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Circuit Court

St. Croix County, WI

2022CF000518

1 STATE OF WISCONSIN: CIRCUIT COURT: ST. CROIX COUNTY:

2 STATE OF WISCONSIN,)
3) CASE NO: 22 CF 518
4 Plaintiff,)
5) CASE TYPE:
6 vs.) CRIMINAL
7)
8 NICOLAE MIU,) PREPARED FOR:
9) **ORIGINAL**
10 Defendant.)
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Hudson, Wisconsin
April 3, 2024

BEFORE THE HONORABLE R. MICHAEL WATERMAN

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL - DAY 3

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APPEARANCES:

KARL E. ANDERSON, ESQ., District Attorney,
appeared on behalf of the Plaintiff.

BRIAN T. SMESTAD, Deputy District Attorney,
appeared on behalf of the Plaintiff.

AARON A. NELSON, ESQ., Nelson Defense Group, LLC,
appeared on behalf of the DEFENDANT, who was present.

COREY CHIRAFISI, ESQ., Chirafisi Law Office, S.C.,
appeared on behalf of the Defendant.

LIEUTENANT BRANDIE HART and INVESTIGATOR JOHN
SHILTS, JR., court officers, were also present.

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Hudson, Wisconsin
April 3, 2024

P R O C E E D I N G S

(Whereupon, the following proceedings commenced
in open court.)

THE COURT: We're back on the record in State of
Wisconsin versus Nicolae Miu, 2022 CF 518. Mr. Anderson
and Mr. Smestad appear for the State. Mr. Nelson and Mr.
Chirafisi are present. They represent Mr. Miu, who's also
present. We are ready to begin Day 3.

I understand that there is an issue or two
that the attorneys want to address with me?

MR. ANDERSON: Yes, Judge. And I don't know if
Your Honor prefer to take it up now or later but -- so the
State anticipates calling Sondra Miu this afternoon. When
we spoke with her she brought up spousal privilege. I
know Defense can assert it. I expect she'd be at or
shortly after one o'clock, so I don't know if you'd rather
discuss those issues now or wait until this afternoon?

THE COURT: Mr. Nelson, Mr. Chirafisi, your
thoughts?

MR. NELSON: If we could do that this afternoon,
that'd be great.

THE COURT: Okay. I appreciate you bringing it
to our attention. Why don't we maybe -- you're planning

1 on one o'clock?

2 MR. ANDERSON: I think one o'clock, or we might
3 have a short witness before her but -- so maybe we just
4 bring it up at one o'clock, talk about it.

5 THE COURT: We should talk about it before one,
6 but we've got a lunch break in-between where we can
7 possibly --

8 MR. ANDERSON: Okay.

9 THE COURT: -- address it amongst ourselves.
10 Was there something else?

11 MR. ANDERSON: That's it for now, Judge.

12 THE COURT: Okay. All right.

13 Mr. Smestad, I understand you're not
14 feeling well?

15 MR. SMESTAD: I'm not, Your Honor. If I leave,
16 that's why I'm -- I apologize in advance if that happens.

17 THE COURT: Okay. What I'll simply do then is
18 just indicate to the jury that you're not feeling well and
19 you may excuse yourself, just so they're not wondering why
20 you're suddenly --

21 MR. SMESTAD: I don't expect it to be an issue,
22 but I just wanted to let the Court know.

23 THE COURT: Thank you.

24 All right. Anything else?

25 MR. SMESTAD: Not from --

1 THE COURT: Okay. Let's bring the jury in.

2 (Whereupon, the jury enters the courtroom.)

3 THE COURT: Welcome back, members of the jury.

4 Thank you for being prompt. It allows us to get started
5 right away this morning.

6 Before we take up the next witness I just
7 have a couple of announcements. First, I want to welcome
8 one of our newer bailiffs, Jean Meyers. You probably met
9 Jean down in the assembly room. This is her first jury
10 trial. Correct?

11 THE BAILIFF: (Non-verbal response.)

12 THE COURT: So she is shadowing Warren, who is
13 our most experienced bailiff, to learn from him today. So
14 welcome to Branch 4, Jean.

15 THE BAILIFF: Thank you, Judge.

16 THE COURT: I was also told this morning that Mr.
17 Smestad is feeling ill, so he may excuse himself during
18 the trial. So I just don't want you wondering why he
19 suddenly gets up and leaves the courtroom. So that's the
20 reason, if it happens.

21 Mr. Anderson, who is the next witness?

22 MR. ANDERSON: State calls Anthony Carlson.

23 THE COURT: Okay. Mr. Carlson, please come
24 forward. A little closer. All the way up. There you go.
25 Face the clerk, raise your right hand, she will administer

1 the oath.

2 ANTHONY CARLSON,

3 after having been first duly sworn on oath by the clerk,

4 testifies and says as follows:

5 THE WITNESS: I swear.

6 THE COURT: Please have a seat in the witness

7 chair.

8 Mr. Anderson.

9 MR. ANDERSON: Can we actually approach real
10 quick, Judge? There's one thing I forgot to mention.

11 THE COURT: Yes.

12 (Whereupon, a discussion was held at the bench.)

13 THE COURT: All right. Let's begin.

14 DIRECT EXAMINATION

15 BY MR. ANDERSON:

16 Q. Can you please state your first and last name for
17 the record?

18 A. Anthony Carlson.

19 Q. And, Anthony, do you go by a nickname?

20 A. Tony.

21 Q. Tony, how old are you?

22 A. 24.

23 Q. And are you Dante Carlson's older brother?

24 A. Yes.

25 Q. What city and state do you live in?

1 A. St. Paul, Minnesota.

2 Q. And do you work?

3 A. Yes.

4 Q. What do you do for work?

5 A. I work at a lot for recovery industries.

6 Q. Is that a sober industry?

7 A. No, recovery industries is a towing company.

8 Q. Okay. And you were tubing with your brother and
9 other people on July 30, 2022?

10 A. Yes.

11 Q. And at some point did you notice, were you
12 alerted to something going on on the river?

13 A. Yeah.

14 Q. Can you describe what you remember about that?

15 A. We were just floating down the river and then we
16 heard some screaming across the river and then eventually
17 I do remember them yelling then for help, and at first we
18 sat there for a moment and then my father said to go over
19 there and help or like de-escalate the situation. And as
20 I was going over there, I mean, I saw someone get hit,
21 someone scream don't hit a girl, and then everything else
22 ensued.

23 Q. And did you actually go over there and try to
24 de-escalate, break things up?

25 A. Yes. Yes, as I went over there I started yelling

1 at people to back up and get away. I don't remember
2 exactly who I was yelling at. I know I was yelling at
3 everyone in the situation, not just one side or the other.

4 Q. And, Tony, were you drinking on the river?

5 A. Yes.

6 Q. And if your medical records say your BAC was
7 .119, would that sound about right?

8 A. Yes. I don't -- I don't know exactly a, you
9 know, BAC and how it works.

10 Q. Okay. Do you think you were intoxicated?

11 A. Yes.

12 MR. ANDERSON: I would like to --

13 Q. (By Mr. Anderson, continuing) I want to go
14 through some frames with you.

15 MR. ANDERSON: I'll let you know when I'm ready.

16 THE CLERK: Okay.

17 MR. ANDERSON: Okay.

18 Q. (By Mr. Anderson, continuing) This is Frame
19 2556. I'm just going to scroll through a little bit.
20 Stopping at 2563. Do you see yourself in that image?

21 A. I do.

22 Q. And which one are you?

23 A. Wearing the jean shorts in the back in front of
24 Quinton Carlson and behind A.J. Martin.

25 Q. Okay. You're just walking up at this point?

1 A. Yes, trying to figure out what's going on. I
2 just heard a bunch of yelling and such.

3 Q. All right.

4 MR. ANDERSON: You can mute the screen.

5 All right.

6 Q. (By Mr. Anderson, continuing) This is Frame
7 2779. I'm going to scroll through and then ask you some
8 questions. I'm going to stop at 3010. Actually, I'm
9 going to pause here at 2826. Is that you walking by?

10 A. Yes.

11 Q. And 2844, it looks like you're getting between
12 Mr. Miu and the guy filming?

13 A. Yes.

14 Q. And I -- and what -- what did you say you're
15 yelling at people to do?

16 A. I was yelling at them to back up and get away.

17 Q. It looks like -- I'm on 2900. It looks like up
18 to this point your attention was to somebody out to the
19 right and now you're turning back towards Mr. Miu?

20 A. I was turning back towards the group, yeah, to
21 see who else needed to be -- you know, if anybody was
22 still escalating anything or what was going on. I was
23 just trying to separate everyone.

24 Q. And I'm going to back up here. At 2924, it looks
25 like you're pointing and yelling something in the

1 direction of Mr. Miu?

2 A. Yeah. I mean, from my recollection I saw him,
3 like, walking up towards the others, so I was going up to
4 him to tell him to stop and go walk away or get away.

5 THE COURT: Mr. Anderson, I'm having a little bit
6 of hard time hearing you.

7 MR. ANDERSON: Oh, sorry.

8 THE COURT: If you could use the mic or speak up,
9 please.

10 MR. ANDERSON: Sure.

11 THE COURT: Thank you.

12 Q. (By Mr. Anderson, continuing) What are you doing
13 at this point in the video?

14 A. There was a lot of yelling going on and I was
15 telling him to walk away but it looked like he was walking
16 up to the girls in my group so I was trying to get his
17 attention so I just put my hand on his back.

18 MR. ANDERSON: And I -- for the record, I paused
19 there at 2958.

20 Q. (By Mr. Anderson, continuing) So after you put
21 your hands on his back, telling him to walk away, what
22 happened?

23 A. At the time I thought he was going in to try and
24 punch me so I tried to hit his hand down and then -- I
25 mean, he went at me again.

1 Q. And did you actually -- were you actually able to
2 hit his hand away the first time?

3 A. Yeah, I mean, like I knocked it down and then --
4 I have a scar right here from when I knocked it down, the
5 knife hit and just scratched, and then after that he came
6 again and stabbed me. And like I said, at the time I
7 didn't know, I thought it was just a punch.

8 Q. Did you think -- did you realize anyone was
9 getting stabbed at that point?

10 A. No.

11 Q. So what kind of fight did you think you were
12 breaking up?

13 A. I -- I mean, I just thought it was, you know,
14 something on the river, like they were yelling at each
15 other about something. I didn't know exactly what but I
16 was just trying to de-escalate it.

17 Q. And did you -- did you see Madison Coen get
18 punched?

19 A. I didn't see necessarily her get punched, but I
20 did hear you don't ever hit a woman.

21 MR. ANDERSON: Permission to approach.

22 THE COURT: Yes.

23 MR. NELSON: What number? Sorry.

24 MR. ANDERSON: 35.

25 MR. NELSON: Thanks.

1 Q. (By Mr. Anderson, continuing) Showing you what's
2 been marked as Exhibit 35. What is that?

3 A. That is the scar from when I blocked the knife
4 down.

5 Q. And is there something above that?

6 A. Yeah. The stab wound.

7 Q. So I --

8 MR. ANDERSON: I -- I'd move to admit and pub --
9 ask to publish, Judge.

10 MR. NELSON: No objection.

11 THE COURT: Okay. It's received.

12 Go ahead and publish.

13 MR. ANDERSON: I'm going to do it on my computer.
14 I'll let the clerk know when I'm ready.

15 All right. Can we show my screen?

16 Q. (By Mr. Anderson, continuing) So you -- you said
17 one time you kind of blocked it. Which -- which injury is
18 that on here?

19 A. The lower one.

20 Q. The one that kind of looks like a V?

21 A. Yeah. Yes.

22 Q. And then did one strike actually was --
23 penetrate?

24 A. Yes.

25 Q. And where is that one?

1 A. Under the bandage there.

2 Q. It looks like is it -- is this after you're at
3 the hospital?

4 A. This is right as I'm leaving the hospital, yes.

5 Q. If you know, was that -- does it look like it's
6 bleeding through the Band-Aid or is that just the tone of
7 the Band-Aid, do you know?

8 A. No, I was bleeding a little bit through the
9 Band-Aid from the stitches.

10 MR. ANDERSON: Thank you.

11 Q. (By Mr. Anderson, continuing) Did you -- did
12 you -- do you remember ever seeing the knife -- a knife in
13 Nicolae's hand?

14 A. No.

15 Q. And is -- have you watched and listened to the
16 portion of video that I just went through with you?

17 A. Yeah. If you would like you can play it again
18 though.

19 Q. Do you -- do you hear yourself in that video
20 saying back up or get back, something like that?

21 A. I believe I do, yeah.

22 MR. ANDERSON: Could we get Exhibit 2?

23 THE CLERK: Yes.

24 MR. ANDERSON: I want to show you that part of
25 the video.

1 Okay. Could I have the screen, please?

2 (Whereupon, the video was played.)

3 MR. ANDERSON: Okay. And I want to go back to
4 the frames.

5 Q. (By Mr. Anderson, continuing) While I'm doing
6 this, Tony, is it fair your memory's not perfect from that
7 day?

8 A. No.

9 Q. Is there a lot you don't remember?

10 A. Yes.

11 Q. Okay. I'm on 2942. I'll scroll through.

12 So at this point, 2959, are you off screen
13 to the right?

14 A. Yes. I can see my left hand on the right over
15 his shoulder.

16 Q. Okay. And you don't know the guy's name who's
17 filming, right?

18 A. No.

19 Q. Okay. So you got the -- I'm just going to put a
20 C for -- oh.

21 THE COURT: There should be a package of fresh
22 markers under there. Open it up and use them.

23 Q. (By Mr. Anderson, continuing) I'm just going to
24 put a C for cameraman, fair?

25 A. Yeah.

1 Q. And so that camera is facing that way and then
2 you got the frame. You got Miu somewhere there and you're
3 somewhere off to the right of the frame?

4 A. Can I see the --

5 MR. ANDERSON: Could we have the screen back up?

6 THE CLERK: Sure can.

7 A. Yeah.

8 Q. (By Mr. Anderson, continuing) Okay.

9 A. That is correct.

10 Q. I just put a T for Tony but I wrote it sideways.

11 THE COURT: Can the jury see the diagram?

12 Q. (By Mr. Anderson, continuing) I'm going to keep
13 scrolling here.

14 Now, at 2993, those aren't your hands, are
15 they?

16 A. No.

17 Q. Do you know whose they are?

18 A. Now I do, yes.

19 Q. Okay. At the time you didn't know who that was?

20 A. No.

21 Q. But now you -- now you know it to be Isaac but
22 you didn't --

23 A. Yes.

24 Q. -- know who -- who it was?

25 A. At the moment.

1 Q. So would he have been kind of just to your left?

2 A. It's --

3 MR. NELSON: Objection. No foundation.

4 THE COURT: Sustained.

5 Q. (By Mr. Anderson, continuing) Well, earl -- a
6 few frames ago you were off -- were you off frame to the
7 right?

8 A. Yes.

9 Q. Isaac here is off frame to the right?

10 A. Yes.

11 MR. NELSON: Objection. He has no foundation.

12 He doesn't have a memory of this.

13 MR. ANDERSON: If I --

14 THE COURT: Well, hold on. Hold on.

15 MR. ANDERSON: I'll --

16 THE COURT: Sustained -- sustained on foundation,
17 but I think the --

18 MR. ANDERSON: I'll --

19 THE COURT: -- the questions are being -- being
20 framed in a way that's leading us to this place.

21 MR. ANDERSON: Sure.

22 THE COURT: You need to rephrase your -- rephrase
23 your question. It might help.

24 MR. ANDERSON: Judge, I'll -- I'll just move on.

25 THE COURT: All right.

1 MR. ANDERSON: You can take it down.

2 Q. (By Mr. Anderson, continuing) So I want to -- I
3 forgot to ask you a clarifying question about your --
4 that -- the V-shape wound. So do you remember how his
5 hand came at you when you kind of blocked it away?

6 A. I mean, it went like this. But at first, I mean,
7 I just thought it was a punch. I didn't -- I think you're
8 just going for a low jab, but I tried hitting it down with
9 my arm and then --

10 Q. Okay.

11 A. -- he came back up.

12 Q. The second one is the one that got you higher?

13 A. Yes.

14 Q. Do you remember telling law enforcement that
15 after he -- Nicolae stabbed you, you punched him?

16 A. I do.

17 Q. And is that on the video?

18 A. No.

19 Q. Do you believe you were mistaken on that?

20 A. Yes.

21 MR. ANDERSON: I don't have anything else.

22 THE COURT: Mr. Nelson.

23 MR. NELSON: Thank you.

24 CROSS-EXAMINATION

25 BY MR. NELSON:

1 Q. Sir, you said your -- you were intoxicated, is
2 that right?

3 A. Yes.

4 Q. You were with a -- a -- some of your family and
5 other friends, correct?

6 A. Yes.

7 Q. You were there on the river celebrating, correct?

8 A. For my father's birthday, yes.

9 Q. You were also there with Madison Coen?

10 A. Yes.

11 Q. Celebrating her birthday as well?

12 A. I mean, I came there for my father's birthday.

13 Q. Understood. I mean, no judgment in it, but
14 others were celebrating her birthday, correct?

15 A. Yes.

16 Q. She was celebrating her own birthday, correct?

17 A. Yes.

18 Q. There's a photo that I think we've seen of the
19 ten of you standing on there on the river. You've seen
20 that photo?

21 A. Yep.

22 Q. You remember that photo?

23 A. Yes.

24 Q. You and, I think, three or four other people are
25 holding a beer up to your lips and it looks like you're

1 consuming the beer at that time. Do you remember that?

2 A. Yes.

3 Q. Part of that photo was to document your guys
4 drinking alcohol, correct?

5 MR. ANDERSON: I'm going to --

6 A. I guess --

7 MR. ANDERSON: -- object on waste of time.

8 THE COURT: Hold on. Hold on.

9 I'm sorry? What was the objection?

10 MR. ANDERSON: I'm going to object -- object on
11 waste of time. I think it's cumulative. We've
12 established --

13 THE COURT: Not with this witness. Overruled.

14 Q. (By Mr. Nelson, continuing) You were doc -- the
15 -- the photo was to document all of you together, correct?

16 A. Yes.

17 Q. And for whatever reason, the four of you decided
18 that when the photo was taken you wanted to make sure that
19 you were drinking a beer, right?

20 A. Yes.

21 Q. Okay. Fair to say that you wanted to document
22 you're drinking beer?

23 A. It was not -- it was more or less that we wanted
24 to document it, it was just that we were having a fun time
25 with our family.

1 Q. Sure.

2 A. I mean, in that moment we all just made the
3 decision to have a sip.

4 Q. Okay. And you have a brother Dante, right?

5 A. Yes.

6 Q. You're little -- you're older than him?

7 A. Yes.

8 Q. Little bigger than him?

9 A. Yes.

10 Q. He was drinking?

11 A. Yes.

12 Q. You were drinking?

13 A. Yes.

14 Q. A.J. Martin was drinking?

15 A. Yes.

16 Q. Ryhley Mattison was drinking?

17 A. Yes.

18 Q. Madison Coen was drinking?

19 A. Yes.

20 Q. Again, I'm sure you weren't keeping track of
21 everybody else, but it looked like everybody else was
22 consuming it at about the same rate that you were
23 consuming?

24 A. No.

25 Q. Do you know who was doing what?

1 A. I don't, no.

2 Q. Okay. So they could have been drinking more,
3 they could have been drinking the same, they could have
4 been drinking less, you don't know?

5 A. Based off of knowing them in the past, I know
6 they don't.

7 Q. Okay. You were the bigger consumer?

8 A. Yes.

9 Q. Okay. You talked to the police when you got out
10 of the -- that same day -- or the next day, on July 31st,
11 is that right?

12 A. I believe it was the same day or --

13 Q. Okay.

14 A. -- I -- I don't remember exactly.

15 Q. You didn't stay overnight in the hospital?

16 A. I -- I don't believe so.

17 Q. Okay. So it must have been the same day and I
18 got my date wrong, which is fine. But you did speak with
19 the police, right?

20 A. Yes.

21 Q. And you realize that that's recorded, correct?

22 A. Yep.

23 Q. And as you, as part of your preparation for this,
24 did you get a chance to watch that recording?

25 A. No.

1 Q. They didn't show you that?

2 A. I believe they did awhile back, but I don't -- I
3 don't remember it now.

4 Q. Okay. I just want to go over some of the things
5 that you said to the police then to see if those -- how
6 they track with today, okay?

7 A. Okay.

8 Q. One of the first things that you said to them is,
9 I don't remember much about it. You told them that,
10 correct?

11 A. Yes.

12 Q. You also said, I don't remember a lot but what I
13 remember is floating down the river, and then you started
14 to give some of the details or some of the overview of
15 what you remember.

16 A. I believe so.

17 Q. Make sense?

18 But again, you said the second time, I
19 don't remember a lot, right?

20 A. (No response.)

21 Q. Yes?

22 A. Yes.

23 Q. And you spoke about that for about 30 seconds to
24 60 seconds and then at around the four-minute mark you
25 said, That's all I remember, agreed?

1 A. I don't remember so I --

2 Q. Okay.

3 A. -- I don't know.

4 Q. And right after that you were telling them that
5 you have a certain medical condition, is that right?

6 A. Yes.

7 Q. You do have a medical condition, correct?

8 A. Yes.

9 Q. And I don't want to pry too much, I -- but -- but
10 it results in your having the potential for seizures,
11 correct?

12 A. Yes.

13 Q. And obviously you're aware of that, correct?

14 A. Yes.

15 Q. And I would imagine that medical condition
16 probably changes how you go through life, correct?

17 A. I would say yes.

18 Q. You try to avoid certain things because of this
19 fragility that you may have, correct?

20 A. No.

21 Q. You -- you don't want to have seizures, right?

22 A. Yes.

23 Q. And there are certain things that you know maybe
24 make you more vulnerable to seizures, correct?

25 A. Yes.

1 Q. And I would imagine you probably go through life
2 trying to avoid those instances in which you would put
3 yourself at risk for the seizure, correct?

4 MR. ANDERSON: Objection. Relevance, Judge.

5 A. What -- what are these instances?

6 Q. (By Mr. Nelson, continuing) I -- I don't know --

7 THE COURT: Wait. Stop. Stop. Please, I've got
8 three people talking at the same time.

9 THE WITNESS: Oh, yes.

10 THE COURT: I can't have that.

11 You've got to speak up.

12 MR. ANDERSON: Objection. Relevance.

13 THE COURT: I can barely hear you. I even lost
14 track of where we are.

15 MR. NELSON: He says -- well, let me just --

16 THE COURT: Start over.

17 MR. NELSON: -- skip ahead and go to something.

18 Q. (By Mr. Nelson, continuing) This condition you
19 told the police, you said, I was on the verge of having a
20 seizure and every time I have one I just don't remember
21 ever -- anything and I was blanking out a lot. That's
22 what you told the police, correct?

23 A. Yeah, if that's what the report says. I don't
24 remember.

25 Q. Okay. You don't remember telling them you don't

1 remember that you blacked out?

2 A. Yes.

3 Q. Okay. Your experience is, though, when you're on
4 the verge of having a seizure, that impacts your ability
5 to remember things, correct?

6 A. After I have the seizure, yes.

7 Q. Okay. Sure. And -- and you're -- whatever your
8 memory was, it's kind of erased, right?

9 A. Not erased. I mean, once things are explained I
10 do rec -- reconcile throughout my memory a bit and then --

11 Q. Okay.

12 A. -- just gradual --

13 Q. And is it actual -- is it a memory or do you just
14 deduce what must have happened by using deductive
15 reasoning? Or do you actually have a memory in your head
16 of seeing something of that happened?

17 A. When -- when certain things are brought up I do
18 have slight memories of things, like, reconciling in my
19 brain.

20 Q. Okay. But what you told the police is you were
21 blanking out a lot, correct?

22 A. If that's what the report says, yes.

23 Q. And that's -- as you sit here today, you remember
24 that you told the police you were blanking out because you
25 were in fact blanking out a lot on July 30th, 2022, when

1 you were on the river in that stressful situation?

2 A. No.

3 Q. You weren't blanking out?

4 A. Not in that moment. I mean, obviously it's been
5 a long time now some memories are flawed I would say
6 but --

7 Q. Okay.

8 A. In that moment when it happened I was not
9 blanking out or having a seizure on said spot.

10 Q. Okay. Do you know why you would have told the
11 police, I just don't remember anything and I was blanking
12 out a lot?

13 A. Yes, because afterwards I was holding my friend's
14 intestines.

15 Q. And I appreciate that that was a traumatic
16 experience for you. I didn't mean to imply that it was
17 anything but. But what you were saying is the blanking
18 out happened with your dealing with the after effects of
19 this event?

20 A. The trauma, yes.

21 Q. Okay. All right. I want to go through some of
22 what you said here. What I know for sure is you said you
23 never saw the knife, correct?

24 A. Correct.

25 Q. You went over there. You must have seen some

1 things, correct?

2 A. What do you mean by that?

3 Q. Well, we saw the slide where you walk over and
4 you're kind of coming over late compared to when everybody
5 else is there. Would you agree with that?

6 A. Yes.

7 Q. And when you come over at some point you see who
8 you now know is Mr. Miu get hit, correct?

9 A. Yes.

10 Q. And you -- you see it's your brother that's
11 hitting him, correct?

12 A. I didn't at the time.

13 Q. Okay. You just knew somebody had hit him,
14 correct?

15 A. Yes.

16 Q. And you knew, you said -- you said, I was yelling
17 at people to back up, I was yelling at everyone, not just
18 one side or the other. That's what you said, correct?

19 A. Yes.

20 Q. And let's just talk about the sides here for a
21 moment, okay. On the one side there was 13 people,
22 agreed?

23 A. I didn't know that at the time, but now I do,
24 yes.

25 Q. And on the other side there was Mr. Miu, correct?

1 A. Yes.

2 Q. And so when you approach you see Mr. Miu, the --
3 the member of one, he got hit, correct?

4 A. I -- at the time I didn't know who had gotten
5 hit, I just was telling everyone to separate.

6 Q. Sure. You saw a person that got hit, correct?

7 A. Yes.

8 Q. And that person was Mr. Miu, correct?

9 A. Yes.

10 Q. And that person was down in the water, correct?

11 A. Yes.

12 Q. And people on the other side continued to hit Mr.
13 Miu, the one person that was down in the water, correct?

14 A. By the time I was over there. I didn't see that,
15 I was just separating people.

16 Q. But whatever it was you saw, at that point you --
17 you were yelling back up, telling people to stop, correct?

18 A. Yes, because I saw a large group together. I
19 just saw --

20 Q. Yeah. You saw --

21 A. -- a bunch of bodies together --

22 Q. Correct.

23 A. -- I didn't see anything specific.

24 Q. And those bodies were all around Mr. Miu, the
25 person who had got hit and was in the water, correct?

1 A. I didn't know who was surrounding who.

2 Q. All right. Well, you agree that one person can't
3 surround anyone, agreed?

4 A. Yes.

5 Q. So you agree if there's somebody being
6 surrounded, it would be Mr. Miu, correct?

7 MR. ANDERSON: Objection. I think asked and
8 answered. He said he doesn't know who was being
9 surrounded.

10 THE COURT: Sustained.

11 Q. (By Mr. Nelson, continuing) So I just want to
12 make sure it's clear. You don't know who was being
13 surrounded but you saw somebody being surrounded, correct?

14 A. No, I just saw a large group in, like, a huddled
15 conversation. They were all yelling like.

16 Q. Okay. And then did you see this before or after
17 you saw Mr. Miu get hit and in -- in the water?

18 A. Like when I saw him -- I didn't see him get hit,
19 I just saw someone get hit.

20 Q. Okay. You saw the after effects of someone
21 getting hit?

22 A. Yes.

23 Q. And what that was is you saw that someone falling
24 into the water?

25 A. Yes.

1 Q. And then you saw that someone being converged
2 upon by others?

3 A. Yes.

4 Q. And then you saw that someone essentially being
5 surrounded, correct?

6 MR. ANDERSON: Objection. Asked and answered.

7 MR. NELSON: Time wise.

8 THE COURT: Sustained. We've been through this.

9 Q. (By Mr. Nelson, continuing) And when you see
10 that someone being surrounded --

11 MR. ANDERSON: Objection. He said he doesn't
12 remember that.

13 MR. NELSON: He just answered --

14 THE COURT: Wait. Wait. Please. Please. Let's
15 get the question out. If there's an objection to the
16 complete question, make it, I'll make a ruling.

17 Q. (By Mr. Nelson, continuing) When you saw that
18 one person being surrounded, that's when you started
19 yelling at people to back up and get away, correct?

20 A. No.

21 MR. ANDERSON: Objection. The testimony is he
22 didn't know if anyone was surrounded. He went up to a
23 group of people.

24 THE COURT: So it is repetitive. Sustained.

25 Next question, please.

1 Q. (By Mr. Nelson, continuing) You had said you
2 were trying to separate everyone -- well, let me take a
3 second.

4 You watched through the slides starting at
5 2779 through I think 2924. Do you remember when you went
6 through those slides?

7 A. Yes.

8 Q. And at one point there you said you were trying
9 to separate everyone. You agree that's what you said?

10 A. Yes.

11 Q. And when you were trying to separate everyone,
12 what at that point you had observed is one person getting
13 hit, correct?

14 A. I didn't see him getting hit, I just saw that he
15 was on the ground for a moment and I was focused on
16 telling people to back up.

17 Q. What we know is you never saw him with a knife,
18 correct?

19 A. Yes.

20 Q. So you weren't telling people to back up from him
21 because you were worried about him, you were telling
22 people to back up from him because you wanted them to stop
23 beating him up, right?

24 A. No. I wanted everyone to step away because I
25 didn't know what the situation was again.

1 Q. Sure. And what you saw was someone was getting
2 beating up?

3 A. I saw a lot of people around each other.
4 Obviously one was in the water so I just told them to back
5 up.

6 Q. Now, I want to just go through a couple of other
7 things. You -- when you were there, did you hear the --
8 you had said there's one side and another side. Did you
9 hear one side yelling predator?

10 A. I don't recall.

11 Q. Did you hear one side yelling, He's looking for
12 little girls?

13 A. I believe at one point I heard someone yell that
14 over to our group.

15 Q. Okay. You don't know whether that's true or not,
16 agreed?

17 A. I didn't give it much thought but, no --

18 Q. You just know --

19 A. -- I did not know if it's true or not.

20 Q. You just know you heard that, correct?

21 A. Yes.

22 Q. Whether it's true or not, that's for somebody
23 else to decide, agreed?

24 A. Agreed.

25 Q. You -- did you also hear them screaming when you

1 got over there, We got it on camera. We got it on camera.

2 We got it on camera. Did you hear that?

3 A. No, I did not hear that.

4 Q. Okay. You don't know whether that's true either?

5 A. No.

6 Q. You also heard you said, He hit a woman, correct?

7 A. Yes.

8 Q. You don't know whether that's true, do you?

9 A. No, I don't, but I mean --

10 Q. You didn't see it, correct?

11 A. Correct.

12 Q. All you know is you heard somebody say something
13 on the river, right?

14 A. Correct. Yes.

15 Q. And if -- you watched the recording, correct?

16 A. Yep.

17 Q. We've heard lots of things on that recording,
18 agreed?

19 A. Yes.

20 Q. You don't know whether those things that the
21 people said on the recording are true or not, do you?

22 A. No.

23 Q. If you see it, I would imagine then you know it's
24 true?

25 A. Hard not to if you see it.

1 Q. Agreed.

2 You -- when you spoke with the police you
3 were asked some questions and you said on direct, you had
4 said that you told the police I punched the guy, correct?

5 A. Yes.

6 Q. And by the guy, you meant Mr. Miu?

7 A. Correct.

8 Q. The one, correct?

9 A. Yes.

10 Q. At that moment when you told that to the police,
11 you said that because you believed it was true, correct?

12 A. Yes.

13 Q. Now today, 20 months later, you believe it's not
14 true, correct?

15 A. Yes.

16 Q. And the reason you initially said it and now --
17 well, I shouldn't say. The reason it's changed is you've
18 watched the video?

19 A. Yes.

20 Q. Okay. So for whatever reason, you got it wrong
21 to begin with, correct?

22 A. Yes.

23 Q. And you could have got it wrong because you were
24 intoxicated, right?

25 A. That could be one reason.

1 Q. You could have got it wrong because it was a
2 stressful situation, correct?

3 A. Yes.

4 Q. You -- I can't imagine, but you could have got it
5 wrong because you just told an untruth, correct?

6 A. Yes.

7 Q. It doesn't sound like you would tell an untruth
8 to say you punched a guy when you didn't. Make sense?

9 A. Yes.

10 Q. But that could be another reason, correct?

11 A. Yes.

12 Q. Is there any other reason why you would have said
13 something happened when it didn't happen other than those
14 that I've given you?

15 A. Well, after, you know, having my memory refreshed
16 with the video, I believe that I thought I had punched him
17 because when he had stabbed me he was pushed back, and in
18 my memory everything happened so fast so I just thought
19 maybe that was me that had done that.

20 Q. Okay.

21 A. And I thought maybe I had punched him.

22 Q. Yeah. And on that day I'm sure you were
23 processing all kinds of things out, right?

24 A. Yes.

25 Q. And on that day you hadn't had a chance to watch

1 the video, correct?

2 A. Yes.

3 Q. On that day, when you said those things, you
4 weren't intentionally lying, correct?

5 A. No, I was not.

6 Q. I think as you've said already to the jury, like,
7 my memory might be flawed, correct?

8 A. Yes.

9 Q. Just like probably, like, anybody else's memory
10 in that sort of situation, correct?

11 A. I agree.

12 Q. And you might say things that un -- you don't
13 intend to be a lie but just are wrong, correct?

14 A. Yes.

15 Q. Because you're trying to explain this traumatic
16 event that happened, correct?

17 A. Yes.

18 Q. All right. The extent of -- we saw the picture
19 of you and there was the scratch on your left hip, right?

20 A. Yes.

21 Q. And then there was a bandage on your torso on the
22 left side, correct?

23 A. Correct.

24 Q. Those are all on the front of your body, correct?

25 A. Um-hum.

1 Q. Your injuries were to the front, correct?

2 A. Yes.

3 Q. They were -- they were when the two of you were
4 in contact with each other, facing each other, correct?

5 A. Yes.

6 Q. And the extent of your injury in that situation
7 was you got two stitches, correct?

8 A. I don't remember how many stitches I had.

9 Q. Okay. Would the -- if I told you the medical
10 records said two stitches, would you have anything --
11 reason to disagree with that?

12 A. I don't remember, so no.

13 Q. Sound about right?

14 A. Yes.

15 Q. All right. And what we saw on the video, do you
16 have a memory of that or are you just telling us what you
17 saw on the video? I -- let me back up. That was a poor
18 question.

19 I want to ask you about the time just
20 before you put your hands on Mr. Miu, okay?

21 A. Okay.

22 Q. Do you have a memory of that or are you just, for
23 lack of a better term, and maybe there's a better term,
24 narrating what you see on the video?

25 A. No, I remember.

1 Q. Okay. So you remember that he's got his back to
2 you, correct?

3 A. Well, I don't necessarily remember that he had
4 his back to me, I do remember separating everybody though.

5 Q. Okay.

6 A. It wasn't, you know, intended at one person or
7 the other, it was towards everyone to back away.

8 Q. Okay. So you remember approaching a person, a
9 someone, correct?

10 A. Yes.

11 Q. And you put your hands on -- one hand was on the
12 person's back, correct?

13 A. I mean, I gave him a light tap because there was
14 a lot of yelling, I was trying to get his attention away
15 from the girls that I was walking towards.

16 MR. NELSON: Could I have the screen?

17 Q. (By Mr. Nelson, continuing) Do you see the Image
18 2942 up there?

19 A. Yes.

20 Q. That's you, correct?

21 A. Yes.

22 Q. That's you reaching your left hand out in the
23 direction of what we now know is Mr. Miu, correct?

24 A. Yes.

25 Q. And as I slide forward, that's you pressing your

1 hand up against him, correct?

2 A. Yes.

3 Q. You can see your hand, your fingers making an
4 indentation in the -- his back in his skin there, correct?

5 A. Yes.

6 Q. And then as we slide through, you put your then
7 right hand on his right upper arm, agreed?

8 A. I can't see that.

9 Q. You see a right hand there?

10 A. I -- yes, I do.

11 Q. Do you see it then going against his arm?

12 A. It's blocked from the frame but --

13 Q. Okay. Do you remember pushing him in that
14 moment?

15 A. No.

16 Q. You would agree that's not gentle, what you're
17 doing right now?

18 A. I would say it is.

19 Q. Okay. And as you're here, this is where we see
20 your face, correct?

21 A. Yes.

22 Q. Are you now yelling at him?

23 A. I don't remember what I was saying at the moment.
24 I do remember --

25 Q. I understand the content. The volume was

1 yelling, agreed?

2 A. I think I was trying to raise my voice enough to
3 over everyone. I was screaming and yelling, yes.

4 Q. So you agree that the volume was yelling?

5 A. Yeah.

6 Q. There may be reasons why you wanted to yell, but
7 you agree you were yelling?

8 A. I -- like I said, I don't remember. If you could
9 play it, I could tell you if I was yelling or not.

10 Q. Okay.

11 A. I apologize.

12 Q. That's all right.

13 And this is where your -- you see your hand
14 now on his upper arm on the right side there?

15 A. Yes, I do.

16 Q. And it's this moment where you have come up from
17 Mr. Miu from behind and put your hands on him, and if not
18 a push, you certainly pressed against him, agreed?

19 A. Agreed.

20 Q. And it's in this moment when you're coming up
21 from behind yelling at him, pressing up against him, he's
22 already was previously down in the water, agreed?

23 A. I mean, I'm not pressing against him here, I was
24 directing him, I guess, away.

25 Q. Okay. All right. Let me just --

1 MR. NELSON: You can turn the screen off for a
2 moment.

3 Q. (By Mr. Nelson, continuing) I want to show you
4 some more pictures of just something before that, okay.
5 This is Photo 2831. That's you in the jean shorts,
6 correct?

7 A. Yes.

8 Q. Yes?

9 A. Yes.

10 Q. And that's Mr. Miu down in the water to your
11 left?

12 A. Yes.

13 Q. You know now as you've watched the video that
14 this is the second time he's been pushed down into the
15 water, agreed?

16 A. Yes.

17 Q. At that time you also knew, because you remember
18 seeing somebody hit him and pushing him down and then A.J.
19 pushed him down, you remember he had been knocked into the
20 water a second time as well, correct?

21 MR. ANDERSON: Objection. The testimony was he
22 saw somebody get hit.

23 THE COURT: No. No. No. No. Come on up.

24 (Whereupon, a discussion was held at the bench.)

25 THE COURT: All right. Let's continue.

1 Mr. Nelson.

2 MR. NELSON: Thank you.

3 Q. (By Mr. Nelson, continuing) So continuing
4 questions here on -- at this time, if you could put
5 yourself back, and I understand you might not be able to,
6 you had knowledge that he had been knocked down into the
7 water two times, fair to say?

8 A. At that moment I did not know he was knocked down
9 two times. After re-watching the video, yes.

10 Q. Okay. So again, back on July 30th you know he's
11 down in the water at least, correct?

12 A. Yes.

13 Q. Because he's down in the water --

14 A. Yes.

15 Q. -- right?

16 And you're near him, correct?

17 A. Yes.

18 Q. And as I scroll through this, we can see that he
19 reaches his left hand up to grab onto you, correct? Did
20 it -- that would appear to be?

21 A. I didn't know if he was grabbing for me but I --
22 I don't remember.

23 Q. We don't -- you don't know other than it didn't
24 cause you harm, correct?

25 A. No, it did not.

1 Q. Agreed?

2 It didn't cause you pain, correct?

3 A. Correct.

4 Q. He may have been trying to grab a hand to lift
5 himself up, he may have been trying to push you over, he
6 may have been trying to slap you, you don't know, it just
7 didn't cause you harm, agreed?

8 A. Agreed.

9 Q. Okay. Now just before this where we see that, it
10 appears as if somebody's kind of pushing you out of the
11 way. Does that look like that's the case?

12 A. I think I was more or less, like, traveling
13 through the water and walking my way through them.

14 Q. Sure. And we see a -- a dark arm pressed up
15 against you, correct?

16 A. Yes.

17 Q. And we see you making an expression that appears
18 as if you're not liking whatever contact you're receiving,
19 agreed?

20 A. No, I think at that point I'm yelling.

21 Q. Okay.

22 A. And telling people to back off.

23 Q. You're telling people to back off, right?

24 A. Yes. Everyone.

25 Q. Back off, get away from the guy that's down in

1 the water?

2 A. I didn't -- I was telling everyone to get -- get
3 back.

4 Q. Sure. At that point there's one guy in the
5 water, correct?

6 A. Yes, but I wasn't focused on that, I was focused
7 on separating everyone.

8 Q. Okay. And now as we scroll through, Mr. Miu here
9 has the knife in his right hand, correct?

10 A. (No response.)

11 Q. Do you -- do you see that?

12 A. Yes.

13 Q. And as you're -- just before that, that's your
14 foot, that's your body, you're right there, correct?

15 A. Yep.

16 Q. You are not wounded in that moment, correct?

17 A. Correct.

18 Q. You're right in his -- near him, correct?

19 A. Correct.

20 Q. He does not reach the knife out and stab you,
21 correct?

22 A. Looks like he's trying to hold himself up.

23 Q. Right. My question was he doesn't reach out and
24 stab you, agreed?

25 A. Agreed.

1 Q. You are not -- you don't receive the wound that
2 is the -- causes the two stitches until after you've
3 approached him from behind and tried to redirect him while
4 you're yelling, correct?

5 A. Yes, correct.

6 Q. So it's not until you engage with him that he
7 engages with you, agreed?

8 A. Agreed.

9 MR. NELSON: Nothing else.

10 THE COURT: Mr. Anderson.

11 REDIRECT EXAMINATION

12 BY MR. ANDERSON:

13 Q. So you told law enforcement you didn't remember a
14 lot of this, is that right?

15 A. Yes.

16 Q. You didn't tell them you didn't remember
17 anything?

18 A. No.

19 Q. And you did tell them what you -- what you did
20 remember?

21 A. Yes.

22 Q. And you said you blanked out a lot but not all of
23 it?

24 A. Yes.

25 Q. And did you describe the guy who stabbed you to

1 law enforcement?

2 A. I don't remember if I did or not.

3 Q. Would it remember fresh your memory to see the --
4 a transcript?

5 A. Yes.

6 MR. ANDERSON: May I approach?

7 THE COURT: Yes.

8 Q. (By Mr. Anderson, continuing) Page 2. Just read
9 it and look up when you're done.

10 Does that refresh your memory?

11 A. Yes.

12 Q. Did you describe what you could remember about
13 him to law enforcement?

14 A. He was wearing cargo shorts.

15 Q. And did you describe his age?

16 A. No.

17 Q. Did you say -- did you describe older or younger
18 or --

19 A. No.

20 Q. I'm going to show you again. Do you agree you
21 actually did say --

22 A. Oh, I'm sorry. Yes.

23 Q. And do you recall telling law enforcement what
24 you heard specifically when you went over?

25 A. I just -- I believe I said I -- you never hit a

1 girl, and that's when I reacted.

2 Q. I mean -- I mean, before you walked over, like
3 what you heard being yelled that caused people to walk
4 over?

5 A. Sorry, I'm getting a bit mixed up here. I don't
6 remember, no.

7 Q. Okay. Would it refresh your memory to see the
8 transcript?

9 A. Yes.

10 Q. I'll just have you read it to yourself and then
11 look up when you're done. You might have to turn the
12 page.

13 MR. NELSON: Excuse me, what page are you on?

14 MR. ANDERSON: Two. Bottom of two.

15 MR. NELSON: Thank you.

16 Q. (By Mr. Anderson, continuing) So does that
17 refresh your memory of what you heard being yelled?

18 A. It does actually, yes.

19 Q. What was that?

20 A. They did yell help.

21 Q. And this interview was when you were still at the
22 hospital after being transported there?

23 A. Yes. If that is the transcript from this here.

24 Q. That's the only interview you recall doing with
25 law enforcement, right?

1 A. Yes.

2 Q. Did you describe to law enforcement about when
3 you got stabbed?

4 A. I -- I don't remember if I did. It's -- it's
5 hard. I apologize.

6 Q. Yeah, that's all right.

7 A. My memory's not --

8 Q. That's all right. I don't want you to guess.

9 MR. NELSON: I apologize. Can we approach?

10 THE COURT: Yes.

11 (Whereupon, a discussion was held at the bench.)

12 MR. ANDERSON: Judge, we're just gonna play the
13 interview.

14 THE COURT: Any objection?

15 MR. NELSON: No objection, Judge.

16 THE COURT: All right.

17 MR. ANDERSON: I'll let the clerk know when I'm
18 ready.

19 Judge, I'm just gonna start at one o'clock
20 to skip past some personal details they go over.

21 THE COURT: Fair?

22 MR. NELSON: No objection.

23 THE COURT: Okay.

24 MR. ANDERSON: Okay. I'm ready.

25 So starting at the one-minute mark.

1 (Whereupon, the video was played.)

2 MR. ANDERSON: All right, Judge, that's
3 Exhibit 78.

4 THE COURT: Okay. 78 is marked and received.

5 MR. ANDERSON: I don't have anything else.

6 THE COURT: Mr. Nelson.

7 MR. NELSON: Just briefly.

8 RECROSS-EXAMINATION

9 BY MR. NELSON:

10 Q. Your -- and you talk about it in that interview
11 and I just want to make sure. Your dad told you to go
12 over there, correct?

13 A. I'm sorry, what?

14 Q. When you were in the tubes, before you went over
15 to the other group, there was a bunch of people that you
16 said, right. Before you went there your dad had told you
17 something, agreed?

18 A. Yes.

19 Q. And one of the -- what your dad told you was, Go
20 and make sure they don't attack that guy. That's what
21 your dad told you?

22 A. I don't remember what he said exactly.

23 Q. Okay.

24 MR. NELSON: Thank you. That's all.

25 THE COURT: Thank you, Mr. Carlson. You may step

1 down.

2 Is he released?

3 MR. ANDERSON: No.

4 THE COURT: All right. Please see the witness
5 coordinator in the back, she'll tell you what to do next.

6 (Whereupon, the witness is excused.)

7 THE COURT: Who is the next witness?

8 MR. ANDERSON: Ryhley Mattison.

9 Judge, could we take a short recess?

10 THE COURT: How much time do you need?

11 MR. ANDERSON: Less than five minutes.

12 THE COURT: Sure, why not. Five-minute recess.

13 Please take the jury out.

14 (Whereupon, the jury exits the courtroom.)

15 THE COURT: We will resume at 9:10.

16 (Whereupon, a break was held.)

17 (Whereupon, the jury enters the courtroom.)

18 THE COURT: We are back on the record. The jury
19 is present. Mr. Miu is present. The jury is present.

20 Let's continue.

21 Is Ms. Mattison in the courtroom?

22 MS. MATTISON: (Non-verbal response.)

23 THE COURT: Okay. Please come forward.

24 That's good. Face the clerk, raise your
25 right hand, she will administer the oath.

1 RYHLEY MATTISON,
2 after having been first duly sworn on oath by the clerk,
3 testifies and says as follows:

4 THE WITNESS: I do.

5 THE COURT: Please have a seat in the witness
6 chair.

7 Mr. Anderson.

8 DIRECT EXAMINATION

9 BY MR. ANDERSON:

10 Q. Can you please state your first and last name and
11 spell both?

12 A. Ryhley Mattison. R-y-h-l-e-y, m-a-t-t-i-s-o-n.

13 Q. And, Ryhley, how old are you?

14 A. I am 25.

15 Q. And how tall are you?

16 A. Five, five.

17 Q. And how much do you weigh?

18 A. About 110 pounds.

19 Q. And were you about the same in July of 2022?

20 A. Maybe 115.

21 Q. Were you tubing on the river that day with
22 friends?

23 A. I was.

24 Q. And were you drinking alcohol?

25 A. I was.

1 Q. Using any other substances?

2 A. I was smoking marijuana.

3 Q. And do you believe you were intoxicated?

4 A. I do, yes.

5 Q. Was that your first time tubing on the river?

6 A. I've been on the river before, but I've started
7 at different points with friends, so I've never really
8 been on that part of the river.

9 Q. Okay. If your medical records say -- well,
10 let's --

11 What do you -- do you remember at some
12 point along the river that -- something catching your
13 group's attention?

14 A. Not specifically mine. I was just kind of
15 hanging out with my friends on the tube and we had stopped
16 and so I kind of asked why we were stopping and I heard
17 somebody mention something about a group looking
18 uncomfortable. I hadn't got off right away so --

19 Q. Did you walk over after some other folks?

20 A. I did. I kind of was like what's going on? And
21 then I had told Janell, like, let's kind of go over there
22 and see what's going on.

23 Q. And what do you -- do you remember everything
24 sequentially perfectly or is it --

25 A. I -- it's very choppy for me.

1 Q. Okay. So what do you remember next?

2 A. I remember getting off the tube, walking up to
3 Mr. Miu, and I just remember Mady being there and yelling
4 at him. I remember her being punched in the face and then
5 I remember being stabbed, and that is completely it.

6 Q. So you don't remember -- did -- did you see, or
7 don't you remember, anyone else stabbed?

8 A. No.

9 Q. Then do you know if it's because you don't
10 remember or you didn't see or --

11 A. I just -- I think I was just focused on myself
12 doing what I was doing, I was not really paying attention
13 to anybody else at all.

14 Q. And what -- when you saw Madison get punched, can
15 you explain that in as much detail as you remember?

16 A. I -- I barely really remember that part. I just
17 remember him staring at us and then not saying anything
18 and punching her, and I was just like shocked, like, oh,
19 my god, and that I don't -- right after that I -- I
20 literally remember being stabbed and that's it so --

21 Q. With him punching her, do you remember any more
22 details than that, like what hand he used or --

23 A. No.

24 Q. -- how the punch was?

25 A. Not at all.

1 Q. And what else do you remember about you getting
2 stabbed?

3 A. I just remember seeing Nic's face very blank and
4 not lunging at me but just kind of poking me, and I held
5 my side and I was like, ow, like, Janell I think he
6 punched me, that really hurt, like -- and I looked down
7 and I was bleeding out and holding my stomach and it just,
8 like, didn't feel real, like it was just a lot of shock.
9 And from there I was walking around the river asking for
10 help, like just asking somebody to help me. I told Q that
11 I felt like I was dying because I just was losing it, like
12 I was losing so much blood, and every time I walked I just
13 felt like I was getting weaker and weaker.

14 And so another group down the river put me
15 on a tube and kind of pushed me down to get kind of away
16 -- away from the scene, and then they were holding my side
17 and just kind of keeping me awake. And then when the cops
18 had showed up they took me off of the tube and put me on
19 the ground and I just remember, like, Janell coming over,
20 you know, asking me to stay awake and the cops trying to
21 ask me what my name was and then just being put in the
22 ambulance and going to the hospital.

23 Q. And when you -- when you touched your side, do
24 you remember feeling anything?

25 A. No, I just was -- I thought I was punched or

1 something. I didn't really know. I wasn't really paying
2 attention, and it really didn't hurt, but when I looked
3 down I was instantly like -- I believe I was holding my
4 stomach. I believe Janell was coming to help me to hold
5 my stomach and to hold my side and then just blood kind of
6 going. And I didn't -- I didn't want to look down because
7 it freaked me out and I didn't really want to touch it
8 either because I didn't -- I just didn't want to feel
9 anything. So I kind of just barely held my hand on it. I
10 just didn't want to feel it.

11 Q. Do you remember telling law enforcement that you
12 felt like something was coming out of the wound when you
13 touched it?

14 A. I don't remember that.

15 Q. And did you have any -- so as -- after you were
16 brought on the tube to shore, you said people were telling
17 you to stay awake. Did you --

18 A. Yeah, just asking me like -- kind of asking me
19 questions and -- like my name, like who are you? Just
20 kind of like what's going on? Anything that would make me
21 stay awake. And I just remember being super tired and I
22 just wanna be left alone.

23 Q. Did you have trouble breathing at all?

24 A. Not right away. Slowly but surely I did, and
25 then once I got in the ambulance and actually got to the

1 hospital I, like, felt like I couldn't breathe at all.
2 But it was -- it took a little time for, like, actually,
3 like, happen for me. I don't know if I didn't realize it
4 right away but --

5 Q. And where -- where were you brought, if you
6 remember, when you were brought to shore? Were you
7 brought to the grass? The pavement?

8 A. I was laid right on the blacktop because I
9 remember saying, oh, my god, like, this is burning my
10 back. I believe -- I just -- I remember the bridge, so I
11 know it was right before, like, the bridge, but I don't,
12 like, know exactly where but I know it was up right on the
13 asphalt. I believe on the road that, like, the cops would
14 drive on and the ambulance and everything.

15 Q. And were there officers or an officer there with
16 you?

17 A. I believe I had one officer holding/helping me,
18 kind of put pressure on my side and talking to me, yes.

19 MR. ANDERSON: Permission to approach.

20 THE COURT: Yes.

21 Q. (By Mr. Anderson, continuing) Handing you what's
22 been marked as Exhibit 68. Is that -- is that a photo --
23 is that a image of you on the blacktop?

24 A. Yeah.

25 MR. ANDERSON: Judge, I move to admit and publish

1 68.

2 THE COURT: Any objection?

3 MR. NELSON: No objection.

4 THE COURT: 68 is received. Go ahead and
5 publish.

6 MR. ANDERSON: I'm going to do it digitally.

7 THE COURT: Did you mean on your laptop?

8 MR. ANDERSON: Yes.

9 THE COURT: Okay.

10 MR. ANDERSON: I'll tell you when I'm ready.

11 Okay.

12 THE WITNESS: Ah, fuck.

13 MR. ANDERSON: You can take it down.

14 Q. (By Mr. Anderson, continuing) Ryhley, at some
15 point were you transported away from the scene?

16 A. Yes.

17 Q. Do you remember how?

18 A. In an ambulance.

19 Q. Were you brought to a hospital?

20 A. Yes.

21 Q. And did you go immediately into surgery?

22 A. I believe so, yes. I -- I just remember the
23 ambulance telling me there's gonna be a lot of people
24 asking me questions and I just remember being put on a
25 bed, and that's literally all I remember. I mean, I

1 remember them asking me kind of, you know, who you are,
2 what's your name, what's your birth date, and I wouldn't
3 answer and I just kept -- and I couldn't breathe, and
4 that's the last thing I remember.

5 Q. Until after surgery?

6 A. Yeah, I barely even remember waking up from
7 surgery.

8 MR. ANDERSON: Permission to approach?

9 THE COURT: Yes.

10 Q. (By Mr. Anderson, continuing) I handed you
11 what's been marked as Exhibit 33. What's that?

12 A. That is the incision where the doctors had to cut
13 me up to put my stomach back in.

14 MR. ANDERSON: I move to admit and publish.

15 MR. NELSON: Could we approach?

16 THE COURT: Yes.

17 (Whereupon, a discussion was held at the bench.)

18 (Whereupon, Exhibit Number 79 was marked for
19 identification.)

20 MR. NELSON: Judge, we have no objection to the
21 introduction of evidence of Exhibit 33 and Exhibit 79 and
22 no objection to publication.

23 THE COURT: So 33 is received and may be
24 published.

25 And 79 is in your hand?

1 MR. ANDERSON: Yes.

2 THE COURT: All right. 79 is received.

3 MR. ANDERSON: All right. Can we have the
4 screen?

5 And for the record, this is 79.

6 Q. (By Mr. Anderson, continuing) And, Ryhley, what
7 are we seeing in this photo?

8 A. That is -- the bigger one is the stab wound and
9 the little one is from the chest tube.

10 Q. And how about in this one?

11 A. This is the one where they had to cut me open to
12 get my stomach put back in.

13 Q. And so like here where the mouse is, that's from
14 surgery?

15 A. That's all from surgery and then the staples.

16 Q. And then on over here?

17 A. Yep.

18 Q. What's that?

19 A. The incision wound?

20 Q. This -- this stitches right here, is that the
21 stab wound?

22 A. Yep, that's the stab wound.

23 Q. The one we looked at --

24 A. Prior, yeah.

25 Q. Okay. Oh. And are you -- in the photo, are you

1 taking this in a mirror?

2 A. Yes.

3 Q. So the -- which side is the wound actually on?

4 A. On my left side.

5 Q. So it's reversed in this photo?

6 A. Yes.

7 MR. ANDERSON: You can turn off the screen.

8 Q. (By Mr. Anderson, continuing) And I think you
9 testified that you remember him looking at you and then
10 reaching over. Do you -- do you recall telling law
11 enforcement you don't remember if you hit him or said
12 something to make him angry?

13 A. I do remember saying that. I think I was trying
14 to maybe find a reason why he did what he did to me or,
15 you know, after he had hit Mady if I had maybe put my
16 hands on him because he had hit Mady. I think I was just
17 finding a reason.

18 Q. Do you -- from what you remember of being
19 stabbed, do you have any memory of actually hitting him or
20 saying anything?

21 A. I don't remember saying anything, hitting him,
22 touching him. Nothing.

23 Q. I'm going to go through some slides with you or
24 some still frames from the video.

25 All right. I'm on 2496.

1 MR. ANDERSON: I'm ready.

2 Q. (By Mr. Anderson, continuing) Ryhley, are you in
3 that photo --

4 A. Yeah.

5 Q. -- in that image?

6 A. Yes.

7 Q. Okay. Is that your arm there?

8 A. Yes.

9 Q. Okay.

10 MR. ANDERSON: Can you turn off the screen? I'm
11 going to go to a different one.

12 All right. I'm ready.

13 Q. (By Mr. Anderson, continuing) All right. I'm on
14 2458 and I'm going to scroll through. And actually, your
15 arm again?

16 A. Yes.

17 Q. Stopping on 2470. What are you doing in this
18 image?

19 A. I'm not sure if I'm just touching his shoulder or
20 if I'm going to push him.

21 Q. 2492, have you removed your hand at this point?

22 A. Yes.

23 Q. Did you see a push?

24 A. I mean, kind of like a little -- I guess I don't
25 know what I would call it, but just kind of maybe brushing

1 his shoulder. I guess push, yes.

2 Q. Do you want to see it again?

3 MR. NELSON: Objection. Cumulative.

4 THE COURT: Sustained.

5 MR. NELSON: She --

6 THE COURT: Sustained.

7 Q. (By Mr. Anderson, continuing) Pausing at 2531.
8 Did you see the knife in his hands when you're standing
9 there?

10 A. I don't remember.

11 Q. Is that your -- do you know if that's your hand
12 or Mady's hand?

13 A. No, that is Mady's hand.

14 Q. Okay. How do you tell? The nail polish?

15 A. Yeah. I don't wear nail polish.

16 Q. And do you see yourself in that image, 2662?

17 A. I do.

18 Q. To the left of Dante?

19 A. I do.

20 Q. To the right of Mady?

21 A. Yes.

22 MR. ANDERSON: Can we mute the -- turn off the
23 screen? I'm going to go to another image.

24 Could we have the screen? This is 2861.

25 Q. (By Mr. Anderson, continuing) Ryhley, do you see

1 yourself in this image?

2 A. I do.

3 Q. Where are you?

4 A. I am standing right behind Nic Miu.

5 Q. What color swimsuit?

6 A. Blue with flowers.

7 Q. I'm gonna scroll. Stopping on 2948. Do you see
8 yourself in this image?

9 A. I do.

10 Q. Holding your side?

11 A. I do.

12 Q. I'm gonna keep scrolling. And I -- you said one
13 of your friends came to your aid after you were stabbed?

14 A. Yes. Janell.

15 Q. Is she in this photo?

16 A. She is. She is in the black swimming suit.

17 Q. Okay. Let me keep scrolling.

18 Do you remember retreating or recoiling
19 from Nicolae at that point or no?

20 A. What do you mean by that?

21 Q. In these -- I'll back up a little bit.

22 A. Okay.

23 Q. So I'm on 3 -- 3017.

24 A. Like ran away?

25 Q. Yes.

1 A. Yes.

2 MR. ANDERSON: You can turn off the screen.

3 Thank you.

4 Q. (By Mr. Anderson, continuing) Do you remember
5 Nicolae saying anything at all when you were standing in
6 front of him?

7 A. Not one word.

8 Q. Did you have any indication -- or did you see
9 anything, hear anything to indicate if he was with a
10 group?

11 A. I had no idea who he was. I didn't know if he
12 was a part of the group we were going to. I had
13 absolutely no idea.

14 MR. ANDERSON: I don't have anything else.

15 THE COURT: Mr. Nelson.

16 MR. NELSON: Yes. Thank you, Judge.

17 CROSS-EXAMINATION

18 BY MR. NELSON:

19 Q. Good morning.

20 A. Good morning.

21 Q. I want to ask you some questions about your
22 intoxication and your memory, okay?

23 A. Okay.

24 Q. You've -- you made lots of statements in this
25 case, is that fair to say?

1 A. Yes.

2 Q. You've spoke to the police a couple of times,
3 correct?

4 A. Yes.

5 Q. You've spoke to a KARE 11 news, correct?

6 A. Yes.

7 Q. You spoke with Fox 9 news, correct?

8 A. Yes.

9 Q. And one of the things I think you've consistently
10 said in all of those statements to the police, to the news
11 is you're basically like I was drinking a lot, I don't
12 remember much?

13 A. Correct.

14 Q. Fair to say?

15 A. Correct.

16 Q. And the reason that you consistently said that is
17 because that's the truth, correct?

18 A. Correct.

19 Q. You were drinking a lot, right?

20 A. Correct.

21 Q. You were intoxicated, correct?

22 A. Correct.

23 Q. You were also smoking marijuana, correct?

24 A. Correct.

25 Q. And that I'm sure impacted your ability to

1 perceive things, as well as remember things, agreed?

2 A. Agreed.

3 Q. And I think what -- you've used different words
4 to say, like, things are blurry, correct?

5 A. Yeah, I think I just have kind of, like, a
6 specific patchy spot that I've been trying to figure out
7 what's -- what happened in that little spot.

8 Q. Sure. But the words that you used, I think you
9 used on direct, like you see chunks almost, right?

10 A. Right.

11 Q. And then also what I'm gathering is the chunks
12 that you do see, those are blurry?

13 A. Yeah.

14 Q. And then in-between the blurry chunks there's
15 just blank spaces?

16 A. Correct.

17 Q. Okay. And you don't know whether those blank
18 spaces in your memory are because of intoxication,
19 correct?

20 A. Correct.

21 Q. Or perhaps because of -- I imagine that was a
22 stressful event for you?

23 A. Yes.

24 Q. Even before you were cut with a knife, you -- you
25 lack some memory before that, correct?

1 A. Yes.

2 Q. And I would imagine some of that before that was
3 a little bit stressful, correct?

4 A. Yes.

5 Q. Obviously this stress increased once you were
6 injured, right?

7 A. Yes.

8 Q. But nevertheless, the stress that you were under
9 may have caused you to not remember certain things,
10 correct?

11 A. Correct.

12 Q. You probably talked with lots of -- lots of your
13 friends about this event, correct?

14 A. We've talked, yes.

15 Q. Yeah. This was -- and again, I'm not trying to
16 judge, just in fairness, this was a life-changing event
17 for you, right?

18 A. Correct.

19 Q. And for your group of friends, correct?

20 A. Correct.

21 Q. I imagine when you get together you chat about
22 it?

23 A. Yes.

24 Q. Right?

25 People share their experience, correct?

1 A. Correct.

2 Q. And maybe you help each other process what the
3 experience was, correct?

4 A. I wouldn't say necessarily process it, just kind
5 of -- I mean, the beginning I was more like this is what I
6 remember, like, you know, how -- what do you remember? I
7 wouldn't say we were trying to give each other answers
8 but --

9 Q. Understood. But you had gaps in your memory,
10 correct?

11 A. Yes.

12 Q. And again, you don't get into specifics but other
13 people, when you were talking to that that were there,
14 they had gaps in their memory?

15 A. Yes.

16 Q. And so sometimes you would share information with
17 each other to try and maybe fill in the gaps, correct?

18 A. Sometimes, yes, but I never really took what they
19 said and put it together. I just remembered what I
20 remembered and --

21 Q. And I appreciate that. You've been very clear
22 about that, but I just want to make sure that we know that
23 you've -- you got other information, right?

24 A. Yes.

25 Q. And part of that is because you want to know what

1 happened, correct?

2 A. Correct.

3 Q. And there's still some things as you sit here
4 today that you don't know, correct?

5 A. Yeah, kind of doesn't make sense.

6 Q. Yeah. All right. And just the human condition
7 at least for you is you want to try and make sense of it,
8 correct?

9 A. Yes.

10 Q. And sometimes you, I would imagine like the rest
11 of us, you use deduction to try to put things together,
12 correct?

13 A. Yes.

14 Q. Even if you don't necessarily have a memory, you
15 try to deduce what it is that happened, right?

16 A. Yes.

17 Q. All right. And so here in court when we were
18 talking -- I'm just -- I'm going to try and focus on the
19 memory.

20 A. Okay.

21 Q. Does that make sense?

22 A. Okay.

23 Q. Because some of the things you might have said or
24 you might talk about are from things that you've kind of
25 -- you think because you've deduced it, would that be

1 fair?

2 A. Uhm, I guess.

3 Q. Sure. Well, let's talk about this. Like one of
4 the -- the -- one of the issues in the case is what
5 happened to Mady, right?

6 A. Yes.

7 Q. And one of the first things that you told the
8 police is you said, quote, I thought he slapped her
9 because, like I said, it was just kind of not
10 comprehending. You said that to the police, correct?

11 A. I don't remember, but if I did, yes.

12 Q. All right. And since then you've said she was
13 punched, correct?

14 A. That is correct.

15 Q. And today when you were asked, Tell us the
16 details of that, you were like -- I just want to make sure
17 I get it correctly. You said, No, not at all, I don't
18 remember the details.

19 A. I don't.

20 Q. And you've been very honest about that. We
21 appreciate that. What I want to try and make sure is that
22 when you say you don't remember the details, like you
23 don't have a picture in your head about Mady getting
24 punched, correct?

25 A. I shouldn't have said punched because I don't

1 remember if it was a punch or a slap, but I do remember
2 her being hit in the face.

3 Q. Okay. So Mr. Miu's had some sort of contact with
4 his hand to her face, correct?

5 A. Correct.

6 Q. You don't remember which hand it was?

7 A. I do not.

8 Q. You don't remember the context under which it
9 was, correct?

10 A. I do not.

11 Q. You don't remember if it was in response to
12 something that she had done, correct?

13 A. Correct.

14 Q. And right now as you say that you don't have an
15 image, a picture in your mind, about what it is that
16 happened, correct?

17 A. Correct.

18 Q. Fair to say -- and again, that -- what you're
19 telling us is you kind of deduced that something happened
20 to Mady based upon all of the other circumstances,
21 correct?

22 A. I know I saw Mady get hit.

23 Q. Okay. And when you say you know you saw Mady get
24 hit, you can't put a picture in your mind that you can
25 tell us though?

1 A. I cannot. I just know even waking up from
2 surgery like my story was I remember that.

3 Q. Sure. And your original story was, At first I
4 thought he slapped her?

5 A. Like I said, I don't know if it was a slap or a
6 punch so --

7 Q. Okay. Just some sort of contact?

8 A. Correct.

9 Q. So I want to walk through some of the things
10 before that.

11 A. Okay.

12 Q. And I know you may or may not have a memory, so
13 we've got the video, right?

14 A. Yes.

15 Q. And you've been shown that video before?

16 A. (Non-verbal response.)

17 Q. Yes?

18 A. Yes. Sorry.

19 Q. And you've been shown some of the slides before?

20 A. Yes.

21 Q. And by slides, I mean we broke the video up into
22 different frames. I call them slides. Does that make
23 sense?

24 A. Yes. I just kind of really saw the video. I
25 haven't really seen a whole lot of the slides other than

1 yesterday when I was here.

2 Q. Okay. Yesterday somebody showed you some slides?

3 A. No, up -- like up on the screen --

4 Q. Oh.

5 A. -- when you guys were doing them.

6 Q. As a -- you were just here watching the trial?

7 A. Correct.

8 Q. Which you have a right to do. And that's when --
9 the first time you saw the slides come through, correct?

10 A. Yes.

11 Q. But before that, you haven't been shown the
12 slides?

13 A. No, just the -- like just video --

14 Q. Okay.

15 A. -- basically the part of myself.

16 Q. And you, just to kind of -- I want to get us into
17 the space that we -- I think is the important space when
18 you're right in front of him.

19 A. Okay.

20 Q. And so if I get there too quickly tell us, but --

21 A. Okay.

22 Q. -- you, Mady, and Dante are there first, correct?

23 A. Uhm.

24 Q. When I say there, there's a -- let me back up.

25 There's a group of six teenage males,

1 correct?

2 A. Yes.

3 Q. And then there's Mr. Miu, correct?

4 A. Correct.

5 Q. And then there's you -- got -- you're in a group,
6 which we'll call the Carlson/Coen group, is that fair?

7 A. Okay.

8 Q. And there's about eleven people in that group,
9 correct?

10 A. Correct.

11 Q. Of your group, the first two people that leave
12 your group to join the other group are Madison Coen and
13 Dante Carlson, right?

14 A. Correct.

15 Q. At some point you go over and join Madison and
16 Dante, correct?

17 A. Correct.

18 Q. Prior to that, do you have a memory of what you
19 observed?

20 A. I did not observe anything. I remember coming
21 down the river and our tubes -- our tubes being stopped.
22 Like I said, I -- I just asked what was kind of going on,
23 why we were being stopped. We literally just got back on
24 our tubes, why -- why are we stopping again? And I heard,
25 I don't know who, but somebody say a group looks

1 uncomfortable.

2 Q. Okay.

3 A. I did not hear anything coming from the back of
4 us from the group, I didn't even see the group, I was not
5 even paying attention to them, I was just hanging out with
6 my friends.

7 Q. And a -- you didn't hear anybody call for help,
8 correct?

9 A. I did not hear anything.

10 Q. And I think what you told the police in one of
11 your interviews is you even questioned some of your
12 friends, like, why are we intervening?

13 A. Yeah. Well, I kind of just asked Janell, like,
14 what's going on? Why -- what are they doing?

15 Q. Right.

16 A. And then I was just like, let's just get up and
17 kind of go see.

18 Q. Okay. So at some point you and Janell and Gabby,
19 you're the next three people that join Madison and Dante,
20 is that right?

21 A. I'm not sure if Gabby came with us, but Janell
22 and I for sure did.

23 Q. Okay. And do you remember there was a time when
24 you were walking over there, do you remember Nic Miu
25 standing up and looking upriver and waving his hand?

1 A. I do not.

2 Q. And do you remember then that as soon as that got
3 done happening, Madison Coen turned to you and Janell and
4 she waved her arm to have you guys come over?

5 A. I don't remember that, but maybe that is why we
6 got up.

7 Q. Does that make sense to you, why you went there,
8 is because Madison's like --

9 A. I mean, yes.

10 Q. -- come on over here, right?

11 A. Yes.

12 Q. And then you went over, correct?

13 A. Yes.

14 Q. And then there were times that we've seen in the
15 video where you're standing in front of Mr. Miu, correct?

16 A. Correct.

17 Q. Prior to your getting there, would it be fair to
18 say that Madison Coen was yelling at Mr. Miu?

19 A. I'm -- I didn't -- like I said, I didn't hear
20 anything. I had no idea of the scene.

21 Q. Did you see her standing in his face?

22 A. No.

23 Q. Okay.

24 A. Until I got over there, yes.

25 Q. Once you got over there, you then saw her

1 standing in his face?

2 A. Yes.

3 Q. And you then saw her and probably heard her
4 yelling at him, correct?

5 A. Yeah, I didn't -- I can't really -- like I said,
6 I don't make out what she said specifically, but yes.

7 Q. So you don't know the content but you know the
8 volume was high?

9 A. Yes.

10 Q. And would it be fair to say that she was in his
11 face?

12 A. Yes.

13 Q. And at some point as we saw on there, you went up
14 and stood next to Madison, essentially right in front of
15 Mr. Miu as well, correct?

16 A. Correct.

17 Q. And Dante was -- if you're -- if you're here,
18 Madison's next to you, Dante's over in this area, fair to
19 say?

20 A. I did not remember Dante being even around us.

21 Q. Okay.

22 A. I just remember it being Mady and I and then
23 Janell.

24 Q. Okay. And you remember, as we saw on the screen,
25 that when you're standing there, essentially you -- you

1 weren't asking questions, right?

2 A. I don't think I asked questions. I --

3 Q. Yeah.

4 A. -- I might have yelled, you know, the same things
5 they were yelling --

6 Q. Sure.

7 A. -- but I don't remember.

8 Q. And so while you went over there with the intent
9 to figure out what was going on, as soon as you got there
10 and saw Mady doing something you basically joined her,
11 right?

12 A. I think that's exactly what I did, yes.

13 Q. Yeah. You just whatever my friend is doing I'm
14 going to join her and do the same thing, correct?

15 A. Not just Mady, but everybody else kind of
16 yelling.

17 Q. Yeah.

18 A. I think maybe I was listening to everybody else
19 yelling and I just kind of --

20 Q. Joined the crowd?

21 A. Joined the crowd, yeah.

22 Q. Yep. That sometimes what happens in a crowd?

23 A. Yes.

24 Q. You agree?

25 A. Yes.

1 Q. And when you joined the crowd in that situation,
2 we saw on there that's when you reached out and started
3 putting your hands on Mr. Miu, correct?

4 A. I don't remember putting my hands on him, but in
5 the video, yes.

6 Q. You saw yourself, as you described it, you kind
7 of -- kind of pushed him, is I think the words that you
8 used, right?

9 A. Yeah, I mean, I can't really tell. I just see my
10 hand, you know, on his shoulder and I don't really see him
11 fall back or anything but --

12 Q. Yeah. But it -- it -- it moves his person, not
13 his feet?

14 A. Right.

15 Q. Right.

16 And then I don't know if you -- do you
17 remember then standing next to you as you're doing that
18 with the left hand, Madison Coen is putting her right hand
19 on his left shoulder --

20 A. Correct.

21 Q. -- and pushing him back as well, correct?

22 A. Correct.

23 Q. And that, I think, on the still frames it's hard
24 to know, but that's around the 1:44 second mark. Does
25 that make sense?

1 A. Yes.

2 Q. And it's about 1:45 where we see the picture of
3 Mr. Miu standing there with a -- the knife in his hand in
4 front of him, correct?

5 A. Yes.

6 Q. So he's not hiding it, agreed?

7 A. Agreed.

8 Q. You, for whatever reason, didn't see it?

9 A. Correct.

10 Q. Yeah. And it's while he's standing there holding
11 the knife with -- that's the time that you're pushing him
12 on the one side and then just after that Madison Coen's
13 pushing him on the other side, correct?

14 A. I believe so.

15 Q. And it's right around there too in the middle of
16 that where he raises his left hand and calls back to
17 his -- upriver to other people, correct?

18 A. I -- I mean, in the video, yes, but I don't
19 remember that.

20 Q. Okay. In that moment --

21 MR. ANDERSON: Judge, I'm just going to object on
22 the line of questioning. I think the video speaks for
23 itself.

24 THE COURT: He's entitled to ask questions.
25 Overruled.

1 Q. (By Mr. Nelson, continuing) In that moment, did
2 you understand that the man that you're standing in front
3 of, who's looking past you, is waving to people behind
4 you?

5 A. I did not.

6 Q. Okay. Did you ever think, hey, maybe I should
7 just let him go in that direction?

8 A. I mean, I'm 110 pounds, I feel like he could have
9 walked right past me.

10 Q. He could have, right. You don't know who was to
11 your left, correct?

12 A. Correct.

13 Q. There's a group of six teenagers there?

14 A. Correct.

15 Q. And those six teenagers are screaming predator,
16 predator, predator, correct?

17 A. I didn't hear that, but in the video, yes.

18 Q. And to your right is Madison Coen?

19 A. Correct.

20 Q. And somewhere around in that area is Dante
21 Carlson?

22 A. Correct.

23 Q. Anthony Carlson?

24 A. Correct.

25 Q. A.J. Martin, correct?

1 A. Correct.

2 Q. So it wasn't just you, 110-pound --

3 A. No, but at that moment it was Mady and I so I
4 just mean he could have walked around but --

5 Q. At least that's what's captured on the camera --

6 A. Right.

7 Q. -- correct?

8 We -- again, we've seen some other --

9 MR. NELSON: Can I have Exhibit 104, 105?

10 Permission to publish 104, Judge?

11 THE COURT: Yes.

12 Q. (By Mr. Nelson, continuing) This is Exhibit
13 Number 10 -- oops, I gotta zoom in on it I guess. That
14 didn't work well.

15 You said you were here in court yesterday?

16 A. I was.

17 Q. Did you see Exhibit Number 105 when we talked
18 about that?

19 A. I believe so. There's been a lot so -- yes.

20 Q. Sure. And you can -- you can't see on here, but
21 this is from Frame 2592 at a minute 49. Does that make
22 sense?

23 A. Yes.

24 THE COURT: Okay. Is this 105 or 104?

25 MR. NELSON: This is 104, Judge, thank you. I

1 apologize.

2 Q. (By Mr. Nelson, continuing) And you see the -- a
3 red Jay -- the red circle with JC in it with an arrow
4 around it, correct?

5 A. I do.

6 Q. And that appears to be about the camera angle,
7 correct?

8 A. Yes.

9 Q. So again, there may have been other people not
10 photoed -- not in the photo but they'd be around that
11 area, correct?

12 A. Correct.

13 Q. You have every -- you have no reason to disagree
14 with the positioning of people in this at that time,
15 correct?

16 A. Correct.

17 Q. Okay. So after the -- he gestures to other
18 people, you guys continue to stand in front of him,
19 correct?

20 A. I believe so.

21 Q. And this is where, again, something happens and
22 you don't have a memory of it or you're like he had
23 contact with her face in some way, right?

24 A. Correct.

25 Q. And you don't under -- necessarily know the

1 context of that, right?

2 A. Correct.

3 Q. I want to -- if I -- hold on a second -- switch
4 to my computer. So if I -- yes.

5 I want to show you some photos here
6 starting at 2643, okay?

7 A. Okay.

8 Q. The person -- is that you in the bikini bottom
9 with the tattoo on your right leg?

10 A. Correct.

11 Q. And then we can see a bit of blonde hair and an
12 elbow here. Is that Madison Coen?

13 A. I think so, yes.

14 Q. Okay. And as I scrolled through, that shows then
15 Madison Coen, correct?

16 A. Correct.

17 Q. And then I'm going to scroll forward to 2655. Do
18 you see that?

19 A. Yes.

20 Q. At least as 2655, I'm going to move one more I
21 believe, is this your elbow underneath Mady's left hand --

22 A. Yes.

23 Q. -- which is holding a can?

24 A. Yes, I believe so.

25 Q. That's your elbow?

1 A. Yeah.

2 Q. So in this moment in time at 2656, we have to
3 watch the video, between -- you're in-between Mr. Miu and
4 Madison Coen, agreed?

5 A. Right here, yes.

6 Q. And so is Dante Carlson, he's in-between Madison
7 Coen and Mr. Miu, correct?

8 A. Correct.

9 Q. All right. And you don't have a memory of
10 exactly where people were or what happened just before
11 this other than Mr. Miu's hand went to her face in some
12 manner, correct?

13 A. Correct.

14 Q. I'm just gonna scroll forward here to get to some
15 other pictures quick.

16 Okay. Before I get to the next section
17 here, just -- the photos that we saw before, you were
18 essentially leaning in towards Mr. Miu, correct?

19 A. Correct.

20 Q. And then after that we're gonna see a photo where
21 you're -- if we can actually pull it up now. 2857.
22 That's your leg with the bikini bottom behind Mr. Miu,
23 correct?

24 A. Correct.

25 Q. So in-between the photo that we saw and this

1 photo, you don't remember what you were doing, correct?

2 A. I have no idea, no.

3 Q. Correct. There's nothing to indicate that you
4 were tending to your friend, Mady Carlson (verbatim),
5 correct?

6 A. Correct.

7 Q. Because as we saw in the photo before this, you
8 weren't actually going to your friend, you were going to
9 Mr. Miu, correct?

10 A. In the photo it looks like that, yes.

11 Q. So whatever happened to your friend, it wasn't
12 something that caused you to say I better take care of
13 her?

14 A. I think I just was shocked that he had hit her so
15 I just -- I don't -- like I said, I don't know if I
16 reacted, I don't really know what I said. I don't know.

17 Q. Whatever it was, you didn't focus your attention
18 on your friend, correct?

19 A. I did not.

20 Q. Obviously this is somebody that you care for,
21 right?

22 A. Yes.

23 Q. You worry about her, right?

24 A. Yes.

25 Q. And if you were worried for her safety you might

1 have had an instinct to turn to her right away, correct?

2 A. Correct. And I -- and I don't know if I did say
3 something right away and then just --

4 Q. All we know is what's in the photo --

5 A. Correct.

6 Q. -- and that is you don't turn your attention to
7 her --

8 A. Correct.

9 Q. -- you're focusing your attention on Mr. Miu --

10 A. Correct.

11 Q. -- correct?

12 So now in 2857 you're behind Mr. Miu,
13 correct, your back is to him?

14 A. Yes.

15 Q. And his back is to you, correct?

16 A. Correct.

17 Q. All right. I want to just go through these
18 quickly here, the next couple of slides, okay?

19 A. Okay.

20 Q. We want -- we want to focus on what you're doing,
21 then I'm going to ask you some questions, okay?

22 A. Okay.

23 Q. So you -- you came out in the last frame that
24 you're in is 2866, do you agree?

25 A. Yes.

1 Q. So I'm going to go back to 2858. As we scroll
2 through, does it appear as if you are turning around your
3 body?

4 A. Yes.

5 Q. And you would be then going back in a direction
6 towards Mr. Miu, correct?

7 A. I don't believe that I did, no.

8 Q. Okay. Well, let's -- you're turning -- let me go
9 back again so just --

10 A. I'm turning around, yes. I don't know where I'm
11 going though.

12 Q. So we agree that you turn around, correct?

13 A. Well, yes.

14 Q. We don't know how far you turn around, correct?

15 A. Correct.

16 Q. We know at some point that you and Mr. Miu are
17 really close, correct?

18 A. Yes. I believe he walked up to me though.

19 Q. Okay. And when you say believe, you don't have a
20 memory of it, correct?

21 A. Correct, but I've seen the video a lot and I'm
22 not facing the way he's facing, I'm facing the opposite
23 way.

24 Q. Okay. And let -- we're going to go through that
25 --

1 A. Okay.

2 Q. -- but just as we go through this right now this
3 isn't a memory you have, right?

4 A. Right. Correct.

5 Q. This is, again, something that you've used your
6 deduction to try to figure out what happened, correct?

7 A. Correct.

8 Q. And the story that you've -- I don't want to say
9 told yourself, but is that fair?

10 A. Yeah.

11 Q. The story you've told yourself is he came up to
12 me, correct?

13 A. Not came up to me, but we were standing in front
14 of him and I thought after the punch with Mady I thought
15 he stabbed me right after that.

16 Q. Okay. And so -- but when you were saying like I
17 didn't walk up to him, that's something -- that's not a
18 memory, that's just your doing some deduction --

19 A. Right.

20 Q. -- to get there, correct?

21 A. Correct.

22 Q. The story that you've told yourself?

23 A. Correct.

24 Q. And in that -- what you've told other people was
25 he was close enough to literally where he just put his

1 hand up and kind of poked me on the side, right?

2 A. Correct.

3 Q. You said that to the news station, agreed?

4 A. Correct.

5 Q. You'd also said to the police, this isn't in
6 relation to anything, you just volunteered this
7 information, I don't know if I reacted, like, hitting at
8 him or yelling at him --

9 A. That's correct.

10 Q. -- correct?

11 And then you said he poked me, correct?

12 A. Correct.

13 Q. And then you had said I think as well to the
14 police, I was close enough that he could pretty much go
15 like that, agreed?

16 A. Correct.

17 Q. And when you did that, you're on the video,
18 you've got your right hand and you move your right hand I
19 think like maybe three inches forward --

20 A. Yeah.

21 Q. -- is that fair?

22 A. Yeah.

23 Q. Is that a fair demonstration of what you did when
24 you said, He went like that?

25 A. Yes.

1 Q. Am I doing that correctly?

2 A. Yes.

3 Q. So when Mr. Anderson demonstrated something
4 before and he swung his arm around, that's not accurate?

5 A. I wouldn't say that's not accurate, I just --

6 Q. That's not acc --

7 A. -- I just felt it was literally a poke in my --

8 Q. Yeah.

9 A. -- side.

10 Q. Sure. And the poke in your side is on your left
11 side, correct?

12 A. Correct.

13 Q. And it's -- if you -- could you just for a
14 moment, could you stand for a moment?

15 A. Yes.

16 Q. And again, obviously keep your -- your jacket on
17 --

18 A. Okay.

19 Q. -- right. Can you just touch on your -- with
20 your right hand where it is?

21 A. Right here.

22 Q. Okay. Okay. Fair to say that as you stand there
23 right -- how you are right now, your left arm is
24 protecting that area?

25 A. Yes.

1 Q. And if you raise your left arm, push it -- raise
2 it so -- is that area now exposed?

3 A. Yes.

4 Q. Is it now vulnerable to being cut?

5 A. Yes.

6 Q. Is it vulnerable to being cut where you're at
7 right now?

8 A. No.

9 Q. No. And so from deduction, would you agree that
10 maybe your hand was out stretched towards him in that
11 moment?

12 MR. ANDERSON: I'm gonna --

13 A. I do not agree to that.

14 MR. ANDERSON: -- object. It's speculation.

15 THE COURT: Sustained.

16 Q. (By Mr. Nelson, continuing) Okay. You don't
17 have a memory of it?

18 A. I do not.

19 Q. All you know is couldn't have done it with your
20 hands down at your side, correct?

21 MR. ANDERSON: Objection. Speculation.

22 THE COURT: She's already said that but --

23 MR. NELSON: Okay.

24 THE COURT: Let's move on.

25 MR. NELSON: Nothing else. Thank you -- oh, I

1 apologize. Yes, I do have something else. Sorry. Sorry.

2 If we could go back to the slides here
3 there's one other thing I want to ask you about.

4 THE WITNESS: Okay.

5 THE CLERK: You ready?

6 MR. NELSON: Yes, please.

7 Q. (By Mr. Nelson, continuing) So this is 2859
8 where we talked about before. I want to focus on
9 something else though, okay?

10 A. Okay.

11 Q. As I move forward here I want to ask if you
12 remember Mady behind you. Is this -- in the green suit,
13 is that Gabby?

14 A. Correct.

15 Q. Do you see a -- a leg with a navy blue swimsuit
16 bottom?

17 A. I do.

18 Q. Was Mady wearing a navy blue swimsuit bottom?

19 A. Yes.

20 Q. You think that's Mady?

21 A. I do.

22 Q. In that photo does it look like you're tending to
23 her?

24 A. Not at that moment.

25 Q. And in fact, this is the stretch where we see you

1 turning around, correct?

2 A. Correct.

3 Q. You're actually turning away from her, correct?

4 A. Correct. It looks like she's walking the
5 opposite way.

6 Q. Yeah. So whatever was going on with Mady, you
7 weren't worried about her, you were going in a different
8 direction?

9 A. At that point, yes.

10 Q. Yeah. And --

11 MR. NELSON: If we can have the slides off here.

12 You can put the slide back on. Thank you.

13 Q. (By Mr. Nelson, continuing) This is Slide 2969.
14 That's you after he made that little jabbing motion toward
15 you, correct?

16 A. Correct.

17 Q. This is you with the injury that we just talked
18 about, correct?

19 A. Correct.

20 Q. Can you see your friend, Janell, there in the
21 background?

22 A. Yeah.

23 Q. She's clearly reacting to you, correct?

24 A. Correct.

25 Q. And then she goes and she gives you attention,

1 for lack of a better term, correct?

2 A. Correct.

3 Q. It's at that point that Janell was, prior to
4 that --

5 MR. NELSON: You can take it down.

6 Q. (By Mr. Nelson, continuing) Prior to that,
7 Janell was turned, facing towards Mr. Miu and kind of
8 everybody -- she was kind of in the background, is that
9 right?

10 A. Yes.

11 Q. You didn't see Janell go tend to Mady Coen,
12 correct?

13 A. I don't remember.

14 Q. Sure. What we know is when you were injured, she
15 went and tended to you, correct?

16 A. Correct.

17 Q. But prior to that she's not tending to any other
18 women, agreed?

19 A. Correct.

20 Q. After -- at some point after this you walk over
21 to your group, what I'll call Group 2, correct?

22 A. Correct.

23 Q. And as you're standing over there, some people
24 are tending to you, correct?

25 A. I don't know if I walked over to the group. I

1 walked kind of a little away from him I believe.

2 Q. I'm -- hold on a second.

3 MR. NELSON: Could I have the screen back up
4 again?

5 Q. (By Mr. Nelson, continuing) This is Slide 4511,
6 okay?

7 A. Okay.

8 Q. I'm going to zoom in so I can ask you some
9 questions about that, okay?

10 A. Okay.

11 Q. Person in the yellow shirt, that's Q, is that
12 right?

13 A. Correct.

14 Q. The person in the green bikini, that's Gabby K.,
15 agreed?

16 A. Correct.

17 Q. And the person over here in the navy blue suit,
18 that's Madison Coen, correct?

19 A. Correct.

20 Q. She appears to be on her phone, correct?

21 A. Correct.

22 Q. Holding a beer in her left hand, correct?

23 A. Correct.

24 Q. So while you're -- you're -- you're injured,
25 correct?

1 A. Correct.

2 Q. And looks like Quinton's coming over to, again,
3 care and attention to you, correct?

4 A. I believe so. I remember -- yeah, I remember
5 talking to him.

6 Q. Okay. And do you see here, do you remember Mady
7 standing there with the phone in her right hand, with the
8 beer in her left hand, and her glasses on her forehead?

9 A. No, I don't. I just remember Janell screaming to
10 call for 911 and then -- and then ask -- asking -- just
11 like I said, kind of walking around and asking for help.

12 Q. Okay. So you don't know if in that moment in
13 time Madison Coen had both of her hands full with the
14 items that she had previously?

15 A. I had no idea.

16 Q. You don't know what the condition of her
17 sunglasses were that were on her head?

18 A. No.

19 MR. ANDERSON: Objection, Judge. Not in
20 evidence.

21 THE COURT: She doesn't remember.

22 MR. ANDERSON: Well -- can we approach?

23 THE COURT: Yes.

24 (Whereupon, a discussion was held at the bench.)

25 MR. NELSON: I have nothing else. Thank you.

1 MR. ANDERSON: Can you keep this screen up?

2 REDIRECT EXAMINATION

3 BY MR. ANDERSON:

4 Q. Do you see sunglasses on Madison's head there?

5 A. I do not.

6 MR. NELSON: Can we take the screen down?

7 MR. ANDERSON: Yes.

8 Q. (By Mr. Anderson, continuing) So when I was
9 first questioning you I asked you what you remember
10 specifically, your personal memory, and you talked about
11 him hitting -- Nicolae hitting Madison and Nicolae
12 stabbing you, is that right?

13 A. Correct.

14 Q. And then on cross Defense asked a lot of
15 questions about the video and what you -- asked you to
16 interpret things in -- from the still frames?

17 MR. NELSON: Objection. Mischaracterizes. What
18 I was doing --

19 THE COURT: Again -- again, please.

20 I'll just say this for the jury's benefit:
21 You are the judges of the facts. What the lawyers say is
22 not evidence. So you can just disregard whatever they
23 say. Focus on what the witness says.

24 Next question.

25 Q. (By Mr. Anderson, continuing) The -- apart from

1 what you remember that you've testified about is the --
2 the video is the best evidence, would you -- would you
3 agree with that?

4 MR. NELSON: Objection. We don't need her to say
5 what the best evidence is.

6 THE COURT: Again, please no speaking objections.
7 It's a leading question. Sustained.

8 MR. NELSON: Thank you, Judge. Sorry.

9 Q. (By Mr. Anderson, continuing) When you spoke to
10 police originally, did you tell them that you saw Nicolae
11 hit Madison?

12 A. I believe so.

13 Q. Do you believe you told that to law enforcement
14 in the second interview, as well as the two media
15 statements?

16 A. I'm not exactly sure, but I believe so.

17 Q. Defense asked you about how you described first
18 to law enforcement about that hit. Do you recall that
19 questioning?

20 A. Sorry?

21 Q. About -- do you recall the questioning about you
22 saying it was a slap and that was the -- how you first
23 described it?

24 A. I really don't remember being questioned. In --
25 in the hospital I was just coming out of surgery and --

1 Q. Would seeing a transcript help refresh your
2 memory on how you first described that to law enforcement?

3 A. Yes.

4 MR. ANDERSON: Permission to approach?

5 THE COURT: Yes.

6 Q. (By Mr. Anderson, continuing) Showing you a
7 transcript. It says location: Regions Hospital,
8 August 1st, 2022. I'm going to have you read from the
9 beginning until you get to the point where you first
10 describe that to law enforcement, okay?

11 A. Okay.

12 Q. Bottom of Page 3.

13 A. Read it out loud?

14 Q. No, just read it to yourself.

15 MR. NELSON: While she's doing that, can we
16 approach, Judge?

17 THE COURT: Yes.

18 (Whereupon, a discussion was held at the bench.)

19 A. How long did you want me to read it down to?

20 Q. (By Mr. Anderson, continuing) Until the end of
21 Page 3.

22 A. Okay.

23 Q. Does that refresh your recollection how you first
24 described it to law enforcement?

25 A. A little bit.

1 Q. And what was it? How did you describe it?

2 MR. NELSON: Objection.

3 Q. (By Mr. Anderson, continuing) Or what word?

4 A. The hit? Of Mady being hit?

5 Q. Yeah. Did you say punch? Slap?

6 A. I said he went to go punch her in the face.

7 Q. Defense asked you about Exhibit 104.

8 MR. ANDERSON: Can we turn on the ELMO?

9 Q. (By Mr. Anderson, continuing) And Defense asked,
10 You have no dis -- reason to disagree with this, and you
11 agreed. Do you recall that?

12 A. What did you say?

13 Q. Defense asked if you have any reason to disagree
14 with Exhibit 104 and you said you have no reason to
15 disagree with it?

16 A. Correct.

17 Q. Do you remember that?

18 A. Yes.

19 Q. Do you have personal memory of who was where and
20 -- at that point in the video?

21 A. No.

22 MR. ANDERSON: Can we bring up my screen?

23 THE CLERK: Are you ready?

24 MR. ANDERSON: Yes.

25 Q. (By Mr. Anderson, continuing) So this is the

1 image of your surgery scar and then you can see the stab
2 scar on the side?

3 A. Correct.

4 Q. And are you holding your phone up when you --
5 with your arms here?

6 A. Correct.

7 Q. And your stab wound is visible in this photo?

8 A. Correct.

9 Q. So Defense asked you if your hands are like this,
10 that area is protected; if your hand is like this, it's
11 not?

12 A. Correct.

13 Q. But your hand could be in a lot of places and it
14 could be --

15 A. Correct.

16 Q. -- exposed?

17 And you don't -- do you remember where your
18 hand was?

19 A. I do not.

20 Q. Do you remember hitting or pushing Nicolae before
21 he stabbed you?

22 A. I do not.

23 Q. What do you remember doing before he stabbed you?

24 A. Nothing.

25 Q. Just standing there?

1 A. Just standing there and being stabbed.

2 MR. ANDERSON: Can we bring up my screen?

3 Q. (By Mr. Anderson, continuing) So we're on 2860,
4 this is that frame where Defense asked you about the navy
5 swimsuit where you can just see the very edge on the top
6 left. Do you recall that?

7 A. Correct.

8 Q. And Defense asked, so we can deduce that you
9 didn't go to Mady. Do you recall that?

10 A. I do, but this was awhile after.

11 Q. And I'm gonna go backwards in the frames.

12 And here do you see yourself?

13 A. I do.

14 Q. And do you see another leg, somebody standing
15 right in front of you?

16 A. I do.

17 Q. So could we also deduce that you did go to her?

18 A. Correct.

19 MR. ANDERSON: Nothing else, Judge.

20 MR. NELSON: Can you keep that up?

21 THE COURT: Mr. Nelson.

22 MR. NELSON: Yes.

23 RECROSS-EXAMINATION

24 BY MR. NELSON:

25 Q. Do you know who's standing in front of you?

1 A. I don't.

2 Q. Do you see a white leg?

3 A. I do.

4 Q. There were 13 people -- 14 of you, including Mr.
5 Miu, correct?

6 A. Correct.

7 Q. We know it's not Mr. Miu, correct?

8 A. Correct.

9 Q. We know it's not Janell, correct?

10 A. Correct.

11 Q. We know it's not you, correct?

12 A. Correct.

13 Q. We know it's not Dante, correct?

14 A. Correct.

15 Q. There's lots of other legs that it could be,
16 correct?

17 A. That is correct.

18 Q. You don't know whether that's Madison or not?

19 A. I don't.

20 Q. Now, the only reason you were able to identify
21 Madison in the other one is she's the only one wearing
22 that navy suit, correct?

23 A. Correct.

24 Q. All right. What -- I want to ask you about some
25 things that you've said previously, okay, just to make

1 sure we're on the same page --

2 A. Okay.

3 Q. -- about -- firstly about what happened with
4 Madison, okay?

5 A. Okay.

6 Q. You told FOX 9 news in an interview from the
7 hospital bed, you said these words --

8 A. Okay.

9 Q. -- that are on the recording, quote, At first I
10 thought he had slapped her because I was like -- like I
11 said, I was just kind of not comprehensive. You said
12 those words?

13 A. I guess so.

14 Q. Well, now I want to ask you about your
15 interaction with Mr. Miu --

16 A. Okay.

17 Q. -- okay? What you said to FOX 9 news during that
18 same interview is, I don't know if I had hit him to have
19 him upset. You said that, correct?

20 A. I believe so.

21 Q. To KARE 11 news you said, I'm not sure if I hit
22 him because I was so upset?

23 A. Okay.

24 Q. Agreed?

25 A. I think so.

1 Q. And then to the police you said, I don't know if
2 I reacted like hitting him or yelling at him or something,
3 correct?

4 A. Correct.

5 Q. You mentioned to KARE 11 news, FOX 9 news, and to
6 the police at least your opinion at that time is you might
7 have hit him, correct?

8 MR. ANDERSON: Objection. Asked and answered as
9 to all three already.

10 THE COURT: Sustained.

11 MR. NELSON: That's all.

12 THE COURT: Thank you, Ms. Mattison. You may
13 step down.

14 Please see the witness coordinator in the
15 back and she'll give you instructions.

16 (Whereupon, the witness is excused.)

17 THE COURT: It's about 10:30. Why don't we take
18 our mid-morning recess. We'll reconvene at about 10:35.

19 Please take the jury out.

20 (Whereupon, the jury exits the courtroom.)

21 THE COURT: All right. We are in recess.

22 (Whereupon, a break was held.)

23 (Whereupon, the jury enters the courtroom.)

24 THE COURT: We are back on the record with the
25 jury. Everyone is present and accounted for.

1 Mr. Anderson, who is the next witness?

2 MR. ANDERSON: A.J. Martin.

3 THE COURT: Is Mr. Martin in the courtroom?

4 Mr. Martin, please face the clerk, raise
5 your right hand, she will administer the oath.

6 ALEXANDER J. MARTIN,
7 after having been first duly sworn on oath by the clerk,
8 testifies and says as follows:

9 THE WITNESS: I do.

10 THE COURT: Please have a seat in the witness
11 chair.

12 Mr. Anderson.

13 DIRECT EXAMINATION

14 BY MR. ANDERSON:

15 Q. Can you please state your -- I'm going to ask you
16 to state your first, middle, and last name.

17 A. Alexander James Martin.

18 Q. Do you go by a nickname?

19 A. A.J., yeah.

20 Q. And, A.J., were you tubing with friends on
21 July 30th, 2022, on the Apple River?

22 A. Yes, I was.

23 Q. And -- you're friends with Tony?

24 A. Yeah. We were roommates in college, and then
25 that was the first time we had seen each other in like

1 three years.

2 Q. Okay. And what -- what college?

3 A. River Falls, Wisconsin.

4 Q. What city and state do you live in now?

5 A. St. Paul, Minnesota.

6 Q. A.J., do you have any prior criminal convictions?

7 A. Yes. Two.

8 Q. And what do you do for work?

9 A. I'm a electrical apprentice. I install solar
10 panels.

11 Q. And how tall are you?

12 A. Five nine and three-quarters.

13 Q. And how much do you weigh?

14 A. 169.

15 Q. And how much, if you know, about on July 30,
16 2022?

17 A. 170.

18 Q. What do you -- at some point when you're tubing
19 on the river did something catch your attention or
20 people's attention that you were with?

21 A. Yeah.

22 Q. What do you recall about that?

23 A. Just a lot of -- a lot of loud noises, screaming,
24 yelling, someone asking for help, and then I had seen Mady
25 get up with someone and what I thought I -- or what I

1 remember was getting up and I think I had got Dante up
2 with me, but then I turned around to also get Tony up and
3 Dante was over there. I turned back around from me trying
4 to get Tony up and I believe I saw Mady get pulled in the
5 back of her hair and then punched in the face. It could
6 also be that she just got punched in the face and I had
7 seen, like, the after, like, her face get flung and that's
8 why I thought her head got pulled. And then --

9 Q. I'm -- so do you recall, like, how far away you
10 were when you saw that happen to Mady?

11 A. It was -- it was probably about half away
12 in-between the groups or maybe a little closer to -- we
13 were Group 2, right? So I would be a little closer to
14 Group one, the -- the teens' group.

15 Q. Still on your way over?

16 A. Yeah.

17 Q. And after that did you hurry over?

18 A. I mean, yeah, I was -- after I saw him punch her
19 I wanted to get over there but I didn't -- I wasn't --
20 yeah, I tried to get over there as fast as I could, I
21 guess.

22 Q. And what do you recall after that?

23 A. Well, after he had hit Mady in the face I saw
24 someone else hit him and I wasn't sure who. I saw him
25 fall into the water and my intention was -- because I used

1 to work at elementary schools and had experience breaking
2 up fights with little kids and stuff like that, so my
3 intention was to go over there and try and break it up. I
4 saw him in the water and I saw people going around him so
5 I went to push his shoulder in the -- the front but
6 ultimately didn't.

7 But I was gonna try and just get him to
8 stay down for another second and then tell everyone to
9 back up and then we could have figured out what was going
10 on, but as I reached down to push him in the shoulders he
11 reached up and I guess -- I don't know if you call it a
12 stab, but got me with the knife.

13 Q. What was your injury?

14 A. Well, there was a lot, I guess. The most
15 apparent thing obviously was that my stomach was open and
16 my intestines were in my hands. I don't know what other
17 parts were there but -- I mean, they were in my hands
18 and -- I mean, yeah, I mean, I -- I know that and from
19 there, but afterwards with like the medical records and
20 stuff I know other injuries. I don't know if you want me
21 to go into that or not.

22 Q. Did you -- after you're holding your intestines,
23 did you see much of anything after that?

24 A. Not much. I mean, after that I remember
25 screaming pretty -- pretty viscerally, I think is the

1 word, and then I remember kind of scooping it together
2 with my left arm and putting my right arm down and
3 standing up and then falling down and standing up again,
4 and I think I fell down and stood up one more time. And
5 then I was kind of -- I mean, I was still conscious, I
6 was -- I was talking, but after that really all I remember
7 is that and then telling Tony that I was gonna die and him
8 telling me I was gonna be fine and that I wasn't and my
9 response every time was hundred percent I'm -- I'm going
10 to die today, and then I remember waking up in the
11 hospital with a breathing tube and my parents looking at
12 me.

13 Q. And do you know how long you were in the hospital
14 for that first time?

15 A. Yeah, 27 days.

16 Q. And after -- when you woke up the first time was
17 that after surgery?

18 A. Yeah, it was around 11:30 that night, I believe.

19 Q. Did you have follow-up surgeries?

20 A. A few, yeah.

21 Q. Did they -- was your wound stitched closed right
22 away?

23 A. No. They put what they call a wound pack on it.
24 I seen that act as kind of like a fake flesh or skin. And
25 they left that on for about a week doing other exploratory

1 surgeries just to make sure that they didn't miss any
2 other lacerations or injuries. And then after almost a
3 week or so they had intern -- done internal stitches but
4 left the top open so that it would heal better and they
5 put a -- another smaller wound pack over that.

6 Q. Did you have to have any sort of devices to
7 assist with digestion, eating, and feeding?

8 A. Yeah, I had a few feeding tubes, some NG tubes to
9 help with just the extra fluids in my stomach. But, yeah,
10 I had the feeding tube because after the surgeries I had
11 developed a hematoma in my intestine and it was completely
12 blocked off. There was no food, no water, and the IV --
13 IV nutrition wasn't doing enough. I had lost 50 pounds in
14 that 27-day stint.

15 Q. A.J., were you drinking on the river that day?

16 A. Yes.

17 Q. Do you believe you were intoxicated?

18 A. Probably, yeah.

19 Q. Did -- do you recall how you got to shore?

20 A. No, not really. I didn't know that I did really.
21 I just remember the standing up and the falling down, and
22 then I know people did move me in the end but I don't
23 remember it. I couldn't -- I couldn't see or feel
24 anything at that point.

25 Q. And you don't remember the -- do you -- well, let

1 me ask: Do you remember much of anything or anything from
2 the point where you're on shore until you wake up in the
3 hospital?

4 A. No. I think I lost too much blood at that point.
5 I mean, I -- in the past I've lost a lot of blood from a
6 injury when I was younger and I lost sight and vision --
7 or I mean, I lost sight and hearing from that, too, so I
8 know that, like, once you do lose enough certain parts
9 stop -- stop working because your body's trying to keep
10 you alive, not use senses.

11 Q. You talked about a artificial skin that you had
12 on at the hospital?

13 A. Yeah, the wound pack.

14 MR. NELSON: Could we approach, Judge?

15 THE COURT: Yes.

16 (Whereupon, a discussion was held at the bench.)

17 MR. ANDERSON: Judge, may I approach?

18 THE COURT: Yes.

19 Q. (By Mr. Anderson, continuing) A.J., this is a
20 graphic photo. I warn you first.

21 A. Yeah.

22 Q. What -- just can you just tell me what that photo
23 shows?

24 A. It shows the -- the wound bag and I guess the
25 extent of the wound. It -- I mean, yeah.

1 Q. Is that a photo of you in the hospital?

2 A. Yeah. That must be the next morning.

3 Q. Okay.

4 MR. ANDERSON: Judge, I'm going to move to admit
5 this now. I'm not going to ask to publish it.

6 THE COURT: Any objection?

7 MR. NELSON: Other than those noted and as long
8 as it's not published, I think that's all for today.

9 THE COURT: All right. It is received.

10 I'm sorry, what was the number?

11 MR. ANDERSON: Oh, I'm sorry.

12 THE WITNESS: 29.

13 THE COURT: What was it?

14 THE WITNESS: 29.

15 THE COURT: 29.

16 MR. ANDERSON: Correct.

17 THE COURT: 29 is received.

18 Q. (By Mr. Anderson, continuing) A.J., do you
19 recall telling law enforcement, I don't think I touched
20 him but if I was my hand was on his shoulder, it wasn't
21 forceful?

22 A. Yeah.

23 Q. And did you tell law enforcement your -- your
24 goal was to try to break it up?

25 A. Yes, I -- I remember that.

1 Q. I'm going to go through some slides with you.

2 MR. ANDERSON: Ready.

3 Q. (By Mr. Anderson, continuing) 2573, are you in
4 this frame, A.J.?

5 A. Yeah, in the yellow shorts.

6 MR. ANDERSON: You can -- can you take this
7 screen down, please?

8 Can we have it again?

9 Q. (By Mr. Anderson, continuing) I'm just gonna
10 go -- scroll to 2673. 2680, is that your shorts?

11 A. Yep.

12 Q. Stopping at 2800.

13 That section of frames I just went through,
14 A.J., are those -- is that the part where you got --

15 A. Yeah.

16 Q. -- hit with the knife?

17 A. Yeah.

18 Q. And that -- did you know that guy's name at the
19 time?

20 A. No.

21 Q. Now do you know -- know him as Nicolae Miu?

22 A. Yeah.

23 Q. And I want to ask you a question quick before
24 I -- this -- this Exhibit 29, if you know, I don't want
25 you to speculate, but do you know if that's -- and again,

1 don't answer -- if you don't, that's fine to say you don't
2 know. Is that frame the slice or was it -- did you have
3 further incisions from surgery?

4 A. No, that's all from the slice. There's -- it
5 actually goes from -- like you can't see it super well in
6 the picture but it goes above my rib cage too. They --
7 they didn't have to open me up, I was already open.

8 Q. Do you know -- can you show with your hands about
9 how long the laceration was?

10 A. Yeah, about that. I mean, it's below the belt
11 line to above my ribs.

12 Q. Are you comfortable showing -- do you have a
13 scar?

14 A. Yeah, quite a big -- quite a big one.

15 Q. Are you -- are you comfortable showing the jury?

16 A. I -- I can do that.

17 Q. Are you -- are you comfortable doing that?

18 A. Yeah.

19 Q. Are you sure?

20 A. Yeah.

21 Q. Okay.

22 A. Well, actually it might be faster to just untuck
23 it. It stops right there. There's a little gap there
24 because it hit my ribs, but that's it.

25 Q. Okay. Thank you.

1 Now, I'm going to show --

2 MR. ANDERSON: Don't turn the screen on yet,
3 please. It's gonna be Frame 3111, and I don't want to
4 show it gratuitously but I want the jury to see it, so if
5 we could just turn it on for a second, turn it off.

6 THE CLERK: Are you ready?

7 MR. ANDERSON: Yes.

8 I don't have anything else.

9 THE COURT: Mr. Nelson.

10 CROSS-EXAMINATION

11 BY MR. NELSON:

12 Q. Mr. Martin, my name's Aaron Nelson. I want to
13 ask you some questions, okay?

14 A. Yeah.

15 Q. I understand watching the video and seeing the
16 pictures is upsetting to you, is that fair?

17 A. Yes.

18 Q. I'm going to try to do it without the photos, but
19 if you need to see one we don't need to display it, just
20 let me know if you need something to refresh your memory,
21 I'm happy to show you on my computer or some other way. I
22 want to do this easy as we can. Does that make sense?

23 A. Yes.

24 Q. Okay. I want to ask about some of the things
25 that you initially told the police about what happened,

1 okay?

2 A. Okay.

3 Q. Fair to say that your memory is spotty?

4 A. I wouldn't say spotty, I would say I remember
5 everything up until I got stabbed pretty well, at least
6 everything that I saw.

7 Q. Okay.

8 A. For the most part.

9 Q. And -- and fair to say that's not what you told
10 the police when you first met with them?

11 A. I mean, it was days after and I was on a bunch of
12 pain meds. It's pretty understandable I think to not have
13 the greatest memory at the time.

14 Q. Maybe. I'm just trying to establish the fact
15 that at that time you didn't tell the police of certain
16 things that you remembered, agreed?

17 A. Sure. Yeah.

18 Q. Since that time, what you're saying is your
19 memory is improved, correct?

20 A. I think that shock has worn off and I was able to
21 remember things that I might have subconsciously blocked
22 off, yes.

23 Q. Okay. And so again, I understand you have your
24 reasons to explain why you think your memory got better,
25 but we can agree your memory has changed from when you

1 first talked to the police to what you're telling the jury
2 today, correct?

3 A. Yeah. I just said that in different words, but
4 yes.

5 Q. Okay. And in that timeframe I would imagine you
6 spoke with your friends and family about what happened,
7 correct?

8 A. I mean, a little I guess, you know.

9 Q. I mean -- and I'm not -- this is a life-changing
10 event for you, correct?

11 A. I mean, it was -- it was posted everywhere.
12 People knew before I said anything so, I mean --

13 Q. I imagine probably a day doesn't go by where
14 somebody asks you questions about it, right?

15 A. Maybe not so much now, but when it happened,
16 yeah.

17 Q. And amongst your group of friends -- it sounds
18 like you're really close with Tony Carlson, right?

19 A. I mean, yeah.

20 Q. And do you live with him now?

21 A. Yeah.

22 Q. Okay. And as a result of living with Tony now, I
23 imagine you still -- you'd also see his brother Dante
24 Carlson, correct?

25 A. A few times, but I think he lives in Wisconsin.

1 I'd only seen Dante maybe three or four times since the
2 incident.

3 Q. Okay.

4 A. And that includes yesterday.

5 Q. All right. How about Madison and Ryhley, did you
6 know them before July 30th?

7 A. I didn't know Mady, Ryhley, Scottie, Janell,
8 Sheena. I didn't -- I didn't know any of them before that
9 day.

10 Q. Since then, because of this shared experience,
11 have you talked with them about it?

12 A. Mady not so much. She's kind of hard to reach.
13 And Ryhley, again, not so much. It's pretty traumatic for
14 both of us. We didn't really want to, you know.

15 Q. Understand. But you've definitely talked at
16 different times with other people that you were out on the
17 river there with you that day, correct?

18 A. Yeah.

19 Q. And you've seen the -- other than today, had you
20 seen the video that has been marked as Exhibit Number 2
21 and entered into evidence?

22 A. Yes.

23 Q. How many times did you watch that?

24 A. Two or three a month ago or so and then -- excuse
25 me -- another few times going frame by frame and then --

1 yeah.

2 Q. Okay.

3 A. And then all yesterday too, I guess.

4 Q. You were here in court watching the -- what was
5 happening here, correct?

6 A. I thought I was gonna be up here yesterday so,
7 yeah, I was here.

8 Q. Yeah. So I wanna just make sure that when I'm
9 asking you questions and you're giving answers, if you
10 could do everything you can to say what you remember, the
11 image that's in your head, as opposed to necessarily to
12 something we can all watch the video of. Make sense?

13 A. Yeah.

14 Q. What we know is when you spoke with the police on
15 July -- excuse me, on August 4th, you spoke with the
16 police that day, is that right?

17 A. I think it was that day. All I really remember
18 is saying that Biden was the President.

19 Q. Okay.

20 A. And I don't know the date.

21 Q. Okay. Do you remember this young man over here
22 in the gray suit sitting off to the side with the computer
23 on his lap?

24 A. Yes, sir.

25 Q. That's the Investigator Shilts who you spoke with

1 on that day?

2 A. Yep.

3 Q. Whatever day that was in August, correct?

4 A. Um-hum.

5 Q. And what you told him was, quote, The suspect had
6 one of the girls, Mady, by the head with his hand and then
7 I watched him pull her hair. That's what you told Mr.
8 Shilts, correct?

9 A. I'm pretty sure that somewhere in there I had
10 mentioned a punch too but --

11 Q. I want to read to you if you said this sentence
12 to him, all right. Did you say to him, The suspect had
13 one of the girls, Mady, by the head with his hand and then
14 I watched him pull her hair and then I looked back and I
15 was like, Tony, we got to do something now. And so, like,
16 I just wanted to go over there and break it up, and by
17 time I got over there Mady had gotten away?

18 A. Okay. Then --

19 Q. That's what you said, correct?

20 A. That sounds pretty accurate, yeah.

21 Q. So when you first said that to the police, you
22 don't mention in that sentence anything about a punch,
23 correct?

24 A. I -- I didn't in that sentence, no.

25 Q. You said --

1 A. I might have later on.

2 Q. You said that he had her by the head and then he
3 pulled her hair, correct?

4 A. Yeah.

5 Q. And as you sit here now, can you describe to me
6 how he had her by the head?

7 A. Well, from what I remember, she had already kind
8 of started to walk away and then he grabbed her by the,
9 like, ponytail --

10 Q. Okay.

11 A. -- and then pulled and then punched with his left
12 hand.

13 Q. Okay.

14 A. And that was how he hit her in the left cheek,
15 and when the glasses weren't affected is because he was
16 from behind.

17 Q. Okay. So your memory is she's turned and walking
18 away -- I'm just trying to break this down.

19 A. Yes.

20 Q. -- and she's got her essentially back to Mr. Miu,
21 correct?

22 A. That was what I remember seeing.

23 Q. And again, all we -- all you can do is tell us
24 your memory.

25 A. Yep.

1 Q. And as she's walking away, your memory is that he
2 reaches out and grabs the back of her hair, correct?

3 A. Yes.

4 Q. And do you know which hand he grabs the back of
5 her hair with?

6 A. I would have assumed the right because I --

7 Q. Okay.

8 A. -- I believe he punched her with the left --

9 Q. Okay.

10 A. -- so --

11 Q. And so did you know that at that time when -- at
12 1:49 in the video, the blade -- the knife had already been
13 shown at 1:45 in the video?

14 A. I didn't at the time, but after watching the
15 video, yes, I had --

16 Q. But your memory is that whatever he had in his
17 right hand he still managed to reach out with his right
18 hand and grab her by the hair with his right hand?

19 A. Yeah.

20 Q. And then he pulled her back?

21 A. Yeah, he pulled back and he punched.

22 Q. To -- punched her as she's facing away?

23 A. Well, when you pull someone's hair back their
24 head moves so --

25 Q. Sure.

1 A. -- her head turned towards him and then he
2 punched and --

3 Q. I know this isn't fair to Mr. Chirafisi, but if
4 I'm pulling him back, if I'm Mr. Miu and this is Mady, the
5 punch is coming from this direction?

6 A. But he wasn't pulling her like that.

7 Q. I understand. Mr. Chirafisi is not -- look like
8 Mady for lots of reasons we're not going to talk about,
9 but -- right, his hand's up here?

10 A. Yeah.

11 Q. And the head's coming back?

12 A. Um-hum.

13 Q. And then the left hand comes around?

14 A. Yeah.

15 Q. Okay. And that's the manner in which you said
16 that he hit her, right?

17 A. That's how I remember it, yes.

18 Q. And that would be upon her left side here?

19 A. Yes, probably in this area right here.

20 Q. Okay. And you're making it --

21 A. Maybe up to the jaw or the cheekbone, but in this
22 area.

23 Q. And I'm just trying to make sure we get what you
24 said down. And so you're describing an area to the front
25 of the ear, correct?

1 A. Front -- yeah, front of ear area --

2 Q. Yeah.

3 A. -- like sideburn area.

4 Q. Sure. Where on you, you have some sideburns
5 coming down, correct?

6 A. Yes.

7 Q. All right. And where on you wearing glasses it
8 was below the frame of the glasses, correct?

9 A. Um-hum.

10 Q. All right. Is that a yes?

11 A. Yes. Sorry.

12 Q. That's all right.

13 So that's your memory of what you saw, is
14 him pulling her hair with one hand and punching with the
15 other, correct?

16 A. Yeah, but also when you were pulling back on him
17 you have to remember she had -- not -- not trying to be
18 rude, but, like, she has the hair, you know.

19 Q. Yeah. Yes.

20 A. And so you also have to -- you have to remember
21 too though that her ponytail might have been not centered.
22 So when he pulls she's not necessarily going straight
23 back --

24 Q. Yeah. I --

25 A. -- she could be going to the side, she could be

1 going to the other side.

2 Q. I'm not trying to be -- if it sounds as if I'm
3 trying to be critical, Mr. Martin, I'm just trying to
4 gather the facts.

5 A. No, I don't -- I don't think that, I just felt
6 like I wanted to or needed to say that.

7 Q. Okay. That's fine.

8 Fair to say that the description you just
9 gave now isn't the description that you gave to the police
10 back in August of '22, agreed?

11 A. Yeah.

12 Q. Yes?

13 A. Yeah.

14 Q. Another sentence that you told to the police, you
15 were talking to the police about your understanding that
16 the suspect, Mr. Miu, had been making advances on one of
17 the girls there, is that right?

18 A. I didn't really know. I didn't know if that was
19 what was happening. I was -- I had heard the other
20 comments that the other group was making so I -- I didn't
21 even know if there was a girl in their group at that point
22 in time. I was just going over there because I didn't
23 think that it was super smart to let two girls go and
24 approach a 250-pound man --

25 Q. Okay.

1 A. -- by themselves.

2 Q. So just to -- lot to unpack there again. Lots of
3 things were said and you didn't know what to believe,
4 would that be fair to say?

5 A. Yeah.

6 Q. But when you're describing this to the police,
7 you're describing -- I'm just trying to set this up where
8 you -- you say something to the police. Does that make
9 sense?

10 A. Okay.

11 Q. You say, I heard they were making advances on one
12 of the girls there. Make sense?

13 A. Something along those lines, yeah.

14 Q. And then the police officer says, They're, like,
15 yeah, the guy's, like, hitting on her, she's not of age.
16 The police officer says that to you. And in response you
17 say, I saw him grab the other girl by the head, so it
18 didn't really matter at that point. Those were the words
19 that you told Investigator Shilts, correct?

20 A. Um-hum.

21 Q. Yes?

22 A. Yes.

23 Q. Okay. Other things that you said on that day
24 were that you didn't touch Mr. Miu, correct?

25 A. I said that that was a possibility. You read

1 that earlier.

2 Q. You were asked, Were you touching him when you
3 were getting stabbed? The answer: No. Do you remember?
4 Answer: I don't think I ever did. If I did, like, my
5 hand was on the shoulder maybe, but it wasn't forceful.

6 A. Yeah. So --

7 Q. Those are the words that you said?

8 A. So I had said possibly not, but I also did give
9 credit to the fact that I could have touched him.

10 Q. I understand that. I'm asking -- I'm just trying
11 to gather what you exactly said to the police.

12 A. Yeah, I answered.

13 Q. And the third thing that you said to the police
14 regarding those things is you -- you said that you saw --
15 I think you said, in your words, the black guy hit him,
16 correct?

17 A. I thought it was him, but I wasn't sure.

18 Q. Okay. And you've learned since then that it's
19 your roommate's brother that hit him --

20 A. Yes.

21 Q. -- correct?

22 A. Yes.

23 Q. But that's not what you told the police, correct?

24 A. That's not what I remembered.

25 Q. Sure. Do you have a memory of the black guy

1 hitting him?

2 A. That's what I thought I saw, but there was a lot
3 of people standing close to each other --

4 Q. Okay.

5 A. -- so I was pretty -- I think understandably
6 pretty easily getting confused.

7 Q. Understood. There's -- so you thought you saw
8 him pull her hair and punch her with his left hand, right?

9 A. Yes, I did.

10 Q. You thought you didn't touch him at all, right?

11 A. I --

12 Q. And you --

13 A. -- I gave -- I didn't think that I didn't touch
14 him, it was I could have possibly not.

15 Q. And you thought that the black guy punched Miu,
16 correct?

17 A. Yes.

18 Q. Those were the memories that you shared with the
19 police in August, correct?

20 A. Sure. Yes.

21 Q. Fair to say that all those memories are wrong?

22 A. Yeah. I mean, I would --

23 Q. Yes, you agree that those memories are wrong?

24 A. Who -- I would say -- no, I wouldn't say that the
25 second one is wrong, because like I said, I gave credit to

1 both the possibility of me hitting him or her pushing him
2 and the possibility of me not touching him at all.

3 Q. But let's pull that one out and let me just talk
4 about the other two. Do you agree the memory that you
5 told the police that you had of Mr. Miu pulling Madison
6 from behind by the hair and punching her with the left
7 hand, that's wrong?

8 A. I mean, I guess I can't say yes or no because it
9 doesn't really show that in the video and I -- I mean, my
10 memory about that hasn't changed so --

11 Q. Okay. That's still how you remember it?

12 A. That's how I remember it, yes.

13 Q. Okay. And the memory about the black guy
14 punching Mr. Miu, that's still how you remember it?

15 A. That's -- no, not -- I mean, I -- I don't know
16 exactly what I saw. I saw him close to him and it could
17 have been his arm that hit him, but I really didn't know
18 what I saw at that point so --

19 Q. Okay. All right. I want to go through a portion
20 of what I think is on the video to just ask if that is
21 what you remember happening, okay?

22 A. Okay.

23 Q. Because as I think you told the police during
24 your interview, you said to the police, I wanted to get --
25 I wanted to get the guy away from us but I wasn't gonna

1 try and like punch him. I'm not a fighter. I'm tiny.

2 That's what you told the police, right?

3 A. Yeah, that was the biggest I ever been in my life
4 and I was still not a super big guy. He had 80 pounds on
5 me.

6 Q. I understand. I'm just trying -- again, the
7 words that you said to the police were I'm not a fighter?

8 A. Yes.

9 Q. All right. At -- we saw in the slides there that
10 at some point Mr. Miu goes down into the water --

11 A. Um-hum.

12 Q. -- from Mr. Dante Carlson punching him, right?

13 A. Yes.

14 Q. Just to put it into context. And then we see in
15 the slides your leg, you kind of approach and stand over
16 him, correct?

17 A. I wouldn't say over him, I would say I'm to the
18 side of him and then he starts moving and --

19 Q. Okay.

20 A. -- my body position, plus where he moved himself
21 would make it appear that way.

22 Q. Sure. He's on the ground, correct?

23 A. Yep.

24 Q. In the water, correct?

25 A. Yes.

1 Q. You're standing on two feet, correct?

2 A. Yes.

3 Q. You weren't leaning over him, but it might appear
4 that way if somebody's down in the water looking up,
5 correct?

6 A. It could, yeah.

7 Q. And when that happens, you don't push your friend
8 Dante away, do you?

9 A. I -- I -- I didn't even know that Dante was there
10 at the moment. I didn't see the second hit or slap or the
11 third one. I had wet hair, my hair was hanging down, I
12 was looking down. I wasn't focused on other people. I
13 was focused on getting this man away from everyone else.

14 Q. So this man --

15 A. This man, Nicolae Miu.

16 Q. -- at that -- yeah, this man. At that point you
17 knew he had been punched and knocked to the ground and
18 he's in the water, correct?

19 A. Yep.

20 Q. And you're telling the jury that you -- what you
21 were trying to do is you were trying to get him away from
22 other people while he's down in the ground in the water?

23 A. Get people away in some way, shape, or form. It
24 didn't need to be him. I wanted him to stay down so he
25 couldn't go and punch another person, and then I was gonna

1 tell everyone there to back away because --

2 Q. Okay.

3 A. -- you know --

4 Q. There's a lot to unpack there again. You could
5 -- you -- as you said, you wanted to get other people
6 away, but you didn't go to the other people, you went to
7 Mr. Miu, correct?

8 A. Yeah, I went to the guy who was punching people
9 first.

10 Q. Correct. Again, based upon your memory that he
11 pulled someone's hair and punched them from behind,
12 correct?

13 A. Based on the memory that I know that he punched
14 someone, yes.

15 Q. Okay.

16 A. It doesn't matter how he punched someone, I know
17 he punched them and he shouldn't have.

18 Q. Okay. And you were gonna make him pay for that?

19 A. No.

20 Q. So when he's down in the water on the ground and
21 you're standing there trying to be the peacemaker because
22 you're not a fighter, you had thought it was gonna be
23 peaceful to you to keep him down in the water?

24 A. I mean, it was shallow water, his head wasn't
25 below. All we need was an extra second to get people to

1 move away from him and then he could get up and we could
2 possibly have a conversation --

3 Q. Okay.

4 A. -- but, I mean, he hadn't used any words up until
5 that point, so probably not.

6 Q. So when you're standing there next to him when's
7 on the water, you don't see your friend Dante come up and
8 smack him across the face a second time? You don't see
9 that?

10 A. I saw him get dropped into the water and I was
11 looking down at him. My hair was over my eyes here. I
12 mean, it was shorter than it is now but you can imagine.

13 Q. So you didn't see him go back into the water the
14 second time in response to Dante hitting him?

15 A. Didn't --

16 Q. You didn't see that?

17 A. He went down into the water and then he never got
18 up.

19 Q. Sure. Because Dante --

20 A. Until he --

21 Q. -- hit him when he was in the water, correct?

22 A. Okay. But you said the second time he was in the
23 water. That's the first time still. The second time came
24 after he stabbed me.

25 Q. Okay. Understood. His first time was -- in the

1 water was extended for a longer period of time because
2 Dante smacked him when he was already down in the water?

3 A. Sure, yes.

4 Q. And you're saying you were standing right there
5 but you didn't observe that?

6 A. No, I guess I had my hair was in the way and I
7 wasn't really focused on Dante. I didn't know where Dante
8 was. I was focused on the man who was --

9 Q. In the water?

10 A. -- hitting people. Who was hitting people.

11 Not --

12 Q. At that point the man that was hitting people was
13 Dante Carlson, right?

14 A. Sorry, should I -- I will rephrase. The man who
15 started the physical altercation.

16 Q. Okay. That was what -- that's what essentially
17 your opinion is, correct?

18 A. I mean, I would say that the first person to
19 throw a punch would be the first person to be aggressive
20 regardless of if there are other people slightly touching
21 his shoulder. I mean, even you were talking about the
22 consent to touch thing and he touched other people without
23 their consent too. So, I mean, if you want to go that way
24 we -- we can but it just doesn't make a lot of sense.

25 Q. I'm not trying to go any way, sir, I'm just

1 trying to gather the facts.

2 So the person that's punching Mr. Miu, you
3 don't see that, correct?

4 A. I saw Mr. Miu fall into the water and I didn't
5 see anything after that in terms of him getting hit.

6 Q. And when you saw him fall into the water you went
7 up to him from behind --

8 A. No.

9 Q. Apologize, but I'm going to need to show some
10 slides.

11 A. Yep, I mean, I can explain what I did.

12 Q. That's good. I'm gonna just go through some
13 slides.

14 MR. NELSON: Could we show my screen, please?

15 Q. (By Mr. Nelson, continuing) Showing you what's
16 2705. That's Mr. Miu in the water, correct?

17 A. Yes.

18 Q. That's Dante Carlson swinging to hit him,
19 correct?

20 A. And my leg in the bottom.

21 Q. That's your leg in the bottom, correct?

22 A. Yep.

23 Q. You're moving towards Mr. Miu, agreed?

24 A. Yes. Moving at him from his -- what would be his
25 front left side.

1 Q. And then eventually you come to be behind him,
2 correct?

3 A. Ah, I mean, I would still say I'm at the mid
4 point of his body. He just sat up. I wouldn't
5 necessarily constitute being behind someone. I mean, yes,
6 I -- I was I guess technically, but he wasn't there when I
7 walked there, he moved himself to have me behind him.

8 Q. You moved yourself, correct?

9 A. No. He moved. I -- I moved --

10 Q. I just --

11 A. -- I walked over there, yes, but I was standing
12 right at about his hips and then he stood or sat up.

13 Q. So is it your testimony that in some way Mr. Miu
14 was aware of your presence and intentionally turned to
15 have you behind him, is that what you're saying?

16 A. I'm not saying he did it intentionally, I'm just
17 saying that's what happened.

18 Q. Okay. So again, you're behind him, correct?

19 A. In sort of on his side. Until he starts --

20 Q. This is you with your left hand on his back
21 shoulder --

22 A. Yeah, but --

23 Q. -- and his right hand on his back shoulder.
24 You're behind him, correct?

25 A. Yeah. I have both hands on one shoulder. I'm --

1 I'm not completely behind him. You can see I'm somewhat
2 on the side but, yes, I am somewhat behind him due to his
3 repositioning.

4 Q. You're pushing him, correct?

5 A. Yeah, I -- that's where I had said that I thought
6 I pushed him in the front left shoulder to keep him down
7 but I was there too late so I didn't get that shoulder, I
8 guess I got the back of it and --

9 Q. You said you're a peacemaker, right? You like to
10 mediate, correct?

11 A. Yeah, that's what I was trying to do.

12 Q. You can understand how somebody who had been down
13 in the water and hit two times, getting pushed from
14 behind, may not understand that you're trying to mediate?

15 MR. ANDERSON: I'm gonna object on speculation --

16 MR. NELSON: It goes to his mindset.

17 THE COURT: Overruled.

18 You can answer the question, if you're able
19 to.

20 A. I'm sorry, what was the question?

21 Q. (By Mr. Nelson, continuing) Sure. As somebody
22 who likes to mediate and was attempting to mediate, you
23 can understand how a person in Mr. Miu's position, who had
24 been hit twice in the water, might not understand or
25 appreciate your intent to try to de-escalate by pushing

1 him in the behind?

2 A. I --

3 Q. He might misunderstand that, right?

4 A. He -- he could misunderstand that.

5 Q. Sure.

6 A. I mean, it could have been solved if he tried to
7 use words at all too.

8 Q. Could have.

9 And let met just go from 2745 to 2747. Do
10 you see that? That's you still, that's your body behind
11 him, correct?

12 A. Yes.

13 Q. That's your right hand on the right side of his
14 back, correct?

15 A. Yeah.

16 Q. That's your left hand on the left side of his
17 back, correct?

18 A. I'd say right's more in the middle but the left
19 one is definitely on his left shoulder.

20 Q. And that's your friend -- your friend -- your
21 roommate's brother, who is your friend, Dante Carlson,
22 that's his hand that we can see underneath your underarm
23 there that's hitting Mr. Miu, correct?

24 A. Like I said, I didn't see it but the video showed
25 it so I mean --

1 Q. So your --

2 A. Based off -- based off of memory I can't say yes.

3 Q. Okay. Your face is right there and you're saying
4 you didn't see Dante hit Mr. Miu there?

5 A. No. Like I explained, my hair was down in front
6 of my eyes. It's --

7 Q. Okay.

8 A. -- wet. My hair's thick and black, so it's not
9 super easy to see through.

10 Q. What you did say is Mr. Miu wasn't saying
11 anything. You could agree that in this position with
12 somebody pushing him from behind and somebody hitting him
13 in the front, it might be a difficult time to use your
14 words to make peace?

15 A. Yeah. The right time to use your words would
16 have been before he punched a woman in the face.

17 Q. We can get to that later.

18 You extend your body to -- in an attempt to
19 push him down as you say, correct?

20 A. Well, I was pushing down and then he got up and I
21 --

22 Q. Sure.

23 A. -- fell forward so --

24 Q. I was asking about your intent. Your intent was
25 to push him down in the water, agreed?

1 A. It was to push his shoulder down so that he
2 stayed down and I could tell everyone to back up, yes.

3 Q. Sure. But you agree, your intent was to push him
4 down and keep him in the water?

5 A. To keep him down. If the wa -- I mean, if the
6 ground was there I would have done the same thing. It
7 didn't -- I wasn't worried about there being water or not,
8 it was shallow, his head wasn't going below, he was gonna
9 be okay.

10 Q. You can understand how perhaps somebody in the
11 position getting pushed from behind in the water might not
12 appreciate that you were trying to protect him and keep
13 him okay, right?

14 A. I guess.

15 Q. Does his head appear to be getting wet there?

16 A. Not his face. That's where your mouth is.
17 I mean -- I -- I don't -- I see maybe the right cheek dip
18 in a little bit, but as soon as --

19 Q. Thank you.

20 A. -- go -- go a few slides further, you can see his
21 head sitting back up again.

22 Q. Sure. Safe as can be, right?

23 A. I -- I don't --

24 MR. ANDERSON: Object on argumentative, Judge.

25 THE COURT: It is. Please, let's -- let's focus

1 on the facts.

2 MR. NELSON: Sure.

3 THE COURT: Clean Q and A, please.

4 Q. (By Mr. Nelson, continuing) Just back up a
5 little bit more here. When we -- you said his head didn't
6 go in the water, fair to say that's his head making a
7 wave, correct?

8 A. I would say that's his back making a wave --

9 Q. Okay.

10 A. -- and his head's still not in the water.

11 Q. Have you ever fallen back after getting laid out
12 in the water like that?

13 A. Yeah, I have.

14 Q. Okay. Did it feel like maybe the water was
15 coming up on you even if it technically didn't?

16 A. No. I mean, I -- water usually has a pretty
17 distinct feeling on your skin. I mean --

18 Q. And when you had that experience where you got
19 laid out and fell back into the water, did someone come up
20 and attack you a second time in that situation?

21 MR. ANDERSON: Object on relevance, Judge.

22 THE COURT: Sustained.

23 Q. (By Mr. Nelson, continuing) So I'm going to go
24 forward, back to the position where we were before. I
25 apologize.

1 So again, you had said here at 2754 you're
2 attempting to keep him down and he manages to move away
3 from you, the person who's pushing him somewhere in the
4 back area, right?

5 A. (No response.)

6 Q. Yes?

7 A. Yes. I was trying to push him in the front left
8 shoulder and I got the back left shoulder --

9 Q. Sure.

10 A. -- because he was getting up and I was not fast
11 enough to get the front left shoulder.

12 Q. And I'm going to go through some other photos
13 here that might be difficult. Are you okay with that?

14 A. Yeah.

15 Q. In this position now you -- that's you in the
16 yellow shorts, correct?

17 A. Correct.

18 Q. And to your right is Dante Carlson, correct?

19 A. I believe so. I don't know. I -- I don't
20 remember seeing anyone else there. I remember pushing
21 down and feeling --

22 Q. And --

23 A. -- strange.

24 Q. Sure. Is this person -- you knew what Dante
25 looks like, correct?

1 A. Yes.

2 Q. Is that Dante in the two-tone gray shorts with
3 the Truly in his hand?

4 A. I believe so, yeah.

5 Q. And then that's the same person that's legs are
6 right there, correct?

7 A. Correct.

8 Q. So you and Dante are standing very near Mr. Miu
9 as he's beginning to try to get up out of the water,
10 correct?

11 A. Correct.

12 Q. And as he begins to get up out of the water, you
13 move towards him, correct?

14 A. Yeah.

15 Q. You didn't know that he had a knife, correct?

16 A. Nope.

17 Q. You were going at him, correct?

18 A. I don't know. I don't remember anything --

19 Q. Okay.

20 A. -- after --

21 Q. Your --

22 A. -- the first push.

23 Q. This is where you're trying to -- you push him
24 down again, correct?

25 A. I would say we kind of attacked each other at

1 that one, if anything --

2 Q. Okay.

3 A. -- but I mean, I didn't -- I -- I don't remember
4 this so I can't --

5 Q. Okay.

6 A. -- tell you. I don't --

7 Q. But you're --

8 A. -- I didn't -- he -- he got me before I did
9 anything to him so --

10 Q. This is your hands on him, agreed?

11 A. Okay. Maybe my -- my hand is on his arm, yeah.

12 Q. This is you, as you said, attacking him, correct?

13 A. I didn't mean attacking. Sorry.

14 Q. Those are the words that you used to the jury,
15 is --

16 A. I -- I mean --

17 Q. You were attacking him?

18 A. I wasn't attacking him.

19 Q. Okay. You were trying to push him down in the
20 water?

21 A. I was trying to separate every -- or get him
22 isolated so that we could separate everyone else from him
23 so we could get everyone away and then we could figure out
24 what was actually going on because you hear teenagers
25 asking for help, you hear people yelling that he's a

1 whatever, and you -- I mean, at that point when you see
2 minors, you're gonna be more worried about getting him
3 away from them before you ask the questions.

4 Q. And you chose to do that by using your hands on
5 his body to push him, correct?

6 A. Ah --

7 Q. Yes?

8 A. I tried to keep him down with my arms, yes, and
9 then I was going to tell everyone to back up and give him
10 some space.

11 Q. So as you said, you're not a fighter, correct?

12 A. Yes.

13 Q. You were trying to mediate, correct?

14 MR. ANDERSON: Object on asked and answered --

15 THE COURT: Sustained. We've been through this
16 before. Can we move on to a new topic, please.

17 Q. (By Mr. Nelson, continuing) You heard that he --
18 people calling him a predator, correct?

19 A. I don't know what I heard. I heard just -- I
20 heard them saying stuff about a little girl and I heard --
21 I -- I don't know what else it was -- I don't know. I
22 didn't know -- like I said, I didn't know if there was a
23 girl in that group. I wasn't worried about whether or not
24 there was, I was worried about getting the person that
25 they were calling a pedophile or a raper away from the

1 minors. You can have a conversation about that later.

2 Q. You agree that even though you're not -- as you
3 say, you're not a fighter, you pushed a man from behind
4 while your friend was smacking him in the front, agreed?

5 MR. ANDERSON: Object.

6 A. I would --

7 MR. ANDERSON: Asked and answered.

8 THE COURT: Hold on. Hold on.

9 MR. ANDERSON: Asked and answered.

10 THE COURT: Sustained.

11 We've been through this before many times.

12 Please --

13 Q. (By Mr. Nelson, continuing) You haven't actually

14 --

15 THE COURT: Please.

16 MR. NELSON: Okay.

17 THE COURT: I am speaking.

18 MR. NELSON: I'm sorry.

19 THE COURT: Please move to a new topic.

20 MR. NELSON: Okay. Apologize, Judge, I thought
21 you were done.

22 Q. (By Mr. Nelson, continuing) Do you have any
23 explanation as to why you pushed him while your friend was
24 hitting him if you're not a fighter?

25 MR. ANDERSON: Objection, Judge. I think --

1 A. I already answered this.

2 THE COURT: No. No. Please.

3 MR. ANDERSON: Same topic. Asked and answered.

4 THE COURT: Sustained.

5 Q. (By Mr. Nelson, continuing) Was it because you
6 got caught up with the crowd?

7 A. It was because I couldn't see the person in front
8 of me because my hair was blocking my vision and I was
9 focused on the man who just punched a 23-year-old or a
10 22-year-old girl in the face.

11 MR. NELSON: That's all.

12 THE COURT: Mr. Anderson.

13 MR. ANDERSON: Nothing else.

14 THE COURT: All right.

15 Thank you, Mr. Martin. You may step down.

16 Is he released?

17 MR. ANDERSON: No.

18 THE COURT: Okay. Please see the witness
19 coordinator in the back.

20 (Whereupon, the witness is excused.)

21 THE COURT: Do you have another witness
22 available?

23 MR. ANDERSON: We -- we do. Can we approach?

24 THE COURT: Yes.

25 (Whereupon, a discussion was held at the bench.)

1 THE COURT: All right. Who's the next witness?

2 MR. SMESTAD: Your Honor, we call Gabby
3 Khazraeinazmpour. I hope I said that right.

4 THE COURT: Khazraeinazmpour.

5 MR. SMESTAD: Khazraeinazmpour. That took a lot
6 of practicing.

7 Your Honor, she may have stepped
8 downstairs, we've got folks looking for her.

9 THE COURT: Okay.

10 MR. SMESTAD: We can take --

11 THE COURT: While we're in-between witnesses, if
12 you want to stand and stretch, please do so. It just
13 might be a moment or two before she comes back upstairs.

14 What I'd like to do is get as far as we can
15 and we'll break for lunch.

16 (Whereupon, a break was held.)

17 (Whereupon, the witness enters the courtroom.)

18 THE COURT: Ms. Khazraeinazmpour?

19 MS. KHAZRAEINAZMPOUR: Yes.

20 THE COURT: Please come forward. Right to about
21 the middle section here. And then you can face the clerk,
22 raise your right hand, she will administer the oath.

23 GABRIELLA KHAZRAEINAZMPOUR,
24 after having been first duly sworn on oath by the clerk,
25 testifies and says as follows:

1 THE WITNESS: I do.

2 THE COURT: Please have a seat in the witness
3 chair.

4 Mr. Smestad.

5 DIRECT EXAMINATION

6 BY MR. SMESTAD:

7 Q. Would you please state your -- say your name and
8 spell your name for us, please?

9 A. My name is Gabriella Khazraeinazmpour. And how
10 do you spell Khazraeinazmpour,
11 k-h-a-z-r-a-e-i-n-a-z-m-p-o-u-r.

12 Q. How old are you?

13 A. 25 years old.

14 Q. What do you do for a living?

15 A. What?

16 Q. What do you do for a living?

17 A. I work as a phlebotomist at Octapharma in a
18 Maplewood.

19 Q. Where do you live? What town?

20 A. I live in Centuria, Wisconsin.

21 Q. All right. Were -- were you part of a group, the
22 Carlson Family, tubing on the Apple River back on
23 July 30th of 2022?

24 A. I'm sorry, can you repeat that? I can't hear
25 you.

1 Q. I'm -- I'm going to pull the microphone closer.

2 Sorry. Do you -- do you have some hearing loss?

3 A. Yeah. I was deaf as a baby.

4 Q. Okay. Were you part of the group of people that
5 were tubing down the Apple River back on July 30th, 2022,
6 including the Carlson Family?

7 A. Yes, I was.

8 MR. SMESTAD: If I could approach, Judge?

9 THE COURT: Yes.

10 Q. (By Mr. Smestad, continuing) Do you go by a
11 nickname?

12 A. You can call me Gabby.

13 Q. Okay. Gabby, I'm going to show you what's been
14 marked as Exhibit Number 26. I'll ask you if you
15 recognize that document?

16 A. Yes.

17 Q. Can you tell us what it is?

18 A. It's a picture of me and all my friends on the
19 Apple River.

20 Q. Is it from that day, July 30th, 2022?

21 A. Yes, it was.

22 Q. Which one are you?

23 A. I'm the one standing next to Q and Dante.

24 Q. Is there a -- a yellow label showing your name?

25 A. Yes, there is.

1 Q. In that picture are you drinking any alcoholic
2 beverages?

3 A. No, I am not.

4 Q. Had you been drinking that day?

5 A. Yes, I was.

6 Q. Do you remember what you had to drink?

7 A. No, I do not.

8 Q. Do you remember -- do you remember how many
9 drinks you had?

10 A. If I had to guess, maybe five.

11 Q. All right. And is that five over the course of
12 the day?

13 A. Yeah, throughout the whole Apple River tubing
14 down the river.

15 Q. All right. At some point as your group is going
16 down the river, did you come across a disturbance of some
17 kind?

18 A. Yes.

19 Q. What did you see yourself?

20 A. I saw a group of kids asking for help.

21 Q. Did you know who these kids were?

22 A. No, I did not.

23 Q. Did you -- could you figure out why they were
24 asking for help?

25 A. They said that they were -- this guy was

1 setting -- saying that he -- they were -- I'm sorry.

2 Q. Slow down. You got time.

3 A. They were asking for help because he said he was
4 a pedophile.

5 Q. All right. He said that or they said that?

6 A. They said that.

7 Q. All right. Did your group stop when he
8 (verbatim) came across this disturbance?

9 A. Not originally, no. It took us a little bit
10 before we did stop.

11 Q. All right. Eventually you did -- did you stop?

12 A. (No response.)

13 Q. Eventually did your group stop?

14 A. Yes.

15 Q. Did someone from your group go over to this group
16 that was asking for help?

17 A. Yes.

18 Q. Do you know who that was?

19 A. It was Madison.

20 Q. All right. Did you -- what did you see Mady do?

21 A. I saw Mady ask this guy to leave multiple times,
22 and he chose not to.

23 Q. All right. Did he react to her telling him to
24 leave multiple times?

25 A. Eventually, yes.

1 Q. What did you -- what did you see him do?

2 A. I saw him hit her in the face.

3 Q. All right. At that point were you on your tube
4 or were you in the area? Where were -- where were you
5 located?

6 A. Probably between the tubes of where my group was
7 and then where the -- where everyone else was dealing with
8 the situation.

9 Q. All right. Do you know about how far away you
10 were when you -- you saw Mady get hit by the -- the other
11 person?

12 A. Maybe from me to you.

13 Q. Did you see what happened to Mady after she was
14 struck?

15 A. I saw Dante punch him in the face and he went
16 down.

17 Q. All right. Did you see where Mady went?

18 A. I saw Madison was still standing behind, far away
19 from the situation.

20 Q. All right. Do you know or were you close enough
21 to see what hand he used to punch her?

22 A. His right hand.

23 Q. All right. And did you see where -- what part of
24 her face that he struck?

25 A. The side. Right here.

1 Q. Were you say -- were you pointing to your right
2 cheek?

3 A. It would have been her left.

4 Q. Left cheek?

5 A. Yes.

6 Q. Do you know whether he used a fist or an open
7 hand?

8 A. I don't fully remember.

9 Q. All right. After Dante -- you said you saw Dante
10 punch the gentleman. Did he fall down?

11 A. Yes, he did.

12 Q. Eventually did he get back up?

13 A. Yes, he did.

14 Q. What did you see him do when he got back up?

15 A. I don't really remember what I saw. I just
16 blanked, and then everyone was bleeding.

17 Q. All right. Did you see him stab anybody?

18 A. No, I did not.

19 Q. All right. I'm going to show you a still frame
20 from the video. Are you aware that there was a video
21 taken that day?

22 A. After the math, yes.

23 Q. Did you -- had you ever seen it?

24 A. I saw it for the first time on March 18th.

25 Q. All right.

1 MR. SMESTAD: Your Honor, I'm asking to show --
2 it's -- it's slide 2993.

3 THE CLERK: Are you ready?

4 MR. ANDERSON: Yes.

5 MR. SMESTAD: We're ready.

6 Q. (By Mr. Smestad, continuing) So, Gabby, on 20 --
7 on 2993, do you see yourself in that picture somewhere?

8 A. Yes, I do.

9 Q. Can you explain to us where you're at?

10 A. I am behind Ryhley, holding the phones.

11 Q. All right. What are you wearing?

12 A. I'm wearing a green swimsuit.

13 Q. All right. When you say Ryhley, which person in
14 this picture is Ryhley?

15 A. Ryhley's the one with her mouth open, holding the
16 side of her body.

17 Q. All right. Who's the person standing right
18 behind Ryhley?

19 A. I have no idea who he is.

20 Q. Was he part of your group?

21 A. No.

22 MR. SMESTAD: We're going to go ahead to 3024.

23 MR. ANDERSON: Can you take it down a sec?

24 Q. (By Mr. Smestad, continuing) All right. Gabby,
25 we're showing you slide 3024 from the video. Do you still

1 see yourself on that video?

2 A. Yes, I do.

3 Q. Is that you in the middle, still in the green
4 bikini?

5 A. Yes, sir.

6 Q. The gentleman that you don't -- didn't recognize
7 with the sunglasses, where is he located in relation to
8 you?

9 A. No relation. I don't know him.

10 Q. How do you -- where is he located?

11 A. In front of me.

12 Q. Who's that directly to his -- would be his left?

13 A. With the swimsuit?

14 Q. Right.

15 A. That would be Ryhley.

16 Q. All right. And so this -- did -- did you see
17 this gentleman walking into the group?

18 A. Not that I recall, no.

19 Q. All right. But you see him there now?

20 A. Yes.

21 Q. Was he part of children and -- or teenagers that
22 had been calling for help?

23 A. I do not remember.

24 Q. I'm going to -- we are gonna -- we're gonna
25 scroll through and we're going to try to stop at 4511

1 here, if you can just watch the screen.

2 MR. ANDERSON: Can you take it down?

3 MR. SMESTAD: Okay. We're ready.

4 Q. (By Mr. Smestad, continuing) Gabby, we're
5 showing you frame 3029. Are you in that frame, if you can
6 tell?

7 A. I think I'm behind the guy in the black shirt.

8 Q. All right. The black shirt and the sunglasses?

9 A. Yes.

10 Q. Did he appear to be walking up to Mr. Miu?

11 A. Yes.

12 Q. Do you -- do you remember that or are you just
13 remembering it because it's on the slides?

14 A. Just because it's on the slides.

15 Q. All right. At the time did you make a mental
16 note who is this person?

17 A. No.

18 Q. I may have already ask you this, but you didn't
19 see Mr. Miu stab anybody?

20 A. Correct.

21 Q. At some point did you realize that people had
22 been stabbed?

23 A. Yes.

24 Q. Was one of those folks Ryhley Mattison?

25 A. Yes, it was. She came up to me.

1 Q. After -- when did she come up to you?

2 A. While I was on the phone with 911.

3 Q. All right. That's my next question. At some
4 point did you call 911?

5 A. Yes, I did.

6 Q. While this incident was going on?

7 A. Yes.

8 Q. When Ryhley came up to you while you were on the
9 phone with 911, what did she look like?

10 A. She looked like she was having a hard time
11 breathing and was bleeding down the side of her.

12 Q. Okay. Did you see where Mr. Miu went after he
13 stabbed these folks?

14 A. No, I did not.

15 Q. Were you recording anything?

16 A. No, I was not.

17 Q. Did you have your phone out for the purpose of
18 the 911 call?

19 A. Yes.

20 Q. Did you see people stop to render aid to folks
21 who were injured?

22 A. Yes, I did.

23 MR. CHIRAFISI: Objection. Leading.

24 THE COURT: Sustained.

25 Q. (By Mr. Smestad, continuing) All right. Did you

1 see anybody else stop?

2 A. Yes.

3 Q. What were they doing?

4 A. They were helping us with everyone that was
5 bleeding.

6 Q. All right.

7 MR. SMESTAD: We're ready.

8 Q. (By Mr. Smestad, continuing) Gabby, I'm showing
9 you what's a -- a zoomed in view of slide 4511. Do you
10 see yourself on that slide?

11 A. Yes, I do.

12 Q. Whereabouts are you located, generally?

13 A. I'm on the -- with the green swimsuit, look sun
14 burnt like a lobster.

15 Q. All right. Are you to the left or the right of
16 the gentleman in the yellow shirt?

17 A. I'm not good with my left and rights. I'm sorry.

18 Q. Do you see a gentleman in the yellow shirt?

19 A. Yes, I do.

20 Q. Do you see a person that's off to the -- someone
21 that appears to be on a telephone?

22 A. Yes. That's -- that's me.

23 Q. Is that -- what are you doing with the phone at
24 that point?

25 A. I think I'm on the phone with 911.

1 Q. All right. Do you remember how long you were on
2 the phone with them?

3 A. No.

4 Q. All right.

5 MR. SMESTAD: I don't have any other questions.

6 THE COURT: Mr. Chirafisi.

7 CROSS-EXAMINATION

8 BY MR. CHIRAFISI:

9 Q. Ma'am, in terms of your -- your memory of what
10 had happened, tell me if I have this right. You have a
11 recollection of it up until what point?

12 A. What do you mean?

13 Q. Well, I think you said you -- you blanked at some
14 point and have no mem -- and don't remember what happened
15 after a certain point that day, right, is that true?

16 A. Yes.

17 Q. Okay. Do you remember when that was?

18 A. Probably the most I don't remember is when
19 everyone was getting stabbed.

20 Q. Okay. You do remember floating and hearing
21 people, I think you said, the -- group was saying that he
22 was a pedophile.

23 A. Yes.

24 Q. Is that right?

25 A. Yes.

1 Q. And that certainly made you feel a certain way,
2 right?

3 A. Well, yes.

4 Q. Okay. How did it make you feel?

5 A. Uncomfortable.

6 Q. Okay. Concerned?

7 A. Yes.

8 Q. And it got Madison Coen off of her tube, is that
9 fair?

10 A. Yes.

11 Q. Okay. And I think you heard or you -- you
12 indicated that Madison asked him to leave multiple times,
13 is that right?

14 A. Correct.

15 Q. Okay. You didn't hear Madison attempting to
16 figure out what was going on, right, you just heard her
17 tell him to leave, is that true?

18 A. Correct.

19 Q. And to be fair, if we're being fair, she's
20 yelling at him, isn't she?

21 A. Yes.

22 Q. She's swearing at him, isn't she?

23 A. Yes.

24 Q. Okay. And if we're being fair, she doesn't have
25 any information, to your knowledge, as to what's actually

1 going on, right?

2 A. Correct.

3 Q. Okay. So if I said she's jumping to a
4 conclusion, in your mind is that fair?

5 MR. SMESTAD: I'm going to object, Your Honor.

6 THE COURT: Sustained.

7 Q. (By Mr. Chirafisi, continuing) You would agree
8 no one in your group had any information as to what
9 actually had happened, right?

10 A. Correct, yes.

11 Q. Okay. And you don't see or hear Madison Coen ask
12 Mr. Miu his side of the story, do you?

13 A. No.

14 Q. Okay. So she walks up and immediately starts
15 yelling at him to leave, true?

16 A. Correct.

17 Q. Okay. And you'd agree, she doesn't have any
18 authority to do that, right?

19 MR. SMESTAD: Objection. She wouldn't know what
20 authority Madison might have.

21 THE COURT: Sustained. Relevance.

22 Q. (By Mr. Chirafisi, continuing) He can be
23 wherever he wants on the river, right?

24 A. Correct, yes.

25 Q. And she can be wherever she wants?

1 A. Correct, yes.

2 Q. Okay. And when she's yelling at him and -- and
3 telling him, swearing at him to leave, you'd agree he
4 doesn't react in a violent manner, correct?

5 A. Eventually he does, yes.

6 Q. My question to you is when all of this is -- when
7 she's telling him to leave and swearing at him and walks
8 up to him, he doesn't react aggressively, true?

9 A. Yes, but he doesn't say anything either to us.

10 Q. He doesn't act aggressively, yes?

11 A. Yes.

12 Q. Okay. And he doesn't verb -- he's not verbally
13 aggressive either, right?

14 A. He doesn't say anything.

15 Q. So that would be not being verbally aggressive,
16 right?

17 A. Correct.

18 Q. Okay. And you know there's six people, six of
19 these people that are asking for your assistance, right?

20 A. Yes.

21 Q. Okay. And then some more of you come over to
22 help, is that right?

23 A. Yes.

24 Q. Do you see Madison wave you guys over? Is that
25 why you come over? Do you see that?

1 A. No. What do you mean?

2 Q. There's been testimony and videos and stills of
3 Madison waving, like using her hand like I'm using it now,
4 waving your group over.

5 A. Okay.

6 Q. Is that why you went over?

7 A. No, I just followed her.

8 Q. You just followed Madison over?

9 A. Um-hum.

10 Q. Okay. Do you get involved right away?

11 A. No.

12 Q. Do -- are you jumping to conclusions as to what
13 has happened?

14 A. No.

15 MR. SMESTAD: Objection. Irrelevant.

16 THE COURT: Come on up.

17 (Whereupon, a discussion was held at the bench.)

18 THE COURT: Objection sustained. The objection
19 is sustained.

20 Q. (By Mr. Chirafisi, continuing) Would you agree
21 that Madison Coen is in Mr. Miu's face when she's yelling
22 at him?

23 A. Yes.

24 Q. Okay. And you had said on direct examination
25 that you observed Mr. Miu punch her, right?

1 A. Yes.

2 Q. Okay. And you said that he used his -- his right
3 hand and punched her on the left side of her face?

4 A. Yes.

5 Q. Okay. And that's how you remember it, right?

6 A. Yes.

7 Q. Okay. You told the police that he smacked her
8 across the face using his left hand actually, didn't ya?

9 A. Yes, I did say that.

10 Q. Okay.

11 A. But that's not what happened.

12 Q. So when you were talking to the police you
13 weren't telling them the truth?

14 A. No, I was. It was just there was a lot that was
15 going on.

16 Q. Have you been watching this case?

17 A. No.

18 Q. Okay. So do you have a specific recollection
19 now, 21 months later, that Mr. Miu didn't hit her with his
20 left hand but hit her with his right hand?

21 A. Can you rephrase the sentence?

22 Q. I can ask -- re-ask it.

23 A. Yes.

24 Q. Do you have a specific recollection now after
25 21 -- about 21 months since this happened, that Mr. Miu

1 didn't use his left hand but in fact used his right hand?

2 A. Yes, he used his right hand.

3 Q. Okay. And when you had said that he smacked her
4 across the face, when you told --

5 THE COURT: That was drilling I was warning you
6 about. Hopefully it's going to be mitigated.

7 Q. (By Mr. Chirafisi, continuing) -- when you told
8 that to the police, is the word smacked and across the
9 face, is that an indication from you that he's using an
10 open hand?

11 A. Yes.

12 Q. Okay. So when you told the police that he uses
13 an open left hand, now you're saying he used a closed
14 right hand, is that fair?

15 A. Yes.

16 Q. Okay. And you've watched -- have you watched
17 this video all the way through?

18 A. Yes.

19 Q. Okay. So you're aware that when he's stand --
20 when Mr. Miu's standing in front of Madison Coen, he's
21 holding the knife in his right hand, right? You're aware
22 of that?

23 A. Yes.

24 Q. Okay. And it's your testimony that holding this
25 knife in his right hand, he still punches her in the face

1 with this hand. That's your testimony?

2 A. Yes.

3 Q. Okay. And that she was holding her left side?

4 A. Yes.

5 Q. Okay. And you would agree that your statement to
6 the police where she was holding the right side of her
7 face, right?

8 A. I don't remember.

9 Q. Well, if I told you that you indicated the male
10 suspect smacked Madison across the face using his left
11 hand. Your name, Gabriella, then advised that Madison
12 walked away holding the right side of her face?

13 A. Very bad with my left and rights. So it could
14 have -- it was with his right hand.

15 Q. And I'm gonna show you -- I'm going to show you
16 just one or two stills, okay?

17 A. Okay.

18 MR. CHIRAFISI: Okay.

19 MR. NELSON: Yes.

20 MR. CHIRAFISI: We're ready.

21 Q. (By Mr. Chirafisi, continuing) Now, I'm going to
22 tell you that's -- I don't know if you know this. The guy
23 in the yellow shorts is A.J. Martin, right?

24 A. Yes, it is.

25 Q. Okay. Okay. And he's walking toward Mr. Miu and

1 toward Madison, right?

2 A. (No response.)

3 Q. Is that fair?

4 A. Maybe.

5 Q. Okay.

6 A. I'm not really facing that direction to see.

7 Q. You're standing there just watching what's going
8 on, is that right?

9 A. Yes.

10 Q. Okay. And if I submit to you that this is
11 moments before you're saying this punch occurs, you're not
12 looking at -- at what's going on, are you?

13 A. Not in the picture, no.

14 Q. Okay. And you're holding a telephone?

15 A. Yes.

16 Q. Are you recording on that telephone?

17 A. No.

18 Q. Okay. When you walk over there --

19 MR. CHIRAFISI: Can I have 104?

20 Q. (By Mr. Chirafisi, continuing) When you walk
21 over there you know that Mr. Miu's alone, or you believe
22 he's alone, right?

23 A. Yes.

24 Q. Okay.

25 MR. NELSON: I think it's under the bottom of

1 that.

2 Q. (By Mr. Chirafisi, continuing) Okay. I'm going
3 to --

4 MR. CHIRAFISI: May I approach, Judge?

5 THE COURT: Yes.

6 Q. (By Mr. Chirafisi, continuing) I'm going to show
7 you what's been marked as Exhibit -- moved actually as
8 104. I would submit to you -- tell me if this is fair.
9 You believe this is a -- a photograph of Madison Coen and
10 Ryhley --

11 A. Yes.

12 Q. -- Mattison, right?

13 And this has been introduced into evidence
14 as to the general location of folks as this incident was
15 going on, okay?

16 A. Okay.

17 Q. I think you are represented by G.K. there --

18 A. Okay.

19 Q. -- okay?

20 Do you think that's a accurate
21 representation, to the best of your knowledge, as to when
22 Madison and Ryhley were in front of Mr. Miu where everyone
23 else was kind of situated?

24 A. I don't remember where everyone was situated when
25 it happened.

1 Q. Okay. You were off to their -- off to Madison
2 and Ryhley's right-hand side though, right?

3 A. Yes.

4 Q. Okay. And I think you told the State that you
5 are -- I don't know the distance here, but you're 15 --
6 all right. You tell me. How far -- how far away were
7 you?

8 A. I'm not good at math, so I don't know.

9 Q. Okay. You're a little distance away --

10 A. Yes.

11 Q. -- right?

12 And there's -- there's 13 of you. There's
13 been testimony there's 13 of you when this goes -- when
14 this happens. Would you say that's fair?

15 A. Yeah.

16 Q. Okay. And the person that you've been asked
17 about; meaning, the person wearing the black shirt who
18 kind of comes in at the end who's blocking that picture of
19 you, do you remember that?

20 A. Yes.

21 Q. Okay. You didn't see him during this incident,
22 did you?

23 A. No.

24 Q. Okay. To your recollection, he wasn't there to
25 assist; meaning, he wasn't present to assist Mr. Miu when

1 this was going down, right?

2 A. No.

3 Q. Okay. So to the best of your recollection it was
4 Mr. Miu alone in the situation, true?

5 A. True.

6 Q. Okay. You remember -- tell me if this is fair.
7 You remember Dante Carlson punching Mr. Miu in the face?

8 A. Yes, I do.

9 Q. Okay. And do you remember seeing Mr. Miu fall
10 down?

11 A. Yes, I do.

12 Q. Okay. Do you recall Dante Carlson smacking Mr.
13 Miu across the face again?

14 A. No.

15 Q. You don't recall that?

16 A. No.

17 Q. Okay. Do you recall A.J. Martin pushing Mr. Miu
18 from behind?

19 A. No.

20 Q. Okay. Do you have any recollection after that as
21 to kind of what happened?

22 A. Like what happened during all of that?

23 Q. Yeah.

24 A. No.

25 Q. Okay. That's okay.

1 A. Okay.

2 Q. I'm not being critical, I'm just trying to make
3 sure that I'm getting what you know --

4 A. Okay.

5 Q. -- okay?

6 MR. CHIRAFISI: Ma'am, I don't have any other
7 questions. Appreciate your time today. Thank you.

8 MR. SMESTAD: Just a couple, Judge, if --

9 THE COURT: Yes.

10 MR. SMESTAD: I know we want to break.

11 REDIRECT EXAMINATION

12 BY MR. SMESTAD:

13 Q. Gabby, the Defense attorney asked you a lot about
14 which hand he used, what you told police -- can you hear
15 me?

16 A. Yeah.

17 Q. So regardless of what hand he may have used, do
18 you have any doubt that Mr. Miu struck Mady in the face?

19 A. No. He did.

20 Q. Mr. Chirafisi had said things to you like he
21 wasn't acting violent when Mady was telling him to get out
22 of there and swearing at him and such, but then he asked
23 you if you were aware that he was holding a knife when
24 that happened.

25 A. Yes.

1 Q. Did you see him holding the knife?

2 A. No, I did not.

3 Q. I want to show you some slides, starting at 2504.

4 MR. ANDERSON: Ready.

5 Q. (By Mr. Smestad, continuing) We're going to
6 scroll through from 2504 -- before we start, do you
7 remember this moment in time on the river? Or -- or -- it
8 looks like Ryhley's in front of him looking at him?

9 A. No, I do not.

10 Q. All right. Can you -- as we scroll through I
11 want you to look and see what's in his right hand.

12 MR. CHIRAFISI: Judge, I'm going to object. She
13 has no recollection of it and the video -- the picture --

14 THE COURT: Please. I don't like speaking
15 objections. If you want to talk, come on up and we can
16 talk all you want.

17 (Whereupon, a discussion was held at the bench.)

18 THE COURT: The objection is sustained. Let's
19 move on.

20 Q. (By Mr. Smestad, continuing) Did you know he had
21 a knife in his right hand?

22 A. No, I did not.

23 Q. We're going to continue scrolling through.
24 Eventually we're going to see you in relation to these
25 folks.

1 And we stopped at 2563. Is that you?

2 A. Yes.

3 Q. And at that point is your head turned off to
4 the -- to where your group is?

5 A. Yes.

6 Q. Had he punched Mady yet at that point?

7 MR. CHIRAFISI: Objection, Judge. She doesn't --
8 said she didn't have a recollection --

9 THE COURT: Hold on.

10 MR. CHIRAFISI: -- so objection.

11 THE COURT: Objection noted. In this
12 circumstance, overruled.

13 THE WITNESS: Can you --

14 Q. (By Mr. Smestad, continuing) At that point while
15 your head was turned, did he punch Mady while your head
16 was turned?

17 A. No, I saw him punch Mady.

18 MR. SMESTAD: All right. Nothing else.

19 THE COURT: Mr. Chirafisi.

20 RE CROSS-EXAMINATION

21 BY MR. CHIRAFISI:

22 Q. When -- this is fair. When he -- when you're
23 saying that he struck Mady, Mady was in his personal
24 space, yes?

25 A. Yeah.

1 Q. And I know there was a question about holding the
2 knife. He never threatened anybody with the knife when he
3 pulled it out, right?

4 MR. SMESTAD: Object. Beyond the scope of
5 redirect.

6 THE COURT: Overruled.

7 Q. (By Mr. Chirafisi, continuing) You don't have a
8 recollection of him showing that knife and trying to --

9 A. No, I do not.

10 Q. -- intimidate people --

11 A. No.

12 Q. -- with it or anything, do you?

13 Okay.

14 MR. CHIRAFISI: That's all I have. Thank you for
15 your time.

16 THE COURT: Thank you, Ms. Khazraeinazmpour. You
17 may step down. Please see the coordinator in the back,
18 she'll give you further instructions.

19 (Whereupon, the witness was excused.)

20 THE COURT: It's a little after noon. I
21 understand lunch has just arrived so we're going to break.

22 Just to remind you: Do not begin your
23 deliberations; do not discuss the case with yourselves or
24 with the attorneys, the public, the media, or anybody
25 else; do not conduct any independent research or

1 investigation; do not watch or read any accounts of this
2 trial on your devices.

3 The bailiff will take you downstairs for
4 lunch, and we will reconvene at one o'clock.

5 (Whereupon, the jury exits the courtroom.)

6 THE COURT: We are outside the presence of the
7 jury.

8 Mr. Anderson mentioned this morning we have
9 one witness scheduled for this afternoon who may raise
10 spousal privilege. Is she still on the schedule?

11 MR. ANDERSON: Yes.

12 THE COURT: Okay. Have the attorneys talked
13 about this topic?

14 MR. NELSON: No, other than, yes, we agree that
15 we don't agree with the State. Yes, we're going to raise
16 privilege.

17 THE COURT: Okay.

18 MR. ANDERSON: So I --

19 THE COURT: Go ahead.

20 MR. ANDERSON: To outline our position, when
21 Nicolae came back to his -- his group of tubers he said
22 some things to the group, which his wife heard, and he
23 also made statements to her on jail phone calls, which are
24 recorded. Statements can only be privileged if they're
25 private.

1 THE COURT: Right.

2 MR. ANDERSON: Neither of those are private.

3 THE COURT: And you disagree, Mr. Nelson?

4 MR. NELSON: Correct, we assert privilege.

5 THE COURT: Well, here -- what -- what time is
6 she scheduled for?

7 MR. ANDERSON: We were gonna call her at one. We
8 could change things up.

9 THE COURT: No, what we'll simply do then is the
10 attorneys will come back with the witness at, let's say,
11 12:50. I'll take a short record outside the presence of
12 the jury, figure out what exactly these statements entail,
13 whether or not they're private and whether or not the
14 privilege applies. That's how we'll do it.

15 MR. ANDERSON: Okay.

16 THE COURT: All right. That's all.

17 MR. ANDERSON: 12:50?

18 THE COURT: 12:50. Have a good lunch, everyone.

19 (Whereupon, a break was held.)

20 THE COURT: We are back on the record. We are
21 outside the presence of the jury. Mr. Miu is present in
22 the courtroom.

23 I want to conduct a short voir dire of the
24 next witness, see whether or not spousal privilege
25 applies.

1 The general rule is that a person has the
2 privilege to prevent that person's spouse or former spouse
3 from testifying about something that was said between them
4 in private. That communication has to be made during the
5 marriage.

6 Can we all agree that the part -- or the
7 Mius were married on July 30, 2022?

8 MR. ANDERSON: Yes.

9 THE COURT: They remain married today?

10 MR. ANDERSON: No. They divorced, I think, a
11 couple weeks ago.

12 THE COURT: Okay.

13 MR. ANDERSON: Two, three weeks ago.

14 THE COURT: Okay. Were they married when the
15 jail conversation took place?

16 MR. ANDERSON: Yes.

17 THE COURT: So we agree on that much?

18 MR. ANDERSON: I -- I guess I don't know.

19 MR. NELSON: Yes, we agree that they were
20 married.

21 THE COURT: All right. So the question is
22 whether or not it was a private conversation?

23 MR. ANDERSON: Right.

24 THE COURT: So because the Defense is asserting
25 the privilege I think they have responsibility for

1 establishing it. So I let them start the voir dire. Mr.
2 Anderson, you may ask some follow-up questions. We'll see
3 where it ends up and then I'll make a decision.

4 MR. NELSON: I -- I appreciate the opportunity to
5 start. I don't know what they're trying to introduce so
6 it's hard for me to start because I don't --

7 THE COURT: Do you want to see that position and
8 let them do it?

9 MR. NELSON: Yes, please.

10 THE COURT: All right.

11 Mr. Anderson.

12 MR. NELSON: Which would, I think, also mean I --
13 they're trying to call her so I wanted to be able to
14 cross-examine her.

15 THE COURT: Okay. We're not getting into the
16 substance of the conversation, this is just to explore
17 whether or not it was private. That's all.

18 MR. NELSON: Understood.

19 THE COURT: Okay.

20 All right. And I'm sorry, Mr. Miu's wife's
21 name is?

22 MR. ANDERSON: Sondra Miu.

23 THE COURT: Sondra Miu.

24 All right. Is she in the courtroom?

25 MR. ANDERSON: Yes.

1 THE COURT: All right.

2 Ms. Miu?

3 MR. ANDERSON: Or is she outside?

4 VICTIM-WITNESS COORDINATOR: Yeah.

5 MR. ANDERSON: She's outside, Judge.

6 THE COURT: All right.

7 MR. NELSON: Judge, while we're waiting, when she
8 does testify the Defense moves that any information about
9 the divorce be inadmissible as it's irrelevant. It's
10 going to open up other reasons irrelevant to this.

11 THE COURT: Is there any relevance to the marital
12 status?

13 MR. ANDERSON: I think it goes to bias or lack
14 thereof because they're divorced now, the divorce is --

15 (Whereupon, Ms. Miu enters the courtroom.)

16 THE COURT: Hold on. Here she comes. We'll talk
17 about it later.

18 Ms. Miu, please come forward. Please face
19 the clerk, raise your right hand, she will administer the
20 oath.

21 SONDRA D. MIU,
22 after having been first duly sworn on oath by the clerk,
23 testifies and says as follows:

24 THE WITNESS: Yes.

25 THE COURT: Please have a seat in the witness

1 chair.

2 All right. Mr. Anderson.

3 VOIR DIRE EXAMINATION

4 BY MR. ANDERSON:

5 Q. Can you state your first and last name?

6 A. Sondra Miu.

7 Q. And, Sondra, you were on the river with Nicolae
8 on July 30, 2022?

9 A. Yes.

10 Q. And do you remember him leaving your group at
11 some point?

12 A. Yes.

13 Q. And then do you remember some sort of commotion?

14 A. Some sort of what?

15 Q. Some sort of commotion or disturbance?

16 A. Yes.

17 Q. Did he come back to your group at some point?

18 A. Yes.

19 Q. And was your group all pretty much all together
20 then?

21 A. Yes, I think so.

22 Q. And was Nicolae saying things when he came back
23 about what happened?

24 A. I don't know if he did then or when he came back
25 the next time.

1 Q. Okay. So he left twice?

2 A. Um-hum.

3 Q. So after the second time he came back was he
4 saying stuff about what happened?

5 A. A little bit. Not much.

6 Q. Did he talk about his knife?

7 A. Um-hum. Yes.

8 Q. And was that -- when he was talking about that,
9 was that when he was back with your group?

10 A. Yes.

11 Q. So did multiple people hear him talking about
12 that?

13 MR. NELSON: Objection. No foundation.

14 THE COURT: Sustained.

15 Q. (By Mr. Anderson, continuing) Were you guys
16 standing in a group?

17 MR. NELSON: Objection. Vague.

18 THE COURT: It's hard for me to understand what
19 you mean by group so --

20 MR. ANDERSON: Yeah, sure.

21 THE COURT: You have to specify.

22 Q. (By Mr. Anderson, continuing) How many -- how
23 many people were in your tubing group?

24 A. I think there was about eight of us.

25 Q. And when Nicolae came back, if you remember, were

1 you guys sitting down in your tube? Standing together?

2 MR. NELSON: Objection. Vague. My point is I
3 think it's about whether Nic was talking to Sondra. So
4 when he says you guys, is he talking about the entire
5 group or is he talking about these two?

6 MR. ANDERSON: I'll -- I'll --

7 Q. (By Mr. Anderson, continuing) When he came back
8 and was talking about what happened, was it to just you or
9 multiple people?

10 A. I think it was just me at the beginning.

11 Q. And then later?

12 A. I think he talked to someone else, but we were on
13 the tubes.

14 Q. And you overheard some of that conversation?

15 A. Not much of it. I -- I couldn't hear what they
16 were saying.

17 Q. Okay. But if -- if -- do you recall speaking
18 with law enforcement?

19 A. I'm sorry, what?

20 Q. Do you recall doing interviews with law
21 enforcement?

22 A. Yes.

23 Q. And do you remember if you told them about
24 hearing what he was saying when he was talking to other
25 people?

1 A. I don't remember.

2 Q. Okay. Would it be in the transcript?

3 A. It could be, uh-huh.

4 Q. And so when he said -- when you said he was
5 talking to you, where were you? Were you by the people?

6 A. When we -- when he came back to us you mean?

7 Q. Yeah.

8 A. No.

9 Q. Where were you?

10 A. I was standing on the little sandbar. We were in
11 the water.

12 Q. And where were the other members of your group?

13 A. In the water.

14 Q. How close?

15 A. I don't know. I didn't pay attention.

16 Q. Five feet? Ten feet?

17 A. Probably ten.

18 Q. Was Nicolae speaking loud enough for other people
19 to hear?

20 MR. NELSON: Objection. No foundation.

21 Q. (By Mr. Anderson, continuing) Was he whispering?
22 Talking in a normal voice?

23 A. I don't remember.

24 Q. Animated?

25 A. I don't remember.

1 Q. You -- who was he talking to while you were
2 tubing?

3 A. Me.

4 MR. NELSON: Objection. Timing.

5 THE COURT: Tubing when?

6 Q. (By Mr. Anderson, continuing) When you were
7 tubing to the exit.

8 A. Amy.

9 Q. Okay. And that's Amanda Torres?

10 A. Yes.

11 Q. If other people talked about when Nicolae said
12 when he came back, is that -- if you know, did you tell
13 them about it or would they have overheard it?

14 A. I didn't tell anybody.

15 Q. Okay. So if other people knew what he said when
16 he came back, it means they overheard what he was saying?

17 MR. NELSON: Objection. Leading. Inaccurate.

18 THE COURT: This is voir dire, so I'm going to
19 give some latitude so we can get to the core of this. So
20 overruled.

21 Q. (By Mr. Anderson, continuing) You didn't tell
22 anyone else what he told you?

23 A. No.

24 Q. Okay. And then while Nicolae has been in jail,
25 you guys have spoken on the phone?

1 A. Yes.

2 Q. And on those recordings does it say these are
3 being recorded?

4 A. Yes.

5 Q. And that's at the start of every phone call?

6 A. Yes.

7 Q. And at points Nicolae has talked about the case?

8 A. He tried. I stopped him.

9 Q. And sometimes he'd say something about the case
10 before you could stop him?

11 A. But I didn't -- all I kept saying, If you're
12 gonna talk about it, I'm hanging up the phone --

13 Q. Right.

14 A. -- because I didn't.

15 Q. Sure. And --

16 A. He never got out very much. A couple words.

17 Q. Some stuff he did.

18 A. Yeah.

19 Q. Yeah. And --

20 MR. ANDERSON: I think that's it.

21 THE COURT: Mr. Nelson.

22 VOIR DIRE EXAMINATION

23 BY MR. NELSON:

24 Q. So you were asked some questions about the
25 conversation that you and Nic had after he came back the

1 second time and you're standing on the sandbar.

2 A. Um-hum.

3 Q. Okay?

4 A. Yeah.

5 Q. During that, you consider that to be a private
6 conversation, correct?

7 A. Yes.

8 Q. He was -- you two were engaged, just the two of
9 you, correct?

10 A. Yes.

11 Q. And no one else was within 10 feet of you,
12 correct?

13 A. Not that I know of, no.

14 Q. After that there may have been times where other
15 people talk to Nic between the time you spoke with him
16 until he was arrested, agreed?

17 A. Yes.

18 Q. You don't know what Nic said in those other
19 times, right?

20 A. No.

21 Q. Because you weren't a party to those
22 conversations?

23 A. No. And I don't hear very well, so I wouldn't
24 have heard -- I wearing hearing aids so I don't hear, and
25 I didn't wear them on the river obviously.

1 Q. So all you know about is what Nic told you when
2 the two of you were alone?

3 A. Yes.

4 Q. That's what you remember regarding Nic's
5 statements about what may or may not have happened?

6 A. Yes.

7 Q. Okay. The phone calls in the jail, I want to ask
8 you about that, okay?

9 A. Okay.

10 Q. You still considered those private, agreed?

11 A. Yes.

12 Q. There was a -- you didn't know for sure whether
13 somebody was or was not listening live, correct?

14 A. That I don't know. I just know they say it's
15 recorded.

16 Q. Okay. What they do with the recording, you don't
17 know?

18 A. No.

19 Q. It doesn't say -- okay.

20 MR. NELSON: That's all.

21 THE COURT: Anything else?

22 VOIR DIRE RE-EXAMINATION

23 BY MR. ANDERSON:

24 Q. You purposely tell him to stop talking sometimes
25 because you knew somebody might be listening to those

1 calls, right?

2 A. Only if he started talking about what happened I
3 did.

4 Q. Okay.

5 MR. ANDERSON: No.

6 THE COURT: Mr. Nelson?

7 VOIR DIRE RE-EXAMINATION

8 BY MR. NELSON:

9 Q. The reason you stopped that is you weren't
10 worried about somebody else hearing, you just didn't want
11 to hear about the case, fair to say?

12 A. Both.

13 Q. Okay.

14 MR. NELSON: Nothing else.

15 THE COURT: Thank you, Ms. Miu. Please have a
16 seat in the back.

17 Do you have other witnesses?

18 MR. ANDERSON: On this issue?

19 THE COURT: Yes.

20 MR. ANDERSON: I have a 911 call where you can
21 also hear Nicolae talking in the background.

22 THE COURT: Well, that's different. As far as
23 this question of whether or not the statements to Ms. Miu
24 were private.

25 MR. ANDERSON: No.

1 THE COURT: Mr. Nelson?

2 MR. NELSON: No. We assert the privilege.

3 THE COURT: All right. The privilege has been
4 asserted. It's a statutory privilege. As I mentioned, a
5 spouse may prevent another spouse, the other spouse, from
6 talking about private conversations that were made during
7 the marriage.

8 We're talking about two different
9 conversations between spouses. One occurred on July 30,
10 2022, shortly after the incident.

11 On this record I'm convinced that it was a
12 private conversation because it was engaged between two
13 people standing apart, as far as 10 feet away from others.
14 I consider that to be a private conversation and will
15 allow the privilege to be asserted for that communication.

16 As far as the jail communication is
17 concerned, that clearly is not private. Ms. Miu testified
18 that she knew it was being recorded. If it's being
19 recorded, somebody else has the ability to listen and the
20 conversations are taking place knowing that somebody else
21 is recording and also they could listen. So that
22 conversation was not private and the State may inquire
23 about the substance of those conversations.

24 MR. ANDERSON: How does -- I don't know how the
25 Court wants me to handle that. I know it's very

1 publicized that he's in custody. The jury probably knows,
2 but I know we're trying to not make it obvious. He's in
3 civilian clothes. So should I just not give a -- ask a
4 timeframe so they might think it's shortly after the
5 arrest or -- I don't know. Or do I just say jail phone
6 calls? Did he say this?

7 THE COURT: Well, what do you propose to say?
8 Well, you frame the question for me and let's find out
9 whether or not there's an objection.

10 MR. NELSON: Can I weigh in before that?

11 THE COURT: Well, you want to give it a shot,
12 give him a chance to -- unless you don't care.

13 MR. NELSON: Well, I -- I care.

14 THE COURT: Okay. Let's -- let's hear what he
15 proposes what he's going to say and you tell me your
16 thoughts after that.

17 MR. ANDERSON: I would just ask while Mr. --
18 while your husband -- well, actually I guess we got to
19 address that too but --

20 When Nicolae was in jail did you have
21 conversations with him and did you talk about this? Did
22 he say this? And we essentially leave it at that.

23 MR. NELSON: I don't -- I would permit the State
24 to lead, and I don't think that there would be any reason
25 why they would need to go beyond between now and July 30th

1 did you have conversations with your husband? Yes. Did
2 your husband tell you X, Y, Z? She says yes; she says no.
3 If she says yes, we're done. If she says no, they play
4 the recording.

5 I mean, the fact that there is a recording
6 I don't -- the fact that where it is is irrelevant. The
7 only issue is is that there is a recording. Your Honor's
8 already ruled on that. And if she doesn't agree with it,
9 they can play the recording. But I don't think we need to
10 know why they have the recording.

11 THE COURT: Mr. Anderson?

12 MR. ANDERSON: That's fine. I'll -- I'll just
13 say --

14 THE COURT: Use -- use leading questions.

15 MR. ANDERSON: Yes.

16 THE COURT: And if she deviates from the script,
17 then you're going to be able to impeach her on things that
18 may be more sensitive.

19 All right. What else?

20 MR. NELSON: But I would -- I don't think there's
21 any -- my only request is that we don't say it's a jail
22 recording. They're just -- it's a recording. It doesn't
23 matter where it came from.

24 THE COURT: That's what I understood the
25 agreement to be.

1 MR. NELSON: Okay.

2 THE COURT: Correct, Mr. Anderson?

3 MR. ANDERSON: Yes. I'll just said jail-recorded
4 phone calls with Nicolae --

5 THE COURT: No, did you have conversation.

6 MR. ANDERSON: Okay. Sure.

7 THE COURT: And in that conversation was X, Y,
8 and Z said.

9 All right. Let's circle back on the
10 relevance of the divorce.

11 How is it relevant?

12 MR. ANDERSON: Well, for one, Defense said in
13 their opening she is his wife. Present tense. So -- I
14 mean, I think they could have just --

15 MR. NELSON: I'm not his divorce lawyer.

16 MR. ANDERSON: Well --

17 THE COURT: Well --

18 MR. ANDERSON: Also, I mean, it's -- it goes to
19 bias or prejudice on -- you know, we're asking all these
20 witnesses what are their relations with each other? Are
21 they friends? Do they still talk to each other? So
22 they're divorced, their finances are done, she doesn't
23 have a financial stake in this trial because the divorce
24 is finalized, so it goes to bias or prejudice.

25 MR. NELSON: Who's saying she's biased? I mean,

1 we're not claiming she's biased. Is the State claiming
2 that she's biased because she's divorced? I'm not
3 tracking the rationale behind the relevancy.

4 I -- are they going to --

5 THE COURT: Well, let's put it this way: The
6 relationship of the witness to the Defendant is relevant.
7 What is their relationship? That's -- that's where the
8 relevance lies.

9 You said that if we get into the fact that
10 they were divorced it's going to open up a lot of other
11 issues, and what are those issues?

12 MR. NELSON: Well, I think I get to ask her: You
13 didn't divorce him because you don't love him anymore?
14 You didn't divorce him because you disapprove of his
15 behavior on 7-30th. This was a financial decision, and
16 other than the, you know, State of Minnesota's financial,
17 you still care and support -- I mean, I think I get to say
18 all of those things if they get into that.

19 THE COURT: Okay. Well, I'm -- I think the
20 relationship is relevant. I don't think there's any
21 unfair prejudice if -- if the jury knows that they're
22 divorced, and it'll be subject to cross-examination if you
23 want to explore these other topics to rehabilitate her.
24 So if you want to ask that question, that's what you're
25 going to receive on the other end.

1 I just want to point out one thing though.
2 At the beginning of the trial when I was asked to make a
3 exception for the sequestration rule, it was represented
4 to me that they were married --

5 MR. NELSON: I did --

6 THE COURT: -- and now I'm learning that they're
7 divorced.

8 MR. NELSON: I didn't know that the divorce was
9 final. I am not his divorce attorney. I apologize if I
10 was misleading. I don't believe she sat in the trial at
11 all. So it was not my intent to. I did not know the
12 status of their proceedings.

13 THE COURT: All right. Is there anything else we
14 need to address?

15 MR. ANDERSON: I don't think so.

16 THE COURT: Mr. Nelson?

17 MR. NELSON: No, Judge.

18 THE COURT: All right. Let's bring the jury in.

19 Ms. Miu, why don't you have a seat in the
20 back, and then we'll call you back up on the witness
21 stand.

22 MR. ANDERSON: Oh. She -- I believe Sandi
23 prefers to not be on camera.

24 THE COURT: She's not a victim.

25 MR. ANDERSON: Okay.

1 (Whereupon, the jury enters the courtroom.)

2 THE COURT: Welcome back, members of the jury.
3 We are ready to continue with the next witness.

4 Who is that witness, Mr. Anderson?

5 MR. ANDERSON: Sondra Miu.

6 THE COURT: Ms. Miu, would you please come
7 forward.

8 Please face the clerk, raise your right
9 hand, and she'll administer the oath.

10 SONDRA D. MIU,
11 after having been first duly sworn on oath by the clerk,
12 testifies and says as follows:

13 THE WITNESS: Yes.

14 THE COURT: Please have a seat in the witness
15 chair.

16 Mr. Anderson.

17 DIRECT EXAMINATION

18 BY MR. ANDERSON:

19 Q. Can you please state your first and last name?

20 A. Sondra Miu.

21 Q. And, Sondra, do you work?

22 A. No.

23 Q. Where -- what city and state do you live in?

24 A. I live in Lakeville, Minnesota.

25 Q. And obviously you know Nicolae Miu?

1 A. Yes.

2 Q. Where did you guys -- where did you two meet?

3 A. At work.

4 Q. And is that Ritchie Engineering?

5 A. Yes.

6 Q. Were you tubing with Nicolae on July 30, 2022?

7 A. Yes.

8 Q. Were you with a group of people?

9 A. I'm sorry, what?

10 Q. Were you with a group of people?

11 A. Yes.

12 MR. ANDERSON: Permission to approach?

13 THE COURT: Yes.

14 Q. (By Mr. Anderson, continuing) I'm handing you
15 what's been marked as Exhibit 12. You can take it. Are
16 those the people you were tubing with?

17 A. Yes.

18 Q. Okay.

19 MR. ANDERSON: Move to admit and publish.

20 THE COURT: Any objection to 12?

21 MR. NELSON: No objection.

22 THE COURT: All right.

23 Q. (By Mr. Anderson, continuing) Sondra, can you
24 see that -- do you go by Sandi or Sondra?

25 A. Sandi.

1 Q. Okay. The far left person, who is that?

2 A. It's Ariel.

3 Q. And how do you know Ariel?

4 A. He's Ernesto's nephew, and Ernesto used to work
5 with us.

6 Q. Okay. And how many time -- were you and Nic or
7 just Nic close friends with Ariel? Just met him?

8 A. We sort of were close friends with him. We'd go
9 over to Amy and Ernesto's house and he would be there.

10 Q. Okay. And how about the woman next to Ariel?

11 A. I don't know really him -- know her very well.
12 That's Ariel's girlfriend.

13 Q. Okay. And then guy third from right?

14 A. I don't know him. That was the first time he had
15 been there.

16 Q. Okay. And then that's Nicolae next to -- fourth
17 from right?

18 A. Yes.

19 Q. Okay. Where are you in this photo?

20 A. I'm in the inner tube in the middle.

21 Q. Okay. And then where's Ernesto?

22 A. Ernesto is in-between Amy and Rosie.

23 Q. Okay. Maybe I'll go back here so everyone can
24 see.

25 Can you still see it?

1 A. Yes, sir.

2 Q. Okay. And who's Rosie?

3 A. Rosie is Ernesto's sister.

4 Q. And how do you know Ernesto and Rosie?

5 A. I know Ernesto because we worked with him.

6 Rosie's been over at his house when we would go over
7 there.

8 Q. Okay. How long have you known Ernesto?

9 A. I -- I don't even know. 10 some years. Probably
10 maybe a little bit more.

11 Q. 10 to 15?

12 A. Yeah, I'd go 10 to 15.

13 Q. Okay. Do you guys -- you and Nic, would you
14 socialize with them a lot?

15 A. Yes, we'd go to their house.

16 Q. Did they come to your house?

17 A. Yes.

18 Q. Okay. So decent close -- to close friends?

19 A. Yes.

20 Q. How about Amanda or Amy?

21 A. That's Ernesto's wife.

22 Q. Okay. You knew her pretty well too?

23 A. Yes.

24 Q. And Tatiana, did you know her?

25 A. I only knew her a little bit. I met her a couple

1 of times when we'd go over to Amy and Ernesto's house.

2 Q. Okay. And --

3 A. And same with Peachy, I only met him when we
4 would go over there, and I only met him maybe three times.

5 Q. Okay. And you -- that's what you know him as,
6 Peachy?

7 A. Um-hum.

8 Q. Yes?

9 A. Yes.

10 Q. Okay.

11 A. Sorry.

12 Q. When you were tubing in the beginning, did
13 Nicolae have a knife on him?

14 A. I don't know if he did when we were tubing.

15 Q. In the beginning, at the start?

16 A. He only did to cut the strings on the tubes. He
17 went back to the Jeep and I thought he put it away.

18 Q. Okay. And as you guys were tubing -- so you
19 didn't see him put it there, you just thought he put it in
20 the Jeep when he went back to the Jeep?

21 A. Yes.

22 Q. And is that what he brought it for, to cut the
23 string?

24 A. Yes.

25 Q. So you could tie up at the beginning?

1 A. Yes.

2 Q. Okay.

3 A. Actually, Ernesto called Nic and asked him to
4 bring it.

5 Q. Okay.

6 A. So we could -- he could cut the string.

7 Q. Okay. Did you -- did your group stop on the way?
8 Do you stop anywhere on the way while tubing?

9 A. While we were tubing?

10 Q. No, did you stop?

11 A. Before we got there?

12 Q. Yeah. Did you stop somewhere to eat or --

13 A. No.

14 Q. -- hang out on the beach or anything like that?

15 A. No.

16 Q. Do you remember telling law enforcement you
17 stopped and you were eating for like 30 minutes or so and
18 using the bathrooms?

19 A. That was while we were tubing.

20 Q. What do you mean? Can you explain that?

21 A. We were tubing down the river and there's a spot
22 that is covered where they must have played a band or
23 something there --

24 Q. Okay.

25 A. -- once in a while. It was on the river while we

1 were tubing we stopped to eat.

2 Q. Gotcha. You thought I was asking you about
3 before tubing?

4 A. Yes.

5 Q. Okay. Sorry.

6 And did Nicolae have a snorkel/goggles with
7 him?

8 A. Yes.

9 Q. And was he snorkeling by a group of young guys at
10 one point?

11 A. I don't know. He just took the snorkel and went
12 out there.

13 Q. Did you see him by a group of young guys at some
14 point?

15 A. I did later.

16 Q. Okay.

17 A. When the incident started.

18 Q. And was there actually a couple times that
19 Nicolae went over to that group?

20 A. That I don't know for sure.

21 Q. Did you tell law enforcement that he went over
22 there twice?

23 A. I know he -- I -- I think he went to that group
24 and came back, and then I didn't know he went back to that
25 group until later I saw him over there.

1 Q. Okay. So he -- he had gone to the group of the
2 young guys, came back, and then at some point he went back
3 there but you didn't see him go back there again?

4 A. No. I didn't keep track of him.

5 Q. Okay. How -- how long was he back that you
6 remember before you noticed he was gone again?

7 A. I don't know. Maybe five minutes. I don't know
8 for sure.

9 Q. Do you remember saying maybe 10 minutes?

10 A. I may have.

11 Q. And then when he went --

12 MR. ANDERSON: Judge, can we approach?

13 THE COURT: Yes.

14 (Whereupon, a discussion was held at the bench.)

15 Q. (By Mr. Anderson, continuing) And at some point
16 did Ariel's phone get knocked in the water?

17 A. I don't know how it went in the water, but yes.

18 Q. And do you remember in relation to the two times
19 Nicolae went over to those -- the group of young guys, was
20 it before the first time, after the first time, do you
21 remember?

22 A. Was what before or after?

23 Q. When the phone got lost.

24 A. Oh, it was before.

25 Q. Okay. And was Nicolae looking for the phone?

1 A. Yes.

2 Q. What -- what were you guys doing, the rest of the
3 group, while Nicolae was looking for the phone?

4 A. I don't know what they were doing. I was busy
5 sitting in the inner tube because I had a hard time
6 getting out of it, and I was just looking at the sky and
7 the trees and just relaxing and enjoying my day.

8 Q. You guys -- I mean, your group was kind of by a
9 sandbar, is that right?

10 A. Um-hum.

11 Q. Okay. And when Nicolae was back at the group of
12 young guys the second time, did something catch your
13 attention?

14 A. I had been to -- every once in a while I'd sit up
15 in my tube just to see where Nic was at, and the one time
16 I did that it looked like there was people around him, and
17 all of a sudden I saw him on his hands and knees in the
18 water and somebody was hitting him.

19 Q. Didn't you originally say that the first thing
20 you noticed was all the young guys jumping out of their
21 tubes?

22 A. I may have.

23 Q. And it's at that point that you alerted your
24 group and sent some people over there? Or asked some
25 people to go over there?

1 A. Yeah, I had asked two of them.

2 Q. And who were those two people?

3 A. Ariel and Ernesto.

4 Q. Okay. And again, Ariel, in the group photo, is
5 on the far left?

6 A. Yes. He's with the red, white, and blue.

7 Q. And Ernesto is the guy -- the only one without a
8 shirt off in that photo?

9 A. Yeah, he's on the other side. Like second from
10 where I'm at on that side.

11 Q. Okay. And so you saw -- and just to clarify,
12 this is the second time Nicolae's at the group that you
13 see them jump up?

14 A. Yes.

15 Q. Yes?

16 A. Yes.

17 Q. Okay. And do Ernesto -- after you see the boys
18 jump up and you alert the group, do Ernesto and Ariel
19 start walking over there?

20 A. Yes. Ariel went first and then Ernesto went.

21 Q. And then I think you said the next thing you
22 remember was he's -- or saw was he was on his hands and
23 knees in the water and somebody hit him?

24 A. Yep.

25 Q. And then did you see anything after that?

1 A. I did not.

2 Q. And how -- at some point after -- what do you
3 remember happening after that?

4 A. They just brought him back.

5 Q. And --

6 A. And then I saw the police come and people were
7 screaming and a kid was by a tree, I guess, and later,
8 because we stayed there for about 20 minutes.

9 Q. And I'm going to get to that in a second but I
10 just wanna back up a little bit. So you said they brought
11 him back. Did Nicolae come back before or after or with
12 Ernesto and Ariel, if you remember?

13 A. With them, I think.

14 Q. Did you actually see Nicolae walking back from
15 the group or did you just -- was he just there, like, next
16 thing you notice?

17 A. I saw him coming -- I didn't see him leave that
18 group, I saw him, though, walking back.

19 Q. And were you watching him the whole time he was
20 walking back?

21 A. Not at the beginning when he left the group, I
22 didn't see that.

23 Q. And did you watch him -- so -- I just want to
24 make sure I'm understanding.

25 THE COURT: That the last sheet of paper?

1 MR. ANDERSON: Yes.

2 THE COURT: Can one of the bailiffs, I think
3 there's another pack just outside this door leaning up
4 against the wall.

5 Let's take that one down. We need to mark
6 it, in any event.

7 Q. (By Mr. Anderson, continuing) So if this is the
8 river --

9 A. Um-hum.

10 Q. -- let's say this is the sandbar, okay? Are you
11 with me?

12 A. Um-hum.

13 Q. Okay. You guys are somewhere around here?

14 A. Yeah, right next to it.

15 Q. Okay. In the water or --

16 A. Yes.

17 Q. Okay. Like right here?

18 A. Yeah.

19 Q. Okay. And then the -- do you remember where the
20 young boys were or young kids or adults, whatever?

21 A. Yeah. They were on that side.

22 Q. The other side of the river?

23 A. Yes. They weren't on the same side we were on.

24 Q. And they're -- were they downstream a ways?

25 A. Yes.

1 Q. Okay. So right -- I mean, there's no scale so --

2 A. Yeah.

3 Q. -- I'll just draw generally here.

4 So at some point Nicolae walked back?

5 A. Um-hum.

6 Q. And you said you didn't see him when he left at
7 first. Do you know, like, at -- if you know, I don't want
8 you to guess, like, if when he was halfway did you start
9 to watch him come back? When he was almost back to your
10 group?

11 A. Probably a little less -- or a little more than
12 halfway.

13 Q. Okay. So maybe like around here?

14 A. No, the other way.

15 Q. Lower? Oh, this down here?

16 A. I probably saw him about in there.

17 Q. And did he walk straight back to your group from
18 there?

19 A. Yes.

20 Q. And you watched him walk back?

21 A. Yes.

22 Q. Okay. Do you remember -- you met with
23 essentially the people sitting at this table prior to
24 testifying, is that right?

25 A. Yes.

1 Q. And do you remember saying in that meeting that
2 you weren't watching him when he walked back the whole
3 time?

4 A. Yes.

5 Q. Okay. So do you know which one it is?

6 A. Yes, I probably didn't watch him the whole time.

7 Q. Okay. And after Nicolae was back by you, your
8 group, what did you see and what did you hear?

9 A. (No response.)

10 Q. Not -- not amongst your group, but downriver.

11 A. There was a lot of commotion down there. I saw
12 the police arrive. I saw someone -- I didn't really see
13 the person laying by the tree but I saw somebody giving
14 that person CPR. Uhm --

15 Q. And let me ask a question about that. So the
16 person who was getting CPR, was that on the other side of
17 the river from you?

18 A. Yes, it was by where the other people's tubes
19 were.

20 Q. So somewhere down here?

21 A. Yeah.

22 Q. And did you see that CPR going on -- you said you
23 were there about 20 minutes?

24 A. Yeah, I think it was about 20 minutes. I don't
25 know for sure but it seemed like 20 minutes.

1 Q. And was somebody getting CPR on the shore that
2 whole time?

3 A. Pretty much.

4 Q. Okay. About 20 minutes.

5 Did you see -- and the commotion, can you
6 describe the commotion?

7 A. People were more frantic it seemed. They were
8 just going to people that needed help.

9 Q. And what do you mean they needed help? Do you
10 see people who are injured?

11 A. No, just I -- like I said, I didn't see the one
12 by the tree either. I'm just assuming, but no.

13 Q. So what did you -- what did you see to know they
14 were doing CPR?

15 A. I saw somebody pushing up and down on the
16 person's chest.

17 Q. Okay. Did you see blood?

18 A. I did not.

19 Q. And -- so you said you saw law enforcement
20 arrive?

21 A. Um-hum. Yes.

22 Q. And do you remember seeing a couple officers in
23 the water?

24 A. Yes.

25 Q. Is that -- is that what you remember as far as

1 law enforcement that you saw before you guys left?

2 A. Yes. There might have been an ambulance, but I'm
3 not sure but --

4 Q. Do you -- do you remember telling us in the
5 meeting that you saw a police SUV, couple officers in the
6 water, and no ambulance?

7 A. Yes, I do remember that.

8 Q. Okay. So did anyone from your group -- once
9 Ariel, Ernesto, and Nicolae are back with you, did anyone
10 walk over to where the commotion was going on?

11 A. I heard somebody did. I didn't see him.

12 Q. Prior to the incident I'll call it, was the --
13 what was the atmosphere like among your group? Were you
14 guys drinking? Listening to music?

15 A. We were listening to music until the phone got
16 lost because that was the one that was playing the music
17 on.

18 Q. Okay.

19 A. Some of them were drinking.

20 Q. Okay. Was Nicolae drinking?

21 A. He had about two beers.

22 Q. About, just an estimate?

23 A. Yeah.

24 Q. You were the designated sober driver home, right?

25 A. Yeah. I was just drinking water.

1 Q. And that was preplanned, that you would be the
2 one to drive home?

3 A. No, it was not preplanned.

4 Q. And then after the incident, what was the mood
5 like when you were tubing down the river?

6 A. Quiet.

7 Q. And I'm not -- I'm not asking what was said, but
8 while you're tubing down the river was Nicolae talking?

9 A. He was -- I think he was talking to Amy, but I'm
10 not positive.

11 Q. Okay.

12 A. Because I didn't look to see.

13 Q. So when you -- fair to say when you guys tubed
14 down the person was still getting CPR?

15 A. I don't remember.

16 Q. There was -- the scene -- was the scene still
17 chaotic?

18 A. I don't think it was back then, no.

19 Q. No. But it was before ambulances arrived, right?

20 A. I don't know for sure.

21 Q. Well, you said there -- you saw a police SUV, two
22 officers in the water, no ambulances, right?

23 A. I didn't. I don't know for sure. I didn't pay
24 attention, but I told you before there was no ambulance,
25 so I guess not.

1 Q. Okay. And you'd agree that when you told us
2 that, we just asked you to tell us what you remember,
3 right?

4 A. Yes.

5 Q. We weren't --

6 A. And --

7 Q. -- prying or --

8 A. No, but, you know, I've been trying to block this
9 out so --

10 Q. Okay.

11 A. Since -- even since I talked to you I don't
12 remember. I'm not going to sit here and read the
13 transcripts you gave me. I don't remember.

14 Q. Okay. I imagine -- and I -- I want to be
15 respectful. I imagine this is extremely difficult --

16 A. Yes.

17 Q. -- for you.

18 So when your group left, you had to tube by
19 the spot where the incident happened, right?

20 A. Um-hum.

21 Q. Yes?

22 A. Yes.

23 Q. Okay. Since this incident, you've had
24 conversations with Nicolae about -- briefly about some
25 parts of the incident, agreed?

1 A. Yes.

2 Q. And Nicolae has expressed to you frustration with
3 you and your group because you didn't hear him yelling for
4 help, right?

5 A. Right.

6 Q. And he cast some blame on you and your group for
7 not coming in response to his yells for help?

8 A. Yes.

9 Q. And you responded you couldn't hear any yells for
10 help?

11 A. No, I couldn't hear, not over the water.

12 Q. Nic's knife, you described it as -- you believed
13 it was a silver blade, black handle folding knife. Do you
14 remember that?

15 A. I don't remember, but it could have been.

16 Q. And you described it had a clip and a -- a clip
17 on the knife, right?

18 A. Yes.

19 Q. And he'd clip it into his lower pocket on his
20 shorts?

21 A. Yes.

22 Q. And Nicolae's right-handed, right?

23 A. He's right-handed.

24 Q. Do you remember telling law enforcement that you
25 heard screaming?

1 A. I don't remember. I may have, I just don't
2 remember.

3 Q. You -- would it refresh your memory to see a
4 transcript?

5 A. Yes.

6 Okay.

7 Q. That refresh your memory?

8 A. No, but it says it so I -- I must have said it.

9 Q. Okay. When the -- when you saw CPR being done on
10 the shore, was the -- was the rest of your group walk --
11 looking in the same direction, watching what was going on?

12 A. I'm assuming so.

13 MR. NELSON: Objection. No foundation.

14 THE COURT: Sustained.

15 Q. (By Mr. Anderson, continuing) You were there for
16 20 minutes?

17 A. About --

18 MR. NELSON: Objection. Asked and answered.

19 THE COURT: Sorry. Hold on.

20 Just wait until --

21 THE WITNESS: I'm sorry.

22 THE COURT: -- I address hear the objection.
23 That's fine.

24 I'm sorry, I didn't the objection.

25 MR. NELSON: I objected. Asked and answered.

1 MR. ANDERSON: I hadn't finished.

2 THE COURT: All right. Ask the question and
3 we'll start over.

4 Q. (By Mr. Anderson, continuing) So you were there
5 for, your estimate, about 20 minutes with the other people
6 from your group. As you were there, did you make
7 observations about the people in your group?

8 A. No.

9 Q. No, you didn't see anything that anyone was doing
10 or looking at?

11 A. No.

12 Q. Where were -- okay.

13 And what about Nicolae, did you see where
14 he was looking?

15 A. No.

16 Q. Did you see what he was doing?

17 A. No.

18 Q. So Nicolae walks down to the -- I'm talking about
19 the second time now -- the group of young guys, you see
20 him get hit when he's down on his hands and knees, he
21 eventually comes back, and you're not paying any attention
22 to what Nicolae is doing?

23 MR. NELSON: Objection. Leading.

24 THE COURT: Sustained.

25 MR. ANDERSON: May we approach?

1 THE COURT: Yes.

2 (Whereupon, a discussion was held at the bench.)

3 Q. (By Mr. Anderson, continuing) So during that
4 20 minutes, were you watching -- after everything you've
5 testified about, during that 20 minutes you're there, were
6 you watch -- were you paying any attention to Nicolae?

7 A. I don't recall. I must have at some point, I
8 just don't recall.

9 Q. The -- did Nicolae have any injuries that you
10 saw?

11 A. I didn't notice any, but I didn't pay attention
12 either.

13 Q. And the people that Nicolae was down by
14 downstream, were they bigger or smaller, same size as
15 Nicolae?

16 A. I noticed some of them were skinnier. Some of
17 them were bigger. They were all younger.

18 Q. Do you remember telling law enforcement that
19 they're all smaller than Nicolae, Nicolae's a big guy?

20 A. No, I don't remember saying that, but if I did --

21 Q. Do you remember saying it didn't look like
22 Nicolae got hit that hard?

23 A. I don't remember.

24 Q. When Nicolae came back after you saw him get hit,
25 did you go to him or render any aid, anything like that?

1 A. Did I what?

2 Q. Go to him and render any aid or anything like
3 that?

4 A. I just made sure he didn't have any -- I didn't
5 see any blood or anything, so I was assuming he was not
6 too badly hurt.

7 Q. Okay.

8 MR. ANDERSON: Nothing else, Judge.

9 THE COURT: Mr. Nelson.

10 CROSS-EXAMINATION

11 BY MR. NELSON:

12 Q. Ms. Miu, can you tell us when you and Nic got
13 married?

14 A. When?

15 Q. Yeah.

16 A. Yeah. It was June 4th, 2011.

17 Q. Why did you marry him?

18 A. Because I loved him.

19 Q. Still true today?

20 A. Yes, it is.

21 Q. Over the -- the course since -- did you know him
22 before 2011?

23 A. Yes. I met him -- we started dating in 2008, and
24 I met him at work a little before that so --

25 Q. What did he do there at -- at your place of

1 employment?

2 A. He was an engineer.

3 Q. What type of engineer?

4 A. I think he said it was a mechanical engineer.

5 Q. Okay. What did you do at the place of
6 employment?

7 A. I was a supervisor of a department.

8 Q. Of what department?

9 A. I was a supervisor of the packaging department.

10 Q. Okay. And it was through that that you and Nic
11 grew to know -- meet each other and then know each other,
12 right?

13 A. Yes.

14 Q. It sounds like there's a group of other people
15 that you guys got to know and hang out with from work,
16 right?

17 A. Yes.

18 Q. So you'd known Nic since 2008?

19 A. I knew him a little before that. Maybe 2007.

20 Q. And during that time you eventually married him
21 and lived with him, right?

22 A. Yes.

23 Q. You worked with him often?

24 A. I did.

25 Q. You interacted with his work -- him at work and

1 at the home, correct?

2 A. Yes.

3 Q. Imagine you really knew this man?

4 A. Yes.

5 Q. Would you agree that you knew his character as to
6 whether he's peaceful or violent?

7 MR. ANDERSON: Objection, Judge. Can we
8 approach?

9 THE COURT: Yes.

10 (Whereupon, a discussion was held at the bench.)

11 THE COURT: Objection overruled.

12 Q. (By Mr. Nelson, continuing) So my question was
13 do you have an opinion as his character for peacefulness?

14 A. Nic is a very peaceful person.

15 Q. I want to ask you some other questions about what
16 you know about Nic, okay?

17 A. All right.

18 Q. Was there a time when --

19 (Whereupon, a discussion was held off the record
20 between counsel.)

21 MR. ANDERSON: Can we approach?

22 (Whereupon, a discussion was held at the bench.)

23 MR. ANDERSON: Judge, no objection to entering
24 admission of those photos.

25 THE COURT: What are the numbers?

1 MR. NELSON: I'll go through them. I just wanted
2 to publish and ask her them when they're on the ELMO.

3 THE COURT: That's fine. We'll turn on the
4 document examiner.

5 MR. NELSON: Yes, thank you, Judge.

6 Q. (By Mr. Nelson, continuing) So I'm going to show
7 you some photos and ask you some questions about those,
8 okay?

9 A. Yes.

10 Q. This is Exhibit Number 106. You see that?

11 A. Yes.

12 Q. What's -- what's that a picture of?

13 A. It's a picture of Nic and I.

14 Q. When is that from, do you know?

15 A. I don't remember the exact date. Probably about
16 2009, 2010.

17 Q. Okay. And you might not know, but roughly where
18 are you at?

19 A. I don't remember. We went to some park in -- for
20 the day and just decided to take some pictures of us while
21 we were there.

22 Q. Sure. Did you and Nic often enjoy outdoor
23 activities?

24 A. We tried to when we could.

25 Q. Sure. And so is this unusual in any way for you

1 guys to be out some place in the outdoors enjoying
2 yourselves?

3 A. No, it's not.

4 Q. Showing you what's been marked as Exhibit
5 Number 107. You see that sticker? Who is that?

6 A. That's Nic and I and our little boy Tiki.

7 Q. Okay. Who's Tiki?

8 A. Our dog.

9 Q. All right. And showing you then picture 108.
10 There's three different pictures there. Do you see these?

11 A. Yes.

12 Q. Is that Nic in all of those?

13 A. Yes.

14 Q. Is that Nic on the left-hand side and the
15 right-hand side? Are those pictures of Nic working on
16 some property you guys owned in South Dakota?

17 A. Yes.

18 Q. Nic a bit of a handyman?

19 A. Oh, yes.

20 Q. Does he fix stuff around the house?

21 A. Yes.

22 Q. Fix stuff around the yard?

23 A. Yes.

24 Q. Is he good with tools?

25 A. Yes, he is.

1 Q. Do his friends sometimes call him if they've got
2 a -- some sort of problem that they want fixed?

3 A. Yes.

4 Q. He's the guy to go to?

5 A. Yes.

6 Q. And does he solve it often with tools?

7 A. Yes.

8 Q. Have you seen him carry a -- a pocketknife
9 before?

10 A. All the time.

11 Q. Have you seen him -- you know, we -- in this case
12 I think it's -- we called it a utility knife or a
13 pocketknife, but it's a small knife that he puts in his
14 pocket, right?

15 A. Yep.

16 Q. Have you seen him use that before?

17 A. Yes.

18 Q. Have you seen him solve problems around the house
19 with that?

20 A. Yes.

21 Q. Solve problems around the outside property with
22 that?

23 A. Yes.

24 Q. Have you seen other people ask him about, hey,
25 Nic can you do this, and he'll use the pocketknife to --

1 to fix something or solve something?

2 A. Yes.

3 Q. Showing you what's been marked as Exhibit 109.

4 You see those three photos there?

5 A. Yes.

6 Q. Is that Nic?

7 A. Yes, it is.

8 Q. Is that Nic in the hospital on the two ones on
9 the left?

10 A. Yes.

11 Q. Why was Nic in the hospital?

12 A. He had a quadruple bypass done.

13 Q. And when was that?

14 A. I think it was 2020.

15 Q. Okay. And do you see in the one on the left and
16 the one on the right he has some sort of red pillow that's
17 on his chest? Do you recognize that?

18 A. Yes.

19 Q. What was -- what was the purpose of the red
20 pillow?

21 A. So when he would sit up he could hold that pillow
22 against his chest to help prevent the pain.

23 Q. Okay. How long was he in recovery as a result of
24 that, do you know?

25 A. I don't remember. I know he wasn't in the

1 hospital long because they try and get you out right away.
2 I don't remember if he was home three to four weeks
3 afterwards.

4 Q. Now, you knew him well before 2020, correct?

5 A. Yes.

6 Q. And then you knew him until today, sometime after
7 the surgery, correct?

8 A. Yes.

9 Q. Fair to say that since the surgery he's had some
10 more limitations?

11 A. Yes.

12 Q. On his physical ability, correct?

13 A. Yes.

14 Q. He wasn't quite as fit as he was before, would
15 you agree?

16 A. Yes.

17 Q. And maybe this happens to all of us men when we
18 get into our 50s, but appear to you that he lost some of
19 his confidence in his fitness?

20 A. Yes.

21 Q. He lost some of his ability to think he could go
22 out and do anything and then he's invincible?

23 A. Yes.

24 Q. This certainly humbled him to that degree?

25 A. Yes.

1 Q. And did he limit himself to some degree?

2 A. He did to some degree, yes.

3 Q. Yeah. Did he at some point tell you, like, I
4 just can't do this anymore or make complaints about his
5 own fitness, his --

6 A. No, Nic never did that.

7 Q. He wasn't a complainer?

8 A. Not too much, no. And he tried -- if he could do
9 it one way or the other, he usually did it.

10 Q. Okay. All right. Problem solver?

11 A. Yes.

12 Q. All right. Was he -- did he -- was he on any
13 sort of, like, exercise régime that you saw him do or was
14 he just somebody that stayed, like, active working around
15 the house?

16 A. Yeah, he was just active working around the
17 house.

18 Q. He was not like a jogger or a biker?

19 A. No.

20 Q. Or a lifter or anything along those lines?

21 A. No.

22 Q. Okay. There was some questions about alcohol
23 use. And before I get into that day, just in general, Nic
24 a big drinker?

25 A. No, not real big drinker, but occasionally

1 he'll -- he will, but not very often. He'll have a beer,
2 couple beers after work.

3 Q. Okay. On this day, were you concerned about his
4 alcohol consumption on July 30th of 2022?

5 A. Oh, no. No.

6 Q. Was he in any way did -- did you see him impaired
7 on other days?

8 A. Oh, I've seen him, yes.

9 Q. Yeah. On that day was he in any way impaired?

10 A. No.

11 Q. Were you worried about his intoxication level in
12 any way, shape, or form?

13 A. No.

14 Q. And in your group, was there anybody in your
15 group that was just, like, slamming drinks?

16 A. No. They had beers, but everybody shared them.
17 And I don't know how many they had, but there was nobody
18 that was intoxicated in our group like that, no.

19 Q. Okay. Showing you what's been -- I think we
20 talked before about that other exhibit. Now here's that
21 Exhibit 110. Do you see that photo?

22 A. Yes.

23 Q. And is that Nic on the left?

24 A. Yes, it is.

25 Q. Okay. And I'm gonna -- Nic there, is that what

1 he wore on the way to the -- to tubing?

2 A. Yes.

3 Q. His shorts, they're camouflage shorts. Does he
4 have a lot of clothing in which is, you know, camouflaged?

5 A. Yes.

6 Q. Okay. That's just kind of his -- I don't want to
7 say his signature, but he's got camo clothes?

8 A. Yes, he does. Lots of them.

9 Q. Okay. And is it unusual for him when he's doing
10 outdoor activities to wear some of those clothes that are
11 made for outdoor activities?

12 A. No, it's not unusual.

13 Q. Okay. Is it unusual for you to see him out and
14 about in a camo shirt?

15 A. No.

16 Q. Okay. And so that's what he wore there that day?

17 A. Yes.

18 Q. And we see in that picture there that he has a
19 ball cap on, is that right?

20 A. Yes.

21 Q. And I think there's some other -- the original
22 picture here, Exhibit 12, he doesn't have the ball cap on,
23 is that right?

24 A. He does not there.

25 Q. Were there times when you guys were on the river

1 that day that you saw him with a hat on and with the hat
2 off?

3 A. I didn't pay attention.

4 Q. Okay. Other than what's documented in the photos
5 though, you don't have any particular memory?

6 A. No.

7 Q. Was it unus -- would it be unusual for you to see
8 him with a hat on?

9 A. No, that's not unusual.

10 Q. Okay. He wears a hat pretty regularly?

11 A. Yes.

12 Q. Okay. And then I think in both of these photos
13 he's wearing sunglasses, is that right?

14 A. Yeah.

15 Q. Do you remember him wearing sunglasses on that
16 day?

17 A. Yes, I knew he brought them with.

18 Q. Okay. Again, on a -- fair to say it was sunny
19 out that day?

20 A. Yes.

21 Q. Anything that you thought was unusual about your
22 husband wearing sunglasses on a sunny day outside?

23 A. No.

24 Q. Were there times that you saw him take the
25 sunglasses off?

1 A. I didn't pay attention.

2 Q. He brought up some snorkel and goggles though,
3 right?

4 A. Yes.

5 Q. And there was certainly a time when he would --
6 before this incident, that we're gonna eventually talk
7 about, there were times that you saw him in the water
8 using the snorkel and goggle, correct?

9 A. No.

10 Q. You didn't see that?

11 A. No.

12 Q. Okay. So has anybody ever showed you the photos
13 or the video of him kind of just resting in the water with
14 the snorkel and the goggles?

15 A. No.

16 Q. Okay. Is that something that you've seen him do
17 in the past?

18 A. Well, he goes in the water, but he usually
19 doesn't bring the snorkeling and goggles with.

20 Q. Okay.

21 A. He did this time only because I had mentioned
22 that not to wear any jewelry because the water's cold,
23 because he wanted to know why and I said because your
24 jewelry falls off, your rings will fall off your hands
25 because the water's cold.

1 Q. Okay.

2 A. So he thought he'd bring it with and look --
3 looked for jewelry in the water.

4 Q. Oh, okay.

5 A. That's why he brought it.

6 Q. Okay. And that's something that you guys
7 discussed prior to that?

8 A. Yes.

9 Q. All right. You had also mentioned prior to -- in
10 addition -- in addition to the snorkel and goggles, had --
11 you said I think on direct, Ernesto called and asked him
12 to bring the pocketknife.

13 A. Yes.

14 Q. Do you remember him saying that?

15 A. Yes.

16 Q. Were you there present when you saw Nic answer
17 the phone?

18 A. Yes.

19 Q. And did you know who Nic was speaking to?

20 A. He told me who he was talking to.

21 Q. Okay. And it was Ernesto?

22 A. Yes.

23 MR. ANDERSON: Objection. Hearsay, Judge.

24 THE COURT: Not yet. Overruled.

25 Q. (By Mr. Nelson, continuing) And at some point

1 after that phone call did you see Nic go and do something?

2 A. I saw him leave the room.

3 Q. Okay. And then when he came back did he have the
4 pocketknife that he often has?

5 A. I -- I don't know. He told me he --

6 MR. ANDERSON: Objection.

7 A. -- Ernesto wanted him to bring --

8 THE COURT: Wait. Wait. I'm sorry.

9 This is Ernesto talking?

10 MR. ANDERSON: (Non-verbal response.)

11 THE COURT: Sustained.

12 Q. (By Mr. Nelson, continuing) Did you eventually
13 see Nic at the Somerset tubing parking lot using the knife
14 to cut some strings?

15 A. Yes.

16 Q. Were you surprised that he had his pocketknife
17 with him to cut the strings?

18 A. No.

19 Q. Okay. At other times during the day did you see
20 him using the knife to fix his shoes at all?

21 A. No, I did not.

22 Q. So I wanna ask you some questions, and now
23 focusing on really about July 30th, okay. At some point
24 there was a time when somebody in your party lost their
25 phone, correct?

1 A. Yes.

2 Q. And that was Ariel, correct?

3 A. Yes.

4 Q. And there was a discussion about what you guys
5 were going to do, correct?

6 A. Yes.

7 Q. And eventually Nic went off looking for the
8 phone, correct?

9 A. Yes.

10 Q. And when you saw him leave looking for the phone,
11 you saw him with the snorkel and the goggles, correct?

12 A. Yes.

13 Q. And at that point when he left, he didn't have
14 his hat on or his sunglasses on, agreed?

15 A. Right.

16 Q. And his shirt, had he been taking his shirt on
17 and off that day?

18 A. He may have.

19 Q. Okay. Do you remember when he walked away that
20 time, did he have his shirt on or his shirt off?

21 A. I think it was off because he was going in the
22 water.

23 Q. Okay. Did you find it unusual when Nic decided
24 to go help a friend and go look for a phone?

25 A. No.

1 Q. Is that just kind of what Nic does?

2 A. Yes.

3 MR. ANDERSON: Objection. Relevance, Judge.

4 THE COURT: Sustained.

5 Q. (By Mr. Nelson, continuing) His -- when he did
6 that, did you think you needed to keep an eye on him?

7 A. No.

8 Q. Were you worried about him?

9 A. No.

10 Q. Like his behavior?

11 A. No.

12 Q. Throughout that day had you seen him cause any
13 conflicts that day?

14 A. No.

15 Q. Engage with anybody in a way that made you, like,
16 want to control your husband's behavior?

17 A. No.

18 Q. Were you worried about that in any con -- in any
19 way?

20 A. No.

21 Q. You were just basically like look for the phone,
22 I'm gonna sit here and relax in the tube?

23 A. Exactly.

24 Q. And that's what you did?

25 A. That's what I did.

1 Q. At some point he came back and then he left
2 again, correct?

3 A. Yes.

4 Q. Do you know exactly what he was doing each time
5 that he was gone from your group?

6 A. No.

7 Q. You weren't keeping an eye out for him?

8 A. No. I would sit up in the tube once in awhile
9 just to see where he was.

10 Q. Okay. And so this first time you saw him down in
11 the same area that you eventually saw him the second time,
12 is that fair to say?

13 A. Yes.

14 Q. But you couldn't hear what was going on?

15 A. No.

16 Q. You didn't see any conflict, right?

17 A. No.

18 Q. You just basically saw Nic in the middle walking
19 around or occasionally putting his face in the water
20 looking for the phone?

21 A. Yes.

22 Q. That's what you saw?

23 A. Yes.

24 Q. No conflict at all?

25 A. No.

1 Q. Agreed?

2 A. Yes.

3 Q. And then at some point you said he comes back and
4 then he leaves, is that right?

5 A. Yes.

6 Q. And some point during this second trip is when
7 you notice -- when you sit up in the tube, at some point
8 you notice that there's some sort -- something going on
9 over there, correct?

10 A. Yes.

11 Q. And it causes you concern?

12 A. Yes.

13 Q. It causes you concern for the safety of your
14 husband?

15 A. Yes.

16 Q. Because you heard stuff, right? You heard, like,
17 commotion, noises?

18 A. I don't know if I heard anything.

19 Q. Okay.

20 A. But when I sat up in the tube I saw stuff.

21 Q. And when you saw them did you see him surrounded
22 by other people?

23 A. I'm trying to think if I saw that. I -- I don't
24 remember if I saw him surrounded by people.

25 Q. Did you see him raise his left hand and make a

1 motion towards you or other people in the group?

2 A. No, I did not see that.

3 Q. Okay. Had you seen that, would you have
4 responded?

5 A. Oh, yes.

6 Q. Is your husband somebody that takes calling for
7 help lightly?

8 A. No.

9 Q. Had you ever seen him in a situation before where
10 he calls for help?

11 A. No.

12 Q. This the first time?

13 A. Yes.

14 Q. Had you ever seen a situation before where you
15 felt like he needed help?

16 A. No.

17 Q. So what you saw, that must have been pretty
18 scary?

19 A. Yes.

20 Q. What exactly did you see that raised your level
21 of fear so much that you said to these other guys they got
22 to go down there?

23 A. I -- that's -- I don't remember if I saw anything
24 before, but I remember seeing him in the water on his
25 hands and knees and getting hit.

1 Q. Okay. Did you -- did he look to be in a safe
2 space?

3 A. No.

4 Q. And that's why you sent your friends down there
5 for him?

6 A. Yes.

7 Q. And you were worried about him?

8 A. Yes.

9 Q. The prosecutor asked questions about what his
10 injuries were. Why didn't you just wait to see if they,
11 like, drowned him?

12 MR. ANDERSON: Objection, Judge.

13 Q. (By Mr. Nelson, continuing) Why did you send the
14 help when you did?

15 A. Because I wanted my husband back safe.

16 Q. Why didn't you wait until you wanted it to get
17 more serious?

18 A. Why? You don't do that. You -- I wanted him
19 safe. I wanted him back.

20 Q. You wanted to get him in a safe spot before it
21 got so bad that it couldn't be fixed?

22 A. Yes.

23 Q. And you were worried that it might get so bad
24 that it couldn't be fixed?

25 A. Exactly.

1 MR. NELSON: That's all.

2 THE COURT: Mr. Anderson.

3 MR. ANDERSON: May we approach?

4 THE COURT: Yes.

5 (Whereupon, a discussion was held at the bench.)

6 THE COURT: All right. Let's continue. Mr.

7 Anderson.

8 REDIRECT EXAMINATION

9 BY MR. ANDERSON:

10 Q. Sandi, you testified on direct the thing that you
11 saw that caused you to send people over was the young guys
12 jumping out -- getting up out of their tubes, right?

13 A. Yeah.

14 Q. Okay. And then that's when Ariel and Ernesto
15 walked over?

16 A. I don't remember, I guess. I -- I don't. I
17 thought it was when he was in the water getting hit, but
18 it may have been before that.

19 Q. Do you remember what you said to law enforcement,
20 if it was when the kids -- or the young guys, however you
21 want to clar -- describe them, got out of their tubes?

22 A. I don't remember.

23 Q. And also on direct you testified you never heard
24 Nicolae yell for help, right?

25 A. No, I did not.

1 Q. And would you agree smiling and going like
2 this --

3 A. No.

4 Q. No what?

5 A. No, I didn't see that.

6 Q. Okay. So you didn't see anything -- you didn't
7 see a visual call for help, you didn't hear a call for
8 help?

9 A. No. Like I said, I wear hearing aids. I can't
10 wear them in the water and the water's loud, I wouldn't
11 have heard him.

12 Q. Okay. When was Nicolae's surgery?

13 A. I want to say it was August of 2020.

14 Q. So about two years before July of 2022?

15 A. Yes.

16 Q. And you said the recovery was about four to
17 five weeks?

18 A. Three to four.

19 Q. Three to four. Okay.

20 And then after that you said it didn't
21 really slow Nicolae down, he still did what he did before?

22 A. Well, he -- it slowed him down some because
23 sometimes it took him a little bit longer. He always got
24 everything done, but he just couldn't do it as fast as
25 what he did before because he didn't have the strength.

1 Q. Okay. Still did yard work, chores around the
2 house, that kind of stuff?

3 A. Right.

4 Q. He wasn't feeble?

5 A. Hm?

6 Q. He wasn't feeble?

7 A. No.

8 Q. He could still run?

9 A. Yeah. He just had the pain.

10 Q. Okay.

11 MR. ANDERSON: Nothing else, Judge.

12 THE COURT: Mr. Nelson.

13 MR. NELSON: Yes, sorry, Judge, I was trying
14 to -- thank you.

15 RE CROSS-EXAMINATION

16 BY MR. NELSON:

17 Q. What I understand you saying is you didn't hear
18 him call for help, correct?

19 A. Right.

20 Q. And you didn't see him call for help, correct?

21 A. Right.

22 Q. But you would agree, had you seen him make a
23 gesture with his left hand waving at you, you would have
24 considered that a call --

25 MR. ANDERSON: Objection. Speculation. It's a

1 hypothetical.

2 THE COURT: She's already answered the question.

3 MR. NELSON: I wasn't done asking it I guess when
4 he -- I'm not --

5 THE COURT: Good point. Finish asking the
6 question. I think we've already gone through this.

7 MR. NELSON: I was following up on his redirect
8 so --

9 THE COURT: I know, but I think we've already
10 gone through this, so I don't want to waste time.

11 MR. NELSON: I'll try to be really quick.

12 Q. (By Mr. Nelson, continuing) You would agree, had
13 you seen him raise his left hand in a motion like this,
14 you would have considered that, from your husband who
15 you've known for that long, a call for help?

16 A. Yes.

17 MR. ANDERSON: Objection. Asked and answered.
18 Now it's speculation.

19 THE COURT: Sustained. And she's already
20 answered the question again.

21 Next topic, please.

22 Q. (By Mr. Nelson, continuing) You were asked some
23 questions about when you actually raised a concern so much
24 so that you sent two men over there to help your husband.
25 You remember that?

1 A. Yes.

2 Q. And what I believe you first said on the first
3 time was when you saw him getting hit you sent the two
4 people over, correct?

5 A. Yes.

6 Q. But what we kind of learned that you may have
7 been concerned even before that and sent people over to
8 help him even before that?

9 A. I may have, yes.

10 Q. You were worried -- you didn't wait until he got
11 hit, you were worried about it even before that, correct?

12 A. Yes.

13 Q. You just saw a situation which he looked like he
14 was outnumbered by a bunch of young men, correct?

15 A. Yes.

16 Q. And that concerned you?

17 A. Yes.

18 Q. And that's why you sent some other people over
19 there, correct?

20 A. Yes.

21 MR. NELSON: That's all. Thank you.

22 THE COURT: Thank you, Ms. Miu. You may step
23 down.

24 MR. NELSON: Judge, if I didn't already, the
25 exhibits that I showed, I just move for their admission.

1 I believe I did before but --

2 THE COURT: Were those photographs admitted?

3 THE CLERK: Yes, sir.

4 MR. NELSON: 111 was not included in that so I'll
5 have to do that later, I just want to make sure the clerk
6 knows.

7 THE COURT: Ms. Miu, please see the witness
8 coordinator in the back and she'll tell you where to go
9 next.

10 (Whereupon, the witness is excused.)

11 THE COURT: We're going to keep going, unless
12 somebody needs to use the restroom? (No response.)
13 Everyone's good.

14 Who's the next witness?

15 MR. ANDERSON: Larrion Davis.

16 MR. SMESTAD: Judge, I guess I should note for
17 the record that Mr. Davis has requested that he also not
18 be recorded. I know how the Court feels about it, but I'm
19 making that request.

20 THE COURT: Is he a victim?

21 MR. SMESTAD: No, he's a witness.

22 THE COURT: The statute allows exception for
23 victims.

24 (Whereupon, the witness enters the courtroom.)

25 THE COURT: Please come forward. Keep going.

1 Please face the clerk, raise your right hand, she will
2 administer the oath.

3 LARRION DAVIS,
4 after having been first duly sworn on oath by the clerk,
5 testifies and says as follows:

6 THE WITNESS: Yes.

7 THE COURT: Okay. Please have a seat in the
8 witness chair.

9 Mr. Smestad.

10 DIRECT EXAMINATION

11 BY MR. SMESTAD:

12 Q. Will you state your name for the record, please?

13 A. Larrion Davis.

14 Q. Mr. Davis, how old are you?

15 A. 24.

16 Q. What city do you live in?

17 A. Minneapolis.

18 Q. Were you tubing on the Apple River near Somerset,
19 Wisconsin, on July 30th of 2022?

20 A. Yes.

21 Q. Were you with a group of your friends?

22 A. Yes.

23 Q. How many folks, if you remember?

24 A. There was four of us in total.

25 Q. Were you drinking some alcohol that day?

1 A. Yeah.

2 Q. Do you think you were impaired?

3 A. No.

4 Q. At some point did your group have contact with a
5 group of teenagers that were having a confrontation with
6 an older male?

7 A. Yes.

8 Q. Do you remember what time that was?

9 A. I don't remember the specific time, but it was
10 during the day while we were -- we was on the river.

11 Q. All right. And your group of folks, do you
12 remember how many tubes you had?

13 A. Yeah, like, four strung together.

14 Q. All right. I'm going to show you -- we have a
15 video from parts of the river. I'm going to show you a
16 still frame from that video. It's Number 2670.

17 A. It's going to pop up right here?

18 THE COURT: It will in a second, once they're
19 ready.

20 MR. ANDERSON: Okay.

21 Q. (By Mr. Smestad, continuing) Mr. Davis, if you
22 could look at the monitor on the jury box there. Showing
23 you still 2670 from our video, do you see yourself in
24 that -- that still frame?

25 A. Yeah. Right there with my hand up.

1 Q. All right. Is that you standing up?

2 A. Yeah.

3 Q. Blue shorts?

4 A. Yeah.

5 Q. Is that your group?

6 A. Yes.

7 Q. In the foreground do you see a gentleman who's
8 splashing down into the water?

9 A. Yes.

10 Q. In this particular still frame is your back to
11 the person going in the water?

12 A. Yes.

13 Q. All right. What are you holding up in your hand?

14 A. My phone.

15 Q. Were you taking a picture or something?

16 A. Yeah. I was recording a video.

17 Q. Of yourself?

18 A. Yeah.

19 Q. At some point when you were recording that video
20 did you realize something was going on behind you?

21 A. Yeah, when I was recording the video and I -- I
22 showed -- I was showing the whole, like -- when I was
23 recording my video I was showing my whole view and that's
24 how I noticed what was going on in the background.

25 Q. All right. Did -- did eventually you turn around

1 and started actually recording what was happening?

2 A. Yes.

3 Q. Do you remember when you first started recording
4 how many seconds or minutes was it after that picture
5 where you're doing the -- the selfie? If you know.

6 A. I saw -- I say it was, like, right after that
7 because I was -- I was on Snapchat so I saved that video
8 and then I tried to take another video.

9 Q. All right. I'm going to show you another still
10 frame from our video.

11 MR. SMESTAD: It'll be 3093, Judge. We're ready.

12 Q. (By Mr. Smestad, continuing) Larrion, in still
13 3093, do you see yourself in that video?

14 A. Yes.

15 Q. Are you standing or sitting?

16 A. Standing.

17 Q. What are you doing in this particular frame?

18 A. I'm recording the incident.

19 Q. All right.

20 MR. SMESTAD: We're going to play Mr. Davis's
21 video here. It's Exhibit -- pardon me.

22 Q. (By Mr. Smestad, continuing) Did you get a
23 chance to come to our office and review the video that you
24 took?

25 A. Yeah.

1 Q. And did you put your initials on the flash drive
2 that your video is located on?

3 A. Yes.

4 Q. I'm going to show you --

5 MR. SMESTAD: Judge, if I can approach?

6 THE COURT: Yes.

7 Q. (By Mr. Smestad, continuing) I'm going to show
8 you what's been marked as Exhibit 21. Does that look
9 familiar?

10 A. Yes.

11 Q. Is that the flash drive you watched earlier
12 today?

13 A. Yes.

14 Q. Are those your initials on there?

15 A. Yeah.

16 Q. And the date?

17 A. Yes.

18 Q. And I guess before we play it I'll ask you a few
19 more questions. At some point after you were finished
20 recording, and we'll get to that part, did you tell law
21 enforcement that you had a video of the incident?

22 A. Yeah.

23 Q. And did you try to transfer that to a law
24 enforcement officer?

25 A. Yes.

1 Q. Was there a problem with the transfer?

2 A. Yes.

3 Q. With the video that you transferred, is it
4 garbled in some sets?

5 A. It's -- the video is like -- what's the -- how's
6 the word? It's like blurry because I sent it from a
7 iPhone to the officer's Android phone.

8 Q. All right. After that initial transfer of the
9 video, did you have an issue with your phone?

10 A. Yes. It had water damage.

11 Q. All right. Did you drop it in the river that
12 day?

13 A. Yes.

14 Q. Was -- did you try to figure out a way to extract
15 your original video out of the -- the phone?

16 A. Yeah. I tried to do the iCloud, because with
17 iPhones you got your iCloud storage, and with Snapchat I
18 tried to see what -- like, with your storage on Snapchat
19 there's a backup to the Cloud too. I tried to see if that
20 was going to work, but it never worked.

21 Q. Did you eventually send your phone in to try to
22 be repaired?

23 A. Yeah.

24 Q. Were they ever able to retrieve the original
25 video you took?

1 A. No. They only got that -- that video.

2 Q. All right. At some point did you tell the police
3 where your phone was where they were trying to repair it?

4 A. Yes.

5 Q. And then did -- did you give them permission to
6 take it?

7 A. Yes.

8 Q. All right.

9 MR. SMESTAD: We're going to play it, Judge.
10 It's Exhibit 21. I move to admit and publish to the jury.

11 THE COURT: Any objection to 21?

12 MR. CHIRAFISI: No.

13 THE COURT: 21 is received.

14 You can play it.

15 MR. SMESTAD: Judge, we're having some technical
16 issues with the video here. Just bear with us.

17 MR. ANDERSON: All right.

18 MR. SMESTAD: We're ready.

19 (Whereupon, the video was played.)

20 Q. (By Mr. Smestad, continuing) Mr. Davis, is that
21 the video that you took back on July 30th, 2022?

22 A. Yes.

23 Q. As you were recording it, were you watching what
24 was happening at the same time?

25 A. Yes.

1 Q. What did you see happen?

2 A. I saw him -- I saw him stab -- I saw him stab the
3 light-skinned dude before and, like, slice his whole
4 stomach open. And you could see him, like, pushed the
5 next person in that video was, like, real blurry. That's
6 pretty much it.

7 Q. Were you able to tell the people had been
8 injured?

9 A. Yes.

10 Q. Did you and your group make any efforts to assist
11 these folks that were injured?

12 A. Yes.

13 Q. What did you do?

14 A. Me and my brother, we had help carry -- it was a
15 girl, she had got stabbed, and then we helped -- there was
16 another dude that got stabbed in, like, his arm I think.
17 We helped him. We walked him out of the water too because
18 he was, like, hysterical.

19 MR. SMESTAD: I don't have any other questions,
20 Your Honor.

21 THE COURT: Mr. Chirafisi.

22 CROSS-EXAMINATION

23 BY MR. CHIRAFISI:

24 Q. So, Mr. Davis, you provided two interviews to law
25 enforcement. Do you remember that?

1 A. (No response.)

2 Q. Is that fair?

3 A. Yes.

4 Q. Okay. One on August 10th of 2022 and then
5 another one on March 7th of this year. Do you remember
6 that?

7 A. Yes.

8 Q. Okay. And I want to make sure I understand your
9 testimony correctly in terms of the video. Are you saying
10 that you recorded -- there was more video that you
11 recorded, it was just lost in the transfer?

12 A. Yes.

13 Q. Okay. And is what was lost in the transfer -- I
14 mean, you -- you provided the police with information on
15 what you said you saw, right?

16 A. Yes.

17 Q. Okay. And you were asked today about what you
18 saw and you said you saw that a light-skinned dude got
19 stabbed, right?

20 A. Yes.

21 Q. Did you see more than that?

22 A. Yeah. It -- it was like a tussle.

23 Q. Okay. Well, I'm going to get into that with you
24 for a minute, okay. So what you've provided to the State
25 in terms of what you say you observed, there's much more

1 than that, true?

2 A. Yes.

3 Q. Okay. And your -- can I ask you this: Is your
4 memory of events -- so you give two statements, one about
5 11 days after the incident, 12 days, and one 21 months
6 after the incident. Which memory, in terms of the dates
7 when you give those statements, is one better than the
8 other?

9 A. Well, it would be the one that was closer to the
10 event that would be better but --

11 Q. Okay.

12 A. -- I also -- I gave a statement to the officer
13 that day.

14 Q. Okay. So if I said to you memory's normally
15 better closer in time to an event, would you agree with
16 that?

17 A. Yes.

18 Q. All right. Now, on the interview that you gave
19 in March of this year, though, you told the police that
20 you remember -- you remember it like it was yesterday.
21 You remember that?

22 A. I don't remember saying those exact words but --

23 Q. Officer or Investigator -- sorry, Investigator
24 O'Keefe said to you, You said you remember it like it was
25 yesterday though? And you say, Yeah. Okay?

1 A. Yep.

2 Q. Okay. Now, and you had described at least in
3 your interview with the police that you were really kind
4 of paying attention to what was going on.

5 A. Yes.

6 Q. Yes? Okay.

7 In your statement in March of 2024, you say
8 -- tell me if you remember this -- I remember he had a hat
9 on. He had it -- he had on. Like, he looked like he
10 wasn't supposed to be in the water. Like, he just came
11 out of, uhm -- he came out of the bushes. He just came
12 out. Do you remember that?

13 A. Yeah.

14 Q. So is it your testimony today under oath that the
15 person involved in this incident had a hat on and came out
16 of the bushes?

17 A. No.

18 Q. You told the police that --

19 A. I told them that, yes, but I don't -- I don't --
20 like you said, it can be foggy. I don't think that's what
21 it was no more though.

22 Q. Okay. Well, this is less than a month ago you
23 had this conversation with him, right?

24 A. (No response.)

25 Q. Yes?

1 A. Yes.

2 Q. Okay. And were you intentionally lying to the
3 police?

4 A. No.

5 Q. Okay. So where do you come up with the idea that
6 he came out of the bushes?

7 A. Because that's why -- I saw him running to the
8 bushes after the incident.

9 Q. Okay. And tell me if this is fair: You tell the
10 police, He walks in the water. He had pants on and
11 everything. He had a jacket on. Right?

12 A. Yeah. I don't recall that.

13 Q. Well, the police say you said it. Do you deny
14 saying it?

15 A. If that -- if that's what ya'll got, I guess,
16 yeah, I said it.

17 Q. That's --

18 A. You know, I don't remember saying it, I should
19 say.

20 Q. You don't remember in March of this year talking
21 to the police?

22 A. Yeah, I remember talking to them. I don't
23 remember saying he had a jacket and -- and a coat on.

24 Q. Okay.

25 A. I re -- I remember he had -- he had on -- he had

1 on a -- a hat --

2 Q. Okay.

3 A. -- and he had on shorts.

4 Q. Okay.

5 A. I don't remember -- or recall no jacket though.

6 Q. All right. But you don't dispute that you told
7 the police that?

8 A. No. It --

9 Q. Why would you tell the police that?

10 A. Like you said, our memory's a little joggy over
11 two years ago.

12 Q. But you told them that you remembered it like it
13 was yesterday, right?

14 A. Yeah.

15 Q. Do you?

16 A. That was a month ago I said that though.

17 Q. Okay. So a month ago you remembered 21 months
18 ago like yesterday. In the 26 days that have passed since
19 then, it's all faded?

20 MR. SMESTAD: I -- I'm gonna object.
21 Argumentative.

22 THE COURT: Sustained.

23 You made your point.

24 MR. CHIRAFISI: Okay.

25 Q. (By Mr. Chirafisi, continuing) You also said to

1 the police, He came out of the bushes and he was taking
2 pictures of the girls?

3 A. Yes, I said that.

4 Q. You saw that?

5 A. No, I said that.

6 Q. I -- I understand you said it. Did you see it?

7 A. Yes.

8 Q. So you saw Mr. Miu with his camera that afternoon
9 taking pictures of little girls, that's what you're
10 telling this jury?

11 A. Oh, no. No. No.

12 Q. Oh.

13 A. No, that's what I said.

14 Q. No, I -- like I said, I understand you said it.
15 Is it true?

16 A. Oh, I don't know.

17 Q. Why would you say it if you don't know if it's
18 true?

19 A. It was a lot going on.

20 Q. It -- a lot was going on on March 7th -- on
21 March 7th of 2024?

22 A. No, that --

23 MR. SMESTAD: Objection. Objection.
24 Argumentative.

25 THE COURT: Overruled.

1 A. Say it one more time for me.

2 Q. (By Mr. Chirafisi, continuing) I just want to
3 make sure you understand, okay. On March 7th of 2024, you
4 have a -- you have a --

5 A. March --

6 Q. Hold on. -- you have a recorded interview with
7 Investigators O'Keefe and Geisness, I think is how you
8 pronounce his name. They -- they speak to you about this
9 incident, right?

10 A. (No response.)

11 Q. Yes?

12 A. Yes.

13 Q. Okay. And on March 7th of 2024, you tell these
14 law enforcement officers that he comes out of the bushes
15 and that he's taking pictures of girls, right?

16 A. Yeah.

17 Q. You told them that?

18 A. Yes.

19 Q. That's not true, is it?

20 A. I guess so. That's -- it's -- it's hard to say
21 because, like, that's what I recall from the -- the date
22 that it happened. That's what I was telling the officer.

23 Q. Okay. You'd agree when you were interviewed by
24 the officers back in 2022, you never said anything about
25 him taking photos of little girls, right?

1 A. I don't remember that.

2 Q. Okay. You don't remember ever telling them that
3 he came out of the bushes either, do you?

4 A. I know that -- I know I said that.

5 Q. You certain of that, sir?

6 A. Well, no. It's over two years ago.

7 Q. Okay. I just want you --

8 A. And I believed that's what I told them.

9 Q. Okay. And you didn't tell them that he was
10 wearing a hat and a jacket and pants back in 2022, did
11 you?

12 A. Well, also 2022 --

13 Q. Um-hum.

14 A. -- we -- we were on the water, we were drinking
15 and everything. I saw -- what I saw was a scuffle and a
16 man stabbing people.

17 Q. Okay. You said much, much more to the police on
18 your interview in March of 2024. You provided far greater
19 details, okay?

20 A. Okay.

21 Q. And that -- and that's the stuff that I want to
22 talk to you about. You told the police he walked into the
23 water fully clothed. That's not true, is it?

24 A. No.

25 Q. You told the police, He got caught taking

1 pictures of little girls?

2 MR. SMESTAD: Objection. Asked and answered.

3 THE COURT: Ove -- overruled.

4 Q. (By Mr. Chirafisi, continuing) That's not true,
5 is it?

6 A. I guess not, no. I should say I don't know on
7 that one.

8 THE COURT: I beg your pardon?

9 THE WITNESS: With the -- with the -- with the
10 pictures and -- the girls taking pictures.

11 THE COURT: Just let him ask the question and
12 please give an answer.

13 THE WITNESS: Okay.

14 Q. (By Mr. Chirafisi, continuing) When this whole
15 thing kind of starts, you're making a -- a -- a video you
16 said, right?

17 A. Yes.

18 Q. Okay. And I think back in -- in March -- I'm
19 sorry, in August of 2022, you said that you were taking a
20 video -- and I don't want to get this wrong. You were
21 recording your girl because you said she was kind of
22 arguing with you. Is that true?

23 A. No.

24 Q. No. So if you said that, that wouldn't be true?

25 A. Wait. You said I was recording my girl because

1 she was arguing with me?

2 Q. I can just tell you what you said and you can
3 tell me --

4 A. Yeah.

5 Q. -- if it's true. I'm recording me and my girl
6 cuz she has an attitude.

7 A. That sounds -- yeah.

8 Q. That sound more --

9 A. Yeah, that sounds more like it.

10 Q. Very good. So you were recording your -- your --
11 the person you were with because --

12 A. But --

13 Q. -- she had an attitude, according to you, right?

14 A. Yeah. But in a sense I was still using this
15 camera. So when I say I did that, I was like this.

16 Q. Okay.

17 A. And that's how I seen what was going on behind
18 me.

19 Q. Now -- okay. You indicated back in August of
20 2022, they asked you about what you saw. When I say they,
21 law enforcement. And you said, You know, we just drinking
22 and stuff. I wasn't even paying attention. Is that true?

23 A. Yes.

24 Q. So you weren't paying attention to what was going
25 on, you were just -- and that's okay, you were just

1 drinking and stuff?

2 MR. SMESTAD: Objection. Asked and answered.

3 THE COURT: Overruled.

4 Q. (By Mr. Chirafisi, continuing) Right?

5 A. Is that another thing that I said that I was --
6 yes. But I can't just say -- you can't just say I wasn't
7 paying attention. If I noticed in my phone camera I was
8 still paying attention, that's how --

9 Q. Mr. Davis, I'm not saying you weren't paying
10 attention. That's what you said.

11 A. Okay.

12 Q. Okay. So in August of 2022 you say you weren't
13 paying attention. In March of 2024 you said you
14 remembered it like yesterday and were paying close
15 attention. Which one's true?

16 A. Both of them. That's how I felt when I said it,
17 right?

18 Q. So you have the ability to not pay attention and
19 pay close attention at the same time?

20 A. No.

21 Q. Then how can they both be true, sir?

22 MR. SMESTAD: Objection, Judge. Argumentative.

23 THE COURT: You made your point.

24 MR. CHIRAFISI: Okay.

25 THE WITNESS: Is --

1 THE COURT: You don't have to answer.

2 Q. (By Mr. Chirafisi, continuing) My last couple
3 questions and then I'll let you go. Your initial
4 interview with law enforcement back in August, you
5 indicated that you don't -- you said the following: I
6 don't recall, like, what the old man looked like or
7 anything. I don't even know if it was an old man. Do you
8 recall saying that?

9 A. (Non-verbal response.)

10 Q. Yes?

11 A. Yep.

12 Q. Okay. So back in August of 2022 you didn't -- if
13 I'm -- if I'm hearing -- or reading what you wrote
14 correctly -- or said, you -- you didn't remember what the
15 person who was involved in this -- if they were old,
16 young, what, right?

17 A. Yep.

18 Q. Okay. Have you -- as this has been going on, the
19 case, have you been following it, like, on media, social
20 media? I'm not just talking about the trial, I'm talking
21 about from the time this happened up until now, have you
22 been trying to gather information from those sources?

23 A. No. The only thing that I ever seen was right
24 after it happened, the little news article about the
25 stabbing and stuff, and that was pretty much it.

1 Q. Okay.

2 MR. CHIRAFISI: All right. Mr. Davis, thank you
3 for your time, sir.

4 THE COURT: Any questions?

5 MR. SMESTAD: Just one question. I -- maybe I
6 wasn't clear about this.

7 REDIRECT EXAMINATION

8 BY MR. SMESTAD:

9 Q. Mr. Davis, did you know any of these folks, other
10 than the people on your tube?

11 A. Didn't know nobody.

12 Q. All right.

13 A. But my girl; my sister; and her boyfriend, my
14 brother.

15 Q. All right.

16 MR. SMESTAD: Nothing else. Thank you.

17 THE COURT: Mr. Chirafisi?

18 MR. CHIRAFISI: No, sir.

19 THE COURT: All right.

20 Thank you, Mr. Davis. The witness
21 coordinator in the back will tell you where to go next.

22 (Whereupon, the witness is excused.)

23 THE COURT: It's 2:45. This is a good time for
24 our afternoon break. Let's come back at three o'clock.

25 Please take the jury out.

1 (Whereupon, the jury exits the courtroom.)

2 THE COURT: All right. We are in recess until
3 three.

4 MR. SMESTAD: Thank you.

5 (Whereupon, a break was held.)

6 (Whereupon, the jury enters the courtroom.)

7 THE COURT: We are back on the record. The jury
8 is present, the attorneys are present, Mr. Miu is present.
9 We're ready to continue.

10 Mr. Anderson, who is the next witness?

11 MR. ANDERSON: Sheena Lowell.

12 THE COURT: I'm sorry, what was the last name?

13 MR. ANDERSON: Sheena Lowell.

14 THE COURT: Lowell?

15 MR. ANDERSON: Yes.

16 THE COURT: Ms. Lowell, please come forward.

17 Right there. Please face the clerk, raise your right
18 hand, and she will administer the oath.

19 SHEENA LOWELL,
20 after having been first duly sworn on oath by the clerk,
21 testifies and says as follows:

22 THE WITNESS: Yes.

23 THE COURT: Please have a seat in the witness
24 chair.

25 Mr. Anderson.

1 DIRECT EXAMINATION

2 BY MR. ANDERSON:

3 Q. Can you please state your first and last name and
4 spell your last name?

5 A. Sheena Lowell, l-o-w-e-l-l.

6 Q. Sheena, where do you currently live?

7 A. Nebraska.

8 Q. And did you used to live closer to the area?

9 A. Wisconsin, yes.

10 Q. When did you move?

11 A. Two years ago.

12 Q. And --

13 MR. ANDERSON: May I approach?

14 THE COURT: Yes.

15 Q. (By Mr. Anderson, continuing) So this is 26A.

16 Were you with these folks tubing on the river on July

17 30 --

18 A. Yes.

19 Q. -- 2022?

20 And did you -- did you actually take this
21 photo?

22 A. Yes, I did.

23 Q. Okay. And then is -- is that you kind of cropped
24 in there on the bottom?

25 A. Yes.

1 Q. Okay. Were you in a relationship with Quinton at
2 the time?

3 A. Yes.

4 Q. Okay. So that was your connection to other
5 people in the group?

6 A. Yes.

7 Q. Are you and Quinton current -- or have you guys
8 separated since?

9 A. Yes.

10 Q. And have you had contact with anyone from that
11 group since you and Quinton separated?

12 A. No.

13 Q. Sheena, do you have any prior criminal
14 convictions?

15 A. Yes.

16 Q. How many?

17 A. Three.

18 Q. On July 30 of 2022, were you drinking?

19 A. No.

20 Q. You were sober?

21 A. Yes.

22 Q. Do you just never drink or were you sober driver
23 that day or --

24 A. I'm a recovering alcoholic.

25 Q. Okay. And at some point along the tube -- tubing

1 route, did something catch -- catch your group's
2 attention?

3 A. We were coming around, it looked like a bend, on
4 the river and a group of younger kids were screaming for
5 help.

6 Q. And what do you remember after that?

7 A. I remember as we were getting closer they were
8 yelling help, please get this person away from us. The
9 kids in our group got off their tubes, walked over to get
10 in-between to get him away from them.

11 Q. And do you -- do you recall who the first ones
12 that walked over were?

13 A. Madison.

14 Q. And did Madison make contact with the gentleman
15 or speak with the gentleman, the -- the guy?

16 A. She was pointing downriver just saying get away,
17 go, leave them alone.

18 Q. Okay. And what happened after that, do you
19 remember?

20 A. They all were basically doing the same thing, and
21 then he punched her in the face.

22 Q. Did you see which hand he used, right hand, left
23 hand, or did you see where -- from where you were?

24 A. No.

25 Q. Okay. You just saw a hand go to her face but you

1 couldn't tell?

2 A. I don't remember.

3 Q. Okay. Were you looking from profile or from
4 straight on or --

5 A. From straight on.

6 Q. Okay. And now I'm gonna show you some -- let's
7 see. And have you ever seen the video of the incident?

8 A. No.

9 Q. And you -- when did you get to Wisconsin from
10 Nebraska for your testimony?

11 A. Yesterday morning.

12 Q. Okay. And you haven't -- and when we -- you
13 spoke with us prior to testifying?

14 A. Yes.

15 Q. And by phone, not in person?

16 A. Yes.

17 Q. So you still to this day haven't seen the video?

18 A. No.

19 Q. After -- after the guy punched Mady, what did you
20 see after that?

21 A. After he punched Madison, Dante punched him
22 twice. He went under the water the first time, he came
23 back up, Dante punched him one more time, and then it
24 looked like he was punching them back but he was actually
25 stabbing them.

1 Q. And when you say them, who did you see -- and
2 when I say he, you didn't know who he was at the time?

3 A. No, sir.

4 Q. Now you know him to -- to be Nicolae Miu?

5 A. Yes.

6 Q. Okay. And when -- when you said you saw him, you
7 thought, hitting people, who did you see him hit?

8 A. Ryhley, Dante, Tony, A.J.

9 Q. And when he -- when you thought he hit Ryhley,
10 could you see what she was doing?

11 A. She was yelling.

12 Q. Was -- did you see her push or strike at Miu at
13 all?

14 A. No. She turned around and started running.

15 Q. And what about -- what do you recall about seeing
16 Dante hit?

17 A. When Dante was hit it did just look like he was
18 being punched, and he did -- he retreated also.

19 Q. And did you ever see Dante hit Miu after those
20 first two strikes you saw?

21 A. No, sir.

22 Q. And when Dante was, when you thought hit, turned
23 out to be stabbed, was that some time after Dante had hit
24 Miu?

25 A. Yes.

1 MR. CHIRAFISI: Judge, leading.

2 THE COURT: Sustained.

3 Q. (By Mr. Anderson, continuing) Why don't you --
4 as best as you can remember, what do you remember about --
5 do you remember the specific sequence?

6 A. No.

7 Q. Okay.

8 MR. ANDERSON: And I wanna bring up some stills
9 here. Can we bring up 1980?

10 Q. (By Mr. Anderson, continuing) And do you see
11 yourself in that image?

12 A. I do.

13 Q. Can you describe where you are in that image?

14 A. Standing up behind the two kids.

15 Q. And are you in the white bikini top there in the
16 background?

17 A. Yes.

18 Q. Was your hair light back then?

19 A. Yes.

20 Q. And you were facing pretty much straight on
21 towards the cameraman and the person off to the left?

22 A. Yes.

23 Q. Okay.

24 MR. ANDERSON: Can we go to 2166?

25 Q. (By Mr. Anderson, continuing) Where are you in

1 that? Or do you see yourself in that photo?

2 A. Yep. In the same spot.

3 Q. Facing straight on towards the cameraman
4 essentially?

5 A. Yes.

6 MR. ANDERSON: Can we go to 2564?

7 Q. (By Mr. Anderson, continuing) You see yourself
8 in that still frame?

9 A. Yes.

10 Q. And --

11 A. Standing up between the tubes.

12 MR. ANDERSON: Can we go to 3003?

13 INVESTIGATOR SHILTS: 3003?

14 MR. ANDERSON: 3003.

15 Q. (By Mr. Anderson, continuing) Do you see
16 yourself in that one also?

17 A. Yes.

18 Q. Same thing, looking towards the --

19 A. Yes.

20 Q. -- incident?

21 Okay. Do you recall -- do you recall
22 seeing where Nicolae went afterwards?

23 A. Straight back up into the woods.

24 Q. Did you see him go towards the woods or into the
25 woods?

1 A. Towards the woods.

2 Q. And then when you saw him going towards the
3 woods, would you look away before you actually saw where
4 he went?

5 A. Yes.

6 Q. Did something else catch your attention?

7 A. Yes. Ryhley did.

8 Q. So you were basically standing by your tubes and
9 watched everything?

10 A. Yes.

11 Q. And you were stone cold sober?

12 A. Yes.

13 Q. Was -- do you remember, did it -- did the
14 incident happen fast? Slow? How do you remember it?

15 A. It happened really fast.

16 Q. Was it hard to say exactly what happened first,
17 second, third?

18 A. Yes.

19 Q. You're sure you saw him punch Mady?

20 A. Yes.

21 MR. CHIRAFISI: Objection. Leading.

22 THE COURT: Sustained.

23 Q. (By Mr. Anderson, continuing) And you -- did you
24 -- did you tell these -- were you interviewed by law
25 enforcement shortly afterwards?

1 A. Yes, I was.

2 Q. And you told -- did you tell law enforcement what
3 you saw?

4 A. Yes, I did.

5 MR. ANDERSON: Nothing else, Judge.

6 THE COURT: Mr. Chirafisi.

7 CROSS-EXAMINATION

8 BY MR. CHIRAFISI:

9 Q. Ms. Lowell, you say that you -- do you hear this
10 group of six -- the six boys, young men, asking for help?

11 A. Yes.

12 Q. Okay. And do you look over and see what's going
13 on?

14 A. Yes.

15 Q. Okay. And you see that there's one man there,
16 right, Mr. Miu?

17 A. Yes.

18 Q. Okay. And you say to the police that this guy
19 was harassing them, right?

20 A. Yes.

21 Q. Okay. What did you see him doing?

22 A. He was holding their tubes. He would not let
23 them go.

24 Q. He would not let the tubes go?

25 A. No.

1 Q. Did you see Mr. Miu walk around the tubes and
2 walk away from the boys downstream a little bit?

3 A. No.

4 Q. You didn't see that?

5 A. No.

6 Q. Okay. At that point you say Madison gets off her
7 tube and starts to walk over there, is that right?

8 A. Yes.

9 Q. And do you recall Mr. Miu walking over toward
10 Madison?

11 A. No. Madison met him at the tube.

12 Q. At the tubes?

13 A. Yes.

14 Q. So you're saying that Mr. Miu didn't walk towards
15 Madison at all?

16 A. No.

17 Q. If I told you the distance from where you were,
18 where your group was to the incident, is about 131 feet,
19 sound about right to you?

20 A. Yes.

21 Q. Okay. So you're 45 yards or so away --

22 A. Yes.

23 Q. -- yes? Okay.

24 And when Madison -- so you said Madison
25 walks over to Mr. Miu. She just starts yelling at him,

1 doesn't she?

2 A. She put her hand up like this and said get away
3 from them.

4 Q. Well, what she actually said on tape was, Go --

5 MR. ANDERSON: Object.

6 Q. (By Mr. Chirafisi, continuing) -- Go; Get your
7 fucking ass, go.

8 MR. ANDERSON: Objection, Judge.

9 THE COURT: What's the objection?

10 MR. ANDERSON: The --

11 THE COURT: Come on up.

12 MR. ANDERSON: Can we approach?

13 (Whereupon, a discussion was held at the bench.)

14 THE COURT: Members of the jury, again, the
15 remarks of the attorneys are not evidence. What the
16 witness says is evidence. So if the witness says
17 something different than what the attorney says, you may
18 disregard the attorney's suggestion entirely.

19 Next question, please.

20 Q. (By Mr. Chirafisi, continuing) Ms. Lowell, do
21 you hear Ms. Coen say go, go, get your fucking ass, go?
22 Do you hear that?

23 A. I do not.

24 Q. Okay. You see her pointing downriver to Mr. Miu,
25 is that right?

1 A. Yes.

2 Q. Okay. And do you see at that point Dante --

3 A. Yes.

4 Q. -- next -- let me finish, okay. -- next to
5 Madison?

6 A. Yes.

7 Q. Okay. Do you see Dante pointing for him to go
8 downriver as well?

9 A. Yes.

10 Q. Okay. Do you know where or if Mr. Miu has a
11 group with him?

12 A. No.

13 Q. Okay. So you wouldn't know if the group is
14 actually behind you almost, right, and he's got to go the
15 other way, upriver, to get out -- to get out of that
16 situation, right? You wouldn't know that?

17 A. No.

18 Q. Okay. And would you describe Madison Coen as
19 getting in Mr. Miu's face?

20 A. No.

21 Q. You wouldn't describe her as getting in his
22 personal space?

23 A. No.

24 Q. Do you see her put her hands on him?

25 A. No.

1 Q. Do you know if she did?

2 A. Yes.

3 Q. You know she did?

4 A. I know she didn't.

5 Q. You -- all right. So you're testifying under
6 oath not only that you didn't see it but you know she
7 didn't do it, right?

8 A. I know she didn't.

9 Q. Okay. Did you see Ryhley put her hands on Mr.
10 Miu?

11 A. No.

12 Q. And you've -- you've testified that you saw Mr.
13 Miu punch Madison, yes?

14 A. Yes.

15 Q. Okay. You don't recall with which hand, is that
16 fair?

17 A. That's fair.

18 Q. All right. Do you see Madison come back to your
19 group?

20 A. Yes.

21 Q. Okay. Is she holding her face?

22 A. Yes. She came straight to me.

23 Q. What side of her face is she holding?

24 A. Her right.

25 Q. Do you have a phone with you?

1 A. I do. It's shut off.

2 Q. No, I don't mean right now.

3 A. Yes.

4 Q. Back then I meant.

5 A. No.

6 Q. Okay. On that day -- it's okay. On that day you
7 didn't have a phone with you?

8 A. No.

9 Q. Okay. There comes a time when I think Madison is
10 calling 911 though so she has a phone, right, to your
11 knowledge?

12 A. We found a phone and hit a button to call 911.

13 Q. Okay. Here -- here's my question: Do you recall
14 anyone taking photographs of Madison's face?

15 A. No. The police.

16 Q. You saw the police take photographs --

17 A. Yes.

18 Q. -- of her face? Okay.

19 Can I ask you this: There's a gentleman on
20 the end there with a beard. Is he the gentleman who was
21 taking the photographs of her?

22 A. There was several police there, not just one --

23 Q. Okay.

24 A. -- so I don't know.

25 Q. Do you recognize that --

1 A. I believe I spoke with him once.

2 Q. Okay.

3 A. But I've spoke with probably six or seven
4 officers.

5 Q. Can you describe the punch? It's been described
6 various ways in court. Can you describe it?

7 A. It was just a quick punch as you would see
8 somebody punch somebody.

9 Q. So it was -- it's been described different ways.
10 So it was just a punch, like straight on punch?

11 A. Yes.

12 Q. With his right hand, no?

13 A. I don't know.

14 Q. Okay. And at that point you see Dante punch Mr.
15 Miu in the face?

16 A. Yes.

17 Q. And you see Mr. Miu going down, is that right?

18 A. Yes.

19 Q. Okay. And you see Dante hit him again?

20 A. He comes back up and Dante hits him one more
21 time.

22 Q. Do you recall Dante hitting Mr. Miu while Mr. Miu
23 was on his back in the water?

24 A. No.

25 Q. Okay. Are you saying that you saw Mr. Miu rise

1 to his feet and Dante hit him again?

2 A. Yes.

3 Q. What did -- when that happened, did Mr. Miu go
4 down again?

5 A. No. That was when he just started punching.

6 Q. Okay. So I just want to make sure I'm hearing
7 you. Mr. Miu gets punched in the face by Dante and you
8 see him go down, yes?

9 A. Yes.

10 Q. Then he rises up --

11 A. Yes.

12 Q. -- he being Mr. Miu --

13 MR. ANDERSON: Objection. Asked -- asked and
14 answered.

15 THE COURT: Overruled.

16 Q. (By Mr. Chirafisi, continuing) He rises back up,
17 Dante punches him again in the face, and then Mr. Miu, I
18 think you describe it as, gets to punching?

19 A. Yes.

20 Q. Okay. Do you -- you know -- do you know A.J.
21 Martin?

22 A. I very briefly met him before our tubing trip.

23 Q. Okay. Do you -- from your vantage point, do you
24 see A.J. Martin come up behind Mr. Miu and shove him?

25 A. No.

1 Q. Do you see Mr. Miu, as you describe it, punch or
2 stab A.J. Martin?

3 A. Yes.

4 Q. Do you see A.J. Martin, when -- when that's
5 happening, pushing Mr. Miu backwards into the water?

6 A. No.

7 Q. Do you see Dante -- I'm sorry, do you see Anthony
8 Carlson get stabbed?

9 A. Yes.

10 Q. Do you see Anthony put his hands on Mr. Miu -- on
11 Mr. Miu's kind of backside, when I say backside, like his
12 back/shoulder area, before that happens?

13 A. No, because he was facing him.

14 Q. Okay. I know you don't know or didn't know Isaac
15 Schuman. Did you see the interaction between Mr. Miu and
16 Isaac Schuman?

17 A. No, I did not.

18 Q. Okay. Did you see the interaction between Mr.
19 Miu and Dante?

20 A. Yes.

21 Q. Okay. And do you recall when that happens in
22 this kind of, like, sequential events?

23 A. Dante was the second or third person.

24 Q. Okay. So you didn't see Dante and Mr. Miu have
25 contact after everything was done when --

1 A. No --

2 Q. -- Dante was stabbed?

3 A. -- because they had come running to me.

4 Q. Okay. So I just want to make sure I understand.

5 In your recollection, Dante is second or third?

6 A. Yes.

7 Q. Okay.

8 MR. CHIRAFISI: Just one second, Judge.

9 Ms. Lowell, I don't have any other
10 questions for you. Thank you for your time today.

11 THE COURT: Hold on a second, there might be
12 another question.

13 Mr. Anderson?

14 MR. ANDERSON: Yes.

15 REDIRECT EXAMINATION

16 BY MR. ANDERSON:

17 Q. Sheena, what I -- do you recall the questions I
18 asked you on direct, generally?

19 A. (No response.)

20 Q. I'll -- I'll be more specific. Your interview
21 with law enforcement, has this gotten a lot more detailed,
22 the questions you've been asked here, than what you talked
23 about with law enforcement?

24 A. Yes.

25 Q. So you're trying to remember back almost

1 two years ago?

2 A. Yes.

3 Q. You're trying your best to answer as truthfully
4 as the best -- best you can remember?

5 A. Yes.

6 Q. Where -- given where you were, about 130 feet
7 away, your ability to see would -- would it have been
8 affected depending on if there's other people between you
9 and what's going on?

10 A. Yes.

11 Q. And -- and you testified on direct that you
12 couldn't remember the sequence of events of when -- who --
13 when people were hit, turned out to be stabbed. Are
14 you --

15 A. (No response.)

16 Q. So do you know -- do you know for sure that Dante
17 was the last one stabbed?

18 MR. CHIRAFISI: Objection.

19 A. No.

20 THE COURT: Hold on.

21 Sustained. But she's answered it.

22 If you hear objection, just hold your
23 answer, okay. Thank you.

24 MR. ANDERSON: I don't have anything else.

25 THE COURT: Mr. Chirafisi?

1 RE CROSS-EXAMINATION

2 BY MR. CHIRAFISI:

3 Q. There were -- there was a group of people around
4 that incident when it was going on, is that fair?5 A. Not until after -- after the fight ensued. We
6 were the only people at first.

7 Q. I -- I guess what I'm gonna ask you is this --

8 MR. CHIRAFISI: Judge, can I approach?

9 THE COURT: Yeah.

10 Q. (By Mr. Chirafisi, continuing) I'm going to show
11 you what has been moved into evidence as Exhibit 104,
12 okay. That --

13 MR. ANDERSON: Judge, can we approach?

14 THE COURT: Yes.

15 (Whereupon, a discussion was held at the bench.)

16 Q. (By Mr. Chirafisi, continuing) Ms. Lowell, I'm
17 going to show you -- or I'm showing you what is Exhibit
18 Number 104, okay?

19 A. Yes.

20 Q. Now, if you look at Exhibit 104 there's a G1.
21 I'm telling you that stands for the group of boys --

22 A. Yes.

23 Q. -- okay?

24 And G2 is the general location of where --
25 I'm calling it the Carlson Group -- where your tubes

1 were --

2 A. Yes.

3 Q. -- okay?

4 These little dots have initials on them.

5 Do you see that?

6 A. Yes.

7 Q. Okay. And those initials are the names of people
8 that were involved in this --

9 A. Yes.

10 Q. -- okay?

11 Do you recognize what R.M. would be?

12 A. Ryhley.

13 Q. Okay. And M.C.?

14 A. Madison.

15 Q. Okay. So you -- I'm not going to quiz you, but
16 you understand that's kind of where we're going?

17 A. Yes.

18 Q. Okay. This has been -- can I ask you this:

19 Would you agree that based on your rec -- recollection of
20 events, that this is an accurate depiction of the general
21 location of where people were at the time that Madison and
22 Ryhley were standing in front of Mr. Miu?

23 A. Yes.

24 Q. Okay. And -- so tell me if this is fair. You're
25 around G2 --

1 MR. CHIRAFISI: Can you bring that up, Aaron?

2 Can you bring up 104? Do we have that?

3 MR. NELSON: Maybe use the --

4 MR. CHIRAFISI: Oh, can I just use this, Judge?

5 THE COURT: Yes.

6 MR. CHIRAFISI: Okay.

7 Q. (By Mr. Chirafisi, continuing) All right. Can

8 you -- I don't wanna -- can you see that okay?

9 A. (No response.)

10 Q. That okay, ma'am?

11 A. Yep.

12 Q. Okay. So you're -- you're standing in the
13 general direction of where it says G2, is that fair?

14 A. Yes.

15 Q. Okay. And you're looking toward what's going on,
16 right?

17 A. Yes.

18 Q. All right. And would you agree there are people
19 between you and Madison?

20 A. Yes.

21 Q. Okay. And having people between you and Madison
22 could impact your ability to see specifics, right?

23 A. Yes.

24 Q. Okay. And that -- is that one of the reasons it
25 was difficult for you to see how she was struck?

1 A. Yes.

2 Q. Okay.

3 MR. CHIRAFISI: That's all I have.

4 MR. ANDERSON: Judge, can we approach real quick?

5 THE COURT: Yes.

6 (Whereupon, a discussion was held at the bench.)

7 THE COURT: Mr. Anderson.

8 MR. ANDERSON: Thank you, Judge. One second.

9 Can we -- this is frame 2166. I'll be --
10 try to be really brief, Judge.

11 THE CLERK: Ready?

12 MR. ANDERSON: Yes.

13 RE REDIRECT EXAMINATION

14 BY MR. ANDERSON:

15 Q. So in that still frame, 2166, can you see Dante?

16 A. Yes.

17 Q. Can you see yourself?

18 A. Yes.

19 MR. ANDERSON: And then can we have the ELMO?

20 Q. (By Mr. Anderson, continuing) On this diagram,
21 104, is Dante in-between and would be obstructing view
22 from G2?

23 A. Yes.

24 Q. In that still frame was he obstructing your view?

25 A. Yes.

1 Q. Well --

2 MR. CHIRAFISI: Can we --

3 MR. ANDERSON: Let's bring up -- can we bring up

4 21 --

5 MR. CHIRAFISI: I object, Judge. She's answered
6 it.

7 THE COURT: Bring it up. I'll let -- let both
8 sides clean it up from time to time.

9 Q. (By Mr. Anderson, continuing) I guess I'll
10 re-ask it. Depending on where -- what you're viewing, you
11 know, whether -- whether you're looking at something to
12 the left of this frame or to the right of the frame or
13 directly on -- behind Dante would depend on whether
14 Dante's blocking your view or not, is that fair?

15 A. Yes.

16 MR. ANDERSON: Nothing else.

17 THE COURT: Mr. Chirafisi?

18 MR. CHIRAFISI: Can you bring up 2166 again?

19 MR. ANDERSON: That's it.

20 MR. CHIRAFISI: Oh, that's what I want.

21 THE CLERK: Are you ready?

22 MR. CHIRAFISI: Yeah. I'm ready if you're ready.

23 RE RECROSS-EXAMINATION

24 BY MR. CHIRAFISI:

25 Q. Ms. Lowell, while you might have a clear shot

1 without Dante in your way right there, you don't have any
2 idea if anything's actually happening at that moment, do
3 you?

4 A. No.

5 MR. CHIRAFISI: That's it.

6 THE COURT: All right.

7 MS. Lowell, thank you. Please step down.
8 Please see the witness coordinator in the back and she'll
9 tell you where to go next.

10 (Whereupon, the witness is excused.)

11 THE COURT: Who is the next witness?

12 MR. SMESTAD: Eric Williams.

13 (Whereupon, the witness enters the courtroom.)

14 THE COURT: Mr. Williams, please come forward.

15 Please face the clerk, raise your right
16 hand, she will administer oath.

17 ERIC WILLIAMS,
18 after having been first duly sworn on oath by the clerk,
19 testifies and says as follows:

20 THE WITNESS: Yes, I do.

21 THE COURT: Please have a seat in the witness
22 chair.

23 Mr. Smestad.

24 MR. SMESTAD: Your Honor, I need one second here.
25 I'm having a computer malfunction.

1 DIRECT EXAMINATION

2 BY MR. SMESTAD:

3 Q. All right. Sir, can you state your name?

4 A. Eric Williams.

5 Q. What town do you live in?

6 A. St. Paul, Minnesota.

7 Q. How old are ya?

8 A. 47 -- no, 47 -- 57.

9 Q. Did you -- were you part of a group of folks that
10 were tubing down the river, the Apple River, near Somerset
11 back on July 30th, 2022?

12 A. Yes, I were.

13 Q. Was part of that group, did that include Nico --
14 Nicolae Miu?

15 A. Yes.

16 Q. Did you know Mr. Miu?

17 A. I met him that day. First time meeting him.

18 Q. How did you get invited to their -- their tubing
19 party?

20 A. Co-workers.

21 Q. All right. Did you know all the folks that were
22 in the group?

23 A. Yeah.

24 Q. Was Mr. Miu a co-worker of yours?

25 A. No.

1 Q. Was he the only person that wasn't a co-worker of
2 yours?

3 A. No.

4 Q. All right. Had you ever spent any time with him
5 before that day?

6 A. No.

7 Q. At some point as you're -- as you're going down
8 the river, did one of your party lose a phone?

9 A. Yes.

10 Q. Do you remember who that was?

11 A. No, I don't.

12 Q. Was there some -- any concern by the person who
13 lost the -- the phone?

14 MR. NELSON: Objection. No foundation.

15 THE COURT: Sustained.

16 Q. (By Mr. Smestad, continuing) Did you hear the
17 person who lost the phone make any comments about that?

18 MR. NELSON: Objection. No foundation.

19 THE COURT: Sustained.

20 Q. (By Mr. Smestad, continuing) Is your tubing --
21 your group of tubes, are they connected together?

22 A. Yes.

23 Q. With rope?

24 A. Yes.

25 Q. Did you -- how many tubes did you have, if you

1 remember?

2 A. It had to be about eight.

3 Q. All right.

4 A. Eight or ten.

5 Q. Were you able, as you were going down the -- the
6 river that day, to converse with the other folks in your
7 party?

8 A. Yes.

9 Q. Once the phone was lost, did you -- were you able
10 to hear the conversation about the phone being lost?

11 A. Yes.

12 Q. All right. Did Mr. Miu at some point indicate
13 that he wanted to go look for the phone?

14 A. Yes.

15 Q. Did you see him do that?

16 A. Yes.

17 Q. All right. At some point -- well, first, did you
18 see where he went?

19 A. Yeah.

20 Q. Where did he go?

21 A. He went downriver about -- I don't know how far
22 it was. It was -- it was quite a -- it was quite --
23 probably a good half -- well, I say about 20 yards,
24 30 yards.

25 Q. All right. Did he -- was he -- did you see him

1 near any other groups?

2 A. No.

3 Q. Eventually did you realize that he was getting
4 close to a group?

5 A. Well, kind of -- I seen him -- I don't know -- I
6 don't know if it was an argument, I don't know what it
7 was, I seen him confrontation, and pretty much all I seen.
8 I looked away for a quick second. When I looked back,
9 that's when I seen everything going down --

10 Q. All right.

11 A. -- you know, all tried to rush towards him.

12 Q. Well, you're get -- you're getting ahead of me --

13 A. Okay.

14 Q. -- Mr. Williams. So when you saw him go off and
15 look for the phone, was he wearing snorkeling gear?

16 A. Yes, he were.

17 Q. All right. Did you have some concern about that?

18 MR. NELSON: Objection. Irrelevant.

19 THE COURT: Sustained.

20 Q. (By Mr. Smestad, continuing) Did you have a
21 conversation with the police after this matter occurred on
22 August 3rd of 2022?

23 A. Yes.

24 Q. And was that -- was that at your home in Inver
25 Grove Heights?

1 A. Friend's house, yes.

2 Q. And do you remember telling the police that you
3 had some concern --

4 MR. NELSON: Objection. Leading and irrelevant.

5 THE COURT: Sustained. I -- I don't understand
6 why his concern is our concern today, so that's why it's
7 not relevant. It is a leading question.

8 MR. SMESTAD: Judge, can we -- can we approach?

9 THE COURT: Yes.

10 (Whereupon, a discussion was held at the bench.)

11 THE COURT: All right. I understand better now.
12 I'm going to change my ruling. The objection's overruled.
13 I think the question's relevant.

14 Mr. Smestad.

15 Q. (By Mr. Smestad, continuing) Mr. Williams, if I
16 showed you a transcript of your conversation with
17 Investigator Schaeppi from August 3rd of 2022, would that
18 help you refresh your mind with -- with regard to are --
19 with regard to any concern you had that day?

20 MR. NELSON: Objection. He never said his memory
21 is not refreshed. He's not been asked the question
22 because the previous --

23 Q. (By Mr. Smestad, continuing) Did you have any
24 concerns that day with Mr. Miu getting in his snow --
25 snorkeling gear and snorkeling down by these -- their

1 groups?

2 A. Yes, I did.

3 Q. All right. And do you remember telling the
4 officer what your concern was?

5 A. That people was gonna think that he was up to no
6 good as a predator or whatever. That's -- that's my
7 opinion. I -- you know, that's why I kept an eye on him,
8 to make sure he was all right.

9 Q. As you were keeping an eye on him, did you see
10 him talking to a -- two women?

11 A. No.

12 Q. Did you see anything that may have happened
13 between him and the two women?

14 A. No.

15 Q. Did you see him involved in a fight with anybody?

16 A. Well, I did look away for a second, and when I
17 looked back we did see a brawl in the water where me and
18 Ernesto started rushing towards him to help him out, you
19 know, break it up.

20 Q. All right. When -- when you saw that was -- was
21 Mr. Miu in the water already?

22 A. Yeah.

23 Q. All right. The group -- was one of the groups
24 that he was snorkeling near, did you see what -- what the
25 age was of the -- the folks in that group?

1 A. I knew it somewhere -- ask -- ask -- ask me the
2 question again.

3 Q. When he was snorkeling downriver from where your
4 group was --

5 A. Uh-huh.

6 Q. -- were you able to determine the ages of any of
7 the people downriver that he was snorkeling by?

8 A. No.

9 Q. All right. Do you remember having a conversation
10 with Investigator Williams -- or pardon me, Investigator
11 Schaeppi about that?

12 A. I might have. I don't -- I don't remember.

13 Q. All right. If I showed you a transcript, would
14 that refresh your memory?

15 A. Yes, it would.

16 MR. NELSON: What page?

17 MR. SMESTAD: If I can approach, Judge?

18 THE COURT: Yes.

19 Q. (By Mr. Smestad, continuing) Mr. Williams, I --
20 I'll ask you to read from the middle of the page down a
21 couple lines, and let me know when you're done.

22 Does that refresh your memory?

23 A. Yeah.

24 Q. What were -- what did you tell the police you
25 thought the age of the boys -- the boys were?

1 A. Excuse me. Say that again.

2 Q. What did you think the ages of the people were in
3 the tubes downriver?

4 A. 17 to 20.

5 Q. Is that what you told the police?

6 A. Could be, yeah. Yeah.

7 Q. One thing I forgot to ask you -- okay. Well,
8 strike that.

9 When you first saw the physical altercation
10 occur, did you -- what did you think was happening?

11 A. I mean, I don't know. We just rushed down and
12 help him out, you know.

13 Q. All right. Did -- did you have a belief that Mr.
14 Miu wasn't involved in the fight at first?

15 A. Seen people on him, so he had to be involved.

16 Q. Is it fair to say it's been, I don't know, almost
17 two years since you talked to the investigators back on
18 August 3rd of 2022?

19 A. Yes.

20 Q. And you may not remember exactly everything you
21 told them?

22 A. It's possible.

23 Q. Do you have a memory of telling them what you
24 thought was happening in the fight before realizing that
25 Mr. Miu was involved in it?

1 A. Yes.

2 Q. What did you tell them?

3 A. I think I may have told them that I was concerned
4 about the young kids being intoxicated. We didn't want to
5 stop by them, we wanted to stay far away from them as
6 possible but -- you know, the pedophile thing, that's --
7 that's -- that's what I watched. I didn't want -- you
8 know, I didn't want that, you know.

9 Q. Sure.

10 A. It's possible I could have told them. I didn't
11 want to think -- you know, anyone to think that he was up
12 to no good.

13 Q. Sure.

14 A. He was just looking for a phone.

15 Q. Did you see Mr. Miu injuring anybody?

16 A. No.

17 Q. By the time you got down to him, was he already
18 up on his feet and --

19 A. Yes.

20 Q. -- heading back?

21 A. Yes.

22 Q. Did you see any injuries on him?

23 A. No.

24 Q. So was he bleeding?

25 A. I didn't see anything.

1 Q. At some point did you realize that there had been
2 some folks that were injured in the river?

3 A. Yes.

4 Q. Folks that were injured in the river in the spot
5 where he was involved in the altercation?

6 A. Mainly alongside of the river -- river, yes.

7 Q. Did -- as you walked up to Mr. Miu, did he say
8 anything to you as he came up to you?

9 A. No.

10 Q. Did he ever say anything to you about what
11 happened?

12 A. Never -- we've never spoke after that again. We
13 were -- after that, we were all -- everything was just
14 quiet.

15 Q. How serious were the injuries of the folks that
16 you saw injured?

17 MR. NELSON: Objection. Beyond his -- it's an
18 opinion, I guess.

19 THE COURT: Sustained. Foundation.

20 MR. SMESTAD: Pardon me.

21 Q. (By Mr. Smestad, continuing) What did you see as
22 far as the injuries of the folks on the river?

23 A. Bad. They --

24 Q. Did you call 911?

25 A. Yes, I did.

1 Q. Did you call 911 more than once?

2 A. Probably about two or three times. I'm not sure.

3 Q. Why did you do that?

4 A. Concerned about the people on the edge of --

5 laying on the -- laying on the bank of the river.

6 Q. Did you attempt to give other assistance?

7 A. No. I just -- when I met paramedics at the
8 river -- I mean, at the bridge I kind of walked them back
9 where everybody were, you know.

10 Q. With those paramedics, were there some law
11 enforcement folks too?

12 A. Yes, there were.

13 Q. And I think if I understand what you're saying,
14 you sort of directed them to where these injured people
15 were?

16 A. Yes.

17 Q. Anybody else from your group do that?

18 A. No.

19 Q. You're the only folk -- only person from your
20 group that -- that came over to help?

21 A. I think so, yeah.

22 Q. At some point did you end up walking back to your
23 group?

24 A. Yes.

25 Q. Did anybody say anything to you about what you --

1 what you saw?

2 A. No.

3 Q. Anybody ask any questions?

4 A. No.

5 Q. Did you eventually float away?

6 A. We got on the tube and we didn't listen to no
7 music, we just floated, and we just ready to get off the
8 river at that time. We didn't want to be there no more.

9 Q. Was there any kind of conversation as you're
10 floating down the river?

11 A. Never. No.

12 Q. At some point did the officers think that you had
13 some videos on your phone of what had happened?

14 A. (No response.)

15 Q. Had you taken some videos that day?

16 A. Yeah, I took videos. Just our party together.

17 Q. Right.

18 A. And when we stopped, you know, we took videos of
19 each other, not of -- that's about it.

20 Q. You didn't have any videos of this actual
21 incident?

22 A. No. No. Um-hum.

23 Q. Do you know how long your group stayed in that
24 area before floating down the river to the end?

25 A. Kind of about 15 minutes.

1 Q. How long did it take you to reach the end of the
2 -- the trip from where this incident happened?

3 A. Probably about another half an hour. 20 minutes
4 to a half an hour.

5 Q. What did you do once you got to the end?

6 A. Turned our tubes in and just prepared to go back
7 to our cars, get on the bus and go back to our cars.

8 Q. All right. At some point did -- was there more
9 contact with law enforcement at the end?

10 A. Yes.

11 Q. Did you witness that?

12 A. Yes.

13 Q. All right.

14 MR. SMESTAD: Nothing else.

15 THE COURT: Mr. Nelson.

16 MR. NELSON: Thank you.

17 CROSS-EXAMINATION

18 BY MR. NELSON:

19 Q. Is it Williams or Von Williams? I've seen it
20 written both ways.

21 A. Williams. Well, it's Eric Von Williams, yeah.

22 Q. So your middle name is Von --

23 A. Yeah.

24 Q. -- but your last name is Williams?

25 A. Yeah, Um-hum.

1 Q. Okay. Sir, thank you.

2 So Mr. Williams, I'm Aaron Nelson. I
3 represent Mr. Miu. I want to ask you some questions too,
4 okay?

5 A. Yeah.

6 Q. You were with Nic that day, right?

7 A. Right.

8 Q. There has been some pictures that I think have
9 been admitted.

10 MR. NELSON: Can I get like 106 through 110,
11 please?

12 Q. (By Mr. Nelson, continuing) There's been some
13 pictures of your party of ten people or so --

14 A. Um-hum.

15 Q. -- on the river. Have you seen any of those
16 photos from that day?

17 A. Yeah.

18 MR. NELSON: Can I have the ELMO, Judge --

19 THE COURT: Yes.

20 MR. NELSON: -- to display some --

21 Q. (By Mr. Nelson, continuing) So that's
22 Exhibit 112. You see yourself in that picture?

23 A. Oh, yeah. Yeah. I do.

24 Q. And next to you is -- is Nic Miu, correct?

25 A. Yep.

1 Q. And in that photo you see him wearing sunglasses,
2 is that right?

3 A. Yes.

4 Q. Do you remember that day, did he have sunglasses
5 on most of the time?

6 A. Yes.

7 Q. Were there times that you saw him -- you said you
8 saw him with a snorkel and goggles, right?

9 A. Yes.

10 Q. And he certainly went up to look for the phone,
11 and I'm gonna get to that.

12 A. Yes.

13 Q. But prior to looking for the phone, had you seen
14 him resting in the river or using his snorkel and the
15 goggles any time in the river?

16 A. No.

17 Q. You didn't see that?

18 A. No.

19 Q. Okay. Had you seen him at times without his
20 sunglasses on during that trip?

21 A. No.

22 Q. And then here's a photo 110. This photo you --
23 do you see Mr. Miu with a hat on?

24 A. Um-hum.

25 Q. Is that a yes?

1 A. Yes. Yes.

2 Q. That's all right. Were there times that day that
3 you saw him with a hat on?

4 A. I'm not sure. With the hat on?

5 Q. Yes.

6 A. I'm not sure.

7 Q. Okay.

8 A. I can't remember. I'll be honest, I can't
9 remember.

10 Q. Okay. Do you remember whether it was -- do you
11 remember him not having a hat on or having a hat on or
12 you're unsure about either?

13 A. I'm unsure about either.

14 Q. Okay. That's fair.

15 Showing you what's been marked as
16 Exhibit 111. Does that appear to be a another photo of
17 your group?

18 A. Yep. Yes.

19 Q. Okay.

20 MR. NELSON: Move for the admission to 111.

21 THE COURT: Any objection?

22 MR. SMESTAD: No.

23 THE COURT: 111 is received.

24 Q. (By Mr. Nelson, continuing) And you see Mr. Miu
25 in that photo there, he's got sunglasses and a hat on,

1 correct?

2 A. Yes, I do.

3 Q. All right. You're not in that photo --

4 A. No.

5 Q. -- is that right?

6 A. No.

7 Q. Okay. So sometimes people would wander off from
8 the group maybe and do something else?

9 A. Yes.

10 Q. Okay. Or you're just perhaps not in that photo,
11 you might be just behind the person or taking the picture?

12 A. I can't remember.

13 Q. Okay. In all of those pictures we saw Mr. Miu
14 had a shirt on, is that right?

15 A. Right.

16 Q. Do you -- and then I believe when he went to --
17 with his snorkel to look for the phone, do you remember,
18 was his shirt on or was his shirt off?

19 A. I can't remember.

20 Q. Okay. Did you have a shirt that day?

21 A. Yes.

22 Q. Did you sometimes take your shirt off?

23 A. No.

24 Q. Okay. You kept it on the whole time?

25 A. Yeah.

1 Q. Did you snorkel at all?

2 A. No.

3 Q. Did you get in the water and swim?

4 A. No.

5 Q. Okay. There was -- your group of people was
6 generally people my age, your age?

7 A. Right. Yes.

8 Q. Okay. Some people were having a couple of beers?

9 A. Yeah. Yes.

10 Q. Did you observe -- were you intoxicated?

11 A. No. No.

12 Q. Did you observe anybody in your group that you
13 thought was intoxicated?

14 A. No.

15 Q. Did you -- were you worried about anyone being
16 loud or obnoxious or rowdy or anything along those lines?

17 A. No. No.

18 Q. You said that you had -- I think I want to really
19 make sure that we get this, you know. You were concerned
20 people were going to think he was up to no good, that he
21 was a predator. You said that, right?

22 A. Yes.

23 Q. I want to really get into that, okay, a little
24 bit?

25 A. Um-hum.

1 Q. That's a -- something that you had in your own
2 mind, right?

3 A. (Non-verbal response.)

4 Q. Yes?

5 A. Yes.

6 Q. And that's concern that you had when you learned
7 he was gonna go snorkel down the river, correct?

8 A. Right.

9 Q. You -- you didn't think he was up to no good,
10 agreed?

11 A. No. No.

12 Q. You agree?

13 A. I agree. I agree.

14 Q. You didn't think he was a predator, you agree?

15 A. I agree.

16 Q. You had no reason to believe, based upon what you
17 had seen him do that day, that he was preying on little
18 girls --

19 A. No.

20 Q. -- right? You agree with that?

21 A. I agree with that.

22 Q. And -- but you, like a lot of us, are able to
23 kind of think about what are other people gonna think,
24 right?

25 A. Exactly. Yes.

1 Q. And I would imagine on the river that day you saw
2 other groups of people, right?

3 A. Yes.

4 Q. And some of those other groups of people appeared
5 to be intoxicated?

6 A. Yes.

7 Q. And some of them you said young people, right?

8 A. Yep. Yep. Yes.

9 Q. And you look about my age, so how old does
10 somebody need to be to not be considered young by you?

11 A. You said how old?

12 Q. Yeah. So when you say young people, do you mean,
13 like, littles or do you just mean, like, 25 and under?

14 A. Teenagers and 25 -- under 30.

15 Q. Okay.

16 A. Um-hum.

17 Q. All right.

18 A. Yep.

19 Q. So it's not like they're young, young?

20 A. No.

21 Q. So the people that you saw on there, you saw some
22 people in this age group and teenagers, 20 somethings,
23 that were intoxicated, correct?

24 A. Yes.

25 Q. And based upon your observations, you were kind

1 of worried about some of those people, right?

2 A. Yes.

3 Q. Based upon your life experiences, you know a
4 group of drunk young men might not be people you want to
5 be around, correct?

6 A. Yes.

7 Q. And that was a concern that you had, right?

8 A. It was a concern we all had.

9 Q. Sure.

10 A. Um-hum.

11 Q. In that you're like, look, drunk young people,
12 when they get together, bad things can happen sometimes,
13 right?

14 A. Right.

15 Q. And that's why you were trying to be kind of more
16 conservative, like let's just stay together here, let's
17 not mix ourselves up with these drunk young people, that
18 might be dangerous?

19 A. We made an agreement not to stop by young people,
20 get yourself a little farther down the river before we --

21 Q. Why were you -- why were you personally, all you
22 can do -- talk about is you, why were you concerned about
23 not stopping by young people?

24 A. Intoxication.

25 Q. Okay. And why were you -- were you worried about

1 young people that were intoxicated?

2 A. (No response.)

3 Q. Did they cause problems sometimes?

4 A. They could. It's a possibility, but I seem --

5 Q. Did they have conflict sometimes?

6 A. It could be conflict.

7 Q. All right. Do they sometimes -- are you
8 concerned about their decision-making when they're
9 intoxicated and in a group of young men?

10 A. I just worried about what Nic was doing looking
11 for a phone. I didn't want anybody to think --

12 Q. Sure.

13 A. -- that he was up to no good.

14 Q. And if there were not intoxicated people you
15 wouldn't be worried about that, correct?

16 A. I was still worried about that.

17 Q. What was that?

18 A. I -- I would still be worried about that.

19 Q. But you were more worried because they were
20 intoxicated?

21 A. Right.

22 Q. And I imagine you were more worried because
23 there's more of them, correct?

24 A. (No response.)

25 MR. SMESTAD: Object, Your Honor.

1 THE COURT: Sustained.

2 Q. (By Mr. Nelson, continuing) You had said -- I
3 think you had said before we were out there with his wife
4 and these young guys, they're quick to test us. That's
5 what you told the police, right?

6 A. (No response.)

7 Q. I think you're talking in general. Not that day
8 but in general did you feel as if sometimes young men as a
9 group are quick to test you older men?

10 A. Well, yeah, I do remember that conversation that
11 day, yeah, but --

12 Q. You -- you did say that?

13 A. Yeah. Yes.

14 Q. And that's because your -- in your life
15 experience sometimes young men get a kick out of
16 challenging perhaps an older guy, right?

17 MR. SMESTAD: Objection, Your Honor. Irrelevant.

18 THE COURT: Overruled.

19 You can answer if you are able to.

20 A. Yeah, I -- yeah, I ran into it a couple times, so
21 yes.

22 Q. (By Mr. Nelson, continuing) Yeah. And that's
23 why -- and that's why you were concerned --

24 A. Yes.

25 Q. -- right?

1 When you saw -- you saw Nic come back, is
2 that right?

3 A. Yes.

4 Q. Fair to say he was quiet?

5 A. He was quiet. Ernesto got -- Ernesto grabbed
6 Nic, walked him back, and I kept going forward.

7 Q. Okay. So you're interaction with Nic there on
8 the river was very brief, right?

9 A. At that -- in -- well, with everything that went
10 down, me and Nic didn't talk at the --

11 Q. I understand.

12 A. -- you know.

13 Q. I'm must -- it sounds like you're walking in this
14 direction towards Nic --

15 A. Um-hum.

16 Q. -- and then Ernesto gets there first, is that
17 right?

18 A. Right.

19 Q. And then Ernesto grabs Nic and helps Nic get back
20 to the group in some manner, right?

21 A. Yes.

22 Q. You don't know because you're not looking at him,
23 right?

24 A. No.

25 Q. Because you continue on in that direction to go

1 down to see what all the yelling and the screaming is
2 about, correct?

3 A. Yes. Yep.

4 Q. And at some point, 15 minutes or so, you
5 eventually go back to the group where Nic is, correct?

6 A. Yes.

7 Q. And at that point Nic is sitting there quietly,
8 correct?

9 A. Yes.

10 Q. You don't hear him say anything, agreed?

11 A. No.

12 Q. Do you make observations of his person?

13 A. Yes.

14 Q. He appears to be somber?

15 A. (Non-verbal response.)

16 Q. Yes?

17 A. Quiet, yes.

18 Q. Have you heard the expression white as a ghost
19 before?

20 A. Yes, sir. Yes. Yes, I did.

21 Q. Did he have that look about him?

22 A. He had a look, you know. He had -- just say he
23 had a look and -- yes, he did.

24 Q. Have you seen people when they're in shock
25 before?

1 A. No, I -- personally, no.

2 Q. Okay. Would you know what that looked like if
3 you saw it?

4 A. Probably would, yeah.

5 Q. He look like he was in shock?

6 A. (No response.)

7 MR. SMESTAD: Object, Your Honor. I --
8 foundation.

9 THE COURT: Sustained.

10 Wait for the next question.

11 MR. NELSON: That's all.

12 THE COURT: Mr. Smestad, anything else?

13 MR. SMESTAD: Nothing further, Your Honor.

14 THE COURT: All right.

15 Thank you, Mr. Williams. You may step
16 down.

17 THE WITNESS: Thank you.

18 THE COURT: Please see the witness coordinator on
19 your way out and she'll give you further instructions.

20 (Whereupon, the witness is excused.)

21 THE COURT: It's 4:10. Do you have a short
22 witness?

23 MR. SMESTAD: I -- I don't think we do, Judge.

24 THE COURT: Is there any administrative matters
25 that we can tend to?

1 MR. ANDERSON: Probably.

2 THE COURT: I mean, offering exhibits that need
3 to come in.

4 MR. ANDERSON: Yes, and I -- probably other
5 things we can talk to outside the -- outside the presence
6 of the jury.

7 THE COURT: Anything we can do in the presence of
8 the jury is my point?

9 MR. ANDERSON: Oh. Oh. Not that I can think of.

10 THE COURT: Mr. Chirafisi?

11 MR. CHIRAFISI: I can't -- I don't think we're in
12 that position at this point, Judge.

13 THE COURT: All right. So given the hour, I
14 think we will simply adjourn. We'll send everyone home.

15 So I'll give you the same reminders as
16 before: No talking about the case; do not begin your
17 deliberations; do not begin any independent research or
18 investigation; do not visit the scene; do not speak with
19 the media, the attorneys, the parties, the public about
20 the case; and do not read any media accounts or engage in
21 any social media accounts about the trial.

22 We will get started tomorrow at 8:00 a.m.
23 Please come back at that time and we'll get a prompt start
24 to the trial.

25 Please take the jury out.

1 (Whereupon, the jury exits the courtroom.)

2 THE COURT: We are outside the presence of the
3 jury with the attorneys and Mr. Miu.

4 We do have at least one illustration on the
5 easel that needs to be marked. I think we have another
6 one over here behind the clerk. That too has to be marked
7 so we have a record of what it is.

8 Mr. Anderson, I -- I can't remember who
9 used the one with the clerk. You'll have to connect the
10 dots for us.

11 MR. NELSON: That was Anthony Carlson.

12 MR. ANDERSON: This was Tony. Yeah, Tony
13 Carlson.

14 UNIDENTIFIED FEMALE: That's 77. Mark 77.

15 THE COURT: So the Tony Carlson illustration is
16 Exhibit 77?

17 MR. ANDERSON: Yes.

18 MR. NELSON: Yes, although -- yes, it was used
19 during that. I believe I objected and Your Honor
20 sustained. So, I mean, you can certainly mark it, but I
21 don't know the --

22 MR. ANDERSON: I -- the objection was to drawing
23 Isaac on there, not everything else.

24 THE COURT: It was used during the trial, so I
25 want to have it marked.

1 MR. NELSON: Sure.

2 THE COURT: I don't know what value it will have
3 but I just don't want to lose sight of marking things that
4 have --

5 MR. ANDERSON: Judge, and I don't think I've
6 offered the group photo of Nicolae's group.

7 MR. NELSON: No objection.

8 MR. ANDERSON: I offer it.

9 THE COURT: What number is it?

10 UNIDENTIFIED FEMALE: I don't think we have it on
11 before.

12 MR. ANDERSON: No, it's just -- we're just
13 labeling it A. What's the small one?

14 UNIDENTIFIED FEMALE: 12.

15 MR. ANDERSON: I'm going to write 12A, Judge.

16 THE COURT: All right. So 12A is the blow-up of
17 the group shot of Mr. Miu's group, correct?

18 MR. ANDERSON: Yes.

19 (Whereupon, Exhibit Number 12A was marked for
20 identification.)

21 THE COURT: Which illustration is this?

22 MR. ANDERSON: This is the one I did with Sandi
23 Miu.

24 UNIDENTIFIED FEMALE: So 80.

25 MR. ANDERSON: That would be 80.

1 THE COURT: 80?

2 MR. ANDERSON: Yes.

3 THE COURT: So we'll have that marked.

4 (Whereupon, Exhibit Number 80 was marked for
5 identification.)

6 THE COURT: All right. Is there any other
7 exhibits that we need to address?

8 MR. ANDERSON: I don't think -- well, can I ask
9 the clerk, are there any that have been -- that you have
10 that we've talked about so far that hadn't been admitted
11 and received?

12 THE CLERK: Give me a second just to check my
13 notes.

14 No, there is not.

15 THE COURT: All right.

16 Mr. Chirafisi, any exhibits that we need to
17 tend to?

18 MR. CHIRAFISI: I think we marked them.

19 THE COURT: Got them all?

20 MR. CHIRAFISI: Yeah, I think so.

21 THE COURT: Is there something you wanted to talk
22 about outside the presence of the jury?

23 MR. ANDERSON: I -- well, I don't know if you
24 want to put on the record the objection there was, the
25 discussion at the bench.

1 THE COURT: You want to make a sidebar record,
2 Mr. Nelson?

3 MR. NELSON: I think it was Mr. Chirafisi with
4 the third round of questioning maybe is probably the --

5 THE COURT: No, I think the one we're talking
6 about is Mr. Williams and his concern about Mr. Miu's
7 intentions being misunderstood by others. We had a
8 lengthy sidebar about that, whether it was relevant or
9 irrelevant, and you made an objection.

10 MR. NELSON: I objected that it was irrelevant.
11 Your Honor listened to arguments and eventually ruled that
12 it was minimal probative value but enough to be relevant,
13 and so we did what we did.

14 THE COURT: Anything you want to add to the
15 record, Mr. -- or Mr. Anderson?

16 MR. ANDERSON: I think our -- our point was
17 there's been significant challenges against the children's
18 credibility and that they were just -- they should -- they
19 jumped to conclusions, but then we have a -- an adult who
20 had the same concerns, so I think that's why we thought it
21 was highly relevant.

22 MR. NELSON: Well, again --

23 THE COURT: And that's what persuaded me, was
24 drawing the connection back to the Schuman Group and it
25 validated their perceptions or concerns. Again, it had

1 minimal probative value but it was relevant. We weren't
2 dwelling on that topic. So I don't believe there was any
3 unfair prejudice to the Defense.

4 Something else?

5 MR. NELSON: No, I was gonna just articulate my
6 argument, but it's probably not necessary.

7 THE COURT: All right.

8 Okay. We will resume tomorrow at 8:00 a.m.
9 We're in recess.

10 MR. ANDERSON: Thank you, Judge.

11 (The proceedings came to a close at this time.)

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C E R T I F I C A T E

I, **VANESSA M. MELSTROM**, Official Court Reporter
for the State of Wisconsin, St. Croix County, hereby
certify that the foregoing is a true and accurate
transcript of the proceedings herein all done to the best
of my skill and ability.

Dated at Hudson, Wisconsin, this 9th day of
March, 2026.

/s/ Vanessa M. Melstrom

Vanessa M. Melstrom, RMR, CRR

Official Court Reporter - Branch 4

St. Croix County Government Center