE COURT: Let's bring in the jury.

THE BAILIFF: All rise.

(Jury in at 10:59 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. Well, welcome back, ladies and gentlemen. Mr. McLeland, you may call your first witness.

MS. DIENER: Judge, the State would call Breann Wilber.

(Witness sworn.)

DIRECT EXAMINATION OF BREANN WILBER

QUESTIONS BY MS. DIENER.

Q Ms. Wilber, please state your full name and spell your first and last name again for us.

A Breann Wilber, B-R-E-A-N-N W-I-L-B-E-R.

Q And you testified previously in this trial; is that correct?

A Yes.

Q And during that testimony, just to orient that for the jury, you provided some testimony, as well as some Snapchat photographs of when you arrived at the High Bridge on February 13th of 2017; is that correct?

A Yes.

Q And then, you also provided a Snapchat photo with a timestamp of when you had a picture on a bench as you were leaving the High Bridge trail; is that correct?

A Yes, ma'am.

Q Did you also have a Snapchat photo from when you arrived at Freedom Bridge?

A Yes.

Q And would Freedom Bridge be the first bridge that you would come to as

you traveled walking from town?

A Yes, if we were walking from town, we would hit Freedom Bridge first.

MS. DIENER: Okay. Judge, may I approach?

THE COURT: You may.

Q Ms. Wilber, I'm gonna show you what's marked as State's Exhibit 318; it has two pages, please take a look at both. Do you recognize those photographs?

A Yes.

Q And what do you recognize them as?

A It is Freedom Bridge, a picture that I took on the day of February 13th, 2017.

MS. DIENER: Judge, the State would move to admit Exhibit 318 and publish it to the jury.

STATE'S EXHIBIT 318 OFFERED

MR. BALDWIN: Preliminary question?

THE COURT: Yes.

MR. BALDWIN: When did you provide this to the State?

A Like the first time I gave it to them or –

MR. BALDWIN: Yeah.

A To Stacey or just in the beginning?

MR. BALDWIN: To Stacey.

A I'm not sure the exact date, but –

MR. BALDWIN: Was it since your testimony?

A Say that again.

MR. BALDWIN: Was it since your testimony or before then?

A It was before.

MR. BALDWIN: Okay. And do you know how much time before?

A Maybe the first time we talked. It was when I sent her the pictures.

MR. BALDWIN: Okay.

A I don't know the exact date.

MR. BALDWIN: I don't have any objection.

THE COURT: All right. Without objection, 318 is admitted.

STATE'S EXHIBIT 318 ADMITTED

MR. ROZZI: I'm sorry, what was the number?

MS. AUGER: 318.

THE COURT: 318.

MR. ROZZI: Thank you.

STATE'S EXHIBIT 318 PUBLISHED

Q Ms. Wilber, would this be –

THE COURT: Hold on, hold on.

MS. DIENER: Oh, I'm so sorry, Judge.

THE COURT: They're not done yet. Okay, now you may proceed.

Q So this photograph indicates that you arrived at 12:25 p.m. on February 13th of 2017; is that correct?

A Yes.

Q And so this picture was in sequence with the other pictures that you provided; is that correct?

A Yes.

Q While you were walking – did you walk from Freedom Bridge toward High Bridge that day?

A Yes.

Q And during that time, did you see any other young girls your age?
A No, I did not.
Q Or younger?
A I did not.
Q Okay. Did you see any man that would resemble the picture of Bridge Guy we discussed previously?
A I did not.

MS. DIENER: I have no other questions.

THE COURT: Mr. Baldwin.

MR. BALDWIN: Thank you.

CROSS EXAMINATION OF BREANN WILBER

QUESTIONS BY MR. BALDWIN.

Q That's a good memory for seven and a half years ago. Is that – so your memory is on the day that school was out, that there were no other children on the High Bridge or in the – on the trail?
A Not that I recall, nothing –
Q Did you see any –
A Nothing sticked out to me to make me want to memorize.
Q Okay. Is that something that you would normally do is look around and note different people and put that in your brain for later?
A If it gives me a reason to remember it or gives me a feeling; but if not, I won't recall.
Q So you don't remember if there were any child – other kids from high school walking in and around the trail that time that you were there?
A I don't recall.

MR. BALDWIN: Okay. No other questions.

THE COURT: Ms. Diener.

RE-DIRECT EXAMINATION OF BREANN WILBER

QUESTIONS BY MS. DIENER.

Q Ms. Wilber, you were questioned pretty close in time to February 13th of 2017, were you not?

A I was.

Q And you became aware that very same day that L.G. and A.W. were missing; is that correct?

A Yes.

Q And so does the events of February 13, 2017, cause that day to stick out in your mind?

A Yes.

Q And did you give law enforcement a statement of what you saw that day close in time?

A Yes.

MS. DIENER: No other questions.

THE COURT: Mr. Baldwin.

RE-CROSS EXAMINATION OF BREANN WILBER

QUESTIONS BY MR. BALDWIN.

Q But the focus of the police was at the end of your timeline, the two o'clock – what time was it when you were at that bench?

A Without looking at the picture, I don't know the exact time.

Q But it was later in the day, 2 – 2 p.m. or something?

A It could have been around there, I don't remember.

Q Yeah. And so between –

MS. DIENER: Judge, I'm gonna object to him inserting a time when she just indicated that she would have to look at the picture to know that particular time, because he's not quoting it accurately.

THE COURT: Response?

MR. BALDWIN: It's – it's fi – I will rephrase.

THE COURT: Thank you.

Q Whatever the evidence is about that bench photo, if it's two o'clock, one o'clock, whatever time it is, that was the focus of the police, it wasn't your interactions at the beginning of your time on that trail, was it?

A They asked me about that, but we focused more towards the end, as that's what sticked out to me.

MR. BALDWIN: Right. Thank you.

The COURT: Does anybody on the jury have any questions for Ms. Wilber?

(No response or indication from any juror.)

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

MS. DIENER: Judge, may we release this witness from her subpoena?

MR. BALDWIN: Yes.

THE COURT: And you are free to go, as well. Thank you.

THE WITNESS: Thank you.

THE COURT: You may call your next witness.

MR. MCLELAND: Judge, State of Indiana would call Brian

Harshman, please.

(Witness sworn.)

MR. MCLELAND: Thank you, Judge.

DIRECT EXAMINATION OF MASTER TROOPER BRIAN HARSHMAN

QUESTIONS BY MR. MCLELAND.

Q Will you state your name, please.

A Brian Harshman.

Q Spell your last name for the record, please.

A H-A-R-S-H-M-A-N.

Q And how are you employed?

A I'm employed with the Indiana State Police.

Q And what is your rank?

A I'm a master trooper/detective.

Q Detective Harshman, you've testified earlier in this case; is that correct?

A I have.

Q And you're familiar – you are the person in the investigation who listened to the phone calls from Richard Allen while he was incarcerated; is that correct?

A Yes, sir.

Q You also had an opportunity to view videos while he was incarcerated?

A Yes, sir.

Q And so he initially started off or, at some point, he was incarcerated at Westville Correctional Facility; is that correct?

A Yes, sir.

Q And during the time he was incarcerated there, was he in a one-man cell?

A He was.

Q And then he was moved to Wabash Valley Correctional Facility?
A Yes, sir.
Q Was he placed in a one-man cell there?
A Yes, sir.
Q And then recently moved to Cass County Jail; is that correct?
A That's correct.
Q And he's – is he in a one-man cell there?

MR. ROZZI: Judge, I'm gonna object at this point to outside the scope. We never had any discussions about any of this when – during our case in chief.

MR. MCLELAND: Judge, this is rebuttal evidence. They showed videos of him at Westville and his scenario there. This is rebuttal evidence to show the jury that he was in the same type of cell throughout his incarceration.

THE COURT: Overruled.

MR. ROZZI: Thank you.

Q You had an opportunity to view video of him while he was in Cass County?
A I have.
Q And what kind of cell is he in in Cass County?
A He is in a one-person cell in Cass County.
Q Now, in Cass County, he does have a – I'll call it a dayroom with a table and a chair; is that right?
A Correct.
Q And the cell in Cass County I think is a little bit bigger square footage than what was at Westville.
A It looks to be a little bit bigger, yes.

Q However, does he have as much human contact at Cass County that he had in Westville?

A He does not.

Q Does he have an opportunity to have recreation with other inmates at Cass County?

A He does not.

Q Did he have that opportunity at Westville?

A Occasionally when he had outside rec, he was able to communicate with other inmates, yes.

Q Did he have the ability to communicate with other inmates in the cells next to him at Westville?

A Yes. He stated in phone calls that he would have conversations with his neighbors.

Q Does he have any neighbors to communicate with at Cass County?

A No.

Q And you were able to watch the videos from Westville; correct?

A Yes.

Q And some of the issues he had there was that he was eating paper and flushing it in the toilet; correct?

A Yes, sir.

Q Has he had any of those issues at Cass County?

MR. ROZZI: I'm gonna object again. This is outside of the scope of his testimony the last time he testified or anybody else's testimony, and the Court has clearly instructed me to stay away from this timeframe.

MR. MCLELAND: Judge, this is in rebuttal –

MR. ROZZI: This is rebuttal evidence, it's –

THE COURT: Well, that's what it is.

MR. ROZZI: He could have asked about this when he was here a week ago.

THE COURT: Yes, he could have and he didn't, and he is, on rebuttal, allowed to do this. Overruled.

Q Does he – did he – or have you viewed that he's had any of those issues while at the Cass County Jail?

A Not to my knowledge, no.

Q There have been other issues at the Cass County Jail though?

A Correct.

Q Can you describe those issues.

A Threats to staff –

MR. ROZZI: Judge, I'm gonna object at this point. May we approach?

THE COURT: Yes.

(Sidebar conference conducted.)

MR. ROZZI: This is limited and they're trying to present their case in chief and they're trying to use his testimony now to, essentially, do – to put this video in is what they're trying to do and it's – it's outside of the scope and it's not – it's a 403 problem, exactly what you said, he's gonna try to do with his own words, and it's, in fact, I mean –

MR. MCLELAND: I'm keeping it (inaudible), but it's just in rebuttal of Dr. Wala – Dr. Westcott's testimony about that he was calm, he was a fragile egg. It's just gonna be that he's had outbursts in Cass County, that's that,

Judge; that's in rebuttal to her testimony.

THE COURT: Well, I understand, but now we're getting into that specific (inaudible). I didn't have a problem going into the conditions, because that's these conditions, the solitary confinement, but this is on Cass, those conditions.

MR. ROZZI: Would you, please, admonish the jury to strike the last comment. Thank you.

(Sidebar conference concluded.)

THE COURT: All right. I'll sustain your objection, Mr. Rozzi, and instruct the jury to disregard.

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

THE COURT: Mr. Rozzi. Mr. Baldwin.

MR. ROZZI: No.

THE COURT: Does anybody on the jury have any questions for Detective Harshman?

(No response or indication from any juror.)

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

THE WITNESS: Thank you, ma'am.

THE COURT: You may call your next witness.

MS. DIENER: Judge, the State would call Dr. John Martin.

DIRECT EXAMINATION OF DR. JOHN MARTIN

QUESTIONS BY MS. DIENER.

Q Good morning, Dr. Martin.

A Good morning.

Q Could you, please, tell the Court your full name and spell your first and last name.

A John Martin. First name John, J-O-H-N, last name Martin, M-A-R-T-I-N.

Q And, Dr. Martin, I'd like the jury to be able to hear everything that you have to tell us today, so speak up a little bit. That microphone does not amplify it for them and you don't need to be close to it, it's for the court reporter's purpose. So if you could just speak up in a louder voice. Thank you. Are you familiar with Richard Allen?

A Yes, I am.

Q And how and why are you familiar with him?

A He was my patient at the Westville Correction Center from about November of '23 – sorry, '22 till about November of '23.

Q And he was your patient. What services were you providing, what care were you providing to him?

A Psychiatric services.

Q Psychiatric?

A Psychiatric services.

Q And what are your qualifications to provide psychiatric services to Mr. Allen?

A I'm a psychiatrist.

Q Can you tell us where you got your medical degree?

A I got my basic medical education in St. John's Medical College in Bengaluru, in India. I entered St. John's in 1969, and I finished in 1976, after having completed one year of rotating internship. After that, I started the psychiatry program. I did three years – I got a waiver for the first year of the

program through the American Board of Psychiatry and Neurology, where they recognized my internship that I'd done earlier. In 1983, I started training to become a psychiatrist, so 1983, '84 to '86. I completed my training through University of Miami, Florida, Jackson Memorial Hospital and the VA Medical Center in Miami, Florida.

Q Did you become a licensed psychiatrist in the state of Florida?

A Yes, I did.

Q Did you also –

A And that was in 1986.

Q Did you also –

A And after that, I started working.

Q I'm sorry. Did you also become a licensed psychiatrist in the state of Indiana?

A Yes, I'm licensed in three states, in Florida, Indiana, and Illinois.

Q And is your licensure in good standing in all three states?

A Yes, it is.

Q And when did you begin work related to the Indiana Department of Corrections?

A That was sometime in 2020, so I worked there for almost four years.

Q Prior to that, did you work in the area of corrections, as well?

A Yeah. After I finished my training in psychiatry, my first full-time job was in the Palm Beach County Jail in Florida, and since 1983, with a few breaks in between when I'd take some sabbaticals, I worked – I have worked almost throughout in corrections, so – and very often, I would be working in a prison and then – I'm a workaholic and I like to work a lot, so I would sometimes take

a part-time job here and part-time job there. So if I were to put together all the time that I worked in corrections, I probably have the equivalent of between 40 and 45 years of correctional psychiatric care.

Q And so when we say you worked in corrections, just to clarify, are you providing psychiatry services to inmates?

A Yes. When – yeah, when I say corrections, I'm including jails and prisons –

Q Okay.

A -- because I worked in at least five different jails in Florida, I worked in several prisons in Florida, I have worked in female prisons, male prisons, I've worked in reception centers and permanent camps. I have visited – I mean, I've – besides working in some prisons, I have also visited about 16 major prisons in Florida while working on resolving a big lawsuit from 1972 related to the provision of –

Q Well, I'm gonna direct –

A -- services.

Q I'm gonna direct you to the care that you were giving in the facility where Mr. Allen was then.

A Okay. So –

Q What was the nature of your employment at –

A Westville.

Q -- the Indiana Department of Corrections during '22 and '23?

A Yeah. So between – from – yeah, 7/2020, that's when I started at Indiana State Prison. I was working 40 hours a week there, and then later, I started working an additional 20 hours a week in Joliet, with the Illinois Department of

Corrections; and then, sometime in February of 2022, the psychiatrist at Westville, she retired, so they – there was a big backlog and we – shortage of psychiatrists, so they asked me if I could help out, so that's when I started working at Westville, so – because of my commitments to other places, I could only work there one day a week, on Tuesdays, and then I'd try to make up some additional time working on Sundays, but not at Westville. I'd go to work at Indiana State Prison, because I had computers available there and everything's online, so I'd review all my notes and all the notes that had been written by other people on those who I'm gonna see; and those who I already had seen, I would review my notes from before and prepare for the next visit.

Q Okay.

A So that's when I – while I was working there at Westville, sometime in November, I don't know the exact date, but sometime in November, that's when I first met Mr. Allen.

Q And so in November of 2022, you met Mr. Allen?

A Yes.

Q Did you establish a place yet at Westville Correctional – at WCU where you could add notes to your medical records by the time Mr. Allen was a patient? Did you have a place where you could go to make records?

A No. I was – my – I had an office in Westville, it was in one building, and in another building, a very secure facility within the Westville compound, there was this very secure building called WCU, Westville Correction Unit I guess, and that's where Mr. Allen was housed. He had been transferred from the jail to Westville as a safekeeper because he was considered – I mean, it was felt that he was in danger in the county jail, and so he was transferred to us in the

Department of Corrections for his safety.

Q Okay. So you didn't have an office in the WCU –

A No.

Q -- but you had one on the property –

A Right.

Q -- where you could go –

A Right.

Q -- and enter your medical –

A Notes.

Q -- findings and documents into the secure system; is that correct?

A Yes, ma'am. Yes, ma'am.

Q Okay. And were you actually an employee of Indiana Department of Corrections or from another –

A No.

Q -- company?

A No, I was not an – I was never an employee of the Department of Corrections. I was working for Centurion, which is a company that provides medical services in the prison.

Q Were all of your patients at WCU during this time or were –

A No. I had –

Q -- they at other facilities?

A No. I had patients who were on the compound in general population, but there were a few people who were housed in WCU, so I'd go over there and see them and then I'd go back to my office, which is in the medical building, and then I'd sit down there and write my notes.

Q Okay. So when you would meet with Mr. Allen for a medical visit, would you then go to your other office to make records about your visit with him?

A Yeah. Sometimes I had to see several people, so I'd go and see everyone, and then I'd go back there and I'd write my notes.

Q Okay. And so did you have written documents that you had prepared that you then entered into the system?

A Not always. I'd just jot down some notes on a piece of paper and then I'd go down and write everything on the computer.

Q Okay. And are those records kept in a secure system?

A The whole computer system is supposed to be secure.

Q And so would you have a log-in in order to create that record?

A Yes.

Q And could anyone else go in and make a record and put your name to it?

A No.

Q Okay. And I'll ask you another question, so we don't have to do this twice. And so were you a physician that would be prescribing medication to Mr. Allen?

A Yes. The psychiatrist is the one who prescribes the psychotropic medications.

Q And were you also aware of medication that he came to WCU prescribed previously that he was going to be continuing to take while he was there?

A Yes. When he came from the reception center, he came in on Prozac, an antidepressant, because he had a history of depression and anxiety, and so I examined him – I mean I met with him, interviewed him for the first time, as I said, in early November, and then I continued him the same medication. He was stable on that, so there was no need to make any changes.

Q Okay. And so any changes that you made to mental health-related medication, would that be kept in a particular record for when it was administered or given to Mr. Allen?

A There are my notes, and then, as part of the notes, there's a form for writing orders, doctor's orders, and then, the nurses keep a track of whether he's taking medication or not, so we call that a MAR, which stands for medication administration record. So those MARs are written by the nurses, they sign off when he takes his medication, and if he doesn't take – and they sign off for that date by putting their initials. And then, if he doesn't take his medication, they'll sign their initials and they'll circle it to indicate that he refused his medication.

Q And so is that a record that you would use and rely upon in order to monitor whether Mr. Allen was taking his medication or not taking medication?

A That is – yes, that is one way in which I could do that, but the – what would happen is nurses usually inform us he refused his medication before we can even look at that.

Q Okay. But it is a record that's created?

A Yeah, it is a re – yeah, it is a record, it's there, it's available, and anyone can look at it, it's – anyone in Medical. I mean, not security staff, but Medical has access to that.

Q Okay. And so a medical – or, I'm sorry, a medication administration record, is that something that is – is that something that's regularly kept in your business?

A Yeah. It's there on – yeah –

MS. DIENER: May I approach the witness, Judge?

THE COURT: You may.

Q Dr. Martin, I'd like to show you first what I've marked as State's Exhibit 319, it has multiple pages; if you'd flip through that and tell me whether you recognize that. Do you recognize those documents?

A Yes.

Q And what are they?

A These are notes that I wrote on the patient. There's also a consent form that he signed for Prozac. There is a –

Q Do they accurately reflect the records that were associated with your treatment of him while he was at WCU?

A Yes, it does – they do.

Q Thank you. I'm going to show you what's marked as State's Exhibit 320, also multiple documents.

A Yeah.

Q Take a look at that, let me know if you recognize that. Do you recognize that?

A Yes, I do. These are the MAR, the medication administration records.

Q Okay. And so would these records be the records you referred to that you would rely on with regard –

A If –

Q -- to the administration of medication?

A Compliance, yeah.

Q And so they would also reflect with regard to mental health medications that you ordered?

A Right. All the medications, whether prescribed by medical or prescribed by me, they're there.

MS. DIENER: Okay. Judge, the State would move to admit Exhibits 319 and 320 and request that the doctor be able to refer to these for his testimony.

STATE'S EXHIBIT 319 AND 320 OFFERED

MR. ROZZI: May I ask a preliminary question on 320?

THE COURT: Yes.

MR. ROZZI: Doctor Martin, I'm looking at 320, which is the prescription medication regiment records. There are a lot of different initials on here from what appear to be different people; do you acknowledge that?

A Yes. So –

Q Or rather, do you acknowledge that there are –

A Yeah.

Q -- many other initials on here from various other people throughout this whole period of time with reference to these documents, yes or no?

A Yes.

Q And these people are not you; right?

A No, no, these are nurses.

Q Okay. Med – other medical staff?

A Yeah. These are nurses, different shifts, different days.

MR. ROZZI: Judge, I object. I don't have any problem with 319, but 320, based on it's just loaded with hearsay. I mean, there's – and there's no foundation. I mean, it's

MS. DIENER: Judge, the doctor will be asked to reference this with regard to when he ordered particular medications and also documents with regards to refusal of medications that we believe is relevant to his testimony and

the jury can make a decision as to whether they would rely upon a nurse's note, but it is a medical record in the regular course of business and one that Dr. Martin would rely upon in his treatment of Mr. Allen.

THE COURT: All right. I'll show that 319 is admitted without objection and I'll show that 320 is admitted over objection.

STATE'S EXHIBITS 319 AND 320 ADMITTED

MR. ROZZI: Thank you.

THE COURT: You're welcome.

MS. DIENER: May the witness refer to these for his testimony, Judge?

THE COURT: Yes.

Q I'm gonna start with this one, so –

A Thank you.

Q -- I won't give you too many to –

A Yeah.

Q -- hold on to. Now, you made reference to knowing that Mr. Allen entered the WCU as a safekeeper; is that correct?

A Yes, that's right.

Q And there's also a reference to someone being in solitary confinement; are you familiar with that reference?

A Yes; yes, I am.

Q And are you familiar, based on your experience with your work in the prison systems, with the difference between a safekeeper and someone who's in solitary?

A Yes. My understanding is that a person sometimes is transferred to prison

for his safekeeping because he is – it is thought that he's not safe in the local county jail and, for his protection, he's transferred to us in the prison system, because we have – we are in a better position to keep him safe.

Q And with re –

A And so they are type – they're known as safekeepers.

Q And do you have experience other than Mr. Allen in treating a safekeeper in a prison setting like WCU?

A I have treated safekeepers who were in general population, not in – but Mr. Allen was in what could be referred to as solitary confinement, but can also be referred to as a one-man cell. The reason why – I just want to explain why I talk about one-man cell, rather than solitary confinement is because, though it is the same room, the person who is put in solitary confinement, it has a punitive connotation, that the person has done something wrong in prison, he has broken some rule or regulation, and he's being punished by isolating him from other people for a certain period of time, depending on the charges, whatever rule he broke, so he gets time there and so he's locked in, whereas Mr. Allen had not done anything wrong in the prison system, you know. He had not broken any rule or regulation, and yet, he was being treated as though he had done something wrong in the prison. At least that was – you know, that's how he must have – might have felt, you know. And in a way, that was not right, but at the same time, we are to look at the other responsibility that the prison system had to keep him safe, to keep him alive. And so even though there's a risk of serious harm to his mental health by putting him in solitary confinement, the mission or the need to keep him alive and safe was the overriding decision, I think that was the overriding thought in the mind of the warden when he chose

to – you know, where he should be housed.

Q Well, and you don't know who chose for him to be housed there; correct?

A I have no idea. I'm just assuming that.

Q Okay. So were there things that you – do you have a familiarity with someone being in solitary confinement from your work?

A Yes. I've – almost all the prisons that I've worked in have been major, you know, high-security prisons that we've had a lot of people in solitary confinement and, as a matter of fact, for a whole year, I was in charge of a program supervising five prisons, including one for women, where we had all the people who are in solitary confinement across the state of Florida all brought to these five prisons.

Q Okay.

A They were all solitary confinement cases.

Q Okay. So by comparison, were you familiar with things that Mr. Allen had available to him in order to differentiate safekeeping from solitary confinement in order to provide contact with others?

A Well, we had – we did have a lot of meetings with the warden, the head service administrator, the psychologist, the psychologist for the Department of Corrections, the lawyer for the Department of Corrections, all – and the – of course the warden and the assistant warden to see what we could do to make life a little bit more comfortable for him while he was in prison, like giving him access to a tablet, to a TV, recreation, phone calls, you know, as much as could be done, you know, in that secure facility.

Q So were you aware that he had a suicide companion at his door?

A Yeah. Whenever he – there were times when he had expressed suicidal thinking, what we call suicidal ideations, and there were times when he actually

did something to hurt himself, so during those periods of time, he would be kept on suicide watch. He'd be given a suicide gown, he wouldn't – and then he'd be given a suicide blanket. He would have no sheets with which he could try to hang himself, things like that. So –

Q Okay.

A -- we did what we could to see that he was safe.

Q Okay. And you were aware whether he was being taken out of his cell for certain things, so he had an opportunity to leave that space, like seeing Dr. Wala?

A Yes, like, for example, if he had to be seen by Medical, if he had to be seen by Dr. Wala, the psychologist, if he was – had to be seen by me, sometimes he'd – I'd see him outside his cell, but sometimes I would see him inside his cell, because it was not safe, you know, for a good reason, he couldn't be taken out. And every time he – I think – I guess he – yes, and when he went out for recreation, when he went out to make phone calls to his wife and family.

MR. ROZZI: Judge, may I interject and ask a foundational question?

THE COURT: Sure.

MR. ROZZI: Dr. Martin, you're talking about all these things Rick Allen did. You only met with him 18 times in 13 months; right?

A Yes.

MR. ROZZI: Okay.

A Well, yeah, I didn't –

MR. ROZZI: That's what you told me a month ago; right?

A Yeah, yeah. Okay.

MR. ROZZI: So you weren't there when he was doing all these things, were you?

A No, but I know that these things were done, because we were discussing these things.

MR. ROZZI: Did you ever watch any of the –

A I didn't –

MR. ROZZI: -- video –

A I did not –

MR. ROZZI: -- or further review any of the video of him in his cell in that prison?

A No.

MR. ROZZI: Did you ever review any of the camcorder video when he was being moved around to various places?

A No, but I saw the camera.

MR. ROZZI: Judge, I object –

A I saw –

MR. ROZZI: -- to this line of questioning.

A I saw him being recorded.

MR. ROZZI: Judge, I object –

A I mean, I saw the officer with the camcorder –

MR. ROZZI: Judge, would you, please, instruct the witness.

THE COURT: Sir, stop. What is your objection?

MR. ROZZI: My objection is he has no foundation to testify where Mr. Allen went, because he didn't even see him.

MS. DIENER: Judge, I think the witness was about to say he's seen

him being recorded as he's being moved, and he did see him over the course of a year. The fact that he's not there every day or hasn't watched camcorder video doesn't mean that he isn't familiar with the circumstances of his housing.

THE COURT: Overruled.

MR. ROZZI: Thank you.

Q Okay. So let's talk about your initial assessment of Mr. Allen, please.

A Okay. Can I refer to my notes?

Q What was his mental health condition in –

A Can I refer to my notes?

Q Yes.

A Okay. So I would usually go to Westville on Tuesdays. Before I went to Westville, I would be given a list of patients that I was gonna see –

MR. ROZZI: I'm gonna object to non-responsive to the question.

THE COURT: Sustained.

MR. ROZZI: Thank you.

Q Dr. Martin, I need you to specifically answer the question about your initial assessment of Mr. Allen –

A Okay.

Q -- in November of '22.

A Okay. So –

Q How was he doing from a –

A Okay.

Q -- mental health perspective?

A Initial evaluations, the first time I saw him face-to-face was on the 8th of November.

Q Okay.

A He had recently come from the reception center and I had a day – or the Sunday earlier, I had reviewed what had been written in the reception center on him, so when I saw him, I asked him a few more questions to add to that database and do a mental status exam and, at that point in time when I saw him, he was stable. There was no problems that I could see. He has a history of depression, but he did not seem to be depressed. He had a history of anxiety, but he did not seem to have – show any signs or symptoms of anxiety, so I continued him on his medication. So that was the first time I saw him. The next time I saw him was three weeks later, on the 29th of November. Again, everything seemed to be fine. He didn't have – didn't seem to have any problems. The next time I saw him was on the – in January, on the I think 29th. No –

Q You can take the time to look.

A The 24th of January. And at that time when I saw him, I said I need him to sign consent for medication, because usually we try to get consent signed once a year and I wanted to make sure that he had signed it. And if I may be allowed to digress a little bit, informed consent is something that's really important for us. Now, normally when a patient goes to see a doctor and he's got some infection, the doctor might write a prescription for an antibiotic that the patient goes and fills it up and that's okay. But for mental health patients, any time a psychiatrist is writing prescription, he first gets an informed consent form signed by that patient, because –

Q So that is different in psychiatry versus –

A General medicine.

Q -- general medicine? Thank you.

A Now, I medicine – in general medicine too, people do sign informed consent forms –

MR. ROZZI: Judge, I'm gonna object at this point. It's non-responsive.

THE COURT: Sustained.

Q So, Dr. Martin, we have to move on –

A Okay.

Q -- from that subject, but he did sign a consent for Prozac; is that correct?

A Yes, he did.

Q Okay.

A That was on the 24th.

Q Up to this point –

A The 24th of January.

Q Okay. Up to this point, he was continued on –

A Everything was fine, everything –

Q -- medication previously ordered –

A Yes, yes.

Q -- correct?

A Yes, yes.

Q Okay. And so after you saw him in January, on the 24th, what would have been the normal timeframe between then and your next visit with Mr. Allen?

A Since he was doing well, I would – according to our protocol, I was allowed to see him once every six months, or even once every three months, but we extended it to once every six months. So I was supposed to see him sometime in April to the latter – January 24th, so maybe April 24th was when I was likely

to see him again.

Q Okay. So when you saw him in January, was he still doing okay?

A Yes, he was doing fine.

Q Okay. And so then did you see him in April?

A Yes, I did.

Q Was it at a regularly scheduled time or different?

A No, it was not. I was – I got a phone call from the health service administrator, Ms. Bridegroom –

Q And without telling us what she said, did her call to you prompt you to go see Mr. Allen unexpectedly?

A Yes. It was not – I mean, it was not planned.

Q Okay. And as we talk about this, I want you to provide information to us just based on your own observations and not necessarily information from others unless you're prompted to; okay?

A Okay.

Q All right. So when you see Mr. Allen on April 13th you said; correct?

A Yes.

Q Was he still at WCU?

A Yes, he was.

Q And what did you observe about Mr. Allen during your visit?

A So I'm gonna read from my notes. So when I went to Westville that day, I was met by the warden and other people, and I was able to look into the cell in which the patient – in which Patient Allen was housed. He was lying naked on a mattress. He was –

MR. ROZZI: Judge, I'm gonna to the form of testimony. He's

reading from his notes. If she wants to use his notes to refresh his recollection, I –

MS. DIENER: That was not to refresh –

MR. ROZZI: Improper refreshing.

MS. DIENER: Judge, it was not intended to refresh his recollection, it was in order to assist him in his testimony so he can be accurate about what he documented regarding his visits with Mr. Allen, because there's 18 records here and he can't be expected to memorize that.

THE COURT: Well, but he shouldn't be reading from the records.

MS. DIENER: Okay.

A Okay.

Q Would you please –

A Okay.

Q -- read your notes from that date and then –

A I'll summarize it, you know. So he was lying on his – so he was naked. He had feces smeared on him. There was some brownish fluid from his mouth and I was told that he had been eating feces.

Q But you did not see that?

A No, I did not see that, that's what I was told; but what I saw was that he was naked and I saw the brown fluid coming out his mouth and he had feces on himself. Then I asked – I said I need to talk to him, so what they did was they – the officers practically carried him to a shower stall and they hosed him down so that he could be cleaned up. Then they gave him a new suicide gown and then they brought him into the nurse's office, which is very close there, it was a large room which is mostly used as a storage room, but the nurse, her table was right

there, and so I tried to assess him there and –

Q So let me ask you this: Based on your observations of Mr. Allen on that day, did you draw a conclusion about his mental health –

A Yes.

Q -- that was different than how he appeared in January?

A Yeah. This was –

Q And what was your conclusion?

A The presentation was different. My conclusion at that point was that he was psychotic.

Q Okay.

A Okay?

Q And so based on your conclusion, how did that impact your treatment of Mr. Allen from a medical standpoint?

A Okay. So now, in order to treat the psychosis, I had to give him an antipsychotic, okay; but in the process of interviewing him, I saw that – I was looking for two things. Like I said before, we get informed consent forms signed by the patient. So in this case, I was – so in order to do that, I was looking for two things: insight and judgment. Now, when I talk about insight, what I mean is does the person have a fair understanding of the reality of the situation. And when I look at – when I say judgment, can he make the right decision, you know, which is in his best interest, best medical interest. And in both cases, in both – on the both issues, I found that his insight was deficient and his judgment was impaired.

Q Okay.

A So I felt that he could not give consent and I said, "You need to" – we have

a backup system in the prison system how we can get patients like when they are in such a situation to give them medication over and above their objections.

Q And what medication is it that you thought was appropriate at this point for Mr. Allen?

A So the medication that I chose that I wanted to give him was Haldol, which is an antipsychotic, and it has an advantage, the injection – see, Haldol comes in three forms, it comes in an oral, as a tablet or a capsule which you can take by mouth; it comes as a short-acting injection, which has a very short half-life; and then it also comes as a Haldol decanoate, which is a long-acting preparation which stays in the system for up to a month, so we give those shots once a month, you know. So that's how we use Haldol.

Q Okay. So since Mr. Allen was not considered able to consent to Haldol, what steps did you take in order to get him the medication you felt he needed?

A Okay. So what I did after that, after seeing him on the 13th of April, when I felt that he was not competent to give informed consent, I called up Dr. William Mays, who's the regional psychiatrist for Centurion for this region for the state of Indiana, and I explained to him my findings and I said, "We need to have an emergency meeting to see that we can give him involuntary medication." So we had an emergency meeting the very next day invol – in that meeting, I explained to the committee, which is a panel of three – two psychiatrists, including Dr. Mays and Dr. Steven Bonner, and Dr. Wala, the psychologist who was at Westville. So these three agreed that he was psychotic and that he – because of the – his presentation, they said he could be given med – involuntary medication, and so that's how I started him on medication.

Q Is there a particular form in the medical records that would reflect this

meeting that you had in order to address medication needs?

A Yes. It's – there is a report dated 4/14/23, that's the day after I saw him in that psychotic state.

Q Okay.

A So there's a report there where I – where we have the – it's like the minutes for that meeting involving me explaining the – my findings, giving the diagnosis and the recommendation for the medication, because it's a long-acting medication, the – what might happen if he did not – if he were not put on the medication, what other forms of treatment we were going to provide, like therapy and monitoring by Medical and by nurses, etcetera, etcetera.

Q And so what is the name of that form –

A Well, it's called –

Q -- within the record?

A Sorry to interrupt you. It's called the Report of Treatment Review Committee. It's dated 4/14/23.

Q Okay. And so does the first page contain recommendations or information you would have provided to the committee?

A Yes.

Q And then, on page 2, does that include information about criteria that were met in order for Mr. Allen to receive the medication?

A Yes. It – at the top of that left form, it – there's a little box checked off, it says, "Treatment Review Committee concurs with involuntary administration of psychotropic medication." Below that, there is a little panel which says, "Basis for decision", and there the criteria are documented for the reasons why he was put on the medication.

Q Okay. And so who would make the decision about what criteria met – was met in order for Mr. Allen to receive the Haldol? Was it a group decision?

A Yes. That's that panel, the three on that panel. So they are independent of me, because I'm the treating physician and I'm presenting the case and they're the ones who review the case and they can ask questions, etcetera, but once everything's clarified, then they said, "I agree. I agree. I agree." And then –

Q Okay. So then, could you briefly describe the medication regiment that you ordered for Mr. Allen with regard to the Haldol.

A Okay. So now, I'll describe and I'll also give you reasons why I did that. Whenever you – now, in his chart, it was – it said –

MR. ROZZI: Objection: Non-responsive.

A It said no –

THE COURT: Sustained. Sir – sir, stop.

MS. DIENER: Hold on one second.

THE COURT: Sustained.

Q Please describe for us the Haldol medication that you prescribed for him with specificity.

A Okay. So I wanted to make sure that he's not gonna have any allergies or reactions to the medication.

Q Okay.

A Okay? Now, just because it says that he's not allergic doesn't mean that he's not –

MR. ROZZI: Objection: Non-responsive.

A -- allergic to Haldol.

THE COURT: Sustained.

A So I –

Q So –

A So I –

Q Mr. –

A -- decided to give him a short-acting –

Q Dr. Martin –

A -- dose of Haldol.

Q Dr. Martin, I have to direct your responses with questions and you need to answer just the question that I ask; okay?

A Okay, I'll try.

Q So you were explaining that you gave him short-acting Haldol. How many doses and with what frequency did he get short-acting Haldol?

A Okay. So Haldol lactate is the short-acting –

Q Okay.

A -- injectable form. I gave him five milligrams of Haldol –

Q Okay.

A -- by intramuscular once a day. The max dose is 100 milligrams. So he was getting a lose dose, five milligrams –

Q And how often –

A -- by – so he got that on the 14th, 15th, 16th, 17th.

Q And did he have any reaction?

A So he didn't have any side effects, no reaction, so I said, "Okay, so now I can go ahead and give him the long-acting preparation." Because once it's in him, you know, and he has a reaction, then I can – you know, it's a problem. So this way, now I know that he's not having a reaction, he's not having side effects.

So I gave him – so I asked for him to get 50 milligrams of Haldol decanoate every four weeks. Now –

Q And that is the long-acting?

A That's the long-acting.

Q Okay.

A The max dose of Haldol decanoate is 450.

Q So was his dose –

A So the dose he was getting relatively was small; but if you consider that medication is for 30 days and he's getting 50 milligrams, he's actually getting the equivalent of less – little less than 2 milligrams a day.

Q Okay.

A Okay?

Q Thank you.

A So this is less than what he was getting when I was trying out for side effects.

Q And so at this point, then, do you need to monitor him to determine whether the medication is addressing the diagnosis of psychosis?

A Right.

Q And so how frequently did you then see him after the long-acting Haldol?

A Okay. So I saw him on the 18th, which was a Tuesday. So the next time I saw him was on the 25th.

Q And on the 18th, was the administration, the first administration –

A Yes, that's the day when he got the first dose.

Q Okay.

A Okay?

Q On that particular day, did he still present as psychotic?

A Yes.

Q Okay. And you said the next time you saw him was April 25, 2023; on that particular day, did he still present as psychotic?

A Yes; however, there was some improvement.

Q And how – what would you have observed that would indicate improvement?

A Okay. So earlier, on the 13th of April, he was at the height of his psychotic experience or the presentation.

Q Is that based on your observations of him?

A Yeah, and my – and it's documented in my notes.

Q Okay.

A 13th of April; okay? So after that, he showed slight improvement when he got the short-acting medication when I saw him on the 18th, but I went ahead and started him on the long-acting medication on the 18th; and on the 25th, there was improvement.

Q Could you look at your note for – your notes for April 25, 2023, and tell us in what aspects he was showing improvement.

A Okay. Okay. So one of the things was that when I saw him on the 25th, there was no evidence of him smearing himself with feces or eating feces. He recognized me. He was not talking much, so I would walk away and then he'd say, "Doctor," and I'd go back and I'd try to talk to him at his cell door. He did that three times, he called out to me, "Doctor", three times, but he did not know the date on that occasion, though he knew that he was now in prison, so this is one of the things I was looking for, is he oriented to person, place, time, and

situation.

Q So in what aspects was he oriented?

A He was oriented at least to person and to situation, he knew he was in prison. And then he started asking for a dry blanket. He is not very communicative, as I said, but he was asking for his wife, he was asking for the warden, he was chanting, "Delphi." He was asking for chocolates, Taco Bell –

Q Well, I'm asking you –

A And so he was showing some improvement in his speech; okay? And as far as coherence is concerned –

Q Okay.

A -- looseness of associations, flight of ideas, tangentiality that he had displayed earlier on the 13th, when he was at the height of his psychosis. So there was – and at that time, he was also having hallucinations, because when I saw him, he was talking to and that means he was responding to some voices that he was hearing in his head, but this time I did not see that.

Q Okay.

A Okay. He was al – so he was oriented to person, place, and situation. His memory did not seem to be affected. He was eating his meals. He seemed to be getting enough sleep. He was interested in his personal hygiene when asking for a shower and a haircut, but at the same time though, he was wetting his suicide blanket. He was not smearing himself with feces or eating it, as he had been doing the previous week.

Q So there was –

A So –

Q -- improvement?

A -- there was some sadness, but that was situational.
Q Okay.
A But otherwise, there was a good amount of improvement in his presentation.
Q And then you saw him next on what date?
A The next time I saw him was on the 2nd of May.
Q And that's in 2023?
A 2023, yes.
Q And if you would review your notes so we can discuss that particular visit.
A So –
Q And I want you to review it and then we'll talk about it.
A Yes. So this –
Q On this date, did he – what did you observe about Mr. Allen?
A So on this date, what I observed was that he was – you know, he was lying on his mattress. When I called him, he came, covered himself with the suicide blanket, because he had the suicide gown on, and he also had a suicide blanket, and he covered himself with that, too. But he was coherent. There was no looseness of associations or flight of ideas. He denied auditory or visual hallucinations. There was no evidence that I could see of psychosis.
Q Okay. And then, when did you see him after May 2nd?
A I beg your pardon?
Q What was the next –
A May 2nd.
Q -- visit –
A Yeah, May 2nd.

Q -- after May 2nd, I'm sorry.

A Okay. So the next time I saw him was on May 8th, which is about a week later.

Q And what did you observe about Mr. Allen on that particular date?

A So here again, he was wearing the suicide gown, he was coherent, spoke without any looseness of associations or flight of ideas. He denied auditory or visual hallucinations. He was oriented to person, place, situation. He was a little sad. And the review of the logs showed that he was getting a reasonable amount of sleep and he was eating his meals, though not all of them. And he had been going to meet with Dr. Wala for therapy sessions. He was not consistent in taking oral medication, because I had added a little bit of Haldol because I wanted to get him stabilized quickly for – I didn't know how long I was gonna continue the oral medication, but I put him on a little bit, and I knew that he was not likely to take it, you know, regularly, so I gave him a slightly higher dose than I would normally have done, but still, the doses was really very low, and he would take the medication, refuse it sometimes, and that's all recorded there in the MARs. And then I put down in my notes he was much improved –

MR. ROZZI: Judge, same objection as before –

A -- and does not appear to be psychotic –

THE COURT: Sir.

MR. ROZZI: The same objection as earlier, he's –

THE COURT: Yeah. Hold on.

MR. ROZZI: -- reading from his notes.

THE COURT: Please don't read from your notes.

A So on that time, on that day, again when I saw him, he did not show any

signs or symptoms of psychosis.

Q Okay. And so the next visit then, Dr. Martin?

A Okay. The next visit is a week later. So now on this –

Q Dr. Martin, go ahead and read –

A This time too, summary is, again, he was not psychotic –

MR. ROZZI: Objection: Non-responsive.

THE COURT: Overruled.

Q Dr. Martin, will you read that note to yourself –

A Okay.

Q And then I'll take it –

A All right.

Q -- so we don't have objections –

A Fine, fine, fine. Okay.

Q Okay.

A So –

Q Hang on. Okay. What did you observe about Mr. Allen on that date?

A Okay. So on that day, too, there was no evidence of psychosis.

Q Okay. And then –

A There is –

Q -- that was the 18th of May; do you agree?

A No, 25th.

Q 23rd.

A 25th.

Q Did I say 25th?

A 25th of April, we're still in April.

Q Okay.
A Oh, yes, yes, you're right.
Q Would you agree?
A Yeah.
Q It appears that the next record in your medical records is May 30th of 2023; do you have any reason to doubt that?
A Yes. No, no, no, no.
Q Okay. Take a look at that note and then give it back to me.

MR. ROZZI: I'm sorry, what day are we on? Excuse me.

A 30th of May.

MR. ROZZI: May 13th? Thank you.

Q Thirty, 3-0.

MR. ROZZI: Thank you.

Q Okay.
A So –
Q On May 30th, what do you observe about Mr. Allen?
A So again on that date, I did not find any evidence of psychosis. He was eating his meals, he was oriented to person, place, time, situation. There was – the speech was coherent. There was no auditory or visual hallucinations. He was going for therapy sessions, he was – in fact, he was about meet with Dr. Wala just a few minutes after I saw him. I think he had – may have spoken to his wife on the phone or, I don't remember, but everything was fine. I mean, there was no evidence of psychosis.
Q Okay. Now, the next record here is June 20th of 2023. Will you review that one. Okay. How was Mr. Allen's mental health progressing on June 20th of

2023? Was there evidence of psychosis?

A Okay. So on June 20th, 6/20/24 [sic], there was no evidence of psychosis.

Q Okay.

A So he had not been psychotic for seven weeks starting from 5/20 and so that day, I decided I'm gonna stop the medication.

Q Was his –

A Now, he had – he had received a shot two or three days before, but I wrote the order for him not to get any more injections

Q And so was the injection you described as being a very low dose, were the subsequent injections also very low doses?

A The same dose, 15 milligrams IM every four weeks.

Q Okay. And on this particular day, was he able to communicate with you coherently and have flight of ideas?

A Yes. So there was no evidence of psychosis, his speech was coherent. There was no tangentiality, there was no flight of ideas, there was no evidence of any hallucinations or delusions. There was nothing that told me to think that he was still psychotic. He'd been free of psychosis for seven weeks. And I said, "Now it's time to stop the medication." So on the 20th of June, I stopped his medication.

Q And was that something you would have communicated to him?

A I'm not sure what I – I don't – I mean, if I did, I did not document it.

Q Okay. Was there anything else of note that you documented on that day with regard to your conversation with Mr. Allen?

A That day, he said something to me, he had said these things to other people, but it was the first time he said it to me, and that day I had decided to

take him off medication because he was not psychotic; and when he was not psychotic, he was not under any pressure, no duress, spontaneously of his own free will he said to me, "I would like to apologize to the families of", you know, his victims. He did not say "the victims", but he said his victims.

Q And so you documented that?

A Yeah, and I documented that.

Q Okay. Now, after June 20th of 2023, you continued seeing Mr. Allen on a regular basis; is that correct?

A Yeah, I continued seeing him, you know, for – to continue him on the Prozac, but I had stopped the med – the antipsychotic on the 20th because, like I said, from the 2nd of May, he had not been psychotic.

Q And what is the purpose of Haldol?

A Haldol is an antipsychotic. It's for treatment –

Q Well, for laypeople, can you explain for us.

A Yes. Okay. So I hope you can give me a few minutes.

Q Well, I'm not sure we have a few minutes. Can we have –

A Okay.

Q -- the abbreviated –

A Okay.

Q -- version of –

A I'll give you the abbreviated –

Q -- of the purpose of Haldol?

A I'll give you the abbreviated version. Okay, the abbreviated version is this: When people have psychosis, they – some of the manifestations are the person might hear voices – okay, so we also described the word "psychosis" by saying

the person has –

MR. ROZZI: Judge, I'm gonna object as non-responsive.

A -- poor contact with reality –

THE COURT: Sustained.

Q Can you just focus on the effects of Haldol that would be helpful in addressing Mr. Allen's symptoms?

A Yes. So, like I said, psychosis is poor contact with reality, and the purpose of the antipsychotic is to get this person back again so that he has contact with reality; okay? In other words, he's not hearing voices, he's not seeing things, he's not delusional, he's not – his speech is coherent, his behavior is appropriate, and those are the symptoms that he had been exhibiting; and now I put him on the medication, and he was no longer exhibiting those symptoms.

Q Okay. Now, we had other testimony that said that psychosis could come from a variety of factors, one might be abuse of illicit drugs. Was that present in Mr. Allen?

A No, I don't think that was, because he was in a secure facility, he was in a single cell, and anything that he received through the meal slot was being monitored. There was an officer sitting outside there watching what's going on.

Q Okay. And so there was also testimony by another witness that a problem with current medication could cause psychosis. Was that a factor for Mr. Allen?

A No. The medication that he was on was an antidepressant –

MR. ROZZI: Judge, I'm gonna object at this point –

A The –

MS. DIENER: Judge –

MR. ROZZI: -- that assumes facts not in evidence. That wasn't the

testimony –

MS. DIENER: Judge – sorry, go ahead.

MR. ROZZI: The statement – the question is based on a statement that if somebody else said that a medical problem could cause psychosis, and I think the discussion that that related to was delirium.

THE COURT: Sustained.

Q Dr. Martin, would the medication of Prozac have any – played any role in Mr. Allen having psychosis?

A No.

Q Would him refusing Prozac at any point have any role in his psychosis?

A No.

Q And the Prozac as it appears in the medication administration record, does it have another name that it appears as in the record?

A Yeah. So Prozac is the brand name. Fluoxetine is the generic name.

Q Okay.

A So –

Q So –

A -- sometimes the nurses will write "fluoxetine" in the medical – because the medication that they're getting from the pharmacy, the outside pharmacy that's supplying us, it's coming as fluoxetine, the generic form, because that's cheaper than the brand name.

Q Understood.

MS. DIENER: Judge, I'll pass the witness.

THE COURT: Would counsel approach.

(Sidebar conference conducted.)

MR. ROZZI: I told you, this witness, I told you.

THE COURT: Do you know how long cross is gonna take, considering he wants to just go on and on? Is this a good time for us to break for lunch?

MR. ROZZI: Probably. I don't want to – I think the jury's kind of ready to move on. I mean, I am trying to get the hell out of here.

MS. DIENER: No, we discussed this witness would be –

MR. ROZZI: Yeah, this would be –

MS. DIENER: -- somewhat rough.

THE COURT: Challenging?

MS. DIENER: Yeah.

MR. ROZZI: You should have been at the depo.

THE COURT: Oh, no. Well, that's why I just wanted to – assume we should break.

MR. ROZZI: I think this a good spot.

THE COURT: Okay. That's fine.

MS. DIENER: Sorry, I did my best.

(Sidebar conference concluded.)

THE COURT: All right. Well, thank you, Mr. Rozzi. Ladies and gentlemen, we're gonna go ahead and take our lunch break, it's almost 12:30. While you're outside the courtroom, please, keep your minds open. Please don't form any opinions or conclusions about anything. You may discuss the evidence that you've heard so far, but please, only do that if you are all together in the room at the same time and, please, don't deliberate. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 12:25 p.m.)

THE COURT: All right. Let's resume at 1:15. Jodie, you can go off the record.

(Off record at 12:26 p.m.)

(On record at 1:15 p.m.)

THE COURT: All right, we are back on the record. Mr. Rozzi, are you ready with your cross?

MR. ROZZI: I am. Thank you.

THE COURT: Ms. Diener, are you ready?

MS. DIENER: Yes.

THE COURT: All right. Gentlemen.

THE BAILIFF: All rise.

(Jury in at 1:18 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: All right. Well, welcome back, ladies and gentlemen. We're ready to continue. Mr. Rozzi.

MR. ROZZI: Thank you, Judge.

CROSS EXAMINATION OF DR. JOHN MARTIN

QUESTIONS BY MR. ROZZI.

Q Good afternoon, Dr. Martin.

A Good afternoon.

Q Dr. Martin, you have no traditional bachelor's degree from an American university.

A No.

Q And you obtained your medical degree in Mumbai; isn't that right?

A No. In Bengaluru.
Q In Bangalore?
A Bengaluru.
Q And you had many different jobs, you did have many different jobs in Florida during the first 10, 20, 30 years of your career; right?
A Yes, sir.
Q You have to speak up a little bit.
A Yes, that's right.
Q Even if I'm standing right here.
A That's right, yes.
Q And those jobs involved you working at – for different counties; right? Like Broward County, Palm Beach County –
A Baker, yes, sir.
Q And involved you working in different facilities in those counties; right?
A That's right.
Q You were terminated from a job in Florida, were you not?
A Yeah.
Q And you were involved in some lawsuits surrounded around individuals who were solitarily confined when you were in Florida?
A No.
Q You were testifying about that earlier when Ms. Diener was asking you, were you not? Yes or no?
A Could you repeat the question.
Q The *Osterback* case –
A Yes.

Q -- does that –

A Yeah, okay.

Q A case that involved inmates in solitary confinement?

A Right.

Q Yes or no?

A Yes, yes.

Q And –

MS. DIENER: Judge, may we have a sidebar?

THE COURT: Sure.

(Sidebar conference conducted.)

MS. DIENER: Judge, this would not be the proper impeachment. That situation is separate from this case. Mr. – Dr. Martin was not sued in that case. An employee of the DOC was (inaudible) address issues, honestly, kind of like *IPAS*. But as an employee or contract employee for the Florida Department of Corrections, it is not all a policy determined by Dr. Martin, so I don't know how it's an impeachable subject matter because it appears to be in the form of the question.

MR. ROZZI: The State brought up the issue of solitary confinement during his direct exam.

THE COURT: And he testified.

MR. ROZZI: And it's directly related to the fact that he is familiar with the industry as it relates to solitary confinement and the circumstances, even the legal side of it.

THE COURT: And what does this lawsuit have to do with anything?

MR. ROZZI: Well, I'm not asking him about the details, I'm just

pointing out that he's been involved in this, too –

THE COURT: He testified that –

MR. ROZZI: -- so he's familiar with that, he has knowledge of the case.

THE COURT: Well, he testified to that

MR. ROZZI: Yeah, that's it, that's all I'm asking. I'll move on.

THE COURT: Okay.

(Sidebar conference concluded.)

THE COURT: Move on, Mr. Rozzi.

MR. ROZZI: Thank you.

Q I took your deposition back in early October of this year; is that correct?

A Yes, that's correct, yes.

Q And at that time, you acknowledged to me that it was very challenging to treat someone in solitary confinement; right?

A The patients, yes.

Q And in 2022, when you were asked to go down to Westville, you were working at the State Prison in Michigan City; is that right?

A Correct, yes.

Q And you were asked to go to Westville because there was a significant backlog in cases at Westville?

A That's right.

Q You told me somewhere between 200 and maybe 250 inmates that had –

A Backlog.

Q -- that were part of that backlog; right? Yes or no?

A Yes, yes.

Q Do you agree that the definition of serious mental illness involves someone with a major psychiatric disorder, which would include schizophrenia, major depression, bipolar disorder, all those types of things?

A Correct.

MS. DIENER: Judge, may I ask a preliminary question?

A Correct.

THE COURT: You may.

MS. DIENER: Dr. Martin, with regard to the DOC definition of serious mental illness in 2022 and 2023, are you familiar with the definition?

A Yes, I –

MS. DIENER: The DOC definition?

A Not specifically, but in general, I agree that major diagnoses like schizo –

MS. DIENER: Dr. Martin, I don't want you to answer the question.

A No, okay.

MS. DIENER: Do you know the DOC definition for serious mental illness affective in 2022 and 2023 as we sit here today?

A No.

MS. DIENER: I would object to the question.

MR. ROZZI: He's already admitted that's part of his definition. I think it's a weight issue.

THE COURT: Overruled.

Q Did you tell me that the DOC's definition of serious mental illness was someone with a psychiatric disorder which would include schizophrenia, major depression, bipolar disorder, all those kinds of things?

A That's right.

Q Do you agree that solitary confinement of a human can be the cause for the onset of a mental illness?
A It can cause that, yes.
Q Do you agree that solitary confinement of a human being can exacerbate an existing mental illness?
A I agree.
Q Do you agree that at times during Mr. Allen's stay at Westville, that he was in a state of psychosis?
A Yes, I agree.
Q Do you agree that a human being in Mr. Allen's condition at Westville could move in and out of states of psychosis over time?
A It's possible.
Q You said that you had personal contact with Mr. Allen at Westville; is that true?
A That's true.
Q And would you acknowledge that you told me that contact occurred on 18 different occasions?
A Yes.
Q Roughly; right?
A Yeah, roughly.
Q Between November of 2022 and Dec –
A November of '23.
Q -- November of 2023?
A Correct.
Q And the longest of those meetings was a half an hour, which was your

assessment when he got there in November; right?

A Yeah. Yes, that's right.

Q And there were two officers present with you during that meeting?

A Yes.

Q And there were other meetings with Mr. Allen that occurred at his door, at his cell door?

A Cell door, yes.

Q So you're talking to him through the glass or through the crack –

A Right.

Q -- in the wall?

A Yes, yeah, yeah.

Q And those meetings, naturally, would be much quicker than a half an hour, because –

A True.

Q -- you're not gonna stand there and talk through the door?

A True, true.

Q And I went through and counted, I kind of was just roughly counting between – well, let me back up. Is it accurate to say that between January 24th, 2023, and April 13th, 2023, that you had no contact with Mr. Allen?

A That is true.

Q And in fact, to the extent that he was suffering from any type of mental illnesses or mental health crises, Dr. Wala's notes would be a better source of information in that regard?

A For that period, yes.

Q And you've acknowledged before that she's just in a better position to

assess his overall mental health, because she's the one that had the most contact with him?

A Depending.

Q Okay.

A It depends.

Q I'm asking you if over the course of his stay at Westville, would you agree that she was in a better position to assess his mental health than any other doctors at that facility?

MS. DIENER: Judge, I'd object: Asked and answered. He already said was she in a better position to observe and assess.

MR. ROZZI: He said it depends.

THE COURT: Sustained.

MR. ROZZI: I'll move on.

Q Did you – do you agree that when you did see him at the door cell, that it was typically just for a few minutes, because that was enough contact for you?

A That's right, yes.

Q Did you ever watch any in-cell videos of Mr. Allen?

A No.

Q Did you ever watch any camcorder videos of Mr. Allen?

A No.

Q Did you describe Mr. Allen, on April 13th, 2023, as very psychotic at that time?

A Yes, I did.

Q The same thing on May 13th, 2023?

MS. DIENER: Objection, Judge.

Q Did you –

MS. DIENER: May 13? He – does he have a record from May 13?

THE COURT: Are you asking me?

MS. DIENER: No, I'm asking Mr. Rozzi if there's one in the documents that Dr. Martin had an opportunity to review.

MR. ROZZI: I'm asking him a question, I'm not sure what the objection is.

THE COURT: That there's no record, that was the objection.

A I don't think I saw him that day.

THE COURT: So sustained if there's no record.

Q Did you tell me that on April 13th that you got a call and you were notified that he was –

A April –

Q -- being psychotic?

A Yes, April 13th, yes.

Q Okay. I apologize. You said you administered Haldol in three different forms; is that right?

A No. Yes, yes, yes, yes, yes, yes.

Q You said there were three different kinds.

A There are three different kinds and he was given three different –

Q And –

A -- all three different types.

Q -- four of those, the lactate short-term administrations occurred in April; right?

A April 14, 15, 16, 17.

Q Five of them?

A No. 14th, 15th, 16th, 17th –

Q Okay.

A -- four days.

Q And then you gave him a 30-day shot on April – on or about April 18th?

A 18th.

Q And then another one on or about May 18th?

A Yeah, okay.

Q And then another one on or about June 15th?

A 16th I think.

Q And you only administer antipsychotics to somebody who is psychotic; right?

A Yes. Let me take that back –

Q There's no question. Do you agree that Mr. Allen suffered from major depressive disorder?

A Yes, he did.

Q And do you agree or is it accurate that there are circumstances that people like Mr. Allen deal with in prison that can exacerbate those symptoms?

A Yes, I agree.

Q And one of those would be circumstances being – I should say one of those would be being separated from outside family members?

A I agree.

Q And one of those would be someone believing that they're being unfairly incarcerated or held?

A I agree.

Q And one of those might be treatment from other inmates?

A The way the others were dealing with him, yes, yeah.

Q Mr. Allen complained of those things from time to time?

A Yes, yes, yes, yeah.

Q There was some references in your notes that you questioned Mr. Allen's behaviors and the timing of his meeting with his lawyers; do you recognize that general comment?

A Could you repeat the question?

MS. DIENER: Objection, Judge: It's outside direct.

THE COURT: Sustained.

Q Did you report in any of your records that you were concerned about Mr. Allen having a meeting with his lawyers?

A Yes, I did.

Q And you don't have any idea what his lawyers talked to him about during that meeting, do you?

A No, no, no.

Q So anything that you would – any opinion you would generate in that regard would be pure speculation?

A Pure speculation, I agree.

Q You did report that he was engaging in paranoia because he thought that his lawyers were cops at one point, yes or no?

A That is what he reported to Dr. Wala, which she told me about, that he thought that one of his lawyers was a good cop and the other one is a bad cop, so he was paranoid about them because he didn't feel that they were, you know, working in his best interest.

MS. DIENER: Judge, I would object at this point that the response calls for hearsay.

THE COURT: Sustained.

Q Rick Allen's weight loss was significant to you?

A Yes.

Q Fifty pounds over the time that he was there?

A Yeah, 45.

Q And you said that's not normal, is it?

A That is not normal.

Q People tend to actually gain weight in those circumstances?

A Usually.

Q You've never treated a pre-trial detainee –

MS. DIENER: Objection to the form of the question, Judge. He's inserting his own opinion that he's never treated someone in a particular circumstance. I think that would have to come from the witness.

MR. ROZZI: I'll rephrase.

THE COURT: Sustained.

MR. ROZZI: Thank you.

Q Have you ever treated a pre-trial detainee without a criminal history in a prison in your entire professional career?

A In prison –

Q Yeah.

A -- or in jail?

Q In prison.

A In prison, yes.

Q Okay. Do you recall me asking you questions of this nature back on October 4th?

A Yes.

Q Give me one second. Would it help to review your transcript to refresh your recollection of that conversation?

A I can – I don't mind looking at it, but I can answer without looking at it, too.

MR. ROZZI: Judge, may I approach?

MS. DIENER: Judge, I'm gonna object to the question as not being relevant to Mr. Allen and his situation.

THE COURT: How's it relevant?

MR. ROZZI: It's relevant because it has a tendency to prove that Mr. Allen's treatment was unlike any inmate that he has ever dealt with over the course of his 30 years.

THE COURT: That's not what he testified to. He said yes, he has treated pre-trial detainees.

MR. ROZZI: That's not – I was gonna impeach him with his statement. That's not what he told me in October.

THE COURT: Oh, so this is for impeachment?

MR. ROZZI: Impeachment purposes. Thank you. May I?

THE COURT: Okay.

Q Handing you a copy of your deposition from October 2nd, 2024.

A Okay.

Q Will you take a look at that, Dr. Martin, specifically page 55, line 17 through 23. Just read those; you don't have to comment, just read them and let

me know when you've read those – read that question – or read that text. And then I'll ask you to read on page 56, lines 6 through 22, I'm just asking you to read those. Just let me know when you've read them.

A Yeah, I read them, I read the –

Q Two-part question: You've never treated a pre-detainee without a criminal history at Westville – have you? – up until Mr. Allen.

MS. DIENER: Judge, I'm gonna object. The first question was in a prison setting and now he's saying in WCU.

THE COURT: Sustained.

MR. ROZZI: Okay. We'll do it backwards.

MS. DIENER: And, Judge, I'd like to renew my objection, I still would question the relevance of this line of questioning because Mr. Allen is in safekeeping pursuant to court order and so none of these witnesses have any say about what his status is in that regard, and so their opinion as to whether it's fair or unfair is really irrelevant to this case.

MR. ROZZI: Judge, I think it – the information that's been extracted from the witness's testimony is that solitary confinement is damaging to someone's brain and Mr. Allen was in a situation that no other inmate at this facility has ever been in. I think –

THE COURT: Then, let's limit it to Mr. Allen, shall we? Sustained.

A Okay.

Q Was Mr. Allen's situation unique to you in terms of his detention?

A Relatively speaking, yes, it was unique compared to other inmates at Westville.

Q May I have that? Earlier – thank you for that – you testified that you were

working from both an office at ISP, at the state prison in Michigan City, and at Westville at times; right?

A With regard to the inmates who were at Westville?

Q Yes.

A Yes.

Q And so you were actually conducting business, if you will, from a computer at ISP, but dealing with inmates at Westville; correct?

A Correct.

Q And part of that was you authorizing the administration of meds, despite the fact that you weren't onsite with the patients at the time; is that –

MS. DIENER: Objection, Judge. There's a lot of testimony in that question and, again, I would ask the testimony come from the witness. I understand it's cross, but it's excessive.

THE COURT: Sustained.

Q Were you administering meds from a desk at Michigan City to inmates at Westville?

A Yes, on one occasion I think I did.

Q You mentioned earlier that Mr. Allen was identified as a safekeeper; right?

A Yes.

Q And your job – you had a particular job because of that business designation; correct?

A Yes.

Q Are you aware of any specific reason why he was identified as a safekeeper?

A To the best of my knowledge, he was not –

MS. DIENER: Judge, I would – may I ask a preliminary question?

THE COURT: Yes, you may.

MS. DIENER: Dr. Martin, are you involved in the classification of inmates and whether they're placed in safekeeping or not?

A No, certainly not.

MS. DIENER: I would ask – I would object to the question.

MR. ROZZI: Judge, earlier he rendered an opinion in his testimony that he was under the assumption that Mr. Allen was a safety – there was a threat to safety, and so I'm just asking what his facts are to support that opinion.

THE COURT: That's not the question that you asked.

MR. ROZZI: May I ask a different question?

THE COURT: Yes, but I would sustain –

Q What facts are you aware of that Mr. Allen was a threat to his own safety before he was taken to Westville?

A I was not aware of him being a threat to himself.

Q What facts are you aware of that somebody else was a threat to Mr. Allen's safety before he was taken to Westville?

A I was not aware of someone being a threat to him, but in general, somebody thought that he was potentially in danger –

MS. DIENER: Objection, Judge: Speculation.

THE COURT: Sustained.

MR. ROZZI: I'll move on.

Q When you met with Mr. Allen in November of 20 – 2022 –

A '22.

Q -- he did not have lawyers, did he?

A He?

Q He did not have lawyers assigned.
A I don't know.
Q Did you ask?
A No.
Q Your initial meeting with Richard Allen, is it true – no, strike that. Is it true in November of 2022, when you met with him, that you conducted an interview?
A That's right.
Q It wasn't a formal psychiatric assessment, was it?
A What date?
Q In November of 2022.
A Nov – yes.
Q And so any background information that you would have gathered from him basically was during that particular session; right?
A No.
Q Did you gather background information?
A I got some background information before I met him –
Q Okay.
A -- through what was available in the chart.
Q Okay.
A So it was in the electronic chart, so I had access to information based on his interactions with people at the reception center before he got transferred to Westville.
Q Okay. In your November 29th, 2022, medication and/or psychotherapy report, did you report that Mr. Allen had used alcohol socially?

A Can I look at my chart?
Q Would it help refresh your memory?
A Yes.
Q Let me just open it for you. Directing your attention to 11/29 of 2022 report, specifically the second page, at the bottom, the fourth to the last line; do you see that?
A Yes, yes.
Q Is that what he reported to you?
A Yes.
Q Thank you. Earlier, you testified that – and correct me if I'm wrong – that there was a difference between being in – being solitarily confined and being in a one-man cell; right?
A Physically, it's the same thing.
Q Okay.
A All I – the point I was trying to make was that solitary confinement has a punitive connotation, even though you're using the same cell, and Mr. Allen had not done anything wrong while he was in prison.
Q Which would be even more confusing for somebody to be solitarily confined if they hadn't done something wrong; correct?
A I agree. I agree.
Q Okay. All right. And you said earlier – strike that. You testified earlier that you were trying to do whatever you could to make him more comfortable; is that what you said?
A Yes, yes.
Q You acknowledge that the circumstances in which he was enduring would

have been extremely uncomfortable?

A I would not use "extremely".

Q Okay.

A It was uncomfortable –

Q Okay.

A -- and –

Q So you were just trying to make him less uncomfortable?

A We were trying to, the whole team, the whole prison system, starting from the warden, everyone who is involved with him, we were trying to make sure that he was more –

Q Warden Galipeau?

A Warden Galipeau.

Q All right. He was making sure Rick Allen was comfortable?

A Mr. Galipeau, Dr. Dwenger, Dr. Wala, the assistant warden, Elise Gallagher, I think the lawyer for the Department of Corrections, we were having frequent meetings to see how he could be made more comfortable in the situation – given the situation in which he was.

Q But these – these are your MTD team meetings?

A Yes, yes, yeah.

Q But some of these psychiatrists – did you mention Mays earlier, I think? Is that one of them?

A Dr. Mays is the regional – was the regional psychiatrist at that time for the region.

Q Bonner or something I thought you said.

A Dr. Steven Bonner was one of the psychiatrists in another facility.

Q Were you ever present when Dr. Mays interacted with Rick Allen personally?

A No.

Q Were you ever present when Dr. Bonner or Mr. Bonner interacted with Rick Allen personally?

A No. Dr. Bonner –

Q Were they –

A No, they did not, no.

Q Were those people even onsite at Westville?

A No, they were not onsite.

Q Now, you testified earlier that, because Mr. Allen was a safekeeper, that your job was just to keep him alive; right? Well, is that what you said?

A Not my job, it was the job of the institution of the Department of Corrections, that's why he had been entrusted to the care of the Department of Corrections –

Q That was the standard?

A -- because he was not – that was my understanding, that he was not safe in the county jail wherever he was and so they had transferred him to the Department – care of the custody – and custody of the Department of Corrections, and they designated him to be housed at Westville.

Q Keep him alive?

A Yeah, I guess, yes.

Q Now earlier, you testified from your medication management notes on June 20th, 2023, that Mr. Allen was oriented to person, place, time, coherent, lucid, those kind of things?

A Can I look at my notes?
Q You may, yeah.
A Yeah, June 20th, yes.
Q June 20th –
A Yes.
Q -- 2023?
A Yes.
Q That's what your testimony was; right?
A Yes, he was or –
Q That's the day that he – you reported that he told you that he wanted to apologize to the families?
A Yes.
Q Doctor, earlier in this trial, there was admitted into evidence Exhibit DDD, a video from the Indiana Department of Corrections, Westville, on June 20th, 2023, at 10:52 a.m. I'd like to play that video for you and then I have a few questions for you; okay?
A June 20th? Okay.
Q June 20th, 2023, at 10:52.

MR. ROZZI: May I turn the TV screen, Your Honor, and publish it?

THE COURT: To the witness?

MR. ROZZI: Yeah, so he can see the video.

THE COURT: Yeah, go ahead.

MS. DIENER: Mr. Rozzi.

MR. ROZZI: Yes?

MS. DIENER: Can I see the exhibit and verify that that is from that

date?

MR. ROZZI: Yeah, yeah, sure. It's the – here's the BBB, that's the master list that's been – it's the last page.

MS. DIENER: And which one are you going to?

MR. ROZZI: June 20th, 2023.

MS. DIENER: Can we have just a moment, Judge?

THE COURT: Yeah.

MS. DIENER: Mr. Rozzi, is this the Court's copy?

MR. ROZZI: Yes.

MS. DIENER: Okay. Thank you, Judge.

MR. ROZZI: May I publish, Judge?

THE COURT: Yes, you may.

MR. ROZZI: Specifically 1230 to 2100 on the video.

MS. DIENER: Are we gonna play the whole 20 minutes?

MR. ROZZI: No. I just said 1230 to 2100.

MS. DIENER: Okay. Thanks.

MR. ROZZI: Yeah.

THE COURT: I'm sorry, I thought you said 1052.

MR. ROZZI: Well, that was the reference to the video on the master list is that it started at 10:52 a.m. I'm gonna play 1230 to 21 – 12 minutes and 30 seconds –

THE COURT: Was that published to the jury?

MR. ROZZI: -- to 21 minutes.

THE COURT: Had that been published to the jury?

MR. ROZZI: Yeah, the whole thing was, we showed the whole thing.

MR. MCLELAND: Well, did you show the whole video on that one or is that one you skipped through?

MS. DIENER: Mr. Rozzi –

THE COURT: That was one that was skipped through, according to Jodie's notes.

MR. ROZZI: I'm sorry?

THE COURT: That's one that you skipped through, according to Jodie's notes.

MR. ROZZI: May I publish the 1230 to 21 minutes? It's been admitted.

THE COURT: Well, I understand that, but I – fine. It's fine, but this may or may not have been published to the jury previously? Or do you – you don't know?

MR. ROZZI: Well, I know the video, in various parts, was. We did speed up a few occasions, just so we could move through it.

THE COURT: And could you, please, clear your screen of all of the extraneous information on the bottom.

Q You see the screen, Dr. Martin?

DEFENDANT'S EXHIBIT DDD PUBLISHED IN PART

MS. DIENER: Judge, is there a limit on how much of this we're going to show? I think there's been enough for the witness to see Mr. Allen's behavior.

MR. ROZZI: Judge, I asked –

MS. DIENER: And this has been shown to the jury already.

MR. ROZZI: I asked to publish up to 21 minutes. I think eight

minutes is a reasonable time. It's a long video, I think that's a fair representation of his circumstances so I can question Mr. Martin – Dr. Martin. Thank you. I'm sorry.

THE COURT: Would counsel approach, please. Could you stop that.

(Sidebar conference conducted.)

THE COURT: What's he looking for?

MR. ROZZI: There's only 32 seconds left.

MS. DIENER: I think we're done.

(Sidebar conference concluded.)

Q Having been told that that video was from June 20th of 2023, was that the same Richard Allen that you said was oriented to person, place, time of day, and situation?

A Yes.

MR. ROZZI: I have no further questions.

THE COURT: Ms. Diener.

RE-DIRECT EXAMINATION OF DR. JOHN MARTIN

QUESTIONS BY MS. DIENER.

Q Doctor, the interactions that you had with Mr. Allen, either at his cell or in the medical room, may or may not have been recorded; is that correct?

A I beg your pardon?

Q The interactions you would have with Mr. Allen at his cell, would those be recorded? Did staff follow you there and record your conversation?

A Can I have a look at my chart, my notes?

Q Sure. Take your time. Okay? Okay. So where did your – can I have it?

So where did your conversation with him occur on June 20th?

A It was in an interview cell outside his housing.

Q Okay. And so would that indicate to you that you spent a little more or less time with him than if you were at his door?

A More time.

Q And on that day, did he communicate with you?

A Yes, he did.

Q And would he need to communicate with you in order for you to have an opinion that he was oriented to person, place, time of day, and situation?

A Yes.

Q So would that involve you asking him questions and him providing responses?

A Yes.

Q And so on that particular day, you document that he made a statement to you about wanting to apologize to families of his victims; correct?

A Yes, yes.

Q Did you ask him –

A No.

Q -- that statement?

A No. That was spontaneous on his part, it was, you know, of his own volition.

Q Okay. When you meet with him in an interview cell, who else is in there with you?

A In an interview – usually there are one or two officers.

Q Do you know if this particular interaction between you and he was

recorded on this day, if you know? It's okay if you don't.

A I don't remember, all I remember is that whenever he was moved from his cell or taken out of his cell, he is – there was a videotape, he was being recorded.

Q Okay. And –

A So he might have been recorded moving – being brought from his cell to that – the cell – I mean to the room where medical doctors and nurse practitioners do the assessments and where I would do my assessments.

Q Okay. So would that be similar to when he would go for a vitals check, would they do it in the room you're referring to?

A Not necessarily. They might do it just near cell side –

Q But if they –

A -- because if –

Q -- were doing it out of cell –

A -- because is it – no, because it is a laborious – I mean, it's a time-consuming process and involving officers, etcetera, to move him and then move him back –

Q Okay.

A -- so sometimes they might do it just cell side, get him out of the cell, get his vitals, and put him back.

Q Okay. So let's talk about June 20 though of 2023. You indicate on here that he was interviewed in an interview cell –

A Right.

Q -- and it also makes reference that he was gonna meet with Dr. Wala in a few minutes.

A Correct.

Q So would that indicate to you that he had already been moved, either for you or for Dr. Wala?

A Yes.

Q Okay. And so was your interaction with him very different from the interaction you saw in the video?

A Yes, yeah.

Q And you can't explain why that is different; correct? I mean, you don't know why he's acting different there, do you?

A You don't want me to speculate, no.

MR. ROZZI: I'm gonna object to the form of the question. She's –

Q Can you –

MS. DIENER: I'll rephrase.

MR. ROZZI: This is –

THE COURT: Rephrase.

MR. ROZZI: -- re-direct.

MS. DIENER: I'll rephrase.

THE COURT: Thank you.

Q Do you have any explanation for why his behavior in that video shown to you would be different from his behavior when you met with him?

A You want me to speculate on that?

Q No, I don't want you to speculate. Do you have any explanation?

A No explanation.

Q Does it – does seeing that make you believe that your observations were incorrect on June 20th?

A No.

Q Does it make you question your own record about what he said to you on June 20th –

A No.

Q -- at the time when you met with him.

A Not at all. Not at all.

Q When you first met with – you were asked by Mr. Rozzi if, when you first met with Richard Allen, did he have existing depression and anxiety; correct?

A Yes.

Q Okay. And so would that be considered a baseline condition for Mr. Allen?

A When I saw him?

Q Just like in general, would –

A Yeah. When I saw him, that – I considered that as the baseline as far as I was concerned.

Q Okay. And so you're treating him. At one point then, you see the need for medication for psychosis; correct?

A Correct.

Q And then you discontinue medication. Does Mr. Allen return to his baseline while in your care?

A Yes, as of the 20th of – as of the 2nd of May.

Q Okay. May of 2023?

A Yeah, May of 20 – May 2nd of '23, as far as his psychosis was concerned; and as far as the depression was concerned, he was back at baseline.

Q You indicated that he was no longer psychotic on May 2nd of 2023, yet his medication for Haldol continued; can you explain why?

A Okay. So the reason why – okay. So –

Q Brief answer.

A Yes. So he – I want to make sure that there isn't a recurrence, because illnesses have exacerbations and remissions; okay? So I want to make sure that there wasn't any of that happening, and so I kept observing him, and for seven weeks there was no evidence of psychosis.

Q And after you started the Haldol and you were visiting with him with the frequency you've already testified to, were you ever contacted by staff that he was in a psychotic state that needed your immediate attention?

MR. ROZZI: Objection: Calls for hearsay.

MS. DIENER: No, I said was he ever contacted to address a psychotic state.

THE COURT: Sustained. That is hearsay.

MS. DIENER: Okay.

MR. ROZZI: Thank you.

Q Did you ever need to come to the facility to see Mr. Allen like you did on April 13th of 2023?

A No.

MS. DIENER: No other questions, Judge.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF DR. JOHN MARTIN

QUESTIONS BY MR. ROZZI.

Q You said that when you talked to him on June 20th, he was spontaneous, he communicated to you spontaneously; right?

A June 20th, yes.

Q Did you see anything in that video that suggested that he was able to

communicate spontaneous?

A That he –

Q Did you see anything in the video?

A That he could?

Q Yeah.

A There's nothing there that he couldn't.

Q Did you see anything that suggested he could?

MS. DIENER: Objection, Judge: Asked and answered.

A No.

THE COURT: Sustained.

Q Does the video make you question your assessment that Mr. Allen was no longer in a state of psychosis on June 20th, 2023?

A Yes.

MR. ROZZI: I have nothing further.

THE COURT: Does anybody on the jury have any questions for Dr. Martin? Thank you. Would counsel approach.

(Sidebar conference conducted.)

THE COURT: "Did the oral Haldol continue to be part of Mr. Allen's medications after June 20th, 2023?"

MR. ROZZI: She said oral?

MS. DIENER: Oral.

MR. ROZZI: The question was oral?

MS. DIENER: Um-hmm. (Affirmative response)

THE COURT: Oral – "continue to be part of –

MR. ROZZI: I don't think he ever said he administered oral –

MS. DIENER: He did.

MR. ROZZI: -- other than the first day.

MS. DIENER: It's in the record.

MR. ROZZI: Okay. That's fine. I just wondered if it's consistent with his testimony.

THE COURT: Yeah.

MR. ROZZI: Okay.

THE COURT: He said he did.

MR. ROZZI: Okay.

THE COURT: "What time did you meet with Mr. Allen on June 20th, 2023?"

MR. ROZZI: That's fine.

THE COURT: "Based on the video you saw from June 20th, 2023, would his presentation be consistent with feigning?"

MS. DIENER: Good question.

MR. ROZZI: Good question there.

THE COURT: "Is it possible for Mr. Allen to slip in and out of psychosis in a 24-hour period?"

MS. DIENER: That's fine.

THE COURT: So when we're done with him, are you done with your rebuttal? And do you have surrebuttal?

MR. ROZZI: I doubt it, but if I could just check –

THE COURT: Okay.

MR. ROZZI: -- that I do or I don't, but I don't think so.

(Sidebar conference concluded.)

JUROR QUESTIONS OF DR. JOHN MARTIN

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Doctor, did the oral Haldol continue to be part of Mr. Allen's medications after June 20th, 2023?

A I'd have to look at my notes.

THE COURT: He would need to look at his notes.

MS. DIENER: Do you want to see the medication record?

A Yeah.

MS. DIENER: I'll get that.

A Your Honor, from what date to what date?

Q Did the oral Haldol continue to be part of his medications after June 20th, 2023?

A Yes.

THE COURT: Any follow-up, Ms. –

MR. ROZZI: He said yes?

A Yes.

THE COURT: He said yes.

MR. ROZZI: Thank you.

THE COURT: Ms. Diener?

MS. DIENER: No question.

THE COURT: Mr. Rozzi?

MR. ROZZI: No questions.

Q What time did you meet with Mr. Allen on June 20th, 2023?

A I don't remember. It was early in the morning.

Q Early in the morning?

A Yeah.

Q Okay.

A So I usually go there somewhere around 6, maybe around that time, 6, 6:30, 7, and I see people that I'm supposed to see in that building before I start seeing people on the compound, because they – they are – the people in the compound have gone for breakfast and it takes some time for them to start coming out from different dorms.

THE COURT: Okay. Ms. Diener?

MS. DIENER: No other question.

THE COURT: Mr. Rozzi?

MR. ROZZI: No questions.

Q Based on the video you saw today, referring to the June 20th, 2023, could that behavior – could his presentation be consistent with feigning?

A No, I don't think so.

THE COURT: Okay. Ms. Diener?

FOLLOW-UP EXAMINATION OF DR. JOHN MARTIN

QUESTIONS BY MS. DIENER.

Q Was there anything about his behavior that would be indicative of psychosis?

A No. He – the –

MS. DIENER: Thank you. That's all.

THE COURT: Mr. Rozzi?

MR. ROZZI: I have no questions. I'm sorry.

JUROR QUESTIONS OF DR. JOHN MARTIN

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Is it possible for Mr. Allen to slip in and out of psychosis in a 24-hour period?

A Yes.

THE COURT: Okay. Ms. Diener?

MS. DIENER: No question.

THE COURT: Mr. Rozzi?

MR. ROZZI: No questions.

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

THE WITNESS: Thank you.

THE COURT: And I'll take those. I think these are the exhibits, are they not? Yes. If I could have those. Okay. Mr. McLeland.

MR. MCLELAND: Judge, the State has no other rebuttal witnesses.

THE STATE OF INDIANA RESTS

THE COURT: Mr. Rozzi.

MR. ROZZI: The Defense has no surrebuttal. Thank you.

THE DEFENSE RESTS

THE COURT: Well, ladies and gentlemen, you've now heard all of the evidence in this case. As I told you some weeks ago, the next step in the proceeding is argument and instructions, after which you will retire to deliberate. The attorneys and I have a couple of housekeeping matters that we need to attend to, and I'd like to give them the opportunity to have some time to get prepared for final arguments, so we're gonna call it a day. While you are on your own business now the rest of the afternoon and into the evening, please,

remember what I told you about not talking with family – or not talking about the case amongst yourselves or with anyone else, since you will be under the supervision of the bailiffs. Have a safe and peaceful afternoon and evening and we'll see you tomorrow morning for final argument. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 2:16 p.m.)

THE COURT: You may be seated. I did receive, Mr. Rozzi, your proposed jury instruction. It looks like you also sent that to the State. Have you had the opportunity to review the proposed jury instruction?

MR. MCLELAND: Judge, yes, I have.

THE COURT: And – well, go ahead, Mr. Rozzi, on your instruction.

MR. ROZZI: Judge, I – you know, I offered up that instruction, I think, obviously, it goes to the issue of the jury being the credibility of the statements made by Mr. Allen. I understand that – first of all, that language is pulled straight from the *Stanger* case, I thought that was the name, I think I cited that at the bottom of the instruction. And I understand there's another instruction, one of the patterns is, is that the jury is the credibility – is to determine the credibility of the witnesses, but in this case, because we have this unique circumstance that involves these incriminating statements and that there is case law that discusses the two-part test, the first part of which we've already been through, I do think it's appropriate that the Defense be able to I guess you could use the word "highlight", or place emphasis maybe is a better phrase, on the jury's task with regard to dealing with these incriminating statements, so that's what I'm asking the Court to do. Thank you.

THE COURT: Mr. McLeland.

MR. MCLELAND: Judge, the State is opposed to that instruction. There's an instruction already talking about credibility of the witnesses, and I think that encompasses that. I read over the *Stranger* [sic] case briefly once I got the email. I think, actually, there's an additional instruction in the *Stranger* [sic] case with the instruction that Mr. Rozzi proposed, I may be reading the case wrong, but I think in the *Stranger* case they also put in there that the court has ruled that those confessions are admissible and there's another part of the – I'm trying to find it – yeah, that the Court had determined that the confession was voluntary and not improper. I think that was an addition to the *Stranger* – or the instruction from *Stranger* that Mr. Rozzi submitted to the Court – or *Stanger*, sorry. But again, the State's opposed to it. If the Court is going to allow it, I would ask them to put the whole instruction from *Stanger* in there to let the jury know that the Court did find that those confessions are voluntary and admissible, but I think the instruction in the jury instructions now, talking about credibility of witnesses – and I'm sorry, I didn't bring the instructions up with me, Judge – but there is a certain instruction there that talks about credibility of witnesses and how it's up to the jury to judge those credibility of witnesses and statements those witnesses make. I think that's sufficient to inform the jury, Judge.

THE COURT: Is this an actual instruction or just dicta from a case?

MR. ROZZI: It is not. Judge, we'll move to withdraw. We'll move to withdraw.

THE COURT: Oh, okay.

MR. ROZZI: We'll just move on.

THE COURT: Never mind, then.

MR. ROZZI: Thank you.

THE COURT: So I'll show that it's been withdrawn. I did receive from my assistant the pattern instruction on the Defendant did not testify – let me find it here – and it was the – it is the pattern and it states, "No defendant may be compelled to testify. A defendant has no obligation to testify. The Defendant did not testify. You must not consider this in any way." So if you want me to give that instruction, other – rather than the instruction I've provided to counsel, I'm happy to substitute them –

MR. BALDWIN: I will –

THE COURT: -- out.

MR. BALDWIN: I'm sorry, Judge. I think we'll just stick with what's there.

THE COURT: The instruction I've provided –

MR. BALDWIN: Yes.

THE COURT: -- to you? Okay.

MR. BALDWIN: Yeah.

THE COURT: So anything else about instructions? We've already settled order of argument, the time of argument. I'll just trust that you will monitor your time appropriately. We probably will take a break after the State does its first final argument and then come back for Defendant's final argument, and it kind of just depends on what time we're at if we're gonna have to break for lunch before the State presents its rebuttal final argument. I just don't know where we're gonna be at. Anything else that we need to talk about on the record, Mr. McLeland?

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

THE COURT: Mr. Rozzi?

MR. ROZZI: No, Your Honor.

MR. BALDWIN: Judge, I actually have something, just three very brief offers of proof related to, of course, the third-party suspect, just in the event that there's a conviction. I don't know why they didn't come, it's probably – there was two inmates, one named Ricci Davis and one named James Haas, Ricci Davis is at New Castle –

MR. MCLELAND: Judge, I hate to cut off Mr. Baldwin, but I'm gonna object to this. This is more appropriately done in their case in chief. They're rested at this point. This is not appropriate for an offer of proof at this point, Judge.

THE COURT: And you didn't subpoena them or have me transport them.

MR. BALDWIN: Well –

MR. ROZZI: I was just telling him that.

THE COURT: Okay.

MR. BALDWIN: I didn't know that Brad had done that.

THE COURT: Oh, okay.

MR. BALDWIN: Well, okay, then that's fine. Elvis Fields was properly served a subpoena to appear here. He has failed to appear. I would ask for an arrest warrant for Mr. Fields.

MR. MCLELAND: Judge, my understanding – I don't know that I have a role in this aspect of it, but my understanding, an arrest warrant is to order him to appear and to get him to appear here. Now that they've rested their case in chief, I'm not sure what the point of an arrest warrant is. To bring him

here for what? To ask him why he didn't appear I suppose, but at this point, they've rested, Judge, so I don't know that the issue of a search warrant is gonna effectuate him showing up – or an arrest warrant, sorry, is gonna effectuate him showing up for a subpoena.

MR. BALDWIN: The offer of proof, Judge, as I just did in a trial in August, is – can be done at any time. In that case, it was done after we had rested, just for convenience of everybody, so it – the jury's not being bothered and so forth, and we did an offer of proof after the fact, and that's what Mr. Fields would have been here for is an offer of proof after that fact, that's what I was gonna have him here. Had he been outside, I would have said, "Here's an" – you know, "Here's my phone number, call me, and then we'll know, when the trial is over, you're gonna come in here and testify." And so I think it's proper for him – I mean, he's got a valid subpoena, he was properly served, and he ignored this Court's order, so – to appear in court.

THE COURT: And is the offer to prove anything different than what you provided to this Court at the August hearing with Mr. Fields?

MR. BALDWIN: Well, that I don't know, because we're – I was gonna put him on the stand, this guy, so, you know – having deposed him and so forth, I – who knows what he would have said on the stand. That's why I was bring him in, so I was –

THE COURT: Well, you have to know what somebody's going to say for a legitimate offer to prove, that if the witness was called to testify they would state, "A, B, whatever, C, D, E, F, G."

MR. BALDWIN: Well, that's if I do it, but if he gets up on the stand and does it, that's different. I mean, if he gets up on the stand and says, "Yeah,

I know who Brad Holder is and I know that," whatever he might say, that would be on him. If I'm saying it, then that would – I would have to be, as an officer of the court, stating what I think he would say should he testify based upon what he's already stated. But in this case, I wanted Mr. Fields to get up on the stand, answer some questions, and see what he said, which I think is a proper, you know – and if this were a trial, that's exactly what would have happened.

THE COURT: Well, it seems like we're – are talking in circles. You're asking me to issue a warrant for an individual for their arrest to be brought before the Court to be found in contempt of court –

MR. BALDWIN: Yes.

THE COURT: -- for failing to honor a subpoena, when I've already ruled that he would not testify as a third-party suspect, because again, the Defense has failed to provide the nexus from all of these individuals. You've provided a nexus of them to each other, but not them to this crime.

MR. BALDWIN: Right.

THE COURT: So without that nexus, there's no basis in fact.

MR. BALDWIN: And, of course, I agree to disagree –

THE COURT: Absolutely.

MR. BALDWIN: -- with you –

THE COURT: And you've made your record.

MR. BALDWIN: -- but an offer of proof, Judge – yeah, he was not allowed, under your order, to testify in the trial with the jury sitting over there. He is allowed to get up on that stand and ask – answer my questions, and who knows what he might say in relationship that could have opened the door to – for example, if he said, "Okay, yeah, I changed my mind, I actually was there,

but I didn't participate in it. I mean, but here's my excuse about the gum – spitting on – if my spit's found on the girls, here's what I meant by that: I was there, but I didn't" – you know, but we don't know what he would have said, that's the whole purpose of him coming in to testify was to do that outside the presence of the jury. He didn't do that, he didn't appear.

THE COURT: Anything else?

MR. BALDWIN: No, Judge. Thank you.

THE COURT: All right. Will we be prepared and ready to go promptly at nine o'clock?

MR. MCLELAND: Yes, Your Honor.

MR. ROZZI: Yeah, that's fine. Thank you.

THE COURT: Thank you very much. And I – are you doing closing? Thank you very much. We are in recess. Jodie, you can go off the record.

(Off record at 2:50 p.m.)

(On record November 7, 2024, at 9:05 a.m.)

THE COURT: All right. Well, good morning, ladies and gentlemen. We are back on the record in *State of Indiana versus Richard Allen*, 08C01-2210-MR-1. I'll show the Defendant's here in person with counsel. The State's here by the Prosecutor and his deputies. All of the members of the jury have reassembled. Are we ready to do closing arguments, Mr. McLeland?

MR. MCLELAND: Yes, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: Yes, ma'am.

THE COURT: Okay. Anything we need to talk about before we bring

in the jury?

MR. MCLELAND: No, Your Honor.

MR. ROZZI: No, ma'am.

THE COURT: And just a reminder, ladies and gentlemen in the audience, again, I appreciate yesterday you were very quiet, I would appreciate that continued compliance. There's a lot of officers in the back of the courtroom that will not hesitate to tap you on the shoulder and ask you to leave if you cannot remain silent throughout the course of the proceedings. It's important that the jury pay attention to the attorneys in the well of the courtroom and not be distracted by noise or commotion out in the audience, so please, maintain your composure. Gentlemen.

THE BAILIFF: All rise.

(Jury in at 9:07 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. Well, good morning, ladies and gentlemen. It's nice to ese you back this morning. I hope you had a pleasant evening. Again, as we parted company last evening and you had access to your phones for purposes of communicating with your family and checking your work email, I would ask you the following, again, set of questions. Ladies and gentlemen of the jury, have you read, seen, or heard any media accounts concerning this case?

A (All jurors respond in the negative.)

THE COURT: Have you discussed this case with anyone?

A (All jurors respond in the negative.)

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

you?

A (All jurors respond in the negative.)

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

A (All jurors respond in the negative.)

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

A (All jurors respond in the negative.)

THE COURT: All right. Again, ladies and gentlemen, I thank you for your continued compliance with the Court's directives. As I told you yesterday when we broke, you've now heard all of the evidence in the case and the next step in the proceeding is argument and instructions, after which you will retire to deliberate. The way that we'll be presenting the balance of the case to you is as follows: You now have in your possession now a copy of the Court's final instructions. I'm going to read the first dozen or so pages of those instructions, those are the case-specific instructions that deal directly with the – Mr. Allen, the charges that were filed against him, the statutory elements and definitions that go with that. Once I'm done with that, the attorneys will present their final arguments. Since the State bears the burden of proof, the State is entitled by law to both open and to close the final argument; and in between, you would hear from the Defense. The hope is that as you listen to the attorneys' final arguments, you already have a very specific framework of the law at your disposal as you listen to the arguments of counsel. Once they're done with their arguments, I'll present the balance of the instructions to you, those are at the back of your packet, those are the more general instructions on how to deliberate and weigh the evidence that you've seen. Again, you have copies of these

instructions and you may follow along if you wish. And I'll just tell you in advance, the arguments are gonna be rather lengthy in time and, obviously, I'm not gonna expect you all to sit there for six hours or five hours or however long it takes, so we will be taking a break. When the State has concluded with its first argument, we'll take a break; the Defendant will present his argument and we'll take a break; and then the State will present the balance of their argument and we may be taking a break, it just kind of depends on where we're at timewise. So just so you know, we will be taking breaks. Don't panic, think you gotta sit over there all that time. Again, I am required by law to read these instructions to you and you may follow along with them, if you wish. It is the duty of the Court to instruct you in writing at this time concerning the matters of law necessary for your information in giving your verdicts. Since this is a criminal case, the Constitution of the state of Indiana makes you the judges of both the law and the facts. Though this means that you are to determine the law for yourselves, it does not mean that you have the right to make, repeal, disregard, or ignore the law as it exists. The instructions of the Court are the best source as to the law applicable to this case. In deciding this case, you must determine the facts from a consideration of all of the evidence and the law from these instructions and find your verdicts accordingly. All of the law of this case has not been embodied in any one instruction; therefore, in construing any single instruction, you should consider it with all others given. This is a criminal case brought by the State of Indiana against Richard Allen. The case was commenced when informations were filed charging the Defendant with count 1, felony murder, a felony; count 2, felony murder, a felony; count 3, murder, a felony; and count 4, murder, a felony. Those informations, omitting formal parts, read

as follows. Count one: On February 13th, 2017, in Carroll County, Indiana, Richard Allen did kill another human being, to-wit: A.W., while committing or attempting to commit kidnapping. Count 2: On February 13th, 2017, in Carroll County, Indiana, Richard Allen did kill another human being, to-wit: L.G., while committing or attempting to commit kidnapping. Count 3: On February 13th, 2017, in Carroll County, Indiana, Richard Allen did knowingly or intentionally kill another human being, to-wit: A.W. Count 4: On February 13th, 2017, in Carroll County, Indiana, Richard Allen did knowingly or intentionally kill another human being, to-wit: L.G. The crime of murder is defined by law as follows: A person who kills another human being while committing or attempting to commit kidnapping commits felony murder, a felony. Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt: One, the Defendant, Richard Allen; two, killed; three, A.W.; four, while committing or attempting to commit kidnapping, which is defined as a person who knowingly or intentionally removes another person by force or threat of force from one place to another. If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty. If the State did prove each of these elements beyond a reasonable doubt, you may find the Defendant guilty of count 1, felony murder, a felony. The crime of murder is defined by law as follows: A person who kills another human being while committing or attempting to commit kidnapping commits felony murder, a felony. Before you may convict the Defendant of count 2, the State must have proved each of the following beyond a reasonable doubt: One, the Defendant, Richard Allen; two, killed; three, L.G.; four, while committing or attempting to commit kidnapping, which is defined as a person who knowingly or intentionally

removes another person by force or threat of force from one place to another. If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty. If the State did prove each of these elements beyond a reasonable doubt, you may find the Defendant guilty of count 2, felony murder, a felony. The crime of murder is defined by law as follows: A person who knowingly or intentionally kills another human being commits murder, a felony. Before you may convict the Defendant of count 3, the State must have proved each of the following beyond a reasonable doubt: One, the Defendant, Richard Allen; two, knowingly or intentionally; three, killed; four, A.W. If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty. If the State did prove each of these elements beyond a reasonable doubt, you may find the Defendant guilty of count 3, murder, a felony. The crime of murder is defined by law as follows: A person who knowingly or intentionally kills another human being commits murder, a felony. Before you may convict the Defendant of count 4, the State must have proved each of the following beyond a reasonable doubt: One, the Defendant, Richard Allen; two, knowingly or intentionally; three, killed; four, L.G. If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty. If the State did prove each of these elements beyond a reasonable doubt, you may find the Defendant guilty of count 4, murder, a felony. Intentionally or knowingly is defined by statute as follows: A person engages in conduct intentionally if, when he engages in this conduct, it is his conscious objective to do so; a person engages in conducting knowingly if, when he engages in this conduct, he is aware of a high probability that he is doing so. Direct evidence means evidence that directly proves a fact without an

inference and which in itself, if true, conclusively establishes a fact. Circumstantial evidence means evidence that proves a fact from which an inference of the existence of another fact may be drawn. An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts. It is not necessary that facts be proved by direct evidence. Both direct and circumstantial evidence are acceptable as a mean of proof. Where proof of guilt is by circumstantial evidence only, it must be so conclusive in character and point so surely and erringly to the guilt of the accused as to exclude every reasonable theory of innocence. The credibility of a witness may be attacked by introducing evidence that, on some former occasion, the witness made a statement, written statement, in former testimony testified, or acted in a manner inconsistent with his or her testimony in this case. Evidence of this case may be considered by you in deciding the value of the testimony of the witness. Under the law of the State of Indiana, a person changed with the commission of a crime is a competent witness to testify in his own behalf; however, a person charged with the commission of a crime cannot be compelled to testify and is under no duty or obligation to testify. The fact that the Defendant did not testify raises no presumption of any kind against him. It shall not be comment upon, referred to, or in any manner considered by the jury in determining the guilt or innocence of the Defendant. For purposes then of the initial final argument, Mr. McLeland.

MR. MCLELAND: Thank you, Your Honor. Ladies and gentlemen, February 13, 2017, is a day that this community will never forget. It's the day that A.W. and L.G. went to the trails for a walk and never returned, the day that both of them were murdered by Richard Allen. Three weeks or so ago, I – we told

you that we would give you the evidence to convict Richard Allen, and the State has done just that. It's been a long trial and so I want to go over a few of those pieces of evidence with you today. This all started on February 13th of 2017. Becky Patty was at home with L.G., and A.W. had spent the night the night before. Both A.W. and L.G. were home off of school that day and playing around the house, playing with the new puppy that L.G. had gotten not long ago. A.W. and L.G. had the idea to go to the trails. They asked their grandma, Becky, if they could go, and their – and Kelsi offered to give them a ride. Last thing that L.G. said to Becky was, "Grandma, it'll be okay," and they headed to the trail. On the way to the trail, they're on Snapchat, L.G. was posting pictures. The plan was then for them to go to the trail and then for their – L.G.'s dad, Derrick, to pick them up later that day. Kelsi dropped them off at about 1:48 p.m., we can tell that from the phone data that Kelsi – that L.G.'s phone is unplugged at about 1:48 and, shortly after, she's dropped off at the trail. Around 3 p.m. that afternoon, Derrick arrives at the trial to pick up the girls, but he can't find them. He walks the trails, he goes to the Monon High Bridge. He calls L.G.'s phone several times. Can't find the girls. At 3:30, Derrick calls Becky and tells her that he can't find the girls and the families get involved in the search. Anna Williams is contacted. No one can find the girls. Sometime after 5, the family calls law enforcement to report the girls are missing. We heard from Mitch Catron, the first one to respond, he took the call. He was at the station when the call came in. He goes to 625 and proceeds down the private drive to look for the girls around the Monon High Bridge. He continues down the drive and goes to Brad Weber's house and he speaks to Brad Weber. Brad Weber says, "Yeah, look around my property, look all you want, no problem." He gives a switch – a

quick search around the property, but finds nothing. Other law enforcement join in, the fire department joins in, family members, community members join in for the search, and the search goes till 2 a.m. on the 14th. And you heard from several of these searchers and the law enforcement officers that, at this point, no one is looking for two dead bodies, they're looking for two girls. No one thought anything bad had happened to A.W. and L.G. That doesn't happen around here. It's a small community, these kind of things don't happen. The search resumes on the 14th around 7 a.m., and it continues around noon, until Pat Brown calls Steve Mullin and notifies him that he found the girls, that he found A.W. and L.G. Deputy Giancola was the first on scene. When he arrived at the cemetery, he made his way down to the creek. He met with Pat Brown and other searchers and they pointed to clothes in the creek, clothes that they had found, a shoe, a tie-dyed shirt. When he was speaking to the members at the creek, they pointed back towards the cemetery, to where the bodies of A.W. and L.G. were located. Deputy Giancola testified that he walked right past them and wasn't even able to see them from his vantage point, that they were hidden. He walked to where the bodies were and he secured the scene. He didn't get too close, but he observed that both A.W. and L.G. were dead, that their necks were cut. And remember this point for later, that he testified that the Carroll County Sheriff's Department carried 9-millimeter firearms, not .40 caliber. Once Giancola found the bodies or located the bodies, he called other law enforcement. Crime scene technicians arrived and they started to process the scene, they started to document the scene, they started to take pictures, they started to collect evidence. Now, these next pictures are hard to see, but this is what they saw. As they processed the scene, they did so carefully, addressing one girl and

then the next, carefully documenting everything they found. They collected a phone that was underneath a shoe underneath the body of A.W., a phone that was covered in leaves and water and dirt. They also collected a bullet, a bullet that was found between the bodies of A.W. and L.G. The phone was immediately taken and processed. The information from the phone was extracted. From the phone, they found a video, the last video on the camera roll.

STATE'S EXHIBIT 200 PUBLISHED BY PLAYING

MR. MCLELAND: We were able to determine from the download of the phone that the video was taken at 2:13 p.m. on February 13th, 2017. The video shows the moment A.W. and L.G. were kidnapped, the moment they were forced down the hill, forced down the hill by the guy in the video, Bridge Guy. You can hear the fear in their voice, see the fear in A.W.'s face. He forced them down the hill with a gun, a gun he used to intimidate them, to scare them into doing what he wanted them to do. He used them to let them know that if they didn't comply, he was gonna use that gun. You hear in the video, "Guys", the racking of a gun, "down the hill." We know there's a gun involved from the girls' own words, "That be a gun." We also know there's a .40-caliber bullet found at the crime scene between the bodies of the girls. And so law enforcement takes that video and they enhance that video, but before they do that, they take screenshots, screenshots in an attempt to get a better look at Bridge Guy. These screenshots are in sequential order. The first one, you don't see Bridge Guy. The very next frame, you do. He continues to follow A.W. And something in L.G. sensed – something in L.G. told her that she needed to film this, that she needed to get out her camera and record this. And once the video was sent off and enhanced, this is what we found.

STATE'S EXHIBIT 246 PUBLISHED BY PLAYING

MR. MCLELAND: The enhanced video gives you a better image of what L.G. recorded, the fact that A.W. was being followed by Bridge Guy, the fact that he told them to go down the hill, the fear in A.W. and L.G.'s voice, the fear in A.W.'s face. And so law enforcement began to interview people that were on the trail that day. They talked to Railly Voorhies and Bre Wilber. Heard from Bre Wilber that when she came onto the trail, she began at the Freedom High Bridge – or the Freedom Bridge and she took a picture there at 12:25 p.m., that's when they got on the trail, and they walked on the trail towards the Monon High Bridge; and when they got to the Monon High Bridge, it was about 12:43 p.m. and she took a picture when she got there. And then they turned around and walked back towards the Freedom Bridge. As they did, they talked, they took pictures, and near the end of their journey, they took a picture at a bench at 1:26 p.m. After that picture, Bre Wilber testifies that she sees a man on the trail. You heard from Railly Voorhies and Bre Wilber, they both see the same man. They describe him as a creepy guy, he looked angry, he didn't respond or make eye contact, like he was walking with a purpose. We then heard from Betsy Blair. She was walking the trail that day and she had a Fitbit on, and she told you that she went to the trial once, left to use the restroom, came back, walked to the Monon High Bridge; and when she got there, she noticed a man on the first platform on the bridge. She arrived at the trail around 1:45 and was there till about 2:15. She arrived at the Monon High Bridge around two o'clock. She testified she entered through the Mears entrance and went right to the Monon High Bridge; and again, as gets there, she sees a man on the bridge on the first platform and she testified that he seemed to be watching for someone. As she

turns around to walk back toward the Mears entrance, she passes A.W. and L.G. Then you heard from Sarah Carbaugh, she was driving on 300 North at around 4 p.m. She sees a guy walking down the side of the road who was muddy and bloody, looked like he had just slaughtered a pig. He avoids eye contact, his head is down, his hands are in his pockets. All the people interviewed that you heard from give a little bit different description of who they saw on that trail that day, but they are adamant that every – or they are adamant the person they saw was Bridge Guy, Bridge Guy from the video from L.G.'s phone, there's no doubt in their mind, Bridge Guy who kidnapped A.W. and L.G. Then we heard from Steve Mullin, who viewed the Hoosier Harvestore video, he was able to observe Kelsi's car, Betsy Blair's car, Sarah Carbaugh's car, which confirmed the time that they were at the trail. Kelsi German passes the Hoosier Harvestore headed toward the Mears entrance at 1:49 p.m. Betsy Blair is heading back to the trails for her second trip at 1:46:20 and then she's leaving at 2:18. And then Sarah Carbaugh's vehicle is seen at 3:56. This video confirmed the times that those witnesses testified about when they were on the trail and when they saw Bridge Guy. The phone found at the scene was then further examined by First Sergeant Christopher Cecil, he did an extraction of the phone and a full analysis of what he found. He was able to locate health app data, Snapchat information, location data, more information about the video; and from this information, we know that A.W. and L.G. got to the trail around 1:48 p.m. And we know from each time that L.G. logs onto Snapchat that it gives a GPS location of where she's at, and First Sergeant Cecil testifies they will track that as they go down the trail towards the Monon High Bridge. And the health app data confirms that, that there's movement, that they're moving as they get to the trails. He then analyzes the

video. We know from the video again that it was taken at 2:13:51 p.m. on February 13th, and he talks about the GPS location of that video, and it shows that it's at the Monon High Bridge. And so we're able to map L.G.'s location, where she goes, until the end of the Monon High Bridge. And we show movement until 2:32 p.m. The phone stops moving, doesn't move after that, registers no movement on the health app data. So where are we at at that point? Can you bring up the map, please? So I want to go over the timeline that we have up to this point. 12:25, Bre Wilber arrives at the Freedom Bridge. She and the other girls are walking towards the Monon High Bridge. At 12:43, Bre Wilber arrives at the Monon High Bridge and takes a picture and that picture's timestamped. They then turn around and head back towards the Freedom Bridge. At 1:26, Bre Wilber takes a picture at the bench on the trail, somewhere in this area. (Indicates) After that, they run into Bridge Guy. Betsy Blair passes the Hoosier Harvestore on the way to the Mears entrance at 1:46 and she begins her walk towards the Monon High Bridge. She gets to the Monon High Bridge, turns around, and heads back to the Mears entrance. We know that Kelsi's car is headed this way at 1:48, right after she drops off L.G. and A.W. at the Mears entrance. So L.G. and A.W. start their walk down toward the Monon High Bridge. Two o'clock, Betsy Blair reaches the Monon High Bridge. She sees the man on the first platform. She turns around and heads back to the Mears entrance, and as she does, she passes A.W. and L.G. A.W. and L.G. proceed out onto the Monon High Bridge, we know this from the phone information and the Snapchat GPS location. And then, at 2:13, the video begins, the video that L.G. took with her phone, the video that shows them being kidnapped by Bridge Guy. And then, at 2:32, the phone stops moving. We then know Sarah Carbaugh, traveling

to the west on 300 North, and she sees a guy that's muddy and bloody, like he had just slaughtered a pig, and she passes the Hoosier Harvestore at 3:56. Actually, I think Sarah Carbaugh's going this way, I apologize. So she passes the Hoosier Harvestore at 3:56 and then sees Bridge Guy, who is muddy and bloody. So at this point, we know that Bridge Guy's the guy on the video that L.G. took and that he's the one who kidnapped A.W. and L.G., and that after that, they're dead. So if we can determine who Bridge Guy is, we can determine who killed A.W. and L.G. Bridge Guy's guilty of felony murder. In the act of kidnapping, A.W. and L.G. died. He's guilty of felony murder. So fast forward to 2022. Kathy Shank comes across a leads form. She's a volunteer who's assisting with organizing the numerous tips and files that were involved in this investigation. She comes across this lead sheet from Dan Dulin and it sticks out to her, she – it immediately strikes her as something she's not seen before, something that has not been followed up on. She found a lead sheet about a man who was on the trail on February 13th between 1:30 and 3:30, and that man had run into girls on the trail, Bre Wilber and Railly Voorhies. Kathy immediately took this tip to Tony Liggett. This tip stuck out to Tony Liggett because he knew that who the girls had run into was Bridge Guy and, if we could find Bridge Guy, we could find the killer, and all indications pointed to this being Bridge Guy. So Tony Liggett got with Steve Mullin and began to follow-up on this tip. This tip identified the man who was on the trail on February 13th between 1:30 and 3:30 as Richard Allen. So they tried to verify the information. They call in Dan Dulin, they look at his reports. He typed up a narrative from what he had found that day. He downloaded a BMV picture of Richard Allen. Steve Mullin went to the Hoosier Harvestore – the information he found in the BMV that Richard Allen

owned a 2016 black Ford Focus and, from your questions, we were able to determine that that is the only 2016 black Ford Focus registered in Carroll County in 2016 and 2017. So Steve Mullin goes to the Hoosier Harvestore video and he finds a car that matched the description of the car owned by Richard Allen. Tony Liggett then goes to CVS, where Richard Allen works, and he takes pictures of that car, and they compare those pictures to what they find on the Hoosier Harvestore, and Steve Mullin testified that one clue that he was able to recognize is those wheels on the car, the fact that light is emitted through the wheels on the car, and he testified that this car matches the description of Richard Allen's 2016 black Ford Focus. The timestamp on this, on the Hoosier Harvestore video, 1:27 p.m., falls in line with what Richard Allen told Dan Dulin in 2017, that he got to the trails around 1:30. So October 13th of 2022, Steve Mullin and Tony Liggett call Richard Allen in for an interview. You got to see the entire interview, you got to see it for yourself. Richard Allen confirms on that day that he was wearing the same clothes that Bridge Guy was wearing on February 13th of 2017, confirms that he's wearing a blue or black Carhartt jacket, jeans, and boots. He confirms that he was on the trails that day and he actually says that, "I went not only on the trails, but out onto the Monon High Bridge, out to the first platform." Exactly what Betsy Blair told you. He also states that he didn't see anybody else on the trail except for the three girls that he ran into, didn't see any other males, didn't see any other group of girls, just those three girls. Now, in this interview, he did change his time; instead of 1:30 to 3:30, he changed it from 12:30 to 1:30, and he's cooperating. And as the interview goes on, he becomes more aggressive, he becomes more hostile. He – as the investigators start to confront him with evidence, he becomes angry, he refuses

to let them search their phone – his phone. He refuses to let them search his house. And then asked if Bridge Guy's him, he states, "Well, if that picture's taken with the girls' phone, it's not me." Based on the information law enforcement had at that point, had a – got a search warrant and searched his home. In the home, we found a 2016 black Ford Focus. You can see the light emitting through the rims. Steve Mullin said that was important in identifying the car in the Hoosier Harvestore video. Also find several knives and boxcutters. Find a blue Carhartt jacket, surprise, surprise, same jacket Bridge Guy's wearing. Find various cell phones. Find a hope box with a .40-caliber Winchester bullet in it, again same brand and caliber found at the crime scene between the two girls, in a hope box filled with mementos, pictures, keepsakes. Also find a .40-caliber Sig Sauer firearm, same caliber as the bullet found at the crime scene between the two girls. The Bridge Guy starter kit: Blue Carhartt jacket, .40-caliber Winchester round in that hope box, .40-caliber Sig Sauer gun. Now, Richard Allen did have other .40-caliber ammunition in his house, but that brand was Blazer. The only Winchester – Smith and Wesson Winchester round he had in his house was in a hope box with other mementos and other keepsakes. Again, the same brand and caliber of the round found at the crime scene. Also found pictures where he often visited the Monon High Bridge, he's familiar with the area, visited oftentimes with his family. Through the search, we found a lot of electronic devices, we searched those devices. First Sergeant Christopher Cecil told you he searched several – or extracted several of Richard Allen's devices, but one that was missing was the phone that he had in 2017. We know that because Dan Dulin took down the identification number for that phone, and all the phones we searched in the house when we searched in 2022,

none of them matched that phone. But in some of those phones, we found a Google search from Richard Allen from April 17th of 2022, he searches "Delphi Indiana news" at 10:47 p.m., and immediately after that he searched for "Should I die now", "Die now", "Should I die now", and again, "Should I die now". The gun is sent to the lab to be tested. It's tested by Melissa Oberg, she's got 16 years of experience with the Indiana State Police Lab on testing firearms. She's able to conclude that the bullet found at the scene between the two girls was cycled through Richard Allen's .40-caliber Sig Sauer, that the ejector marks, the extractor marks, and the chamber face all matched Richard Allen's gun, that the bullet from the scene came from Richard Allen's gun. Now, through the investigation, she examined all types of guns, she testified about that, and she was not able to conclude that the bullet found at the scene was cycled through any of those guns except Richard Allen's gun. Oh, and her results were verified three times by her boss, who's the former president of AFTE. We've heard a lot about AFTE. One more thing, she testified in her career that she'd never been wrong. See how the pieces are starting to fall into place? See how the evidence is starting to confirm and reaffirm that Richard Allen is Bridge Guy? Not only do we have him on the trails at the time, we now have a bullet that ties him to the crime scene. So Richard Allen comes back for an interview on October 26th of 2022. He confirms, "I've never loaned my gun out to anybody. I never loaned any of my ammunition out to anybody. I never loaned my car or my clothes out to anybody." States he'd never been mushroom hunting in the area where the girls were found. He has no explanation of how his bullet from his gun ended up between the bodies of A.W. and L.G., six inches from L.G.'s foot. There is no explanation except that the bullet came from he – his gun when he racked the

gun to intimidate the girls right before he killed them, that's the explanation. Much like he racked it at the top of the Monon High Bridge when he forced them down the hill. He was using the gun as a way to force the girls to comply with what he wanted them to do. He was using that power, that power over the girls. And you saw, as he was confronted with these things, he became angrier and angrier. And then his wife was brought in, and you saw that interaction with him and his wife, you saw how he tried to manipulate her, "You know I didn't do this," tried to convince her. And at the end of that interview, he's arrested. And so at this point in the investigation, we're able to place Richard Allen at the bridge at the time the girls were kidnapped and able to confirm that he is Bridge Guy and that he ordered the girls down the hill. Further able to confirm that he racked his gun and lost a bullet at the location where the girls were murdered. Now, when he's arrested, he's moved to the Department of Correction for his safety, you heard Dr. Martin testify, "To keep him safe, that was our goal." Safe from himself and safe from other inmates. He was moved there and, eventually, he was sent to Westville Correctional Facility. And that could have been the case, that could have been all that we have here to present to you today, but it's not, 'cause once he gets to Westville, he starts to confess. But before he does that, on April 2nd of 2023, he has a phone call to his mom where he confesses he's given himself to Jesus, he's found the Lord, and it's important for him to tell his mom this, not only tell his mom, but make sure that his mom tells Kathy, his wife. The very next day, a phone call to Kathy, "I did it. I killed A.W. I killed A.W. and L.G."

STATE'S EXHIBIT 313 PUBLISHED IN PART BY PLAYING

MR. MCLELAND: The phone call that he made to this wife,

unprovoked, unpressured, of his own free will. "Kathy, I did it. I killed A.W. I killed A.W. and L.G." After that, he continues to confess. He writes a letter to the warden, "I'm ready to confess to killing A.W. and L.G. I hope I get to app – an opportunity to tell the families I'm sorry." He then meets with Dr. Wala on April 5th of 2023. Dr. Wala writes down that Richard Allen states, "I killed A.W. and L.G., I'm sorry," and proceeded to cry, and he cried off and on throughout the session. He reported committing the murders on his own. He stated he made sure that they were dead, because he didn't want them to suffer. He reported not knowing why he did it, but stated he knew his intentions were sexual in nature. "I don't think I had sex with them," he stated, but also said, if he did, he didn't remember. He mentioned not knowing the ages of the victims, but reported they were at least 18 or 19 years of age, but could have been as young as 11. He reported being selfish all his life and being a coward and that he got scared and took their lives in order to preserve his own. He stated he hoped – he stated again he hoped he could apologize to the families of the victims and wished he could go back and change his actions. And we heard from Dr. Wala that on that day no odd behavior until after his attorney visits and the sudden shift in presentation was purposeful and that he was not suffering from psychosis when he made this admission. He goes on, several confessions, you're gonna be able to read these, but April 7th of 2023, a door sheet, "God, I'm so glad nobody gave up on me after I killed A.W. and L.G. I, Richard Matthew Allen, killed A.W. and L.G. all by myself, nobody helped me. I'm not crazy, I'm only acting like I'm crazy." April 8th from the door sheet, "I'm ready to confess. I swear to God, I killed A.W. and L.G." April 9th, "I killed A.W. and L.G. Funniest joke is how I killed them. I got what I deserve for what I did and I hope I burn in

hell for what I did." April 22nd, "I killed those girls, so I have to kill myself." April 23rd, "I killed A.W. and L.G. My wife wasn't involved. I would like to confess." April 26, "I killed A.W. and L.G." And April 29th, said he killed the girls in Delphi with a box cutter that he stole and left in the trash at CVS, that he wants to write a confession, and that was only planning to rape them, but he got scared and panicked and killed them instead. He then meets with Dr. Wala again on May 3rd of 2023, and he gives an even more detailed confession. "Allen reported wanting to confess to his crime and he wanted to tell his story. He reported seeing his parents the morning of the crime. He was supposed to go eat lunch with them, but opted out and bought himself a six-pack. He drank three of those beers and finished the rest later. He said, 'I bundled up. Once I got to the trail, I laid in wait.' He reported seeing the girls and following them on the bridge. He reported doing something with his gun and stated, 'I think that's where the bullet fell out. I ordered them down the hill.' His intention was to rape the girl – girls and mentioned he thought they were older than their biological ages. Allen said he saw a van and that scared him and caused him not to follow through with raping the girls, but instead, forcing them to cross the creek and then cutting their necks. He indicated again, 'I wanted to make sure they were dead.' He reported covering the bodies with tree branches and he exited the area by keeping off the trail, as not to be seen. He said he returned to his vehicle, which was parked at a nearby building, and he continued living his life after time passed, 'cause he hadn't been caught." We get to May 10th, you have a phone call to Kathy, "You know – I need you to know that I did this. It's okay, honey, I did it. I killed A.W." Then May 17th, the phone call you heard to his mom, "I'm just worried that you guys aren't going to love me because of the fact that I said

that I did it. Mom, I wouldn't sit here and tell you I did it, if I didn't."

STATE'S EXHIBIT 313 PUBLISHED IN PART BY PLAYING

MR. MCLELAND: Again, a phone call that's unprovoked, he does it of his own free will, not suffering from psychosis. The phone call shows that he also trusts Dr. Wala, his therapist, and he's meeting with her every day. After this, he continues to confess, to admit that he killed A.W. and L.G. Another phone call on June 5th to this wife. June 18th, "You know why I'm here, I killed A.W. and L.G." June 21st. And then finally, on February 4th, when he's moved to Wabash Correctional Facility, he is sorry for killing the girls. Now, during these times, the time that he's making these confessions, we heard testimony from Brian Harshman that he's listening to all these phone calls, he's watching the videos from Westville and from Wabash and from Cass County, and he's listening as Richard Allen makes these confessions to his mom and his wife. He also reads over the reports from Dr. Wala, two reports that I showed you earlier, two reports that include confessions and details of those confessions, and he said he listened to over 700 phone calls. He reviews all the reports, reviewed these phone calls, and as he's going through Dr. Wala's report, he notices something, a detail that he didn't know before, a detail that wasn't in police reports, that wasn't put out, and a detail about Richard Allen being scared after he saw a van, a detail only the killer would know. So he followed up on it. He thought Richard Allen may have seen that van on 625 and specifically the private drive where 625 turns into the private drive. As we said, that private drive leads to the home of Brad Weber, that's the only home it leads to. So he started to do some research and he looked up Brad Weber's BMV information from 2017, and he found that he owned a van from February of 2017. And so Steve Mullin and

Brian Harshman, they called Brad Weber in for an interview, they want to follow-up on this information. Before that, they notice that Brad Weber had given an interview back on February 17th of 2017, where he said he was at work that day, on February 13th of 2017, till 2:02 p.m., and then he clocked out, and he got home sometime around 2:30. When they re-interviewed Brad Weber, he said the same thing, clocked out at 2:02, got home sometime around 2:03 – 2:30. You even had – heard Brad Weber testify twice that he left work at 2:02, went straight home, got home sometime around 2:30. You also heard from Brad Weber that on that day, February 13th, 2017, he was driving his van and that the route he took to his house was down that private drive, and that when he would have been on that private drive is the exact time Richard Allen would have been there with the two girls. That is the van that he saw that spooked him. Something only the killer would know and Richard Allen confessed to it with Dr. Wala. Finally, let's not forget that Brian Harshman, in listening to these over 700 phone calls, he got a feel for Richard Allen's voice. He told you that when Richard Allen was talking on the phone with his mom and his wife, his rate, his demeanor, his tone was all the same when he made the confessions as when he's talking about mundane, everything things. And finally, he told you, as part of his investigation, he watched the video from L.G.'s phone and he watched it dozens of times, and he told you on the stand there is no doubt in his mind that voice on that video is Richard Allen's, that Richard Allen is Bridge Guy. And now all the pieces are clear, all the pieces are put together. So what does the State have to prove? Count 1 is murder. The Defendant, Richard Allen, killed A.W. while committing or attempting to commit kidnapping, which is defined as the person who knowingly or intentionally removes another person by force or threat of force

from one place to another. Richard Allen is Bridge Guy. Richard Allen used his gun to force the girls down the hill. He kidnapped them and later murdered them. We call this felony murder, the murder is committed during the commission of a felony. That's what Richard Allen did. Count 2 is the same, but with L.G. He not only forced A.W. down the hill, he forces L.G. down the hill. Count 3, the Defendant knowingly or intentionally killed A.W. He slit their throat. He waited to make sure they were dead and he left behind his calling card, a bullet from his gun. Count 4, murder, again, knowingly or intentionally killed L.G. February 13th, 2017, a day that started out like any other day, a day where L.G. decided to go to the trail with her best friend A.W. and enjoy being outside, but a day that Bridge Guy stole their youth and the life away from both A.W. and L.G. The State has showed you that Richard Allen is Bridge Guy. Richard Allen went on the trail that day with his .40-caliber Sig Sauer, that he arrived around 1:30, that he ran into Bre Wilber and Railly Voorhies, and that he was grumpy, creepy, and walking with a purpose, and that as he continued down the trail, he went out on the Monon High Bridge to the first platform, and that's where Betsy Blair sees him. She sees him on the Monon High Bridge on the first platform, and she testifies he's there waiting for someone. And as she returns to the Mears entrance where she came in, she passes A.W. and L.G. on their way to the Monon High Bridge. Richard Allen lies in wait, he waits for A.W. and L.G., and then he follows them across the Monon High Bridge. And as L.G. reaches the end of the bridge, she looks back and sees A.W. is being followed by Richard Allen. Something in L.G. caused her to turn her phone on and record the man following A.W., some feeling. She sensed this wasn't right. Richard Allen approaches the girls, he racks his gun, and orders them down the hill.

There was nobody else on the trail that day during that time that matches the description of Bridge Guy except Richard Allen. We also know from Brian Harshman that Richard Allen is the voice on the video. We know from the hard data from the phone that the video that L.G. took was at 2:13 p.m. at the end of the Monon High Bridge. Richard Allen used his gun and his power and he forces those girls down the hill. As they go down the hill, his intention is to rape them. We know that when he gets to the bottom of the hill, there is a pause, he begins to have his way with them. If you take a look at the health app data, there's a pause in the movement for seven minutes. He has seven minutes with them. But before he can finish his deed or his deeds, he sees a van. Brad Weber's coming home from work down his private drive to his home and he scares Richard Allen. Then Richard Allen forces the girls across the creek to a spot in the woods, a secluded spot, and he kills them, he cuts their neck. L.G. is completely naked. A.W.'s naked at one time, but when she's found, she's dressed partially in L.G.'s clothes. Once they got him – them to the woods, he used his gun again and he racks his gun and he drops a bullet, and then it happens. He cuts L.G.'s throats [sic] first, and as she clings to life, she's grabbing for her throat, struggling to stay alive. We heard from Pat Cicero and you saw in the picture, she begins to cry, and there's a blood outlined in a tear. Then he focuses his attention on A.W. and he cuts her throat and he watches her die slowly. He then crawls out of the woods and walks back to his vehicle down 300 North like nothing happened. Sarah Carbaugh saw him, said he was muddy, bloody, like he just slaughtered a pig. And for five years, he lives in this community, five years he lives amongst us, but what he didn't realize is that he left behind a cartridge, a cartridge from his gun, a cartridge that was cycled through his gun,

but he also left behind L.G.'s cell phone. Those two key pieces of evidence led investigators to him. And then finally, if that wasn't enough to convince you, we have his confessions, where he states over and over and over again, "I killed A.W. and L.G.." and then he goes into detail how he does it, what his mindset is when he's doing, and walks you through what he does to those girls. And in at least one of those admissions, he gives you detail that only he could have, only the killer could have. And so I believe the evidence firmly convinces you that Richard Allen is Bridge Guy and that he killed A.W. and L.G. I'm gonna ask you to consider all the evidence and enter a conviction of guilty against Richard Allen on all four counts, counts 1 and 2 for felony murder, counts 3 and 4 for murder. Thank you.

THE COURT: All right, ladies and gentlemen, as I indicated, we will go ahead and take a break, give you an opportunity to get up and move around a little. You may discuss the evidence, but please, don't deliberate, and only have those discussions if all 15 of you are present in the jury room. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 10:21 a.m.)

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

(Off record at 10:21 a.m.)

(On record at 10:40 a.m.)

THE COURT: Mr. Rozzi, are you ready to proceed with your final argument?

MR. ROZZI: Yes, ma'am.

THE COURT: All right. Let's bring in the jury.

THE BAILIFF: All rise.

(Jury in at 10:43 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. Mr. Rozzi, you may proceed.

MR. ROZZI: May it please the Court, ladies and gentlemen of the jury, we've been here for almost a month now and, by my count, 17 days of testimony, evidence, over close to 60 witnesses I think by my count, 200 to 300 pieces of evidence, exhibits, videos, and you've had a chance to consume all of those things. And today is an opportunity for the lawyers, as the Judge said, to try and summarize our theories of the case. The Defense trusts that what you heard over the last several weeks in terms of the words that came out of the witnesses' mouths, the form or the way they said those things, and their consistency in their testimony is really more important than what you're gonna hear today, but it is nice to have an opportunity to try and summarize these things. And I would suggest to you that there's been four main themes that we've heard over the course of the last 17 days of testimony: The first one is a broken timeline; the second one is bungled ballistics; the third one is false confessions; and the fourth one is digital forensics, raw data that speaks the truth. Now, one of the other themes that has reared its head over the last three weeks is one that you really can't plan for, on the Defense side, at least, before you walk into these courtrooms, because you really don't know what you're gonna get from the opposing party, in this case the State of Indiana. But what we've gotten, undisputed over 17 days, is a theme about what they don't want you to hear. That may be the most important theme in this entire case is what they didn't tell you, it's what we had to tell you time and time and time again, witness after

witness, exhibit after exhibit. We had to do their job. And let's just think about a few of those things as we get off and running. First one that comes to mind is their refusal to have that height analysis done on that 43-second video. We heard early in this case they found an expert, they could have spent some money, and they chose not to. Because they were concerned about the variation in the height, maybe being anywhere from two to four inches, I don't recall exactly what the testimony was. Again, I trust the 12 or 15 of you will look at your notes and remember that. They could have had some ranges, they could have maybe ruled out some individuals, but they chose not to do that, and they also chose not to tell you that. The second thing that comes to mind, hours and hours of video interviews lost during a critical time period shortly after these crimes in 2017. We brought that to your attention through the testimony of Officer Mullin. The third thing we did, this Ford Focus, this 2016 Ford Focus, somebody asked as question, an astute juror, they ran down and did a BMV search in the middle of the trial, not six months ago, not a year ago, not two years ago, three years ago, four years ago, or five years ago, while in trial, and then, they offer you up part of the story again. In order to tell the whole story, we had to offer up the rest of the exhibit, what they don't want you to know. Brad Heath's story may not be the biggest piece of evidence in this case, but I think it's good that you, the jurors, would know that a man who drives in that area of the Hoosier Harvestore on a routine basis noticed something unusual that day, a car that had been parked just next to the CPS building from the morning until late in the afternoon, so unusual that he noted it. We told you that. Betsy Blair's story. The State put her on the witness chair, they asked her only the questions they wanted to ask to elicit only the responses they wanted to elicit, but they didn't tell you the rest

of the story. We did that through cross examination. A youthful man, I think she said boyish looking; brown, poufy hair; not short. They also didn't tell you about the vehicle she saw at the Hoosier Harvestore when she left that was entirely inconsistent with a 2016 Ford Focus. And then we've got Sarah Carbaugh. I've got to take a breath before I talk about her. She, too, did not tell the whole story until cross examination, and what you found out is entirely inconsistent with counsel's references earlier today that she saw a muddy, blood man on 300 North on February 13th. In fact, what we know is, at first, she saw a muddy man, I think 11 times in that first statement, which was shortly after the deaths of those two girls. And then, that – she was interviewed again several weeks or maybe even a month or two later – excuse me for not having all the dates memorized – and then she saw in her – she reported in that interview she saw a bloody man, a man who had a tan jacket, until they showed her the photo of Bridge Guy and then she changed her story, "Oh, maybe it was blue." They conflate these two words, "muddy" and "bloody", and they're off and running. Now, there's an instruction that you're gonna get, and I actually think the Judge may have read it earlier, that basically says that you are the judge of the credibility of the witnesses, and I'm just gonna plant this in your brains for the rest of the morning. You may discount the testimony of a witness altogether. And in our business, we actually have a phrase for this, it's not one that gets used often, but it's called the concept of incredible dubiosity. Those are kind of big words, but basically what it means to lawyers is that when you hear testimony or you receive evidence that's so preposterous and so hard to believe, that you should just discount it entirely. Sarah Carbaugh and her testimony we put in the incredible dubiosity box. It means nothing, but for purposes of our

discussion today and now, it's what they didn't tell you about it. David McCain, didn't even bother to bring David McCain in on their case in chief. We called him. David said he was on the trail sometime roughly between 2 and 3, depending on whose version or what part of the testimony you want to believe, but a very believable man. He's out taking photos that day on the trail between two and three o'clock. He said he spent no less than a half an hour on that bridge. They didn't tell you about him because it doesn't fit their narrative. Shelby Hicks, Cheyenne Holguin, two more witnesses that were out on the trail that day; Shelby Hicks, by way of her testimony, sometime probably between 2:30 and 3:30, maybe even a little later; Cheyenne Holguin, by way of her testimony, probably got there I think she said around 2:50 – again, you can check your notes – and left sometime around four o'clock. I think there was a timestamped photograph of 3:49 of she and Ms. Duncan on the north side of the bridge on their way back. The State didn't offer either one of those witnesses up. Rick's version of the route that he said he traveled to the trail that day. Officer Mullin got up here earlier – Investigator Mullin, excuse me – and tried to put Rick on what – on the route that fit best for them, but in fact, we learned on cross examination that that route is not consistent with Rick's story, that Rick actually told them he didn't know actually which way he went. They didn't tell you that. The two statements, the two interrogations, one – the first interrogation on October 13th and the second on October 26th. It wasn't until Mr. Baldwin tried to introduce those statements that you saw them. And I suggest to you that when you go back and deliberate, if there's one piece or two pieces of evidence in this case that you might use to exercise your common sense and your judgment, it might be those two pieces. Sit down, watch those two

statements, digest what's being said, how it's being said, the tone of what's being said, and ask yourselves, "How did Rick Allen handle the situation?" One of the most stressful situations a human could ever be in front of, being interrogated for the murder of two girls. But you weren't gonna see that until we put it in. Brad Weber's lab results from his gun. Item 101, a Sig Sauer P239 .40-caliber, collected from his home, could not be excluded as the gun that cycled that round. You got the exhibit, you can see it for yourself. We introduced that into evidence. The photo from Brad Weber's garage, which introduced just a few days ago, taken shortly after the murders, where on the floor you see some sticks. Seems pretty elementary in most cases, but clearly in this case, the significance of sticks in an odd place is noteworthy. A man who lives just across the creek from the crime scene. We offered that evidence, not them. Brad Weber's statement to the police. Today again you heard that he said he drove home that day; but what you hadn't heard until the testimony from Officer Gootee and, ultimately, Brad Weber himself, that he actually interviewed with Agent Pohl and Gootee back in 2017, shortly after this, and told them that he, in fact, did not go home that day, that he ran his ATM route. You heard that from us. The April 3rd phone calls. Today again the State tees up one phone call in a series of three, the middle call, April 3rd at 5:14 a.m. – we're gonna get back to that in a few minutes – they tee up that phone call. What you do know from Harshman's testimony is, is there was one before that. You might find it suspicious that you didn't hear those phone calls. Why not offer up some context to you? Why not tell you the whole story? The FBI parting ways in the middle of this investigation, not offered up by the State; but when Superintendent Carter got up here a week or so ago and recounts there were issues separating. The sticks that were not recovered, the

blood at the crime scene initially, and I think Officer Dulin actually testified that he went back out several days later, he had to ask them to come back out and collect those items. We offered that information up, the State did not. Those videos from Westville. Thirteen months this man sat in that isolated cell in that prison without a choice. Thirteen months. And all they want to talk about is what he said after he sat there for six or seven months with absolutely no human interaction of any material or any substance, having been shackled every time he stepped out of that cell to go to a visit with his therapist, to take a shower, to see a doctor. All they want you to do is hear some words on a transcript or words on a recording. You must ask yourself why they wouldn't want you to see the truth. We all did that. You need context. You need the truth. And then Ms. Oberg. These infamous photos. This magic bullet, as the Defense called it, was collected and clearly was the catalyst for Rick's arrest. You saw those statements. Officer Holeman there's entire statement on October 26th was intensely focused on the results from that examination. They're trying to use that to leverage Mr. Allen to admit his guilt. The importance of that unspent casing really is a big part of the State's case, if not the majority of their case; because without that, Mr. Allen's not in jail. But what happened when they brought their lab analyst in? Ms. Oberg sat in here and she talked a lot, she talked a lot; and at the end of the day, basically what we got from them was, "Hey, she drew a conclusion, you should just believe her because she's worked at the lab for 17 years, and oh, by the way, why don't you just ignore the work product that she generated." And in fact, not only did they not offer these photographs up, they objected when we tried to. Use your common sense. And then finally, this digital phone data. Just in the last couple of days, we heard a

lot of information about Cellebrite dumps and other types of extractions, but what the State didn't tell you was that, at 5:45 p.m. on February 13th, there was an audio output start note on the State's own timeline that demonstrated that someone plugged that phone into an accessory; and in fact, if you look at that Cecil report I think it is or the Cellebrite report that you have in evidence, you'll see it actually notes on there that it was headphones (inaudible). They didn't tell you about that. 10:32, audio output in, same situation. They didn't tell you about that, either. And then finally, the 4:33 a.m. In fairness, maybe there was some discussion about that, but the explanation for that not offered up by the State. You should question the credibility of this investigation because of the things they're not telling you. There's also the chapter of desperation that unfolded over the last three weeks. First example is the magic bullet. They got that round, they interrogated Mr. Allen, and immediately arrested him right after that interrogation on the 26th and this thing moved forward. There was also that van, that one unique fact that they had mined out of months and months of therapy notes, hundreds of hours of video, hundreds of minutes of phone calls, maybe thousands, that one unique fact. And what do we find? That just recently they were running searches, talking to Brad Weber, trying to figure out a way to retrofit that fact into the narrative. When Mr. Weber testified, you may have remembered, he was contacted by Officer – or Investigator Mullin, who basically said it was a cold call to him, they wanted to bring him in to talk; but it was interesting that Mr. Weber himself indicated that he generated some text messages to prove his case before he got to the police department. Didn't see those text messages, not part of the evidence. In the middle of that desperation to try to fit that van into this puzzle, you didn't hear about that 2017 interview

with Gootee and Agent Pohl, where he said he was somewhere else that day; and in fact, Mr. Weber actually testified that he normally drives his Subaru to work and he does not often go home after work. Those are all facts elicited by the Defense. The vehicle search, again, more desperation, the vehicle search of the 2016 Ford Focus which happened while this trial was unfolding. Seven years to figure that out, happened just a week or two ago. DNA, we saw that. They tested some DNA a week or two before the trial started, hair strands in A.W.'s hand at the crime scene, items that were collected seven years ago. Still trying to figure it out. Desperate. The admission of Internet searches. There were some searches offered up by the State, Mr. McLeland mentioned them earlier. October of 2022, searches he said – counsel says by Mr. Allen. There is no proof, in fact, that Mr. Allen did any of those searches. The State put in an affidavit that said it came from an e-mail account registered to Mr. Allen. They're molding those facts into a favorable scenario, but that is just not consistent with the evidence that you have. But be that as it may, someone in Delphi is searching on the Internet about Delphi murders? If that's the case, we're gonna convict half of the citizens in Carroll County. Searches for *The Killing of a Sacred Deer*, a movie? If that's the case, we're gonna convict half the people in Carroll County. They're desperate. And then the other day, during one of the breaks, having realized – the State having realized that the 5:45 and the 10:32 transactions on that phone existed, ran Officer Cecil downstairs, did a quick Google search, came up here and tried to offer you up some fast food, a Google search, the same kind of search that he said he doesn't normally rely upon when he conducts investigations. Desperate, absolute desperation. And then maybe the one that sticks out the most, Dr. Kohr. It's really hard to forget Dr. Kohr's testimony in this case

because of this one absurdity. He testified, when I deposed him earlier this year, I think it was in March, he acknowledged that at that scene there may have been more than one murder weapon, straight edges and serrated edges, he said nothing about anything in particular; and then we find that between the time I took his deposition and the time he testified, he walked into his garage and, all of a sudden, ta-da, it might be a boxcutter. Of all the things on the planet that just popped into his mind. But what did you find out? Three meetings with the prosecutor since I deposed him in March. This man has testified over 200 times, I think he said 7000 autopsies, he's been in courtrooms all over the place, I think he even said Montana recently or he testified in a case in Montana. No supplemental report? Nothing? No reference to, "Hey, I might have changed my mind about a material fact"? This is desperation at its finest. Timeline, let's talk broken timelines. Now, there's really three times here that the State has offered up that matter. The 2:13 video is one of their bookends, if you will. The 3:55 – I'm sorry, the – yeah, the 3:55, 3:57 time, which is consistent with what they say when Sarah Carbaugh saw this image of whatever she saw on 300 North. And let me suggest this: It would not be entirely unreasonable to go back in that room and think to yourself, "I don't know if she saw anything." It's not out of the realm of possibility. 2:13, 3:57, those are kind of the bookends. And then, in the middle of that, you have this 2:32 time, which is when the State suggests that this phone was silent and no longer functioning. By their theory, that phone was where it was recovered on the 14th around noon under Abby's body, laying on the ground. Now, their timeline is dependent upon two people, not to belabor the point, one of those being Betsy Blair, who saw a youthful man who looked boyish, 20s or 30s, brown, poufy hair, he didn't seem short. None of those things

are consistent with 5'5" Rick Allen. Why? It may be because she saw somebody else. Sarah Carbaugh, not gonna waste any more time on her, her description was worthless at best; at worst, created by offering her up a photo of Bridge Guy and then asking her what she saw. You know, in our business, from time to time – we didn't have it in this case, but we will see photo line-ups, where it's kind of like in the movies and somebody will – the police will be looking for the suspect, maybe there's an eyewitness, they'll put, you know, typically six or eight individuals on a line-up and they'll ask, you know, the witness to look at that and identify somebody. And the reason why is 'cause if you put one face on there or two then you ask, you're just more likely to get the right answer, the answer you want. It's called suggestivity. In this case, that's what happened with Sarah Carbaugh, at the very least. Why is David McCain, Shelby Hicks – or why are David McCain, Shelby Hicks, Cheyenne Holguin all important to this timeline? Mr. McCain arrived between 2 and 3. He said he was out on the trail an hour or more, if I recall correctly, at least 30 minutes on that bridge taking photos. And we know from the evidence that he was there before Shelby Hicks arrived. So you've got kind of three stages of individuals arriving on that bridge on that day between – it's a bigger time period, between the two and four o'clock hour, if you wanted to take it bigger. Shelby Hicks – I'm sorry, David McCain, Shelby Hicks, Daniel Pearson, Cheyenne Holguin, and Shelby Duncan, and what we know is McCain was there first. He stood on that bridge on a day where I think Pat Brown and Jay Johns [sic] identified as having been a very nice day. One of them mentioned that the sound – they could hear people on the bridge when down near where the girls were; this was on the 14th, but it gives you some idea of how well sound travels in that area. As the crow flies, not all that far from the

top of that bridge to where those girls were at rest. McCain stood on that bridge, heard nothing, he saw nothing. Shelby Hicks said she thought she arrived around 2:30. She remembered, at some point, taking a phone call from her dad. My recollection is that phone call came sometime after three o'clock, shortly after three o'clock. She said she was almost there when that phone call came in. Down the Mears connector to the right, the phone call came in, she then went back towards the High Bridge with Mr. Pearson, passed Mr. McCain; so you know in time and sequence, she and Mr. Pearson were second. They sat on that bridge, they saw nothing, they heard nothing. Cheyenne Holguin shows up with Shelby Duncan around three o'clock, maybe 2:50, goes straight to the bridge. They walk all the way across the bridge to the south side, they got timestamps on their phone. They used the restroom on the south side of the bridge, walked back across the bridge to where Hicks and Pearson formerly were. 3:49 I think was the timestamp on that picture when they were sitting on one of the platforms, I think smoking a cigarette. They heard nothing, they saw nothing. Dr. Kohr said that, from a medical standpoint, it's possible that each of those girls – and I'm estimating, so look at your notes – could have lived anywhere from five to 20 minutes with those injuries, vocal cords not severed, able to talk, able to scream, make noise. Despite all that, no one saw anything, no one heard anything, not a peep. The possibility of multiple actors in this case. The State has completely ignored this possibly, they don't even want to talk about it, they don't want to talk about it at all. It doesn't fit their narrative. Lots of cars and people on the trail that day, heard testimony about that. The distinct possibility that somebody could have accessed that bridge from the south side, the Weber side. Theresa Liebert came in here and said she noted something unusual that day

near her dead-end road, a strange man that just didn't – that was not familiar to her, she couldn't explain. It is plausible that there could have been activity on the south side of that bridge. Sheriff Leazenby's statement that law enforcement had communicated with each other that, at one time, they believed there were more people involved, that's from the sheriff in 2017. Dr. Kohr's timeline – or Dr. Kohr's testimony regarding potential for multiple weapons. All those things lend to the possibility of multiple actors. But what's the reality of this, again the common-sense side of this? On February 13th, if you accept their theory as entirely accurate, you would know that those girls were ushered down that hill, through the woods, across a creek, undressed, wounds inflicted on one of those girls while the perpetrator or perpetrators – in their case one person, they believe it's him – was controlling the other girl, wounds inflicted on the second girl, A.W. then redressed, sticks retrieved and placed in an unusual formation on the bodies, and then the perpetrator flees. A very labor-intensive crime scene. 2:13 to 2:32 by their standards. That suggests a possibility of multiple actors, even if you believe their theory. They say all this was done by a 5'5" man, done without a detectible sound, without a single trace of DNA evidence at that crime scene. The prosecutor asked you in voir dire up in Fort Wayne to exercise your common sense. Now is that time and common sense will dictate that it's just implausible that that could have happened in that short of a period of time. What do we know about Mr. Allen's actions in February of 2017? Within a day or two after these girls were found, Mr. Allen called himself out to local law enforcement, picks up the phone, he calls the police, says, "Hey, I was out on the trail that day. I'd be happy to help. Where would you like to meet me?" They end up at the Save-A-Lot, talks to Officer Dulin, hands him his cell phone, Officer Dulin

records that information. And Officer Dulin said during that interview, the experienced law enforcement officer that he was, still is, said there was nothing unusual about that meeting with Mr. Allen. Even in 2022, he was cooperative with the police. Took him into the station, Sheriff Liggett and I think Investigator Mullin – I might be mistaken about that – interrogated him. He stood there and he told them he didn't do it, he couldn't (inaudible), and he cooperated. Then, on October 26th, 2022, knowing at this point that he's a suspect, what does he do? He goes back into the station, cooperates again. And in the face of lies – call it the Reid technique, call it whatever you want, what we all know is it's a lie – in the face of those lies about that bullet coming from that gun and about his voice being determined to be the one on the video, and about witnesses IDing him at the trail, he asserts his innocence. And the State wants you to believe that because the tone of his voice changed by one note, that somehow that's evidence of his guilt. Insulting. I suggest to you that if somebody was bearing down on you for the murder of two girls, your response might be the same. Then his wife was leveraged to try to get him to come clean. He stood his ground, he said, "I didn't do this. I don't know how this happened. I cannot explain something that I don't know." What other explanation is there? And finally, for five years after these girls were found, Richard Allen lived in this community, he worked right down the street at the CVS, a place where the public comes into every day. He had a chance to get out of here, he had a chance to lay low, but there was no reason for him to do that because he wasn't responsible for these crimes. That magic bullet, let's talk about that magic bullet, item 016, a case of bungled ballistics. Questions about that cartridge from the get-go. Collected underneath some leaves on the ground in the woods. Poorly photographed. That

cartridge ends up at the lab and Ms. Oberg examines the cartridge and, eventually, receives the firearm from Richard Allen's house. Now, this is important – and this is kind of second-layer stuff – but you did hear about some of this bias, confirmation bias, things of that nature, with these exams. It's always good in these examinations to have – to be kind of blind about what you're doing. But in this case, because they had this cartridge way ahead of time, there was some discussion about, "Hey, this is the kind of firearm it might have been cycled from. We have some ideas." I think some of the testimony was it was a Sig or a Smith and Wesson. And so when Mr. Allen's Sig Sauer was brought to her, they had already kind of narrowed this down possibly to two different firearms. But what we know is that when Ms. Oberg took some stock rounds out of that cabinet, out of their vault, she placed it in this firearm, four to six times, I don't recall exactly, she cycled those rounds, and what we know is the marks on those test-cycled rounds were not sufficient to compare with the magic bullet. So what do we get? Apples to oranges. She shoved some test fires in that gun, starts firing away, totally different environment, Dr. Warren talked to you about that, higher intensity changes the nature of that environment. But she does that, not necessarily improperly, but she does that and she starts off on her examination, comparing apples to oranges again. Dr. Warren said that can still be done, but here's the problem, it requires a lot more work, a lot more intensity, a lot more corroboration, a lot more research, and you need to explain your work, you need to offer it up, it needs to be vettable. Subclass versus those individual characteristics, I'm not gonna bore you with that for the rest of the afternoon, but what we know is that that is where the battle lines are drawn in this industry. You've got to be able to distinguish between individual

characteristics and subclass characteristics or it's not helpful at all. And in this case, with regard to those three tools, the ejector, the extractor, and the barrel hood, she documented her subclass findings only with the ejector. She documented nothing with the extractor and nothing with the barrel hood. And as it turns out, in terms of peer research, error studies, there really isn't any that even exist when you're comparing apples to oranges, cycled, unfired rounds versus fired rounds. And then came the photograph discussion. Of all the things that we've heard in this case that should upset you and that should cause you consternation and concern about the task that's been placed on you are these photographs. They had the hairline down the middle, you can look at the two sides. If you're as old as I am, you may remember ant races on TV. To me, I think a reasonable person would look at these and say, "This is like ant races. I don't even know." But if you believe that these are helpful to you, take a look at these, stare at them, and ask yourself, "Where in the hell are the sufficient agreements? Where are the ridges that match?" In fact, there's way more that doesn't match than what matches on every one of these photos save one. I'll show you that photo in a minute. And again, Item LL, to the extent you believe there's a match there, you're entitled to your opinion, as my colleague once said. Use your eyes and your ears – use your eyes, see for yourself. Item NN. I don't know how you could make any sense out of item NN, but that's a photo that she took that, apparently, has no meaning to her evaluation. And then, item MM, we've got some areas here where there's some similar lighting, but a lot of areas that are different. I don't understanding what's going on with that. She took the photo. And then, item OO, maybe the most notable photograph in this case. You may recall Ms. Oberg herself acknowledging – and if you look at this photo,

I think the first thing that jumps out at you is there are some similarities there, there are some ridgelines there that are illuminated that are kind of close. But what you would also recall from the testimony is that both Ms. Oberg and Mr. Warren – Dr. Warren have identified that this is classic subclass characteristics. Ms. Oberg said, at one point, "Well, there's some other marks that I'm looking at." But this, these matching marks, if you will, to the extent you believe they're matching, are classic subclass characteristics. This photograph is actually a really good example of why it's – this is a dangerous business. The science, if you will – I'll concede that you can call it an applied science, although there are distinguished bodies in this country that don't agree with that, but the science, if you will, is under fire. There was a laboratory in Rhode Island that was shut down because they weren't distinguishing between subclass and individual characteristics just recently, about a month ago, in fact. This is a subjective game. Ms. Oberg sat here and told you, "I get to see a motion picture, I get to take the pictures that I want to take, but you should ignore those in this case, because they're not important or they're not reliable or they're not valuable" – or whatever word you want to use – "you should just believe me." That's what she told you. And if that's enough for you in a matter of the highest importance, then there's nothing I can do about that. The question then becomes, "Why didn't the Defense have this bullet examined?" An explanation might be that after consulting with Dr. Warren, there was no point in doing that, because the work was so poor. It's also not our burden of proof to offer up his innocence. It's their job. It's their job. It's their burden of proof. Why didn't they get that bullet re-examined after it was in dispute? Seven years they've had it. And then we've got those false confessions. Life in solitary confinement. Rick Allen's

situation in this case is unprecedented. The warden himself acknowledged that in 25 years that he worked at the DOC he was not familiar with a circumstance like this, at least in the last three to five years, I think he said five, maybe three to five that he was working at Westville, he had never had a pre-trial detainee without a criminal history in the WCU. Absolutely unprecedented. Dr. Wala herself acknowledged the same, that Mr. Allen's circumstances were unlike any she had ever seen. And I think Dr. Martin even told us the same thing, a man who had been in the prison system in Florida for years, he remembered that – he distinguished between pre-trial detainees being held in jail versus those being held in prison, whether they were in a circumstance like Mr. Allen's. Mr. Allen was a fragile egg when he landed at that doorstep. There was a little bit of back and forth about whether or not he had a serious mental illness, that was cleared up yesterday by Dr. Martin. It's a DOC designation, it's a business designation, major depressive disorder. I would suggest that that really is a serious mental illness, Dr. Wala herself admitted it, but it is a business designation. Dr. Westcott said that he had – I think she defined it as a critical mental illness – or there was some other phrase, I'm sorry, it eluded me – but that he did have a serious mental illness. He was tossed in the most secure unit in the state of Indiana and he was treated just like the rest. That's what we heard, he was treated just like the rest. The rest of the convicted murders that were his cellmates, the rest of the convicted child molesters that were on that unit. The most heinous individuals in the state were his neighbors, and he was treated just like them. In fact, not only was he treated just like them, he was immediately placed on suicide watch. The evidence suggests that no human, no matter how strong, could endure those conditions for that long a period of time without

having some kind of breakdown. Stripped of almost every necessity of a man's life and sent to a place where you have very few, given a suicide smock, basically a caveman gown. You have to eat off the floor, compete with mice droppings, ants. All the while, his neighbors calling him a child killer, a baby killer. In an 8 by 12 cell, cinderblock walls, concrete floor, no blanket at times, steel toilet that was next to his – where he laid his head at night. And if that wasn't enough, when he got out of that cell three to five times a week to go to rec, he got to go to a similar unit, similar cell. They call it outdoor rec, it's a cage with a screen on top. I recall asking Warden Galipeau at one point about Rick's opportunities to go to rec, there are rec yards all over that facility, ball diamonds, volleyball courts, basketball courts, he didn't see one, not one time. On top of that, when he got to go to therapy, shackled his arms, put a box cuff on him, his legs, belly chain, a lead, I call it a leash, argue about that all you want, and he was walked to a cage down the hall where he got to talk to his therapist. Same with the shower. The 30-day rule in the DOC, the 30-day rule. Here's the point: Solitary confinement is damaging to a man or a woman's brain. It doesn't matter if you have a business designation as a safekeeper. If you're held in solitary confinement, Dr. Grassian said the international standard was 15 days. But when you're held in solitary confinement, the evidence is firm that eventually you're gonna break. You can only handle so much. Rick Allen, more than 30 days, those 30 turned to 60, 60 turned to 90, 90 to 120, and I could keep doing the math. What the dust settled, he was there for 13 months. How much can one human endure? How much? And they didn't want to show you the video. They didn't want you to see that. It's insulting. The State's response to this, Trooper Harshman, certainly a good cop, says, "He was right where he belonged."

They could see that he may have been psychotic. Well, Dr. Wala – I wouldn't put any credence in what she said – her testimony is he was psychotic from March, April, May, and June. They're willing to concede that he may have been psychotic, the State is, but they want you to cherry pick somewhere in the middle. "He's psychotic on May 13th, but not on the 14th, so let's take that statement and let's throw that up on the screen and hit play." He was getting stuck with needles during that whole time, all the way into mid-June, antipsychotics, which means, by extension, that you're psychotic. They wanted to say he was faking it, but they didn't want to show you his body language when he was saying these things. But as it turns out, Dr. Wala herself said even after some forethought – hindsight, that even she wasn't sure if her note regarding the feigning behavior was accurate. She said, "I don't know." Dr. Martin yesterday, after watching that video, on the day when Dr. Martin claimed he was oriented to time and place, then changed his mind right there on that stand. Who wouldn't? Who could possibly watch that video and, for one second, believe that that man was oriented to time and place? What did we find out about the standard at the DOC when it came to the care of this man? It was to keep him alive. That was it. That was the medical standard within which these people were working, to keep him alive. You should be insulted. Dr. Grassian talked on a more technical level about delirium and false beliefs and false memories, a man who's seen this time and time again over his 30 or 40 or 50 years, I've forgotten that – I think he said he started practicing in the '70s. False beliefs. False memories start out as false beliefs is what the testimony was. They're not based on actual factual circumstances, they're based on beliefs. I suggest to you to go back and look at that April 3rd, 5:14 phone call, the only one that they want

to show you. Go to page 4, and at the top, Rick starts off the phone call, "I did it." "You did what?" "No, I did it. I killed A.W. and L.G." And then, by the time you get to the bottom of that page, a few lines down, you start to see these signs of these false beliefs. "No, I mean, evidentially – or I evidentially did it, because maybe I did it. I think I did it." Then Rick starts to communicate how he thought maybe he called his father earlier, he couldn't remember, and then he says, page 5, line 22, "I think I did." Line 24, "I just – because I think I did." Page 6, line 1, "I wish I could say I didn't. I don't know. I just wish they'd kill me and let me apologize." Those are false beliefs. Dr. Grassian said classic case. And then there's the iPhone, L.G.'s cell phone, Apple 6S I think is what it was. Does that thing ever have stories to tell? Yes, it does. The State has relied on that heavily and want you to believe that the information they offered up about that phone is accurate. There were three timestamps n that phone that I already mentioned to you, 5:45 p.m., 10:32 p.m., and 4:33 a.m. How do you interpret this information? And I suggest you think about this first: That phone has no personality, it has no feelings, it has no emotions, no opinion, it just generates raw data, it speaks for itself. One of the most common tools in law enforcement these days in solving crimes. There's one simple conclusion to be drawn by this 5:45, this 10:32 timeframe and that is that someone was using that phone, someone plugged something in. That phone went dead after 4:33 a.m., you heard testimony that there wasn't any activity after that. That makes sense, there wouldn't be any Apple Health activity, because it was dead. But we do have Apple Health data from earlier, Mr. McLeland mentioned in his opening – or his closing. There's a reference on there to a 20-foot change in elevation. You've got a map of the south side of that bridge. You should revisit that map.

David McCain said – and I'm approximating – that the distance between the top of that bridge and the water was about 65 feet I think is what he said. He knew that place well, he was part of the effort to establish that bridge and that trail. Exercise some common sense, go to the south side of that map or the bridge on that map, look at that Weber road, and you're gonna see it's about halfway down to the river bottom, that private driveway, about half of that 60 feet, 30 feet maybe, we can approximate. I don't know when 20 goes to 30 on the Apple Health phone, I don't if it's at 29.05 that it switches to 30, I don't know, but what I can tell you is that the location of that road relative to that 20 feet is curious at best. Not ironically, that private road leads to Brad Weber's home. Not ironically, he had sticks in his garage. And not ironically, he had a Sig Sauer P239 that couldn't be excluded as one of the firearms that cycled that round in this case. It's the State's burden of proof, it rests squarely on them, not us, and the State had seven years to figure out 5:45 and 10:32. There's no explanation because the phone is right. It's right. You need facts. The State wants you to believe there's this boxcutter, we talked about that earlier. Dr. Kohr's testimony is hard to swallow, the timing, even his tone and the way he testified. You can draw your own conclusions about that, but it seems like a retrofitting of that particular fact. By the way, it's also a boxcutter, it's one of the most common tools on the planet. They searched Richard Allen's house. They wanted you to see those knives earlier, when they put them up on the screen. They wanted you to see those boxcutters. But there's not one piece of trace evidence on any of that that connects him with the murder of those two girls or that crime scene. They have no proof that he discarded anything, that's just a statement with no validity. The van comment. And again, we know there's discrepancy in Mr. Weber's

statements. It's a van, too. It's van. Again, one of the most common vehicles we see on the roadway. God only knows what a BMV search might have shown as to how many vans were in Carroll County in 2017. And then Dr. Westcott had a really unique – not unique, she had a really interesting observation when she testified the other day and it was this: She noted that the medical notes that were her – that was her version or her summary of what Rick Allen told her during some of these therapy sessions in the cage flowed like a story; but for four months, this man was in a psychotic state, disorganized speech, fragmented thoughts. No man in that state would talk like that, would be able to provide details like that, but yet, those things showed up on paper. Dr. Wala's circumstances in this case and her involvement in this case are clearly an issue that you need to tackle. The word "bizarre" comes to mind. The psychiatrist – psychologist, I should say, who was infatuated with this particular case, who was assigned to him, and didn't disclose her personal interest in this case until after she was assigned to him. She visited the Monon High Bridge. She lives in north Chicago, she works in northern Indiana. It is fair to question the accuracy and the authenticity of her work. The unique fact that he lied in wait before those girls were ushered down that hill. Well, look at the video, does that look like somebody who's lying in wait? In fact, they put forth testimony that he was standing on one of the platforms on the bridge earlier and there was somebody staring at him, Betsy Blair, and that he walked down the trail, if you believe the statements from the State, Voorhies and Wilber saw him. That's not lying in wait. Then they want to retrofit this idea that, "Oh, in that video, now you can hear the gun cycle." Well, you can play the video again. There's a lot of crunching and munching and a lot of other things you hear, the video's outside,

but to fit their theory, they're interpreting one of those sounds as being a gun being cycled, and there's just really no proof of that, none. I should have stuck that in the desperation column. And then they wanted you to believe for a few days that Richard Allen was an alcoholic because one of the statements from May suggested that he drank some beers and somehow, being an alcoholic is consistent with somebody who drinks a few beers and go out on the trail. Look at your medical records, I think there was some testimony yesterday from Dr. Martin that Richard Allen disclosed to him that he drank occasionally, no references to him being an alcoholic, desperation. The search for the girls has been called into question. From what we know from Mr. Sterrett is on February the 13th that there were search crews sent out, some of them were service personnel, firefighters and such, others were just laypeople trying to help, and we know that that search went in somewhere between nine, ten o'clock, and 2 in the morning, both sides of the river – I should say the creek, both sides of the bridge. Mr. McLeland's argument is they weren't looking for dead girls, so they wouldn't have found them. There were no leaves on trees in February of 2013 [sic], the visibility was great. I think Jake Johns or the other gentleman that was out there, Pat Brown, said that you could see a couple hundred yards even at one point, you can check your notes on that; but basically, from close to that cemetery all the way down to where those girls were found. These people had lights, they were on foot. Mr. Sterrett said they were moving hastily, trying to cover a lot of ground. There are a lot of questions about whether or not the girls were there on the evening of February 13th. The State's theory – back to this lying in wait – is that he was walking with a purpose that day, suggesting that Mr. Allen had a plan, that he must have known these girls were on that trail,

walking with a purpose; but yet, there's not one single item of digital evidence, social media, or any connection whatsoever, whether it be a familial connection, a work connection, between this man and those girls, nothing. His clothing. Counsel says he's wearing the exact same clothes. They collected a Carhartt jacket. Boy, there's a revelation for you, a blue Carhartt jacket in a closet in Carroll County, Indiana. The hope box. He's got a hope box and there's a round in there and it's a Smith and Wesson .40-caliber. Mr. Dulin testified that Smith and Wesson rounds, very common, one of the most common manufacturers in the industry. You can go back and check your notes, but Oberg had that round, that was closet round number 1, and you can check your notes, but my recollection is, is that she couldn't generate any comparisons between the cyclings on that round and the cyclings on this one. Counsel said earlier that Richard Allen found the Lord and that's why he came clean. In that 8 by 12 cell with no bed sheets, with nothing other than a Bible for months, what does a man find? Can you blame him for taking out that Bible? Can you blame him for trying to find a way out of that circumstance? He's not the only guy who's found God in prison, you can rest assured. And then, the voice on that video. The State says Trooper Harshman identified Rick Allen as the voice on that video; but you heard Investigator Mullin the other day on the stand, over the course of the five years of this investigation, phone call after phone call after phone call, tip after tip after tip, people who were called in and saying, "I know whose voice that is, it's Bob Smith," "It's Jerry Smith," "It's John Doe." Dozens and dozens, I think he even said maybe hundreds that they know of; and all of a sudden, somehow, Trooper Harshman, mind reader, is able to identify Richard Allen's voice as the one on that video. Exercise your common sense. Speaking of

common sense, there is the 10,000-foot view of this case and that's simply this in five parts: No one identified Richard Allen as the man on that bridge, not Ms. Voorhies, not Ms. Wilber, not Ms. Blair, and sure in the hell not Ms. Carbaugh; and in fact, if you believe what they said, they were actually identifying people that were not Richard Allen. Number 2, no one piece of digital data from any phone, any tower, or any form of social media connects Richard Allen to that crime scene or those girls. Number 3, not one fingerprint, shoe print, or other piece of clothing connects Richard Allen to that crime scene or those girls. Not one scrap of DNA on either of those girls or any of the surfaces around that scene connects Richard Allen to those girls or that scene, a very labor-intensive scene. Not one speck of trace material was found in Richard Allen's car or his house that connects him to those girls. If you want to believe Sarah Carbaugh, Ms. Muddy and Bloody, Ms. I – He Slaughtered a Pig, you bet your bottom dollar when he got into that car, he would have left some trace evidence. That car was collected by the police and secured, examined. Even if it's five years later, in the world we're living in, they'd have found something. It's unprecedented in the modern era of law enforcement investigation that they would have no forensic evidence connecting Mr. Allen to that scene. Now, as the Judge said, the rules permit me to speak only once on Mr. Allen's behalf. It's been a long haul to get to this point, not nearly as long as the journey that the Williams family has had or the German families, the Patty family, not nearly as long as the journey that the Allen family has had to get to this point, and certainly not nearly as long as the journey Mr. Allen has endured as he was processed through the doldrums of the DOC. At the end of the day, the State's timeline has crumbled. The magic bullet is nothing more than a tragic bullet. It was the catalyst that landed Rick

in that DOC, a terrible place. At the end of the day, they want you to ignore this: 5:45, 10:32, and how, all of a sudden, at 4:33 a.m., by their theory after that phone had laid under that young lady's body for hours and hours and hours, all of a sudden it receives service. It doesn't make any sense. That phone has no personality, it's not manufacturing facts, it's raw data. All those things make it virtually impossible that Rick Allen was responsible for these offenses. But let's just say for a second that you want to buy in to the idea that they've got the smoking gun because Richard Allen confessing these crimes, if even for a second you're inclined to consider those claims, consider this: This here is called a rack, it was a tool that was used in medieval times to punish people, even up until the 13-, 14-, 1500s. Here's a picture of what it might look like back in the very early days. There's also a tool called thumb screws. Thank you, Max. Another medieval device that was used to interrogate people. This is what it might have looked like back in the day, an illustration. But as a society, we've evolved. It happens. This, ultimately, gave way to other forms of interrogations, more subtle ones. One of those forms was throwing somebody in a cell and throwing away the key, it's called solitary confinement, a much slower and more painful form of punishment and interrogation. Whether intentional, reckless, or negligent on the part of the Department of Corrections, somebody should have spoken up, a team or four or five doctors, police officers watching these videos every day, the warden visiting the cell. When was somebody gonna say, "Something's wrong here, this ain't right"? Where is the moral compass? You're the moral compass. You may have thought we moved away from such harsh practices. Every now and then, our system of justice, we're confronted with circumstances that remind us and redirect us in another direction, another course of action, another way to

handle things. That time is now. That's the power of the State; and it might be a crude example, but it makes a point. Now's not the time to step back to the Middle Ages in terms of crime and punishment, now's the time to step into the ring, to have a voice and acknowledge that this isn't the way we punish people. No man or woman should be treated like this, whether guilty or innocent. And rendering a verdict of guilt in this case would be endorsing this behavior, this process. You should not do that. We're asking you to set Rick Allen free and we're asking you to find him not guilty of these crimes. Thank you.

THE COURT: Well, ladies and gentlemen, we are gonna go ahead and take our lunch recess. While you're outside the courtroom, keep your minds open. You may discuss the evidence so far, but please, only do that if all 15 of you are present in the jury room at the same time, and please, don't deliberate. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 12:00 p.m.)

THE COURT: Let's resume at one o'clock. Jodie, you can go off the record.

(Off record at 12:01 p.m.)

(On record at 1:04 p.m.)

THE COURT: All right, we are back on the record. Oh, where's Mr. Rozzi?

MR. BALDWIN: He had to run to the restroom. He'll be right back.

THE COURT: And when he returns, are you prepared to proceed, Mr. McLeland?

MR. MCLELAND: Yes, Your Honor.

THE COURT: All right. Mr. Rozzi, are you prepared to proceed?

MR. ROZZI: Yes, ma'am.

THE COURT: Let's bring the jury, please.

THE BAILIFF: All rise.

(Jury in at 1:06 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. I'm just gonna give you a minute to get all your things out for note-taking purposes again. All right. Well, as I indicated to you, the State has its rebuttal argument prepared for you. Mr. McLeland.

MR. MCLELAND: Thank you, Your Honor.

THE COURT: Could you turn your table mic back on, please. Go ahead.

MR. MCLELAND: Thank you, Judge. Ladies and gentlemen, it's been a very long three or four weeks we've spent together. You've heard a lot of evidence and – heard a lot testimony and seen a lot of evidence, and now's the time we hand the case over to you and you're in the driver's seat, not the attorneys, not the Judge, they don't decide the facts and the law, you decide what those are. The Judge is gonna give you instruction on what the law says, but you decide how that applies to the facts and the testimony, you're in the driver's seat. And so I'm not up here to tell you when you should be offended about things and when you shouldn't or how you should feel. I'm up here to tell you to surmise the evidence that the State has presented to you. Way back in the beginning, there were opening statements that we did, mini-opening statements in Fort Wayne and then opening statements here, and the Defense

went through a lot of stuff and a lot of things that they said the evidence was gonna show, but I present to you that they haven't backed up those claims. I used the phrase that this is about Bridge Guy, a bullet, and a brutal murder, I said that a couple times, told you that I was gonna introduce evidence of confessions that included detail that only the killer would know, and we've done that, the State has done that. The State's presented evidence to you of witnesses that were on the trail that day and witnesses that described a man that they see walking on the trail that day and on the High Bridge that day, and they give a description of that man, and they all identify that man as Bridge Guy, which is really just reaffirming what Richard Allen said himself, that he was on the trails that day from 1:30 to 3:30 and that he was wearing clothes that matched the clothes that Bridge Guy was wearing. So those affirmations by those witnesses just reaffirm what Richard Allen tells you, that he's there, he's on the bridge. We then have the video from L.G.'s cell phone, it tells you the exact time they were abducted, 2:13 p.m. Witnesses on the bridge and on the trail after that are irrelevant, the abduction has really happened. The phone stops moving at 2:32 p.m. It's underneath the body of A.W. Hard data, they want to say hard data, that's hard data from the phone. You get to the crime scene and this notion that, oh, since they didn't scream, it didn't happen. Richard Allen had a gun, had a gun pointed at them, used that gun to execute power over them. We know they didn't scream, but we know L.G. was crying, blood outline of a tear on her face, scared, fearful, all because of Richard Allen. We know that when he left, he left behind his calling card, a bullet, and I don't understand and I don't comprehend how this is a magic bullet. It goes from the crime scene to the lab with Stacy Bozinovski and Melissa Oberg to be tested; and she testifies, in her expert

opinion, that bullet was cycled through Richard Allen's gun, a gun that he never loaned to anybody, that he never let anybody borrow, ammunition that he never loaned to anybody. And she told you why she thought – what she based that opinion on. The Defense wants you to look at the pictures and say, "Look, these don't match." She told you, "You can't use those pictures. I'm looking at a 3D image, those are 2D images." Her results were even verified. The Defense had an expert witness, he could have tested the bullet. He didn't. Not only that, he didn't write a report, didn't give any findings, nothing. I don't understand how that's a magic bullet; magic in the sense maybe to the Defense because it links Richard Allen to the crimes, I'll go with that. And then, we go to the confessions. Throughout this case, the Defense has repeatedly said words matter. Why don't Richard Allen's words matter? He said a lot of words to a lot of different people: his mom; Kathy; Dr. Wala, detailed confessions to Dr. Wala. "I laid – I lied in wait. My intent was to rape the girls. I thought they were older than they were. I messed with the gun. I forced them down the hill and I saw a van and I got scared, so I walked them across the creek and I slit their throats." Words matter. And this is not to a stranger, Dr. Wala. He trusted Dr. Wala. You can hear that in the phone call to his mom. We played a phone call last week where he called his wife while Dr. Wala was in the room and confessed to his wife in front of Dr. Wala, he wanted Dr. Wala in the room, he trusted her. Words matter. The confessions he gave are organized, they're logical, they talk about details and they talk about details that only the killer would know. The evidence presented in the case shows that Richard Allen is Bridge Guy and that Richard Allen killed A.W. and L.G. There are two victims in this case, A.W. and L.G., those are the two victims of Richard Allen; but they're more than victims, they're also heroes,

L.G. for making the video, the recording of Bridge Guy, A.W. for concealing the phone for law enforcement to later find, and both of them for camouflaging the bullet that Richard Allen left behind. Those pieces of evidence helped law enforcement find Richard Allen. I'm gonna leave you with this: When Becky was on the stand, she mentioned that, at one point, L.G. told her, "Someday, I'm gonna grow up and help police solve crimes." Exactly what she did and she brought A.W. along to help her. Thank you, Judge.

THE COURT: Ladies and gentlemen, I'll now present the balance of the instructions to you, those are the last seven pages at the back of your packets. And again, I'm required to read these, so you may follow along if you wish with the copies that I have provided. All right. Juror 11 in seat 13, Juror 2 in seat 14, and Juror 9 in seat 15, you are instructed that you shall accompany the jury into the jury room and, please, pay careful attention to the deliberations of the jury. You are instructed that you may not participate in the deliberations unless directed and ordered to do so by the Court. The Defendant has entered pleas of not guilty and the burden rests upon the State of Indiana to prove to each of you beyond a reasonable doubt every essential element of the crimes charged. The charges which have been filed are the formal method of bringing the Defendant to trial. The State has the burden of proving the Defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases where you were told it is only necessary to prove that a fact is more likely true than not true. In criminal cases, the State's proof must be more powerful than that, it must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the Defendant's guilt. There are very few things in this world that we know with absolute certainty and in criminal

cases, the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced the Defendant's guilty of the crimes charged, you may find him guilty. If, on the other hand, you think there is a real possibility that he is not guilty, you should give him the benefit of the doubt and find him not guilty. The burden is upon the State to prove beyond a reasonable doubt that the Defendant is guilty of the crimes charged. It is a strict and heavy burden. The evidence must overcome any reasonable doubt that – concerning the Defendant's guilt, but it does not mean that a defendant's guilt must be proved beyond all possible doubt. A reasonable doubt is a fair, actual, and logical doubt based upon reason and common sense. A reasonable doubt may arise either from the evidence or from the lack of evidence. Reasonable doubt exists when you are not firmly convinced of the Defendant's guilt after you have weighed and considered all of the evidence. A defendant must not be convicted on suspicion or speculation. It is not enough for the State to show that the Defendant is probably guilty. The State must prove each element of the crimes by evidence that firmly convinces each of you and leaves no reasonable doubt. The proof must be so convincing that you can rely and act upon it in this matter of the highest importance. The rule of law which requires proof of guilt beyond a reasonable doubt applies to each juror individually. Each of you must refuse to vote for conviction unless you are convinced beyond a reasonable doubt of the Defendant's guilt. Your verdicts must be unanimous. Under the law of this state, a person charged with a crime is presumed to be innocent. This presumption of innocence continues in favor of the Defendant throughout each stage of the trial, and you should fit the evidence presented to the presumption that the Defendant is innocent if you can

reasonably do so. If the evidence lends itself to two reasonable interpretations, you must choose the interpretation consistent with the Defendant's innocence. If there is only one reasonable interpretation, you must accept that interpretation and consider the evidence with all the other evidence in the case in making your decision. The Defendant has not been required to present any evidence to prove his innocence or to prove or explain anything. The fact that charges have been filed, the Defendant arrested and brought to trial is not to be considered by you as any evidence of guilt. You are the exclusive judges of the evidence, the credibility of the witnesses, and of the weight to be given the testimony of each of them. In considering the testimony of any witness, you may take into account his or her ability and opportunity to observe; the manner and conduct of the witness while testifying; any interest, bias, or prejudice the witness may have; any relationship with other witnesses or interested parties; and the reasonableness of the testimony of the witness considered in light of all of the evidence in the case. You should attempt to fit the evidence to the presumption that the Defendant is innocent and the theory that every witness is telling the truth. You should not disregard the testimony of any witness without a reason and without careful consideration. If you find conflicting testimony, you must determine which of the witnesses you will believe and which of them you will disbelieve. In weighing the testimony to determine what or whom you will believe, you should use your own knowledge, experience, and common sense gained from day-to-day living. The number of witnesses who testify to a particular fact or the quantity of evidence on a particular point need not control your determination of the truth. You should give the greatest weight to that evidence which convinces you most strongly of its truthfulness. During the

progress of the trial, certain questions may have been asked and certain exhibits may have been offered which the Court ruled were not admissible into evidence. You mustn't concern yourselves with the reasons for those rulings, since the production of evidence is strictly controlled by rules of law. You mustn't consider an exhibit or testimony which the Court ordered stricken from the record; in fact, such matter is to be treated as though you never heard it. Nothing that I said during trial was intended as any suggestion of what verdicts you should find. Each of you, as jurors, must determine the facts and the verdicts. The evidence must be judged and considered from your memory of the testimony of the witnesses and such exhibits as may have been admitted for your examination. Transcripts of witness testimony will not be available to you during your deliberations. Materials which were reviewed by witnesses or mentioned by the attorneys that were not admitted into evidence will not be provided to you during your deliberations. The unsworn statements or comments of counsel on either side of the case should not be considered as evidence in the case. It is your duty to determine the facts from the testimony and the evidence admitted by the Court and given in your presence and you should disregard any and all information you derive from any other source. Your verdicts must represent the considered judgment of each juror. In order to return verdicts of guilty or not guilty, you must all agree. During your deliberations, you should not yield your individual judgment to a fellow juror just so that you can return verdicts; however, it is your duty to impartially consider the evidence with your fellow jurors, to examine your own views in light of your discussions, and to consult and reason with your fellow jurors in a good-faith effort to arrive at just verdicts. After you return your verdicts, you are under no obligation to discuss them or the reasons for them

with anyone. After you've retired to your jury room, the bailiffs of this court will be in attendance, but they cannot be present in your jury room during any of your deliberations. Should you, at any time during your deliberations of the cause, leave the jury room, you must leave in a group and, at all times, be in the charge of the bailiffs. While you're absent from the jury room, you mustn't talk about the case among yourselves, with the bailiffs, or with any other person. When you've agreed upon verdicts and such verdicts have been signed and dated by your foreperson, you will inform the bailiffs you've agreed. You will remain in the jury room until the bailiffs, on Court order, conduct you back into open court, where your verdicts will be reviewed and read by the Court. Neither sympathy nor prejudice for or against the witnesses or the Defendant in this case should be allowed to influence you in whatever verdicts you may find. These instructions do not contain any information concerning the penalties that could be imposed upon a conviction. I am solely responsible for assessing the penalty within a broad range of possibilities. The law has been written so that you may make your decision without being influenced by the apparent severity or leniency of the sentence. The Court is summitting to you forms of possible verdicts you may return in the case. The forms will be supplied to you when you retire to the jury room for deliberations. Upon retiring to the jury room, you will select one of your members as foreperson. The foreperson will preside over your deliberations and must sign and date the verdicts to which you all agree. The foreperson must return the verdict forms back into open court.

(Bailiffs sworn.)

THE COURT: All right. Verdict forms. Ladies and gentlemen, take all of your material and your papers. The bailiffs have your verdict forms and

we'll bring in the evidence that we can bring in to you.

THE BAILIFF: All rise.

(Jury out at 1:23 p.m.)

THE COURT: You may be seated. I'll show the jury out at 1:25. Are there any objections to the Court's instructions as read, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: No, ma'am.

THE COURT: Please leave numbers with Jodie, so that we can find you if they have questions or if they want to see the evidence. You need to be within five minutes of the courthouse. Please don't leave the vicinity of the courthouse and drive to Logansport again. I really need to have access to you immediately and have your input if they do have questions or they want to review the evidence. We will be clearing the courthouse and locking – or not the courthouse, but the courtroom and locking the doors. If the jury needs to get out of the jury room for whatever reason, 'cause it gets kind of cramped and small in there or they want to stretch their legs, we'll be using the courtroom for that purpose, so we'll be clearing the courtroom and locking the doors for that. If they want to review the evidence – I know I think both of you invited them to listen to things and watch things – I'll advise counsel and I'll expect you to be here and the Defendant will be brought in, as well. I would ask though that you would probably – we'll probably have you in the back of the courtroom, so that you can observe that process while they review whatever evidence it is that they'd like to review.

MR. MCLELAND: Judge, we talked initially – we talked, at some

point, about waiving counsels' presence. Is that something the Court's willing to consider? I don't need to be here. I suppose I'm willing to waive it while they – if they want to review evidence, just throw that out there, Judge.

MR. BALDWIN: I'm – we don't have any issue with that. I mean, as long as we're invited, we can have the opportunity, and I know we would be.

THE COURT: Of course you would be.

MR. BALDWIN: And –

THE COURT: If you'd like to be here, then I would require the State to be here.

MR. MCLELAND: Sure, Judge, I understand.

THE COURT: And then, we would bring Mr. Allen in, as well.

MR. BALDWIN: Okay.

THE COURT: Okay. All right. Is there anything else that we need to do on the record before we clear the courtroom, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

MR. BALDWIN: Judge –

THE COURT: Mr. Rozzi? Mr. Baldwin?

MR. BALDWIN: Sorry. It's – these are unusual – you know, with sequestration, it's a little bit unusual. Is there – does the Court have an idea of – will they just go all the way through, but if it's midnight and they want to go to bed, do you – is there some manner in which –

THE COURT: What is the schedule, is that what you're asking me?

MR. BALDWIN: I guess so, yeah.

THE COURT: The schedule would be they're gonna – they're out right now and selecting a foreperson, I presume. I'm anticipating letting them

go back to the hotels around four o'clock, and that they would, then, reconvene tomorrow morning about nine o'clock.

MR. BALDWIN: Oh, okay. Thank you.

THE COURT: And then they go until 4 again and reconvene. We will be working Saturday, much as we've been working Saturdays in the past. We will not be working Sunday, everybody needs a day off. And the jury will not have access to their electronic devices, they will not have access to their families in that timeframe, as well, so I'm sure they'll – I just want them to continue to work.

MR. ROZZI: So four o'clock would be kind of the closing hour, unless they communicate to the bailiff that they want to keep at it or –

THE COURT: Yes.

MR. ROZZI: Okay.

THE COURT: Yes.

MR. ROZZI: 'Cause, I mean, I've had those circumstances.

THE COURT: Yeah, and they may want to keep going.

MR. ROZZI: Yeah.

THE COURT: I mean, and if that's the case, they'll keep going. I will stay at the courthouse with my court reporter, as well, just in case they do have questions and I need to contact counsel to –

MR. ROZZI: Okay.

THE COURT: -- get your input on how you want me to answer questions and if they want to see any evidence, but I would absolutely contact counsel to let you know if they have questions, if they want to review the evidence, and if you want me to contact you when they go home, back to the

hotels, I'm happy to do that, as well, if you wish.

MR. ROZZI: That would be great, just so we know when the day's over, yeah.

THE COURT: Just so that you know you're kind of off the clock, okay.

MR. ROZZI: Yeah.

THE COURT: Okay. Anything else?

MR. BALDWIN: No.

MR. ROZZI: I left our numbers with Ms. Williams.

THE COURT: Okay. So we – do we need to get numbers for the State, then?

MR. MCLELAND: We'll do that, Judge. Thank you.

THE COURT: All right. Just thank counsel for your excellent final arguments, appreciate the manner in which you presented that information to the jury. Very well done. And we are off the record, Jodie.

(Off record at 1:27 p.m.)

(On record November 9, 2024, at 10:03 a.m.)

THE COURT: All right. Well, we are – you may be seated. We're back on the record. The jury has sent out a note indicating they would like to see Exhibit 290, the first interview; 246, the enhanced video; 207, audio only; and then they sent out a note this morning that they wanted to see the second interview, Exhibit 291. So we're in the courtroom, outside the presence of the jury. I don't know who all of these extraneous folks are. I apologize, I made it an invitation to the attorneys to appear here, not on staff members. I do need

somebody from the State's staff to run the equipment, so if that – would you, please, stay to run the equipment? And I'm sorry, I'm pointing at you and I don't know your name.

MR. NATHAN MYERS: My name's Nathan.

THE COURT: Nathan. So, Nathan, I would ask that you stay. The attorneys and everybody else in the back of the courtroom. The rest of you, you are free to leave. And, Mitch, if you'd just make sure they get safely out of the building, please.

OFFICER CATRON: Yes, ma'am, will do.

THE COURT: Thank you so kindly. All right. And I see Mr. McLeland and his deputies are in the back of the courtroom. Mr. Baldwin and Mr. Rozzi and Ms. Auger are in the back of the courtroom. I see Mr. Allen has been brought in by the transport team. Thank you, gentlemen, for bringing Mr. Allen here from his confinement area. Are we ready, then, to have the jury come in? They just – I've – we've moved the TV a little bit closer to them and I'll invite them – if they need to get even closer, I will invite them to do so, but are we – any issues, folks?

MR. ROZZI: No.

MR. MCLELAND: No, Your Honor.

THE COURT: Okay. Let's bring in our jury, please.

MR. ROZZI: Judge, are we gonna try to just watch all these straight through? I mean, that'll be a couple of hours at least.

THE COURT: Yes.

MR. ROZZI: Is it okay, if somebody needs to use the restroom, if we help our self?

THE COURT: Oh, of course, of course.

MR. ROZZI: Okay. Thank you.

THE COURT: I mean, obviously if Mr. Allen does, that's a different story, since –

MR. ROZZI: Yeah, I understand that.

THE COURT: But with three attorneys, I think if somebody needs to step out on either side, that would be acceptable.

MR. ROZZI: Very good. Thank you.

THE COURT: Of course.

(Jury in at 10:08 a.m.)

THE COURT: Well, good morning, ladies and gentlemen. It's nice to see you. Your foreperson sent out a note asking to view Exhibit 290, the first interview; Exhibit 246, the enhanced video; Exhibit 207, the audio only; and Exhibit 291, the second interview. So the attorneys are here in – you may be seated, folks. The attorneys are here in the back of the courtroom and we have a member from the Prosecutor's staff up here in the well of the courtroom to run the equipment for us. So thank you for the notes, I appreciate that. We are ready, then, to view Exhibit 290.

MR. MYERS: 290?

THE COURT: Yes, sir. And, ladies and gentlemen, if you need to move to get closer to the TV, please, feel free to do that. This is for your benefit that you've asked to see these, so if you need to move – you want the TV moved closer to you?

UNIDENTIFIED JUROR: Yeah, if it could be moved forward, so we don't have to –

THE COURT: Yeah. The gentlemen – could we just move this closer to you, that's great. Thank you. Is that better? It's a lot closer. Tip it a little? Is that better? Thank you, Jeremy.

STATE'S EXHIBIT 290 PUBLISHED BY PLAYING

THE COURT: So we'll show that the State's Exhibit 290 has been played for the jury. And then, they've now requested to see Exhibit 246.

STATE'S EXHIBIT 246 PUBLISHED BY PLAYING

THE COURT: Do you guys need a break or anything?

UNIDENTIFIED INDIVIDUAL: (Inaudible)

THE COURT: Okay. So let's do 207, and that's the enhanced audio – or the audio only would be 207.

STATE'S EXHIBIT 207 PUBLISHED BY PLAYING

THE COURT: Thank you, Officer. All right. The next one you wanted to see was the second interview, 291. That's lengthy, so we'll go ahead and break, so that you can get up and move around. Jeremy, just let us know when they're ready to come back.

THE BAILIFF: Okay.

(Jury out at 11:41 a.m.)

THE COURT: All right. So they're gonna go for a break and then they'll let me know if they want to have lunch and then come back and review the second video or if they want to just plow through and listen to the video, so if you'll just kind of hang around a little bit, we'll know; but you can go ahead and take Mr. Allen.

(Off record at 11:42 a.m.)

(On record at 11:57 a.m.)

THE COURT: Okay. So we're back on the record. The State's lawyers are back, the Defense lawyers are back, and Mr. Allen is back. So let's go get them.

(Jury in at 11:59 a.m.)

THE COURT: All right. So we're back on the record and all of our jurors have reassembled. Folks, you may be seated in the back. You've now asked to see Exhibit 291, which is the second interview; so, Nathan, if you would be so kind, please.

STATE'S EXHIBIT 291 PUBLISHED BY PLAYING

THE COURT: All right. Ladies and gentlemen, you've now reviewed the exhibits that you had requested to receive and I will leave you to the custody, care, and control of our bailiffs so that you may resume your deliberations. Gentlemen.

(Jury out at 1:35 p.m.)

THE COURT: All right. Well, counsel, thank you for coming back and I just have a couple of things that I would like – if you'd like to come closer to the well of the courtroom, please; and Mr. Allen, as well, gentlemen. Yes, in the well of the courtroom, please. And, Nathan, you can just give Jodie those exhibits back –

MR. MYERS: Okay.

THE COURT: -- if you would, please. Thank you. All right. Well, I'll show the jury back out to deliberate at about 1:38. I'm just gonna remind counsel of the gag order that was issued by this Court on December 2nd of 2022. I've pulled it up in the electronic file and, in pertinent part, it reads, "Counsel for the State of Indiana and the Defendant, as well as their professional staff and

other personnel, law enforcement officials, court personnel, coroner, and all family members are prohibited from commenting on this case to the public and to the media directly or indirectly, by themselves or through any intermediary in any form, including any social media platforms." Yesterday, I communicated directly with Mr. McLeland and with Mr. Rozzi to – I don't recall the time, but it was by phone, to inform both sides that the jury wanted to view the first interview, the enhanced video, and the audio, and the only individuals that were provided with that information directly was, again, Mr. McLeland and Mr. Rozzi. I was quite surprised last evening, when I was watching TV, to see that this specific information ended up on national television. Then this morning, as I excused all of the staff attendant to our proceedings here this morning, I noted that it was about 10:03 when I asked the State's investigators and extraneous folks and the Defendant's extraneous investigators and individuals to leave the room, I noted that that was at 10:03; and at 10:15 this morning, Bob Motta, who is, apparently, a social media content creator, is posting on his Twitter account that the jury wanted to see the specific videos that we discussed previously and the specific audios that the jury wished to see. And again, the only people that were aware of this information were the attorneys and their professional staff. Now, I've observed Mr. Motta here in the courtroom, he's been here for several weeks and he has been interacting with multiple members of the Defense staff, Mr. Hoffman, Mr. Baker, Ms. Auger, Mr. Baldwin. I don't know what those conversations consist of and I don't particularly care what those conversations consist of, but Mr. Motta is clearly sharing information that only counsel would have. That's a violation of the gag order, folks, and I have concerns. You've seen the folks outside the courthouse with their signs and podcasters and Youtubers.

Last night, the jury's van was followed. I haven't shared that information with counsel and I will not be sharing any further information with counsel about the jury, about when they're leaving this building, when they are not in the building, because I clearly can't trust that that information will stay with counsel and their professional staffs, because it's getting out to other individuals. I don't know if it's Mr. Baker, Mr. Hoffman, the attorneys, I don't know, but I will not be informing counsel when the jury leaves the building and I will be informing counsel strictly of they have a verdict. And I expect continued compliance with this Court's orders. Gentlemen, you may take Mr. Allen back to Cass County and we are in recess.

MR. MCLELAND: Thank you, Judge.

MS. DIENER: Thank you.

MR. BALDWIN: Judge, did you still want us five minutes away?

THE COURT: Yes, please.

(Off record at 1:41 p.m.)

(On record November 11, 2024, at 2:11 p.m.)

THE COURT: All right. Well, we are back on the record in *State of Indiana versus Richard Allen*, 08C01-2210-MR-1. I show the Defendant's here in person with Mr. Baldwin. Where are the defense counsel?

MR. BALDWIN: They are – they were waiting for Kathy to arrive, the family.

THE COURT: All right. So despite my directive that everybody be within ten minutes of the building, we've been waiting for an hour. I'll show that the State's here by the Prosecutor and his deputies. The jury has returned

verdicts. When do we expect Mr. Rozzi to be returning and Ms. Auger?

MR. BALDWIN: Matt, can you just go down there and get them. They're – I mean, they're just downstairs, so –

THE COURT: All right. The record will reflect that Mr. Rozzi and Ms. Auger have returned to the courtroom. The jury has indicated that it has verdicts. Just as a reminder, counsel, please turn your phones off. And I trust that the bailiff has already indicated to you that phones should be off. Ladies and gentlemen in the audience, I'd ask that you remain respectful to the rest of these proceedings. This has been a long haul for the Defendant and his team, as well as the State and their team, and they don't deserve to have any outbursts in this courtroom. As you can see, there's a lot of uniformed officers in the courtroom, and they have this Court's authority that, if you cannot conduct yourself in an appropriate fashion, you will be asked to leave; and if you refuse to leave, you will be escorted out by the officers. Please don't do that. Please don't do that to Mr. Allen. Please don't do that to Mr. McLeland and the State. I expect you to be quiet. Regardless of whatever the verdict is, people are not going to be happy. You can take your unhappiness outside. Mr. McLeland, is the State ready to receive the verdicts?

MR. MCLELAND: Yes, Your Honor.

THE COURT: Mr. Rozzi, is the Defense ready?

MR. ROZZI: Yes, Your Honor.

THE COURT: Gentlemen.

THE BAILIFF: All rise.

(Jury in at 2:18 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: All right. Juror 30 in seat 11, I've been informed you are the foreman of the jury; is that correct?

JUROR 30: Yes.

THE COURT: And has the jury reached verdicts?

JUROR 30: Yes.

THE COURT: If you would pass the verdict forms to the bailiff, please. All right. The verdicts read: "We, the jury, find the Defendant, Richard M. Allen, guilty of count 1, felony murder, a felony," dated 11/11/24, signed by our foreman. Verdict: "We, the jury, find the Defendant, Richard M. Allen, guilty of count 2, felony murder, a felony," dated 11/11/24, signed by our foreman. Verdict: "We, the jury, find the Defendant, Richard M. Allen, guilty of count 3, murder, a felony," dated 11/11/24, signed by our foreman. And verdict: "We, the jury, find the Defendant, Richard M. Allen, guilty of count 4, murder, a felony," dated 11/11/24, and signed by our foreman. Does either side desire a poll of the jury?

MR. MCLELAND: No, Your Honor.

MR. BALDWIN: Yes, Your Honor.

THE COURT: All right. Juror 39 in seat 1, are these your verdicts, ma'am?

JUROR 39: Yes.

THE COURT: Juror 19 in seat 2, are these your verdicts?

JUROR 19: Yes.

THE COURT: Juror 1 in seat 3, are these your verdicts?

JUROR 1: Yes.

THE COURT: Juror 54 in seat 4, are these your verdicts?

JUROR 54: They are.

THE COURT: Juror 42 in seat 5, are these your verdicts?

JUROR 42: Yes.

THE COURT: Juror 21 in seat 6, are these your verdicts?

JUROR 21: Yes.

THE COURT: Juror 36 in seat 7, are these your verdicts?

JUROR 36: Yes.

THE COURT: Juror 8 in seat 8, are these your verdicts?

JUROR 8: Yes.

THE COURT: Juror 1B in seat 9, are these your verdicts?

JUROR 1B: Yes.

THE COURT: Juror 45 in seat 10, are these your verdicts?

JUROR 45: Yes.

THE COURT: Juror 30 in seat 11, are these your verdicts?

JUROR 30: Yes.

THE COURT: And Juror 16 in seat 12, are these your verdicts?

JUROR 16: Yes.

THE COURT: Is counsel satisfied?

MR. BALDWIN: Yes.

THE COURT: All right. Well, ladies and gentlemen of the jury, on behalf of the Court and the parties, I'd like to thank you very much for your service in this case. I know you've made a tremendous sacrifice for the state of Indiana. I'm very grateful for your service. With that, you are released and discharged. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 2:21 p.m.)

THE COURT: You may be seated. Mr. Allen, consistent with the jury's verdicts, the Court will enter judgment of conviction on counts 1, 2, 3, and 4. I'll refer this matter to the Probation Department. I've been advised by the local probation department that they are unable to complete a pre-sentence investigation report. I've been in communication with the probation department from my home county, Allen County, and have discussed the possibility of a pre-sentence report that the Allen County Probation Department could complete. I don't know how much time we will need for sentencing, I don't know if the Defense intends to present any sentencing memorandum, I don't know how long we'd need for sentencing, so I've obtained – in anticipation of a potential verdict, I obtained dates from the local court to see what would be available. So I just need some guidance from counsel as to how long you think you will need for sentencing, what type of time you're looking at as far as the calendar is concerned.

MR. ROZZI: Judge, can you –

THE COURT: Mr. Rozzi.

MR. ROZZI: Can you give us the dates? I thought you said you had some dates in mind.

THE COURT: She gave me some. She gave me December 12th, December 13th, December 20th, January 2nd, January 3rd, January 17th, and January 20th.

MR. ROZZI: Any of those December dates okay?

THE COURT: And she gave me consecutive dates, 'cause I don't know if you need a day and –

MR. ROZZI: I don't think we're gonna have, you know, volumes of evidence to present. I would say that 12th date may be good, that 12th and 13th, just in case, set those two aside, but I don't expect that we're gonna need two days.

THE COURT: What about the State?

MR. ROZZI: We'd waive 30 days in that regard. I'm sorry.

THE COURT: Okay. Thank you. I was gonna ask you if you'd waive 30.

MR. MCLELAND: Judge, December 12th, we have winter conference starting the Monday, 9th, 10th, and 11th –

THE COURT: Okay.

MR. MCLELAND: -- and I had to skip summer conference, so I gotta go, so I can get my CLEs in –

THE COURT: Okay.

MR. MCLELAND: -- for this year, and so I'd hate to have to come back the very next day to coordinate with family and those kind of things. I think the 12th was one of the dates that you had mentioned.

THE COURT: Yes, and the 13th.

MR. MCLELAND: And so those days aren't great from the State's perspective, Judge, but I want to work with the Court the best we can.

THE COURT: Okay.

MR. MCLELAND: What were the next dates in December?

THE COURT: The next date that she gave me was December 20th.

MR. ROZZI: I'm okay with that.

THE COURT: December 20th?

MR. MCLELAND: That's fine.

THE COURT: All right. So I'll show, Mr. Rozzi, that you've waived the 30 days, we'll schedule sentencing then for December 20th at 9 a.m. I'll have them reserve the entire day, so however long you need, we've got the entire day. If we go into another day, I'm sure we can make those accommodations, as well, although honestly, I'm not sure what day of the week December 20th is.

MR. MCLELAND: It's a Friday, Judge.

THE COURT: It's a Friday. So obviously, you don't want to be here on a Saturday. I'm happy to be here on a Saturday, however, if you need two days.

MR. ROZZI: I mean, it's tough to say, but I doubt that that's gonna be the case.

THE COURT: Maybe just be a long – well, all six of you have been very familiar with very long days –

MR. ROZZI: Yeah.

THE COURT: -- in this case, so – I think there was a day –

MR. ROZZI: I think we'll get it done.

THE COURT: -- we went till 7.

MR. ROZZI: I can't control what the State's gonna do –

THE COURT: Right.

MR. ROZZI: -- in terms of their presentation, do I don't want to just jump to conclusions, but I think we'll be able to get ours in in a half a day or less.

THE COURT: Okay.

MR. MCLELAND: I think that'd be sufficient, Judge.

THE COURT: All right. So December 20th, we can start at nine o'clock. Mr. Rozzi, with your permission, I will have Mr. Zimmerman, my chief probation officer, contact you directly to see what the timeframe would be as far as if you wish to be present during the interview of your client. I don't know how they'll conduct that. I know that that the county jail that he's currently being held in has the ability to do video, but I would assume that my probation officer's gonna want to come and meet with Mr. Allen in person.

MR. ROZZI: Zimmerman?

THE COURT: Yes, sir.

MR. ROZZI: Okay.

THE COURT: Eric Zimmerman.

MR. ROZZI: Okay. Yeah, that's fine. You have my phone number, so –

THE COURT: Yes. And I'll have him –

MR. ROZZI: If he needs to call me, that's okay.

THE COURT: Okay. All right. Is there anything else on behalf of the State of Indiana, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

THE COURT: Anything else on behalf of the Defendant?

MR. ROZZI: No, ma'am.

THE COURT: All right. Ladies and gentlemen, I'd like to thank you for a well – very well-tried case. And those of you in the audience, thank you very kindly for maintaining your composure. Jodie, you may go off the record. And, gentlemen, you may take Mr. Allen.

(THIS CONCLUDES THE PROCEEDINGS AT JURY TRIAL CONDUCTED

OCTOBER 14 THROUGH NOVEMBER 11, 2024, IN THIS CAUSE.)