

1 IN THE CIRCUIT COURT OF THE
2 FOURTH JUDICIAL CIRCUIT, IN
AND FOR DUVAL COUNTY, FLORIDA
3 CASE NO: 16-2015-CF-007825-AXXX-MA
4 DIVISION: CR-E

5

6 STATE OF FLORIDA

7 -vs-

8 MICHAEL RAY HAIM,

9 Defendant.

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12 STATE OF FLORIDA)

13 COUNTY OF DUVAL)

14

15 Hearing before the Honorable Steven B. Whittington,
16 Judge of the Circuit Court, Division CR-E, as cause in
17 this matter came to be heard on the 17th of May, 2019,
18 before Karen Waugerman, a Notary Public in and for the
19 State of Florida at Large and Registered Professional
20 Reporter.

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8 Esquires, Private Attorneys, appearing on behalf of the
9 Defendant.

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1 PROCEEDINGS

2	PROCEEDING	PAGE
3	MOTION FOR NEW TRIAL	5
4	CERTIFICATE OF REPORTER	116

5

6 STATE WITNESSES

7	WITNESS	PAGE
8	AARON FRASER	
9	DIRECT EXAMINATION BY MR. MIZRAHI	84
10	ELIZABETH PEAK	
11	DIRECT EXAMINATION BY MR. MIZRAHI	93
12	MICHELLE JEWETT	
13	DIRECT EXAMINATION BY MR. MIZRAHI	100
14	CHRISTY JOHNS	
15	DIRECT EXAMINATION BY MR. MIZRAHI	106
16	EVEANN HAIM	
17	DIRECT EXAMINATION BY MR. MIZRAHI	110

18

19 DEFENSE WITNESSES

20	WITNESS	PAGE
21	CAROL LYNN HAIM	
22	DIRECT EXAMINATION BY MR. FALLIS	31
23	ANN BRANTLEY	
24	DIRECT EXAMINATION BY MR. FALLIS	36
25	CROSS EXAMINATION BY MR. MIZRAHI	38

1	DEFENSE WITNESSES (CONTINUED)	
2	WITNESS	PAGE
3	JOHN BRYAN	
4	DIRECT EXAMINATION BY MR. FALLIS	43
5	SHERRY MET PHILLIPS BARKLEY	
6	DIRECT EXAMINATION BY MR. FALLIS	54
7	CROSS EXAMINATION BY MR. MIZRAHI	58
8	JEANETTE HAIM SIERS	
9	DIRECT EXAMINATION BY MR. FALLIS	59
10	JOANNE PHILLIPS	
11	DIRECT EXAMINATION BY MR. FALLIS	63
12	ROSEMARY WALKER	
13	DIRECT EXAMINATION BY MR. FALLIS	68
14	CLAUDE RAY GODWIN, JR.	
15	DIRECT EXAMINATION BY MR. FALLIS	72
16	ANN WRIGHT	
17	DIRECT EXAMINATION BY MR. FALLIS	76
18		
19		
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 (May 17, 2019) (9:02 a.m.)

3 (Defendant present.)

4 THE COURT: Good morning, everyone.

5 MR. MIZRAHI: Good morning, Your Honor.

6 THE COURT: We're here on Michael Haim's
7 case for sentencing. Also, there's a motion
8 for new trial.

9 Mr. Fallis, let's start with that.

10 State, are you ready to proceed?

11 MR. MIZRAHI: State is ready, Your
12 Honor.

13 THE COURT: Mr. Fallis, are you ready to
14 proceed?

15 MR. FALLIS: I am, Your Honor. Let
16 me -- we'll address the motion for new trial
17 first.

18 THE COURT: Yes, sir.

19 MR. FALLIS: Your Honor, I have filed
20 motion for A new trial on various grounds.

21 THE first ground is that the Court did
22 not grant A judgment of acquittal at the end
23 of the State's case nor at the end of the
24 defense case. And the argument then and
25 argument now is, Your Honor, that there was

1 absolutely no proof as to the charge of
2 second-degree murder, which required evidence
3 of A depraved mind, ill will, spite. There
4 was no evidence of that, Your Honor, at the
5 trial. So I'm renewing that motion again,
6 preserving it as to that a new trial be
7 granted on those grounds.

8 The Court also, I believe, I submit
9 erred when it denied -- when it curtailed
10 some of the voir dire when we were picking
11 the jury, and I wanted to get into the area
12 of wrongful convictions. And the Court had
13 curtailed me on that.

14 And during trial, the Court also
15 prohibited the recross of the medical
16 examiner and, of course, the admission of the
17 statement that Daddy hurt Mommy, Your Honor,
18 which, of course, was the subject of a
19 pretrial hearing in which we presented and
20 the record is, I'm sure, replete with all the
21 case law at the time and the -- the evidence
22 of -- and the deposition of Miss Medders in
23 which it was determined that, quote,
24 verbatim, the statement that Daddy hurt Mommy
25 was never uttered by the child. It was a

1 conclusion that was reached by the State
2 Attorney and the Court adopted at that time.
3 So that statement was never made. And, of
4 course, that severely prejudiced the outcome
5 of the trial.

6 And then, of course, Your Honor, as I
7 would do -- I am doing today, as I did at
8 that time -- I'm doing at that time is the
9 whole ad hoc procedure in which the Court had
10 bifurcated this trial to submit aggravating
11 factors to the jury in a non-capital case.
12 We'll probably deal with that, Judge, in a
13 later argument when we get to that. But I'll
14 renew that and give more grounds and the law,
15 Your Honor, which I -- I believe applies.

16 THE COURT: Yes, sir. Of course, I had
17 a chance to review that motion for new trial
18 before this morning and listened to your
19 arguments. I'm going to deny that motion.

20 All right. I have a presentence
21 investigation report I received this week. I
22 have read it. Has the State received it?

23 MR. MIZRAHI: Yes, Your Honor.

24 THE COURT: Any objections or exceptions
25 to it?

1 MR. MIZRAHI: No, Your Honor.

2 THE COURT: Mr. Fallis, do you and
3 Mr. Haim have a copy of the presentence --

4 MR. FALLIS: I have, Your Honor. And as
5 far as objections to the biographical stuff,
6 no. But I believe that the guidelines are
7 calculated properly, but, I mean, the
8 recommendation of is of no consequence anyway
9 of what the probation office said. So I
10 don't have any legal grounds.

11 THE COURT: Right.

12 And you mentioned the guidelines. There
13 was some e-mail correspondence this week
14 about a possible objection that you had to
15 the guidelines as calculated. Do you agree
16 that it's 12 to 17 and 7 to 22?

17 MR. FALLIS: Correct.

18 THE COURT: And you agree that --

19 MR. FALLIS: I do agree.

20 THE COURT: Okay.

21 MR. FALLIS: I actually had found a case
22 and I found out and I corrected it. It was
23 overturning.

24 THE COURT: Sure.

25 MR. FALLIS: It wasn't to mislead

1 anybody.

2 THE COURT: No, no. I just want to make
3 sure we're on the record. At least those are
4 the guidelines and both sides agree.

5 MR. MIZRAHI: Correct, Your Honor.

6 MR. FALLIS: Correct.

7 THE COURT: All right. I have no
8 preference as to who goes first if there's
9 witnesses or argument.

10 MR. FALLIS: The State's motion, Your
11 Honor -- and I think they have the burden of
12 going forward.

13 MR. MIZRAHI: I guess the
14 State's preference is to just get some of the
15 housekeeping, like we've already done and
16 make some arguments. And I guess the defense
17 filed -- and I'll just address the reasons
18 why the State feels that the Court should
19 depart from the sentencing guidelines. If
20 the defendant's argument is to be believed,
21 then the guidelines for any case done before
22 the criminal punishment code, so done before
23 October of 1998, presents a hard cap for the
24 Court, and there would be no ability for the
25 Court to ever depart from those guidelines

1 upward. And I do not think that is the state
2 of the law, and I think that the Court has
3 intimated that it believes it's not the state
4 of the law during the course of our trial and
5 our sentencing procedures.

6 The law at the time allowed for the
7 Court to depart on its own. And so the only
8 difference that we've done in this procedure
9 is provide the defendant an extra benefit of
10 having a jury make those findings beyond and
11 to the exclusion of every reasonable doubt.
12 So we have given the defendant more rights
13 than he was entitled to at the time that the
14 guidelines were in place. So the State is
15 confident that the Court has the ability to,
16 based on the jury verdicts, depart from these
17 guidelines upward.

18 The -- I'll take the ones -- the
19 specific aggravating factors and the first
20 one that was addressed in the defendant's
21 memorandum was the fact that the crime was
22 done in Aaron's presence. And the defense
23 actually cited a number of cases that
24 actually proves that the Court can depart.

25 And I was going to cite those, but since

1 the defense already has -- and it's Davis v.
2 State, 517 So. 2d 678, Supreme Court case.
3 It held that the presence of the victim's son
4 in the house and a possible long-lasting
5 effect on the child victim to be a valid
6 reason for departure. And actually, the
7 Courts commented later, and I believe it was
8 Mischler, M-I-S-C-H-L-E-R, 488 So. 2d 1367
9 which is a First DCA case, that the trial
10 court could not find that aggravator because
11 it wasn't proven beyond a reasonable doubt.

12 Actually, in our particular case, it was
13 proven beyond a reasonable doubt and the jury
14 made that finding. So that factor in and of
15 itself would be a reason to depart from the
16 guidelines.

17 The other part -- the point I would want
18 to make is each one of these aggravators
19 relate to the other one. So the Court can
20 rely upon the fact that the jury found the
21 crime was done in the presence of Aaron, and
22 the Court can also find that that created
23 substantial physical and emotional harm to
24 him because the jury made that finding as
25 well.

1 So the Court knows that the presence
2 wasn't just a mere presence but actually
3 resulted in harm to the child. And so I
4 think the combination of those makes it that
5 much more aggravating. I would point out --
6 and we had discussed during the course of the
7 trial -- the tampering with evidence -- and I
8 think the Court correctly indicated that the
9 Court had some reservations about whether the
10 Court could exceed beyond the guidelines more
11 than what the tampering of evidence would be.

12 And I think the Court's correct in that
13 analysis, but I do think it's important that
14 the tampering with evidence was found beyond
15 a reasonable doubt because the tampering with
16 evidence -- and I think the Court heard it in
17 the testimony during the course of the
18 penalty phase -- that the tampering with
19 evidence presented a substantial harm to the
20 family. And the fact -- and so it's almost
21 like connecting the dots or a jigsaw puzzle.
22 The fact that the jury found beyond a
23 reasonable doubt that the defendant tampered
24 with evidence combined with the fact that the
25 jury found that the victim suffered great

1 emotional harm and that, as they testified,
2 was primarily due to the length of time that
3 they did not know where Bonnie was and what
4 happened to Bonnie. And so that -- the fact
5 that they found the tampering with evidence
6 is the distinguishing factor about the
7 emotional harm suffered by the victim's
8 family who lost a loved one in a murder.

9 Because there is -- Mr. Fallis presents
10 case law that deals with the fact that
11 obviously, there's going to be inherent
12 physical and emotional harm in every murder
13 case, and I think the distinguishing factor
14 in this particular case is tampering with
15 evidence. It is the length of time with
16 which the defendant pretended that Bonnie had
17 run away when that was not, in fact, the
18 case, and that family -- the family suffered
19 as a result of that tampering.

20 So that's why I think it's so important
21 that the jury found that beyond a reasonable
22 doubt.

23 I'd also point out that the case law
24 dealing with the tampering, I think, the
25 defense submitted, that had to deal with the

1 fact that the State should charge that crime.
2 And we couldn't because of the statute of
3 limitations because the tampering was so
4 effective. So that's why it's important the
5 jury found it beyond a reasonable doubt.

6 And I think that the Court -- if the
7 Court finds these aggravating factors justify
8 the departure, I would recommend that the
9 Court indicate that each one individually and
10 then collectively provide the reason for
11 departure, and we -- and the State submits
12 that that is true in this case. And
13 individually and collectively, the Court
14 should depart upward from these guidelines.

15 THE COURT: The -- the tampering, what
16 degree of felony would that be?

17 MR. MIZRAHI: It's a third-degree
18 felony, Your Honor.

19 THE COURT: Is it stated third-degree,
20 even when it's attached to --

21 MR. MIZRAHI: Yes. Tampering with a
22 witness is dependent upon the underlying
23 crime. Tampering with evidence is not. It
24 seems to be a --

25 THE COURT: All right. So a

1 third-degree felony under the guidelines
2 would -- is that --

3 MR. MIZRAHI: It would not have any
4 effect.

5 THE COURT: Ten points.

6 MR. MIZRAHI: It would have no effect,
7 Your Honor.

8 THE COURT: So it would still be within
9 that 225 points as a cap of where we are
10 right now.

11 MR. MIZRAHI: Correct. I guess -- I
12 guess in theory, it could be run consecutive,
13 but in terms of the guideline score sheet, it
14 has no effect.

15 THE COURT: Okay.

16 All right, Mr. Fallis.

17 MR. FALLIS: Your Honor, I absolutely
18 disagree with just about everything the State
19 just stated. I think the law that I
20 provided -- I don't know if you had
21 opportunity to read the memorandum and read
22 the law which cited --

23 THE COURT: Yes, sir. I have. I've
24 read both, the memo and the law.

25 MR. FALLIS: All right. So, well,

1 first, let me first say, Judge, this whole
2 process that this Court -- process that you
3 put into effect of having a separate
4 bifurcation, Your Honor, runs afoul of the
5 law in itself, as there is no mechanism for
6 what you did here -- okay? -- the way it was
7 done.

8 And more importantly, Judge, you had
9 said that the beginning of the trial that you
10 would not be considering -- although they
11 said wanted to do departures on certain -- on
12 certain, quote, aggravators, that you
13 wouldn't make that determination until after
14 the verdict. And it was day after the
15 verdict that I was presented with the jury
16 instructions on those aggravators and not
17 before that. And I asked the Court at that
18 time for a week so I can prepare, possibly
19 even have to depose the -- depose the
20 witnesses to make sure that Mr. Haim got
21 adequate representation on that phase. And
22 the Court denied that.

23 So, Your Honor, I believe he was
24 deprived of his right of confrontation and
25 his due process rights obviously and the --

1 the right of effective assistance in that
2 phase, not on the whole trial but just that
3 particular phase. And I think that was
4 error.

5 Let's get to what the State has brought
6 up. Judge, I have a case that's right on
7 point. The burial of the body, they call it
8 tampering with witness. That's what they're
9 talking about is the burial of the body,
10 cannot be considered as an aggravating
11 factor. I gave a case right on point that
12 say that. As a matter of fact, there was a
13 new relation, a burial of a body, and the
14 cases -- you said you read the cases. And I
15 can go over them with you individually. It
16 cannot be, you cannot enhance for an
17 uncharged crime. Just because the statute of
18 limitations ran out is of no meaning. It's
19 still -- under Varner and all the other cases
20 I cited, you cannot. It was subsequent to
21 the crime.

22 So that cannot be grounds for
23 enhancement as a matter of law, Your Honor.

24 THE COURT: I'll tell you now, I've
25 already reached that conclusion. I cannot

1 depart above the guidelines on the tampering
2 because all I could do is score it, and if it
3 increased the guideline range, then I could
4 sentence him to that new guideline range.
5 But everybody agrees it doesn't change.

6 MR. FALLIS: I agree with that, Judge,
7 so I'm not going to argue any longer with the
8 tampering issue. Okay?

9 THE COURT: Right.

10 MR. FALLIS: And the concealment --
11 because that -- the law is clear on that.
12 I'm not sure what the State is asking you to
13 do with that but you cannot enhance on that.

14 Now, as far as the crime being committed
15 in the presence of the child, that could,
16 Your Honor, if it were proven beyond and to
17 the exclusion of all reasonable doubt.
18 However, a jury could not have made the
19 finding on the evidence that was presented at
20 trial because the only thing you had was,
21 quote, a statement, Daddy hurt Mommy. And
22 remember, on cross examination of
23 Miss Medders, could not say when Daddy hurt
24 Mommy, how Daddy hurt Mommy. It wasn't --
25 you had admitted that as identification, if I

1 remember correctly. Okay? However, there
2 was no evidence at trial as to what the child
3 witnessed, actually, actually witnessed it,
4 just Daddy hurt Mommy itself, Judge. There
5 was nothing more than that. So the jury
6 could never reach -- and it has to be beyond
7 a reasonable doubt that, quote, the child
8 actually witnessed.

9 And it was really more speculation as
10 I -- as on the Davis case, which I think
11 applies here because that -- that has not
12 been proven beyond a reasonable doubt. You
13 heard no testimony and we know for sure that
14 the child -- that there was no testimony from
15 Aaron -- okay? -- at trial because he has
16 absolutely no memory of the incident.

17 So there is no way a jury could have
18 made that finding that Daddy hurt Mommy and
19 he was present, other than that one
20 statement, Your Honor, which was admitted for
21 purpose of identification. But it was never
22 ever amplified as it could have been or
23 should have been if it were to be used by
24 Miss Medders, who could not even say that
25 that was the exact statement that was made.

1 And you didn't hear and the jury didn't hear
2 from -- from Aaron about him witnessing.

3 And as far as the long term trauma,
4 Judge, I also gave case law that is both the
5 family and for Aaron. That is not a reason
6 for the Court to consider a departure above
7 the guidelines. You can consider it within
8 the guidelines, Your Honor, as you just said,
9 but not going beyond the guidelines, as
10 they're asking for sentence of, quote, life.

11 So as a matter of law, Judge, you can't
12 apply it as to the facts of this case and to
13 what -- what you heard and the jury heard at
14 trial. There may very well have been
15 long-term trauma, Judge, but that did not
16 come into evidence at the trial. And that's
17 what this Court and the jury would be
18 confined, to finding that -- this long-term
19 and it has to be excessive. And it has to
20 actually manifest in the physical as well,
21 not just trauma. Every -- as the Court -- as
22 the Supreme Court has said many times, that's
23 inherent in all -- in all murders.

24 And as far as to the victim, there is
25 absolutely no evidence as to how this victim

1 died, how Bonnie Haim died, and neither of
2 the experts could tell you that. It was
3 indeterminate. As a matter of fact, even in
4 the charging document, Your Honor, which I
5 had asked to be dismissed for the purpose of
6 not giving those facts that we could defend,
7 it's also mentioned in there. So we have no
8 evidence as to how the victim died. Neither
9 the ME nor Miss Haney could tell you what the
10 cause of death was or the manner in which it
11 was caused. So you can't say it caused
12 trauma if you don't know how it occurred. So
13 the jury could never make that finding.
14 Neither can the Court.

15 So, Your Honor, I don't think those are
16 grounds either for departure. So what I'm
17 telling the Court -- and I rely on my
18 memorandum as well -- is that there are no
19 grounds of those findings -- for the findings
20 of the jury, and they do not comport with the
21 law at the time. And that's what we're
22 dealing with 'cause remember, we said we were
23 going to a time capsule and that's where we
24 are. That's where you see most of the cases
25 I submitted were '87, '88, '89 cases 'cause

1 that was the existing law. A lot of it still
2 is the law -- okay? -- today.

3 So there are no grounds, Your Honor, for
4 departure. I mean, as far as the victim's
5 family is concerned, there's cases right on
6 point. That's inherent in every case.
7 There's one case where they didn't know where
8 the body was for seven months of
9 disappearance. Well, this, of course, was a
10 lot longer than that, but that is also on
11 point, saying that's not a ground for
12 departure.

13 Your Honor, of course, it's a tragedy.
14 It's emotional on the part of the victim's
15 family, Aaron, of course. But those are not
16 legal grounds for you to depart from the
17 guidelines. You can consider contemplating a
18 sentence within the guidelines but not a
19 reason to depart as a matter of law.

20 And I believe I would rely on the cases
21 which the Court said the Court has read, and
22 if the Court has any questions as to whether
23 or not those cases are good law, ask me. But
24 I know that they are good law. And --

25 THE COURT: I do have this question to

1 both of y'all. In your memo, you said the
2 1987 guidelines. I may be wrong in this, but
3 I thought there was sentencing guidelines
4 initiated in 1983, and they were
5 substantially redone in 1994. And --

6 (Simultaneous speakers.)

7 THE COURT: -- the code in '98.

8 So I'm operating that it's the 1983
9 guidelines that apply to this case. There
10 maybe some tweaks to it before we get to
11 1993. But is that -- is that your position?

12 MR. MIZRAHI: Yes.

13 THE COURT: The '83 guidelines.

14 MR. MIZRAHI: Yes.

15 MR. FALLIS: Well, '83 and '87 were both
16 the same, Judge.

17 THE COURT: Okay. I just want to make
18 sure I'm clear.

19 MR. MIZRAHI: I agree.

20 THE COURT: Okay.

21 All right. Anything else on this issue?

22 MR. MIZRAHI: I wanted to make two
23 points, Your Honor.

24 One was specific rebuttal. Mr. -- and I
25 don't know if it matters. Mr. Fallis

1 indicated that he did not receive the jury
2 instructions for the penalty phase until
3 right before the penalty phase. That's not
4 true. He was provided that at the same time
5 he was provided the jury instructions in the
6 guilt phase, which was April 3rd, the
7 Wednesday before the trial, at 9:00. I
8 e-mailed both him and Miss Warren those
9 instructions.

10 So I just wanted to -- I think he
11 probably just misspoke and didn't mean to say
12 that. But he did receive those instructions
13 well before the trial.

14 MR. FALLIS: Judge --

15 THE COURT: Let him finish the second
16 point. Then I'll hear from you, Mr. Fallis.

17 MR. MIZRAHI: The other point, Your
18 Honor, for whatever it's worth, I'm -- I'm
19 also advocating that I do not understand how
20 Ring, Apprendi and Blakely and all those
21 cases affect a case like this where the
22 statutory maximum was life. It makes sense
23 to me if you're exceeding the statutory
24 maximum for some reason or even creating some
25 minimum mandatory based on facts. But since

1 the statutory maximum in this case was life,
2 punishable by life and the statutes at the
3 time allowed and contemplated that a Court
4 could depart, I submit that we don't even
5 need jury findings for the Court to depart.
6 I just wanted that on the record for whatever
7 it's worth.

8 I'll now defer to Mr. Fallis.

9 MR. FALLIS: Your Honor, just because
10 they provide for life, the case law is pretty
11 clear, you cannot exceed the guidelines
12 unless you make certain findings. Okay?
13 And --

14 THE COURT: I cannot make those findings
15 now. Would you agree?

16 MR. FALLIS: I'm sorry?

17 THE COURT: I could not make those
18 findings myself today.

19 MR. FALLIS: Which findings, sir?

20 THE COURT: Any finding that would be
21 necessary to depart from the guidelines, I
22 could not make those, upward departure, that
23 is.

24 MR. FALLIS: Well, I --

25 THE COURT: 'Cause if I did, would I not

1 run afoul of Apprendi and Blakely?

2 MR. FALLIS: Well, see this is an
3 interesting point, judge. All the cases --
4 and I even have them with me -- okay? -- post
5 Apprendi -- okay? -- that had to do with
6 cases that -- before Apprendi, they all went
7 back up. And the courts found that there was
8 harmless error, and the Apprendi did not
9 apply retroactively. That's -- that's --
10 with all the case law that I saw, Apprendi
11 did not apply retroactively. And that's the
12 one of the dilemmas we're facing right now.
13 And I understand where the Court's coming
14 from as well. Okay? I mean, I would argue
15 that Apprendi doesn't apply, and yet the
16 Supreme Court nor the legislature, Your
17 Honor, has dealt with this dilemma at this
18 point. What this Court did on its own, I
19 guess, was trying to remedy that in some way,
20 but it is a remedy that hasn't been accepted
21 by either the legislature or the Supreme
22 Court. So that's why I -- I objected to the
23 procedure that was used. And --

24 THE COURT: Let me tell you what I was
25 trying to do. And I think I've been clear on

1 this. I was -- the purpose of the hearing
2 was to give Mr. Haim the benefit of those
3 decisions.

4 MR. FALLIS: Well, I understand that but
5 I'm not sure --

6 THE COURT: We were to try -- we were to
7 try this case and decide this case on law
8 that existed back in 1993 with that
9 exception. That's an exception that, in
10 yours and my opinion, to Mr. Haim's benefit.
11 Instead of me making the decisions -- which I
12 still think the case law says, it has to be
13 beyond a reasonable doubt. And it's pretty
14 strong language that a judge has to have in
15 his mind or her mind. I'm one person. He
16 had to convince six people. So that's a
17 harder task, it would seem to me, for the
18 State to meet. And I still have to agree.

19 I mean, I could essentially grant a JOA,
20 which frankly, I probably would have done on
21 the heinous, atrocious and cruel. I don't
22 have to worry about that now. It's been
23 decided for me by the jury. But I don't -- I
24 wasn't sure that was there. And, of course,
25 the jury agreed and didn't find it.

1 So I still have that authority and
2 discretion to say despite the jury's verdict,
3 just like I could in a guilty verdict -- it
4 would be rare in a guilty verdict case but it
5 could happen. It could happen here.

6 MR. FALLIS: Well, Your Honor --

7 THE COURT: Which is why I'm listening
8 carefully to your arguments about these
9 things because it's still something I think I
10 have to -- I have to find.

11 MR. FALLIS: You have to make a
12 determination, Judge. You could override
13 that --

14 THE COURT: That's true.

15 MR. FALLIS: -- the finding of the jury
16 and offer the reasons I think I've given you.

17 THE COURT: Not only that, not only can
18 I do that, I can find that the facts were
19 proven beyond a reasonable doubt but not find
20 them reasonable or justifiable to grant a
21 departure.

22 MR. FALLIS: Well, you probably could,
23 Judge. That's your discretion. However, I
24 agree that you cannot go over the guidelines.
25 You make beyond a reasonable doubt -- those

1 findings beyond a reasonable doubt and that
2 the aggravators were so extraordinary that
3 they counter the law which I've submitted to
4 you, what -- what you can't do. Okay?
5 You're not -- you're not permitted to exceed
6 the guidelines on a whim. You know that,
7 Judge.

8 THE COURT: Sure.

9 MR. FALLIS: And that's basically what
10 the State is asking you to do from an
11 emotional point of view as opposed to a
12 factual point of view. And that is something
13 this Court or any Court should not be able to
14 do.

15 But this one thing about Apprendi,
16 Judge, is still an open question, and the
17 remedy that both of you, you and the State,
18 think benefit my client did not benefit my
19 client because there is -- I mean, you can't
20 argue law to the jury -- all right? -- which
21 would apply and tell them to make a
22 determination on that law because it would be
23 different jury instructions and -- which
24 would cite the law that I've given you, that
25 you can't depart for this reason or that

1 reason for the tampering and that sort of
2 thing.

3 So that's why I suggest, Your Honor,
4 that jury finding was a nullity in this
5 respect, and the Court will have to make a
6 determination. And I ask the Court to make
7 the determination and to sentence my client
8 within the guidelines.

9 THE COURT: Anything else on this issue?

10 MR. MIZRAHI: No, Your Honor.

11 THE COURT: All right. Mr. Fallis, do
12 you have any witnesses you'd like to call?

13 MR. FALLIS: Well, I do judge but I
14 think it's still the states burden to go --
15 we have character witnesses that we want to
16 call, but I think the State has -- would go
17 forward on theirs as well.

18 THE COURT: Well --

19 MR. FALLIS: They -- they have witnesses
20 they want to bring in for impact.

21 THE COURT: I don't care who goes first.
22 I was looking to you because usually I call
23 on defense first. I give you first and last
24 word.

25 MR. FALLIS: Then I -- then I can go

1 ahead and call my witnesses.

2 THE COURT: I mean, what we're doing now
3 is a sentencing hearing, like we would
4 normally do.

5 MR. FALLIS: Correct.

6 THE COURT: Because whether I depart or
7 not, I still have to make a decision, and
8 I've got -- there's a range of options in
9 terms of the guidelines.

10 MR. FALLIS: True.

11 THE COURT: And all that needs to be
12 addressed, and I think you're free to call
13 witnesses to -- to assist in that decision.

14 MR. FALLIS: Very well, Judge. Your
15 Honor, I would first call Carol Lynn Haim.

16 (Witness sworn by the clerk.)

17 MR. FALLIS: Miss Haim has a hearing
18 issue.

19 THE COURT: I remember.

20 CAROL LYNN HAIM,
21 having been produced and first duly sworn as a witness
22 on behalf of the Defendant, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. FALLIS:

25 Q Miss Haim, can you hear me all right?

1 A Yes, I can.

2 Q Okay. You'll have to speak up a little bit
3 yourself so we can all hear you. Okay?

4 A Okay.

5 Q You okay? Ready?

6 All right. Miss Haim, please state your name
7 for the court reporter.

8 A Carol Lynn Haim.

9 Q Miss Haim, your relationship to Michael Haim?

10 A He is my son.

11 Q Miss Haim, the Court has to make a
12 determination today what a proper sentence would be
13 for -- for Michael, and I would ask you to tell the
14 Court exactly the type of son that you have.

15 A My son grew up in a Christian home, very
16 loving home. We had a large, large family, my mother's
17 side and my dad's side. And I have an uncle, which is
18 Michael's great uncle, was an ordained Baptist
19 minister. So we were instilled Christian values all of
20 our life.

21 So Michael has always been a well-mannered,
22 good child growing up. We never had any problems with
23 him whatsoever.

24 Q Did Michael ever -- you mentioned about
25 having a large family. Tell me what Michael's

1 relationship was with the family.

2 A We would get together every weekend either at
3 my grandparents' on my dad's side or my grandparents'
4 on my mother's side. And we just always would get
5 together, had good relationships. Everyone was loving.
6 Michael got along well with everyone, and we were just
7 a close-knit family.

8 Q Okay. And my understanding is that you have
9 a special needs child.

10 A I do. My daughter Stephanie was born with
11 Down Syndrome. And each -- I have three children and
12 they're all six years apart. And so she is my second
13 daughter. And Michael, from the very beginning, was
14 real protective of her. He loves her and, I mean, he
15 would do anything for her. He's always been that way.

16 Q Well, did he, in fact, help raise her?

17 A Of course. Of course. And being six years
18 older, he was in first grade when she was born. So at
19 that age, he -- he took -- you know, kind of guided
20 her, in other words. And -- but they've always had a
21 close, close relationship. She refers to him as my
22 brother, my brother.

23 Q Okay. Now, the elderly relatives that you
24 have, what was Michael's relationship with them?

25 A He's got a great uncle that he has stayed

1 with a lot and they're very, very close. He's more
2 like a, you know, grandfather figure to him. And
3 Michael has helped renovate his apartment, and he looks
4 up to him, you know, just a special relationship. And
5 he thinks the same way about Michael.

6 Q Okay. And does he also care for him as well
7 and his family?

8 A Yes.

9 Q Now, did Michael, as a child -- I'm sure
10 every child goes through stages -- ever exhibit any
11 type of violence in your presence or to your knowledge?

12 A None, none whatsoever. Michael, at a young
13 age, was in sports, starting at the age of eight. He
14 played baseball and he played Pop Warner football and
15 also basketball. I mean, he was in one sport, and when
16 it ended, he'd start the other sport. So we were just
17 real active all the growing up years.

18 And he -- he excelled in the sports. In Pop
19 Warner football, he held the record of the most
20 touchdowns during that time and -- I don't know -- for
21 years and years, I suppose. But he loved sports and he
22 enjoyed it and we were just real active.

23 Q Well, was he a good sport? I don't mean a
24 good athlete but a good sport.

25 A He -- he was a good sport, very good.

1 Q Accepted losses?

2 A Pardon?

3 Q Did he accept losses?

4 A Oh, of course. Of course.

5 Q And some of those things -- like, football's
6 a contact sport.

7 A Right.

8 Q Did you ever see him --

9 A No.

10 Q -- get out of control or anything in that?

11 A No. He took it in stride. Win or lose, that
12 was the game. He got along well with all his
13 teammates, coaches. In fact, my husband coached Little
14 League and Pop Warner also. He was a coach. So we
15 just grew up in sports.

16 MR. FALLIS: I have no further
17 questions, Judge?

18 THE COURT: Any cross?

19 MR. HEAVENER: No, Your Honor.

20 THE COURT: All right. Miss Haim, you
21 can return to your seat.

22 (Witness excused.)

23 THE COURT: You may call your next
24 witness.

25 MR. FALLIS: Your Honor, I would call

1 Ann Brantley.

2 (Witness sworn by the clerk.)

3 ANN BRANTLEY,

4 having been produced and first duly sworn as a witness
5 on behalf of the Defendant, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. FALLIS:

8 Q Good morning, Miss Brantley. Miss Brantley,
9 would you please state your name and spell your last
10 name for the court reporter.

11 A Ann Brantley, B-R-A-N-T-L-E-Y.

12 Q Miss Brantley, do you know Michael Haim?

13 A Yes, I do.

14 Q And how is it that you know Michael Haim?

15 A My husband and I retired to the mountains of
16 North Carolina in August 2013 and became neighbors and
17 subsequent good friends.

18 Q Okay. Now, how long would you say you've
19 known Michael?

20 A Five and a half years.

21 Q Now, you traveled down from North Carolina?

22 A Yes, I did.

23 Q To speak on his behalf?

24 A Yes, I did.

25 Q Now, tell me in what capacity you know him.

1 You say as a neighbor?

2 A Neighbor and then we became great friends.

3 Q Okay. And you say you -- you live in a
4 neighborhood. Have you seen Michael do things in the
5 neighborhood and that sort of thing that you thought
6 were very commendable?

7 A Absolutely.

8 Q Well, tell the judge.

9 A You know, it's hard to think about all the
10 things without -- it's just -- his whole manner is just
11 a giving, loving, kind, generous manner.

12 Whenever he would cut the grass for the
13 homeowners association, he would always call us and ask
14 us to open our gate. We have a vacant lot as part of
15 our property. And he would always go up and cut the
16 lot for us. He would never take any compensation for
17 that at all.

18 I needed some help with a volunteer project
19 that I was involved in, collecting furniture for homes
20 for homeless children. And I called Michael to see if
21 he was avail. And he gave up his entire Saturday to
22 help me load up this furniture and take it wherever it
23 needed to be, not something that I'm sure he planned to
24 do that day.

25 Anytime my husband has a project, it seems to

1 always -- the news of that gets back to Michael, and he
2 is on the phone immediately with us to see what he can
3 do to help us.

4 I've witnessed him many times with his wife
5 in social situations with Stephanie and my heart
6 always --

7 Q Stephanie meaning?

8 A Stephanie being Michael's special needs
9 sister. It is such a tender, sweet, loving
10 relationship. It's just magical. It makes my heart
11 melt. And you can't -- you can't fake that kind of
12 love and kindness.

13 Q Have you ever, ever seen Michael display any
14 kind of temper or violence of any nature?

15 A Never. Never.

16 MR. FALLIS: Thank you no further
17 questions.

18 THE COURT: Any questions?

19 MR. MIZRAHI: Yes, Your Honor.

20 CROSS EXAMINATION

21 BY MR. MIZRAHI:

22 Q Miss Brantley.

23 A Yes.

24 Q Did Mr. Haim ever tell you what happened to
25 Bonnie?

1 A Yes.

2 Q Please tell us.

3 A In January -- December 14 or January 15 --
4 I'm not sure -- Michael and Ann came to us and told us
5 the story, their -- their story.

6 Q I want to hear what Michael told you, what
7 the story was. Not what Ann said. What Michael said.

8 A Oh, gosh. I honestly cannot recall exact
9 details.

10 Q Well --

11 A But that he had been -- that his wife had
12 disappeared at that time, 23 years ago or 22 years ago
13 and that he was suspected of killing her. I'm sure
14 there were other details. I do not recall them.

15 Q Okay. Did he indicate that she was still
16 missing?

17 A I -- yes. I -- I don't recall any other
18 statement about that she was deceased. I think the
19 assumption maybe was, but -- or that may have been my
20 assumption.

21 Q Did he ever mention anything to you about
22 life insurance policies or anything like that?

23 A Oh, no, no.

24 Q Did he mention anything to you about Aaron?

25 A Yes.

1 Q Tell us about that.

2 A That he lost his son whom he loved very much.

3 Q Did he tell you any other details of how or
4 anything like that?

5 A No, not at that time.

6 Q Did he tell you that Aaron had accused him of
7 hurting his mother?

8 A Not at that time.

9 Q Did he tell you subsequently?

10 A We had many, many conversations subsequently.

11 Q Okay. And at any time, did the defendant
12 tell you that his son had accused him of hurting his
13 mother?

14 A I heard the story of the interview with
15 Aaron, the long interview that afternoon and that --
16 that he had indicated that Daddy had hurt Mommy.

17 Q Did you do any independent research, after
18 hearing this from Michael Haim, on your own, just to
19 see --

20 A I did. Of course. I went right online and
21 started reading whatever I could read.

22 Q Did you ever go back and confront the
23 defendant, Mr. Haim, about what you found online?

24 A I would never confront Michael. As I said,
25 we had many conversations. My immediate response to

1 the news was absolute shock, dismay and disbelief. And
2 I hold those feelings to this day.

3 Q The -- is there anything else that you can
4 think of in terms of the details that Mr. Haim shared
5 with you about the -- his claim that his wife had
6 disappeared? Anything else you can think of?

7 MR. FALLIS: Your Honor, I'd object from
8 this point on. Goes way beyond the scope of
9 direct and absolutely has no relevance of
10 what we're here for today.

11 THE COURT: I'll overrule the objection.

12 BY MR. MIZRAHI:

13 Q Go ahead.

14 A Would you ask the question again, please?

15 Q Yes, ma'am. Are there any other details you
16 can think of that Mr. Haim shared with you about the
17 disappearance of his wife?

18 A No, not specifics. You know, again, I've had
19 many, many conversations with both Michael and his
20 wife, Ann. And I can't tell you which -- which
21 information I received from which person.

22 Q Well, did you hear that the defendant and
23 Bonnie had gotten into a fight right before her
24 disappearance?

25 A Not until much later.

1 Q Okay. Did you hear that from them? Or did
2 you hear that from other sources?

3 A I cannot answer that question. I have no
4 recollection.

5 Q All right. Did -- were you aware of any of
6 the evidence that pointed to Michael, things like shoe
7 prints, things like that?

8 A Not at that time.

9 Q Okay.

10 MR. MIZRAHI: That's all the questions I
11 have.

12 THE COURT: Any redirect?

13 MR. FALLIS: No, Your Honor.

14 THE COURT: All right. Miss Brantley,
15 you can return to your seat.

16 (Witness excused.)

17 THE COURT: You may call your next
18 witness.

19 MR. FALLIS: Your Honor, we'll call John
20 Bryan.

21 THE COURT: What was the last name?

22 MR. FALLIS: John Bryan.

23 (Witness sworn by the clerk.)

24 JOHN BRYAN,
25 having been produced and first duly sworn as a witness

1 on behalf of the Defendant, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. FALLIS:

4 Q Good morning, Mr. Bryan.

5 A Good morning.

6 Q Mr. Bryan, please state your name and spell
7 your last name for the court reporter.

8 A It's John Bryan, B-R-Y-A-N.

9 Q Mr. Bryan, how are you employed?

10 A I'm retired.

11 Q Okay. Retired from what, sir?

12 A I was a board-certified civil trial lawyer at
13 the time I retired about six years ago.

14 Q Okay.

15 A I'm still licensed but I'm not certified.

16 Q Okay. Let me ask you, Mr. Bryan, you know
17 Michael Haim, do you not?

18 A I do.

19 Q And how long have you known Michael Haim?

20 A I met Michael either in 2009 or '10. My wife
21 and I built a retirement home in the neighborhood that
22 he lives in.

23 And the first time I can recall being aware
24 of him, our daughter who was, like, mid 20s, and a
25 bunch of her friends wanted to go up to our house to

1 see snow. And they were stupid because they are
2 Florida kids. And they took a Jeep that they thought
3 would get them through anything. But it was a
4 two-wheel-drive Jeep. So they were trying to go up the
5 road. And there was ice on it in the middle of the
6 night. The car was sliding down the road. And this
7 guy that I wasn't aware of saw them in the middle of
8 the night and came down and helped them and that was
9 Michael. And that's how I got to know Michael.

10 Q Did your relationship grow after that?

11 A Yes.

12 Q Tell us how -- how it grew.

13 A Well, for -- from 2009 until 2013, I was
14 still working full-time, and we'd go up to the
15 mountains, you know, for vacations. And I was paying
16 Michael to cut the grass and stuff like that. Then we
17 moved up there permanently -- well, not permanently but
18 half the year. I think it was in 2013. And Michael,
19 you know, he'd do odd jobs for us, but then he started
20 helping me and refusing to let me pay him to do these
21 jobs.

22 So we ended up -- you know, it's kind of like
23 a barter system. One time a couple summers ago, he
24 helped me put a tongue-and-groove ceiling on the porch.
25 And then last summer, one of the widows in the

1 neighborhood had an erosion problem. So she asked
2 Michael to go get -- I think it was a couple tons of
3 rock and put it on the bank by the road to help the
4 erosion. And I helped him, you know, because it was
5 too big of a job for one person.

6 But, you know, stuff like that, helping other
7 neighbors.

8 Q Do you think that's characteristic of
9 Michael, this helping, as you would -- helping his
10 neighbors and that -- and that kind of thing?

11 A Yes. We have two widows up there, and we
12 had, until recently, one disabled guy that had a stroke
13 and just physically couldn't do stuff. And Michael
14 helps them do all sorts of stuff. You know, sometimes
15 they pay him; sometimes they don't.

16 Like, one of the things I remember is one of
17 the widows that lives up higher is from Chicago, and
18 she's not a real practical person. She had a light
19 bulb in the basement and was trying to figure out how
20 to change it. She had one of those ladders, like, a
21 Little Giant or something, that you could arrange and
22 have part of it on steps, part of it on the basement
23 floor. And she was going to kill herself.

24 And she called -- you know, 'cause it was not
25 stable, she called Michael. And I went up there with

1 him, and, you know, we fixed it for her and took care
2 of her.

3 But he was constantly doing that.

4 Q Was he pretty much, in the neighborhood, the
5 go-to guy if you needed anything?

6 A Yes.

7 Q Okay.

8 A Well, for more than those three people but
9 for all of us.

10 Q Okay. Had you, in the time that you've known
11 Michael, ever seen him interact with other people in
12 maybe some stressful type of conditions?

13 A Yes.

14 Q Tell the Court about that.

15 A Well, three -- three instances come to mind.

16 One of them was instance where a woman down
17 the mountain from us had a boyfriend that was kind of
18 rough character, and he wanted to -- he wanted to get
19 into an altercation with Michael because of the way
20 Michael had cut the grass or something really stupid.
21 But he didn't like the way Michael had cut the grass
22 for the association on the edge of their property. So
23 he basically challenged Michael to a fistfight and
24 Michael just walked away.

25 And we had another one where a guy further

1 down below got ticked off at Michael because some grass
2 got blown on the road. He was mowing down. You know,
3 there same situation except it was an older guy. And
4 he challenges Michael and Michael walks away.

5 But the one that made a big impression on me
6 was when Michael got arrested, we had a neighbor who
7 had recently lost his wife or she was just about to
8 die. And the neighbor tried to hit on Michael's wife
9 and he's a much older guy. He's, like, 20, 30 years
10 older than her. And she told -- I understand. She
11 told me this. Michael told me this. She let Michael
12 know about it, and I would have been pretty upset if
13 somebody had done that. And Michael just kind of blew
14 it off and said, you know, he's just an old guy. I'm
15 not going to try to do anything.

16 So, yeah, you know, those types of
17 situations.

18 Q Okay. So would you say that it's your
19 impression of Michael that he's a nonviolent person?

20 A Very nonviolent. If somebody cuts him off in
21 traffic, guys him the finger or something -- I've been
22 in the car with him many times -- he might yell at
23 them. But, you know, I've never seen any indication of
24 him exhibiting any violence.

25 Q Nothing ever elevated to the -- a physical

1 confrontation.

2 A Oh, no.

3 Q You say that would be out of Michael's
4 character.

5 A Yes.

6 MR. FALLIS: Your Honor, I have no
7 further questions.

8 THE COURT: Any cross?

9 MR. HEAVENER: Yes, Your Honor.

10 CROSS EXAMINATION

11 BY MR. HEAVENER:

12 Q Mr. Bryan, I'm Mac Heavener on behalf of the
13 State Attorney's Office.

14 You provided a character letter for Mr. Haim?

15 A I did.

16 Q And you provided that on your firm
17 stationery?

18 A I did.

19 Q Did your firm know that you were doing that?

20 A It's none of their business. I'm not counsel
21 with that firm, which means I'm an independent
22 contractor, and I'm still a named partner in the firm.

23 Q Why -- why did you feel obliged to write your
24 letter on your firm stationery?

25 A Why shouldn't I? I don't understand the

1 question.

2 Q Well, why did you feel obliged to write your
3 letter on your firm's stationery?

4 A Because I'm a licensed lawyer with the
5 Florida Bar, and I was writing a letter as a character
6 reference for Michael.

7 Q And your firm did not know you were doing so.

8 A I may have told some of the guys, but I don't
9 need permission to do that.

10 Q Who -- who would you have told in your firm?

11 A Probably Rick Barra or John Jorgensen.

12 Q Okay. You -- you told us a little bit about
13 Mr. Haim engaging in a lot of barter work in your
14 community.

15 A Yes.

16 Q And do you provide income tax forms for this
17 barter work?

18 A No.

19 Q Do you have any understanding about why
20 Mr. Haim would not have a North Carolina driver's
21 license, though he's lived there for ten years?

22 A No.

23 Q Do you know if North Carolina -- is there an
24 income tax in North Carolina?

25 A Actually, yes. One of our recent retired

1 friends up there was a retired judge from Palm Beach
2 County, and we've had discussions about that and, you
3 know, how it works and stuff like that. So, yes, I'm
4 aware there is.

5 Q Okay. Do you know if there's income tax in
6 Tennessee, where Mr. Haim keeps his driver's license?

7 A I don't know.

8 Q You don't.

9 A No.

10 Q All right. You -- you indicated that there
11 were three incidents, I believe, that you -- you are
12 giving the opinion that Mr. Haim is not a violent
13 person.

14 A Correct. There's been more than three but I
15 gave those.

16 Q Okay. The first one was the -- a neighbor's
17 boyfriend wanted to get into a fistfight with him about
18 the way he cut grass?

19 A Yes.

20 Q The second -- and did you witness that?

21 A I didn't witness it but my wife had had a
22 run-in with the guy. He's just a rough guy. My wife
23 had been walking up the mountain, and she had an
24 altercation with him. So I was aware of the guy, you
25 know, and seen him going by.

1 I did speak with Michael about that when it
2 occurred, you know, his altercation -- not altercation
3 but the guy yelled at him. We talked about letting it
4 drop, and that's the best thing to do and he was fine.

5 Q So your understanding of that incident comes
6 from the defendant, Michael Haim.

7 A Yes. But I also know the other guy.

8 Q Okay. So you know his reputation as well.

9 A Yes.

10 Q But you did not witness it.

11 A No.

12 Q Okay. And then you said that there was an
13 older guy who challenged Michael, and I didn't quite
14 understand why he challenged him.

15 A I can't give you a good visual, but when
16 you're going up into our neighborhood, it's kind of a
17 steep road. And there's farmer that lives kind of the
18 at the bottom of the road who's has a little bit
19 irascible. And some grass got blown onto the guy's
20 yard, and the guy yelled at us once when we were going
21 by. And said, what's that about? And Michael said,
22 he's mad at me 'cause I got the grass on the road in
23 front of him.

24 So I didn't actually witness that but, again,
25 I knew the guy.

1 Q So that was --

2 A And I talked to Michael about it.

3 Q So that was the second incident that you
4 heard from the defendant, Michael Haim, that you didn't
5 personally witness.

6 A Correct.

7 Q Okay. And then you -- you recounted that
8 when Mr. Haim was arrested, I believe you -- you
9 learned about this neighbor who tried to, I think,
10 using your words, hit on his wife?

11 A Yes.

12 Q And you did not witness that either.

13 A No. But I've witnessed the guy doing other
14 stuff like that.

15 Q Okay.

16 A But you're correct. I mean, I've heard that
17 from Michael and from his wife, Ann, and their daughter
18 Jamie.

19 Q So you -- you would -- like, if you had been
20 there personally, you would call that direct evidence;
21 you would have seen it, heard it yourself?

22 A Yes.

23 Q But you're relaying all these incidents based
24 on things that you've heard from other people, correct?

25 A Right. Same kind of evidence that went into

1 this trial.

2 Q Well, that was what I was going to ask you
3 about. You -- you indicated in your letter -- first of
4 all you, indicated that you did not believe Mr. Haim
5 received the kind of trial that the Sixth Amendment
6 envisioned him to receive.

7 A That's correct.

8 Q Okay. Second, you said that -- and I'll
9 quote your letter -- the conviction was based totally
10 on circumstantial evidence.

11 A Correct.

12 Q And -- and if a husband killed a wife in the
13 confines of their own home, what other kind of evidence
14 do you think a murder conviction would be based on?

15 A Oh, gosh. You could have eyewitness. I
16 mean, I did not practice criminal law, so, you know,
17 I'm probably not as qualified as a criminal lawyer to
18 do that. But as an attorney, evidence of that kind of
19 stuff could be an eyewitness. It could be admission.
20 It could be gunpowder residue on the person's hands, I
21 mean, it could be all sorts of forensic evidence.

22 Q Okay. You said an eyewitness, correct?

23 A Correct.

24 Q Gunpowder residue?

25 A Correct.

1 Q That would be circumstantial evidence, right?

2 A If it's on the guys hands, I think that's
3 direct evidence that he's fired a weapon.

4 Q Okay.

5 MR. HEAVENER: All right. No further
6 questions, Your Honor.

7 THE COURT: Any redirect?

8 MR. FALLIS: No, Your Honor.

9 THE COURT: All right, Mr. Bryan. Thank
10 you, sir.

11 (Witness excused.)

12 THE COURT: You may call your next
13 witness.

14 MR. FALLIS: I will call Sherry Barkley,
15 please.

16 (Witness sworn by the clerk.)

17 SHERRY MET PHILLIPS BARKLEY,
18 having been produced and first duly sworn as a witness
19 on behalf of the Defendant, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. FALLIS:

22 Q Good morning, Miss Barkley.

23 A Good morning.

24 Q Please state your name and spell your last
25 name for the court reporter.

1 A Sherry Met Phillips Barkley, B-A-R-K-L-E-Y.

2 Q Miss Barkley, where do you live?

3 A I currently reside in North Carolina, Coastal
4 North Carolina.

5 Q I'm sorry?

6 A I live in Coastal North Carolina.

7 Q Okay. And how long have you lived there?

8 A Approximately 32 years.

9 Q Are you employed?

10 A Yes, I am.

11 Q And what --

12 A I work for the State of North Carolina for a
13 community college as a teacher.

14 Q Okay. And what do you teach?

15 A I teach adults with disabilities.

16 Q Okay. Now, obviously you're here because you
17 know Michael Haim, correct?

18 A Yes, I do.

19 Q And how long is it that you've known Michael
20 Haim?

21 A I've known Michael for approximately
22 50 years, give or take. We grew up together.

23 Q Did you say 50, five zero?

24 A Yes.

25 Q Okay. And you said you grew up together?

1 A Yes, we did.

2 Q Are you related in any -- any shape or form
3 or just friends?

4 A We're family friends, long-time family
5 friends. I've always considered him like a brother.
6 Jokingly, I said he's my brother from another mother.

7 Q Okay.

8 A We've spent a lot of family time together on
9 holidays, outings to the beach, at each other's houses.
10 I helped him get ready for prom. We played together as
11 children. Growing up, I've seen him interact with his
12 family and friends.

13 Q Well, let's talk about that. How would you
14 describe his relationship with his family?

15 A Very loving, caring. He's always respectful.
16 He's just a stand-up guy.

17 I've seen him exhibit patience beyond measure
18 with his sister. And anyone that has ever worked with
19 special needs children and adults, they can be trying
20 at times, and I've seen Michael just -- I mean, he has
21 the patience of Job working with Stephanie. He's never
22 lost his temper. In my eyes, I've never witnessed
23 that.

24 I remember helping him get ready for prom one
25 time. And I took his cummerbund and pants, and as, you

1 know, kids do growing up, I hiked it up and gave him a
2 good wedgy. And he, you know, laughed it off. He
3 didn't get angry with me. He's just a good guy.

4 Q In all these years, have you ever seen
5 Michael do anything in the nature of violence?

6 A No, sir, I haven't.

7 Q Have you ever seen him in any position where
8 he was even threatened with it, where he avoided it?

9 A Running away from me, trying to walk in and
10 out of bushes, growing up, when we would chase each
11 other playing tag. But I've never seen him get violent
12 or lose his temper.

13 Q Okay. And you agree now that's the
14 reputation that he had growing up and as well as an
15 adult?

16 A Uh-huh. He's just always been a stand-up
17 guy, easygoing, laid back. He's, you know, living away
18 from my parents who are now seniors. I've seen and
19 heard firsthand how much, you know, he has helped them.

20 Q Well, tell us about that.

21 A Doing things around the house with my
22 parents. My -- my dad is 87. And we have in-ground
23 pool, and my dad loves gardening and planting. And
24 Michael helped do some landscaping out in the backyard
25 with my dad and clipping hedges and things to keep my

1 dad off of ladders and safe. And he's helped my mom,
2 who's legally blind, you know, taking her different
3 places.

4 He's just been there to, you know, do
5 whatever's needed, and they don't even, you know, have
6 to ask. And it's -- you know, he's -- he's a good guy.

7 MR. FALLIS: No further questions.

8 THE COURT: Any cross?

9 MR. MIZRAHI: Yes, Your Honor.

10 CROSS EXAMINATION

11 BY MR. MIZRAHI:

12 Q Miss Barkley, did you know Bonnie Haim?

13 A No, I did not.

14 Q And so for the 50 years that you knew the
15 defendant, you knew nothing about his marriage with
16 Bonnie Haim?

17 A I knew of his marriage but at the time, I
18 myself was newly married and had recently moved to
19 North Carolina. And the Christmas -- when you speak of
20 Bonnie, the Christmas after she disappeared, we were at
21 John and Carol's house when Michael was spending time
22 with Aaron. So I witnessed firsthand how loving he was
23 as a father, and Santa Claus visited him that Christmas
24 and -- you know. But, no, I did not know Bonnie
25 personally.

1 Q And did you ever see Bonnie Haim's
2 interaction with Michael Haim?

3 A No, I have not witnessed that firsthand.

4 Q Did you go to the wedding?

5 A Pardon me?

6 Q Did you go to the wedding?

7 A No. I was recently married and we had moved
8 to North Carolina and started our careers there.

9 MR. MIZRAHI: Thank you.

10 THE WITNESS: You're welcome.

11 THE COURT: Anything else?

12 MR. FALLIS: No, Your Honor.

13 THE COURT: Thank you, ma'am. You can
14 return to your seat.

15 (Witness excused.)

16 THE COURT: You may call your next
17 witness.

18 MR. FALLIS: Yes, sir. Jeanette Siers.

19 (Witness sworn by the clerk.)

20 JEANETTE HAIM SIERS,
21 having been produced and first duly sworn as a witness
22 on behalf of the Defendant, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. FALLIS:

25 Q Good morning, ma'am. Ma'am, please state

1 your name and spell your last name for the court
2 reporter.

3 A Jeanette Haim S-I-E-R-S, Siers.

4 Q Miss Siers, what is your relationship with
5 Michael Haim?

6 A I'm proud to say he's my nephew. I'm his
7 aunt.

8 Q Okay. So I guess you've known him his whole
9 life?

10 A Actually, I was with his mother when he was
11 in her stomach, and I followed her to the -- her doctor
12 before she had him.

13 Q Okay. Now, you say -- tell us exactly how
14 you're related.

15 A John Haim and Bernard Haim are my brothers.

16 Q Okay. And you have a close relationship, do
17 you, with Michael Haim and his family?

18 A Absolutely.

19 Q Now, have you watched Michael grow up over
20 the years?

21 A Yes, I did. When he was younger, about
22 eight, nine years old, he used to go around with me all
23 the time, and I never had a problem with him.

24 Q Okay. But besides not having a problem with
25 him, did you have good experiences with him?

1 A Yes, I did. I did. I did.

2 Q Why don't you tell us what the good
3 experiences were?

4 A Well, he was always -- listen, I have a
5 granddaughter. She's three years old and she is
6 just -- and Mike was never that way. He was always
7 very respectful. And he never complained and he never
8 asked for anything. He was always a good boy.

9 Q Well, was he a helpful type of person to --
10 to both you and your husband?

11 A Yeah, as he grew up and -- he would always
12 call and ask how we're doing. And I had him at my
13 house, and he would never -- he would just do things,
14 you know, mow the yard, fix the lights. I mean, he
15 just helped me walk my dogs. And I never have ever,
16 ever, ever seen him violent. Never, ever seen him
17 complain.

18 Q Okay. Have you seen any situations where,
19 you know, he could have been violent and he did not?

20 A No. Honestly, no.

21 Q Okay. Well, let me ask you this: You said
22 that he was helpful. How about in raising his sister,
23 the sister who suffers from Down Syndrome?

24 A Yeah. She -- Stephanie loves him to death
25 and he loves her. And he'd go take her to the store to

1 get her a cookie and it excited her. And she likes to
2 go on his four-wheeler in North Carolina and she just
3 gets real excited. And she just loves her brother and
4 he loves her.

5 Q Do you find him to be an affectionate type of
6 person?

7 A Yes, absolutely.

8 Q I mean, to his sister and to the rest of the
9 family?

10 A Yes.

11 Q Did you ever see him interact with his son,
12 Aaron?

13 A Yes. Anytime I saw them, him and Bonnie,
14 he -- he was always joking and they were lovey. I
15 never saw anything bad. And even Aaron, Aaron always
16 liked to stay with his dad and his mom and they were
17 both good parents.

18 MR. FALLIS: I have nothing further,
19 Judge.

20 THE COURT: All right. Any cross?

21 MR. HEAVENER: No, Your Honor.

22 THE COURT: All right. Thank you,
23 ma'am. You can return to your seat.

24 (Witness excused.)

25 THE COURT: Call your next witness.

1 MR. FALLIS: Joanne Phillips, Your
2 Honor.

3 (Witness sworn by the clerk.)

4 JOANNE PHILLIPS,
5 having been produced and first duly sworn as a witness
6 on behalf of the Defendant, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. FALLIS:

9 Q Ma'am, please state your name and spell your
10 last name for the court reporter.

11 A Joanne Phillips, P-H-I-L-L-I-P-S.

12 Q Okay. Miss Phillips, you know Michael Haim?

13 A Yes, sir. I've known Michael approximately
14 about 51 years.

15 Q Okay. And how is it that you know him?

16 A I beg your pardon?

17 Q How do you know Michael?

18 A Well, my husband and John Haim, Michael's
19 dad, worked together. And we become friends. And even
20 after my husband went back to work -- left the
21 insurance company and went back to the railroad, we
22 stayed like family. I mean, it wasn't just friends.
23 We became family. And, I mean, we were there for them
24 when they had problems, and they were there for us when
25 we had problems.

1 Q Tell us about that. How was he there for you
2 when you had problems?

3 A Especially in medical, sickness.

4 Q Well, tell us about that.

5 A Well, my husband had to have cancer surgery.
6 He had to have part of his stomach removed. John came
7 and, of course, you know, they only let certain family
8 members go in, like, the triage. And he told a little
9 white lie, and he said he was his brother. So that's
10 how close we were.

11 Q Okay. I'm talking about Michael Haim now.
12 Tell us about Michael Haim.

13 A Michael? Well, Michael's like a son. We
14 took him -- when he got out on bail, we took him into
15 our home, like, with his aunt and his great uncle,
16 Jesse. And, you know, if -- we wouldn't -- if we
17 didn't believe in him, we would never have taken him
18 into our home. And he -- he was great help to us, I
19 mean, extremely.

20 Q How?

21 A He did things around our house. It was -- he
22 just came in and took over. He cut hedges. He cut a
23 tree down. He redid new tile around the swimming pool.
24 And, I mean, you name it, he did it.

25 And I've got a little 93-year-old neighbor,

1 and they needed some stuff done at their house that
2 they couldn't get their landscaping guy to do. And
3 Michael, he did it. He went over there and he
4 knocked -- to tell you how compassionate -- and he puts
5 other people before himself. Every phone call he's
6 made from the jail to us, he's always asked about them.
7 Because she fell and broke her hip not long before all
8 this happened.

9 And he's been -- I mean, he's so
10 compassionate, and he just -- I mean, I'll -- I'll give
11 you another incident. I always -- I'd usually try to
12 come with him on his pretrial hearings. And one day --
13 one Monday we left and we went to Bob Evans for
14 breakfast. And he was watching me come out just before
15 I stepped off on the sidewalk, and he had a hold of me.
16 He said, wait, just wait a minute. And he stepped off
17 and I thought he saw something on the ground, you know;
18 he found something. And I said, what did you find,
19 Michael? And he held it up in front of my face, and it
20 was a little lizard. And he says, I've got to get it
21 and put it over here in the bushes, or it's going to
22 get run over with a car. And I thought, my Lord, he's
23 thinking of something like this, and we just left the
24 courthouse, you know?

25 That shows you -- I mean, he -- and I've

1 never -- every child that's ever been around him
2 fall -- I mean, they fall in love with him. My
3 grandchildren and his nieces and his step-grandchildren
4 and his stepdaughter, I mean, he's just great.

5 And I know when him and -- before Bonnie
6 disappeared, he was great with Aaron. And Aaron loved
7 him dearly. And even when Bonnie disappeared, like my
8 daughter told you about the party, that Christmas
9 party, I was there. And he was so happy and his
10 grandmother Haim was there and grandparents Docia and
11 Virgil Wiggins were there. And, I mean, there was a
12 lot. But there was no fear in that little boy. He was
13 just as happy as he could be.

14 MR. FALLIS: Thank you. No further
15 questions.

16 THE WITNESS: Oh, I have one other thing
17 I'd like to tell you.

18 BY MR. FALLIS:

19 Q Sure.

20 A Something that -- people need to know this.
21 They think the worst in Michael. Well, think again
22 because when his son was taken away from him, most
23 people would have hit a bar, drinking, right? Well, he
24 didn't. He gets in his camper and he goes to Tennessee
25 and he helps this man build a church. So that tells

1 you what type of person Michael Haim is.

2 Q Did you -- did you know him in Tennessee?

3 A He -- he -- I beg your pardon?

4 Q Did you know him in Tennessee?

5 A He -- he built --

6 Q Did you live there?

7 A Yes. He's a good person, excellent person.

8 Q Where do you live now?

9 A Where do I live?

10 Q Yeah.

11 A On the south side.

12 Q Okay.

13 A Off of San Jose.

14 Q But you had an opportunity to be in Tennessee
15 with Michael?

16 A No, no, no. He -- he had a camper and he
17 took off and he went to Tennessee. That's where he
18 went.

19 Q And how is it that you know that?

20 A Well, his parents for one thing because
21 they -- they would -- you know, they had a camper also.
22 John had bought a truck and he -- they had a camper.
23 And they would go up there. And so they knew that for
24 sure. And Michael had told me that he helped a man
25 build a church.

1 MR. FALLIS: Nothing further.

2 THE COURT: All right. Any cross?

3 MR. MIZRAHI: No questions.

4 THE COURT: All right. Thank you,

5 ma'am. You can return to your seat.

6 MR. FALLIS: May I have a moment?

7 THE WITNESS: Thank you for listening.

8 THE COURT: Yes, ma'am.

9 (Witness excused.)

10 THE COURT: Yes, sir, Mr. Fallis, you

11 may.

12 MR. FALLIS: (Conferring with co-counsel

13 and the defendant.)

14 Your Honor, I'll call Rosemary Walker.

15 (Witness sworn by the clerk.)

16 ROSEMARY WALKER,

17 having been produced and first duly sworn as a witness

18 on behalf of the Defendant, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. FALLIS:

21 Q Good morning, Miss Walker. Can you hear me
22 okay?

23 A I can.

24 Q Thank you.

25 Miss Walker, please state your name and spell

1 your name for the court reporter.

2 A Rosemary Walker, W-A-L-K-E-R.

3 Q Miss Walker, you obviously know Michael Haim,
4 correct?

5 A Yes. They moved into our neighborhood in
6 1973. I think Michael was about six years old. And
7 that's when I first became acquainted with him.

8 Q Okay. You are not any blood relationship,
9 correct, just friends and neighbors?

10 A Friends and neighbors. I had two daughters
11 and, of course, John and Carol had Michael and they had
12 Stephanie and a younger daughter Jennifer. So my
13 daughters were great friends with John and Carol, and
14 they came to church with me. And Michael was older.
15 He was more involved in the sports, so I think he came
16 to church with us a couple of times.

17 But I've watched him grow up. Matter of
18 fact, him and the boys played ball next door. I think
19 I got a couple busted windows in my house when they
20 were knocking the balls over the fence. But they
21 always fixed them and they were good kids.

22 But I knew when he met Bonnie and they got
23 married. And I was in the home with Bonnie and the
24 baby, and I saw them interact as a couple.

25 And I was involved -- I worked with John at

1 Western & Southern Insurance Company, so when Bonnie
2 went missing, I was there. I saw the grief. I saw the
3 grief in the family. We helped post posters, looking
4 for her so --

5 Q Well, let me ask you this: While he was
6 growing up, did you have occasion to watch different
7 stages of his -- of his life?

8 A I did.

9 Q Did you see him also interact with other
10 people during that period of time --

11 A Of course. I saw --

12 Q -- his age?

13 A I saw him, you know, as a kid, playing and
14 all. And he was a good kid. I mean --

15 Q How about with elderly people? Did you see
16 any -- tell us about that.

17 A I did. And his uncles and his grandmother, I
18 used to see him with his grandmother some too. But
19 especially with his sister Stephanie. Stephanie was
20 special to us too because she would come to my house,
21 and I wouldn't even know she was in the house. Because
22 at that time, we lived in the kind of neighborhood, you
23 didn't lock your front doors. And Stephanie would come
24 in and I wouldn't even know she was there. And she --
25 all of a sudden, the TV would come on, and it was

1 Stephanie in my living room, watching TV.

2 But she loved her brother. She loved her
3 brother very much. And I kept Stephanie while she
4 was -- this trial was going on and I tried to keep the
5 TV off so she wouldn't hear. But Stephanie loves to
6 watch TV. And every time they would mention Michael's
7 name, it's my brother, my brother.

8 Now, let me tell y'all something. A child --
9 and she's not a child anymore. She's 40 -- I think,
10 44 years old. But she loves her brother
11 unconditionally. She loves her brother
12 unconditionally.

13 Q Have you watched Michael care for her over
14 the years? Has Michael always cared for her over the
15 years?

16 A Yes, cared for her, cared for Aaron. And
17 everybody talks about the Christmas party. I was
18 there. I'm the one that took Santa Claus down there
19 for him. And he was a little bit of afraid Santa. All
20 kids are at that age. And he went right to his daddy,
21 and he was with his daddy in his daddy's arms.

22 Q So you had an opportunity to watch Michael
23 interact with Aaron, correct?

24 A I watched him interact with Aaron. I watched
25 the grief that happened when that child was taken out

1 of the home from both sets of parents, from the parents
2 and from the grandparents, both sets. So yes, I saw it
3 all.

4 Q Would you describe Michael as a peaceful
5 person?

6 A Yes. I've never seen any other nature from
7 him.

8 MR. FALLIS: No further questions,
9 Judge.

10 THE COURT: Any cross?

11 MR. HEAVENER: No, Your Honor.

12 THE COURT: All right. Thank you,
13 ma'am. You can return to your seat.

14 (Witness excused.)

15 MR. FALLIS: Your Honor, I would next
16 call Ray Godwin.

17 (Witness sworn by the clerk.)

18 CLAUDE RAY GODWIN, JR.,
19 having been produced and first duly sworn as a witness
20 on behalf of the Defendant, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FALLIS:

23 Q Good morning.

24 A Good morning.

25 Q Please state your name for the court reporter

1 and spell your last name.

2 A Claude Ray Godwin, Jr., G-O-D-W-I-N.

3 Q Mr. Godwin, you're here to let the Court know
4 the type of person Michael is. Are you prepared to
5 tell us what you know about Michael Haim?

6 A Yes, I am. I've known Michael since he was
7 probably ten years old. He grew up in the
8 neighborhood. Myself and my brothers -- my younger
9 brother and him were best of friends. Either my
10 brother was down at his house, or he was down at our
11 house. They were always together. Mike played ball
12 against my younger brother. They were on the same
13 team, but they were always best of friends.

14 And Michael would be -- our yard was the
15 neighborhood hangout for kids because we had three boys
16 in our house. We played football in the front yard.
17 You know, we played baseball out front. Michael was
18 always very sportsman-like and very well mannered. He
19 treated my parents with respect. It's always yes,
20 ma'am, no, ma'am, you know, ultimate respect. He was
21 raised very well, just like I was.

22 Q Okay. Now, you -- you had the advantage of
23 seeing him interact in sports, correct?

24 A Correct.

25 Q What kind of a sport is he? I don't mean

1 athlete. But what kind of a sport?

2 A Mike was always a very good sportsman. He
3 was -- win or lose, didn't make a difference. He
4 always gave 100 percent and he was always one of the
5 first on the field to shake your hand. You know, most
6 kids at that age, you know, they don't like losing.

7 Q Okay. And this was organized sports?

8 A Yes, it was. It was the Highlands Little
9 League. His dad coached the team along with his uncle.

10 Q Okay. And have you -- have you seen Michael
11 interact with old -- elder -- elderly people?

12 A Yeah. I've seen him interact with Carl and
13 Joanne, real respectful with adults, always helping.

14 I've seen him interact with Stephanie, his
15 sister. He was always -- dealing with special needs
16 kids, 'cause I have son that's special needs, it takes
17 a lot of patience. I've never seen Michael, in
18 50 years, lose his temper with Stephanie. He's always
19 very kind, guiding his sister, you know, in the right
20 direction, you know, playing with her. And kids at
21 that age, when they have -- if they sense kids are not
22 normal, they kind of want -- tend to shy away. Michael
23 was right there with his sister. I mean, he was very
24 protective of Stephanie along with Jennifer.

25 Q So you would consider him a loving brother?

1 A Yes.

2 Q From what you witnessed?

3 A Yes.

4 Q Are there any other instances that you
5 would --

6 A Well, he was always very helpful. He'd come
7 down 'cause us three boys would always have to take
8 care of our yard. But he would come down and help my
9 younger brother with yard work so they could go off and
10 play and, you know, do things together.

11 Q How about as an adult?

12 A Mike is helpful. He -- I had a -- when he
13 was staying here in town with Uncle Jesse, I -- I
14 talked to him to see how he was doing. And I told him
15 I had a problem with my truck. My tailgate wouldn't go
16 down. I was going to take it to the shop to see what
17 was going on. He said, no, no, no. Bring it over.
18 I'll look at it and see what we can do. He told me
19 what we needed to get. He fixed it.

20 I was like, come on, Michael, go to lunch.

21 Q Okay.

22 MR. FALLIS: Nothing further, Judge.

23 THE COURT: Cross?

24 MR. MIZRAHI: No questions.

25 THE COURT: All right. Thank you, sir.

1 You can return to your seat.

2 (Witness excused.)

3 MR. FALLIS: Your Honor, I would call
4 Ann Wright.

5 (Witness sworn by the clerk.)

6 ANN WRIGHT,
7 having been produced and first duly sworn as a witness
8 on behalf of the Defendant, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. FALLIS:

11 Q Ma'am, please state your name and spell your
12 name for the court reporter.

13 A Ann Wright, W-R-I-G-H-T.

14 Q And would you speak just a little louder for
15 my benefit as well as --

16 A Ann Wright, W-R-I-G-H-T.

17 Q Okay. Ma'am, what is your relationship with
18 Michael Haim?

19 A He's my husband.

20 Q And how long have y'all been married?

21 A Since 10-13 of '13. That was my parents'
22 wedding anniversary as well.

23 Q Okay. Ma'am, you're here to let the Court
24 know what kind of husband, what kind of person Michael
25 Haim is. Are you prepared to tell the Court --

1 A Yes.

2 Q -- about that?

3 Why don't you tell the Court the type of
4 person that he is as far as his temperament and that
5 sort of thing?

6 A I can say with 1,000 percent certainty, I
7 have never been afraid of Michael. I have never had
8 cause for concern for any kind of harm or well-being.
9 I had two teenage girls living in my home as teenagers,
10 and I watched my daughter hit Michael in the face,
11 being -- just being a teenage girl, wanting her way.
12 And there was no reaction, other than he looked at me
13 and said, you need to do something with her.

14 I've never saw any type of violence or cause
15 for concern ever.

16 Q Well --

17 A And we have been together since 2008.

18 Q Okay. Now, you just described to us a person
19 who obviously was a peaceful kind of person. Is that
20 how you would describe Michael?

21 A Yes. In fact, there were times where I
22 wanted the argument to continue, and he would go
23 outside and work just so we could not argue.

24 Q Okay. And do you have any special needs
25 right now? Are you -- what's your health like?

1 A I have Ehlers-Danlos syndrome, which is a
2 genetic connective tissue disorder, and I also have an
3 autoimmune disorder.

4 Q Okay. Are you employed now?

5 A I am employed, yes.

6 Q How is it you're employed?

7 A I work for the State as an administrative
8 assistant.

9 Q Okay. What was your prior employment?

10 A I worked for the highway patrol for 17 years.

11 Q And what were you doing when you first met
12 Michael?

13 A I was working at the highway patrol.

14 Q Now, you were aware that Michael was, quote,
15 a suspect in the disappearance of Bonnie Haim, correct?

16 A Correct.

17 Q And you and he discussed that during your
18 relationship and before you were married?

19 A Yes.

20 Q And he was candid with you and he told you
21 about it?

22 A He was candid with me and he had saved a lot
23 of documentation. And I took several months, probably
24 six or seven months, to go through all of the
25 documentation that he had kept before I brought him

1 around my daughter.

2 Q Now, do you have any understanding about
3 Michael's religious beliefs and, you know, whether or
4 not he is a --

5 A Yes, I do. Michael is a Christian. And he
6 loves Jesus very much. And we discussed that if this
7 is the way this went, then it would be God's will for
8 Michael to impact lives wherever he's at. And that's
9 what we believe is going to happen.

10 Q Now, you understand the Court is here, you
11 know, to -- given the jury verdict, the Court must
12 compose a sentence. Okay? And I'm sure that you have
13 some -- some hopes as to what this Court might do. And
14 why don't you tell the Court how you feel about
15 sentencing for Michael?

16 A I just hope you are a Christian and that
17 you'll pray about it and let God lead you in your
18 determination. And that will be God's will, and that
19 will be good for us.

20 Q Now, you have some pets at home as well,
21 don't you?

22 A Yes.

23 Q Tell us about Michael and your pets.

24 A We have a rescue dog named Copper, who is a
25 troublemaker. Michael has so much patience with him.

1 And both Copper and Sophie, they're both big dogs. And
2 all the neighborhood dogs end up at our house 'cause
3 they just love Michael.

4 Q Okay. And does he care for animals?

5 A Yes, every animal. And it used to be my
6 thing 'cause I've always loved animals, especially
7 dogs. And one instance in particular, we went to the
8 neighbors' for dinner, and they have a very standoffish
9 cat. And the cat was -- we were sitting on the bench,
10 eating dinner. And the cat came to jump up, and I was
11 like, I'm going to get to pet their cat. No. The cat
12 jumped up and went over my lap and got in Michael's
13 lap. So they're -- Michael has a love for animals and
14 they know.

15 Q Now, you live in a pretty close-knit
16 neighborhood, correct?

17 A Correct.

18 Q And tell us about Michael's relationship with
19 the rest of the neighbors. How does he interact with
20 them?

21 A Michael is more of a social butterfly than I
22 am. I tend to be at work. And when I get home, all my
23 energy is depleted. So I have to rest, take my
24 medicine. Michael is out with the neighbors, and he is
25 actually why I know so many of our neighbors because

1 he's out helping people. If he sees anybody in need,
2 he offers to help, whether -- just to be Michael. We
3 can go to the grocery store and a little -- anybody, a
4 young person, old person can be trying to reach for
5 something, and Michael will offer to assist them.
6 That's just Michael.

7 Q What kind of relationship has Michael
8 established with your daughter?

9 A I'm sorry. What?

10 Q I'm sorry?

11 A I didn't hear you.

12 Q What kind of relationship has Michael
13 established with the rest of your family, including
14 your daughter?

15 A They have a very close relationship. She was
16 unable to be here. She's finishing her master's
17 degree. And she wanted to be here, but her professors
18 wouldn't do the test so she could take it early.

19 Q Well, did he help you, in fact, raise her
20 during some difficult times, difficult years?

21 A Yes, he did.

22 Q Tell the Court about that.

23 A She was a teenager and her best friend came
24 to live with us, Renee. And so it was two teenage
25 girls, and I think they lived and breathed to give

1 Michael a hard time about things. And he was always
2 very patient, and I would -- I would come in to be the
3 disciplinarian. And Michael always tried to be the
4 peacemaker and help us settle things without me getting
5 so upset. He was always -- always taking their side.

6 Q Have you ever, ever seen Michael exhibit any
7 kind of violence of any shape or form?

8 A I have never saw Michael exhibit any kind of
9 violence.

10 Q Have you seen him in situations where maybe
11 somebody would, in fact, have gotten violent?

12 A I was there for the incident with the
13 neighbor. And I did witness that.

14 Q Tell us about that.

15 A I -- I can't say for sure but I believe the
16 neighbor was on something, and I don't know what, if it
17 was alcohol or some kind of substance. But the
18 neighbor was just very belligerent and wanting to
19 fight. And Michael was very calm and the guy was
20 cussing at Michael and yelling at Michael. And Michael
21 just very calmly said, I'm not doing this. And he
22 turned and walked up the hill, and I was right there
23 with him.

24 Q So you characterize Michael as a nonviolent
25 person?

1 A Very nonviolent. And as soon as he got back
2 to the house, he called John Bryan and told John about
3 it. And John knew within moments of the altercation
4 because Michael wanted to be sure that the other
5 neighbors knew how aggressive this man was being
6 because there had already been a problem with one of
7 the other neighbors.

8 Q Now, you know the Court, at this juncture, is
9 obligated to sentence Michael to a period of
10 incarceration. You're aware of that.

11 A Yes.

12 Q Okay. What effect would the incarceration
13 have on your -- on your life and that of your family?

14 A The impacts are just unfathomable, really. I
15 struggle every way. I'm sorry.

16 MR. FALLIS: I have no further
17 questions, Judge.

18 MR. MIZRAHI: No questions.

19 THE COURT: All right. Thank you,
20 ma'am. You can return to your seat.

21 (Witness excused.)

22 THE COURT: Any other witnesses?

23 MR. FALLIS: I'm sorry, Your Honor. I
24 have no other witnesses.

25 THE COURT: State, how many witnesses do

1 you have?

2 MR. MIZRAHI: Your Honor, we have six --
3 five.

4 THE COURT: Let's take a ten-minute
5 recess and we'll come right back. Let's make
6 it ten till.

7 (Short recess.)

8 (Defendant present.)

9 THE COURT: State, you may call your
10 first witness.

11 MR. MIZRAHI: State calls Aaron Haim --
12 excuse me -- Fraser. Slipped.

13 (Witness sworn by the clerk.)

14 AARON FRASER,
15 having been produced and first duly sworn as a witness
16 on behalf of the State, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. MIZRAHI:

19 Q Please state your name for the record.

20 A Aaron Fraser.

21 Q And, Mr. Fraser, have you prepared a victim
22 impact statement?

23 A I have.

24 Q Okay. Please read it and keep your voice up.

25 A I'll try.

1 Writing this letter has been one of the
2 hardest things I've ever done. I hold my thoughts,
3 feelings, emotions inside. I keep pressing forward.
4 That's part of the way I have coped through the years.
5 I keep powering through, staying busy, keeping my mind
6 occupied. Much of my life, especially my adult life,
7 has been constructed this way. Most would describe me
8 as a workaholic. I live life like all is well and that
9 I've not been affected by the events of my early
10 childhood.

11 Much of my struggle with writing this letter
12 and expressing my thoughts and feelings is not wanting
13 to give any satisfaction to those that are the cause
14 and the reason I have to write this letter. I do not
15 want those who are involved in my abuse, the murder of
16 my mother, her burial and the 26-year-old cover up to
17 think they have any control over any part of my
18 thinking or life.

19 People have repeatedly asked me how I feel.
20 Isn't it great that Michael was found guilty? That's
21 not at all how I feel. My mother is still dead. I'm
22 forever scarred, scarred by the trauma of witnessing
23 her murder and the subsequent abuse. I deal with fear,
24 fear that was imprinted on my three-year-old brain as a
25 result of the threats and torture from Michael and

1 others who carried out an effort to keep my quiet. I
2 was not silenced.

3 Below are a few of samples of some of the
4 things that I said.

5 When I was interviewed by Brenda Medders, the
6 CPT worker, in the days following my mother's death,
7 when she asked, what was my mother wearing, I
8 responded, blood.

9 I drew many pictures, one of these pictures
10 was my mom being shot in the stomach. As Dr. Haney
11 testified, it's possible that the gunshot could have
12 entered the stomach and deflected off the inside of the
13 hip bone. A .22 shell casing was found in her grave.

14 I spent many years sleeping with a brick
15 under my pillow, feeling the need to protect myself if
16 someone came in the middle of the night.

17 Then and now, I wake up throughout the night
18 thinking I hear something or someone. I'm easily
19 startled and constantly on guard. I will never know
20 what it's like to live a normal life, not concerned
21 about my safety.

22 When I was six years old, I asked Ronny and
23 Jean, my adoptive parents, if we could go look for my
24 mother. As we walked out of the house to get in the
25 car, they walked toward the car. I walked toward the

1 garage. They asked where I was going. My response, to
2 get a shovel. I always knew my mom was buried. I just
3 didn't know where. I tried to remember but I could
4 not.

5 At my therapist's office, I would line up
6 dolls in the window of a dollhouse. When Laura would
7 ask, what do they see, my response, they didn't see
8 nothing.

9 I've dealt with depression, suicidal thoughts
10 from the age of 16. Most of the time, it was not
11 immobilizing, just nagging, not wanting to get out of
12 bed and face the day. Some days are worse than others.
13 When things get real bad, sometimes I think it's easier
14 just to give up. In recent years, seeing the case
15 through has been a driving factor in not giving up.

16 Laura, my therapist, has recommended
17 medication for depression. I'm unwilling.

18 Anytime there's been a turbulent time in my
19 life, I had a burning desire to try to resolve where my
20 mother was buried. One of the these times was when I
21 was 18. I drove to a place in Nassau County, a place
22 where it was suspected I was trying to describe when I
23 was younger. I drove there alone with a shovel. I
24 drove down a dirt road on the banks of the Nassau
25 River. I was looking for my mom. I found myself lost

1 as ever, not physically. I was depressed and suicidal.

2 Whenever I would search for my mom, I would
3 look for a sunken area in the ground because it could
4 indicate the presence of a decaying body. Maybe that
5 could be where my mom would be buried. Obviously, this
6 was not to no avail. I've searched for my mom my
7 entire life.

8 Michael had the audacity to sit on the
9 witness stand and claim his innocence, even though him
10 and others know that I know the truth. My hope is one
11 day he will admit this, that he will tell the story of
12 how Bonnie died and fill in the blanks.

13 The rage that Michael must have felt on
14 January 6th, 1993, I completely understand. The rage
15 is like a light switch. It flips on. I go from 0 to
16 100 instantly. The events that took place on that
17 winter night made me ever aware of the dangers of that
18 rage. I'm always cognizant to keep it in check.

19 Much has been made of the things that I said
20 when I was three to five years old. My credibility was
21 questioned. Were my statements fact or fantasy? Give
22 me a break. I know there are some things that I said
23 when I was three that don't make sense. They did not
24 make sense to those who heard my statements firsthand
25 or those who hear them today. I don't know what I was

1 trying to say. I don't know -- I was trying to explain
2 something a three-year-old is not capable of
3 explaining. To dismiss my statements as fantasy is
4 ludicrous.

5 I have no active memory of the events of
6 January 6th, 1993. I had no memory for many years
7 following this event. It seems that my brain has
8 locked out my ability to access these memories. I have
9 never wavered in my belief that Bonnie was killed by
10 Michael Haim that night and John and Carol were
11 involved.

12 There's been speculation and insinuation of
13 how I could know what happened if I don't remember.
14 Some have insinuated that I was coached or brainwashed.
15 I have a parallel story from my life today. Some
16 things you're taught. Some things you learn through
17 observation. Some things you learn from your own
18 experiences, often learning things through observing
19 someone else. I don't have to be told what to do. If
20 I see someone else do it, I can do it. There are also
21 many things in life that I've learned from doing,
22 something myself, figuring out better ways of doing
23 things. There are many of these instances in my life
24 that I observe or learn through experiences on my own
25 that I don't have a specific memory or experience of.

1 I learned something; I know it to be true.

2 Much -- much like not having memory of
3 January 6, 1993, when Michael killed my mom, I know the
4 events are true. And just because I don't have a
5 memory of them taking place does not mean they did not
6 happen.

7 My credibility was evidenced by the fact that
8 I drew pictures of my mom in a hole curled in the same
9 position she was found on Dolphin Avenue when I found
10 her. I said she had been shot. I said she had been
11 buried. I said that Michael killed her. Today, we
12 know all this to be true.

13 From the time I was 18 years old, I've had a
14 burning desire to resolve -- to recover these memories.
15 I have studied how the brain stores memory and how it
16 can be triggered. It is my understanding that the
17 brain is like a filing cabinet. It stores memories.
18 It is common for the brain to block access to traumatic
19 memories. It is a coping mechanism to help prevent
20 more trauma. These memories could return once the
21 brain feels that you are capable of handling them.

22 I often think I'm ready but I'm still not
23 able to recapture these memories. I've never tried any
24 form of therapy, like hypnosis or EMDR to recover these
25 memories. I have learned a lot about my own memory,

1 how it works, how things can be triggered. One example
2 of this is while mowing grass, I often listen to
3 podcasts. One podcast that I listen to by the
4 Washington Post called Presidential, the podcast goes
5 through every president's life, giving a different look
6 at them than your normal history lesson. They find
7 interesting facts that are not widely known. After
8 listening to the entire series, I went back to listen
9 to a few of the individual podcasts. I did this
10 because I didn't retain the information, whether a
11 customer walked up to me and I took my headphones off
12 and just missed some of it. As I listened to these
13 podcasts again, I cannot only recall what yard I was in
14 but exactly where I was in the yard when it last
15 happened, when I last heard the story.

16 I have many unresolved questions about the
17 night of January 6th, 1993. I often wonder if I heard
18 Michael, John or Carol Lynn speak if it could trigger
19 these memories. To my disappointment, the few times
20 recently that I've had an opportunity to hear Mike and
21 Carol Lynn speak, this did not happen.

22 In writing this letter, I hope to convey to
23 you some of the things that shaped my life and made me
24 who I am. I have struggles that started when I was
25 three and half and continue today. The man I am today

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1 is a testament to those who fought for me, the handful
2 of incredible people who loved me and went to great
3 efforts to protect me from John, Carol Lynn and
4 Michael. I do not know what a fair sentence would be.

5 I do know that every day Michael Haim was
6 free, I lived in fear that he may come and get me like
7 he said he would. I was the one person on this planet
8 that had knowledge of what he did and could stand in
9 the way of his liberty. My fear grew in time following
10 discovery of my mother's remains on December 14th,
11 2014. Once Michael was arrested on August 24th, 2015,
12 there was a sense of relief. On December 11th, 2015,
13 when he was given bond, the fear and anxiety rose to a
14 new level. Not only was he out on bond, but he now
15 lived on my side of town, 15 minutes away by land and 5
16 from a boat. I learned where he was living through an
17 acquaintance who rented house on the same piece of
18 property.

19 In 2016, I went with my parents to a
20 restaurant not far from our home, and there in front of
21 us was Michael Haim.

22 I would ask that Michael get a sentence that
23 would ensure that I do not have to be concerned about
24 running into him ever again. Most importantly, I do
25 not want to have to worry about him doing harm to me or

1 any of my family members. I want everyone to be safe
2 from him. The only way to achieve this is to give
3 him -- is for him to spend the rest of his life in
4 prison.

5 MR. MIZRAHI: Thank you, Mr. Fraser.

6 That's all the State has, Your Honor.

7 THE COURT: Any questions, Mr. Fallis?

8 MR. FALLIS: No, Your Honor.

9 THE COURT: All right. Thank you,
10 Mr. Fraser. You may return to your seat.

11 (Witness excused.)

12 THE COURT: Call your next witness.

13 MR. MIZRAHI: State calls Elizabeth
14 Peak.

15 (Witness sworn by the clerk.)

16 ELIZABETH PEAK,
17 having been produced and first duly sworn as a witness
18 on behalf of the State, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MIZRAHI:

21 Q State your name for the record, please.

22 A I'm Elizabeth Peak, P-E-A-K.

23 And, Your Honor, we wanted to show you
24 pictures of my sister and her smile. The images that
25 you've seen on the screen that week of the trial was

1 the results of 26 years of neglect. That was not
2 Bonnie. This is Bonnie.

3 This is my sister with Aaron and the love and
4 the smile and her glow. This is Bonnie.

5 And you were going to show more pictures of
6 her.

7 Q Yes.

8 MR. MIZRAHI: Your Honor, we have
9 introduced -- the slide show that we'll
10 present at the end of our presentation
11 includes those two portraits. So the record
12 should reflect that the portraits shown are
13 contained within the slide show that we'll
14 show at the end.

15 BY MR. MIZRAHI:

16 Q Miss Peak, have you prepared a victim impact
17 statement?

18 A Yes, I have.

19 Q Okay. Keep your voice up just like
20 Mr. Fraser did and give it to the Court right now.

21 A All right. Thank you.

22 Bonnie was more than just my little sister.
23 She was my best friend. We shared a pregnancy
24 together. We raised our children together for three
25 years. My daughter Katie was born three months before

1 Aaron. My son Kyle was born 12 months after Aaron was
2 born. So they were like triplets. They did everything
3 together. They were inseparable when they were
4 together.

5 We explored parks and we had great
6 adventures. In August, for Aaron's third birthday and
7 my son's second birthday, Bonnie bought front-row
8 tickets to Sesame Street Live. So all three kids in
9 the front row, and they had such a wonderful time.

10 We said to each other then that we would be
11 doing this -- we'll be sharing live shows together.

12 I'm sorry. I have a hard time reading this.

13 We will go to events together with our
14 children forever and that we will even go with our
15 children's children one day. But unfortunately, we
16 were never able to see a live show together with our
17 children again.

18 Bonnie liked to host parties for Aaron at her
19 home and it wasn't just for birthdays. She loved all
20 holidays. She tried to make them extra special with
21 costumed guests and coordinated thank you gifts. She
22 would juggle hosting fantastic parties and showering
23 Aaron with love and attention and maintaining a job and
24 a relationship with her family and friends.

25 Her family and friends were real important to

1 her. She would always take time to listen fully when
2 we spent time together. Nothing escaped her.

3 Just before Christmas in 1992, Bonnie and I
4 went to St. George Street in St. Augustine. We stopped
5 by the Barry Barnett art studio, and I just said, I
6 really like his prints. And then for Christmas that
7 year -- and we're talking just matter of weeks --
8 Bonnie went to the Barry Barnett studio, picked up that
9 picture and framed it and had it under the Christmas
10 tree. I think about that -- and the title of the print
11 was Best Friends, two manatees swimming side by side.
12 And I always think about her whenever I walk past that
13 picture 100 times a day. But that shopping trip in
14 St. Augustine must have meant a lot to her too.

15 The night that she disappeared, I had a
16 dream. It was so real. And in that dream, Bonnie and
17 I were back at St. George Street at the cathedral. And
18 we lit the same candle together at the same time, which
19 is odd. You don't do that. We lit the same candle and
20 she seemed -- she never said a word. But she seemed to
21 plead with me and I just knew. She said, take care of
22 my son.

23 I knew something was wrong. And less than
24 24 hours later, Aaron was in my care. I didn't know
25 what happened to Bonnie. And they wouldn't let me go

1 on any of the search parties and I couldn't ask
2 questions. They said, you're number one job is to take
3 care of Aaron.

4 Filling that obligation nearly cost me my
5 family, my finances and my health. Because Mike
6 somehow convinced my parents that he was innocent and
7 that I was the evil one; I took his son away from him.
8 This turned my parents against me, against my children
9 and broke my heart. Because my youngest sister Jenny
10 lived in my parents' home -- she was only 16 at the
11 time -- I wasn't allowed to see her any more. My other
12 siblings all lived out of town. And I didn't want to
13 ask them to choose between me, Aaron and my parents.

14 So in the same week, I lost my best friend; I
15 lost my sisters; and I lost my parents. I had to build
16 brick walls around my heart and I couldn't mourn them.
17 I couldn't even cry. Because I had to stay strong for
18 Aaron and my children. I couldn't do anything that
19 would be perceived as leading his testimony, of telling
20 him what to say, what to do. So we just held strong.
21 I would hold him and I would rock him but I couldn't
22 say anything. I had to bottle everything up inside,
23 even when I was forced to face Mike twice a week for
24 family visitation and see my parents' hostility once a
25 week when they went to visitation.

1 This kept up for 18 months after Bonnie died.
2 My husband at the time and his family were concerned
3 about my children's safety and the impact this was
4 having on my children. So I was at odds with them as
5 well. So after 18 months of this stress, my body shut
6 down, and I was put in intensive care. And I had to
7 give Aaron up, and it's the hardest thing I ever had to
8 do.

9 But it was the best thing that could have
10 happened to him at the time. Moving him out of family
11 care meant that he didn't have to go to visitation
12 twice a week anymore. He could begin to heal. He
13 could begin to recover for the terrible past years.
14 And Bonnie must have intervened because he went to the
15 Frasers, who were fantastic people. And they were able
16 to shower him with love, make him feel safe and guide
17 him into the wonderful man that he is today.

18 Bonnie's loss has torn our family apart. And
19 it now appears that discovering her body and obtaining
20 justice will not bring our family back together. I'm
21 afraid it made things worse. We can no longer pretend
22 that none of that happened. We can no longer pretend
23 that everything is okay and that we have to be strong.
24 We publically chose sides.

25 If Bonnie were still alive, we would never

1 have to pretend to be a happy family. She would have
2 made us a better family because that is her nature. If
3 Bonnie were still alive, she would have been able to
4 attend Aaron's wedding. She could help him choose to
5 have children and give her grandchildren because we
6 would have spoiled our grandchildren rotten together.
7 We would -- we would host the most epic holiday parties
8 because we were competitive with how big of a party we
9 could throw. She would have made me a better friend
10 and better sister.

11 The Court's actions did not bring Bonnie back
12 to us. It did not undo all the damage Mike has caused
13 our family. It didn't even bring us any measure of
14 joy. But Mike's time in prison will limit his ability
15 to manipulate my parents and other people. He's good
16 at that. More importantly, his time will help us feel
17 safe again.

18 Thank you for being fair and considerate. We
19 know you made personal sacrifices coming all the way up
20 from Clay County to be here. And we appreciate
21 everything you and the Court and everybody has done.

22 We ask one more thing and that is to give
23 Mike a sentence according to what the State asks but at
24 the very least, give him a sentence that represents the
25 26 years he's been free and tormenting my family

1 following the murder of my sister and best friend.

2 MR. MIZRAHI: Thank you, Miss Peak.

3 THE COURT: Any cross?

4 Mr. Fallis, you got any questions?

5 MR. FALLIS: Oh, I'm sorry. No, Your
6 Honor.

7 (Witness excused.)

8 MR. MIZRAHI: Michelle Jewett.

9 (Witness sworn by the clerk.)

10 MICHELLE JEWETT,
11 having been produced and first duly sworn as a witness
12 on behalf of the State, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MIZRAHI:

15 Q Please state your name for the record.

16 A Michelle Jewett, J-E-W-E-T-T.

17 Q And have you prepared a victim impact
18 statement?

19 A I have.

20 Q And make sure the microphone's close to your
21 mouth and keep your voice up. Okay?

22 A Thank you.

23 Thank you for this opportunity to speak.

24 It's really difficult to put into words how Bonnie's
25 murder has impacted my life. There's a hole in my

1 heart, and it's empty of all but memories, and there's
2 just not enough to fill it. Every holiday, every
3 moment she should be here just enlarges that emptiness.

4 If we go back to life, I want to describe
5 kind of Bonnie and my life as her little sister, so
6 full of mixed emotions. As young sisters, we bonded.
7 Our older sisters were twins and they had their own
8 language, and so Bonnie and I had each other. We were
9 two years apart and at that time, it wasn't a big deal.

10 So she and I even shared a best friend during
11 elementary school years and her name was Sheila. So
12 Bonnie and Sheila introduced me to scary movies when I
13 was too young to separate fantasy from reality. After
14 watching those movies, I was scared of the dark, of
15 mirrors and even stairs for quite a few years. And
16 Bonnie felt guilty for letting me watch those movies.
17 And so it's funny. To this day, I don't like horror
18 movies. I don't like to be around them, don't like to
19 hear them, but even, so it's bittersweet because they
20 help me remember Bonnie.

21 As we grew older, I became that pesky little
22 sister, and she no longer wanted to be around me. I
23 grew closer to my brother, who was two years younger
24 than me. But I watched Bonnie and pretty much
25 worshipped her. She was beautiful and full of life.

1 She was everything I wanted to be. I was always into
2 her things and driving her crazy. She would get so
3 frustrated with me. She would yell at me. We would
4 get in these fights and. Those times when she was mad
5 at me were the worst times of my life. All I ever
6 wanted was to be her best friend again or at least have
7 her tolerate me.

8 Things began to get better after we became
9 adults. We were learning to navigate a new
10 relationship. It wasn't easy at first. In March of
11 1992, I had my first daughter. Bonnie was so happy for
12 me. Before she was born, we didn't know what gender
13 she would be, and Bonnie had went out shopping and
14 bought both boys clothes and girls clothes and a lot of
15 different sizes. Bonnie liked shopping. And she
16 had not just regular shopped. She went to Dillard's
17 and bought these outfits for my child that I couldn't
18 have bought for her at the time, outfits with little
19 bonnets for the little girls, which I just adored. We
20 started bonding over motherhood. And she would give me
21 tips carefully because she didn't want to seem like she
22 was telling me how to be a mother. She was healing our
23 relationship and I was thrilled with that 'cause that's
24 all I'd ever wanted. And I was too afraid to put
25 myself out there to her, but she was bridging that gap

1 and reaching out to me.

2 A month after my daughter was born, it was
3 Easter and Bonnie loves holidays and celebrating. She
4 knew that moments together were priceless. So that
5 Easter, she brought everyone over to her house for an
6 Easter egg hunt. She rented an Easter bunny costume.
7 At first, she had my husband put it on, but he was too
8 tall for it. So she had me wear this ridiculous Easter
9 bunny outfit for the kids. And the kids loved it. And
10 that was the type of person that Bonnie was, what she
11 did for celebrations, what she did for family, what
12 mattered most to her. She wanted a perfect life with
13 family togetherness.

14 And after her murder, holidays changed. No
15 longer could we celebrate as one big happy family. We
16 were torn apart.

17 In January of 1993, I was living in
18 Tallahassee. I came home as soon as I heard she was
19 missing. And I sat down at our family dinner table,
20 and I was confused about what I was hearing. It just
21 didn't feel real. And then I thought back to my
22 interactions with Bonnie, and I grew pained at the
23 signs I had missed. And I thought, what could I have
24 done to save her? I felt responsible for not being
25 there for her. I was a bit paralyzed and lost.

1 I believed what Aaron had said. I knew in my
2 heart, Bonnie was gone. And I was lost without her.
3 At first, I was sad and broken. And then I became
4 angry at the injustice. My daughter would have no
5 memories of an aunt who was ready to spoil her. I
6 still have a few dresses that my daughter was growing
7 into that Bonnie would never see on her. And Bonnie
8 would never know how much my daughter loved that
9 Cabbage Patch baby that she gave her. I had three more
10 babies that would never know Bonnie.

11 And harder still was the fact that all my
12 children grew up without their cousin Aaron. He loved
13 my first daughter and even tried to share a Tootsie Pop
14 with her when she was too young to have it.

15 His hugs and energy were contagious and we
16 were separated from him. Separation became the norm in
17 our own close-knit family. It became a balancing game
18 around holidays. Our sister Liz was pulled and pushed,
19 and we couldn't mention Bonnie or Aaron. It was
20 painful every single time. And the guilt I felt grew
21 inside of me. I didn't know what to do with it, how to
22 fix it. I struggled with how onto fill that gaping
23 hole.

24 So I became a domestic violence advocate.
25 And I've been working as a prevention educator. Bonnie

1 is my inspiration and my motivation. I try every day
2 to make a difference. I try to fill this wound in my
3 heart by helping others, by keeping others from this
4 same thing that happened to my sister.

5 But no matter what I do, I can't bring her
6 back. I couldn't save her. And that's what haunts me.
7 So for the past 26 years, I have not stopped thinking
8 about Bonnie, about what she would be doing today,
9 about the holidays she missed.

10 I have thought about Aaron and his journey,
11 what he has missed, not knowing Bonnie. He is blessed
12 with the Frasers, and I am so grateful to them, so very
13 grateful. But I do wish he had Bonnie as his mother.

14 Thank you.

15 I've thought about Michael being free to
16 enjoy his holidays, to live his life, that he could
17 move on and rebuild a life after destroying Bonnie's
18 life and shattering ours. I cannot get out of my head
19 the dehumanizing and disrespectful way he treated
20 Bonnie's body, that something so precious was disposed
21 of like she was nothing. I don't understand how
22 someone could do that to a person they claim to have
23 loved.

24 The trial was hard on us. And I thank you
25 for being patient and fair during this process. And I

1 know it took more time than just this week of
2 testimony. It's taken a lot of time and we're
3 grateful. And I'm asking you to take into
4 consideration how Michael's actions have affected us
5 for 26 years. Nothing can bring her back.

6 But I ask that Michael serve a sentence
7 according to the State Attorney's recommendation but no
8 less than the 26 years that we have been suffering and
9 waiting for justice.

10 Thank you.

11 MR. FALLIS: No questions.

12 MR. MIZRAHI: Thank you, Miss Jewett.

13 (Witness excused.)

14 MR. MIZRAHI: We have Christy Johns.

15 (Witness sworn by the clerk.)

16 CHRISTY JOHNS,
17 having been produced and first duly sworn as a witness
18 on behalf of the State, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MIZRAHI:

21 Q Can you state your name for the record?

22 A Christy Johns.

23 Q And have you prepared a victim impact
24 statement?

25 A I have.

1 Q Okay. And keep your voice up. Talk into the
2 microphone. Go right ahead.

3 A Sure. Thank you.

4 So Bonnie was my cousin by marriage. She and
5 my mother were best friends, and we spent a large
6 amount of time together. I was just 12 when Bonnie was
7 murdered. Next to Aaron, I was one of the youngest
8 members of the family to have lost her. In the early
9 '90s, my parents were in the foundational years of
10 their business.

11 I remember that I had a field trip that my
12 parents were not able to go on with me so Bonnie went
13 as a chaperone. She was like a big sister to me. I
14 could always count on her being there.

15 I remember a convention that we attended, I
16 believe, in Orlando. There was a luau-themed dinner
17 and that morning, Bonnie took me shopping. We
18 purchased matching Hawaiian dresses to wear to the
19 dinner. I looked up to her so much. She was so fun
20 and her heart was huge.

21 I remember that Bonnie had a gold ring. It
22 was a heart with a Gator on it. I loved it so much
23 that for Christmas, she bought me a matching one. I'm
24 actually wearing it today. We were all able to see a
25 picture of that ring because she was wearing it the

1 night that she was murdered by Mike. The picture was
2 in evidence as it was unearthed with her skeletal
3 remains.

4 I remember the morning after Bonnie went
5 missing, my parents told me she was missing, and even
6 as a 12-year-old child, the first words out of my mouth
7 were, Mike hurt her.

8 The weeks after her murder, my parents
9 protected me from the media circus. I would stay with
10 friends and family as hundreds of volunteers and my
11 parents would search through the woods, mostly on the
12 weekends, looking for her. As a child, this was a very
13 confusing time and a very stressful time. My family
14 would cry a lot.

15 When Bonnie was alive, we spent a lot of time
16 with Aaron. I remember weekends, holidays, vacations,
17 we would see him. In the years after her
18 disappearance, we weren't able to see Aaron.

19 Thankfully, we were reunited with Aaron when
20 he was in high school. I remember sitting at his high
21 school graduation and just thinking, gosh, if Bonnie
22 were here to see, this she would be so proud of him.

23 I remember Aaron's wedding. I remember --
24 well, Aaron was raised by such an amazing family, and
25 as the two sisters have said, we're very, very grateful

1 for the Frasers. But I clearly remember the tears that
2 were cried at his wedding because Bonnie wasn't there.

3 Mike murdering Bonnie affected so many
4 people. Our family spent years grieving over at the
5 time what was an unknown circumstance. I spent years
6 of my childhood just wanting answers. While I never
7 thought Mike was innocent, the desire for answers were
8 always there. Not knowing was the hardest part. Not
9 knowing prevented us from healing. So for 26 years, we
10 didn't know. We didn't know where she was. We didn't
11 know what really happened.

12 But Mike did. Mike went on. He got
13 remarried. He collected money on a life insurance
14 policy, all while she was decomposing in his backyard.
15 When we were needing answers so that we could
16 appropriately grieve, he was just living life.

17 Your Honor, Mike Haim had 26 years to offer
18 answers. He lied for 26 years, including his
19 straight-faced heartless lies under oath. Today, we've
20 heard about puppies and lizards and Jesus and, you
21 know, things to consider. But I ask you to consider
22 Aaron. Consider his protection. Consider his peace of
23 mind. And consider the maximum sentence for the
24 murderer sitting here before us today.

25 Thank you.

1 THE COURT: Any cross examination?

2 MR. FALLIS: No, Your Honor.

3 THE COURT: Thank you, ma'am.

4 (Witness excused.)

5 MR. MIZRAHI: I would call Eveann Haim.

6 (Witness sworn by the clerk.)

7 EVEANN HAIM,

8 having been produced and first duly sworn as a witness

9 on behalf of the State, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MIZRAHI:

12 Q Please state your name for the record.

13 A Eveann Haim.

14 Q Miss Haim, have you provided a victim impact
15 statement for the Court?

16 A I have.

17 Q And have you also additionally provided your
18 written words that you gave as a eulogy at Bonnie's
19 memorial service in 1994?

20 A I have.

21 Q Has that been filed as part of the court?

22 A Yes.

23 Q And you'll just submit that as a written
24 document. But you want to read a separate victim
25 impact statement.

1 A Yes.

2 Q Okay. Keep your voice up and you can do that
3 now.

4 A All right. Thank you.

5 Bonnie Lynn Pasciuto Haim, the foremost
6 precious words to me, they were in 1993 and they still
7 are today. Bonnie was my niece by marriage but she was
8 so much more. She was my coworker, my confidante, my
9 travel buddy, my best friend. But most of all, she was
10 an amazing mother to a very special little boy. Bonnie
11 was such a loving, kind and amazing person, always the
12 first one to come to anyone's side in a time of need to
13 organize birthdays, holiday events, summer gatherings,
14 funeral dinners, things we were never able to do for
15 her for the last 26 years, things that were taken away
16 from us by her murderer, her husband, Michael Haim.

17 Being an amazing mother, Bonnie would often
18 tell me of her aspirations and future goals for Aaron
19 when he grew up, wondering what he would be like as a
20 teenager, hoping he would grow up to be a doctor, a
21 lawyer or perhaps even a judge but most of all, a
22 leader, a strong leader. And Bonnie was willing to do
23 anything to help him achieve this. Because that was
24 the type of person Bonnie was.

25 But on January the 6th, 1993, that all

1 changed when Bonnie was murdered, trying to make a
2 better life for her son, Aaron. The Bible says, for
3 God so loved the world, he gave his only begotten son.
4 Well, I firmly believe for Bonnie, so loved her son,
5 she gave her life for him because he was her world.

6 There's a picture on the screen of Bonnie and
7 her friends going out to dinner for her birthday. She
8 was so happy, so excited to be celebrating with her
9 friends. Little did show know, this would be her last
10 birthday, the last time any of us would be able to
11 celebrate with her. Every birthday for the next
12 26 years, all we could do for her was say a prayer in
13 memory and wish her a silent birthday, no flowers, no
14 cakes, just grief and wonder. Every May the 20th,
15 that's all I can do for her, and in three days, I will
16 do that again.

17 That morning of January the 7th, 1993, when
18 Bonnie didn't show up for work, our lives were changed
19 forever. It was devastating to us because not only we
20 had an immediate fear of what happened from a family
21 standpoint but also because of the devastation and
22 setback it had on our business. Bonnie was a key
23 employee in our business and at that time, very
24 important to our day-to-day business. She was setting
25 up our computer system for our new branch and training

1 people on how to use it.

2 Because of her murderer's careless actions,
3 we had to put our new branch on hold, causing us a
4 great deal of monetary harm.

5 Bonnie was a favorite and loved by so many
6 people in all aspects of our business. When word got
7 out that she was missing, we had business associates
8 from all over Florida, even out of state, coming to
9 help search for her. That's how much she impacted
10 everyone's life. She was a very special person, loved
11 by all.

12 Your Honor, the whole time everybody was
13 grieving Bonnie and tromping through miles and miles of
14 woods and swamp, looking for her, her murderer was
15 watching her rot in his own backyard.

16 Your Honor, you've sat -- you've been here
17 for years and watched him with no emotion whatsoever.
18 I beg you, please, do not let this murderer have the
19 opportunity to do this to anyone else. Do not let him
20 have the opportunity to take away another baby's mother
21 ever. Your Honor, it's too late for Bonnie, but please
22 impose the maximum sentence that the State is
23 requesting so he will never be able to hurt anyone
24 again.

25 Thank you.

1 THE COURT: Thank you, ma'am. You may
2 return to your seat.

3 MR. MIZRAHI: Your Honor, that's all the
4 live witnesses we have. I would also point
5 out that we have filed a victim impact
6 statement from Sandy Rice, who is Bonnie
7 Haim's best friend growing up and one of her
8 best friends at the time she was murdered,
9 and that has been submitted without further
10 comment.

11 The final piece of evidence that the
12 State will introduce is going to be a slide
13 show of pictures of Bonnie during her life,
14 pictures with her and Aaron as well as
15 members of the family. And at the end of
16 that slide show, there's actually a short
17 video clip of Christmas 1992, when Ann
18 received a present from Bonnie, and that will
19 be the last little part of that video.

20 THE COURT: All right.

21 (Video with only music playing.)

22 MR. MIZRAHI: Your Honor, that's all the
23 victim impact the State has to present.

24 THE COURT: All right. Mr. Fallis,
25 anything else from the defense?

1 MR. FALLIS: No, Your Honor.

2 THE COURT: All right. Well, as I
3 indicated at the end of the trial, I'll take
4 all of this under advisement and have you
5 come back next Tuesday. I believe that's
6 May 21st at 8:30 a.m. I'm going to
7 tentatively set it in Courtroom 307. That's
8 Judge Salvador courtroom. I haven't asked
9 her yet if I could borrow it for a few
10 minutes before she starts calendar, but I
11 think I will be able to do that for the
12 imposition of the sentence. That will give
13 me today and the weekend and Monday to think
14 about it.

15 If for some chance that's -- that
16 courtroom's not available, I will send
17 everybody an e-mail as to which courtroom it.
18 It may be back here. But we'll -- the date
19 and time will not change, just possibly the
20 location. But plan on Courtroom 307,
21 Tuesday, May 21st, at 8:30 a.m. All right?

22 Court's in recess.

23 (Whereupon the proceedings were concluded.)

24

25

1 C E R T I F I C A T E

2 STATE OF FLORIDA)

3 COUNTY OF DUVAL)

4 I, Karen Waugerman, Registered Professional
5 Reporter, certify that I was authorized to and did
6 stenographically report the foregoing proceedings and
7 that the transcript is a true and complete record of my
8 stenographic notes.

9 DATED this 1st day of September, 2019.

10

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12

13 /s/ Karen Waugerman

14 KAREN WAUGERMAN, RPR

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