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03-09-2026

Circuit Court

St. Croix County, WI

2022CF000518

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

STATE OF WISCONSIN,

Plaintiff,

vs.

NICOLAE MIU,

Defendant.

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CASE NO: 22 CF 518

CASE TYPE:

CRIMINAL

PREPARED FOR:

ORIGINAL

Hudson, Wisconsin

April 4, 2024

BEFORE THE HONORABLE R. MICHAEL WATERMAN

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL - DAY 4

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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 4, 2024

P R O C E E D I N G S

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

(Whereupon, the jury enters the courtroom.)

THE COURT: We're back on the record, State
versus Miu. The attorneys are present. Mr. Miu is
present. The jury is present. We are ready to resume the
testimony.

Mr. Smestad, who is the next witness?

MR. SMESTAD: Janell Duxbury.

(Whereupon, the witness enters the courtroom.)

THE COURT: Ms. Duxbury, would you please come
forward. Please face the clerk, raise your right hand,
she will administer oath.

JANELL DUXBURY,
after having been first duly sworn on oath by the clerk,
testifies and says as follows:

THE WITNESS: I swear.

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

Mr. Smestad.

DIRECT EXAMINATION

BY MR. SMESTAD:

1 Q. Will you state your name for the record, please?

2 A. Janell Duxbury.

3 Q. How to you spell your last name?

4 A. D-u-x-b-u-r-y.

5 Q. What do you do for a living, Janell?

6 A. I work at a factory.

7 Q. What town do you live in?

8 A. St. Croix Falls.

9 Q. In Wisconsin?

10 A. Yes.

11 Q. Do you recall July 30th of 2022?

12 A. Yes, I do.

13 Q. Were you part of the Carlson Family group that
14 was tubing down the Apple River on that day?

15 A. I was.

16 Q. Are you related to the Carlsons?

17 A. No.

18 Q. Friend of the family?

19 A. Yes.

20 Q. Do you --

21 MR. SMESTAD: One second.

22 Your Honor, may I approach the witness?

23 THE COURT: Yes, you may.

24 Q. (By Mr. Smestad, continuing) Janell, I'm going
25 to show you what's been marked as Exhibit, I guess, 26A.

1 Do you recognize that?

2 A. I do.

3 Q. Could you tell us what it is?

4 A. It's a photo of all of us together.

5 Q. All right. And are you in this picture?

6 A. I am. I am in the black swimming suit.

7 Q. All right. Are you drinking or not drinking?

8 A. In that photo I am not drinking.

9 Q. Okay. Is it fair to say that you did have some
10 drinks that day though?

11 A. I did.

12 Q. Can you tell us what you had to drink?

13 A. We had stopped at a riverbank. I got offered a
14 shot of -- was it Butterscotch Schnapps? And then I had,
15 I believe it was, a Trulies or Budweiser. Actually, it
16 was probably both. I cannot remember exactly what I
17 drank.

18 Q. Do you know how many drinks you had?

19 A. For sure the one shot and probably a total of one
20 beer. I had been trying different flavors of everybody
21 else's, but I never finished the full beer of my own.

22 Q. Do you feel like you were impaired that day?

23 A. No.

24 Q. All right. At some point while your group was
25 going down the river, did you come across a disturbance of

1 some sort?

2 A. We did.

3 Q. What did you see when you first noticed the
4 disturbance?

5 A. I was laying back in my inner tube and I was
6 taking a little nap, and all of a sudden my friend,
7 Ryhley, had tapped me on the shoulder saying, hey, let's
8 go check it out. So I got up and I followed behind her.
9 I could here a lot of commotion but I could not make out
10 distinctive voices or what they were saying or anything
11 and -- yeah, that's how it started.

12 Q. When you followed Ryhley over, did you hear
13 any -- any specific words or phrases?

14 A. I did not hear anything specific.

15 Q. Is it fair to say there was some yelling going
16 on?

17 A. Oh, for sure, yes.

18 Q. Did you see Madison Coen when that occurred?

19 A. I did. She was already up there --

20 Q. All right. What was --

21 A. -- by the time I had gotten there.

22 Q. -- what was Madison Coen doing?

23 A. I actually did hear Mady yelling, swearing at the
24 gentleman, and telling him to get the eff out of here.

25 Q. Okay. Which -- which gentleman was that at?

1 A. Huh?

2 Q. Who -- who was she yelling at?

3 A. Oh, it was Nicolae Miu.

4 Q. All right. At the time did you know who he was?

5 A. I did not.

6 Q. Do you know now?

7 A. Yes.

8 Q. Did you see Mady yelling at Mr. Miu?

9 A. Yes.

10 Q. And you heard it?

11 A. Yes.

12 Q. Did you see Mr. Miu react in some fashion?

13 A. At first he was just standing there kind of like
14 looking at everybody, and then I could not see his hand
15 punch her but I could see, like, his left shoulder had
16 dropped like a little bit and I could see -- I believe
17 maybe it was part of his elbow, because Mady was impairing
18 my view of everything, but I had seen the right side of
19 her face turn towards me, and she kind of stumbled down
20 and got back up and then walked away.

21 Q. Did you -- did you see Mr. Miu's hand or fist
22 make contact with Mady's face?

23 A. I did not see it make contact, no.

24 Q. All right. But you saw her reaction?

25 A. Yes.

1 Q. After Mr. Miu did whatever he did to Mady, what
2 happened next?

3 A. A lot of chaos and yelling broke out. I remember
4 seeing Dante run up immediately and punch him in the face,
5 yelling you never hit a woman. I saw Nicolae punch Dante
6 back. Then I believe that I saw Dante hit Nicolae once
7 more. I thought it was a punch, but I did watch the video
8 and later found out that they were -- that he was smacking
9 him.

10 Q. All right. Did you -- whereabouts were you
11 standing when -- when that all occurred, when Dante hit
12 Mr. Miu?

13 A. I was a little ways behind Ryhley. I don't know
14 any of the boys in the group that I was standing next to,
15 but I was standing back a little ways.

16 Q. All right.

17 A. To the back and to the right of Mady and Ryhley a
18 little ways.

19 Q. Did you see A.J. Martin get stabbed?

20 A. I did not.

21 Q. Did you see Dante get stabbed?

22 A. I did not.

23 Q. Do you know who Isaac Schuman is?

24 A. I -- I do. I know him now but, no, I did not
25 know him.

1 Q. All right. At the time did -- did you see Isaac
2 Schuman get stabbed?

3 A. I did not.

4 Q. Did you see Ryhley Mattison get stabbed?

5 A. I did.

6 Q. All right. Can you describe what you -- what
7 happened when you saw Ryhley get stabbed?

8 A. She had backed up away from the commotion a
9 little bit, and I had seen Nicolae walk up to him and then
10 he came and he just -- I thought it was like a little
11 punch towards her ribs and -- until he had removed his
12 hand I saw the knife come out of my friend's side.

13 Q. All right. Can you describe the knife?

14 A. It was no more than, like, two inches. It was
15 very small.

16 Q. All right.

17 A. It's all I could see.

18 Q. And just so I understand, you -- you didn't see
19 the knife until he removed it from her body?

20 A. Correct.

21 Q. What did he do after he stabbed Ryhley?

22 A. I didn't pay too much attention to him after he
23 did that. I was a little preoccupied in trying to grab
24 her and remove her from the situation. I did take one
25 last look at him. It looked like he was coming towards me

1 so I -- no, and walked away with Ryhley.

2 Q. All right. Did you render assistance to Ryhley?

3 A. Yes, I did. I got her back to Q and Sheena and
4 told them to take her downriver and get help, and then
5 when I turned back around I had seen Tony standing next to
6 A.J. so I ran up to them and I helped Tony drag A.J. to
7 the shore, tried to make sure that they were as okay as
8 they could be before I went to try to go help as much as I
9 could.

10 Q. Did you see Tony get stabbed?

11 A. I did not.

12 Q. Did -- did you see that he was injured when he --

13 A. I did.

14 Q. We're going to show you some still frames from
15 the video. We're going to start at 2859.

16 MR. SMESTAD: And, Your Honor, I guess I'll
17 caution there is some graphic portions of the string I'm
18 gonna play, so just fair warning to everybody.

19 THE COURT: All right.

20 MR. SMESTAD: There's people in the courtroom who
21 want to leave or whatever.

22 THE COURT: Thank you for alerting everyone to
23 that fact.

24 Q. (By Mr. Smestad, continuing) All right, Janell,
25 I'm showing you still frame 2859 from the video. Who's

1 the woman up in the upper left corner with the blue and
2 pink swimsuit?

3 A. That is Ryhley Mattison.

4 Q. All right. In this picture is she bleeding yet?

5 A. No, it does not appear to be so --

6 Q. Who's -- who's the person in the middle?

7 A. Nicolae.

8 Q. All right. We're showing you photo 2859. Who's
9 the woman in the black swimsuit up in the upper right
10 corner?

11 A. That is me.

12 Q. Is that where you were standing when this all
13 occurred?

14 A. Yes.

15 MR. SMESTAD: Pardon me -- pardon me, Judge, it
16 was 2871.

17 Q. (By Mr. Smestad, continuing) In this frame is
18 Ryhley off to your right?

19 A. Yes, she is.

20 Q. Behind Mr. Miu?

21 A. Yes.

22 Q. All right. At the time that Mr. Miu stabbed
23 Ryhley, had she done anything to him in this context?

24 A. From what I remember seeing, no. I was warned
25 that she did not touch him, but after seeing the footage I

1 saw that she did.

2 Q. Well, I'm talking about --

3 A. Oh.

4 Q. -- this portion -- portion of the --

5 A. I would not be able to pinpoint if that was
6 before or after she was --

7 Q. All right. We're going to play -- continue to
8 play the stills here.

9 A. Okay.

10 Q. All right. We're gonna scroll forward here.

11 MR. SMESTAD: Stop.

12 Q. (By Mr. Smestad, continuing) I'm showing you
13 2926. Is that you still in the frame?

14 A. Yes, it is.

15 Q. Are you looking at Mr. Miu?

16 A. I believe so. It looks like I am, yes.

17 Q. Did you notice anything in his right hand?

18 A. At that time, no, I did not.

19 Q. Did you see his right hand -- did you see his
20 right hand moving out like --

21 A. I did.

22 MR. CHIRAFISI: Objection. Leading.

23 A. I --

24 THE COURT: Sustained.

25 Q. (By Mr. Smestad, continuing) What's shown in the

1 picture, did you see that happen, as far as Mr. Miu's
2 hand?

3 A. I'm sorry, what was that?

4 Q. What you see in this -- this still, is that what
5 you saw on the river at this point in time?

6 A. Oh, yes.

7 Q. With regard to Mr. Miu's body?

8 A. Yes.

9 MR. SMESTAD: Scroll forward. Stop.

10 Q. (By Mr. Smestad, continuing) We're showing still
11 2947. At this point is Ryhley back in the frame?

12 A. Yes, she is.

13 Q. And now -- what does she look like? Is she
14 injured?

15 A. Yes. She just got stabbed.

16 Q. All right. And -- and that's my question: Is
17 this the point in the video where you saw Mr. Miu stab
18 Ryhley Mattison?

19 A. Yes.

20 Q. And you're standing how far away?

21 A. Uhm, well, that would be about four or five feet.

22 Q. All right. And as you watched the stills go
23 through -- well -- well, strike that.

24 Is -- is Ryhley facing away from him?

25 A. Yes, she is.

1 Q. Prior to Ryhley being stabbed at this point in
2 time, was she laying any hands on him?

3 A. That I remembered had seen, no --

4 Q. All right.

5 A. -- I did not.

6 Q. You had -- you had testified that at one point
7 you do remember seeing -- you testified that when you
8 reviewed the video you saw at one point Ryhley touching
9 Mr. Miu?

10 A. I did.

11 Q. Okay. Was -- was it at that point or at some
12 earlier point?

13 A. It was earlier.

14 Q. All right. After -- well, strike that. You've
15 answered that.

16 We're going to continue to scroll through
17 from where we stopped.

18 And we're stopped at 3024. Did you watch
19 that string of -- of frames?

20 A. I did, yes.

21 Q. Did you see yourself in that -- that string?

22 A. I did.

23 Q. What were you doing?

24 MR. CHIRAFISI: Judge, can we approach for
25 two seconds?

1 THE COURT: Yes.

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

3 THE COURT: Let's continue. Excuse me. Let's
4 continue.

5 Q. (By Mr. Smestad, continuing) Did that string of
6 frames show you what you did after she was stabbed?

7 A. Yeah. You can briefly see me grab her arm and
8 try to get her out.

9 Q. All right. After this all happened, did you call
10 for help?

11 A. I had -- it was after I had turned, told Ryhley
12 to go to Q and to Sheena, after I had turned around and
13 saw A.J., I ran up to him and I was helping kind of hold
14 him together, and I had looked at Gabby K. and I had
15 yelled three times to call the police. I did not have a
16 phone on me that day.

17 Q. All right.

18 MR. SMESTAD: I don't have any other questions.

19 THE COURT: Mr. Chirafisi.

20 CROSS-EXAMINATION

21 BY MR. CHIRAFISI:

22 Q. Ms. Duxbury, in terms of -- you watched the video
23 in preparation for your testimony?

24 A. Correct.

25 Q. Okay. What I'm going to ask is that you try your

1 best to testify from your -- your memory.

2 A. Understood.

3 Q. Okay. And do you recall -- so I guess I'll ask
4 it this way: Initially you said that you were kind of
5 laying in your tube with your head back, just kind of
6 relaxing, right?

7 A. Correct.

8 Q. Okay. And you provided a statement to the police
9 on the 31st of July of 2022, right?

10 A. I believe it was -- I provided two of them, and I
11 thought they were the same day --

12 Q. Okay.

13 A. -- on the 30th but -- I did provide a statement,
14 correct.

15 Q. Okay. And do you recall initially when you're
16 sitting on the tubes you're near Quinton Carlson, is that
17 true?

18 A. (No response.)

19 Q. When you're on the -- when you guys were all kind
20 of floating down the tubes -- or on the tubes?

21 A. I honestly don't remember who all I was really
22 sitting next to. I -- I remember I was sitting next to
23 Ryhley and my husband at the time, but I -- I really don't
24 remember who I was, like, right next to.

25 Q. I guess my point is: Quinton Carlson's in your

1 group --

2 A. Yes.

3 Q. -- right?

4 A. Yes.

5 Q. Okay. Do you recall him asking Dante and Anthony
6 to go over to make sure that Mr. Miu's not gonna get beat
7 up?

8 A. I do not.

9 Q. Okay. Your first recollection is -- if this is
10 fair, is Ryhley saying let's check it out --

11 A. Yes.

12 Q. -- right?

13 A. Yes.

14 Q. All right. And you tell police on the 31st that
15 your first recollection is Dante running up to the suspect
16 and standing between him and the other people --

17 A. Correct.

18 Q. -- right?

19 Okay. Is that your memory today?

20 A. Yes.

21 Q. Okay. So Dante -- your memory is Dante's the
22 first one out up to the group of other tubers, right?

23 A. Yes.

24 Q. All right. And then your -- you believe, based
25 on your statement, that you, Madison, and Ryhley then

1 follow Dante --

2 A. Yes.

3 Q. -- is that right? Yes?

4 A. I -- yes. I wasn't too familiar with Madison at
5 the time. I had only met her maybe like twice.

6 Q. Okay. But my point is --

7 A. I -- yes.

8 Q. My point is your recollection is Dante goes up
9 first, then the three of you follow him, right?

10 A. Yes.

11 Q. And your -- and I think you hear somebody yell
12 for Anthony Carlson to come up as well, right?

13 A. Yes. There was several people that were yelling
14 for Tony to get up there.

15 Q. All right. And the goal, according to your
16 statement, was to build a wall, right?

17 A. Correct.

18 Q. Okay. You have no idea what's happening, do you?

19 A. Not a clue.

20 Q. Okay. And you say that Dante runs up to Mr. Miu,
21 is that true?

22 A. Correct.

23 Q. Okay. To your knowledge, does he have any
24 information as to what's happening?

25 A. No.

1 MR. SMESTAD: Objection, Your Honor.

2 THE COURT: Sustained.

3 Q. (By Mr. Chirafisi, continuing) And you're going
4 to build a wall without having any information as to
5 what's happening in that situation, right?

6 A. Correct.

7 Q. Okay. And you don't hear anybody yelling
8 anything prior to you going up to build that wall, right?

9 A. I could hear the commotion, but I could not make
10 out distinct words.

11 Q. Okay. And you don't know if Mr. Miu's with any
12 other group, do you?

13 A. I do not.

14 Q. Okay. You -- you see him alone though, right?

15 A. What appeared to be alone, correct.

16 Q. Okay. And you say that -- today you say Mady
17 goes up and is yelling at him, right?

18 A. Correct.

19 Q. Okay. And is that what you remember telling the
20 police?

21 A. I -- I guess I honestly don't know if I had told
22 them that or not.

23 Q. You go up to build a wall why?

24 A. Because there was a very clear confrontation
25 between the group of children and then Nicolae, so at

1 least to divide the conflict was at least my idea.

2 Q. So you believed at that point there was a
3 confrontation that was taking place, is that right?

4 A. Correct.

5 Q. Okay. And you hear Mady yelling at him, is that
6 right?

7 A. I -- I -- I do. Yes.

8 Q. And you hear she's swearing at him, true?

9 A. Yes.

10 Q. Okay. Now, in your statement you initially said
11 that Mady went up there to, quote, try to mellow things
12 out. You recall that?

13 A. I did not remember using those choice of words
14 but --

15 Q. Okay. If I told you that your interview with
16 Investigator Shilts is recorded and on that interview
17 those are the words that you used, do you have any reason
18 to dispute that?

19 A. Oh, no.

20 Q. Okay. So when you say -- or when you told
21 Investigator Shilts that Mady went up there to try to
22 mellow things out, is that true?

23 A. I had to have said that, that is true, yes.

24 Q. I -- I understand that you said that. Do you
25 believe that's what she was doing, was mellowing things

1 out?

2 A. No.

3 Q. She was yelling at him, swearing at him, right?

4 A. Correct.

5 Q. Okay. And do you recall her pointing at him
6 to -- to go downriver?

7 A. I recall her pointing beyond him but, yes, she
8 was pointing and gesturing.

9 Q. And yellowing -- and yellowing. And yelling go
10 --

11 A. Yes.

12 Q. -- go, right?

13 A. Yes.

14 Q. So you took that, if this is fair, as her telling
15 him, where she's pointing, go that way, right?

16 A. Yes.

17 Q. Okay. And you -- you say that you believe
18 there's a confrontation that's going on, right?

19 A. Correct.

20 Q. Okay. Do you recall after Mady -- well, let me
21 ask you this: Do you see Mr. Miu attempting to speak to
22 Mady about what's happening?

23 A. I do not. I -- like I said, I really couldn't
24 see much. I'm vertically challenged than everybody. I
25 couldn't see past people's heads and shoulders even so --

1 Q. Tell me about that for a minute. I -- I missed
2 the first -- you're what challenged?

3 A. I'm vertically challenged. I'm short. I
4 couldn't see --

5 Q. Oh --

6 A. -- anything.

7 Q. -- okay. All right. Sorry.

8 A. Sorry.

9 Q. So your -- your height, or lack thereof, has
10 some -- it makes it sometimes difficult for you to see
11 things, is that what you're saying?

12 A. Yeah. I couldn't see past people's shoulders or
13 heads or anything, no.

14 Q. Okay. And do you see these other tubers, the
15 people that you are saying he's in a confrontation with,
16 Mr. Miu, do you see them after Mady's there and you guys
17 are there, do you see him -- do you see them kind of
18 surround him and start to taunt him?

19 MR. SMESTAD: Object, Your Honor, to the term
20 surrounds.

21 THE COURT: Overruled.

22 A. I did not notice that. I did definitely notice,
23 like, the -- it did seem to be a little taunting, yes.

24 Q. (By Mr. Chirafisi, continuing) Okay. And the
25 taunting was going on by the other tubers in part, right?

1 A. Correct.

2 Q. Okay. But you don't have a recollection
3 specifically of what they were doing in terms of the
4 taunting?

5 A. No, I heard some people still yelling. It
6 sounded like some laughter but it wasn't necessarily
7 distinct, and that was by the time that we had actually
8 gotten up there.

9 Q. Okay. Right. So when you get up there then is
10 when you can probably see a little better and hear a
11 little better, right?

12 A. Correct.

13 Q. Okay. So in terms of the confrontation, you
14 agree that it is this group of six plus your group, yes?

15 A. Yes.

16 Q. Together?

17 A. Yep.

18 Q. And Mr. Miu's alone, right?

19 A. Yes.

20 Q. Okay. So at that point is it fair to say that
21 you have some concern because Mr. Miu's alone that this
22 confrontation can go poorly for him, right?

23 A. Oh, I still had concern it could go poorly for
24 either party, but I see what you're saying and, yes, he
25 was a part of the concern.

1 Q. Okay. And to be fair, part of that is based on
2 him being by himself, true?

3 A. Correct.

4 Q. Okay. Would you agree that Mady was in Mr. Miu's
5 face? You'd agree with that?

6 A. I would agree with that.

7 Q. Okay. She was in his -- as it's been described,
8 in his personal space, true?

9 A. True.

10 Q. Okay. And tell me if this is fair: When you see
11 Mr. Miu make contact with Mady, I know that you had said
12 that it was -- I -- I don't want to put words in your
13 mouth, but do you remember specifically, you said he
14 dropped a shoulder, right? You mentioned that?

15 A. Yes.

16 Q. Okay. Do you see specifically what happens?

17 A. I could not see, but putting puzzle pieces
18 together, yes, I could tell that he had punched her.

19 Q. Okay. So you didn't see the punch, you just
20 believed, based on reasoning, that that's what happened?

21 A. Yes.

22 Q. Okay. When that happens, she's standing in front
23 of him, right?

24 A. Correct.

25 Q. She's standing in his face, correct?

1 A. Correct.

2 Q. She's in his personal space, correct?

3 A. Correct.

4 Q. And do you remember Ryhley standing next to her?

5 A. I honestly do not. I thought I was, like, right
6 behind her the entire time.

7 Q. When you say her, I'm sorry?

8 A. Ryhley. I thought Ryhley was, like, right in
9 front of me the entire time. I do not remember Ryhley
10 being so close.

11 Q. Okay. But having watched the video now, you know
12 that your recollection from your memory isn't correct?

13 A. That is correct.

14 Q. All right. So now do you know that Ryhley's
15 standing next to Madison?

16 A. I do.

17 Q. Okay. And you don't see this punch in particular
18 or this movement, but you see Rhy -- or I'm sorry, you see
19 Madison do what?

20 A. She had -- again, her back was facing me, and all
21 of a sudden I saw her turn but it was leaning with her
22 head. So her head had turned, so I saw the right side of
23 her face, and then her body had followed and then she had
24 stumbled down to her knees and she got back up and then
25 started running -- I believe it was her and Gabby that

1 started running back to Q and Sheena.

2 Q. You described that Mr. Miu, in -- in your
3 original statement to Investigator Shilts, as -- you
4 described him as standing over her. Do you remember that?

5 A. Yeah.

6 Q. After you say she goes down?

7 A. Yeah. I would still stand by that.

8 Q. So you would say that you see her head move --

9 A. Um-hum.

10 Q. -- she goes down to a knee or goes down --

11 A. Um-hum.

12 Q. -- he then -- does he move toward her?

13 A. Oh, I wouldn't say he necessarily moves towards
14 her, but he definitely just stood above her.

15 Q. And how --

16 A. Oh, I was just gonna say she didn't get, like,
17 launched, she literally just kind of did like a little 180
18 and fell down right where she was standing.

19 Q. Okay. She's -- if you remember -- I'll ask it to
20 you two ways. From your memory, do you remember that she
21 was holding a drink at the time?

22 A. I didn't -- I know that she was holding stuff but
23 I could not tell you what she was holding.

24 Q. Okay. And how long, in terms of time, passes
25 from -- now this is your memory. How long passes from the

1 time that you see her make her movement and go down until
2 Dante gets involved?

3 A. Oh, I that was like a second.

4 Q. Okay.

5 A. Like --

6 Q. And do you agree on the -- you've watched the
7 video?

8 A. Yes.

9 Q. Do you agree on the video it doesn't show Madison
10 falling down or going down, right?

11 A. No, I would agree with that.

12 Q. And you'd agree that what you've seen on the
13 video, she doesn't drop her drink either, right?

14 A. No, I would agree with that.

15 Q. Okay. And she's holding -- I don't know if you
16 remember this. She's holding not only a drink but a vape
17 in her hand as well, right?

18 A. Okay.

19 Q. Okay. Those things don't fall, right?

20 A. Correct.

21 Q. Even though she falls, they stay in her hand,
22 right?

23 A. Correct.

24 Q. And her cell phone, do you remember her cell
25 phone as, like, up in her swimsuit?

1 A. I don't recall, but not surprised.

2 Q. Okay. And do you remember on the video her cell
3 phone doesn't fall either, right?

4 A. I don't believe so, no.

5 Q. Okay. Now, do you -- do you ever see her -- her
6 being Madison. Do you ever see her stop and pick up her
7 -- her glass -- her sunglasses?

8 A. No. That wasn't anything that I did, no.

9 Q. Okay. Prior to Madison getting in his -- in Mr.
10 Miu's personal space and in his face, you don't see him
11 being aggressive, true?

12 A. True.

13 Q. Okay. He doesn't verbally say anything that you
14 would describe as being aggressive, right?

15 A. Correct. He said nothing at all --

16 Q. And --

17 A. -- that I heard.

18 Q. Okay. And you don't see him doing anything
19 physically that you would consider to be aggressive
20 either, right?

21 A. Aggressive, no, but the way he was standing there
22 and just -- it was very expressionless, hollow, almost
23 like a demonic look in his face. Like, he -- I don't know
24 how else to describe it other than his -- his eyes did not
25 look human. He -- very daunting.

1 Q. You would agree at that point there's
2 approximately 13 people around him, yes?

3 A. It had to have been somewhere around that number,
4 correct.

5 Q. Okay. Based on what you saw -- now I know that
6 you said you didn't see Mr. Miu being aggressive or saying
7 anything. Based on what you said he looked like, were you
8 fearful of him?

9 A. Yes.

10 Q. Okay. You then say that you see Dante strike Mr.
11 Miu, right?

12 A. Correct.

13 Q. Okay. And you believe from your memory that Mr.
14 Miu goes down, yes?

15 A. Yes.

16 Q. Okay. And then Mr. Miu stands back up?

17 A. Correct.

18 Q. And then you believe that Mr. Miu punches Dante?

19 A. Correct.

20 Q. Okay. Then you believe that Dante punched Mr.
21 Miu again and knocked him into the water again, right?

22 A. Correct.

23 Q. You know that's not true after watching the
24 video, right?

25 A. I do.

1 Q. Okay. So can I ask you this: You had -- you had
2 mentioned that you were fearful based on the way that Mr.
3 Miu looked, right?

4 A. Correct.

5 Q. And you would agree that at that point, you've
6 already said there's 13 people around Mr. Miu, right?

7 A. Um-hum.

8 Q. They're in his face, some of them?

9 A. I would --

10 MR. SMESTAD: Objection, Your Honor.

11 Mischaracterization of the evidence.

12 THE COURT: Again, members of the jury, you are
13 the judges of the facts. Statements of the lawyers are
14 not evidence. Rely on what the witness says, not what the
15 lawyers say.

16 Q. (By Mr. Chirafisi, continuing) You've testified
17 that at least Madison Coen's in his face?

18 A. Correct.

19 Q. She has people next to her and around her, right?

20 A. Correct.

21 Q. They're clearly supporting her, right?

22 A. Correct.

23 Q. He's alone?

24 MR. SMESTAD: Objection. Asked and answered.

25 THE COURT: Overruled.

1 Q. (By Mr. Chirafisi, continuing) Yes?

2 A. Correct.

3 Q. She's yelled at him, swore at him, and she's as
4 -- as you say, she's screaming at him, right?

5 A. Correct.

6 Q. Okay. Reasonable that he's in fear as well,
7 right?

8 MR. SMESTAD: Objection, Your Honor.

9 THE COURT: Sustained.

10 Q. (By Mr. Chirafisi, continuing) Do you see A.J.
11 Martin come in after Mr. Miu is punched in the face, do
12 you see him shove Mr. Miu from behind?

13 A. I did not.

14 Q. You didn't see that?

15 A. I did not see that.

16 Q. Okay. You know after watching the video that's
17 what happened though, right?

18 A. I do know that, yes.

19 Q. Okay. And you did or did not see when Mr.
20 Martin -- I know you said you didn't see Mr. Martin shove
21 him. Did you see Dante come up and strike Mr. Miu in the
22 -- in the face for the third time? Did you see that?

23 A. I did not see that.

24 Q. Okay. But you know from the video that's true,
25 right?

1 A. Yes.

2 Q. Okay. And you were asked by Investigator Shilts:
3 When the suspect was stabbing people, what were those
4 people doing? And your answer was: Nobody was touching
5 him. Right?

6 A. I believe that was my answer, correct, yes.

7 Q. Okay. And you know that's not true though,
8 right?

9 A. Obviously, yes.

10 Q. You know from watching the video that everyone
11 that we can see on the video that's injured had put their
12 hands on Mr. Miu --

13 MR. SMESTAD: Objection, Your Honor.

14 Q. (By Mr. Chirafisi, continuing) -- right?

15 MR. SMESTAD: It's again, mischaracterization.

16 THE COURT: I'll say the same thing: Jury, you
17 are the judges of the facts. What the lawyers say is not
18 evidence. Listen to the witnesses.

19 Q. (By Mr. Chirafisi, continuing) You know that
20 from watching the video, right?

21 A. I know that Tony did not touch him in a violent
22 way, but that is correct.

23 Q. Okay. And you didn't put your hands on him at
24 all, right?

25 A. I did not.

1 Q. And nothing happened to you, right?

2 A. The way he was looking at me and the way he was
3 starting to step towards me, it is all speculation, but I
4 was a thousand percent sure I was going to get a knife in
5 the back as I was running away with Ryhley.

6 Q. Did you get a knife in the back?

7 A. I obviously did not.

8 Q. Did he touch you in any way?

9 A. No, he did not.

10 Q. And you also agree that you told police that your
11 group had formed kind of a semicircle around him, is that
12 right?

13 A. Correct.

14 Q. Okay. And you stand by that, true?

15 A. I do.

16 Q. Okay. Did you -- at the time you gave your
17 statement to police, did you view Madison Coen as kind of
18 the peacekeeper here?

19 A. No.

20 Q. Okay. You mentioned that you -- you said that
21 she was there to mellow things out, right?

22 A. Again, that was just a -- a very poor choice of
23 words. I -- I remember saying that. Sorry.

24 Q. Okay. Because it was actually the opposite,
25 right?

1 MR. SMESTAD: Objection, Your Honor. This is
2 material we've covered. Asked and answered.

3 THE COURT: Sustained. Let's move on.

4 Q. (By Mr. Chirafisi, continuing) Do you have a
5 specific recollection of seeing Ryhley get stabbed, from
6 your memory?

7 A. I remember seeing the knife exiting her body.

8 Q. Okay. Do you have a specific recollection of
9 what Ryhley was doing prior to that?

10 A. Prior to that?

11 Q. Yeah.

12 A. I'm sorry, do you mean like moments before the
13 knife --

14 Q. Correct.

15 A. -- entered? She was just standing there, from my
16 recollection.

17 Q. You don't have a recollection of her moving
18 toward Mr. Miu?

19 A. No, I do not.

20 Q. Okay. Do you -- you do or do not have a
21 recollection of seeing Isaac Schuman?

22 A. I do not, no.

23 Q. Okay. So -- and you -- when you say you don't,
24 you don't have a recollection of seeing the interaction
25 that he had with Mr. Miu?

1 A. That is correct.

2 Q. Okay.

3 MR. CHIRAFISI: Thank you, Ms. Duxbury.

4 THE COURT: Mr. Smestad.

5 MR. CHIRAFISI: You can't leave.

6 THE WITNESS: Sorry.

7 THE COURT: That's okay.

8 Mr. Smestad, do you have any more
9 questions?

10 MR. SMESTAD: I don't, Your Honor.

11 THE COURT: All right.

12 Now, Ms. Duxbury, you may --

13 THE WITNESS: Thank you.

14 THE COURT: -- get up and leave. Please see the
15 witness coordinator in the back, she'll tell you where to
16 go next.

17 THE WITNESS: Thank you.

18 (Whereupon, the witness is excused.)

19 THE COURT: Who is the next witness?

20 MR. SMESTAD: We're going to call Andrea Baldazo.

21 THE COURT: Is it Baldazo with a B?

22 MR. SMESTAD: B-a-l-d-a-z-o.

23 (Whereupon, the witness enters the courtroom.)

24 THE COURT: Ms. Baldazo, would you please come
25 forward. Keep coming. There you go. Please face the

1 clerk, raise your right hand, she will administer the
2 oath.

3 ANDREA BALDAZO,
4 after having been first duly sworn on oath by the clerk,
5 testifies and says as follows:

6 THE WITNESS: I do.

7 THE COURT: Please have a seat in the witness
8 chair.

9 MR. SMESTAD: Judge, may I give her some water?

10 THE COURT: Yes.

11 Mr. Smestad.

12 DIRECT EXAMINATION

13 BY MR. SMESTAD:

14 Q. Will you please state your name and spell your
15 last name?

16 A. Andrea Baldazo, b-a-l-d-a-z-o.

17 Q. And what do you do for a living?

18 A. I am a registered nurse.

19 Q. Where do you work?

20 A. Fairview Lakes in Wyoming.

21 Q. What town do you live in?

22 A. Forest Lake.

23 Q. Do you recall July -- the day of July 30th of
24 2022?

25 A. Yes, I do.

1 Q. What were you doing on that day?

2 A. My family and I had gone boating on the -- or
3 tubing on the Apple River.

4 Q. Do you recall where you put in on the Apple
5 River?

6 A. Where we put in?

7 Q. Yeah, where you --

8 A. The River's Edge is where we parked, and we got
9 in there.

10 Q. All right. Who were you with, generally
11 speaking?

12 A. My husband; my three children, that are
13 teenagers; a group of friends with us; and my husband's
14 cousin.

15 Q. Were you folks having drinks?

16 A. Yes.

17 Q. Did you specifically have some alcoholic drinks?

18 A. I did.

19 Q. Do you remember how many?

20 A. I think it was two to three. I had two White
21 Claws and I think I had a sip of Shelly's Cayman Jacks.

22 Q. Do you think you were impaired?

23 A. Buzzed. Not -- not drunk.

24 Q. All right. At some point as you're floating down
25 the river did you become involved with an incident where

1 some folks had been injured?

2 A. Yes.

3 Q. Tell us how that started.

4 A. We had grouped our -- our tubes together, we had
5 tied them together, and so I ended up kind of on the back
6 end and I was floating down the river backwards. And my
7 husband said those people are having a good time or
8 they're having quite a party, something along those lines,
9 and I turned my head to the right and I could see
10 one person laying down on the river's edge and another
11 person further down, and people were, what I had thought
12 was laughing but it turned into screaming. Uhm, yelling.

13 Q. What did you do when you -- when you saw --

14 A. I -- I knew somebody was hurt, and so I jumped
15 off the raft and ran across through a lot -- kind of -- it
16 was so slow. I was trying to run fast but the water was
17 too thick so then I ended kind of falling forward and Army
18 crawling across to him, and when I got up there was a
19 blonde boy --

20 Q. Did you know who that -- that boy was?

21 A. (Non-verbal response.)

22 Q. Did you find out later who it was?

23 A. Yes.

24 Q. Who was it?

25 A. Isaac.

1 Q. Did you approach Isaac?

2 A. I did.

3 Q. Where was he located by the time you got to him?

4 A. He was on the bank, kind of with his right arm in
5 the lake -- or in the -- the river. There was a -- kind
6 of a cusp of trees right before where he was laying and
7 kind of up into the edge there, and then a little further
8 down there was somebody else sitting. I thought was
9 sitting.

10 Q. By somebody else, do you mean somebody else in --

11 A. Like another -- another -- somebody hurt.

12 Q. All right. Did you focus your attention on
13 Isaac?

14 A. I did.

15 Q. Did -- when -- when you arrived to where Isaac
16 was, did your nurse training kick in?

17 A. Yes. So he was lying on his back, his eyes were
18 open but not blinking. He was not breathing, so I started
19 chest compressions right away and continued that for a
20 long time.

21 Q. Did you make a primary assessment of his wound?

22 A. I -- I -- I saw that there was a large cut. At
23 first I had thought he had been impaled on the set of
24 roots and branches that were hanging down just prior to
25 that. But then I looked and it was a -- a slash mark,

1 not -- not an impaled thing. It was a long and thin and
2 clean cut.

3 Q. Where was it located on his body?

4 A. On his left chest, upper chest. Kind of his
5 ribs.

6 Q. All right. So what --

7 A. I asked -- I was doing compressions and doing
8 compressions and I -- people were screaming and it was
9 making me lose count so I think I yelled out to somebody
10 shut up or stop screaming so that I could count. There
11 were other people around. I asked for somebody to get me
12 anything that I could use as a chest seal. Like a Ziploc
13 bag, anything to put over that wound. I didn't want any
14 water or anything getting in there but --

15 I looked down at Isaac and there was some
16 vomit coming from his mouth at some point so I asked to
17 turn -- somebody, the kid up front, to turn his head,
18 which he did, and the kid splashed some eyes -- or some
19 water, which got in his eyes, and I -- I said don't splash
20 water in his face anymore.

21 And it just continued forever. It felt
22 like forever that we did compressions. I kept asking
23 where's the rig? Why isn't it here yet?

24 Q. By rig, do you mean -- what do you mean?

25 A. Ambulance.

1 Q. Do you have an idea now as you sit here how long
2 you performed chest compressions on Isaac?

3 A. I said 45 minutes because I think that's -- I --
4 I thought that's what it was, but somebody corrected me
5 later that it wasn't -- it -- it felt like forever. I
6 mean, we were going and going round after round. Other
7 people were performing compressions. We were singing Baby
8 Shark to keep people on the rhythm.

9 Q. Were you -- were you taking turns giving --

10 A. Yeah.

11 Q. -- him compressions?

12 A. Yeah. Yep. And at some point when somebody had
13 taken over a round -- a round of compressions for me I got
14 up and went to check -- walked just a few steps further
15 down the river to check the other victim, but it looked to
16 me like they were up and speaking and conscious so I went
17 back to Isaac because he was not.

18 Q. Do you have experience dealing with trauma cases?

19 A. Yes.

20 Q. At the hospital where you work, are you involved
21 in trauma care?

22 A. I'm a -- primarily a med surge nurse, but I do
23 float down in the emergency room and involved in code
24 situations.

25 Q. What's a med surge nurse?

1 A. Med surge, that's a medical surgical floor. So
2 typically we have post-op patients, anybody from
3 pancreatitis to -- just -- just a little bit of
4 everything.

5 Q. Eventually, did law enforcement and EMTs arrive?

6 A. Yes.

7 Q. Were you still with Isaac at that point?

8 A. Yes.

9 Q. Was he taken off the river?

10 A. Yes.

11 Q. Did you see any of the altercation prior to -- to
12 you giving care to Isaac?

13 A. I did not.

14 Q. Have you had any other involvement in this case?

15 A. No.

16 MR. SMESTAD: No --

17 Q. (By Mr. Smestad, continuing) So when -- you had
18 testified earlier that your -- your husband had alerted
19 you that he thought there was some kind of party going on?

20 A. Um-hum.

21 Q. Do you know whereabouts in the river you were?

22 A. So where Isaac was laying, just a little bit
23 further -- I guess if I'm looking at Isaac laying on the
24 ground and the second person was a little further down,
25 just a little further up where those roots and branches

1 that I thought somebody had gotten stuck on.

2 Q. Were -- were you near the bend in the river, that
3 -- in that location, that you remember?

4 A. I -- I don't remember a bend. I mean, I -- the
5 whole thing is windy so -- yeah, I mean, I could show you
6 on a map or a picture.

7 Q. We do have a blow-up of the map, if I could get
8 that exhibit.

9 MR. SMESTAD: If I could approach the witness,
10 Judge?

11 THE COURT: Yes.

12 Q. (By Mr. Smestad, continuing) Ma'am, I'm going to
13 show you what's been marked as Exhibit 25A. I want to be
14 able to do this so the jury can see too. Do you recognize
15 this?

16 A. Yes.

17 Q. And can you tell us what it is?

18 A. The Apple River.

19 Q. All right. You indicated you started at Rivers
20 Edge?

21 A. Correct. So we came down this way. I would have
22 been right here. It -- we came around --

23 Q. Yeah, let me -- let me do it this way. I'm
24 sorry.

25 A. That's okay.

1 So we were floating this way and I guess,
2 yes, then we must have just come around a little bend
3 because I'm guessing that cusp of trees was right here,
4 and so I was floating backwards and it was on my right.

5 Q. And you've pointed at the area on the exhibit
6 that says incident location?

7 A. Correct.

8 Q. So your testimony you were coming --

9 A. Oh, I'm sorry, yes, this is the river, that's
10 highway so --

11 Q. Coming around that bend?

12 A. Yes. This bend. I'm sorry.

13 Q. Okay. If this is the end down here and this is
14 the start, would you have been going this way? I know
15 it's hard to see.

16 A. Yeah, I guess -- I guess I just don't know which
17 way the river goes. And so, yes, this is the start and
18 this is -- this is the exit?

19 Q. Right.

20 A. Yeah, so we would have come down this way, and I
21 would have been going backwards here and it was on my
22 right.

23 Q. All right.

24 MR. SMESTAD: I don't have any other questions,
25 Your Honor.

1 THE COURT: Mr. Chirafisi.

2 MR. CHIRAFISI: I just have a couple questions
3 for you, ma'am.

4 CROSS-EXAMINATION

5 BY MR. CHIRAFISI:

6 Q. I think you said that you were tubing with your
7 family, is that right?

8 A. Correct.

9 Q. Okay. And your -- your husband was with you, is
10 that right?

11 A. Correct.

12 Q. Okay. And you -- your group, or you and your
13 husband and your children, your husband brought a knife,
14 didn't he?

15 A. Correct.

16 Q. Okay. And can you tell us what was that -- what
17 was that for?

18 A. We bring paracord with us when we go tubing so
19 it -- if -- if we don't bring paracord we'll use the twine
20 at the River's Edge, and we pull all our tubes together to
21 carry our coolers, our food, just kind of generally keep
22 the group together because it's a bigger group when we go.

23 Q. Okay. And --

24 A. And he uses the knife to cut that paracord.
25 Apologies.

1 Q. That's okay. And do you remember, can you
2 describe the knife that your husband had?

3 A. It was a flip -- flip one where you flip it open
4 and it locks into place and then you move the lever and it
5 re-locks.

6 Q. Okay. And --

7 A. And it had a clip on it.

8 Q. If I said to you it's kind of like a pocketknife
9 that -- that is closed and then you can take the blade and
10 you can open and lock the blade, is that -- is that fair?

11 A. Correct.

12 Q. Okay. And only answer this if you know. Your
13 husband followed you after you jumped off your tube to run
14 over to see what was going on or to render aid, is that
15 right?

16 A. That's correct.

17 Q. Okay. Do you know whether or not your husband
18 pulled out his knife?

19 A. I don't.

20 Q. Have you talked to your husband about the case --
21 or about the incident?

22 A. Previous, but we were asked not to speak about it
23 later so we didn't. But we've -- we've talked about it
24 off and on over the years prior to this.

25 Q. Okay. Do you know that your husband's knife was

1 lost?

2 A. I did after.

3 Q. Okay.

4 A. I -- I found out after that it had been lost.

5 Q. Do you know -- well, I'll ask it to you this way:
6 His knife was lost near the incident, right?

7 A. I don't know at what point it was lost.

8 Q. Okay.

9 A. But he -- he is -- I -- I don't know.

10 Q. Okay. Do you -- your -- your statement talks
11 about that your husband picked up a -- a snorkel. Did you
12 see that?

13 A. I saw him pick it up, yes.

14 Q. Okay. When he picked it up, did you see a
15 confrontation happen then?

16 A. When he picked it up?

17 Q. Or shortly thereafter. When I say confrontation,
18 did you see people starting to yell or confront your
19 husband about picking that up?

20 A. No.

21 Q. No? Okay.

22 Did you see your husband give that snorkel
23 to the police?

24 A. No. He picked it up out of the river after Isaac
25 was going, and it was just like a clear plastic -- clear

1 white plastic mask, and then I -- I don't know what he did
2 with it afterwards. I -- I don't know if he dropped it, I
3 don't know if he gave it to somebody.

4 Q. Okay.

5 MR. CHIRAFISI: That's all I have. Thank you,
6 ma'am.

7 THE WITNESS: Thank you.

8 THE COURT: Mr. Smestad, do you have any other
9 questions?

10 MR. SMESTAD: Nothing further, Judge.

11 THE COURT: All right.

12 Thank you, Ms. Baldazo.

13 THE WITNESS: Thank you.

14 THE COURT: You are excused. The witness
15 coordinator in the back will tell you where to go next.

16 THE WITNESS: Okay. Thank you.

17 (Whereupon, the witness is excused.)

18 THE COURT: Anybody need a break?

19 MR. ANDERSON: Yes, please, Judge.

20 THE COURT: All right. So we'll take just a
21 short five-minute restroom break. Let's come back at
22 about 9:05.

23 All rise for the jury.

24 (Whereupon, the jury exits the courtroom.)

25 THE COURT: We are in recess. 9:05.

1 (Whereupon, a break was held.)

2 (Whereupon, the jury enters the courtroom.)

3 THE COURT: We are back in session. 14 jurors
4 are present, the attorneys are present, along with Mr.
5 Miu. We are ready to continue.

6 Mr. Anderson, who is the next witness?

7 MR. ANDERSON: State calls Terry Andersen.

8 (Whereupon, the witness enters the courtroom.)

9 THE COURT: Mr. Andersen, please face the clerk,
10 raise your right hand, she will administer the oath.

11 TERRY ANDERSEN,
12 after having been first duly sworn on oath by the clerk,
13 testifies and says as follows:

14 THE WITNESS: I do.

15 THE COURT: Please have a seat in the witness
16 chair.

17 Mr. Anderson.

18 DIRECT EXAMINATION

19 BY MR. ANDERSON:

20 Q. Can you state your first and last name for the
21 record?

22 A. Terry Andersen.

23 Q. And is Andersen e-n or o-n?

24 A. E-n.

25 Q. And how are you employed?

1 A. I'm the emergency communications manager for the
2 county.

3 Q. How long have you been in that role?

4 A. Since 2007.

5 Q. And what are your duties?

6 A. Managing the 911 center, making sure all the
7 equipment operates, making sure it's staffed, and con -- I
8 shouldn't say control but managing the audio logging of
9 all the radio and phone audio.

10 Q. So you're also the custodian of records there?

11 A. Correct.

12 Q. And are 911 calls, dispatch logs, are those
13 maintained in the regular course of dispatch?

14 A. Yes, they are.

15 Q. Were you asked to retrieve 911 calls and the
16 dispatch log for this case?

17 A. I was.

18 Q. Did you provide those to the sheriff's office?

19 A. I did.

20 MR. ANDERSON: And may I approach?

21 THE COURT: Yes.

22 Q. (By Mr. Anderson, continuing) Handing you what's
23 been marked as Exhibit 40. Can you identify what that is?

24 A. This is the log from the 911 system of all the
25 phone calls that came in during that time frame.

1 Q. And what was -- what was the time of the first
2 911 call?

3 A. 15:47, which is 3:47 p.m.

4 Q. So -- is that accurate, what I wrote up there?

5 A. It is.

6 Q. And Exhibit 40, does that have some handwriting
7 on it?

8 A. Yes.

9 Q. Is that your handwriting?

10 A. It is.

11 Q. What are you identify -- or indicating -- or
12 what's the handwriting indicate?

13 A. That is the referencing records management system
14 referencing that phone number as to the name of the person
15 that's related to that phone number.

16 Q. And so who was the name of the person for that
17 first 911 call?

18 A. Gabriella Khaz --

19 Q. Khazraeinazmpour?

20 A. Yes.

21 Q. And can you go through the names of the other
22 callers that are -- or owners of the numbers that you
23 identified that called into 911?

24 A. Ashley Stryker, Emma Alexander, Madison Coen,
25 Ashley Stryker, a Tatiana Leyva, Madison Coen, Ashley

1 Stryker, Tatiana, Eric Williams, and I believe the last
2 one was a subject Tocano from Minneapolis PD.

3 Q. And it looks like Eric Williams called a couple
4 times?

5 A. Correct.

6 Q. So I want to direct you to a specific call. The
7 call from Tatiana Leyva at 15:48:52. Do you see that one?

8 A. Yes.

9 MR. ANDERSON: May I approach?

10 THE COURT: Yes.

11 Q. (By Mr. Anderson, continuing) Handing you what's
12 been marked as Exhibit 63. Is that phone call, 911 call,
13 from Tatiana on that flash drive?

14 A. It is.

15 Q. And have you listened to that?

16 A. I have.

17 Q. Did you initial that flash drive when you
18 listened to it?

19 A. I did.

20 MR. ANDERSON: I'd move to admit Exhibit 63.

21 THE COURT: Any objection?

22 MR. CHIRAFISI: No, sir.

23 THE COURT: 63 is received.

24 MR. ANDERSON: May I approach?

25 THE COURT: Yes.

1 Q. (By Mr. Anderson, continuing) Handing you what's
2 been marked as Exhibit 14. Are the rest of the 911
3 calls -- or are all the 911 calls on that exhibit?

4 A. Yes.

5 Q. Does it also have digital versions of the
6 dispatch log?

7 A. It does.

8 MR. ANDERSON: Judge, I move to admit Exhibit 14.

9 THE COURT: Any objection?

10 MR. CHIRAFISI: No, Judge.

11 THE COURT: All right. 14 is received.

12 MR. ANDERSON: Also Exhibit 40.

13 THE COURT: Any objection to 40?

14 MR. CHIRAFISI: 40 are the -- oh, no, no
15 objection.

16 MR. ANDERSON: Could we approach actually quick?

17 THE COURT: Yes.

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

19 THE COURT: All right. So I'm sorry. We're on
20 40. No objection, correct?

21 MR. CHIRAFISI: Correct.

22 THE COURT: 40 is received.

23 MR. ANDERSON: Judge, I'd move to publish a
24 portion of Exhibit 63.

25 THE COURT: Yes.

1 MR. ANDERSON: I think we're ready, Judge.

2 Judge, timestamp is 1:20.

3 (Whereupon, the video was played.)

4 MR. ANDERSON: Paused at 1:38, Judge. Now I'm
5 just going to play the whole thing from the start.

6 (Whereupon, the video was played.)

7 MR. ANDERSON: I don't have anything else, Judge.

8 THE COURT: Mr. Chirafisi.

9 MR. CHIRAFISI: Just a couple questions, Mr.
10 Andersen.

11 CROSS-EXAMINATION

12 BY MR. CHIRAFISI:

13 Q. So in the job -- tell me if this is fair: The
14 job of the people that you kind of supervise is to try to
15 get as much information as possible about kind of what's
16 happening?

17 A. Correct.

18 Q. Is that right?

19 A. Correct.

20 Q. Okay. And is it fair to say that in -- in your
21 experience sometimes you get calls like this where people
22 are just yelling and screaming and it's difficult for
23 the -- for the dispatcher to really get any information
24 about -- about what's going on, is that fair?

25 A. That is fair.

1 Q. Okay. And it can be for various reasons is that
2 -- that that's happening, but in this particular case, is
3 it -- I don't know if you can answer this question. At
4 one point the dispatcher says we've got people coming and
5 then -- I think says that and then kind of disconnects the
6 call. Did you hear that?

7 A. Yes.

8 Q. Okay. And is that -- are they -- if you know,
9 are they trained to try to keep people on the phone to
10 disconnect calls depending on the circumstances? How does
11 that normally work?

12 A. Depends on the circumstances. In this case there
13 was numerous 911 calls so the dispatchers were triaging,
14 trying to gather the most pertinent information, the best
15 information, they could, and if they weren't getting any
16 more information they had to move on to the next call
17 because there was other 911 lines ringing.

18 Q. Sure. And they -- and it sounds like, or at
19 least from the information, that had been previous 911
20 calls about this incident, is that fair?

21 A. That is fair.

22 Q. Okay.

23 MR. CHIRAFISI: That is all I have. Thank you.

24 THE COURT: Mr. Anderson?

25 MR. ANDERSON: Nothing else, Judge.

1 THE COURT: All right.

2 Thank you. You may step down.

3 (Whereupon, the witness is excused.)

4 MR. ANDERSON: Can we approach again?

5 THE COURT: Yes.

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

7 THE COURT: Members of the jury, we are going to
8 take a short recess. The good news is we're running ahead
9 of schedule, so the next witness hasn't arrived yet.
10 She'll be here at 9:30. So we'll take a five-minute
11 break, we'll come back and then pick up the trial.

12 Please take the jury out.

13 (Whereupon, the jury exits the courtroom.)

14 THE COURT: While we are outside the presence of
15 the jury, Mr. Anderson, you advanced your schedule of
16 witnesses?

17 MR. ANDERSON: Yes. So we've actually -- a lot
18 of witnesses that we had scheduled for Monday, we're
19 having them come in now. Friday, honestly, I don't think
20 we'll take the full day with the Spanish speakers either,
21 so we'll call in more witnesses from next week for Friday.
22 And I think there's a good chance we'll rest on Monday,
23 maybe Tuesday, but that's what it's looking like right
24 now.

25 THE COURT: Okay. And is that going to interfere

1 with the Defense schedule, if you have one?

2 MR. NELSON: No. The one -- I don't know exactly
3 how many of the Spanish speaking witnesses the State
4 intends to call. Depending upon who they call, we may
5 call the other Spanish speaking witnesses. I know that
6 there's an interpreter on Friday. I know that it's
7 unusual to take witnesses out of order, but if there is an
8 interpreter here, it would be our request -- and we can,
9 you know, discuss it maybe more over the lunch hour, but
10 it would be our request that the Defense be allowed to
11 call those other Spanish speaking witnesses on that day,
12 out of order, or we, you know, ask the Court to help us to
13 make arrangements for an interpreter.

14 I know we talked about this before and --
15 before, and we were under the impression that they were
16 going to call them all so -- and I don't know when they're
17 going to end. So I appreciate that this may be a problem
18 that I contributed to making, but I'm trying to find a
19 solution.

20 THE COURT: Well, why don't the attorneys talk,
21 figure out a schedule with the interpreter, because we are
22 going to have an interpreter here I believe all day
23 Friday, but if -- I think the original plan was all day
24 Friday for at least four witnesses that needed interpreter
25 services. I'm assuming the clerk has the interpreters

1 booked for the entire day still. So please just verify
2 that with the Clerk of Court, make sure that we have
3 proper coverage, and then talk with one another about
4 these witnesses, because it makes more sense to get them
5 all done the same day. I don't know if we have an
6 interpreter available to come back the following week.

7 So just talk amongst yourselves. If you've
8 got an issue, let me know, and then I can hopefully
9 provide a solution.

10 Okay. All right. Take a short little
11 break and we'll get started once the witness arrives.

12 (Whereupon, a break was held.)

13 (Whereupon, the jury enters the courtroom.)

14 THE COURT: We are back on the record. Everyone
15 is present and accounted for.

16 Mr. Anderson, who is the next witness?

17 MR. ANDERSON: John Farrell.

18 THE COURT: Officer Farrell, please come forward.
19 Please face the clerk, raise your right hand, she will
20 administer the oath.

21 SERGEANT JOHN FARRELL,
22 after having been first duly sworn on oath by the clerk,
23 testifies and says as follows:

24 THE WITNESS: I do.

25 THE COURT: Please have a seat in the witness

1 chair.

2 Mr. Anderson.

3 DIRECT EXAMINATION

4 BY MR. ANDERSON:

5 Q. Can you please state your first and last name and
6 spell your last name?

7 A. John Farrell, f-a-r-r-e-l-l.

8 Q. And how are you employed?

9 A. I'm a sergeant with the Somerset Police
10 Department.

11 Q. How long have you worked in law enforcement?

12 A. Since June of 2013.

13 Q. And are you -- do you also have training in first
14 aid or emergency response?

15 A. I do. I'm currently licensed as a emergency
16 medical responder.

17 Q. Were you working on July 30th of 2022?

18 A. Yes.

19 Q. On that day were you dispatched to the Apple
20 River stabbing?

21 A. I was.

22 Q. What was the -- if you recall, what was the
23 initial information from dispatch?

24 A. Initial information was people stabbed on the
25 river, possibly one dead. I believe it was three victims

1 as we were responding to the scene.

2 Q. And did you head immediately to the scene or did
3 you have to go somewhere else first?

4 A. I had to grab a set of bolt cutters out of the PD
5 garage, and then I went to the Sunrise camp entry and had
6 to cut the lock to get in, and then I went directly to the
7 scene.

8 Q. And is that -- the Sunrise camp entry, is that
9 private property?

10 A. Yeah.

11 Q. And is that -- was that the best access to get to
12 where the incident was reported had happened?

13 A. Yeah, there's a road that you can get on and off
14 Sunrise Drive in Somerset, and it will take you back to
15 where the scene was.

16 Q. And the -- is that a campground that's in
17 operation or no?

18 A. No.

19 Q. And the -- had the owners given permission for
20 law enforcement to use that when needed?

21 A. Yeah, we had spoken to him in the past about it.

22 Q. Were you one of the first officers to arrive on
23 scene?

24 A. I was.

25 Q. And how many officers, if you recall, arrived

1 there originally?

2 A. I don't recall the specific number. I know as I
3 was approaching the scene I saw Deputy DuRand come down
4 from the highway and then Officer Stumo was behind me and
5 there was a -- also another deputy that was behind me that
6 was at the gate when I opened it.

7 Q. And so what was the -- can you kind of describe
8 what the situation was when you got to the river?

9 A. Yeah. There was a -- I was being flagged down
10 initially by people at the riverbank. As I approached
11 them I saw one guy come out that was holding his side. It
12 was later determined that he had a -- a stab wound on his
13 side that was being directed down into the river where a
14 female was sitting in a tube while bystanders were holding
15 pressure on her left side.

16 When I looked -- got down into the river,
17 when I looked at her I had noticed that I could see what I
18 believed to be body -- her bodily organs outside of her
19 body. Deputy DuRand and I worked with bystanders to get
20 her out of the river.

21 During that time we were trying to
22 determine what -- you know, what was going on, where was
23 the suspect. There's a lot of information coming in at
24 once, a lot of people in one spot.

25 We were able to get her out. The other

1 person that was there that was stabbed came up as well.
2 He -- I retrieved the medical kit from my squad car,
3 provided some medical equipment to the other officers
4 before I went into the river, and then headed upriver to
5 where the other victims were.

6 Q. And were there -- while you were at the river
7 when you initially got there, were there still groups of
8 tubers going down the river?

9 A. Yeah.

10 Q. And was there a good crowd of tubers around also?

11 A. Yeah.

12 Q. Did you know who was witnesses, who were just
13 bystanders, or was it kind of just people everywhere?

14 A. There was people everywhere. I didn't know who
15 was who. I mean, it was obvious to me who was injured,
16 but other than that, I didn't know who witnesses were,
17 suspects were, what anyone else's involvement was.

18 Q. Did you have body cam on?

19 A. I did.

20 Q. Does your body camera indicate the date and the
21 time of the footage on the bottom of the screen?

22 A. It does.

23 MR. ANDERSON: Permission to approach.

24 THE COURT: Yes.

25 Q. (By Mr. Anderson, continuing) Handing you what's

1 been marked as Exhibit 22. What's that labeled as?

2 A. Farrell BC video.

3 Q. BC, body cam?

4 A. Yes.

5 MR. ANDERSON: Judge, I'd move to publish
6 portions of it. I'm going to skip around a little bit to
7 not show some of the up-close, graphic parts.

8 THE COURT: So first, any objection to
9 Exhibit 22?

10 MR. CHIRAFISI: No.

11 THE COURT: All right. Received.

12 Go ahead and publish the portions you wish
13 to show.

14 Tell us when you're ready.

15 Q. (By Mr. Anderson, continuing) I'll ask another
16 question. If we watch the first minute, would it just be
17 you driving there?

18 A. Yeah.

19 MR. ANDERSON: We're going to start at
20 57 seconds, Judge. And we're going to play until about
21 the five-minute mark for this first segment.

22 (Whereupon, the video was played.)

23 Q. (By Mr. Anderson, continuing) So we're paused at
24 2:53. Can you see the timestamp on the bottom there?

25 A. I can.

1 Q. What's the time?

2 A. 15:54:45, which was 3:54 p.m.

3 Q. That's the time of law enforcement's first
4 arrival on scene?

5 A. Yeah. Yes.

6 MR. ANDERSON: Can we have the screen again,
7 please?

8 Q. (By Mr. Anderson, continuing) 15:54 would be
9 3:54 p.m.?

10 A. Yes.

11 Q. Is that right, what I wrote up there?

12 A. Yes.

13 MR. ANDERSON: We're going to keep playing until
14 about the five-minute mark.

15 (Whereupon, the video was played.)

16 MR. ANDERSON: We stopped at 4:52.

17 Q. (By Mr. Anderson, continuing) And did you end up
18 assisting with the carrying Ryhley out of the river?

19 A. Yes.

20 Q. Where did you bring her?

21 A. Just up to the paved road there by the squad
22 cars.

23 Q. What did you do after that?

24 A. I retrieved the medical equipment from my squad
25 car and provided it to the officers who were attending to

1 her, the other subject that was stabbed next to my -- that
2 was sitting next to my squad car, and then I headed into
3 the river.

4 MR. ANDERSON: And I'm going to play from about
5 the eight-minute mark.

6 INVESTIGATOR SHILTS: 7:59 is the start.

7 MR. ANDERSON: 7:59 is the start.

8 (Whereupon, the video was played.)

9 MR. ANDERSON: We stopped at 10:50.

10 Q. (By Mr. Anderson, continuing) That first victim
11 you stopped at and dropped off a chest seal --

12 A. Yeah.

13 Q. -- did you later learn that was A.J., or don't
14 you know?

15 A. I don't know.

16 Q. Okay. You know who that is up in the background
17 there?

18 A. Which --

19 Q. On the bank to the right, that kind of obstructed
20 by other people but --

21 A. The person that's being tended -- tended to
22 medically and CPR is in progress, I -- I don't remember
23 his exact name, but I believe his first name was Isaac.

24 Q. Okay. Did you -- what did you do after this
25 point?

1 A. I went up to the group that was doing CPR on him
2 and then assisted with that.

3 Q. Did you eventually assist getting people off the
4 river?

5 A. Yeah. When paramedics arrived they came up the
6 river and then I assisted them in getting him out of
7 there.

8 Q. How did you get Isaac off the river with -- when
9 you had to wade up like that?

10 A. Yeah, a backboard was placed on inner tubes and
11 then floated down the river.

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

13 THE COURT: Mr. Chirafisi.

14 MR. CHIRAFISI: Just briefly, sergeant.

15 CROSS-EXAMINATION

16 BY MR. CHIRAFISI:

17 Q. So it -- it appears initially you're in kind of
18 responder, trying-to-assist mode, is that fair?

19 A. Yes.

20 Q. Okay. And at that point I'm assuming your
21 training, you're not -- I don't want to say you're not
22 interested, but you're focused on kind of what's going on
23 and the investigation can kind of happen at a later
24 point --

25 A. Yes.

1 Q. -- is that correct?

2 A. That is correct.

3 Q. Okay. At some point your report indicates that
4 you make it to the Village Park, is that right?

5 A. Yes.

6 Q. Okay. So from what we saw there and the times,
7 how much later or how much time passes until you make it
8 up to Village Park?

9 A. Oh, I -- I don't know the exact time. It's --
10 it's a sig -- it's not immediate, it's a significant time,
11 but I don't know the exact time.

12 Q. Okay. And we heard on the tape that you're
13 getting information as -- as it's kind of coming in, is
14 that fair?

15 A. Yes.

16 Q. Okay. When you go to Village Park, are you then
17 starting to maybe switch over from emergency situation to
18 kind of investigative situation, is that fair?

19 A. Yes.

20 Q. Okay. And you make contact at Village Park with
21 a gentleman by the name of Eric Williams, is that right?

22 A. That's right.

23 Q. Okay. And does he come up to you or you go up to
24 him, do you remember?

25 A. He -- I had directed him out of the crowd to come

1 talk to me. There was a group gathered together.

2 Q. Okay. So did you have some information that he
3 might have information?

4 A. I had information that people in the group may
5 have information, but as to who -- who knew what and who
6 was where, no, I didn't have that until I started talking
7 to him.

8 Q. Okay. And he had provided you at least some in
9 -- some brief information about kind of what was going on,
10 right?

11 A. Yes.

12 Q. Okay. And he had provided you information that
13 he was with Mr. Miu, right?

14 A. Yeah. In the same group, yes.

15 Q. Okay. And he had provided you information as to
16 kind of what Mr. Miu was doing --

17 A. Yes.

18 Q. -- previously, right?

19 A. Yes.

20 Q. Okay. That he was looking for a phone, right?

21 A. That's correct.

22 Q. Okay. At that point -- do not take this as
23 critical. At that point you don't have any other
24 information as to what had actually happened, is that
25 fair? And what I mean by that is I know you saw people

1 that had been injured, but how they were injured, the
2 circumstances surrounding that, you didn't have that
3 information, right?

4 A. Some of the witnesses on -- on the scene had
5 mentioned stabbing, that that's what had happened.

6 Q. Sure.

7 A. But other than that, no.

8 Q. Okay. And you locate very -- tell me if this is
9 fair. You locate various pieces of what may be physical
10 evidence?

11 A. Yeah.

12 Q. In your mind?

13 A. Yes.

14 Q. Okay. And that was a shirt and a pair of swim
15 goggles?

16 A. Yes.

17 Q. Okay. Are the goggles goggles like you would
18 see -- are they snorkel goggles or are they goggles like a
19 swimmer who's kind of breathing --

20 A. I don't -- I don't remember exactly what they
21 were.

22 Q. Okay. After your interview with Mr. Williams and
23 you're walking kind of in the river, is that your
24 involvement in the case?

25 A. Yeah, it's the involvement, yeah. I was -- well,

1 I had been given a ride back, and that's when you said
2 when I assisted with finding the evidence in the river,
3 the T-shirt, the goggles. So there's that space between
4 Village Park and where the incident actually had occurred
5 where I initially responded to. So I had gone from there
6 back to that spot, and that's when I assisted in that
7 searching where I found the T-shirt, swim goggles.

8 Q. Okay. I just want to make sure I'm not missing
9 anything. So after that's done, your involvement in -- in
10 kind of what happened here has concluded, is that fair?

11 A. Yes.

12 Q. Okay.

13 MR. CHIRAFISI: That's all I have. Thank you.

14 THE COURT: Mr. Anderson, anything else?

15 MR. ANDERSON: Nothing else.

16 THE COURT: All right.

17 Thank you, sergeant. You may step down.

18 (Whereupon, the witness is excused.)

19 THE COURT: Who is the next witness?

20 MR. ANDERSON: Chase DuRand.

21 (Whereupon, the witness enters the courtroom.)

22 THE COURT: Sergeant Durand, please come forward.

23 Please face the clerk, raise your right hand, she will

24 administer the oath.

25 SERGEANT CHASE M. DURAND,

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

3 THE WITNESS: I do.

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

6 Mr. Smestad.

7 DIRECT EXAMINATION

8 BY MR. SMESTAD:

9 Q. Will you state your name for the record, please?

10 A. Chase DuRand.

11 Q. How do you spell your last name?

12 A. D-u-r-a-n-d.

13 Q. What do you do for a living?

14 A. Patrol Sergeant with the sheriff's office, St.
15 Croix County.

16 Q. How long have you worked in law enforcement?

17 A. About 10 years.

18 Q. How long have you been a sergeant?

19 A. About five years, I believe.

20 Q. Can you briefly describe your -- your training to
21 be a police officer?

22 A. Basic recruit school, 720 hours, and then
23 attended several other FTO through the department, and
24 then several other schools following that: SWAT school,
25 boat patrol. Several other trainings.

1 Q. Do you have any EMT training?

2 A. Yes.

3 Q. Was that included as part of your law enforcement
4 training or something you did separately?

5 A. We receive a basic first responder level training
6 in the academy, and then through our first response unit
7 we receive follow-on medical training from our tactical
8 medics assign -- assigned to our unit, and attended a
9 three-day trauma care training.

10 Q. Were you working back on July 30th of 2022?

11 A. Yes, I was.

12 Q. Did you get dispatched to the incident on the
13 Apple River?

14 A. I did.

15 Q. What information were you given in the initial
16 call?

17 A. It was aired to us from dispatch that there had
18 been several people stabbed on the Apple River, and
19 dispatch said it was near the 64 bridge in Somerset
20 Township.

21 Q. Where were you located when you first got called?

22 A. I was in the Houlton area.

23 Q. About how far away?

24 THE REPORTER: I'm sorry?

25 Q. (By Mr. Smestad, continuing) About how far away?

1 A. Nine miles.

2 Q. Did you drive over to the area of where the --
3 the call was coming from?

4 A. Yes. I responded emergent, and the area I'm
5 familiar with, there was a private road underneath the
6 bridge with no off-ramp on the highway there on 64. I
7 parked up on top of the overpass and then went down the
8 embankment to the river.

9 Q. When you arrived were there other officers on
10 scene?

11 A. I first saw Officer Farrell -- or Sergeant
12 Farrell from Somerset PD.

13 Q. Do you remember any other officers you saw?

14 A. Once I got upriver and waded through the river
15 and then came across offer -- Officer Stumo at that
16 location where the two victims were in the water still.

17 Q. All right. So before you get into the river, did
18 -- did you get involved in some of the activities that
19 were going on on shore?

20 A. Yes.

21 Q. At the bridge?

22 A. When I first arrived and we went down the
23 embankment I came across -- it was hectic and there was a
24 lot of people near the bridge. There was one male subject
25 who was able to walk who had observed a -- looked like a

1 stab wound, and then I was directed with Officer
2 Farrell -- or Sergeant Farrell to several other -- sorry.
3 -- to another female laying in a inner tube who had a
4 wound to her left side. We used my soft stretcher to --
5 with the help of bystanders to evacuate her out of the
6 water up to the road where I passed her off to another
7 officer/deputy arriving.

8 Q. And after you did that, did you enter the river?

9 A. Yes.

10 Q. At that point had you been given any information
11 as to who the suspect was or what they looked like?

12 A. Once I entered the water people were yelling that
13 there was a guy wearing scuba gear, he went back upriver.

14 Q. All right. You didn't have a -- a physical
15 description?

16 A. At that time, no.

17 Q. Were you wearing a body camera at the time that
18 you responded to the river?

19 A. I was. On my first arrival with the first two
20 victims that I came across it wasn't recording, and then
21 when I checked it going upriver I had to open up -- it was
22 our old body system, I opened up the phone app and
23 activated. It wasn't turning on with a button.

24 Q. All right. So if I understand you, part of what
25 you did isn't on your body cam?

1 A. Correct.

2 Q. Would that have been the activities that you were
3 involved in with Sergeant Farrell?

4 A. The initial response with the first two victims
5 we located, and then once I entered the water to go
6 upriver that's when the body cam turned on.

7 MR. SMESTAD: Can I approach the witness, Your
8 Honor?

9 THE COURT: Yes, you may.

10 Q. (By Mr. Smestad, continuing) Sergeant, I'm going
11 to show you what's been marked as Exhibit 43. Can you
12 tell us what that is?

13 A. A flash drive.

14 Q. And how is that labeled?

15 A. Durand evidence with 43 on the --

16 Q. Does it say BC on the top?

17 A. Oh, sorry, Durand BC video.

18 Q. And BC stands for?

19 A. Body cam.

20 MR. SMESTAD: Your Honor, I'm going to ask --
21 move for admission of 43 and ask to publish.

22 THE COURT: Any objection to 43?

23 MR. CHIRAFISI: No, sir.

24 THE COURT: All right. Exhibit 43 is received.
25 Go ahead and play it.

1 MR. SMESTAD: Your Honor, again, I'm going to
2 just give a warning that some of the images on this body
3 cam are -- are graphic, so anybody who may be concerned
4 may want to leave.

5 THE COURT: So, members of the jury, what you're
6 about to see is difficult. It is evidence. You may
7 consider it. Watch as much as you can, and if you need to
8 avert your eyes for a moment, but I ask that you pay as
9 close attention as you can because this is evidence in the
10 trial.

11 Mr. Smestad.

12 MR. SMESTAD: We're going to start at the
13 29-second mark. We're ready.

14 (Whereupon, the video was played.)

15 Q. (By Mr. Smestad, continuing) Sergeant Durand,
16 were you able to watch that as we all watched it?

17 A. Yes.

18 Q. At some point in your body cam did you run up
19 into the woods?

20 A. Yes.

21 Q. What was that all about?

22 A. There was movement up in the woods, people
23 yelling at somebody. I ran up there, determined those two
24 people that were going to go try to find the suspect. I
25 told them to come back, being to us having K-9 coming, not

1 to mess up the scent for the dog and then confuse the
2 perimeter or any type of aerial drone or hookup that's
3 coming to assist searching.

4 Q. Did you know who those folks were up in the woods
5 that were looking for the suspect?

6 A. No.

7 Q. Did you see yourself on -- on your body cam
8 saying that they were friends of the victims?

9 A. Yes, I -- through yelling in the crowd I
10 determined they were some type of relationship with
11 people.

12 Q. But as of today you don't know if they have any
13 connection to these victims?

14 A. I don't know their exact connection.

15 Q. And when you -- when you went up into the woods,
16 you asked the -- one of the people up there what the --
17 what the vic -- or the suspect looked like?

18 A. Yes.

19 Q. And what was his response?

20 A. He didn't know.

21 Q. So it appears that from your body cam at least
22 you were coordinating the response to this incident?

23 A. Yes.

24 Q. Is that part of your duties as a sergeant?

25 A. Yes, it is.

1 Q. At the same time were you trying to get any info
2 you could gather about who did it?

3 A. Yes.

4 Q. And you were able to get some bits and pieces of
5 that information?

6 A. Yes. There was a lot of information being thrown
7 at me or people yelling, but the one person I had talked
8 to in the yellow shirt had the most amount of information
9 about the suspect.

10 Q. Were you also in the process of trying to set up
11 a perimeter to make sure that the suspect didn't get away?

12 A. Yes.

13 MR. CHIRAFISI: Objection. Leading.

14 THE COURT: Sustained.

15 Q. (By Mr. Smestad, continuing) At some point did
16 you call for a state patrol helicopter?

17 A. Yes. When I was in Houlton I had saw the
18 Minnesota State Patrol helicopter was over Stillwater
19 prior to coming to the call.

20 Q. And what was the purpose of calling the state
21 patrol -- Minnesota State Patrol helicopter?

22 A. Their ARSS have thermal cameras. Wisconsin's
23 airplanes do not.

24 Q. Did the Minnesota State Patrol helicopter respond
25 to the area?

1 A. I do not know.

2 Q. All right.

3 MR. SMESTAD: Nothing further.

4 THE COURT: Mr. Chirafisi.

5 CROSS-EXAMINATION

6 BY MR. CHIRAFISI:

7 Q. Good morning, sergeant. You had indicated that
8 -- on direct examination that you saw those, as you -- you
9 said, people that were friends with -- I think you said
10 friends with the victims who were up in the woods, right?

11 A. Yes.

12 Q. And you asked them -- now, they tell you what
13 they're doing, right?

14 A. Yes.

15 Q. They say to go find the motherfucker, right?

16 A. Yes.

17 Q. Okay. And you took that to -- tell me if this is
18 fair. You took that as they wanted to go see if they
19 could locate where this person was?

20 A. I interpreted it as they were going to look for
21 the suspect.

22 Q. The way they said it, did it make -- did it make
23 you think that they were angry?

24 A. His --

25 MR. SMESTAD: Objection. Relevance.

1 THE COURT: Sustained.

2 Q. (By Mr. Chirafisi, continuing) You say one of
3 your con -- tell me if this is fair. One of your concerns
4 about them running up into the woods was that you were
5 sending a K-9, right?

6 A. Yes.

7 Q. Was another one of your concerns what might
8 happen if they run into him?

9 A. Yes.

10 Q. Okay. Do you tell them to stop?

11 A. I asked them to come back, yes. I don't remember
12 my exact words I said, but I asked them to not go into the
13 woods.

14 Q. Okay. And they tell you they're going to look
15 for him and then you come back down into the river, right?

16 A. Yes.

17 Q. Okay. Did you see any of the people that were up
18 in the woods, did you see any of them with a -- with a
19 weapon, a baseball bat?

20 A. No.

21 Q. And you were initially told that this suspect was
22 wearing, and I think you said, scuba gear?

23 A. Yes.

24 Q. Okay. What did you take that to mean?

25 A. I interpreted it as some type of swim mask and

1 unknown what pass I -- arranging from a snorkel and a mask
2 to scuba tanks and that type of gear.

3 Q. Okay. And the -- it looked like to me the people
4 that were -- some of the civilians that were tending to a
5 person that we know is A.J. Martin told you that the
6 suspect had gone up into the woods, is that fair?

7 A. Yes.

8 Q. Would you describe that situation -- I don't
9 know, you've been an officer for a while, would you
10 describe that as a pretty hectic situation?

11 A. Yes.

12 Q. All right. And you're getting a lot of
13 information kind of thrown at you at once, is that fair
14 also?

15 A. Yes, I was.

16 Q. Okay. And you're getting different descriptions
17 of the suspect in scuba gear and the -- and then he's got
18 on shorts, so you're -- you're getting all kinds of things
19 thrown at you, is that reasonable?

20 A. Yes.

21 Q. Okay. Are you having some -- I don't want to say
22 difficulty, but are -- are you trying to process what's
23 happening in terms of the information you're getting?

24 A. I'm taking all the information in that is being
25 yelled by people in the water, bystanders, and

1 disseminating out to the rest of the officers on scene and
2 dispatch what seems to be the most accurate information I
3 was getting.

4 Q. Okay. In -- in terms of making that
5 determination as to what's the most accurate, what are
6 you -- just what are you basing that information on in
7 terms of what's true and what's not true?

8 A. People that said that they saw the actual event
9 happen versus the ones that saw the aftermath of what
10 happened.

11 Q. Okay. And the -- so the people that are telling
12 you what happened were, in your mind, the people that were
13 near the people that were being tended to, is that fair?

14 A. Some people are --

15 MR. SMESTAD: Objection, Your Honor. I'm -- I'm
16 not sure how he'd know.

17 THE COURT: Overruled.

18 MR. SMESTAD: Personal knowledge.

19 THE COURT: Overruled.

20 You can answer.

21 A. Some people that I had -- had asked in passing by
22 they said they didn't see it actually happen, and then the
23 people that were tending to and in the area, the man in
24 the yellow shirt was giving me the most information that
25 had detail.

1 Q. (By Mr. Chirafisi, continuing) Okay. And so
2 those people that were giving you that information, that
3 was the information that you were trying to relay out, is
4 that fair?

5 A. Yes.

6 Q. Okay. So then did you relay out that the suspect
7 had run into the woods?

8 A. Yes.

9 Q. Okay. Do you know now whether or not that's
10 true?

11 A. I do not.

12 MR. CHIRAFISI: Sergeant, I don't have any other
13 questions for you. Thank you for your time today.

14 THE COURT: Mr. Smestad?

15 MR. SMESTAD: Nothing further.

16 THE COURT: All right.

17 Thank you, sergeant. You may step down.

18 (Whereupon, the witness is excused.)

19 THE COURT: Everyone okay continuing? Anybody
20 need a break? (No response.)

21 Let's continue. Mr. Smestad, who's next?

22 MR. ANDERSON: State calls Levi Stumo.

23 THE COURT: What's the name again?

24 MR. ANDERSON: Levi Stumo, s-t-u-m-o. Making
25 sure he's here.

1 Judge, we -- we've been calling all our
2 officers to come in early. He's going to be here in
3 five minutes.

4 THE COURT: All right. I guess we will take a
5 break. Five minutes.

6 Please take the jury out.

7 (Whereupon, the jury exits the courtroom.)

8 THE COURT: We are in recess.

9 (Whereupon, a break was held.)

10 (Whereupon, the jury enters the courtroom.)

11 THE COURT: We're back in session. Everyone is
12 present and accounted for.

13 Mr. Anderson, who is the next witness?

14 MR. ANDERSON: State calls Levi Stumo.

15 (Whereupon, the witness enters the courtroom.)

16 THE COURT: Mr. Stumo, please come forward.

17 Please face the clerk, raise your right hand, she will
18 administer the oath.

19 OFFICER LEVI M. STUMO,
20 after having been first duly sworn on oath by the clerk,
21 testifies and says as follows:

22 THE WITNESS: I do.

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 name and spell your
4 last name?

5 A. Levi Stumo, s-t-u-m-o.

6 Q. And did you previously work for the Somerset
7 Police Department?

8 A. Yes.

9 Q. Are you employed by a different law enforcement
10 agency currently?

11 A. Yes.

12 Q. So back in July, on the 30th of '22, were you
13 dispatched to the stabbing on the Apple River?

14 A. Yes.

15 Q. Did you respond to the -- that bridge area?

16 A. I did, yes.

17 Q. And did you arrive with some other officers?

18 A. Yes.

19 Q. Do you recall who they were?

20 A. Sergeant Farrell and another deputy.

21 Q. And were -- of the three of you, do you know who
22 the first one to head upstream was, upriver?23 A. Are you referring to after getting on the river
24 itself?

25 Q. Yes.

1 A. I believe that was me.

2 Q. And did you have body camera on -- on at the
3 time?

4 A. I did.

5 Q. Did it have a --

6 MR. ANDERSON: May I approach?

7 THE COURT: Yes.

8 Q. (By Mr. Anderson, continuing) Handing you what's
9 been marked as Exhibit 42. What's that labeled as?

10 A. Stumo body camera.

11 MR. ANDERSON: Your Honor, I'd move to admit and
12 publish portions.

13 MR. NELSON: No objection.

14 THE COURT: All right. 42 is received.

15 Go ahead and play the portions you wish to
16 show.

17 Q. (By Mr. Anderson, continuing) While I'm doing
18 this, did you -- did you -- after you were at the scene of
19 the stabbings, did you go out to another location also?

20 A. Correct.

21 Q. Where was the second location?

22 A. The Village Park.

23 Q. What did you end up going there for?

24 A. To assist with apprehending the suspect if he was
25 located at that location.

1 Q. And Village Park, is that the exit for the
2 tubers?

3 A. Correct.

4 MR. ANDERSON: All right. Can we have the
5 screen? It looks -- I'm on a minute 54 seconds.

6 Q. (By Mr. Anderson, continuing) If we were to
7 watch it earlier, it just be you driving to the scene?

8 A. That is correct.

9 (Whereupon, the video was played.)

10 Q. (By Mr. Anderson, continuing) While this is
11 playing, is this that private road for an old campground?

12 A. Yes, it is.

13 (Whereupon, the video was played.)

14 MR. ANDERSON: All right. I'm stopping at
15 3 minutes 30 seconds. I'm going to jump ahead.

16 Can you mute the screen, please?

17 All right. I'm ready. I'm going to play
18 from 4 minutes and 29 seconds.

19 (Whereupon, the video was played.)

20 MR. ANDERSON: I'm gonna pause at 5:36.

21 Q. (By Mr. Anderson, continuing) That gentleman you
22 just made contact with, did you -- did you have any idea
23 who that was at the time?

24 A. I did not.

25 Q. I just want to write down. Does it look like

1 15:57 on the bottom of the screen there?

2 A. Correct.

3 Q. That would be 3:57, is that right?

4 A. Correct.

5 Q. And --

6 MR. ANDERSON: I'm going to continue playing.

7 (Whereupon, the video was played.)

8 MR. ANDERSON: I'm pausing at 6:41. You can take
9 the screen down.

10 I don't have anything else.

11 THE COURT: Mr. Nelson.

12 CROSS-EXAMINATION

13 BY MR. NELSON:

14 Q. Sir, the video showed you getting out of the car,
15 walking toward the river, is that right?

16 A. Correct.

17 Q. And there is a blonde woman in a blue bathing
18 suit, correct?

19 A. That is correct.

20 Q. And your body cam captures her, correct?

21 A. Correct.

22 Q. And as you know, body cam, you're actually able
23 to, like, take a screenshot of that, correct?

24 A. Correct.

25 Q. And on the body cam the blonde girl in the blue

1 swimsuit, she's -- her face is fully visible, correct?

2 A. I believe so, yes.

3 Q. Were you ever asked to take a screenshot to zoom
4 in on her face?

5 A. No.

6 Q. Did you ever do that?

7 A. No.

8 Q. Do you -- are you aware if anybody else ever did
9 that?

10 A. No.

11 Q. Were you ever -- did you ever come back and have
12 contact with that blonde woman in the blue swimsuit?

13 A. I don't believe so.

14 Q. And again, I -- there's a lot going on, correct?

15 A. That is correct.

16 Q. She wasn't a -- she didn't have any injuries that
17 you observed, correct?

18 A. Correct.

19 Q. Had she had injuries that you observed, you
20 probably either would have told somebody else, tended to
21 it, or tried to document them in some way, correct?

22 A. That is correct.

23 Q. That's what you're trained to do as a law
24 enforcement officer, correct?

25 A. That is correct.

1 Q. In that moment, again, I don't mean to imply I'm
2 critical of you, it's just you didn't have any awareness
3 that she had an injury, correct?

4 A. Correct.

5 Q. You didn't observe one, correct?

6 MR. ANDERSON: Objection. Asked and answered.

7 THE COURT: Sustained.

8 Q. (By Mr. Nelson, continuing) You, at some point,
9 and it's not on the -- on the video, it stopped, but if we
10 continue on in the video you move forward, continue up the
11 river, is that right?

12 A. Correct.

13 Q. And as you go up the river you have contact with
14 a -- a couple, a married couple, who's rendering CPR aid
15 to one of the people who's injured, correct?

16 A. That is correct.

17 Q. You've now come to know that that's Andrea and
18 Robert Baldazo?

19 A. Correct.

20 Q. Okay. At some point did you see -- you were
21 speaking with them, correct?

22 A. Correct.

23 Q. Did you speak with Mr. Baldazo?

24 A. Correct.

25 Q. And you -- did you observe him pick up the -- a

1 snorkel and/or goggles?

2 A. I don't believe so.

3 Q. Were you the one that collected those?

4 A. No.

5 Q. Did he tell you about those?

6 A. No.

7 Q. Did you make any observations of the snorkel or
8 goggle?

9 A. I did not.

10 Q. Did you speak with Mr. Baldazo about his knife?

11 A. I did not.

12 Q. You -- I want to ask you a little bit about the
13 search for the suspect, okay?

14 A. Sure.

15 Q. You were -- you heard different things -- or let
16 me take it back.

17 You were a part of that, correct?

18 A. Correct.

19 Q. At some point, right?

20 A. Correct.

21 Q. At first it was all about rendering aid, correct?

22 A. Yes.

23 Q. Taking care of people's safety, right?

24 A. Yes.

25 Q. And making sure you could secure the safety of

1 everybody else considering you didn't know what was going
2 on, right?

3 A. Yes.

4 Q. You at some point learned that there were
5 citizens that were looking for the suspect, correct?

6 A. Yes.

7 Q. And you came to learn that at least one of those
8 citizens had a bat, correct?

9 A. I apologize, had a what?

10 Q. Had a baseball bat?

11 A. I do not recall at this time.

12 Q. Okay. When you were at Village Park were you
13 aware of -- you didn't remember the guy looking around for
14 Mr. Miu with a bat?

15 A. I do not remember.

16 Q. You certainly remember that there were non-law
17 enforcement citizens that were looking for Mr. Miu,
18 correct?

19 A. Correct.

20 Q. And did you -- you didn't know what their intent
21 was, correct?

22 A. That is correct.

23 Q. You, as a law enforcement officer, wanted to
24 secure the suspect, correct?

25 A. Correct.

1 Q. Both to keep everybody else safe from the
2 suspect, correct?

3 A. Correct.

4 Q. As well as to keep the suspect safe from
5 everybody else, correct?

6 A. Yes.

7 Q. You certainly don't want a lynch mob going after
8 somebody, correct?

9 A. Correct.

10 Q. And that was probably one of your concerns, is
11 that the temperature on that river on that day at that
12 time was extremely high and intense, right?

13 A. That is correct.

14 Q. Lots of strong emotions, correct?

15 A. Yes.

16 Q. And when you have a -- and there was strong,
17 intense emotions coming from numerous people, correct?

18 A. Yes.

19 Q. And you, as a trained officer, were concerned
20 about how those strong and intense emotions from numerous
21 people could kind of escalate each other, correct?

22 MR. ANDERSON: Object on relevance, speculation.

23 THE COURT: Sustained.

24 Q. (By Mr. Nelson, continuing) Do you have concerns
25 about the suspect's safety, as well as everybody else's

1 safety?

2 MR. ANDERSON: Objection. Asked and answered.

3 THE COURT: Sustained.

4 Q. (By Mr. Nelson, continuing) Did you help in
5 eventually finding and handcuffing Mr. Miu, correct?

6 A. I assisted with the very end portion of that I
7 suppose, yes.

8 Q. And he was, fair to say, compliant with law
9 enforcement's requests, correct?

10 A. Correct.

11 Q. He didn't resist -- resist in any way, correct?

12 A. Correct.

13 Q. At the time, I would imagine, you didn't know
14 whether he had a weapon or didn't have a weapon, correct?

15 A. That is correct.

16 Q. I would imagine when -- at some point if you find
17 out if somebody had a weapon that changes things from your
18 standpoint, correct?

19 A. Correct.

20 Q. Would it be -- again, trying to summarize real
21 quick, you're thankful that he didn't have a weapon when
22 you had contact with him?

23 MR. ANDERSON: Objection, Judge. Relevance.

24 THE COURT: Sustained.

25 Q. (By Mr. Nelson, continuing) Did he have a weapon

1 when you had contact with him?

2 A. Not that I was aware of, no.

3 Q. Did he have a phone when you had contact with
4 him?

5 A. I do not recall.

6 MR. NELSON: That's all.

7 THE COURT: Mr. Anderson?

8 REDIRECT EXAMINATION

9 BY MR. ANDERSON:

10 Q. When you were responding to this incident, what
11 was your primary concern?

12 A. My primary concern was the victims on the river.

13 Q. Stabbing victims?

14 A. That is correct.

15 Q. Were you looking to see if other people had
16 bruises or scratches or slight swelling or anything like
17 that or not paying attention to that kind of thing?

18 A. Only what was immediately directed to me.

19 Q. The significant injuries?

20 A. Correct.

21 MR. ANDERSON: Nothing else, Judge.

22 THE COURT: Mr. Nelson?

23 MR. NELSON: No. Thank you.

24 THE COURT: Thank you, Officer Stumo. You may
25 step down.

1 (Whereupon, the witness is excused.)

2 THE COURT: Who is the next witness?

3 MR. SMESTAD: Ben Trebian.

4 (Whereupon, the witness enters the courtroom.)

5 THE COURT: Deputy Trebian, please come forward.

6 Please face the clerk, raise your right hand, she will
7 administer the oath.

8 DEPUTY BENJAMIN TREBIAN,
9 after having been first duly sworn on oath by the clerk,
10 testifies and says as follows:

11 THE WITNESS: I do.

12 THE COURT: Please have a seat in the witness
13 chair.

14 Mr. Smestad.

15 DIRECT EXAMINATION

16 BY MR. SMESTAD:

17 Q. Will you state your name for the record, please?

18 A. Deputy Benjamin Trebian. Last name
19 t-r-e-b-i-a-n.

20 Q. And what do you do for a living?

21 A. I'm a patrol deputy with St. Croix County.

22 Q. How long have you been a law enforcement officer?

23 A. About four and a half years.

24 Q. What are your general duties as a patrol officer?

25 A. Patrol, take calls, respond to calls.

1 Q. Were you on duty back on July 30th of 2022?

2 A. I was.

3 Q. Were you one of the many officers that got
4 dispatched to the stabbings on the Apple River in
5 Somerset?

6 A. I was.

7 Q. What was the information you were given
8 initially?

9 A. I was given that there was multiple people that
10 were stabbed on the river, I was sent a photo, I was asked
11 to respond to an area and set up a perimeter.

12 Q. What -- what was the photo you were sent?

13 A. Male, 50s, he was described as Russian, wearing
14 camo swim trunks.

15 Q. Who was supposedly the photo of?

16 A. Nicolae Miu. Or the suspect in the stabbing.

17 Q. Thank you.

18 What -- were you given a specific
19 assignment in relation to your response?

20 A. I was just tasked with responding to the
21 perimeter I had set up on -- near I and 170th and was
22 moving there.

23 Q. All right. At some point did you get called away
24 from where you were trying to establish a perimeter?

25 A. Yes.

1 Q. And before we move on, when you say you were
2 establishing a perimeter, what are you trying to do?

3 A. I -- just contain the suspect into a certain
4 area.

5 Q. And at that point had a suspect been located?

6 A. Not at that point, no.

7 Q. At some point you moved away from where you were
8 assigned to establish a perimeter?

9 A. Yes.

10 Q. Where did you go?

11 A. I responded -- we were advised that possible
12 suspect was seen at the tubing exit. I responded to
13 corner of Sunrise and Parent Street in Somerset where I
14 lend -- ran down to the tubing exit.

15 Q. All right. Were other law enforcement officers
16 there by the time you arrived?

17 A. Yes.

18 Q. Were you wearing a body camera that day?

19 A. I was.

20 Q. Were you recording your actions at that time?

21 A. Yes.

22 MR. SMESTAD: If I can approach the witness,
23 Judge?

24 THE COURT: Yes, you may.

25 Q. (By Mr. Smestad, continuing) Deputy, I'm going

1 to show you what's been marked as Exhibit 47. What -- do
2 you recognize that?

3 A. Yes.

4 Q. What is it?

5 A. It's my body cam flash drive.

6 Q. All right. Is it labeled?

7 A. Yes.

8 Q. And what's the label say?

9 A. Trebian BC video.

10 Q. And that's your name?

11 A. Yep.

12 MR. SMESTAD: Your Honor, I'd move for admission
13 of 47 and ask to publish.

14 THE COURT: Any objection to 47?

15 MR. NELSON: No, Judge.

16 THE COURT: It is received.

17 Go ahead and play the portions you wish to
18 show.

19 MR. SMESTAD: This particular segment, Judge, is
20 the whole video. It's about -- it's less than 2 minutes.
21 I'll start from the beginning and play to the end.

22 THE COURT: Tell us when you're ready.

23 MR. SMESTAD: It's 2 minutes 8 seconds, Judge.
24 We're starting right at the beginning. We're ready.

25 (Whereupon, the video was played.)

1 Q. (By Mr. Smestad, continuing) Deputy, was that
2 your body cam or a portion of your body cam from that day?

3 A. Yes.

4 Q. When you made contact with Mr. Miu at the park,
5 did his clothing match what the -- his clothing was in the
6 -- the photo you were sent of the suspect you were looking
7 for?

8 A. In the photo he was just wearing shorts at the
9 time, and the video there he was wearing a camo
10 button-down shirt, he's got glasses, and a hat on.

11 Q. When he was first detained were you -- did you
12 know for sure that he was the person you were looking for?

13 A. Not initially when I observed him, but once we
14 pulled up the photos and confirmed the markings, then we
15 did.

16 Q. Did you have to remove his hat and his glasses to
17 confirm that?

18 A. I believe so, yes.

19 Q. You indicated in the body cam that he had some
20 markings on his hands?

21 A. Yes.

22 Q. Can you describe those?

23 A. Just cuts and nicks on knuckles and on his hands.

24 Q. Did you take some pictures of those?

25 A. I did.

1 MR. SMESTAD: May I approach, Judge?

2 THE COURT: Yes, you may.

3 Q. (By Mr. Smestad, continuing) Deputy, I'm showing
4 you what's been marked as Exhibit 48. Can you tell me
5 what that is?

6 A. Pictures of Mr. Miu's hands that I took.

7 Q. How many pages?

8 A. Two.

9 Q. How many actual photographs?

10 A. Two.

11 Q. All right. Is that what you described as the
12 markings that were on his hands?

13 A. Yes.

14 Q. And are those the photos you took that day?

15 A. Yes.

16 MR. SMESTAD: Move for admission of Exhibit 48.

17 THE COURT: Any objection?

18 MR. NELSON: No, Judge.

19 THE COURT: 48 is received.

20 MR. SMESTAD: I'm going to ask the -- for
21 permission to publish.

22 THE COURT: Yes, you may.

23 MR. SMESTAD: I'll do it on the ELMO.

24 I'll state for the record that's Page 1 of
25 the exhibit.

1 This is Page 2.

2 Q. (By Mr. Smestad, continuing) After Mr. Miu was
3 taken into custody, did you have any more involvement in
4 this case that day?

5 A. Once he was taken into custody I then searched
6 his person. Didn't locate anything on his person. I also
7 assisted with K-9 search of the area where the stabbing
8 took place and evidence collection at that point down by
9 the river there.

10 Q. All right.

11 MR. SMESTAD: Nothing further.

12 THE COURT: Mr. Nelson.

13 CROSS-EXAMINATION

14 BY MR. NELSON:

15 Q. I want to ask you some questions of there at
16 Village Park, okay?

17 A. Yep.

18 Q. Village Park is where the exit is for the river,
19 correct?

20 A. Yes.

21 Q. Pretty much everyone who gets on the river gets
22 off at Village Park, right?

23 A. Yes.

24 Q. Today there -- or on this day there was some
25 exceptions that people were diverted over to another place

1 to exit, correct?

2 A. I don't recall if there was a secondary point to
3 exit.

4 Q. And I wasn't trying -- like, there was an
5 ambulance that came, people exited where the ambulance
6 was --

7 A. Yes.

8 Q. -- correct?

9 A. Yes.

10 Q. There was a -- a small group of people that
11 exited there, fair to say?

12 A. Yes.

13 Q. When I say small, it might be multiple groups,
14 but it's like less than 50 people, agreed?

15 A. Maybe.

16 Q. Okay. You -- were you there at that point where
17 the bridge goes over -- Highway 35/64 goes over and where
18 they brought the people with injuries out? Were you there
19 ever?

20 A. Later after with helping with evidence
21 collection.

22 Q. Okay. But not until -- by that time I would
23 imagine the people that had exited in that place were
24 essentially -- had gone, fair to say?

25 A. Probably.

1 Q. Okay. You didn't observe them at least, correct?

2 A. I did not, no.

3 Q. You don't have a memory of it at least?

4 A. No.

5 Q. So at the exit at the -- at the Village Park, you
6 gotten a description of the man that you were looking for,
7 correct?

8 A. Correct.

9 Q. And it was based upon this photo that somebody
10 had provided and distributed around, correct?

11 A. Correct.

12 Q. And you know that that photo may have also been
13 distributed to some citizens, some non-law enforcement
14 people for all you knew, correct?

15 A. I can't say that for certain.

16 Q. Okay. Do you have knowledge of that now?

17 A. No, not until you said that.

18 Q. Okay. And in addition to the photo, you had
19 somebody's physical description, correct?

20 A. Yes.

21 Q. And when you get a physical description you, in
22 that position, you have -- you -- you rely on it, correct?

23 A. Yes.

24 Q. It may or may not be accurate, right?

25 A. Potentially.

1 Q. Yeah. It may or may not be helpful, correct?

2 A. Possibly.

3 Q. Yeah. You're not there to judge the accuracy,
4 you're just -- you got that information and you're gonna
5 process it for whatever value it's worth, right?

6 A. Correct.

7 Q. So in this situation somebody said he looks
8 Russian, correct?

9 A. Correct.

10 Q. What does a Russian look like?

11 MR. SMESTAD: Objection, Your Honor.

12 THE COURT: Sustained.

13 Q. (By Mr. Nelson, continuing) Did that -- was that
14 helpful to you in any manner?

15 A. Not particularly.

16 Q. Okay. When you were there at the Village Park,
17 you gained knowledge that there was a man with a bat
18 looking for Mr. Miu?

19 A. I remember hearing about that, yes.

20 Q. Yeah. And in fact, that man with a bat had
21 confronted Mr. Miu just before the arrest, as far as you
22 know, is that right?

23 MR. SMESTAD: Objection. Foundation.

24 THE COURT: Sustained.

25 Q. (By Mr. Nelson, continuing) Do you know?

1 A. I do not recall if he ever approached him.

2 Q. Okay. Were your handcuffs placed on Mr. Miu?

3 A. I did not place handcuffs, but I was there, yes.

4 Q. Okay. Somebody else placed handcuffs on him?

5 A. Yes.

6 Q. There was (inaudible) --

7 A. I'm sorry, what?

8 Q. Did somebody -- somebody else's set of handcuffs
9 were put on Mr. Miu?

10 A. Yes.

11 Q. At some point were you there to see that pair of
12 handcuffs taken off and another pair of handcuffs put on
13 him?

14 A. Yes.

15 Q. And during that exchange, from Mr. Miu's one set
16 of handcuffs being taken on, to another set of handcuffs
17 being taken on, do you remember the talk at that point in
18 the presence of Mr. Miu about there's a guy looking
19 for Mr. -- walking around with a bat? Do you remember
20 that?

21 A. Maybe.

22 Q. Okay.

23 A. I don't know if that's what we were talking about
24 at that time but --

25 Q. Do you remember that during one of the body cams?

1 A. Yeah, I remember hearing about it.

2 Q. Okay. And do you remember how Mr. Miu reacted in
3 your presence when he heard that there was a man on the
4 river looking for him with a body cam (verbatim)?

5 A. (No response.)

6 Q. Do you remember his look of surprise?

7 A. I do not, no.

8 Q. Do you remember his look of shock?

9 A. No, I don't.

10 Q. Do you remember his look of fear?

11 A. No, I don't recall that.

12 Q. Okay. So were you the person that essentially,
13 for lack of a better term, identified Mr. Miu, like we
14 think it's him?

15 A. We saw him, yes, and then looking at the photo
16 that we were sent we confirmed it, yes.

17 Q. Okay. And the -- I -- I understand you using the
18 word we, you're the one here talking so I'm not going to
19 use the we, I'm just talking about you, agreed?

20 A. Yes.

21 Q. You saw him and you're like I think that's the
22 guy?

23 A. Correct.

24 Q. And at the time that you saw him, you saw him --
25 MR. NELSON: Can I get Exhibits -- I think it's

1 110 and 111. It might be 112.

2 Q. (By Mr. Nelson, continuing) When you saw Mr.
3 Miu, he had on a hat, is that right?

4 A. Yes.

5 Q. Do you know if when he started the day on that
6 trip he had a hat on?

7 A. I do not.

8 Q. When you saw Mr. Miu you saw him with glasses on,
9 correct?

10 A. Sunglasses, yes.

11 Q. Do you know if when he started that trip he had
12 sunglasses on?

13 A. I do not.

14 Q. When you saw Mr. Miu he had a shirt on, correct?

15 A. Correct.

16 Q. Do you know if when he started that trip he had
17 his shirt on?

18 A. I do not.

19 Q. Did you ever -- he also had shorts on?

20 A. Yes.

21 Q. Do you know if when he started that trip he had
22 shorts on?

23 A. I don't for sure but I --

24 Q. Okay.

25 A. -- would assume so.

1 Q. And when you saw him he had a necklace on,
2 correct?

3 A. Yes.

4 Q. Do you know if when he started the trip he had a
5 necklace on?

6 A. I don't.

7 Q. And then when you saw him he had shoes on,
8 correct?

9 A. Yeah, it was sandals.

10 Q. And do you know if he started the trip with those
11 shoes on?

12 A. I do not.

13 Q. Essentially, those are the six things that you
14 saw that he was wearing at the end of the trip when you
15 saw him, correct?

16 A. Correct.

17 Q. You don't know what of those six things he was
18 wearing at the beginning, correct?

19 MR. SMESTAD: Objection. Asked and answered.

20 THE COURT: Sustained.

21 Q. (By Mr. Nelson, continuing) When you saw him you
22 saw the necklace and the shorts -- I'm sorry, the picture
23 showed him with necklace and shorts, correct?

24 A. Correct.

25 Q. You were still able to say -- when you saw him

1 wearing all six of the items, you were still able to say I
2 think that's the guy, correct?

3 A. Yes.

4 Q. And when you -- essentially you and other law
5 enforcement officers said something along the lines of
6 come with us, right? You -- you verbally told the person
7 who we now know as Mr. Miu to, like, stop, something along
8 those lines, is that fair to say?

9 A. Yes.

10 Q. And when he did -- when you -- was given that
11 verbal command, he complied, correct?

12 A. Yes.

13 Q. He was very, as we saw throughout there, very
14 cooperative, correct?

15 A. Yes.

16 Q. I think the first words out of his mouth were
17 something like I'm sorry, something like that?

18 A. I don't recall --

19 Q. Okay.

20 A. -- what it was.

21 Q. And then you were -- you had close contact with
22 him, correct?

23 A. Yes.

24 Q. And you're a trained police officer, you're
25 trying to both make sure everybody's safe, as well as at

1 some point maybe do some investigation, collect evidence,
2 correct?

3 A. Yes.

4 Q. It's all going on at the same time, right?

5 A. Yes.

6 Q. So at some point during that you make
7 observations of his hands, correct?

8 A. Yes.

9 Q. And when you made those observations you made a
10 point to document it, correct?

11 A. Yes.

12 Q. Because that's what police do, right?

13 A. Yeah.

14 Q. When they see evidence they make sure they
15 document it, correct?

16 A. Yes.

17 Q. Can you imagine a world in which if you saw a
18 mark on his hands you wouldn't take a photo?

19 MR. SMESTAD: Objection, Your Honor. Irrelevant.

20 THE COURT: Sustained.

21 Q. (By Mr. Nelson, continuing) You took a photo of
22 his hands?

23 A. Yes.

24 Q. Why?

25 A. Evidence of potential -- or potential evidence of

1 a crime.

2 Q. You would agreed the marks on his hands -- you
3 don't know how he got those, right?

4 A. I do not, no.

5 Q. Would it be consistent with somebody perhaps
6 falling in the river and having his hands hit the bottom
7 of the river?

8 MR. SMESTAD: Objection, Your Honor. Foundation.
9 Irrelevant.

10 THE COURT: Sustained on foundation.

11 Q. (By Mr. Nelson, continuing) Have you seen people
12 with marks on their hands before?

13 A. Yes.

14 Q. Have you seen people fall in the river -- river
15 before?

16 A. Yes.

17 Q. Have you seen people's hands hit rocks and dirt
18 on the ground before?

19 A. Yes.

20 Q. Would you say what you observed on his hands are
21 consistent with someone's obtaining those marks from
22 falling in the river and having their hand hit rocks and
23 dirt in the ground?

24 A. Potentially.

25 Q. The -- as a law enforcement officer I imagine you

1 have times where you deal with people who have drank
2 alcohol, correct?

3 A. Yes.

4 Q. And sometimes that's relevant evidence that you
5 want to, again, document, correct?

6 A. Yes.

7 Q. Some of those things that you would document
8 would be something that you smell, right?

9 A. Yes.

10 Q. Or some of the things that you document might be
11 the speech that you hear that somebody says, correct?

12 A. Yes.

13 Q. Because if somebody's intoxicated they often
14 smell of alcohol, correct?

15 A. Yes.

16 Q. Somebody's intoxicated they often have slurred
17 speech, correct?

18 A. Yes.

19 Q. You -- when you notice those things you might
20 document them in a report, correct?

21 A. Yes.

22 Q. And then you might do further investigation to
23 try to collect additional information to confirm your
24 observations, right?

25 A. Yes.

1 Q. That might -- that might be simply to ask
2 somebody a question, right?

3 A. Yes.

4 Q. It might be to give somebody a chemical test,
5 correct?

6 A. Yes.

7 MR. SMESTAD: Objection, Your Honor. Irrelevant.

8 MR. NELSON: It's very relevant.

9 THE COURT: Overruled.

10 Can you get to the point?

11 MR. NELSON: Yep.

12 Q. (By Mr. Nelson, continuing) And if you have that
13 observation sometimes you don't only document it, you
14 might give it on to somebody else that you're working
15 with, correct?

16 A. Yes.

17 Q. And in this case you passed none of that
18 information on on to anybody else, agreed?

19 A. Agreed.

20 Q. And you didn't document anything regarding any
21 particular smell of alcohol or signs of intoxication or
22 alcohol use, correct?

23 A. I did not, no.

24 Q. And you didn't document those because when you
25 were in close contact with Mr. Miu you had no evidence, no

1 reason to believe that he had been consuming alcohol to
2 the point that it would have been relevant evidence for
3 you to collect, right?

4 A. My contact with him, I didn't notice any signs.

5 Q. Sure. You were certainly -- anyway, and
6 appropriately so in your role as a law enforcement officer
7 you were right there next to him, correct?

8 A. Correct.

9 Q. For at least several minutes, correct?

10 A. Yes.

11 MR. NELSON: That's all.

12 THE COURT: Mr. Smestad.

13 REDIRECT EXAMINATION

14 BY MR. SMESTAD:

15 Q. Deputy, was part of the other information you
16 had, in addition to what he was -- looked like on the
17 river in the picture, were you told whether he was alone
18 or in a group?

19 A. I don't recall that.

20 Q. All right. When you made contact with him at the
21 Village Park, was he with other folks?

22 A. Yes.

23 Q. How many?

24 A. Roughly 12 to 15 maybe.

25 Q. Had you ever been given information to look for a

1 group of 12 to 15 people that he might be in it?

2 A. Not that I recall.

3 Q. Is it fair to say there was a number of law
4 enforcement officers located in Village Park when Mr. Miu
5 came up from the beach?

6 A. Yes.

7 Q. Did you see him approach any law enforcement
8 officers?

9 A. I did not, no.

10 Q. Did you see officers approach him?

11 A. When we approached him, yes.

12 Q. Was that a situation where he surrendered?

13 A. Yes.

14 Q. Did you -- once he was detained, Mr. Nelson had
15 asked you some questions about his -- I guess his
16 expression. Did -- do you remember any shocked expression
17 on his face?

18 A. I do not, no.

19 Q. Do you -- do you remember -- what do you remember
20 about what his -- what his look -- what his face looked
21 like?

22 A. That he was kind of in a trance, didn't really
23 say anything. I just remember him saying his name and
24 when he was told he was detained he said yes and kind of
25 in a trance-like state almost.

1 MR. SMESTAD: Nothing further.

2 THE COURT: Mr. Nelson.

3 RECROSS-EXAMINATION

4 BY MR. NELSON:

5 Q. In your experience as a law enforcement officer I
6 imagine you've dealt with victims in the past, correct?

7 A. Yes.

8 Q. Victims of violent crime, correct?

9 A. Yes.

10 Q. And sometimes when you've dealt with victims of
11 violent crime you've seen them in ways that you observe to
12 be expressions of shock, right?

13 A. Yes.

14 Q. Not like shock as in surprise, but just like
15 shock as in trauma, correct?

16 A. Correct.

17 MR. SMESTAD: Objection. Relevance, Your Honor.

18 THE COURT: Overruled.

19 Q. (By Mr. Nelson, continuing) And sometimes in
20 those observations that you've seen of people who have
21 been victims of violent crime, that can be expressed in a
22 manner of like a trance-like state, correct?

23 A. Potentially, yes.

24 Q. And that's what you saw from Mr. Miu, was
25 consistent with that shock-like trauma, correct?

1 A. Shock or something similar.

2 MR. NELSON: That's all.

3 THE COURT: Thank you, deputy. You may step
4 down.

5 (Whereupon, the witness is excused.)

6 THE COURT: Who is the next witness?

7 MR. ANDERSON: Sheriff Knudson -- no, sorry.
8 Mitch Thomason.

9 THE COURT: Do we have to talk about his body
10 cam?

11 MR. NELSON: Yes.

12 THE COURT: All right.

13 Members of the jury, I do need to speak
14 with the attorneys about a matter. So we're going to
15 excuse you to the deliberation room. I hope this won't
16 take very long but please be patient.

17 (Whereupon, the jury exits the courtroom.)

18 THE COURT: We are outside the presence of the
19 jury. The attorneys and Mr. Miu are present.

20 At the beginning of trial Mr. Nelson
21 submitted a letter with a motion of sorts objecting to a
22 portion of Deputy Thomason's body camera footage.

23 Mr. Anderson, you've received a copy of
24 that letter?

25 MR. ANDERSON: Yes.

1 THE COURT: Who's arguing the motion?

2 MR. ANDERSON: I can.

3 THE COURT: Okay. Are you intending to play the
4 portions that he's objecting to?

5 MR. ANDERSON: Yes.

6 THE COURT: All right. What's the basis?

7 MR. ANDERSON: So Miranda only applies if it's a
8 question likely to elicit an incriminating response. They
9 said you're under arrest for homicide, attempted hom --
10 homicide. Okay. So he sas -- and he says okay. That's
11 it. They're not interrogating him, they're not asking him
12 questions about the in -- incident, they're just asking
13 him if he heard what they said. He says okay.

14 THE COURT: Mr. Nelson.

15 MR. NELSON: Respectfully, I disagree with that
16 recitation of the facts. It's a very short video and I
17 don't see any reason why Your Honor couldn't watch it
18 right now. They do tell him he's under arrest. They do
19 say okay. And he doesn't respond. They then say we're
20 next going to essentially bring you to the police station
21 and there's going to be an investigator there to speak
22 with you and then they ask the question: All right? And
23 it's to that question that he responds okay. So it is not
24 in response to the information that he's being charged
25 with a crime, it's in response to a question about what

1 happens next and where you're going to go.

2 THE COURT: So you're objecting on Miranda
3 grounds?

4 MR. NELSON: I'm objecting on relevancy. I'm
5 also objecting on Miranda.

6 THE COURT: Okay.

7 What's the relevance?

8 MR. ANDERSON: So he's acknowledging he's hearing
9 what the officers are saying and then he acts surprised in
10 his interview, like he didn't know somebody died. There's
11 a lot of that that's gonna be argued in closing, the chaos
12 at the scene, all the victims there, everybody else seeing
13 what was going on, and that would be one of our arguments,
14 but then also he's told he's under arrest for homicide and
15 then told there's going to be -- somebody's going to talk
16 to him. He acknowledges he hears them --

17 THE COURT: Okay.

18 MR. ANDERSON: -- and then he acts like he's
19 surprised in the interview.

20 MR. NELSON: Judge, if I may?

21 THE COURT: Yes.

22 MR. NELSON: If the State wanted to introduce
23 testimony from a law enforcement officer that said I told
24 X to Mr. Miu, I think they get to do that. It's the
25 response that we're worried about.

1 And so if they call the officer and the
2 officer says I told him he was under arrest for X and Y,
3 there's no -- I don't think they -- what happened next is
4 the -- is the cut off, but if they get to do that and I
5 think that addresses whatever relevancy there is to it
6 without having to get into Mr. Miu's response.

7 MR. ANDERSON: I guess I don't understand what
8 the prejudice is.

9 THE COURT: Well, at the same token, what's the
10 relevance?

11 MR. ANDERSON: I -- I mean, I think I outlined
12 it. That's our position. I -- I mean --

13 THE COURT: And there's the prejudice and they
14 don't want that to come in because it's obviously harmful.

15 MR. ANDERSON: But why? I haven't heard and
16 articulated why it's prejudicial. Not wanting it to come
17 in isn't prejudice.

18 MR. NELSON: So a couple things. I don't have to
19 prove it's prejudicial. You have to prove it's relevant.
20 If it's relevant, I can then argue it's unfairly
21 prejudice. That's not my argument. I'm saying his answer
22 is not relevant.

23 If you want his answer in, which is what
24 you I think are trying to do, that's a different relevancy
25 analysis. And first, that's a Miranda violation. Second,

1 I think his answer is the probative value is outweighed by
2 the whatever -- the probative value of his answer is
3 outweighed by the danger of unfair prejudice.

4 So the question I think really is, What's
5 the relevance of his answer? Not his being told the
6 information, we get that, we can see that.

7 MR. ANDERSON: So if it has any -- any tendency
8 to make it more or less likely it's relevant. To be
9 excluded the prejudice has to substantially outweigh the
10 relevance by statute. And I still haven't heard an
11 articulation on how it's prejudicial.

12 THE COURT: Okay. Let's -- let's turn this a
13 different way. What about the Miranda analysis?

14 MR. ANDERSON: It's not a question likely to or
15 meant to elicit an incriminating response, it's just --

16 THE COURT: But you're using it to prove he's
17 guilty. So isn't it an incriminating response?

18 MR. ANDERSON: It turned out to be, but at the
19 time they're just asking if you heard. But it's only
20 useful to the State because then he later acts like he
21 didn't know somebody died.

22 MR. NELSON: Just lastly, Judge. Again, his
23 answer isn't to the information about his arrest. His
24 answer is in response to they're telling him they're
25 taking him to the police station where he's going to meet

1 with an investigator.

2 THE COURT: I saw the video once during motion
3 practice so I have a vague recollection of the sequence,
4 but if it's short, let's take a look at it so I can make a
5 fresh decision.

6 Tell us when you're ready.

7 MR. ANDERSON: All right. I'm ready.

8 THE COURT: Okay.

9 (Whereupon, the video was played.)

10 THE COURT: Further thoughts? Anything else?

11 MR. ANDERSON: No.

12 THE COURT: All right.

13 All right. The -- the video, in my
14 judgment, has evidentiary value to a point. If it is the
15 State's contention that Mr. Miu acted like he didn't know
16 what was going on or acted surprised during the jail
17 interview, I think it's relevant to show that he had
18 advanced knowledge about the circumstances of his arrest.

19 So clearly the portion of the video where
20 he's being taken into custody, the deputy tells him the
21 reason for it I think is relevant for that purpose. You
22 can see on the video Mr. Miu appears to be alert, he
23 appears to be paying attention. So I think that will feed
24 into the State's argument. That much is relevant.

25 The portion where Mr. Miu acknowledges what

1 was being said had to do with the investigator coming to
2 see him. That does not have the same relevance that
3 you're describing here because it has nothing to do with
4 Mr. Miu being told about the charges, he's being told
5 about something else, which is not relevant to the jury's
6 task.

7 So I'm -- I'm ruling a portion of the video
8 after the reason for the arrest is announced is
9 irrelevant. I don't know what mark that was in the
10 sequence. So we'll have to go through it once more to
11 identify exactly the point where it's going to stop.

12 MR. ANDERSON: Okay. Oh, can we get the screen?

13 THE COURT: Yes.

14 (Whereupon, the video was played.)

15 THE COURT: That's the point.

16 MR. ANDERSON: 20:36. Obviously if it's a second
17 or so off, as long as I'm not getting the part that Your
18 Honor said I --

19 THE COURT: Well, keep -- keep playing, let's see
20 how close it is.

21 (Whereupon, the video was played.)

22 THE COURT: Yeah, so --

23 MR. NELSON: 2:36?

24 THE COURT: 2:36 is the spot.

25 All right. Anything else we need to

1 address?

2 MR. ANDERSON: We made for Sheriff Knudson, given
3 Your Honor's order on the suppression motion, we actually
4 clipped it so we didn't -- because that one happens really
5 fast, the follow up, so we clipped it down to 23 seconds,
6 so I was just going to play that to make sure that Your
7 Honor agrees it's within line of your order, the Defense
8 does, so there's no surprises.

9 THE COURT: Okay. You've seen the clipped
10 version?

11 MR. ANDERSON: We --

12 MR. NELSON: I have not. They've told me --

13 THE COURT: Since Sheriff Knudson is next, let's
14 play so we can roll right into the next witness.

15 MR. ANDERSON: And actually we are gonna do
16 Thomason first. So it will be Thomason and then Knudson.

17 THE COURT: Okay.

18 MR. ANDERSON: And I imagine their -- Defense
19 doesn't want a suggestion that there's more than this body
20 cam so I was just going to ask is your body cam on this
21 flash drive, ask to publish, play it, and not go into
22 detail or ask if it's only a portion, et cetera.

23 MR. NELSON: Sounds fair.

24 THE COURT: Okay.

25 MR. ANDERSON: And just for the record, this has

1 the full one on there but I'm -- the -- actually want to
2 pull up the screen so we can see it?

3 The reason we have both of them on there is
4 because in the event Nicolae testifies, the rest could
5 potentially be used if your Court -- Your Honor agrees
6 that it's not coerced. I don't think we ever -- it was
7 mentioned in briefing, but I don't think there was ever
8 ruling on it but --

9 MR. NELSON: Just so -- my understanding is when
10 that exhibit is marked and that exhibit is published,
11 we're all agreeing that for now it's the digital file
12 titled 23 seconds for court.

13 MR. ANDERSON: Correct.

14 MR. NELSON: Agreed?

15 MR. ANDERSON: Agreed.

16 THE COURT: That's my understanding.

17 MR. NELSON: Okay.

18 MR. ANDERSON: We can have the screen back.

19 (Whereupon, the video was played.)

20 MR. ANDERSON: We've tried to end it too on a
21 spot that seemed like it's not cutting off, it feels
22 natural.

23 MR. NELSON: I -- I agree that that portion of
24 the video is consistent with the Court's ruling. So other
25 than our previous objections, I understand and don't

1 object -- add anymore.

2 THE COURT: I agree the 23 seconds portion is
3 consistent with my ruling as well so that will be
4 admissible and played to the jury when the time comes.

5 MR. NELSON: As long as we're outside the
6 presence of the jury, when Mr. Thomason is called I
7 understand this -- they're going to play his clip. Mr.
8 Thomason has another video. I don't know if the State
9 intends to call that portion of the video, I intend to
10 play a portion of that video in which it -- the presence
11 of the -- the baseball bat is discussed in front of Mr.
12 Miu.

13 So as long as we're out, I don't know if
14 they're going to have an objection. If so, I just wanted
15 to let everybody know right now.

16 MR. ANDERSON: Can --

17 MR. NELSON: It's on Exhibit Number -- or it's on
18 previously marked discovery video Number 105 at
19 approximately the 3-minute mark. I'm happy to pull it up
20 right now and we can --

21 MR. ANDERSON: I have the actual exhibit here
22 so -- we didn't have advanced warning that they wanted to
23 do that, so I have not watched that portion recently.

24 MR. NELSON: So -- again, I don't know how long
25 their direct is. If we can deal with it now, we can sort

1 it out over the lunch hour, whatever Your Honor wants to
2 do.

3 THE COURT: How long is your direct?

4 MR. SMESTAD: I'm doing it, Your Honor. It's not
5 lengthy, and the -- the portions of the video that I was
6 planning on playing are very short obviously.

7 THE COURT: So we'll probably get to your cross.

8 MR. NELSON: Okay.

9 THE COURT: How much cross do you have? Do you
10 have a lot of cross?

11 MR. NELSON: Depends on your definition of a lot.
12 But, no, I don't think so, Judge.

13 THE COURT: Okay. So potentially we could get to
14 your portion of the video before noon?

15 MR. NELSON: Yes, potentially.

16 THE COURT: All right. Let's take a look then.

17 MR. NELSON: If you could start it at 2:55, just
18 so I know exactly what's -- I think it starts at the
19 3-minute mark.

20 MR. ANDERSON: You can turn it on.

21 THE CLERK: Okay.

22 MR. ANDERSON: When the jury is out you can --

23 2:55 you said?

24 MR. NELSON: Yes, please.

25 Oh, I'm sorry, could you --

1 (Whereupon, the video was played.)

2 MR. NELSON: Stop. Stop there. Sorry. Could
3 you play it from the 2:50 mark? Apologize.

4 (Whereupon, the video was played.)

5 MR. NELSON: Stop it there. So I would want to
6 play it from 2:48 to 3:05.

7 THE COURT: Mr. Smestad?

8 MR. SMESTAD: I don't object, Your Honor.

9 THE COURT: All right. That solves it.

10 All right. Let's bring the jury back in.

11 (Whereupon, the jury enters the courtroom.)

12 THE COURT: Members of the jury, thank you for
13 your patience. We are ready to resume.

14 Mr. Smestad, who is the next witness?

15 MR. SMESTAD: Mitch Thomason.

16 THE COURT: Deputy Thomason, please approach.
17 Face the clerk, raise your right hand, she will administer
18 the oath.

19 LIEUTENANT MITCH THOMASON,
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. Smestad.

1 DIRECT EXAMINATION

2 BY MR. SMESTAD:

3 Q. Will you state your name, please?

4 A. Mitch Thomason.

5 Q. How do you spell your last name?

6 A. T-h-o-m-a-s-o-n.

7 Q. And what do you do for a living?

8 A. I'm a lieutenant with the St. Croix County
9 Sheriff's Office.10 Q. How many years have you been a law enforcement
11 officer?

12 A. Over 20.

13 Q. What are your duties as a -- a lieutenant with
14 the St. Croix County Sheriff's Department, generally?

15 A. Supervising the Patrol Unit.

16 Q. Do you recall July 30th of 2022?

17 A. Yes.

18 Q. Did you get called out due to the Apple River
19 stabbing incident?

20 A. Yes.

21 Q. Were you out in the field doing -- doing work?

22 A. I was not working that day. I got a page out for
23 our -- our SWAT team was paged out for that incident.24 Q. As a lieutenant is that something you're
25 typically involved in?

1 A. Yes.

2 Q. All right. Did you get dispatched to a
3 particular area?

4 A. I was -- the page had the -- the initial incident
5 location. So when I responded I responded to the
6 sheriff's office to grab our drone, and then while I was
7 en route after I got the drone, while I was en route to
8 Somerset the updated location of near the rapids is where
9 I respond to.

10 Q. And when you say the rapids, is that by Village
11 Park?

12 A. Yes.

13 Q. You said you were off duty, but when you
14 responded were you in uniform?

15 A. Correct, yes.

16 Q. Carrying a side arm?

17 A. Yes.

18 Q. Where did you first go?

19 A. I responded to basically the east side of the
20 river underneath the walking bridge, which is accessible
21 by vehicle, by turning off of Main Street or Highway 35 to
22 the south and following the trail.

23 Q. Had you been given at that point a -- a picture
24 of what the suspect looked like?

25 A. Yes.

1 Q. Do you recall as you sit here today what -- what
2 he was wearing in the -- the photograph that you were
3 given, the picture?

4 A. The initial description was a 50 -- 50s
5 something, white male, no shirt, swim trunks, with a
6 gold -- or a -- a necklace chain. The picture was similar
7 to that.

8 Q. At the time that you arrived to the area, had the
9 suspect been taken in custody yet?

10 A. No.

11 Q. Because of that did you use caution when you
12 approached?

13 A. Yes.

14 Q. Did you draw your firearm then?

15 A. I did.

16 Q. Explain what happened once you got to that -- the
17 Village Park area.

18 A. So I parked my squad and exited. I had my
19 handgun drawn but pointed down. There was a group
20 approaching me, walking on the foot path. What struck me
21 as odd was one of the people in that group was wearing a
22 long-sleeved, buttoned-up shirt, hat and glasses, didn't
23 fit in with the rest of the group. I could see just a
24 little bit of a necklace. I felt that that was possibly
25 the -- the suspect that we were looking for. However, I

1 knew a large portion of officers were coming down behind
2 me, so I passed that group to make sure there wasn't -- it
3 was just to rule out that there wasn't anybody else that
4 matched the description, and then behind me I heard
5 someone yell that was the person.

6 Q. Was the Defendant part of that group that walked
7 passed you as you were going down?

8 A. Yes, he was the one wearing the button-up,
9 long-sleeved shirt, hat and glass -- and sunglasses.

10 Q. Did he make any attempt to flag you down or --

11 A. No.

12 Q. -- talk to you?

13 A. Nobody did. Nobody looked at me as I walked
14 passed with my gun drawn.

15 Q. How many seconds after you walk passed did
16 someone else -- some other law enforcement person
17 recognized him?

18 A. Probably within five to ten seconds, because at
19 that point it was a -- a civilian with a baseball bat that
20 yelled that's the suspect or that's the guy.

21 Q. Had you seen the civilian with the baseball bat?

22 A. Yes.

23 Q. Did he attack the Defendant in any fashion?

24 A. No. He just pointed at the subject.

25 Q. At the time this happened, did you have a

1 recollection of how many law enforcement personnel were in
2 that general area? At the Village Park, I mean.

3 A. Everybody was still responding. As the suspect
4 was taken into custody, it was one of our deputies, Deputy
5 Trebian, and a Polk County deputy, and then I was standing
6 there. So in the immediate -- immediate area surrounding
7 the person himself was three of us, but there was
8 constantly people showing up so I don't know the static
9 number of the -- initially.

10 Q. Once he was -- strike that.

11 Did -- did -- were you wearing a body cam
12 that day?

13 A. Yes.

14 Q. Was it recording your activities at Village Park?

15 A. Yes.

16 Q. Did you at some point make contact with Mr. Miu
17 after he had been arrested or detained?

18 A. Yes. After he was handcuffed I escorted him to
19 my squad, placed him in my squad, grabbed my transport
20 belt just knowing with the -- the incident that we -- that
21 this would be a timely process, and then switched out his
22 handcuffs with a transport belt so his hands were
23 handcuffed in -- in front of his body instead of behind,
24 and then placed him in the car.

25 MR. ANDERSON: Judge, can we approach real quick?

1 THE COURT: Yes.

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

3 THE COURT: Mr. Smestad.

4 Q. (By Mr. Smestad, continuing) Lieutenant
5 Thomason, are you aware that your -- your body cam is
6 located on a flash drive that our office has been holding
7 on to?

8 A. Yes.

9 Q. If I said it was marked as Exhibit 9, would that
10 make sense to you?

11 A. Yes.

12 Q. We're going to be playing a portion of your body
13 cam from Exhibit 9. I'm not going to ask you questions
14 about it, I'm not going to have you comment about it,
15 we're just going to play it, okay?

16 A. Okay.

17 MR. SMESTAD: And we're starting at the 20:16
18 mark.

19 (Whereupon, the video was played.)

20 Q. (By Mr. Smestad, continuing) Is that your body
21 cam?

22 A. Yes.

23 Q. That's your voice in the background?

24 A. Correct.

25 MR. SMESTAD: And we stopped, Judge, at 20:36.

1 THE COURT: Thank you.

2 Q. (By Mr. Smestad, continuing) After informing Mr.
3 Miu of what he was charged with --

4 MR. SMESTAD: Nothing further, Judge.

5 THE COURT: All right.

6 Mr. Nelson.

7 CROSS-EXAMINATION

8 BY MR. NELSON:

9 Q. Mr. Thomason, morning.

10 A. Morning.

11 Q. When you -- I'm going to ask you some questions
12 about your arrival at the Village Park where the exit is
13 there, okay?

14 A. Um-hum.

15 Q. You observed -- let me --

16 MR. NELSON: Can I get that Exhibit 110 again?

17 Q. (By Mr. Nelson, continuing) When you observed --
18 we saw the video here, just that 20-second clip, when you
19 were -- do you remember what he looked like there?

20 A. Yes.

21 Q. He didn't have sunglasses on in that picture,
22 correct?

23 A. Correct.

24 Q. He didn't have a hat on in that picture, correct?

25 A. Correct.

1 Q. I'm going to show you what's been marked as
2 Exhibit Number 110, and it's been published before, okay.
3 I want to ask you some questions about that.

4 MR. NELSON: Permission to publish that on the
5 ELMO.

6 Q. (By Mr. Nelson, continuing) Have you seen this
7 photo before, sir?

8 A. I don't think so.

9 Q. And I know the ELMO -- there's a bit of a -- a
10 glare. Are you able to see it or you want me to give it
11 to you in your hand?

12 A. That -- that's fine.

13 Q. Okay. Do you see to the left there a person you
14 now recognize as Nicolae Miu?

15 A. Yes.

16 Q. He's in that photo wearing a -- the shirt that
17 you -- he was wearing when you arrested him?

18 A. Yes.

19 Q. He's wearing the necklace that he was wearing
20 when you arrested him?

21 A. Well, without confirming it, but it appears to be
22 the same, yes.

23 Q. Yeah. He's wearing a necklace --

24 A. Yes.

25 Q. -- agreed?

1 He's wearing sunglasses, agreed?

2 A. Yes.

3 Q. He's wearing a -- a hat, agreed?

4 A. Yes.

5 Q. And I think you can even see, like, the sandals,
6 agreed?

7 A. Mine is cut off on the bottom but --

8 Q. Oops. In this you can see it there just on the
9 bottom?

10 A. It appears so.

11 Q. So in the photo Exhibit 110 he appears to be
12 wearing the same six items of clothing that you saw him
13 wearing when you saw him walking up from the river, is
14 that right?

15 A. In a different manner, but yes.

16 Q. Sure. The shirt was buttoned up, correct?

17 A. Yes.

18 Q. But other than that, it's the same clothing,
19 correct?

20 A. Yes, that appears.

21 Q. And obviously he has a different expression on
22 his face at the beginning of the trip than he does at the
23 end of the trip, right?

24 A. Correct.

25 Q. You -- when you approach him back at the Village

1 Park where the exit is, okay, when you approach there you
2 said you drew your gun out, correct?

3 A. Yes.

4 Q. Obviously that's for lots of reasons but
5 particularly safety, agreed?

6 A. Yes.

7 Q. Your safety first, correct?

8 A. Yes.

9 Q. And then the safety of everybody else around
10 there, correct?

11 A. Yes.

12 Q. Whether they be victims, witnesses, suspects,
13 citizens, you're concerned about everybody's safety,
14 correct?

15 A. Yes.

16 Q. And that's why at that point, even though there's
17 not an immediate threat to you, you have your weapon out,
18 correct?

19 A. Yes.

20 Q. That's what you've been trained to do sometimes,
21 correct?

22 A. Yes.

23 Q. Be prepared, correct?

24 A. Yes.

25 Q. Did you, in that moment -- you had information,

1 correct?

2 A. Yes.

3 Q. Did you have a particular fear or is this just in
4 that instance? Were you fearful, is that why you drew out
5 your weapon?

6 A. If I understand correctly, I wasn't responding to
7 how I felt being in danger, I was responding to what the
8 information I was given and to -- to conduct my job
9 properly.

10 Q. Sure. There might be danger, the safest thing to
11 do here is to have my gun drawn?

12 A. Yes.

13 Q. And when it was drawn, again, I -- I'm just
14 trying to gather the facts, not being critical of you.
15 You understand that?

16 A. Um-hum.

17 Q. How -- when you draw it, do you -- you know,
18 we've all watched shows and so sometimes I see somebody
19 pointing a firearm, sometimes I see them holding it down
20 by their side, sometimes it's with one hand, sometimes
21 it's with two hands. As you come down and you make a
22 visual assessment that Mr. Miu is there, you don't know at
23 the time that he's Mr. Miu but now we do. I want to ask
24 about how you're holding the gun then. Does that make
25 sense?

1 A. Yes.

2 Q. Can you tell us that?

3 A. Yes. It was pointed down towards the ground.

4 Q. Okay. One hand? Two hands?

5 A. One hand.

6 Q. And then as you had it one hand down towards the
7 ground you're walking passed people, correct?

8 A. Yes.

9 Q. And one of those people that you walk passed is
10 Mr. Miu, correct?

11 A. Yes.

12 Q. And about how far are you? One foot? Five feet?
13 Ten feet? 20 feet?

14 A. I'd say within, let's call it, eight to ten feet.

15 Q. Okay. And do you see him standing? Walking?
16 Jogging? Running? What do you see him doing?

17 A. So the group that he was with, there was maybe
18 one or two people between him and I but they were all
19 walking straight from where I came from, passed me, and
20 they were all looking straight ahead.

21 Q. Okay.

22 A. I look at them, see them, and then I'm scanning
23 the area.

24 Q. So Mr. Miu was with other people and they were
25 all walking at the same pace, correct?

1 A. Yes.

2 Q. Fair to say it would just be a normal human
3 walking pace?

4 A. Yes.

5 Q. You -- when you walk passed your thoughts are
6 that might be the guy, correct?

7 A. Yes. Similar.

8 Q. But you also knew that other law enforcement was
9 coming, correct?

10 A. Yes.

11 Q. And in that moment you made the choice -- I'm not
12 critical again, just you made the choice to say I'm going
13 to keep walking to see if the guy might be down the river
14 and we'll let the next group of law enforcement deal with
15 this person that might be the guy, fair to say?

16 A. Yes. So my decision was predicated purely on the
17 fact that I knew more officers were arriving.

18 Q. Yes.

19 A. If I knew I was down there by myself, what I
20 believed him to be more than likely the suspect I would
21 have taken him into custody right away.

22 Q. Sure. Or I imagine if you believed that he was
23 in that moment posing some sort of immediate danger you'd
24 have addressed that, correct?

25 A. That's correct.

1 Q. But for right -- like, you were like that might
2 be the guy, that your danger assessment wasn't heightened
3 based upon your observations of him, correct?

4 A. I -- I was not being attacked or threatened to be
5 attacked, I think that's what you mean.

6 Q. I -- just you didn't find a reason at that point
7 to say even if I think that's the guy, I need to address
8 him right now, right?

9 A. (No response.)

10 Q. I'm imaging that's because you're, like, in that
11 moment, even if he is the guy, you didn't think he was so
12 dangerous that you needed to address him?

13 A. Well, based on what we're told, there's the
14 danger of what was reported --

15 Q. Absolutely.

16 A. -- but I also need to make sure that I don't
17 mistake somebody else and get ambushed or miss a potential
18 another suspect, so that's why I was looking just to
19 double-check, if that makes sense.

20 Q. It doesn't, but I'm not a law enforcement officer
21 and it doesn't --

22 A. All right.

23 Q. -- need to, so I appreciate that.

24 There's lots of factors that you're
25 considering, correct?

1 A. Yes.

2 Q. And whatever reason in that moment, you decided
3 to walk passed him and let the next group of officers deal
4 with him, correct?

5 A. Yes.

6 Q. And then they did deal with him, correct?

7 A. Yes.

8 Q. And then you -- you turned around and observed
9 that, correct?

10 A. I turned around and assisted.

11 Q. And by the time you turned around to assist, they
12 were dealing with it, correct?

13 A. Yes.

14 Q. And Mr. Miu was not running away, correct?

15 A. Correct.

16 Q. He was cooperating, right?

17 A. Yes.

18 Q. What -- from what you saw, he complied, correct?

19 A. Correct.

20 Q. And at some point you decided -- you saw that he
21 was cuffed with his hands behind his back, correct?

22 A. Yes.

23 Q. That can be an uncomfortable position for some
24 people, agreed?

25 A. Yes.

1 Q. And because of that you were like this might be a
2 long time, I'm going to go get -- what you call it, a
3 belt?

4 A. Transport belt.

5 Q. What is that?

6 A. It's the name for it, but it's a -- it's a Velcro
7 belt, it has a D ring on the front, so then the handcuffs
8 go through the D ring. So basically for any extended
9 period of time that someone's restrained, their hands can
10 be in front of them but then they're secured at their belt
11 line. So if someone wanted to resist or try to do
12 something, their hands are locked at their waist, but it's
13 a more comfortable position for a longer duration.

14 Q. And you knew essentially he was going to be
15 placed inside of a squad car where he would be sitting
16 down, correct?

17 A. Yes.

18 Q. And sitting down with your hands cuffed behind
19 your back can be painful, correct?

20 A. Yes.

21 Q. So that was the purpose in your putting him in
22 this belt, is for safety and comfort, right?

23 A. Safety and then comfort just knowing that the
24 investigation might be lengthy.

25 Q. Sure. I mean -- and I'm not critical of your

1 considering both, I just want to make sure that it's not
2 just safety, agreed?

3 A. Correct.

4 Q. It was in addition of you're wearing these things
5 out and saying I got to do this, I got to make sure that
6 he's comfortable and can sit there that long, correct?

7 A. Yes.

8 Q. During that time when you go get your belt and
9 you come back, you're up close with Mr. Miu, is that
10 right?

11 A. (No response.)

12 Q. You assist with putting the transport belt on
13 him?

14 A. Yes.

15 Q. You're, like, in his personal space, correct?

16 A. Yep, correct.

17 Q. And in that time he doesn't do anything to you,
18 correct?

19 A. No.

20 Q. He's -- you agree?

21 A. Yes, correct, he did not do anything to me.

22 Q. That was a poor question on my fault.

23 And your -- because of your job, you have
24 to be essentially in his personal space, right?

25 A. Yes.

1 Q. And when you were in his personal space in that
2 setting I'm sure you're trying to both keep everybody
3 safe, right?

4 A. Yes.

5 Q. And as part of that you want to make sure that
6 the person whose space you're in is comfortable, correct?

7 A. It's one of the considerations.

8 Q. Yeah. You don't want to get in somebody's
9 personal space without kind of making sure it's safe for
10 everybody, right?

11 A. Yes.

12 Q. And part of that is you're making that person
13 feel safe even though you're in their space?

14 A. Correct.

15 Q. And you did that, right?

16 A. I believe so.

17 Q. And you were safe, correct?

18 A. Yes.

19 Q. Mr. Miu didn't do anything to you, agreed?

20 A. He did not.

21 Q. And during when you're in that space you have an
22 opportunity to -- to make observations of him, correct?

23 A. Yes.

24 Q. Including to smell, correct?

25 A. I can, yes.

1 Q. Okay. Because sometimes in cases you've involved
2 -- investigation involving matters of alcohol, correct?

3 A. Yes.

4 Q. And one of the things that you could use is your
5 nose to smell if it seems like somebody was consuming
6 alcohol in somewhat, correct?

7 A. Yes.

8 Q. And if you gather that information you document
9 it in some way, correct?

10 A. Yes.

11 Q. And you might pass it on to another person,
12 correct?

13 A. Yes.

14 Q. And you might do further testing, correct?

15 A. Yes.

16 Q. You didn't document, pass it on, or do further
17 testing regarding Mr. Miu's alcohol use, agreed?

18 A. I did not, no.

19 Q. And the reason you didn't is you had no reason in
20 that moment to suspect that he was somehow intoxicated,
21 right?

22 A. Yes, and there was also not a -- a -- a detail
23 that I was concerned about or part of something that I
24 would have been a part of at that point.

25 Q. Sure. If -- if you had smelled it, you would

1 have noted it, remembered it, told somebody, right?

2 A. Yes.

3 Q. So what we can gather from your not noting it or
4 telling anybody is you didn't smell it?

5 A. Correct.

6 Q. During that process there's also a conver -- you
7 gained information about there's a citizen out there with
8 a baseball bat, is that right?

9 A. Yes.

10 Q. And this is the -- the citizen that essentially
11 pointed out Mr. Miu to law enforcement, right?

12 A. Yes.

13 Q. And do you know if that citizen -- I believe --
14 understand he wasn't attacked. I'm not trying to imply
15 that. Do you know where that citizen was in relation to
16 Mr. Miu?

17 A. His group hadn't approached that citizen so --
18 but they were walking him towards that direction of where
19 the citizen was, but that citizen was also near law
20 enforcement as well.

21 Q. Was that citizen approaching Mr. Miu?

22 A. I heard him yell. When I turned, he was just
23 standing and pointing. And then I -- I was only probably
24 20 feet away.

25 Q. Did you come to learn that that citizen's name is

1 Carl Schilling?

2 A. I -- I never spoke to the citizen or identified
3 him, somebody else did, so I -- I -- I don't know who
4 that -- who he was identified as.

5 Q. Okay. There -- there was information exchanged
6 between law enforcement, amongst law enforcement, in the
7 presence of Mr. Miu about this guy with the baseball bat,
8 is that right?

9 A. I guess I don't know.

10 Q. Okay. There's -- on your body cam there's a time
11 when I think we hear you and others talking about the
12 baseball bat while Mr. Miu is right there. Make sense?

13 A. Okay.

14 Q. Let me just play that, all right. I think it is
15 Exhibit 9 at the 2:48 mark.

16 MR. NELSON: Permission to play Exhibit 9. I
17 actually paused it at the 2:47 mark, until the 3:05 mark.
18 Oh, I'm not hooked up. That's why it's not working.
19 Sorry about that.

20 Gonna press play and then I'm gonna ask you
21 some questions about this.

22 THE COURT: All right. Bear in mind lunch is
23 here so --

24 MR. NELSON: I've got -- okay. I'm pressing
25 pause because I didn't have the volume on. Pressing play.

1 (Whereupon, the video was played.)

2 MR. NELSON: I just played from about 2:47 to
3 3:05.

4 Q. (By Mr. Nelson, continuing) That was your body
5 cam?

6 A. Yes.

7 Q. And that was you again doing the transport belt
8 on Mr. Miu?

9 A. Yes, I was securing the handcuffs.

10 Q. And that was Mr. Miu looking around, correct?

11 A. Yes.

12 Q. While the police were talking about the guy with
13 the baseball bat?

14 A. Yes.

15 MR. NELSON: That's all.

16 THE COURT: Mr. Smestad, anything else?

17 MR. SMESTAD: Nothing further, Judge.

18 THE COURT: All right.

19 Thank you, lieutenant. You are free to go.

20 We're going to break for lunch. Same
21 warnings as before: Please no independent research or
22 investigation; do not speak with anyone, including
23 yourselves, about this case; do not read any media
24 accounts or social media reports or posts about this
25 trial.

1 We will reconvene at 1:00 p.m. Please take
2 the jury out.

3 (Whereupon, the jury exits the courtroom.)

4 THE COURT: We stand in recess.

5 (Whereupon, a break was held.)

6 (Whereupon, the jury enters the courtroom.)

7 THE COURT: We are back in the presence of the
8 jury. All 14 members are present. The attorneys are
9 present, along with Mr. Miu. We're ready to resume the
10 afternoon session.

11 Mr. Anderson, who is the next witness?

12 MR. ANDERSON: Judge, the State's going to
13 briefly recall Terry Andersen.

14 THE COURT: Terry Andersen you said?

15 MR. ANDERSON: Yes.

16 (Whereupon, the witness enters the courtroom.)

17 THE COURT: Mr. Andersen, please retake the
18 witness stand. You're still under oath from this morning.

19 Karl Anderson --

20 MR. ANDERSON: Thank you, Judge.

21 THE COURT: -- you may begin.

22 MR. ANDERSON: May I approach?

23 THE COURT: Yes.

24 DIRECT EXAMINATION

25 BY MR. ANDERSON:

1 Q. I'm handing you what's been marked as Exhibit 41.
2 Can you identify what that is?

3 A. It's the CAD report/manual log for the incident.

4 Q. And what is a CAD report?

5 A. It's a record of the location of the incident and
6 then any notes that the dispatchers would make regarding
7 what's being said on the radio or told by callers, and
8 it's a log of the change of status for any units or
9 officers that are involved with the incident.

10 Q. So if an officer says I'm on scene, that gets
11 logged in there, things like that?

12 A. It does, yes.

13 Q. Okay. Can you turn to Page 7. Does the CAD log
14 on that page have the time for when the suspect was
15 detained?

16 A. 16:49.

17 Q. So it would be 4:49?

18 A. 4:49 p.m.

19 Q. And could that be off by a little bit?

20 A. It could be.

21 Q. And how -- can you just explain that?

22 A. So it's noted on the audio recording of when it
23 was said, but if the -- the dispatcher was busy at the
24 time when the transaction occurred on the radio, there
25 might be a delay depending on what all that dispatcher is

1 doing. That could be a few seconds to maybe 15 seconds,
2 maybe in that area, depending on their activity load
3 because they're multitasking.

4 Q. Thank you.

5 MR. ANDERSON: Judge, I'd move to admit
6 Exhibit 41.

7 THE COURT: Any objection?

8 MR. NELSON: Could we approach?

9 THE COURT: Yes.

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

11 MR. ANDERSON: Judge, I'll -- I'll withdraw
12 moving to admit it.

13 THE COURT: All right. Thank you.

14 You have more questions for Mr. Terry
15 Andersen?

16 MR. ANDERSON: I do not.

17 THE COURT: All right.

18 Mr. Nelson, do you?

19 MR. NELSON: No, thank you.

20 THE COURT: All right. You're excused.

21 (Whereupon, the witness is excused.)

22 THE COURT: Who's next?

23 MR. ANDERSON: Sheriff Knudson.

24 (Whereupon, the witness enters the courtroom.)

25 THE COURT: Sheriff, please come forward. Please

1 face the clerk, raise your right hand, she will administer
2 the oath.

3 SHERIFF SCOTT KNUDSON,
4 after having been first duly sworn on oath by the clerk,
5 testifies and says as follows:

6 THE WITNESS: I do.

7 THE COURT: Please have a seat in the witness
8 chair.

9 Mr. Anderson.

10 DIRECT EXAMINATION

11 BY MR. ANDERSON:

12 Q. Can you please state your first and last name and
13 spell your last name for the record?

14 A. Scott Knudson, k-n-u-d-s-o-n.

15 Q. And how are you employed?

16 A. Sheriff for St. Croix County.

17 Q. How long have you been in law enforcement?

18 A. In my 29th year.

19 Q. How long have you been sheriff?

20 A. Since 2017.

21 Q. And as -- as sheriff do you have -- what -- can
22 you just briefly outline what your duties are?

23 A. A number of administrative duties, as well as
24 overseeing the jail, tending to the courts.

25 Q. Do you do -- do you typically get involved

1 yourself in patrols or investigations or are you more
2 administrative?

3 A. Not often. More administrative and ensuring
4 cases are assigned out.

5 Q. Do you -- typically, do you work Monday through
6 Friday, business hours essentially?

7 A. Yes.

8 Q. Do you get called in often, too?

9 A. I do.

10 Q. Did you get called in on -- to the Apple River
11 stabbing?

12 A. I did.

13 Q. And where did you respond?

14 A. From my residence right in Somerset area.

15 Q. And did you go to the scene of the stabbing or
16 somewhere else?

17 A. I originally went to the bridge, the Sunrise
18 Bridge, which was very close to the scene of the stabbing.
19 The closest access point.

20 Q. At some point did you end up going to the park
21 where the exit is?

22 A. Yes.

23 Q. And what was the -- what was the overall
24 response, law enforcement response, for this case?

25 A. There was a large response from not only

1 internally with the sheriff's office and coordination with
2 getting people called in but also surrounding communities.
3 It was outside of the village limits, the original
4 incident, so Somerset was involved, New Richmond was
5 coming over, I believe I was on the phone with Washington
6 County just trying to get staff and resources to come our
7 way.

8 Q. And were helicopters called for also?

9 A. Yes, I believe there was a helicopter en route as
10 well.

11 Q. And is that specifically a law enforcement
12 helicopter?

13 A. Yes, I believe it was a Minnesota State Patrol
14 that we were trying to gather.

15 Q. And what's the point of the state patrol
16 helicopter?

17 A. At that point we weren't aware of where the
18 suspect was and that he was not in that area. So because
19 of the wooded nature of the river and the long banks, that
20 a bird's-eye view was gonna help us tremendously.

21 Q. And was the sheriff's office trying to set up a
22 perimeter?

23 A. Yes. There was a perimeter that had been set up
24 from the Hideaway on 170th towards County Road I.

25 Q. And at some point did you hear that the officers

1 believed they had a suspect in custody?

2 A. That is correct, yes.

3 Q. And did you respond to the area?

4 A. I did.

5 Q. And did you end up making brief contact with
6 Nicolae Miu?

7 A. I did, yes.

8 Q. And were you wearing body camera?

9 A. I had my body camera with me, yes.

10 MR. ANDERSON: Judge, I'd move to admit and
11 publish the body camera.

12 THE COURT: What's the exhibit number?

13 MR. ANDERSON: Seven.

14 THE COURT: Any objection to Number 7?

15 MR. NELSON: No. No.

16 THE COURT: All right. Seven is received.

17 Please play the portion that you wish to
18 play.

19 MR. ANDERSON: It's the whole video, Judge.

20 I think he's ready.

21 (Whereupon, the video was played.)

22 MR. ANDERSON: Judge, it's 23 seconds. I'm going
23 to ask if I could play it again. It was a little quiet at
24 first.

25 THE COURT: The volume was turned down. I'll let

1 you go one more time since the audio is perhaps relevant.

2 (Whereupon, the video was played.)

3 Q. (By Mr. Anderson, continuing) I just have one
4 more question. So if earlier the jury saw a body camera
5 of Nicolae being told he's under arrest for homicide, was
6 that actually after this contact?

7 A. (No response.)

8 Q. Where he was transferred and -- from one squad to
9 another in a parking lot.

10 A. No, not transferred from one squad to the other.
11 That was after this contact.

12 Q. Gotcha. Okay. So this happened, then
13 transferred squads in the parking lot, told he's under
14 arrest happened after your contact?

15 A. That is correct.

16 Q. Okay. I just wanted to clarify it because we
17 went a little out of order with the testimony.

18 MR. ANDERSON: Nothing else.

19 THE COURT: Mr. Nelson.

20 CROSS-EXAMINATION

21 BY MR. NELSON:

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. You're familiar with the Apple River?

25 A. I am.

1 Q. I think we've seen some maps and talked about
2 Village Park. Are you familiar with Village Park?

3 A. Yes.

4 Q. That is the -- essentially the designated exit
5 spot for tubers, correct?

6 A. That is correct.

7 Q. Mr. Miu left the river at the designated exit
8 spot for tubers, correct?

9 A. It appeared -- I would believe so, yes, from
10 where he was standing.

11 Q. You -- you didn't personally observe it but you
12 saw him there at Village Park, correct?

13 A. Correct.

14 Q. You didn't see him get out of the tube and -- and
15 walk up, but that's where you first saw him, correct?

16 A. That's where I first made contact, yes.

17 Q. And obviously you're not aware of any other
18 evidence that he exited somewhere before that, correct?

19 A. No, I'm not.

20 Q. All right. As the sheriff, I would imagine you
21 are aware of cases in your county, correct?

22 A. Most of them, yes.

23 Q. Yeah. And some cases maybe draw your attention
24 more than other cases, correct?

25 A. That's correct.

1 Q. Certainly this is a case that you were aware
2 about from the get-go and you've paid attention to,
3 correct?

4 A. Correct.

5 Q. Because that's your job, right?

6 A. Yes.

7 Q. It's your responsibility, correct?

8 A. Correct.

9 Q. Obviously there's investigators and other law
10 enforcement officers that are assigned specifics tasks,
11 right?

12 A. Yes.

13 Q. But you, as the -- as the sheriff, ultimately you
14 supervise all of that, right?

15 A. Yes.

16 Q. So I would imagine you are occasionally updated
17 about the investigation, correct?

18 A. Correct.

19 Q. Updated about evidence gathering, correct?

20 A. Yes.

21 Q. There might even be times when you meet with the
22 investigators to talk about what the status is about some
23 piece of evidence or what other evidence you might want to
24 collect or other things of an -- an invest -- an
25 investigative nature, correct?

1 A. Yes.

2 Q. Because as law enforcement you -- there's lots of
3 things you want to do. I understand there's safety and
4 there's all of that, right? Correct?

5 A. Yes.

6 Q. I'm just going to put that aside for a second,
7 okay, talk about the investigation role of law
8 enforcement. Are you with me?

9 A. Yep.

10 Q. And in that role it's essentially your role and
11 responsibility is to collect any and all evidence that you
12 can that you have reason to believe might be relevant,
13 correct?

14 A. Correct.

15 Q. And that's something that there's policies on in
16 your department, correct?

17 A. Evidence collection, yes.

18 Q. Yep. And I'm sure you play a part in those
19 policies, they've changed over the years that you've been
20 the sheriff, right?

21 A. Yes.

22 Q. And --

23 MR. ANDERSON: Judge, I'm going to object on
24 relevance and foundation for this witness. Can we
25 approach?

1 THE COURT: I'm unclear what the relevance is.
2 Where are you going?

3 MR. NELSON: Well --

4 THE COURT: Well, actually, why don't you come on
5 up. You can tell me about it.

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

7 THE COURT: Objection overruled. You may
8 continue.

9 Q. (By Mr. Nelson, continuing) And I don't want to
10 get into the particulars about policies, but in general
11 there's policies, you play a role in forming those
12 policies, about making -- how investigations go and how
13 evidence is collected, correct?

14 A. Correct. And best practices, yes.

15 Q. Yeah. And -- probably -- and before you were a
16 sheriff, but certainly since you've been sheriff, the
17 value of evidence from phones is becoming -- has
18 increased, correct?

19 A. Yes.

20 Q. You're certainly aware of that lots of
21 information can be gathered from somebody's phone,
22 correct?

23 A. Correct.

24 Q. And you, as a standard in your office, I'm sure
25 it's, you know, you -- your officers, deputies,

1 investigators, they collect phones, correct?

2 A. When applicable, yes.

3 Q. Yeah. And when they -- when applicable they then
4 do a forensic download of that phone, correct?

5 A. Yes.

6 Q. To gather anything and everything that they can
7 from that phone, correct?

8 A. Yes.

9 Q. In this case you were -- again, I don't wanna get
10 into the details of what somebody told you, just your
11 general awareness about some particular part of the
12 investigation, okay. You were aware that there was going
13 to be a factual issue in this trial about whether Madison
14 Coen was or wasn't punched, what happened to Madison Coen,
15 correct?

16 A. If that's the lady that was punched.

17 Q. Well, that's a factual issue --

18 A. Okay.

19 Q. -- that the jury's going to decide, but you
20 understood that their --

21 A. I don't know the name. I --

22 Q. That's all I meant.

23 A. That's what I meant. My fault.

24 Q. Well, there was a witness -- let's put her name
25 aside. There's a witness that was there and there is --

1 you're aware that there is a factual issue about whether
2 that witness did or did not get punched or slapped or
3 pushed or how there was some contact with her, agreed?

4 A. Yes.

5 Q. And you're aware that as part of that
6 investigation there was a -- your department was trying to
7 see if there was or there wasn't a photo of her face that
8 might document an injury, correct?

9 A. That sounds familiar, yes.

10 Q. There's been testimony, because I want to give
11 you a chance to see if you have a -- a rebut to that,
12 right, there's been testimony that perhaps a phone was
13 offered up to the sheriff's department with a piece of
14 evidence --

15 MR. ANDERSON: I'm going to object, Judge.

16 THE COURT: Overruled.

17 You may finish your question.

18 Q. (By Mr. Nelson, continuing) -- and the sheriff
19 department said, no, we don't want that phone, we don't
20 care about that picture?

21 MR. ANDERSON: Can -- can we approach?

22 THE COURT: Yes.

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

24 Q. (By Mr. Nelson, continuing) Let me start over.
25 There was a witness whose name is Quinton Carlson, and he

1 testified that it was his understanding that there was a
2 photo taken of this witness, Madison Coen, and that the
3 phone that took that photo was -- was offered up to your
4 sheriff's department and your department said, nah, we
5 don't want the phone, we don't need the photo, we don't
6 want anything to do with that. Are you aware that any
7 such phone was offered to the sheriff's department?

8 A. I'm -- I'm not aware of that, no.

9 Q. I would imagine had a phone been offered up to
10 the sheriff's department, the best practice, the policy
11 would have been for them to collect the phone, correct?

12 A. Best practice would be if applicable, yes.

13 Q. Again, if -- certainly if somebody in a homicide
14 case said I've got a photo of the injury to one of the
15 victims, that would be applicable, right?

16 A. Yes.

17 Q. And so in that scenario the best practice, the
18 policies that you've helped write and established within
19 the county would be for your sheriff's investigative
20 members to collect that phone, correct?

21 A. Yes.

22 Q. And as far as you know, they didn't collect a
23 phone, right?

24 A. (No response.)

25 Q. Or you don't -- you may not know. I --

1 A. I -- I don't know.

2 Q. Okay. You -- if they did not, that would
3 surprise you, right?

4 A. May or may not depending upon everything
5 surrounding it. There was a lot of evidence that was
6 collected. I don't know where this one you're referencing
7 fell in.

8 Q. Okay.

9 A. Or at what time.

10 Q. Maybe I should just ask you this: Based upon
11 your position as the sheriff, do you have any reason to
12 believe that it's true that a piece of evidence in a
13 homicide case was offered up to the sheriff's department
14 regarding a alleged victim, Madison Coen, that your
15 department just dismissed it and said we don't want it?
16 Do you have any reason to believe that that's true?

17 A. I have no reason to believe or not believe it.
18 This is -- that's all news to me. I don't know.

19 Q. Okay. All right. I'm going to move on to a
20 different topic now, okay.

21 I would imagine in your 29 years you've had
22 lots of different roles with the sheriff's department or
23 as a law enforcement officer, right?

24 A. Yes.

25 Q. Probably like lots of people you -- in the

1 sheriff's department you started out on the road, you
2 eventually moved up in ranks, and now you're the sheriff,
3 correct?

4 A. Correct.

5 Q. As part of that training you have training to and
6 experience to detect alcohol, right?

7 A. Correct.

8 Q. The use of alcohol by people, correct?

9 A. Yes.

10 Q. And you certainly know that sometimes whether
11 somebody has or has not consumed alcohol, that's going to
12 be important and relevant to an investigation of a crime,
13 correct?

14 A. It very well could, yes.

15 Q. And so when you're in those situations, even if
16 you're not looking for it, if you happen upon evidence of
17 alcohol consumption you would note that, correct?

18 A. Yes.

19 Q. If you were arresting a suspect and you were in
20 their personal space, close enough to them to smell
21 alcohol, you'd have made a note of that, correct?

22 A. Correct.

23 Q. Or if you heard slurred speech or something along
24 those lines, you'd have made a note of it, correct?

25 A. Yes.

1 Q. Any sign of intoxication you'd make a note of it
2 and you could figure out the relevance of it later,
3 correct?

4 A. Yes.

5 Q. Sometimes if you made a observation of it you
6 might decide to do further investigation, give a -- give a
7 test of some sort, whether it be a chemical test or a
8 field test, correct?

9 MR. ANDERSON: Judge, I just object that these
10 are being cumulative.

11 MR. NELSON: It's not cumulative with this
12 witness.

13 THE COURT: What's that?

14 MR. NELSON: It's not cumulative with this
15 witness.

16 THE COURT: It's not, but we've heard this
17 before. Let's just cut to the chase.

18 Q. (By Mr. Nelson, continuing) Do you agree?

19 A. Can you -- your question again?

20 Q. Yeah. And there's some times where you did note
21 something that you smelled or you heard or some other
22 observation, you might continue to do further tests,
23 either a field test or a chemical test, right?

24 A. Based on the crime, yes.

25 Q. In this case you had contact with Nicolae Miu,

1 correct?

2 A. Yes.

3 Q. You -- we saw the video where you -- he was
4 sitting in a closed -- in a back of a squad car, correct?

5 A. Yes.

6 Q. Closed space, right?

7 A. Yes.

8 Q. Hot day, right?

9 A. Yes.

10 Q. And you were there to check on the temperature
11 for him, right?

12 A. Correct.

13 Q. And when you opened the door you had a brief
14 conversation with him, correct?

15 A. Yes.

16 Q. And then later at a parking lot, sometime later
17 you also were there when he got out of one car and got
18 into another car, correct?

19 A. Yes.

20 Q. And you had contact with him there, correct?

21 A. Yes.

22 Q. Throughout all of those contacts, is it fair to
23 say that you didn't see any signs of intoxication?

24 A. I did not detect any, no.

25 MR. NELSON: That's all.

1 THE COURT: Mr. Anderson.

2 MR. ANDERSON: Nothing else.

3 THE COURT: All right.

4 Thank you, sheriff. You may step down.

5 THE WITNESS: Thank you.

6 (Whereupon, the witness is excused.)

7 THE COURT: Who is the next witness?

8 MR. ANDERSON: Mitch Schaeppi.

9 (Whereupon, the witness enters the courtroom.)

10 THE COURT: Investigator Schaeppi, please come
11 forward. Please face the clerk, raise your right hand,
12 she will administer the oath.

13 INVESTIGATOR MITCHELL SCHAEPPPI,
14 after having been first duly sworn on oath by the clerk,
15 testifies and says as follows:

16 THE WITNESS: I do.

17 THE COURT: Please have a seat in the witness
18 chair.

19 Mr. Anderson.

20 DIRECT EXAMINATION

21 BY MR. ANDERSON:

22 Q. Can you please state your first and last name and
23 spell your last name?

24 A. Mitchell Schaeppi, s-c-h-a-e-p-p-i.

25 Q. And how are you employed?

1 A. As an investigator with the St. Croix County
2 Sheriff's Office.

3 Q. How long have you worked in law enforcement?

4 A. Since 2016.

5 Q. And were you one of the investigators assigned to
6 this case?

7 A. Yes.

8 Q. Did you also respond to the scene on the day of
9 the incident?

10 A. Yes.

11 Q. And at some point were you alerted by other
12 officers that a knife was located?

13 A. Yes.

14 Q. Did you respond to the area where it was located?

15 A. I did.

16 Q. And can you just kind of tell the jury what you
17 came upon?

18 A. Yeah. So when I was notified of where the knife
19 was located, me and my partner walked through the river
20 back to the scene. When we got there I noticed officers
21 from the New Richmond Police Department up on a ledge and
22 pointed down to where a knife was in a muddy section of
23 the shoreline. Just above that shoreline there was sort
24 of a wall that had dragged dirt on it and some green moss.
25 The knife was located laying there, closed, on top of the

1 muddy portion of the shoreline.

2 Q. And were law -- were the officers who alerted you
3 to it, were they still standing there at the scene where
4 it was?

5 A. Yes.

6 Q. And was -- did it appear the knife was
7 undisturbed; meaning, no footprints leading up to it or
8 anything like that?

9 A. Correct.

10 Q. And you said you took photos?

11 A. Yes.

12 MR. ANDERSON: Permission to approach.

13 THE COURT: Yes.

14 Q. (By Mr. Anderson, continuing) Showing you what's
15 been marked as Exhibit 50. Can you just look through that
16 and then identify what they are?

17 A. These are photographs of the knife and the area
18 around the knife as I walked up to it.

19 MR. ANDERSON: Judge, I'd move to admit and
20 publish.

21 THE COURT: Any objection to 50?

22 MR. CHIRAFISI: No.

23 THE COURT: No?

24 MR. CHIRAFISI: No.

25 THE COURT: 50's received.

1 MR. ANDERSON: I'm going to show them digitally.
2 I'll let the clerk know when I'm ready.

3 Q. (By Mr. Anderson, continuing) And just before we
4 go into these, did you take pictures from different
5 distances and also of around the area where the knife was?

6 A. Yes.

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

8 Q. (By Mr. Anderson, continuing) So what are we
9 looking at in this photo?

10 A. That's a picture from me out in the water. As
11 you can see, the officers from the New Richmond Police
12 Department are up there, and that's the overall area of
13 where the knife was located.

14 Q. I'm going to zoom in and see if you can see the
15 knife from this photo, just for context on the location.
16 Is that it right there?

17 A. Yes.

18 Q. The branch on the zoomed out picture is almost
19 pointing to it?

20 A. Correct.

21 Q. And what are we looking at here?

22 A. Just a different angle of the knife itself and
23 the area around it.

24 Q. This photo?

25 A. This photo is to show the undisturbed nature of

1 the sand.

2 Q. Same thing, other direction?

3 A. Correct.

4 Q. What's this photo?

5 A. Photo of the knife.

6 Q. What are -- what are you trying to document here?

7 A. In that photo I'm trying to show the vertical
8 facing wall and the -- how the dirt on there is not dry
9 and the green moss that was on the knife as it was laying
10 there.

11 Q. And can you -- now I'm back at, for the record,
12 the digital file, and this one ends 193846. Can you
13 elaborate on that while looking at this photo?

14 A. Yes. So as you see, the knife here, is what I
15 observed, is the dirt on top, what I believe to be dry
16 dirt different than what's wet on the bottom bullet. With
17 that I concluded that the knife was tossed or placed up
18 against the back wall before it fell there.

19 Q. The -- the dirt the knife is sitting on, is
20 that -- and that's -- that's a hypothesis, you don't
21 actually know that, fair?

22 A. Correct.

23 Q. That's a -- the dirt it's on is wet, is that
24 fair?

25 A. Yes.

1 Q. The bank behind it was dry?

2 A. Yes.

3 Q. I just want to make sure I'm understanding. So
4 it's kind of hard to see terrain in the photos, agreed?

5 A. Yes.

6 Q. So -- and obviously not to scale or anything like
7 that, but if this is the river, can you just -- is this
8 kind of the -- why don't you describe it for the jury.

9 A. So if this was the water in the river where the
10 knife was located, would be right here on the washout.
11 The vertical rock wall that I was just trying to describe
12 is right here, and this is where the officers from the New
13 Richmond Police Department were standing up top.

14 Q. Okay. And --

15 MR. ANDERSON: Could I have the screen back,
16 please?

17 Q. (By Mr. Anderson, continuing) Close-up of the
18 knife?

19 A. Correct.

20 Q. And then who is -- is that you holding it?

21 A. I -- I don't know if that's me or Deputy Kelly.

22 Q. Okay. That's actually probably not you given
23 where it's coming from?

24 A. Correct.

25 Q. All right. And was the knife --

1 MR. ANDERSON: You can mute it.

2 Q. (By Mr. Anderson, continuing) Was the knife
3 secured -- was the knife secured as evidence?

4 A. Yes.

5 Q. How would -- how did that happen?

6 A. I provided the knife to Deputy Boldt, who was up
7 top. He put it in a paper bag and walked the knife back
8 to land to the evidence collection point and secured it in
9 a vehicle.

10 Q. And who was the evidence tech for this case?

11 A. Deputy Kelly.

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 64. What is that?

16 A. It's a list of the evidence collected in this
17 case.

18 Q. And is that -- this knife on that list?

19 A. Yes.

20 Q. And how -- do you use some sort of numbering
21 system to differentiate between evidence items?

22 A. Yes.

23 Q. What evidence number is the knife?

24 A. Number 10.

25 Q. Okay.

1 MR. ANDERSON: Judge, I'll -- I'll offer 64.

2 THE COURT: Any objection to 64?

3 MR. CHIRAFISI: No.

4 THE COURT: The exhibit's received.

5 MR. ANDERSON: Permission to approach?

6 THE COURT: Yes.

7 MR. ANDERSON: Actually, I need a sticker.

8 (Whereupon, Exhibit Number 4 was marked for
9 identification.)

10 Q. (By Mr. Anderson, continuing) All right. I'm
11 handing you what's been marked for the case as Exhibit 4.
12 What is that?

13 A. This is a box containing Article Number 10, which
14 is the knife.

15 Q. Can you open it up for me? And you can put on
16 gloves.

17 MR. ANDERSON: Judge, while he's doing that I'll
18 move to admit Exhibit 10 and publish on the ELMO.

19 THE COURT: Well, Exhibit 10 is body camera --

20 MR. ANDERSON: Or Exhibit -- Exhibit 4, sorry.
21 Evidence Item 10.

22 THE COURT: Any objection to Exhibit 4?

23 MR. CHIRAFISI: Once he opens it and it's
24 confirmed, no.

25 THE COURT: Okay. Let's wait.

1 Q. (By Mr. Anderson, continuing) Is it sealed all
2 around with evidence tape?

3 A. Yes.

4 That is Article Number 10, the knife.

5 Q. Can you --

6 THE COURT: Any objection to its admission?

7 MR. CHIRAFISI: No.

8 THE COURT: All right. Exhibit 4 is received.

9 Q. (By Mr. Anderson, continuing) Are you able to
10 take it out of the box?

11 A. Yes.

12 Q. Can you bring it over and set it under the ELMO
13 here?

14 A. (Complied.)

15 Q. Can you open the blade also?

16 A. (Complied.)

17 Q. Thank you. You can put it back in the box.

18 MR. ANDERSON: I don't have anything else, Judge.

19 THE COURT: Mr. Chirafisi.

20 MR. CHIRAFISI: Thank you.

21 CROSS-EXAMINATION

22 BY MR. CHIRAFISI:

23 Q. Investigator, did you have an opportunity to
24 watch the video of the incident?

25 A. Yes.

1 Q. Have you seen that?

2 A. Yes.

3 Q. Okay. So to be fair, on the video you see Mr.
4 Miu walking in the direction --

5 MR. ANDERSON: Judge, I object. Can we approach?

6 THE COURT: Yes.

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

8 THE COURT: Objection overruled.

9 You may answer.

10 Q. (By Mr. Chirafisi, continuing) So
11 Investigator -- it's Schaeppi? Could you tell me your
12 name?

13 A. Schaeppi.

14 Q. Schaeppi.

15 A. Yeah.

16 Q. Okay. So you said you've seen the video. On the
17 video you -- do you see the -- do you see on the video
18 where Mr. Miu walks over toward the -- the area where the
19 knife is found and then walks kind of away from that area?

20 A. Yes.

21 Q. Do you remember that? Okay. And I'm going to
22 ask you, if I can, about another part of the investigation
23 that you did, okay?

24 A. Okay.

25 Q. You are an investigator, right?

1 A. Yes.

2 Q. Do you also do forensic downloads of cell phones?

3 A. No.

4 Q. Do you collect those cell phones to be
5 forensically downloaded?

6 A. Yes.

7 Q. Okay. And can I ask you, on September 2nd of
8 2022, do you remember being brought into a meeting with
9 Investigator Williams and Madison Coen and her mother? Do
10 you remember that?

11 A. Yes.

12 Q. Okay. You wrote a -- did you write a report on
13 that?

14 A. I did.

15 Q. Okay. And there was -- in terms of what you
16 recall, there was a hope of trying to locate a potential
17 photo of Madison Coen on her cell phone, right?

18 A. Yes.

19 Q. All right. And if you recall, there was a
20 question on whether that could be done because Ms. Coen
21 had told you that it was deleted, right?

22 A. Correct.

23 Q. Okay. So she had said I've taken my phone and
24 I've deleted that off of my phone?

25 A. Yes.

1 Q. Okay. Do you as -- you know what type of case it
2 is in September, right?

3 A. Yes.

4 Q. Okay. Do you ask her at all why would you delete
5 a -- you're the alleged victim of a crime, why would you
6 delete the picture in a case like this? Do you ask her
7 that?

8 A. I don't recall.

9 Q. If you would have asked her, would that be in a
10 report that you prepared?

11 A. It should, yes.

12 Q. Okay. And she's with her mother in this
13 interview room, right?

14 A. Correct.

15 Q. Okay. And once she says, meaning, Ms. Coen, once
16 she says that it's deleted, you explain to her that
17 there's potential ways to recover information that's been
18 deleted off of a phone, right?

19 A. Yes.

20 Q. And you explain to her that there can be what is
21 known as a forensic download of a phone, right?

22 A. Yes.

23 Q. Okay. And what that would be, kind of in
24 layman's terms, is your -- whether it's your department or
25 some law enforcement department has the ability to kind of

1 go through someone's phone, finding information that has
2 been -- that the user has -- believes they've deleted off
3 of the phone, right?

4 A. Yes.

5 Q. Okay. And you explained to Ms. Coen that it was
6 possible, if she would provide her phone, for your
7 department to do that forensic download, right?

8 A. Yes.

9 Q. Okay. You ask permission for the phone to do
10 that and she provides you per -- permission, is that true?

11 A. Correct.

12 Q. Okay. You review the download of that phone,
13 true?

14 A. Yes.

15 Q. Your review of that download -- and let me ask
16 you this: You really try to narrow -- you tell her and --
17 you want to narrow the time frame that we're dealing with
18 here, right?

19 A. Correct.

20 Q. Okay. So there might be -- somebody might have
21 10,000 photos, but a forensic download can narrow it down
22 to a specific day, right? You can search for a specific
23 day, right?

24 A. Through the entirety of the download, yes.

25 Q. Okay. And you've reviewed the forensic download

1 information and would you agree --

2 MR. ANDERSON: I -- I guess I just object on I
3 don't think that's been asked yet.

4 Q. (By Mr. Chirafisi, continuing) Well you --

5 THE COURT: Well, let's get the question out
6 first.

7 MR. CHIRAFISI: Okay.

8 Q. (By Mr. Chirafisi, continuing) Would you agree
9 your report indicates I did not observe any photographs
10 that appear to have be taken of Madison's injuries during
11 the time frame?

12 A. Correct.

13 Q. Okay. So based on the information that you have,
14 it wasn't deleted, right?

15 MR. ANDERSON: I'm going to object on foundation
16 and speculation.

17 MR. CHIRAFISI: Can we approach?

18 THE COURT: Yes.

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

20 THE COURT: Objection sustained on foundation.

21 Next question.

22 MR. CHIRAFISI: Thank you, Judge.

23 Q. (By Mr. Chirafisi, continuing) So, investigator,
24 in term -- in terms of what you did in terms of your -- it
25 says your review of the download, can you explain what you

1 did in that regard?

2 A. Yes. So I don't have any part of physically
3 downloading the phones, I don't have training for that.
4 However, I'm able to review what a person that is trained
5 on that downloading the data that's in there.

6 Q. And what does that consist of?

7 A. It can consist of photographs, call logs, social
8 media accounts, text messages, et cetera.

9 Q. Okay. So I'm gonna try to make this quick and
10 get rid of the stuff that doesn't matter. Were there --
11 so when you're looking at this download, are you seeing
12 photographs that you're not interested in?

13 A. There may have been in a consented time frame
14 that Ms. Coen had given me, but I'm looking for a --
15 specific photographs of the -- of our conversation.

16 Q. Okay. And that was -- to be fair, that was in
17 reference to these injuries that she said she had
18 documented, right?

19 A. Correct.

20 Q. Okay. And is there information provided in
21 this -- I'm going to call it download report, is that
22 fair, it's like a download report?

23 A. Yeah.

24 Q. Okay. Is there information in that download
25 report as to whether or not in this particular case there

1 were other deleted -- I'm not interested in what they
2 were, but other deleted pictures?

3 A. I don't recall if there were other deleted
4 pictures in the consented time frame --

5 Q. Okay.

6 A. -- of what I was looking at.

7 Q. Does this report -- so this report indicated to
8 you, or what was in this report, is there's no photographs
9 that appear to be taken from the injuries during that time
10 frame, right?

11 A. Correct.

12 Q. Is there information in there as to whether or
13 not there were any -- you don't know if there were any
14 deleted photos from that time frame?

15 A. Correct, I do not recall.

16 Q. Do you know, based on your training and
17 experience, whether or not deleted photos can be
18 recovered?

19 A. I don't have the Cellebrite training, but in my
20 experience I know that sometimes deleted photos and
21 messages may be recovered and downloaded.

22 Q. Okay. Do you recall speaking with Madison Coen
23 and her mother about this -- this injury that she said she
24 had?

25 A. I recall a meeting, yes.

1 Q. Okay. And the meeting is recorded, is it not?

2 A. Yes.

3 Q. Okay. I'm going to ask if you remember, if you
4 don't I can show the video. Do you remember Ms. Coen's
5 mother directing a point on her face where she said she
6 saw the injuries?

7 A. I recall that incident, yes.

8 Q. Okay. And what she recalled, to the best of your
9 recollection, is she was pointing to the left side of
10 her -- of her face, correct?

11 A. I don't recall that, no.

12 Q. Okay.

13 (Whereupon, a discussion was held off the record
14 between counsel.)

15 Q. (By Mr. Chirafisi, continuing) So just so I have
16 it clear, investigator, you -- you don't have a
17 recollection, if I heard you correctly, of where Ms.
18 Coen's mother pointed on her own face that she saw the
19 injury to Ms. Coen, is that fair?

20 A. Correct.

21 Q. Okay. Investigator, if I show you a --a still
22 photograph, it's a still of a -- of the video interview,
23 might that help refresh your recollection as to where
24 Madison Coen's mother said that this occurred on?

25 A. Yes.

1 Q. Okay.

2 Can you see that?

3 A. I can.

4 Q. Okay. I can't see it that good.

5 You'd agree that in that photograph she
6 appears to be pointing to the left side of her face,
7 right?

8 A. Correct.

9 Q. Okay.

10 MR. CHIRAFISI: No other questions. Thank you
11 for your time.

12 THE COURT: Mr. Anderson.

13 REDIRECT EXAMINATION

14 BY MR. ANDERSON:

15 Q. Did Madison's mother confirm she saw some sort of
16 injury on Madison?

17 A. I don't recall.

18 Q. Well, if she -- if she's pointing to the face, is
19 that what she would have been doing?

20 A. That picture she was either pointing, scratching
21 --

22 Q. Oh, you don't --

23 A. -- on the left side of her face.

24 Q. Oh, you don't even know what the context of the
25 -- is just from that still shot?

1 A. I mean, no, but --

2 Q. Okay. So Madison -- the -- the forensic
3 download, was it just photos or was it the whole cell
4 phone, text message, photos, everything anyone has
5 personal on a cell phone?

6 A. In my experience that's what a forensic download
7 is, is the entirety of the phone.

8 Q. And she -- you didn't do a search warrant, she
9 gave you consent for that?

10 A. Correct.

11 MR. ANDERSON: Nothing else.

12 THE COURT: Mr. Chirafisi.

13 RE CROSS-EXAMINATION

14 BY MR. CHIRAFISI:

15 Q. You told her you could get a search warrant
16 though, right?

17 A. I explained I could apply for a search warrant.

18 MR. CHIRAFISI: That's all.

19 THE COURT: Thank you, investigator. You may
20 step down.

21 THE WITNESS: You want this over --

22 THE COURT: I'm sorry?

23 THE WITNESS: I just --

24 (Whereupon, the witness is excused.)

25 THE COURT: Mr. Anderson, who is the next

1 witness?

2 MR. ANDERSON: Can I just make sure we have a --

3 THE COURT: Yes.

4 MR. ANDERSON: I'd call Charles Coleman, Judge.

5 THE COURT: Charles Coleman.

6 (Whereupon, the witness enters the courtroom.)

7 THE COURT: Lieutenant Coleman, please come
8 forward. Please face the clerk, raise your right hand,
9 she will administer the oath.

10 LIEUTENANT CHARLES COLEMAN,
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 for
20 the record?

21 A. Charles Coleman.

22 Q. And how are you employed?

23 A. I am the patrol lieutenant for the St. Croix
24 County Sheriff's Office.

25 Q. And what are your duties as a patrol lieutenant?

1 A. Administrative and supervisory in nature, make
2 sure that our deputies have the training and equipment
3 that they need. We oversee their regular day-to-day
4 duties and make sure that they're providing the service
5 that the county and our sheriff expect.

6 Q. And do you -- do you also assist some --
7 sometimes in investigations if there's a dire -- if
8 there's short hands?

9 A. Yes, any major felony case or critical incident I
10 will assist with the investigation.

11 Q. And did you assist in this investigation?

12 A. I did.

13 Q. And what role did you have?

14 A. My main role was to forensically map the crime
15 scene or incident scene on the Apple River.

16 Q. And as part of -- why don't you just tell the
17 jury generally what that means.

18 A. When you forensically map a scene, you end up
19 taking an instrument or a device out there and you try to
20 gather up all the physical evidence with the instrument to
21 transfer over to a digital system, allowing you to view
22 the scene days, weeks, or years later. The instrument is
23 accurate and helps preserve the scene for you to see after
24 the fact.

25 Q. Once you have the scan, is it kind of like a

1 video game where you can move around inside of it?

2 A. The scan ends up creating a 3D rendering, kind of
3 like a 3D printer only with data points, and then you can
4 change the angle in which you're looking at that scene.
5 So you're allowed to either do fly-thrus, like you said,
6 still shots or different perspectives at the scene.

7 Q. And in order to -- did you -- and you did that in
8 this case?

9 A. I did.

10 Q. And where did you do that scanning?

11 A. The scan was at the Apple River near Highway 64
12 overpass and towards upstream further into the river.

13 Q. And did you prepare, as part of your testimony
14 today, a PowerPoint to help explain that to the jury?

15 A. I did.

16 MR. ANDERSON: Judge, I move to admit that
17 PowerPoint.

18 THE COURT: What's the exhibit number?

19 UNIDENTIFIED FEMALE: 51.

20 MR. ANDERSON: Exhibit 51.

21 THE COURT: Any objection to 51?

22 MR. NELSON: No, Judge.

23 THE COURT: It's received.

24 MR. ANDERSON: Can we have the screen, please?

25 Q. (By Mr. Anderson, continuing) What's -- what's

1 the image on this first slide?

2 A. Image on the slide is the Trimble SX10 total
3 station scanner.

4 Q. And that's the device you used?

5 A. Correct.

6 Q. And what are we looking at on slide 3?

7 A. You're looking at a side-by-side comparison. On
8 the right is the drone -- drone fly-thru video. On the
9 left is a similar fly-thru that we did with the 3D mapping
10 from the scene.

11 Q. And where did that drone footage come from?

12 A. From Deputy Forrest Henriksen and Sergeant Chase
13 DuRand.

14 Q. So they flew the river -- and is -- is that a
15 sheriff's office drone?

16 A. It is.

17 Q. These are videos, right?

18 A. Correct.

19 (Whereupon, the video was played.)

20 Q. (By Mr. Anderson, continuing) And so what are
21 you trying to document here or show?

22 A. Show the accuracy of the total station scanner
23 compared to the drone video footage as an overview of the
24 Apple River. The drone footage and the fly-thru on the
25 digital video are showing it going from downstream

1 upwards upstream.

2 Q. So flying away from the bridge?

3 A. Correct.

4 Q. And then what is this one?

5 A. It's a different video showing the drone flying
6 upstream, now downstream towards the bridge, and on the
7 left-hand side is a video fly-thru from our forensic data
8 showing the similar aspect.

9 Q. Just trying to generally document the area of the
10 river?

11 A. Correct.

12 Q. Now, when the video stopped, do you see that
13 shadow going across the river at the right image across
14 the water?

15 A. I do.

16 Q. Would that be the bridge?

17 A. It is.

18 Q. What's this?

19 A. This is a legend explaining any future still
20 shots explaining what each item represents. On the
21 right-hand side -- it's not easy to explain the cardinal
22 directions of many of our still shots and photographs, so
23 it's easy to represent what's upstream and what's
24 downstream. If you compare it to pouring a glass of
25 water, as the water fills up, you get more blue down

1 towards the bottom so the water is flowing downward. Each
2 circle represents an initial point either for contact,
3 attack, or witness groups, as well as knife recovery
4 location.

5 Q. How about slide 6?

6 A. On the left-hand side you have a drone still shot
7 photo overview of the river. As you see with the arrow
8 downstream is at the bottom of the photograph on the
9 right-hand side is a still shot rendering with our
10 forensic data ut -- utilizing the scanner showing the same
11 view -- viewpoint.

12 Q. Slide 7?

13 A. Again, on the left-hand side is a still shot from
14 the drone footage. On the left side, excuse me. And on
15 the right-hand side is a 3D-rendered still shot using the
16 total station scanner data showing the same perspective.

17 Q. Same thing but now facing upstream?

18 A. Correct. Upstream would be at the bottom, and
19 the river is flowing downwards towards the top of the
20 photographs.

21 Q. Slide 9.

22 A. Again, an overview photograph from the drone
23 footage on the left-hand side. The right-hand side is our
24 forensic still shot using the data collected from the
25 scanner. The water at the lower left-hand corner is

1 upstream and it goes downstream towards the bridge in the
2 upper right-hand corner.

3 Q. Slide 10, what are we looking at?

4 A. This is an overall still shot that we created
5 with the scanner data. Included in this are locations of
6 the initial contact in the white circle, the yellow circle
7 is the attack location, the pink circle is the Carlson
8 tubing group, and the orange circle is the Miu tube --
9 tubing group.

10 And you can see on the left-hand side of
11 the middle of the river there's a large white pole that
12 extends from the tree line, that is the knife location.
13 If we were to put a circle down on the ground, you
14 wouldn't be able to see it because of the tree overhang
15 from the 3D drawing.

16 Q. And so the bridge would be above this area at the
17 river?

18 A. Correct. The bridge would be further forward on
19 top of the photograph.

20 Q. And I'm just going to show quick, so I have my
21 pointer here. Is this where you're talking about the
22 vertical line of the knife location?

23 A. Correct.

24 Q. I'm just gonna zoom in.

25 And do you go through on later slides on

1 how you estimated these locations?

2 A. Yes. With the assistance of Investigator Shilts
3 we were able to take direct data points utilizing a prism
4 pole. He had an estimated location of each incident, and
5 so we took direct shots to create that circle.

6 Q. Similar diagram but looking upstream now?

7 A. Correct.

8 Q. So what are we looking at here?

9 A. On the left-hand side is a drone photograph. On
10 the right-hand side is a similar perspective using the
11 forensic data. In this still shot that we took we
12 included the initial contact location, the Carlson group,
13 Miu tubing group, and the right-hand side you can see the
14 long pillar where the knife location was at.

15 Q. So that -- that orange circle on the background
16 of the right, in the scan it looks like kind of a green
17 spot it's on with that in the left, would that be that
18 sandbar?

19 A. Yes.

20 Q. Same diagram facing towards the bridge?

21 A. Correct. Different perspective.

22 Q. Same thing?

23 A. Same thing, different perspective.

24 Q. What are we looking at in -- on the slide 15?

25 A. On the left-hand side we have a more focused

1 still shot with the forensic data. With the instrument
2 we're able to get accurate measurements, and with this we
3 were able to determine the width of the river at different
4 points along the -- the river. As you can see on the
5 left-hand side, the lower portion, it's 155 feet --
6 approximately 155 feet across and 150, 147, and then 155
7 across.

8 On the right-hand photograph you see a more
9 overview more of the river, and again, the measurements
10 are included there: 155, 150, 147, 155, and the river
11 narrows to 123 and 110. And those are all in feet.

12 Q. And is this -- the technology for this, is it
13 similar to kind of the 3D scans maybe some realtors or
14 construction companies use now?

15 A. So the Trimble SX10 scanner is a total station
16 scanner that'll utilize infrared laser beams. It also
17 takes panoramic photographs. And so you are able to take
18 a scan that 360. Everything the infrared laser hits or
19 reflects off of returns to the instrument, it creates a
20 data point for that.

21 It uses the pictures that it takes in order
22 to create a color for each individual data point. It
23 collects approximately 26,000 data points per second in
24 the scanner mode. The instrument is good up to
25 600 meters, and accuracy at a hundred meters is

1 approximately 14 millimeters.

2 This instrument is used by land surveyors,
3 building contractors, and in law enforcement we utilize it
4 for forensic gathering of -- of scenes, whether internal
5 or external.

6 Q. Do you do anything to make sure that when it's
7 giving you data points that it's accurately recording the
8 distances?

9 A. Yes. We do a -- a distance ac -- accuracy check
10 at the beginning of the scan. We'll end up laying out a
11 tape measure. We'll do a direct shot instead of a scan of
12 that taper and measure it from there. We'll go into the
13 computer software system, measure those two same points
14 and make sure that it's accurate.

15 Q. So if you have this --

16 MR. ANDERSON: Oh, the screen.

17 Q. (By Mr. Anderson, continuing) If you have this
18 program open on your computer, could you click between two
19 different points and get a measurement of the distance
20 between them?

21 A. Any individual dot that's on that drawing we
22 could get an X, Y, and Z measurement for it. So
23 measurement across, height, and slope.

24 Q. And then in the next few slides, what are you
25 showing?

1 A. So this is -- since we're able to view from
2 different perspectives, this is a perspective if you're
3 standing near the Miu group location by the island sandbar
4 that you can see in the lower right-hand corner, the
5 circle ahead of you is the initial contact location. On
6 the right-hand side the purple circle is the Carlson
7 Group.

8 Q. I want to back up, I forgot to ask you a question
9 here. I'm going to end the show so I can use my cursor.

10 THE COURT: Now, the witness has a monitor that
11 can annotate.

12 MR. ANDERSON: Oh.

13 THE COURT: I don't know if both of you were
14 aware of that or not.

15 MR. ANDERSON: All right.

16 Q. (By Mr. Anderson, continuing) So the -- in this
17 slide, I just went back to 15, the -- you have two dots
18 representing where the -- Isaac's Group was, right?

19 A. Correct.

20 Q. And then for the Carlsons' Group there's just one
21 dot, but were they -- were they also drifting?

22 A. Yes. The location of the Carlson Group was based
23 off Investigator Shilts's knowledge. We took a direct
24 shot of it but it was the stationary location, not them
25 progressing down the river.

1 Q. And what are we looking at here?

2 A. So with our drawing software we're able to put in
3 mannequins or models. In this case we were able to put a
4 six-foot tall person into the river to show the
5 perspective from Miu's Group to what a person at that
6 distance would look like.

7 Again -- oh, sorry.

8 Q. Go ahead.

9 A. Again, with this one, now we have the yellow
10 circle as the initial contact progress further downriver
11 to the attack location. The six-foot tall person is
12 placed in the general area of that attack location.

13 Q. Slide 19?

14 A. This perspective is from the Carlson Group. And
15 here they're looking across river, so to your left will be
16 upriver, and as the water flows to the right downriver
17 you'll see their perspective of the initial contact and
18 their perspective towards the attack location.

19 Q. Slide 20?

20 A. Again, in the drawing we just include the
21 six-foot tall mannequin to show visual perspective of what
22 a person would look like at that distance.

23 Q. 21.

24 A. This, again, is a six-foot tall person now near
25 the attack location as witnessed from the original

1 location of the Carlson Group.

2 Q. And these -- these approximate locations of the
3 groups, did you get that from comparing it to the video of
4 the incident?

5 A. I did.

6 Q. So what are we looking at on slide 22?

7 A. So on the left-hand side is our perspective of
8 the initial contact as facing upstream towards the Miu
9 tuber group. This will show on the right-hand side the
10 still frame extraction from slide 0196. I ended up
11 cropping the perspective to compare to what the phone
12 video looks like for that still shot and showing the
13 background with the trees and where the Miu Group is at,
14 putting that approximate circle there.

15 Q. Slide 24?

16 A. Again, to help confirm with the initial contact
17 location based off the video still shots from the cell
18 phone. 0462 is on the right and on the left-hand side is
19 our crop perspective from the initial contact looking at
20 that same bridge.

21 Q. 26?

22 A. In this still photograph we compared still shot
23 2961 and created the perspective on the left using the
24 drawing software program. It's looking back upriver. On
25 the left you see this purple circle for the Carlson Group,

1 and you can barely see it in the middle, the outline of
2 the Miu Group in orange.

3 We cropped that perspective to match
4 similarly to the phone still shot, and in the upper
5 left-hand corner you can see the light green grassy area
6 just outside of the sandbar island area.

7 Q. So just to simplify a little bit, is it fair
8 you're looking at the video and then trying to do a
9 fly-thru of your 3D scan to find the same perspective of
10 different clips in the video?

11 A. Do your best to go into the -- the 3D drawing and
12 zoom in or get to the exact perspective, and there may
13 need to be some manipulation of just your viewpoint, not
14 of the data, just of the view, of what you're looking at
15 inside the drawing in order to create the still shot on
16 the left-hand side.

17 Q. And then 28, what are we looking at?

18 A. On the right-hand side is the still shot of the
19 cell phone video 2995. On the left-hand side is the same
20 perspective. This is now the -- the attack location and
21 showing the Carlson Group straight ahead at that
22 perspective, as you can you could see with the trees on
23 the top of the photograph, matching the rendered drawing
24 on the left-hand side.

25 Q. And can you --

1 MR. ANDERSON: Can we activate his screen, Judge,
2 so he can kind of trace what he's talking about on the
3 tree line?

4 THE COURT: Yeah. There should be a --

5 THE WITNESS: Cursor, Your Honor.

6 THE COURT: Yeah, just use your finger.

7 THE WITNESS: Okay. Thank you.

8 A. So what I'm looking at here is the same tree line
9 that I see here and then I see there, to show same
10 perspective.

11 Q. (By Mr. Anderson, continuing) And then what are
12 we looking at in slide 30?

13 A. This is an overview of the river. Upstream is
14 towards the top of the photograph, downstream towards the
15 bridge is on the bottom. We have the initial contact
16 location is the white circle and a measurement between
17 that circle and the attack location, which is in feet.

18 Q. So talking about 62?

19 A. Approximately, yeah, 62 feet, yes.

20 Q. Same thing but looking the other direction?

21 A. Correct. Now the bridge is at the top of the
22 photograph and upstream towards the island is at the
23 bottom.

24 Q. Slide 32.

25 A. This is a overview. The distance between the

1 attack location and the knife recovery location, which is
2 approximately 114 feet.

3 Q. Slide 33.

4 A. This is the attack location to -- distance to the
5 Miu Group, which is 233 feet, and the approximate distance
6 from the attack location to the Miu -- Carlson Group,
7 excuse me, which is approximately 132 feet.

8 Q. And that would be 132 feet from the ultimate
9 spot, but if the Carlsons continued to drift downriver
10 there would have been closer, fair?

11 A. Correct.

12 MR. NELSON: Objection. Leading.

13 THE COURT: Sustained.

14 Q. (By Mr. Anderson, continuing) The -- let me go
15 back. So how many dots do you have for Isaac's Group in
16 this one?

17 A. Two.

18 Q. And what -- what's the white dot?

19 A. The white dot's the initial contact location.

20 Q. Yellow dot?

21 A. The attack location.

22 Q. And then the pink dot for the Carlson Group,
23 what's that?

24 A. The initial location that Investigator Shilts
25 told me where the Carlson Group was at.

1 Q. So no subsequent location is of the Carl -- of
2 the Carlson Group is identified in the diagram?

3 A. No.

4 Q. And slide 34, what are we looking at?

5 A. On the left-hand side is a photograph from the
6 drone footage. On the right-hand side is the still shot
7 perspective towards --

8 Q. I'm just going to zoom in -- actually, let me
9 focus you here. On the left, just -- how about just on
10 the left photo, what are we looking at?

11 A. So it's a photograph from the drone footage
12 showing deputies or investigators there. I believe
13 Investigator Schaeppi's on the left-hand side walking in
14 towards that tree line location on the south shore.

15 Q. Of where that -- to identify where that knife was
16 found?

17 A. That's where I was informed the knife was found,
18 yes.

19 Q. And then the right, same location but from the
20 scan?

21 A. Same perspective.

22 Q. And so the bridge from here would be to the
23 right?

24 A. Correct. Downstream.

25 Q. Same thing but now there's that white bar?

1 A. White bar signifying the location of the knife
2 recovery.

3 Now just a zoomed-out perspective of the
4 knife recovery.

5 And then an overview of the knife recovery
6 location.

7 Q. And then the bottom left of that right image
8 would be that sandbar?

9 A. I do.

10 Q. Do you guys -- did the sheriff's office measure
11 the water depth?

12 A. We did.

13 Q. And so what are we looking at in slide 38?

14 A. So with direct shots we're able to utilize a
15 prism pole. We measure the height of the pole, and at the
16 bottom of it the instrument will measure where the sand
17 ground is underneath the water, since the instrument does
18 not reflect off water. So we're able to take direct shots
19 in different areas of the river, and in this area near the
20 attack location the approximate depth of the river was
21 .83 feet or approximately 9.96 inches.

22 Q. And was this measured the same day as the
23 incident or later, if you recall?

24 A. Approximately one month after.

25 Q. Okay. So the -- if the -- more rain, less rain,

1 it could have been different?

2 A. Could have been.

3 Q. Okay.

4 MR. ANDERSON: I don't have anything else, Judge.

5 THE COURT: Mr. Nelson.

6 CROSS-EXAMINATION

7 BY MR. NELSON:

8 Q. Just right away regarding the depth, sir. The --
9 you said it was -- the depth was measured one month later,
10 correct?

11 A. Correct.

12 Q. The date of the incident was July 30th, correct?

13 A. Correct.

14 Q. And so August 30th, roughly?

15 A. September 1st.

16 Q. Okay. So more than 30 days?

17 A. Correct.

18 Q. 32 days?

19 A. (No response.)

20 Q. 33 days. Somewhere in there?

21 A. Somewhere in there.

22 Q. You would agree that you lived in this area for
23 some time, right?

24 A. Yes, sir.

25 Q. You're familiar with the river?

1 A. I am.

2 Q. You're familiar with the trends of rivers in this
3 area throughout the -- the year, correct?

4 A. Yes, sir.

5 Q. Would you agree that, typically speaking, rivers'
6 depth goes down between the end of July and the end of
7 August?

8 A. Typically.

9 Q. Did you do any investigation to determine whether
10 or not the amount of rainfall that we had from July 30th
11 to August -- to September 1st?

12 A. I did not.

13 Q. So you have no idea, to some extent, how deep it
14 was on July 30th?

15 A. Correct.

16 THE COURT: I'm -- I'm sorry, maybe this would be
17 a good time to break.

18 MR. NELSON: Sure. That's fine.

19 THE COURT: We'll take a break in-between the
20 examinations. But it is 2:30, why don't we take a break
21 for about 15 minutes. We'll come back at 2:45.

22 (Whereupon, the jury exits the courtroom.)

23 THE COURT: We are out of session until 2:45.

24 MR. ANDERSON: Judge, can we approach quick or we
25 can talk -- can was just -- I was just going to let the

1 Court know about the rest of the afternoon.

2 THE COURT: Sure. What's happening?

3 MR. ANDERSON: So we're trying to get in more
4 witnesses. Some people aren't available, some have
5 childcare, and basically I think I have two more witnesses
6 that are probably pretty quick for the day.

7 THE COURT: We'll fill the day, right?

8 MR. ANDERSON: I don't think so.

9 THE COURT: Well --

10 MR. ANDERSON: So if we break early --

11 THE COURT: Let's go as far as we can.

12 MR. ANDERSON: Yeah.

13 MR. NELSON: And it sounds like, Judge, the other
14 thing is, it sounds like the State agrees that whatever
15 Spanish-speaking witnesses they don't call tomorrow, they
16 have no objection to our calling those Spanish-speaking
17 witnesses out of order since the interpreters are
18 available. And our intention would be to call Ariel and
19 Ernesto, two of the individuals that were here before Your
20 Honor ordered to show up on Friday.

21 THE COURT: Yes. So we have interpreters
22 available all day tomorrow, so let's get all of the
23 witnesses done tomorrow who need Spanish interpreters.

24 MR. ANDERSON: Then my only request is just we
25 explain it to the jury that given the interpreters and,

1 you know, normally it would be State, Defense but --

2 THE COURT: Yes. Yes, I'll do that.

3 MR. ANDERSON: Great.

4 MR. NELSON: And just so -- Mr. Anderson had
5 indicated that he may have a potential problem with one of
6 his medical witnesses next week, and if he needs to call
7 that person out of order, if he finishes and we start
8 calling witnesses, we reciprocate.

9 THE COURT: Very nice. Excellent. Thank you.

10 We're in recess.

11 MR. ANDERSON: Thank you, Judge.

12 (Whereupon, a break was held.)

13 THE COURT: We are back in session. I am outside
14 the presence of the jury. The attorneys are present,
15 along with Mr. Miu.

16 I understand the attorneys would like to
17 speak?

18 MR. NELSON: Yes, Judge. If I -- during Mitchell
19 Schaeppi's testimony he was shown a screenshot and it was
20 published to the jury. We just had it printed out. I
21 figured I could have that marked then as probably
22 Exhibit 112, I think we're next at, for the record to know
23 what it is we put up on the screen.

24 THE COURT: All right. Thank you.

25 (Whereupon, Exhibit Number 112 was marked for

1 identification.)

2 MR. NELSON: That's all.

3 THE COURT: That's it.

4 MR. NELSON: Yep.

5 THE COURT: I was bracing for something
6 important.

7 MR. NELSON: I think it was important.

8 THE COURT: Well, yeah, I used the wrong words.
9 I'm sorry.

10 MR. NELSON: I appreciate that.

11 THE COURT: Something much more -- whatever.

12 Let's move on. It's late in the day, I'm getting tired.

13 MR. NELSON: Yes.

14 THE COURT: Let's bring in the jury.

15 (Whereupon, the jury enters the courtroom.)

16 THE COURT: We are back with the jury, ready to
17 continue. Lieutenant's Coleman's on the witness stand.

18 Mr. Nelson.

19 MR. NELSON: Thank you.

20 Q. (By Mr. Nelson, continuing) Sir, I believe I was
21 asking you questions about the water depth when we last
22 spoke. During your testimony I think you'd said near
23 attack location and you said approximate. Do you -- can
24 you tell the jury precisely where it was measured on the
25 river, the depth?

1 A. Yes. There was a direct shot location placed in
2 that point of the river.

3 Q. Okay. Did you just measure it in that one spot?

4 A. Yes.

5 Q. Did you just take a sample, like a foot here or
6 two feet here or three feet over there? Did you do any
7 kind of sampling in that general area?

8 A. Yes.

9 Q. Do you have those numbers?

10 A. They -- I have a log of them, I do.

11 Q. Okay. For whatever reason, you chose this
12 number?

13 A. That was the number Investigator Schultz -- or
14 the location Investigator Shilts told me to take the shot.

15 Q. I understand. And so my -- my -- this is the
16 river, right. You measured it from this spot, correct?

17 A. Correct.

18 Q. You measured it from this spot because that man
19 told you to, correct?

20 A. Correct.

21 Q. What I'm asking is did you take a measurement
22 over here or over here or over here? Anyplace else around
23 that area just as a sampling of the area where
24 Investigator Shilts told you to?

25 A. Yes.

1 Q. Do you have those measurements?

2 A. There's a log measurement of the measure -- or of
3 the depths in those general areas.

4 Q. Okay. And fair to say that it varies depending
5 upon where you measure, correct?

6 A. Correct.

7 Q. The location that Investigator Shilts chose,
8 that's a human choice, correct?

9 A. Correct.

10 Q. That's not a -- like you've done accident
11 reconstruction, correct?

12 A. Correct.

13 Q. And you've done accident reconstruction on terra
14 firma, on ground, correct?

15 A. Correct.

16 Q. And when you're on the ground, not on the water,
17 it's easier to have a particular landmark, correct?

18 A. Yes.

19 Q. That's part of the difficulty about a river, is
20 it's fluid in every sense of that word, correct?

21 A. Yes, sir.

22 Q. And so for you to establish the landmarks that
23 you mentioned, you were, again, using land, correct?

24 A. Correct.

25 Q. So you didn't have any river marks or watermarks,

1 right?

2 A. Correct.

3 Q. Do you know what Investigator Shilts -- how he
4 made that human decision to say that's the spot?

5 A. He did not explain to me why he chose that spot.

6 Q. Okay. And when he chose that spot to you was
7 it -- were you out on the river with him?

8 A. Yes.

9 Q. Okay. And he was like this is it right here?

10 A. Yes.

11 Q. Okay. Did you ever take that spot that he
12 pointed to and compare it to the video?

13 A. Yes.

14 Q. Okay. And what we know is -- so we have that
15 spot based upon the human choice that Investigator Shilts
16 told you, right?

17 A. Correct.

18 Q. And then you also have, what I think you called,
19 initial contact, correct?

20 A. Correct.

21 Q. And was that based upon a human choice that
22 Investigator Shilts told you or something else?

23 A. Human choice.

24 Q. So he -- again, he told you here's where the
25 initial contact was?

1 A. Yes, sir.

2 Q. And then that was compared using landmarks to see
3 whether the perspective is accurate --

4 A. Correct.

5 Q. -- is that what you're basically telling us?

6 A. Correct.

7 Q. Okay. And what we know is from the initial
8 contact to that yellow dot that you call attack location,
9 that's like 62 feet, correct?

10 A. Correct.

11 Q. And from that can we deduce that Nicolae Miu
12 walked 62 feet in that direction?

13 A. He was around the generalized initial contact
14 location and the attack location, so an approximate
15 distance of 62 feet.

16 Q. And he got there by walking, correct?

17 A. Correct.

18 Q. And had that initial location, had that group of
19 teenagers stayed -- stayed there, he's walking away?

20 A. (No response.)

21 Q. I mean, if he's standing at the yellow dot and
22 the teenagers stay at the white dot, the teenagers are
23 62 feet away from Nicolae Miu if they stay there, correct?

24 A. (No response.)

25 Q. Should we draw it out?

1 A. Yes.

2 Q. I swore I wasn't going to do this on TV.

3 Okay. This is upstream and this is
4 downstream. Does that make sense?

5 A. Yes, sir.

6 Q. You had a mark that you called initial contact
7 and I think it was white, is that right?

8 A. Yes.

9 Q. Can I just use pink for this?

10 A. Yes, sir.

11 Q. And then you had a mark that was more of a -- of
12 a yellow, is that fair to say, or an orange?

13 A. Yellow, but you could use orange.

14 Q. You call this one up here attack, right?

15 A. (No response.)

16 Q. Correct?

17 A. Correct.

18 Q. My understanding is that -- again, this isn't in
19 perspective, right, but the distance from there to there
20 is 62 feet, correct?

21 A. Correct.

22 Q. So Nicolae Miu, I'll make him this -- he is
23 initially here, correct?

24 A. No.

25 Q. All right. And Nicolae Miu is not at the initial

1 contact?

2 A. He is not in that location.

3 Q. Okay. So when you said initial contact, who's
4 contacting whom?

5 A. When two groups converge upon each other and they
6 are in physical contact with each other, whether by tubes
7 or persons.

8 Q. Who's -- who are the -- there's Nicolae Miu,
9 agreed?

10 A. Correct.

11 Q. There's the Teenager Group, agreed?

12 A. Yes.

13 Q. And there's the Carlson Group, agreed?

14 A. Agreed.

15 Q. And then there's the Miu Group, agreed?

16 A. Agreed.

17 Q. On this part we don't have the Miu Group,
18 correct?

19 A. Correct.

20 Q. And on this part we don't have the Carlson Group,
21 correct?

22 A. Correct.

23 Q. Fair to say that the initial contact is between
24 Mr. Miu and the six teenagers, agreed?

25 A. Agreed.

1 Q. So Mr. Miu is -- I didn't put it in here, but
2 he's in this general area at the initial contact, correct?

3 A. Where you put the X is not in the correct spot.
4 I don't mean to be semantics, Mr. Nelson, I --

5 Q. Put it where it needs to be, please.

6 A. Initial contact, because you're upstream --

7 Q. Ah.

8 A. -- is up here.

9 Q. Okay.

10 A. Mr. Miu made contact at a diagonal and he was
11 above/upstream from the -- the tuber group.

12 Q. So my mistake was on the initial part of it,
13 right. So now is this correct?

14 A. Other than I don't have the X shown towards the
15 shoreline, but in the general area, yes.

16 Q. What do you mean by the -- where would Mr. Miu be
17 here?

18 A. Mr. Miu approached from this angle, so I'd put
19 him here at the top, upstream of the tuber group.

20 Q. Okay. All right. And when you say he approached
21 from this angle, you don't know that, correct?

22 A. Looking at the video he came from upstream.

23 Q. What video were you looking at? Is there a video
24 of Mr. Miu walking from his group over to there?

25 A. He was upstream at an angle going towards the

1 tuber group.

2 Q. Okay. This is 62 feet, correct?

3 A. Correct.

4 Q. The video that you watched, you're saying he
5 walked more than 62 feet?

6 A. I don't know where he walked from, I just know he
7 was upstream at the tuber group when he had initial
8 contact with them.

9 Q. Okay. So we've got two different -- I'm just --
10 I want to make sure I'm not confused here, okay. Have you
11 seen the videos from Jawahn Cockfield's phone?

12 A. Yes.

13 Q. And there's a video that's been admitted that's
14 9 seconds long in which Mr. Cockfield yells out the word
15 raper. Are you familiar with that video?

16 A. No.

17 Q. Okay. There's a video that's 3 minutes and
18 20 seconds long that involves the incident that we're here
19 to -- the jury's here to determine. Are you familiar with
20 that video?

21 A. Yes.

22 Q. Any other video that you're talking about?

23 A. No.

24 Q. Okay. And then the video then that you're
25 talking about, which is an Exhibit 2 and it's the

1 3 minutes and 20 seconds, that's the only video you've
2 seen, correct?

3 A. Correct.

4 Q. And in that video Mr. Miu is walking towards the
5 teenagers, correct?

6 A. Correct.

7 Q. He eventually, I think, jogs for like three or
8 four steps, agreed?

9 A. Correct.

10 Q. And that's when you're talking about is when he
11 reaches his hands out and puts his hands on the tube,
12 that's the initial contact, correct?

13 A. Correct.

14 Q. All right. So now that we've got that down, from
15 that initial contact point until we're -- whomever
16 attacked whomever, that's 62 feet away, correct?

17 A. Correct.

18 Q. So for Mr. Miu to get from here to there he had
19 to walk 62 feet downstream, correct?

20 A. Correct.

21 Q. Had the Teenager Group stayed where they were,
22 he'd have been 62 feet away, agreed?

23 A. Correct.

24 Q. The only way that they got there is they followed
25 him, correct?

1 A. I just know they ended up at the same location.

2 I don't know who followed who.

3 Q. Okay. Well, you watched the video, right?

4 A. I did.

5 Q. And at some point do you see Mr. Miu then walk
6 towards the Carlson Group?

7 A. Yes.

8 Q. Do you know how far Mr. Miu walks from the place
9 where he walked away from the teenagers to walk over to
10 the Carlson Group?

11 A. No.

12 Q. Do you know how far the teenagers walked to
13 follow him over there?

14 A. No.

15 Q. Fair to say that in determining the locations
16 the -- you determined the Miu Group based upon the
17 sandbar, correct?

18 A. Correct.

19 Q. That's a landmark, correct?

20 A. Correct.

21 Q. Fair to say you're very confident in that
22 determination of that position, correct?

23 A. Yes.

24 Q. Because that's not dependent upon a human saying
25 it was here, it's a landmark, correct?

1 A. Yes, sir.

2 Q. All right. Now, I -- you've done accident
3 reconstruction on roadways, correct?

4 A. Yes, sir.

5 Q. On roadways you're often asked to determine where
6 the lanes of the road are, correct?

7 A. Correct.

8 Q. Who's in which lane, correct?

9 A. Correct.

10 Q. A river's completely different, right?

11 A. It is.

12 Q. Because there's no designated lanes, correct?

13 A. Correct.

14 Q. As far as you know, there's no -- as a law
15 enforcement officer, there's no place that a person can or
16 can't be on a river, correct?

17 A. Correct.

18 MR. ANDERSON: I'm gonna object on cumulative and
19 relevance for this witness and beyond the scope of direct
20 and I think it's -- I think it's been covered.

21 THE COURT: I barely heard you. Sorry.

22 MR. NELSON: Can we approach if we're going to
23 have a speaking objection?

24 THE COURT: Yes.

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

1 THE COURT: Next question.

2 MR. NELSON: I just want to be clear, his answer
3 stands, I'm moving on.

4 THE COURT: Fair enough.

5 Q. (By Mr. Nelson, continuing) At some point you
6 shown on there also the width of the river, is that
7 correct?

8 A. Correct.

9 Q. And I think the distances were ranging in that
10 general area anywhere from 147 feet wide to 155 feet wide,
11 correct?

12 A. Yes, sir.

13 Q. Plenty of room for a group to go around one man?

14 A. Yes.

15 Q. You talked about, again, on the drawing legend,
16 we have -- I think it's pretty obvious -- initial contact.
17 We've talked about what that is, right?

18 A. Correct.

19 Q. And then the Carlson Group and the Miu Group, we
20 talked about the Miu Group is on the sandbar and that
21 never changes, correct?

22 A. Correct.

23 Q. The Carlson Group is, based upon one moment in
24 time, correct?

25 A. Correct.

1 Q. That may have changed throughout that 3 minutes
2 and 20 second video, correct?

3 A. Yes, sir.

4 Q. And at some point in that 3 minutes and
5 20 seconds, for lack of a better phrase, Mr. --
6 Investigator Shilts picked a space and said let's put them
7 here?

8 A. Yes.

9 Q. And then the last location we talked about, their
10 term used, was attack location, correct?

11 A. Yes.

12 Q. You -- you're a law enforcement officer, you've
13 been in this position here testifying in front of a jury,
14 correct?

15 A. I have.

16 Q. All right. You -- you're here to give facts,
17 right?

18 A. Correct.

19 Q. You're not here to make determinations, right?

20 A. Yes.

21 Q. You're not saying who attacked who, correct?

22 A. Correct.

23 Q. It's just that's where this event happened,
24 correct?

25 A. Yes, sir.

1 Q. You're not meaning to imply one particular person
2 attacked another or somebody attacked somebody else, you
3 could have used the word event location, correct?

4 A. I could have.

5 Q. Incident location, correct?

6 A. Yes, sir.

7 Q. Did -- were you given some direction by the
8 District Attorney's Office to use that term?

9 A. No.

10 Q. That's a term you choose -- chose on your own?

11 A. Yes, sir.

12 Q. Okay. And again, it's -- it's meant to be
13 neutral, fair to say?

14 A. Yes, sir.

15 Q. All right. You talked about some -- we had some
16 slides up there about the viewpoint, is that right?

17 A. Yes.

18 Q. And the viewpoint that we showed in the slide,
19 there was no --

20 MR. NELSON: Could I get Exhibit 104 and 1505?

21 Q. (By Mr. Nelson, continuing) -- there's no human
22 beings in-between, like, the Carlson Group and the
23 location that you were looking at the view, agreed?

24 A. Agreed.

25 Q. And same thing for the Miu Group, correct?

1 A. Correct.

2 Q. You're obviously aware that sometimes if there's
3 a human being in-between the person who's looking and what
4 they're trying to look at, that might obstruct the view,
5 correct?

6 A. Correct.

7 Q. Showing you --

8 MR. NELSON: If I could get the screen.

9 Q. (By Mr. Nelson, continuing) So this is Exhibit
10 Number 104, which witnesses have testified is the
11 approximate location of people at about 1:49, okay?

12 A. Yes, sir.

13 Q. You would agree, depending upon where somebody is
14 at G2, there may or may not be people obstructing their
15 view to Mr. Miu, correct?

16 A. Sorry, could you repeat, sir?

17 Q. Sure. If you were trying to -- you at some
18 point --

19 MR. ANDERSON: Judge, I'm gonna object on
20 relevance and speculate -- I mean, speculation. We've had
21 testimony -- can we approach?

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

23 MR. ANDERSON: I'll withdraw the objection,
24 Judge.

25 THE COURT: Objection's withdrawn?

1 MR. ANDERSON: Yes.

2 Q. (By Mr. Nelson, continuing) Do you see the pen
3 pointing at G2 there?

4 A. I do.

5 Q. If I was to tell you that's the Carlson Group,
6 does that make sense to you?

7 A. It does.

8 Q. Your -- one -- at least one of your slides was
9 the viewpoint from G2 essentially over towards, you know,
10 what you called the attack location where Mr. Miu was
11 standing, correct?

12 A. Correct.

13 Q. And my pen would -- again, generally speaking,
14 that viewpoint, correct?

15 A. Correct.

16 Q. You would agree that depending upon where a
17 person is in relation to this G2, their view of Ryhley
18 Mattison, Madison Coen, Dante Carlson, Nicolae Miu, it may
19 be obstructed by other human beings, correct?

20 A. Correct.

21 Q. It all depends upon where they're standing and
22 who's in their way, right?

23 A. Yes, sir.

24 Q. Were you asked to do any modeling by the District
25 Attorney's Office about how to view if there were people

1 in these positions?

2 A. No.

3 Q. And the view that you had in your presentation,
4 that was what we would perceive of a six-foot model,
5 correct?

6 A. Correct.

7 Q. How tall was the person looking? Were they also
8 six feet?

9 A. (No response.)

10 Q. Where on the --

11 A. From their head level, yes, six-foot tall
12 perspective looking across --

13 Q. Okay. So it was a six-foot person looking at
14 another six-foot person?

15 A. Yes.

16 Q. Obviously that would change, again, depending
17 upon their height?

18 A. Correct.

19 Q. And depending upon their height in comparison to
20 the humans as they may or may not need to not look around
21 or through or over or under?

22 A. Yes.

23 MR. NELSON: Those are the only questions I have.
24 Thank you.

25 THE COURT: Mr. Anderson.

1

REDIRECT EXAMINATION

2

BY MR. ANDERSON:

3

Q. Attorney Nelson asked you if 150 feet is enough room for a group to go around one man and you said yes. Do you remember that?

6

A. I do.

7

Q. Is there enough room for one man to walk around a group?

8

9

A. Yes.

10

Q. And Attorney Nelson asked you about this drawing, that if the -- if the initial contact was here, 62 feet later is the attack location; if the group would have stayed there, Nicolae would have been up here and they would have been 60 feet apart. Do you recall that?

15

A. I do.

16

Q. The beginning of the video is where the boys in their tubes?

17

18

A. Yes.

19

Q. And Nicolae was walking?

20

A. Yes.

21

Q. And the boys would have been floating in this direction?

22

23

A. Yes.

24

Q. Do you actually know -- this Exhibit 104.

25

MR. ANDERSON: Could we have the screen?

1 Q. (By Mr. Anderson, continuing) Do you know if
2 this is where people were at some point, a minute 40 -- 49
3 in the video?

4 A. I don't know.

5 Q. Do you know if this is even close to scale, the
6 size of the circles for a person versus the distance
7 between the groups?

8 A. There's no scale.

9 Q. Okay. Thank you.

10 MR. ANDERSON: Nothing else.

11 THE COURT: Mr. Nelson?

12 RE CROSS-EXAMINATION

13 BY MR. NELSON:

14 Q. In your determination on your review -- view you
15 relied upon the human being telling you here's where it
16 was, correct?

17 A. Correct.

18 Q. You weren't there on July 30th, 2022, at 1:49
19 into that video, which would have been about 3:45 in the
20 afternoon, were you?

21 A. I was not.

22 Q. You agree it's reasonable to rely on the people
23 that were there?

24 A. Yes.

25 Q. And if the people that were there say that that

1 accurately reflects where the human beings were in
2 relation to each other, that's the same as you're relying
3 upon Investigator Shilts, correct?

4 A. Could be.

5 Q. Right?

6 A. Could be.

7 Q. And in fact, they were there. Mr. Shilts --
8 Investigator Shilts wasn't there, correct?

9 A. Correct.

10 Q. So if you have no information, are you going to
11 rely upon eyewitness information about people's placement
12 or just speculation?

13 A. I take all information into account.

14 Q. And certainly one of the things you take into
15 account is the people that are there that say this
16 accurately reflects where everybody else was and I saw
17 them?

18 A. It will be taken into account, yes.

19 MR. NELSON: That's all.

20 THE COURT: Thank you, Lieutenant Coleman. You
21 may step down.

22 THE WITNESS: Thank you, Your Honor.

23 (Whereupon, the witness was excused.)

24 THE COURT: Who's the next witness?

25 MR. ANDERSON: Detective de la Cruz.

1 (Whereupon, the witness entered the courtroom.)

2 THE COURT: Detective de la Cruz, please come
3 forward. Please face the clerk, raise your right hand and
4 be sworn.

5 DETECTIVE CARLOS DE LA CRUZ,
6 after having been first duly sworn on oath by the clerk,
7 testifies and says as follows:

8 THE WITNESS: I do.

9 THE COURT: Please have a seat in the witness
10 chair.

11 Mr. Anderson.

12 DIRECT EXAMINATION

13 BY MR. ANDERSON:

14 Q. Can you please state your first and last name and
15 spell your last name?

16 A. My name is Carlos de la Cruz. I'm a detective
17 with the City of New Richmond. And spelling last name,
18 three words, lower case d-e, space, lower case l-a, space,
19 capital c-r-u-z.

20 Q. And Detective de la Cruz, were you asked to
21 assist in some -- doing some interviews in this case?

22 A. Yes.

23 Q. And why were you asked to assist?

24 A. I'm often requested to assist with
25 Spanish-speaking witnesses or victims, suspects to help

1 with interviews.

2 Q. And you -- are you fluent in Spanish?

3 A. I am.

4 Q. Were you -- did you grow up bilingual?

5 A. I did. I was born in Mexico. I spoke Spanish as
6 a primary first language. I've been in the U.S. for
7 roughly 46 years, so I went through school here and
8 learned English and grew up speaking both.

9 MR. ANDERSON: Permission to approach.

10 THE COURT: Yes.

11 MR. ANDERSON: Well, actually, can I have the --

12 Q. (By Mr. Anderson, continuing) I'll put
13 Exhibit 12A up here. Do you recognize some of the folks
14 in this photo?

15 A. (No response.)

16 Q. Maybe hard to tell. They probably weren't
17 wearing the same thing when you interviewed them?

18 A. Yes, I can identify a few of them that I spoke
19 with.

20 Q. Okay. Did -- did you interview Sergio?

21 A. Yes.

22 Q. Tatiana?

23 A. Yes.

24 Q. Alba?

25 A. Rosie or Alba, yes.

1 Q. Did she introduce herself as Rosie with you?

2 A. Yes, Rosie.

3 Q. Okay. And then how about the two on the far
4 left: Ariel and Gilma?

5 A. Yes.

6 Q. So you interviewed five of the people from this
7 group?

8 A. Yes.

9 Q. And what language were those interviews done in?

10 A. Mostly Spanish. They did interject some English
11 from time to time. I think they understood a little bit,
12 but they were more comfortable in Spanish.

13 Q. Okay. I'm handing you what's been marked as
14 Exhibit 44. Are the -- were those -- were those
15 interviews recorded on a body camera?

16 A. Yes. Whatever investigator was with me, whether
17 Investi -- Investigator Geisness or Investigator Schaeppi,
18 they had body cameras.

19 Q. Okay. And prior to testifying today, did you
20 have an opportunity to look at the contents of Exhibit 44?

21 A. Yes.

22 Q. And are the body cam -- is the body cam footage
23 from those five interviews on Exhibit 44?

24 A. Yes.

25 MR. ANDERSON: Judge, I'd move to admit

1 Exhibit 44 for foundation for some transcripts only.

2 THE COURT: Any objection?

3 MR. NELSON: Could we approach, just so I can
4 make sure I understand?

5 THE COURT: Yes.

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

7 THE COURT: All right. At this time I will
8 reserve on Exhibit -- is it 44?

9 MR. ANDERSON: Correct.

10 THE COURT: All right. Reserve on 44.

11 MR. ANDERSON: I don't have anything else, Judge.

12 THE COURT: Mr. Nelson?

13 MR. NELSON: No, thank you.

14 THE COURT: All right.

15 Thank you, detective.

16 (Whereupon, the witness is excused.)

17 THE COURT: Who's next?

18 MR. ANDERSON: Sally Nichols.

19 Could we take a -- a short recess, Judge?

20 THE COURT: How much time do you need?

21 MR. ANDERSON: I think probably about
22 five minutes?

23 VICTIM-WITNESS COORDINATOR: Nope, Karl, we're
24 good.

25 MR. ANDERSON: Oh, we're good.

1 THE COURT: She's here?

2 MR. ANDERSON: Yes.

3 THE COURT: Okay.

4 (Whereupon, the witness enters the courtroom.)

5 THE COURT: Can someone help Ms. Nichols with her
6 jacket?

7 All right. Please come forward. Face the
8 clerk, raise your right hand, she will administer the
9 oath.

10 SALLY NICHOLS,
11 after having been first duly sworn on oath by the clerk,
12 testifies and says as follows:

13 THE WITNESS: Yes, I do.

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 and
20 spell your last name?

21 A. Yes. My name is Sally Nichols. S-a-l-l-y,
22 n-i-c-h-o-l-s. I apologize, I have a very bad cold, so I
23 apologize for the sound of my voice right now.

24 Q. Okay. And, Ms. Nichols, what do you do for work?

25 A. I'm a certified court interpreter. So I do that

1 pretty much full time.

2 Q. And are you certified in both Wisconsin and
3 Minnesota?

4 A. Yes. And also the U.S. District Court.

5 Q. Okay. And as part of your translator duties, do
6 you often create transcripts translating from Spanish to
7 English?

8 A. That is correct. I've -- I've transcribed and
9 translated many transcripts in different cases.

10 MR. ANDERSON: Permission to approach.

11 THE COURT: Yes.

12 Q. (By Mr. Anderson, continuing) Did you -- were
13 you asked to -- by the sheriff's office to translate some
14 recordings in this case?

15 A. Yes, I was.

16 Q. And was some of those 911 calls?

17 A. Yes, there were some 911 calls.

18 Q. Okay. I'm handing you what's been marked as
19 Exhibit 46.

20 A. Yeah.

21 Q. Can you identify what that is?

22 A. Yes. This is a transcript that I prepared. It
23 was a transcript of one of the 911 calls.

24 Q. And can you keep -- keep flipping through and see
25 if there's some more -- or another tran --

1 A. Oh, yeah. This was the short one, and then
2 there's -- there's the other -- there's another one right
3 behind it, which is slightly longer.

4 Q. So there's two --

5 A. That's correct, two of them.

6 Q. Two separate phone call transcriptions included
7 in Exhibit 46?

8 A. That's correct.

9 Q. Okay.

10 MR. ANDERSON: Judge, I'd move to admit 46. I
11 imagine the same --

12 MR. NELSON: Just ask that Your Honor reserve
13 based upon our previous discussion.

14 THE COURT: Okay. 46 is reserved.

15 Q. (By Mr. Anderson, continuing) And then, Ms.
16 Nichols, did you also receive body camera from the
17 sheriff's office to transcribe?

18 A. Yes. Yes, I did.

19 Q. And let me back up. How do you -- how are you
20 fluent in Spanish?

21 A. Oh. I grew up in Puerto Rico. My -- I was
22 raised there. So my parents are from the United States,
23 but I grew up speaking Spanish and English because when I
24 went to school obviously they -- we spoke Spanish and so
25 on. So I went -- was able to go to some Spanish-speaking

1 schools and some English-speaking schools and eventually
2 bilingual school.

3 Q. Okay. I'm going to hand you Exhibit 45. What is
4 that?

5 A. A transcript of a body camera for an interview of
6 -- on August 3rd, 2022.

7 Q. And do you include the file name on the top?

8 A. (No response.)

9 Q. I don't -- you don't need to read it, just do you
10 include the file names on tops of the transcripts?

11 A. I don't have the file name on top, but I do see
12 the name of the person who was interviewed.

13 Q. And then do you see a number, some dash numbers?

14 A. It says 20-23-36.

15 Q. And then -- okay. Is that a transcript you
16 prepared from one of the body cameras?

17 A. That is -- that is correct, yes.

18 Q. Okay. Here, I'm handing you Exhibit 58. Is that
19 a -- also a transcript that you prepared?

20 A. Yes. Yes, it is.

21 Q. And can you just read the numbers on the top of
22 that one?

23 A. Yes. It says transcript of body camera 8-21-10,
24 main camera.

25 Q. Okay. Exhibit 69.

1 A. Yes, that's also a transcript that I prepared,
2 and it says transcript of body camera 21-11-31, main
3 camera.

4 Q. Okay. Exhibit 70.

5 A. Yes, I recognize this one too. This is a
6 transcript of body camera 19-01-12, main camera.

7 Q. Exhibit 71.

8 A. And this one also. Transcript of body camera
9 18-10-01, main camera.

10 Q. And you -- did you transcribe these as accurately
11 as possible, as close as you can get to a direct
12 translation?

13 A. Yes, I did. What I do is I transcribe it first,
14 just so I can -- I listen to it many, many times and
15 decipher as much as I can hear. There are always a few
16 words you can't completely hear, so I just write
17 unintelligible when that happens. But, yes, I transcribe
18 it first and then I go through and translate it into
19 English.

20 Q. Okay.

21 MR. ANDERSON: Judge, I imagine with the same
22 reservation, I'd move to admit Exhibits 71, 70, 69, 58,
23 and 45.

24 THE COURT: At this time I'll reserve on those
25 exhibits.

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

2 THE COURT: Mr. Nelson?

3 MR. NELSON: No questions.

4 THE COURT: All right.

5 Thank you. You may step down.

6 THE WITNESS: You're welcome.

7 THE COURT: Ms. Nichols, see the witness
8 coordinator in the back and she'll tell you where to go
9 next.

10 THE WITNESS: Yes. Thank you, sir.

11 (Whereupon, the witness is excused.)

12 THE COURT: Who is the next witness?

13 MR. ANDERSON: Judge, we've actually exhausted
14 the witnesses we were able to get in for today.

15 THE COURT: All right. So there's nothing left
16 to do?

17 MR. ANDERSON: I think we have something to
18 address outside the presence of the jury.

19 THE COURT: Okay.

20 Members of the jury, as I had mentioned
21 this morning, the attorneys have been working very hard to
22 stay on task and to keep the case moving. They're doing
23 such a good job that we ran out of witnesses for the day.

24 So while they're not going to be able to
25 advance the trial further today, be rest assured that we

1 are ahead of schedule, which is a good thing.

2 We will resume tomorrow morning at
3 eight o'clock. Please follow the same protocol coming
4 into the building.

5 Again, no independent research; no
6 investigation; do not visit the site; do not speak with
7 anyone about this case, including the attorneys, the
8 media, the audience members, or anybody else; do not watch
9 any news reports or social media posts about this matter.

10 We'll see you tomorrow morning
11 eight o'clock.

12 (Whereupon, the jury exits the courtroom.)

13 MR. ANDERSON: Could we actually approach, Judge?

14 THE COURT: Yes.

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

16 THE COURT: All right. Thank you for your
17 patience, everybody. I believe that we are done for the
18 day. We're going to resume tomorrow at eight a.m. with
19 the interpreter witnesses. Correct?

20 MR. ANDERSON: Yes.

21 MR. NELSON: Yes, Judge.

22 THE COURT: That's the schedule? Okay.

23 All right. That's all. We are in recess.
24 Thank you, everyone.

25 (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