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03-10-2026

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 8, 2024

BEFORE THE HONORABLE R. MICHAEL WATERMAN

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL - DAY 6

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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.

INVESTIGATOR JOHN SHILTS, JR., court officer, was
also present.

1	<u>INDEX PAGE</u>	
2	<u>EXAMINATION OF:</u>	<u>PAGE</u>
3	OWEN PELOQUIN	
4	Direct Examination by Mr. Smestad	1424
5	Cross-Examination by Mr. Chirafisi	1443
6		
7	DR. BRIAN MYER	
8	Direct Examination by Mr. Anderson	1473
9	Cross-Examination by Mr. Chirafisi	1484
10	Direct Examination by Mr. Anderson	1491
11		
12	INVESTIGATOR SALLY STANDAERT	
13	Direct Examination by Mr. Smestad	1493
14	Cross-Examination by Mr. Chirafisi	1497
15		
16	ASHLEY HOFFMAN	
17	Direct Examination by Mr. Smestad	1500
18	Cross-Examination by Mr. Nelson	1519
19	Redirect Examination by Mr. Smestad	1542
20	Recross-Examination by Mr. Nelson	1545

21

22

23

24

25

INDEX PAGE CONTINUED

<u>EXAMINATION OF:</u>	<u>PAGE</u>
INVESTIGATOR JOHN SHILTS, JR.	
Direct Examination by Mr. Anderson	1549
Cross-Examination by Mr. Chirafisi	1568
Redirect Examination by Mr. Anderson	1586
Recross-Examination by Mr. Chirafisi	1588
DEPUTY BENJAMIN TREBIAN	
Direct Examination by Mr. Smestad	1591
Cross-Examination by Mr. Chirafisi	1593
DETECTIVE CARLOS DE LA CRUZ	
Direct Examination by Mr. Anderson	1596
Cross-Examination by Mr. Nelson	1598
Redirect Examination by Mr. Anderson	1602
Recross-Examination by Mr. Nelson	1602
INVESTIGATOR ANDREW DITTMAN	
Direct Examination by Mr. Chirafisi	1605
Cross-examination by Mr. Anderson	1608
Redirect Examination by Mr. Chirafisi	1609
Recross-Examination by Mr. Anderson	1612

INDEX PAGE CONTINUEDEXAMINATION OF: PAGE**ROBERTO BALDAZO**

Direct Examination by Mr. Chirafisi 1614

Cross-Examination by Mr. Anderson 1627

Redirect Examination by Mr. Chirafisi 1630

Recross-Examination by Mr. Anderson 1631

AMANDA TORRES

Direct Examination by Mr. Nelson 1636

Cross-Examination by Mr. Anderson 1645

Redirect Examination by Mr. Nelson 1649

Recross-Examination by Mr. Anderson 1653

EXHIBITS: MARKED: OFFERED: RECEIVED:

19 -- 1656 1656

29 -- 1481 1481

40 -- 1657 1657

40A -- 1657 1658

55 -- 1513 1513

56 -- 1513 1513

57 -- 1502 1502

86
(2:35 - 8:09) -- 1655 1655

89 -- 1658 1658

Hudson, Wisconsin
April 8, 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: Good morning, everyone. Welcome
back, members of the jury. We are ready to resume the
trial. I hope everyone had a restful and relaxing
weekend. We are ready to continue with the evidence. The
State is still presenting its evidence.

I should note that the attorneys are
present, along with Mr. Miu. We have 14 jurors in the
courtroom.

Mr. Smestad, who is the next witness?

MR. SMESTAD: Call Owen Peloquin.

MR. ANDERSON: And, Judge, could we approach
really quickly?

THE COURT: Yes.

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

(Whereupon, the witness enters the courtroom.)

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

OWEN PELOQUIN,

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 All right. Mr. Smestad.

7 DIRECT EXAMINATION

8 BY MR. SMESTAD:

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

11 A. Owen Peloquin.

12 Q. How do you spell your last name?

13 A. P-e-l-o-q-u-i-n.

14 Q. Owen, how old are you?

15 A. I'm 19.

16 Q. All right. And what do you do for a living? Are
17 you going to school or --

18 A. Right now I'm a barback and I do snow removal and
19 landscaping.

20 Q. What town do you live in?

21 A. Afton.

22 Q. Did you know a person named Isaac Schuman?

23 A. Yes, I did. He was my best friend.

24 Q. How many years did you know Isaac?

25 A. A lot. Probably like -- probably like five or

1 six years.

2 Q. Did you go to school together?

3 A. Yes, we did.

4 Q. Did you -- were you with Isaac back on July 30th
5 of 2022?

6 A. Yes, I was.

7 Q. Were you with him on the Apple River?

8 A. Yes, I was.

9 Q. And were you with him when he was killed that
10 day?

11 A. Yes, I was.

12 Q. Back on July 30th, 2022, how old were you then?

13 A. I was 17.

14 Q. Had you finished high school yet?

15 A. No. We hadn't started senior year yet.

16 Q. Was that the summer before your senior year?

17 A. Yes, it was.

18 Q. Had you ever been on the Apple River before?

19 A. No, that was my first time.

20 Q. All right. Did you ride to the river with Alex
21 Vang?

22 A. Yeah, we all rode together in Alex's van.

23 Q. You rent tubes?

24 A. Yeah.

25 Q. Got on the river?

1 A. Uh-huh.

2 Q. Is that a yes?

3 A. Yes, that's a yes.

4 Q. Were you drinking that day?

5 A. Yes, we were.

6 Q. What did you have to drink?

7 A. I had probably, like, four or five beers and then
8 a couple shots. Couldn't tell you exactly how many.

9 Q. Okay. What kind of shots were you drinking?

10 A. Tito's.

11 Q. Is that a vodka?

12 A. Yeah.

13 Q. Were you using anything else?

14 A. Yeah, we did smoke weed too.

15 Q. Okay. And -- and you did that?

16 A. Yes.

17 Q. Would you say you were impaired while you were
18 going down the river?

19 A. To an extent, yeah.

20 Q. Eventually, did you come into contact with the
21 Defendant, Nicolae Miu?

22 A. Yes, I did.

23 Q. Whereabouts -- if you know, whereabouts on the
24 river was it when you first saw him?

25 A. It -- I'm pretty sure it was closer to the end,

1 and then there was a bridge in the distance. It was
2 probably like 50 yards from that bridge.

3 Q. How -- how long had you been on the river once
4 you ran into Mr. Miu?

5 A. At least an hour, hour and a half, maybe a little
6 bit longer.

7 Q. All right. When you first saw him, what was he
8 doing?

9 A. He was just, like, standing with a snorkel or
10 like -- he was, like, doing -- he was standing in the
11 water just really weirdly.

12 Q. All right. How deep was the water where he was
13 standing?

14 A. It was like ankle high. Like nothing more than
15 probably 10 inches.

16 Q. Was he in a tube?

17 A. No.

18 Q. Was he with anybody else?

19 A. No, he was not with anyone else.

20 Q. Were you ever able to determine if he was with a
21 group?

22 A. No, I -- I never saw anyone else with him.

23 Q. All right. Did you ask him what the heck he was
24 doing standing in the river?

25 A. Yes, we -- we did, yeah.

1 Q. Did he say to you something of looking for a
2 phone?

3 A. Not that I can recall.

4 Q. All right. Do you remember talking to police
5 about this the day that that happened?

6 A. Yes, I do.

7 Q. Do you remember telling the police that -- that
8 he said he was looking for a phone?

9 A. I don't, no.

10 Q. All right. If -- if it's in the transcript, is
11 that something that you would have said?

12 A. If it's in the transcript, yeah, probably --

13 Q. As you sit here today you don't remember that?

14 A. No, I don't remember saying that ever.

15 Q. All right. Do you know -- well, strike that
16 since you don't remember.

17 At some point did he approach your group?

18 A. Yes, he did.

19 Q. And can you describe how he did that?

20 A. He just weirdly, like, sprinted at us, like --
21 just made us all super uncomfortable. It was --

22 Q. Were you sitting in the tube when that happened?

23 A. Yeah, we were all sitting.

24 Q. All right. We're going to play some video for
25 you here in a moment.

1 (Whereupon, the video was played.)

2 Q. (By Mr. Smestad, continuing) When you testified
3 just a -- a minute ago that he had sprinted up on you, is
4 that what you were referring to?

5 A. Yeah, that's --

6 Q. What you just watched on the video?

7 A. Yeah.

8 Q. Was that your voice saying, yo, get away?

9 A. It was.

10 Q. Did he get away?

11 A. Not once.

12 Q. Did he grab on to your tubes?

13 A. Yes, he did.

14 Q. Did he stop your tubes from floating down the
15 river?

16 MR. CHIRAFISI: Objection. Leading.

17 A. Yes, he did.

18 THE COURT: It is a leading question. Please
19 refrain.

20 Q. (By Mr. Smestad, continuing) Once he grabbed on
21 to your tubes, were you able to continue your journey?

22 A. No, we did not.

23 Q. What did you do after he grabbed on the tubes?

24 A. We all got out of our tubes and we're just, like,
25 scared, wondering what was going on.

1 Q. Did you move away from him?

2 A. To an extent. I got -- we got up and away, like,
3 from our tubes, yeah.

4 Q. Other than saying, yo, get away, did you say
5 anything else to him at that point?

6 A. Yes. Yeah.

7 Q. What -- what did you say?

8 A. We were calling him a pedophile because he at one
9 point did say something about little girls. Couldn't
10 really make out fully what he said but I heard him saying
11 something about little girls, and then we all just -- that
12 didn't sit right with any of us and so we just -- we're
13 trying -- we're screaming at him pedophile, get out of
14 here, like you're a weirdo, like a normal person would do
15 I feel like.

16 Q. Fair to say you were calling him some names?

17 A. Yes, I was.

18 Q. Did any of your group at that point lay a hand on
19 him after he --

20 A. Not once.

21 Q. When you spoke to the police later, do you recall
22 if you mentioned anything about his little girls comment,
23 whatever it was?

24 A. I believe I did.

25 Q. All right. If there's transcripts -- transcripts

1 that show you didn't mention that, would that be accurate?

2 A. Yeah. Did you say did?

3 Q. If there was a transcript that shows that you
4 never mentioned that, would that be accurate?

5 A. That I never did?

6 Q. Right.

7 A. No, that would not be accurate. I said that.

8 Q. Did you have some confusion as to why he was
9 making contact with your group?

10 A. Yeah, very much so.

11 Q. When he grabbed on to your tubes, did he say he
12 was doing that to look for a phone?

13 A. No, he was not speaking at, like, really at all.
14 He was just mumbling and just looking really scary.

15 Q. All right. As you sit here today you've
16 indicated that you were yelling at him and calling him
17 names.

18 A. Um-hum.

19 Q. Looking back on it, is that something you regret
20 now?

21 A. Very much so.

22 Q. Have you wished you'd done some things
23 differently that day?

24 A. Yes, I do.

25 Q. Did you and your friends continue to yell at him

1 to get -- to -- to go?

2 A. Yeah, throughout the whole time I feel like.

3 Q. At some point did somebody else on the river come
4 over to see what was going on?

5 A. Yeah, after we called people over for help.

6 Q. All right.

7 A. Because we couldn't get him away.

8 Q. Did you -- did some folks come over?

9 A. Yes, they did.

10 Q. Did you know those folks at all?

11 A. Not at all.

12 Q. Were they adults or were they teenagers like you?

13 A. They were adults.

14 Q. Once those -- so the first -- if you remember,
15 who was the first person to show up in -- in response to
16 your yells?

17 A. It was a -- a blonde girl.

18 Q. All right. And eventually did some other folks
19 come over too?

20 A. Yeah, they were her whole group.

21 Q. All right. Like the -- the folks that came over,
22 were they male or female or both?

23 A. Both.

24 Q. Once the blonde lady came over, did she also tell
25 Mr. Miu to leave?

1 A. Yes. Multiple times.

2 Q. And did he leave?

3 A. Not once.

4 Q. At that point, once these other folks came over,
5 is it fair to say that you -- you and your friends were
6 less scared?

7 A. Yeah, definitely.

8 Q. At that point were you laughing at him?

9 A. Yeah, we kind of just thought it was all fun and
10 games at that point because we thought the adults would
11 handle it.

12 MR. CHIRAFISI: I'm sorry, I missed that last
13 part, Judge.

14 THE COURT: Could you repeat your answer?

15 THE WITNESS: Sorry, could you ask the question
16 again? Sorry.

17 THE COURT: Well --

18 Q. (By Mr. Smestad, continuing) Were you less
19 scared? And you --

20 A. Yeah.

21 Q. -- I think your answer was you were --

22 A. Yeah, way less scared when I saw the adults. The
23 adults made me feel way more comfortable.

24 Q. All right. Did Mr. Miu say anything about why he
25 didn't wanna leave where you guys were, the area where you

1 were?

2 A. He was not speaking.

3 Q. Were you able to see his face as the -- the
4 blonde lady was yelling at him?

5 A. To an extent, yeah. His face was just
6 emotionless. Like -- like if you looked at him, like he
7 was looking straight through you.

8 Q. Did he look scared?

9 A. Did it -- did it look -- did I look scared?

10 Q. Did he look scared.

11 A. No, not once. He looked like he was, like,
12 somewhat kind of at a funk.

13 MR. CHIRAFISI: Objection. Speculation.

14 THE COURT: Sustained.

15 Q. (By Mr. Smestad, continuing) Did you hear Mr.
16 Miu call out for help at any time?

17 A. Never.

18 Q. Now, at some point as he's talking to the blonde
19 lady, did you see him have a knife?

20 A. Yes, I did.

21 Q. Can you describe how that all happened?

22 A. It's kind of blurry, but I just remember just
23 we're all in, like, this -- we're all together, and then I
24 just remember, like, looking at him and then looking down
25 at his hand. His hand was just gripping a knife and

1 then -- yeah.

2 Q. You don't know where it came -- where he got the
3 knife from?

4 A. Yeah. It came out of his right pocket.

5 Q. All right. Had -- had you seen it in his pocket
6 prior to --

7 A. I saw the clip, yeah.

8 Q. And did you describe the knife to the police?

9 A. Yes, I did.

10 Q. Did you see him take the knife out of his pocket,
11 if you remember?

12 A. It's really blurry. I can't really be honest
13 with that answer.

14 Q. All right. We're gonna show you some still
15 frames from the video. Pardon me, we're going to -- we're
16 gonna play the video.

17 Before that I have one question. When you
18 saw the knife, did you say something to your friends about
19 the knife?

20 A. Yes, I did.

21 Q. What did you say?

22 A. I said, bro, he's got a knife, and I tried to
23 pull some people back.

24 Q. All right. We're gonna watch that video right
25 now.

1 (Whereupon, the video was played.)

2 Q. (By Mr. Smestad, continuing) Is -- is that the
3 point where you saw the knife?

4 A. Yes, it is.

5 Q. We're gonna go through these -- through that
6 section of the video slowly. As -- as it was playing, did
7 you hear your own voice saying something about the knife?

8 A. What was that? Sorry.

9 Q. Was -- as that video was playing, did you hear
10 your voice saying something?

11 A. Yes, I did.

12 Q. What did you say?

13 A. I said, bro, he's got a knife.

14 Q. Once you said that, the video appears to show you
15 taking a step forward. What were you doing?

16 A. I was trying to grab my buddy, Nelson, and pull
17 him back, and I didn't know the other girl, I just tried
18 to grab any other person and pull her back, too.

19 Q. After you did that, did you move away?

20 A. I believe I did. I -- I don't really remember
21 much from --

22 Q. All right.

23 A. -- that point.

24 Q. We're gonna -- we're gonna go through some stills
25 here. Starting at 2624. Starting at 26 -- I guess it's

1 2625. Do you see yourself in that picture, Owen?

2 A. Yes, I do.

3 Q. Is that you in the pink and blue shorts there?

4 A. Yes, it is.

5 Q. All right.

6 MR. SMESTAD: If we could back up, please. Go
7 forward one frame.

8 Q. (By Mr. Smestad, continuing) Owen, can you
9 describe what the expression on your face is at this
10 point?

11 A. Just pure shock.

12 Q. What was that face -- why were you making that
13 face?

14 A. It's because I saw the knife.

15 Q. All right. Move forward.

16 MR. SMESTAD: Stop.

17 Q. (By Mr. Smestad, continuing) Is that the step
18 you took forward to grab Ryan Nelson?

19 A. Yes, it is.

20 Q. All right.

21 MR. SMESTAD: Keep going.

22 All right. We stopped at 2652, for the
23 record.

24 Q. (By Mr. Smestad, continuing) Now, when you saw
25 the knife, which hand was he holding it in?

1 A. His right hand.

2 Q. All right. Did you -- as you were standing
3 there, did you see him strike anybody?

4 A. I did not see him strike anyone but I heard it
5 and I watched her stumble backwards.

6 Q. All right. Were you looking at the knife when
7 that happened?

8 A. I don't know exactly --

9 MR. CHIRAFISI: Objection. Leading.

10 THE COURT: Wait. I'm sorry.

11 Sustained.

12 Q. (By Mr. Smestad, continuing) Where were you
13 looking at the time you heard what you thought was a
14 punch?

15 A. I really don't know exactly where I was looking.

16 Q. But fair to say you were not looking at the
17 blonde lady?

18 A. No, I was not.

19 Q. You -- I believe you testified -- strike --
20 strike that.

21 After you heard something, did you see the
22 blonde lady have a physical reaction to what you heard?

23 A. Yes. I saw her stumble backwards.

24 Q. All right. Did you see whether she ever went
25 down in the water?

1 A. She didn't, like, fully fall down. She, like,
2 stumbled back and kind of caught herself.

3 Q. All right. At that point what did you do?

4 A. I don't really know.

5 Q. All right. Did you see anybody strike Mr. Miu?

6 A. I didn't really see the strike, but I did see Mr.
7 Miu fall.

8 Q. Did you -- did he fall in the water?

9 A. Yes, he did.

10 Q. Do you know whether or not he still had the knife
11 in his hand at the time that he fell?

12 A. I do not.

13 Q. Did you see anybody else with a knife?

14 A. No.

15 Q. Did you have a knife?

16 A. No.

17 Q. Did you see -- once Mr. Miu was in the water, did
18 you see anybody hit him in the water?

19 A. No, not -- not in my --

20 THE REPORTER: Not in my?

21 THE WITNESS: Memory, no.

22 Q. (By Mr. Smestad, continuing) Did you see Mr. Miu
23 cut or stab anybody with the knife?

24 A. No. It was all so quick I didn't see any of it.

25 Q. Did you yourself ever lay a hand on Mr. Miu?

1 A. No.

2 MR. CHIRAFISI: Objection. Asked and answered.

3 THE COURT: Overruled.

4 A. I did -- I did not.

5 Q. (By Mr. Smestad, continuing) Okay. At some
6 point did you see Mr. Miu get up out of the water?

7 A. Yeah, I saw him stand back up.

8 Q. All right. We're going to show you a still from
9 the video. It's 2929.

10 Is this the point where Mr. Miu had stood
11 back up?

12 A. I don't know.

13 Q. All right. Do you see yourself in this photo?

14 A. That might be my left arm.

15 Q. If we zoom in on that, would that help ya?

16 A. Yeah, I think it --

17 Q. Do you see yourself in that photo?

18 A. Oh, yeah, I do. I guess I'm in the way back.

19 Q. All right. What kind of expression are you
20 making on your face?

21 A. I have my mouth wide open.

22 Q. All right. At that point did you remember how
23 you got back to where you were in this -- this picture?

24 A. No clue.

25 Q. At some point did you realize that Isaac had been

1 stabbed?

2 A. Yes.

3 Q. Did you see that happen?

4 A. I didn't see him get stabbed but I saw him fall
5 into the water --

6 Q. Okay.

7 A. -- and my buddy, Alex, was calling my name to
8 come help.

9 Q. Were you fairly close to -- well, strike that.
10 Did you go over where Isaac had fallen?

11 A. Yes, I did.

12 Q. What did you do when you got over there?

13 A. We picked him up and brought him to the shore.

14 Q. Were you able to see that he had a significant
15 wound?

16 A. Yes, I was.

17 Q. What kind of -- where was his wound?

18 A. It was on his chest. Right --

19 Q. What did you do to assist Isaac?

20 A. I tried my hardest to stop the bleeding.

21 Q. Did you bring Isaac over to the shore?

22 A. Yeah, with Alex's help.

23 Q. At some point did some folks stop to help?

24 A. Yeah.

25 Q. After they stopped to help -- well, let me ask

1 you this: Did you have a phone on ya at the time?

2 A. I think my phone was in his bag.

3 Q. All right. And did you use the phone?

4 A. No -- or, oh -- oh, yeah, I did. When --
5 eventually I got my phone back and I ended up calling his
6 mom.

7 Q. All right. Did some police officers eventually
8 show up on the river?

9 A. Yes, they did.

10 Q. And did Isaac eventually get taken off the river?

11 A. Yes, he was.

12 Q. Did you follow them out?

13 A. I did, yes.

14 Q. Did they eventually put him in an ambulance?

15 A. Yes, they did.

16 Q. Take him to the hospital?

17 A. Yes.

18 Q. And did you follow?

19 A. Yes, we did.

20 Q. At some point were you informed as to what
21 Isaac's condition was at the hospital?

22 A. Yeah.

23 Q. And what was it?

24 A. He was not alive --

25 MR. CHIRAFISI: Objection. Hearsay, Judge.

1 THE COURT: Sustained.

2 Don't answer the question unless you --

3 Q. (By Mr. Smestad, continuing) Did you yourself
4 take any pictures of recordings -- or recordings of this
5 incident, Mr. Miu?

6 A. No, I did not.

7 Q. You're aware that Jawahn Cockfield did?

8 A. Yes, I am.

9 Q. Have you watched that video?

10 A. I have once, yeah.

11 Q. When you were at the hospital, did you give a
12 statement to the officer?

13 A. Yes, I did.

14 Q. To an officer.

15 When you gave him that statement, did
16 you -- were you trying to be accurate?

17 A. Yes, I was.

18 Q. Were you -- do you believe that you were impaired
19 at that point still?

20 A. I believe I was still in so much shock. I still
21 didn't really comprehend everything.

22 Q. All right.

23 MR. SMESTAD: No other questions.

24 THE COURT: Mr. Chirafisi.

25 CROSS-EXAMINATION

1 BY MR. CHIRAFISI:

2 Q. Mr. Peloquin, you gave a -- a 17-minute long
3 recorded interview to law enforcement, okay. Do you
4 remember that?

5 A. Yes, I do.

6 Q. Okay.

7 A. Or after the river or at the hospital?

8 Q. At the hospital you gave an interview to
9 detective -- I'm sorry, to Investigator Andrew Dittman.

10 A. Um-hum.

11 Q. Okay?

12 A. Yep.

13 Q. All right. And Investigator Dittman, I don't
14 know if you remember this, there's a transcript of it --

15 A. Um-hum.

16 Q. -- asked you about your contact --

17 A. Um-hum.

18 Q. -- with Mr. Miu. Do you remember that?

19 A. Not really off the top of my head I don't.

20 Q. Okay. Do you remember being asked this question
21 and providing this answer: From -- question from Mr. --
22 or from Investigator Dittman: Okay. So about an hour and
23 a half, two hours into it, this guy, how does it -- I
24 mean -- does he walk up to you guys, float up to you guys?
25 Your answer: We were floating and then we look at him and

1 he was just standing completely by himself with some
2 goggles on, and then we were like what are you doing? And
3 he said, oh, I'm looking for a phone. Do you remember
4 providing that answer to that question?

5 A. Not at all.

6 Q. Is that true?

7 A. Very true.

8 Q. That happened?

9 A. No.

10 Q. That didn't happen?

11 A. I do not remember.

12 Q. You don't remember what happened that day on the
13 river?

14 A. Oh, I remember.

15 Q. So did he or did he not tell you that he was
16 looking for a phone?

17 A. I don't recall him ever saying that, no.

18 Q. Okay. Is your memory better today or is it
19 better on the day of the incident?

20 A. I'd say it's better today.

21 Q. It's better today, almost two years later, yes?

22 A. I feel like, yeah, I've been able to think about
23 it a lot.

24 Q. Okay. Well, in-between the time of the incident
25 and today, do you ever reach back out to law enforcement

1 to make any corrections that you might have had?

2 A. No. I'm pretty young, I wouldn't know how to do
3 at that.

4 Q. Okay.

5 A. Still wouldn't. It's not something I learned.

6 Q. I didn't ask you a question, sir.

7 You were asked by the State about whether
8 or not you mentioned to the police that there's a
9 statement that Mr. Miu told you that he was looking for
10 little girls. Do you remember that?

11 A. Yes, I do.

12 Q. Okay. It's not in your statement to police. I'm
13 telling you that.

14 A. Oh.

15 Q. Did you know that?

16 A. No.

17 MR. SMESTAD: Objection, Your Honor. That's not
18 a question.

19 THE COURT: Sustained.

20 Q. (By Mr. Chirafisi, continuing) Do you know that
21 it's not in your statement, any of your recorded
22 statement, to police anywhere --

23 A. I am not aware of that.

24 Q. -- that you say that he was looking for little
25 girls?

1 A. I do not. I don't recall, no.

2 Q. But is it your testimony that you recall telling
3 officers that?

4 A. I feel like I did, yes. I still do. I did.

5 Q. So then it should be in this?

6 A. It should be, yes. I'm almost positive I did.

7 Q. I'm sorry, I didn't hear you?

8 A. I'm almost positive I told him that.

9 Q. Well, if you're almost positive that you told him
10 that, would you have an explanation for why it's not in
11 here?

12 A. No, sir.

13 MR. SMESTAD: Objection, Your Honor.

14 Speculation.

15 THE COURT: Overruled.

16 A. No, sir.

17 Q. (By Mr. Chirafisi, continuing) You don't mention
18 to police but we saw an interview -- I'm sorry, we saw a
19 video of Jawahn Cockfield calling Mr. Miu a raper. Do you
20 remember that?

21 A. Slightly, yeah.

22 Q. Okay. And do you remember at that point Mr. Miu
23 just kind of being a little bit away from you guys and
24 Mr. --

25 A. I --

1 Q. Hold on.

2 A. Oh, sorry.

3 Q. -- and Mr. Cockfield just yelling at him, calling
4 him a raper, do you remember that?

5 A. Yeah, I remember floating towards him.

6 Q. Do you remember -- my question was do you
7 remember Mr. Cockfield calling him a raper?

8 A. Yes.

9 Q. At that point where Mr. Cockfield calls Mr. Miu a
10 raper, have you -- has your group had a conversation with
11 him?

12 A. I don't really remember.

13 Q. You don't know?

14 A. I don't know.

15 Q. So at that point would there be a basis to start
16 calling him names?

17 A. He was just, like, standing really weirdly in
18 front of us and we were floating towards him, and I mean,
19 we couldn't move our tubes. We would run into him
20 eventually, so we just said something to him. I
21 couldn't -- I don't really remember what we said though.

22 Q. I'm going to show you this rape -- this video
23 where --

24 A. Um-hum.

25 Q. -- where he calls him a raper, and I want you to

1 tell me if you look like you're going to run into him --

2 A. Okay.

3 Q. -- okay?

4 MR. CHIRAFISI: Okay.

5 MR. NELSON: Sorry. This is Exhibit 2 I'm
6 playing.

7 (Whereupon, the video was played.)

8 Q. (By Mr. Chirafisi, continuing) You look like
9 you're in danger of running into him at that point?

10 A. No, because he was walking in a diagonal away
11 from us. He was in front of us, though.

12 Q. He was walking away from you, right?

13 A. Uhm --

14 Q. You just --

15 A. -- for a second, yeah.

16 Q. -- said that. And at that point -- so he's
17 not -- he's not impeding your path at that point, true?

18 A. True.

19 Q. Okay. And Jawahn Cockfield is holding a phone,
20 is he not?

21 A. Yes, he is.

22 Q. Okay. And do you know you tell the police that
23 you're calling Mr. Miu a pedophile --

24 A. Um-hum.

25 Q. -- because he's looking at you, right?

1 A. Because he was looking really weird, yeah, and we
2 were kids.

3 Q. You didn't say that you're calling him a
4 pedophile because he said anything about kids though,
5 right?

6 A. I remember, like, I did, but I must not have.

7 Q. You then see Mr. Miu come up to your tubes,
8 right?

9 A. Yes.

10 Q. Okay.

11 A. Very -- very quickly.

12 Q. And at that point I think you said that you were
13 scared --

14 A. Yeah.

15 Q. -- is that true?

16 A. I was definitely scared.

17 Q. Okay. You'd agree he wasn't confrontational with
18 you guys, right?

19 A. What do you mean by that?

20 Q. Well, you were asked a question: Was he
21 confrontational with you guys? And you said no. So you'd
22 agree he wasn't confrontational with you, right?

23 A. Could you elaborate what confrontational means?

24 Q. I'm just telling you the officer asked you a
25 question --

1 A. Okay.

2 Q. -- and the question was: Was he, like,
3 confrontational with you guys? Your answer was no, right?

4 A. Yep. If it's there, yeah.

5 Q. Okay. So he wasn't confrontational. He comes up
6 to your tubes, you agree he walks by your tubes then,
7 right?

8 A. To an extent, yes.

9 Q. And he walks past your tubes downriver a little
10 bit, true?

11 A. Just a little bit, yeah.

12 Q. Okay. You'd agree that you guys move in his
13 direction, yes?

14 A. Yes.

15 Q. Okay. You'd agree that at some point Isaac
16 Schuman is standing in front of him with his hands up like
17 my hands are up --

18 A. Yes.

19 Q. -- right?

20 A. Probably trying to tell him to leave.

21 Q. Well, I'm not asking you what you think he's
22 doing, what I'm asking you is you see Isaac Schuman with
23 his hands up in front of him, right?

24 A. Yes, I do.

25 Q. Okay. So your group is confronting him, yes?

1 A. I wouldn't say confronting, I'd say trying to
2 tell him to leave.

3 Q. Okay. But you guys are scared?

4 A. Scared, yes.

5 Q. And you guys are telling him to leave, right?

6 A. Exactly.

7 Q. Okay. And then you see -- and now you know he's
8 alone, right?

9 A. Yeah, I know -- I never saw he was with anyone
10 ever.

11 Q. Right. And there's the -- at least at that point
12 the six of you?

13 A. Yep.

14 Q. You see him walk toward the blonde woman, right?

15 A. Yes, I do.

16 Q. Okay. So he walks out of your path, does he not?

17 A. Yeah. For a split second, yeah.

18 Q. He's over there talking to the woman for more
19 than a split second, right?

20 A. Yeah.

21 Q. Okay. And you can go by, can't ya?

22 A. We could have, yes.

23 Q. But now you're getting braver because of the
24 number of people that are around, right?

25 A. Yes, because there were adults and we were trying

1 to handle the situation.

2 Q. Right. You guys try to start to handle the
3 situation instead of just going by, which is what you
4 could have done, right?

5 A. It was all so quick and, like, I don't really
6 feel like no one really in that situation. So it was all
7 so quick and the commotion was just, like, everywhere. We
8 were just young kids that were curious as to what was
9 going on and we wanted to see it finish, what we were --
10 what we were seeing.

11 Q. You wanted to see it finish because it was on
12 tape, right?

13 A. Well, I'm not sure I understand your question.

14 Q. Cockfield -- Jawahn Cockfield's videotaping this
15 entire thing, isn't he?

16 A. Yes, he is.

17 Q. Right. You wanted to see how this tape played
18 out. You wanted to see how this incident finished, right?

19 A. I wouldn't -- I wouldn't say we ever did it just
20 for, like, a camera, like a video.

21 Q. Well, do you remember him yelling for the
22 culture? You remember that?

23 A. I do not.

24 Q. You don't remember him yelling that?

25 A. I don't.

1 Q. Okay. Do you remember somebody in your group
2 yelling or saying to somebody you got 10 seconds? You
3 remember that?

4 A. I don't recall that.

5 Q. Did you say that?

6 A. I did not.

7 Q. Okay. So Mr. Miu moves over to the blonde. You
8 agree there's a path to go through, but you want to see
9 this through, right?

10 A. Yeah.

11 Q. Okay. What do you wanna see through?

12 A. Just the commotion. I don't know, we were just
13 watching. None of us touched him. None -- none of us did
14 anything.

15 Q. Right. You want to see the --

16 A. Yeah.

17 Q. -- you want to see how the commotion ends?

18 A. And I didn't want to leave also the two girls
19 that were talking to him alone. Like -- I mean, there's
20 just so much stuff, like you couldn't really say, like, we
21 should just leave because -- I don't know who would just
22 leave in that situation because it was all so quick and --

23 Q. People who were scared might wanna leave, right?

24 MR. SMESTAD: Objection, Your Honor. It's not a
25 question.

1 THE COURT: That was a question.

2 Overruled.

3 Q. (By Mr. Chirafisi, continuing) Right?

4 A. Could you repeat that?

5 Q. People who were scared might wanna leave, right?

6 A. Yes, but when we saw the adults we felt more
7 comfortable.

8 Q. Oh, I -- you guys begin to call him a pedophile
9 and a predator, right?

10 A. Yes.

11 Q. You guys are taunting him, aren't ya?

12 A. I wouldn't say taunting. I'd say just telling
13 him how it was, and he made us feel that way and he scared
14 us and --

15 Q. So you were paying him back?

16 A. I wouldn't say paying him back, no.

17 Q. Well, would you agree you guys are around him all
18 point --

19 A. No.

20 Q. -- hold on. -- all pointing at him, chanting at
21 him, right?

22 A. We weren't really all around him. I mean, we
23 were chanting and saying pedophile, get him, he's weird,
24 all that stuff.

25 Q. I'm gonna show you a -- a photograph. I want you

1 to tell me if you think what your group is doing would be
2 considered taunting someone, okay?

3 A. Okay.

4 MR. CHIRAFISI: Can you bring it up?

5 Q. (By Mr. Chirafisi, continuing) Mr. Peloquin,
6 that's your group kind of behind Mr. Miu, right?

7 A. Yeah. On his right shoulder, yeah.

8 Q. And you guys are doing what I'm doing with my
9 hands, which is you're raising your arms, pointing at him,
10 right?

11 A. Yeah.

12 Q. Okay. We're just gonna play through it. It was
13 at 2373, I think?

14 MR. NELSON: We started at 2386.

15 MR. CHIRAFISI: 2386.

16 Q. (By Mr. Chirafisi, continuing) That's you right
17 there, wasn't it?

18 A. Yeah, in the pink and blue shorts.

19 Q. You don't think you're taunting him?

20 A. I would say I was pointing at him.

21 Q. You don't think you were taunting him though?

22 MR. SMESTAD: Objection. Asked and answered.

23 THE COURT: Overruled.

24 THE WITNESS: Am I answering?

25 THE COURT: Yes, please. Thank you.

1 A. I felt like I was pointing at him.

2 Q. (By Mr. Chirafisi, continuing) I -- you said
3 that. My question to you, though, is: Do you believe
4 your actions there with the rest of your friends are
5 taunting him?

6 A. It could be considered that.

7 Q. And you're taunting him because you're feeling
8 more confident and brave because of the other people,
9 right? That's one reason?

10 A. Yes, sir.

11 Q. He's alone. That's another reason, right?

12 A. Yes.

13 Q. So -- and at that point you'd agree it's more
14 than ten against one, right? There's more than ten of you
15 against Mr. Miu by himself, right?

16 A. Yeah, but, I mean, no one really -- not everyone
17 was, like, punching him or doing anything to him.

18 Q. My question to you initially was the numbers --

19 A. Yeah --

20 Q. -- it's more than ten --

21 A. -- I'd say there was probably about ten, yeah.

22 Q. Okay. We -- only one of us can talk at a time,
23 okay?

24 A. Sorry.

25 Q. No, it's all right.

1 So those are the reasons that you are
2 taunting him, is your confidence, your bravery is up, and
3 the number of people around are also up, right?

4 A. Yes.

5 Q. Okay. And you hear -- do you hear the blonde,
6 when he walks -- when Mr. Miu walks over to the blonde
7 she's screaming at him?

8 A. Yeah.

9 Q. You heard that?

10 A. She's screaming, telling him to leave, get out of
11 here.

12 Q. Okay. And she's swearing at him, right?

13 A. Probably, yeah.

14 Q. Okay. She's in his face, isn't she?

15 A. Not like in his face. I'd say probably, like,
16 foot apart, two feet apart.

17 Q. A foot or two apart?

18 A. Yeah, just like -- like telling him to leave.

19 Q. She hadn't asked you anything about what had
20 happened, right?

21 A. No.

22 Q. Okay. So in terms of what you are seeing and
23 hearing, she just walks up to him and tells him to leave,
24 right?

25 A. Yeah, because we were calling them, like, help,

1 get this guy out of here and --

2 Q. And you were calling him a pedophile?

3 A. Yeah, exactly.

4 Q. And you calling him a pedophile, right, other
5 people came around?

6 A. Exactly, yes.

7 Q. Would you agree the more that you guys are
8 calling him names, pedophile, predator, the higher the
9 temperature is getting; meaning, the more aggravated
10 people are getting? You'd agree with that, right?

11 A. Not that I know. I don't know what other
12 peoples' feelings.

13 Q. No, what I'm saying is what you observed.

14 A. I couldn't really tell you for sure, no.

15 Q. Do you remember -- or do you remember seeing Mr.
16 Miu waving --

17 A. I did not see that.

18 Q. -- with his hand? You don't see that?

19 A. I did not see that, no.

20 Q. You do see other people come over from the
21 blonde's group though, right?

22 A. Eve -- everyone kind of came at the same time.
23 Like their group came over.

24 Q. Okay. And there was -- while that may or may not
25 be correct, there are at least seven, eight -- six, seven,

1 eight people that come over from their group, right?

2 A. Yeah, probably around that.

3 Q. Okay. And at that point you have to be feeling
4 pretty confident in terms of the numbers, right?

5 A. Yes.

6 Q. So at that point you getting near him, you're not
7 worried about that anymore, are ya?

8 A. Not as much so, no.

9 Q. Well, there's pictures you're within --

10 A. Yeah, exactly.

11 Q. -- inches of him, right?

12 A. Yeah.

13 Q. Okay.

14 MR. SMESTAD: Object to inches. That's not the
15 evidence.

16 THE WITNESS: Yeah, not inches. That's --

17 THE COURT: The witness gives the answers, what
18 the attorneys say is not evidence.

19 THE WITNESS: I was never --

20 THE COURT: Hold on. Hold on.

21 Just rely please on what the witness says.

22 Next question.

23 Q. (By Mr. Chirafisi, continuing) But you agree
24 that initially starting out as scared, by the end you're
25 very close to him pointing and -- as you said, some people

1 might consider taunting him, right?

2 A. By the end, I mean, I was in complete shock
3 because I saw a bunch of people stabbed.

4 Q. In terms of when you were taunting him, that's my
5 question, yes?

6 A. Yeah.

7 Q. Okay. Now, you see -- so, Mr. --

8 MR. CHIRAFISI: May I approach, Judge?

9 THE COURT: Yes.

10 Q. (By Mr. Chirafisi, continuing) Mr. Peloquin, I'm
11 going to show you what has been moved into evidence as
12 Exhibit 104, okay?

13 A. Okay.

14 Q. I'm not trying to trick ya, so I want to make
15 sure you and I are on the same pages as this. There are
16 initials here. Do you -- do you see those?

17 A. Yes, I do.

18 Q. Okay. So, for example, OP would stand for your
19 name, right?

20 A. Yep.

21 Q. And --

22 A. Ryan Nelson. Landon Weyer, and that's L.M. His
23 last name starts with a W.

24 Q. Right. It's -- right. Okay. So it's supposed
25 to be Landon Weyer.

1 A. Yeah.

2 Q. This is Isaac, right?

3 A. Yeah.

4 Q. Okay. And this is kind of -- G1 is kind of where
5 your tubes were in general --

6 A. Okay.

7 Q. -- okay?

8 A. Okay.

9 Q. Would you say in looking at this diagram, right
10 before what I'm showing you here, which is at 1:49 at the
11 video, that's kind of the general set up of where people
12 are in this --

13 A. I feel like in that clip you just showed over
14 there I was standing next to Ryan Nelson though.

15 Q. Okay. But you'd agree in general, am I right
16 that this is kind of the general pattern of where people
17 are?

18 A. Yeah. Generally, yeah.

19 Q. Okay. And if you -- and if I have it right, you
20 would agree people are like where I am to you on Mr. Miu,
21 not directly behind him but off to his side?

22 A. Yeah.

23 Q. Yes?

24 A. Yeah.

25 Q. There's people in front of him?

1 A. Um-hum.

2 Q. Yes?

3 A. Yes.

4 Q. And there's people kind of off to his other side,
5 is that fair?

6 A. Yeah.

7 Q. Okay. And if I told you that the evidence has
8 been, or this document, there's 13 people and Mr. Miu by
9 himself, would you agree with that? Is that fair?

10 A. Ah, yes.

11 Q. I'm sorry?

12 A. Yes.

13 Q. Okay.

14 A. A lot of us were just, like, standing there
15 though watching.

16 Q. Well, you're not telling Mr. Miu what you're
17 gonna do, right?

18 A. What do you mean?

19 Q. Well, you say people are standing there. You
20 agree, people don't know what other people are gonna do,
21 right?

22 A. Meaning, yeah. Yeah.

23 Q. Okay. So you're not telling him that you're not
24 going to do anything, you're all just --

25 A. Standing there.

1 Q. -- taunting him?

2 A. Yeah.

3 Q. Okay.

4 A. To an extent. We weren't taunting him the whole
5 time.

6 Q. And you'd agree, though, you've already said
7 this, in terms of what -- what's going on, your -- because
8 of the number of people your bravery, you're becoming more
9 emboldened on what you're doing, right?

10 MR. SMESTAD: Objection. Asked and answered.

11 THE COURT: Overruled.

12 Q. (By Mr. Chirafisi, continuing) Right?

13 THE COURT: You can answer the question.

14 A. Could you repeat it?

15 Q. (By Mr. Chirafisi, continuing) You're becoming
16 more emboldened, meaning your behavior, you're becoming
17 more and more willing to do things because of the number
18 of people around?

19 A. No, I -- I was just standing there just watching.
20 I never -- I never would have ever put my hands on anyone.

21 Q. But he doesn't know that, right?

22 MR. SMESTAD: Objection as to what the Defendant
23 knows.

24 THE COURT: Sustained. Speculation.

25 Q. (By Mr. Chirafisi, continuing) Did you -- I want

1 to make sure I understand this right. Did you see what
2 happened between Mr. Miu and the blonde person, the blonde
3 girl?

4 A. No, I did not see, but I heard. I heard the fist
5 hit her face and then I saw her stumble backwards.

6 Q. I want to make sure I got it right. You said you
7 heard his fist hit her face?

8 A. Exactly.

9 Q. How do you -- if you didn't see it, how do you
10 know he hit her?

11 A. Because he was the only one doing anything to
12 anyone.

13 Q. You didn't see it?

14 A. I couldn't -- I could clearly make out that
15 that's what happened.

16 Q. How? You just said you couldn't see it.

17 A. Just because, I mean, he was standing right in
18 front of her and she -- he looked like he had a crazy look
19 on his face and she stumbled backwards and she was
20 standing right in front of him. Clearly. I could make
21 out that he hit her. Clearly I could.

22 Q. How? You didn't see it.

23 A. By using my brain and putting the pieces
24 together, I could clearly tell that he hit her and -- I
25 mean, he clearly hit her. I mean, there's no denying

1 that.

2 Q. I'm gonna ask you to explain to me, because you
3 didn't see it --

4 A. Um-hum.

5 Q. -- what you -- how you know that.

6 A. How I know what?

7 Q. You said he clearly hit her.

8 A. Because I -- I heard it and I saw her stumble
9 backwards.

10 Q. You heard something, right?

11 A. I heard a fist hit a face. I mean, if -- if you
12 ever heard a punch, a punch makes a noise. I heard that.

13 Q. Okay.

14 A. And he was standing straight in front of her and
15 she stumbled backwards. I could clearly use all the
16 context clues to put together she -- or he hit her.

17 Q. Okay. So you believe that he hit her to the
18 point (demonstrating) where there was a noise like this?

19 A. Yes, there was.

20 Q. Okay. Do you know which hand he hit her with?

21 A. I could not tell you, no.

22 Q. Do you know which way she fell back?

23 A. She kind of, like, stumbled back, like, a little
24 bit, like, to her, like, right. Actually, like, stumbled
25 back, like, kind of diagonal to her right just a little

1 bit.

2 Q. Okay. So I won't -- so she stumbled -- if I'm
3 looking at you, she stumbled this way?

4 A. Yeah, like that way.

5 Q. Okay. So would that make sense to you then, that
6 if there actually was a punch, it would have come and gone
7 this way to knock her, so it would have come and hit her
8 left side to make her go to the right?

9 A. I'm not exactly sure. I -- I just heard and saw
10 it.

11 Q. Okay. Does she fall down?

12 A. She stumbled. I wouldn't say, like, fully fell
13 down, no. She, like, caught herself a little bit.

14 Q. Okay. And after you say that you -- that this
15 happened --

16 A. Um-hum.

17 Q. -- you say everyone got on his ass and started
18 punching him, right?

19 A. I said that?

20 Q. Yeah.

21 A. I mean -- I mean, in the video it clearly shows
22 not everyone got on his ass and started punching him. I
23 must have just said that because I was just in shock
24 still.

25 Q. What I'm asking you is that what you said?

1 A. I don't recall exactly saying that, but if it's
2 on paper I'm sure I said it.

3 Q. Okay. You see a person, you don't know the
4 person, but you see the person punch him in the face and
5 knock him in the water, right?

6 A. I didn't really see the punch but I saw him fall
7 into the water, yeah.

8 Q. Okay. Do you hear or see the person run around
9 him and crack him across the side of the face?

10 A. No. I did not see that, no.

11 Q. Okay. Did you see the guy in the yellow shorts
12 come up behind him and shove him from behind while he's in
13 the water?

14 A. No. At that point, like, I was in complete shock
15 already. I don't remember much from that exact moment.

16 Q. What were you in shock about at that point?

17 A. The knife.

18 Q. Seeing the knife?

19 A. Yeah. And then I kind of just went black for,
20 like, a couple -- like minutes or so because I don't
21 really -- they're all really blurry. I just remember bits
22 and pieces.

23 Q. So seeing the knife made you go black, yes.

24 A. To an extent.

25 Q. You'd agree if -- if your memory -- if -- if you

1 remember this --

2 A. Yeah, if I remembered anything I'd agree --

3 Q. Hold on. There's a question. Mr. Miu doesn't
4 hurt anyone with the knife until and after he gets punched
5 in the face and knocked in the water, right?

6 A. Only because he punched a woman.

7 Q. My question to you is he only -- the only time
8 anyone ever gets injured with a knife is after Mr. Miu is
9 repeatedly punched, slapped, and pushed, yes?

10 A. I mean, I don't really know. I didn't see it
11 all.

12 Q. All right.

13 A. I didn't see a punch, a push, and a slap. I did
14 -- I did see him fall at the beginning of the water.

15 Q. And then by your statement then people got on his
16 ass. What does that mean to you?

17 A. It means just -- like, I mean, after anyone
18 punches a girl, ever, there's obviously going to be a
19 consequence. That's not okay.

20 Q. That's not what I'm asking you.

21 A. Are you --

22 Q. What I'm asking you is what does it mean to you
23 when you say everyone got on his ass? What does that
24 mean?

25 A. That means -- I mean, people hit him, yeah.

1 Because he punched a woman.

2 Q. People hit him, right?

3 A. I -- I couldn't tell you exactly how many, no,
4 because I, once again, don't really remember. I know I
5 didn't.

6 Q. You didn't touch him, right?

7 A. Not once.

8 Q. And he didn't touch you, right?

9 A. He did not. Thank the Lord.

10 Q. And you don't see, well, what Isaac is doing, do
11 you?

12 A. No, I did not.

13 Q. Okay. Now, you -- I think you say to police
14 Isaac was not going toward him?

15 A. Yeah, if my memory, I did not ever see him close
16 to him at all. It was a shock to me.

17 Q. Okay. So your memory doesn't include Isaac
18 grabbing him by the throat?

19 A. I don't know. I don't think he ever grabbed him
20 by the throat.

21 Q. Mr. Peloquin, I'm going to show you -- if you
22 watch the screen. This is still 2999. Does that appear
23 to you that Mr. Miu's -- somebody's got their hand around
24 Mr. Miu's throat?

25 A. Yes, it does.

1 Q. Can you tell by the gold bracelet on the left
2 wrist that that's Isaac Schuman?

3 A. I don't really know whose bracelet that is.

4 Q. You don't know that -- that doesn't refresh your
5 memory or that you're not able to say who that is, right?

6 A. Not -- no, I can't.

7 Q. But you are able to say that that person's got
8 him around the throat, yes?

9 A. Yeah, it does look that way.

10 Q. Yeah. Okay.

11 MR. CHIRAFISI: I'm finished, sir. Thank you.

12 THE COURT: Mr. Smestad.

13 MR. SMESTAD: Nothing further.

14 THE COURT: All right.

15 Thank you, Mr. Peloquin. Please step down.
16 Please see the witness coordinator in the back and she'll
17 tell you where to go next.

18 (Whereupon, the witness is excused.)

19 THE COURT: How's everyone doing? Anyone need a
20 bathroom break? (Non-verbal response.) You're good.

21 All right. Let's continue.

22 Mr. Smestad, who's next?

23 MR. SMESTAD: We're going to swap out here,
24 Judge. Mr. Anderson will be --

25 MR. ANDERSON: Dr. Myer.

1 (Whereupon, the witness enters the courtroom.)

2 THE COURT: Dr. Myer, please come forward.

3 That's good right there. Please face the clerk, raise
4 your right hand, she will administer the oath.

5 DR. BRIAN MYER,

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. Brian Myer, m-y-e-r.

17 Q. And how are you employed?

18 A. I am employ -- employed by Group Health,
19 Incorporated, which is the physician employment group for
20 HealthPartners.

21 Q. And what's your position?

22 A. I am an acute care surgeon.

23 Q. What kind of education and background do you have
24 for your position as a surgeon?

25 A. Sure. So I went to medical school at Albany

1 Medical College, completed my M.D. there; then went to
2 Eastern Virginia Medical School for my surgical residency,
3 which was five years; then went to Shock Trauma at the
4 University of Maryland for a surgical critical care
5 fellowship. There was no actual fellowship for trauma per
6 se, is about the training you get for trauma. And then
7 stayed and did a second year for acute care surgery
8 fellowship at University of Maryland, Shock Trauma as
9 well.

10 Q. And -- so are your -- is your position a --
11 specifically a trauma surgeon or do you do scheduled
12 surgeries too?

13 A. I don't really do much in the way of elective
14 surgery. I do surgical critical care, emergency general
15 surgery, and trial surgery.

16 Q. Okay. And were you working on July 30th of 2022?

17 A. I was.

18 Q. Where were you working?

19 A. At Regions Hospital.

20 Q. And on that day were you involved with the
21 evaluation and/or treatment of Ryhley Mattison, Dante
22 Carlson, and Alexander Martin?

23 A. Yes, sir.

24 Q. Who was the first patient that was brought in?

25 A. That was Ryhley.

1 Q. And what was Ryhley's condition when she got
2 brought to the hospital?

3 A. Just to clarify, what are you -- condition?

4 Q. What -- what was her injury?

5 A. So she had a -- a wound, open wound, to her
6 abdomen. We call a thoracoabdominal wound, so it's right
7 between -- close enough you couldn't tell if it's in the
8 chest or in the abdomen or both. And in her case there
9 was clear evisceration of the -- the omentum or fatty
10 apron we have in our belly.

11 Q. Okay. And was that exposed?

12 A. Yes.

13 Q. And what was the -- what was your response
14 when -- after you noted the injury?

15 A. So when you have penetrating trauma like this you
16 don't know what all is involved, and so this patient
17 needed exploration and so we immediately -- I immediately
18 called the OR to bring her upstairs and -- and go proceed
19 with that exploration.

20 Q. What was the result of the exploration? What was
21 her -- did she have internal injuries?

22 A. She did. So she -- so just for clarification, I
23 took her to the OR. As we were about ready to start the
24 case was when I got notification of a second more critical
25 patient, and so my chief resident started the case. As a

1 Level 1 Trauma Center we have a backup surgeon that is
2 always available and so I called my backup partner to come
3 in to complete that surgery and -- so I did not do the --
4 the surgery itself, but she ended up having two injuries
5 to her stomach, as well as an injury to her diaphragm.

6 Q. And when you say injuries, can you -- to her
7 stomach and diaphragm, can you just explain what you mean?

8 A. Sure. So with the penetrating injury like this,
9 the -- the -- there was a full thickness injury to the
10 stomach in two areas. So the stomach had a full hole in
11 it and then also the -- there was injury up in the
12 diaphragm as well.

13 Q. Did -- and she required emergency surgery?

14 A. She did.

15 Q. What's the -- what's the danger of a cut through
16 your stomach?

17 A. Sure. So if you -- your -- your GI tract is
18 meant to keep everything inside where it's supposed to be,
19 and if that leaks out into your belly, you can get sick
20 from that. Untreated, that would lead to sepsis and
21 progress likely on to something like septic shock where
22 your blood pressure would get low and you could get an
23 overwhelming infection.

24 For the diaphragm injury, if you have an
25 infection it then goes from your belly where it would

1 otherwise be contained and move up into the thoracic
2 cavity that can create its own extra issues. And long
3 term, if you don't fix a diaphragm injury you can get a
4 hernia through that where the bowel or the spleen or
5 anything in your belly that lives in that left upper
6 quadrant can move up into that area, lose its blood
7 supply, and then lead to another emergency surgery.

8 Q. And did the hospital do blood work on Ryhley?

9 A. Yes.

10 Q. What was her BAC?

11 A. .09.

12 Q. And you said that once -- after you did the
13 evaluation of Ryhley you got word that another more
14 critical patient was incoming?

15 A. Correct.

16 Q. And who was that?

17 A. That was A.J.

18 Q. And what was A.J.'s condition when he arrived?

19 A. So A.J. was critically ill. We received word
20 that as he was being flown to us that his heart had
21 stopped. And so based on the records from -- well, we
22 didn't have all these details at the time, but based on
23 the EMS records from LifeLink, he went into PEA, or
24 pulseless electrical activity/cardiac arrest, for
25 nine minutes. They were able to get return to spontaneous

1 circulation as he rode down to our ED, and we quickly
2 assessed him there.

3 Q. The cardiac arrest for nine minutes, does that
4 mean he -- his heart stopped for nine minutes?

5 A. Correct.

6 Q. Did he -- did his heart stop at all at the
7 hospital?

8 A. It did. So he was only in our -- in our trauma
9 bay and up into the OR within five minutes, and as we rode
10 to the operating room with him his heart again stopped on
11 the monitor as we were rolling him into the OR.

12 Q. And did A.J. require emergency blood transfusion?

13 A. He did. He received transfusions prior to his
14 arrival, so LifeLink transfuses blood in their helicopter,
15 and then we had activated what we call a massive
16 transfusion protocol or MTP to have lots of blood products
17 available in case you need to infuse those upon his
18 arrival to us.

19 Q. Was he in shock when he arrived at the hospital?

20 A. Yes.

21 Q. And when you use and -- and as a physician, when
22 you use shock, what do you mean?

23 A. So shock is a condition where you don't perfuse
24 your organs appropriately. So there's several causes of
25 it. The most common cause of it in trauma and what A.J.

1 had was hemorrhagic shock, which is a subset of
2 hypovolemic shock.

3 Q. So when you use the word shock in medicine, it's
4 a physical condition?

5 A. It is. It's a -- it's a pathophysiologic
6 condition.

7 Q. And what -- can you describe the -- what you had
8 to do as far as surgery and what you -- damage you found?

9 A. Sure. So when A.J. arrived he had a very large
10 incision essentially almost from his sternum down to
11 his -- the middle of his pelvis or his pubis. I had to
12 extend this a centimeter or two just to make sure we could
13 get full exposure and see everything appropriately. And
14 the injury -- he had multiple injuries.

15 The most important one or the one that --
16 why he -- his heart stopped and why he was so sick was
17 because he had injuries to his right common iliac artery
18 and then also his left common iliac vein. So I repaired
19 the artery.

20 When I knew that there was a vascular
21 injury I called in Dr. Rosenthal, who's one of our
22 vascular surgeons, and he ended up putting some stitches
23 to repair the vein.

24 We additionally found three injuries to his
25 small intestine and an injury to his colon, as well the

1 transverse colon.

2 Q. And those -- the -- I think you said the iliac
3 artery?

4 A. Yes.

5 Q. Where is that located?

6 A. So the iliac artery is what supplies blood to
7 your pelvis and your -- your -- each leg. So as you come
8 down from the heart your aorta splits down low in your
9 belly or as you go into the pelvis into the common iliac
10 artery. So there's a right and there's a left, and so it
11 then continues on, provides blood, as I said, to the
12 pelvis and -- and the leg.

13 Q. So those -- the -- there -- are there -- I just
14 want to make sure I am understanding. So each leg has a
15 vein that comes up and meets somewhere?

16 A. So this would be up in the torso itself, not into
17 the leg. So as -- as it goes on it then branches into an
18 external and internal iliac artery. The external is what
19 would continue on to go down to your femoral artery and
20 then would be the blood vessel that go down into the leg.

21 Q. And where does that vein run through, the torso
22 or the stomach area?

23 A. I'd say it's about two-thirds the way down in the
24 abdominal cavity where the aorta bifurcates or splits into
25 two.

1 Q. Are there other major arteries and veins in the
2 human torso?

3 A. Yes.

4 Q. And can you just describe where those are?

5 A. So as -- as I mentioned, the aorta would be the
6 -- the biggest one. It gives off branches to your
7 mesenteric vessel as you come down through the abdomen,
8 and then the big branches are the iliac arteries and then
9 into the -- the external and internal. So this is -- this
10 is a sizeable artery, I'd say second only to really your
11 -- in the belly, at least second only to your aorta.

12 Q. Was A.J. conscious for the surgery?

13 A. He was not. He had been intubated prior to his
14 arrival.

15 Q. And --

16 MR. ANDERSON: May I approach?

17 THE COURT: Yes.

18 Q. (By Mr. Anderson, continuing) Handing you what's
19 been marked as Exhibit 29. What does that photo show?

20 A. So that is A.J. You can see he has a nasogastric
21 tube in his nose, and below his gown you can see his
22 abdomen exposed, and there's what we call an AbThera.

23 So when someone is ill enough or has a
24 reason why we would leave their belly open and not
25 complete the surgery all in one setting, in his case he

1 was sick enough that that was the reason we did it, we put
2 this special dressing on, which has a vacuum in it, and
3 the area to protect the -- the internal contents of the
4 abdomen, and then leads to a nice comclose -- closed
5 system so that any fluid that is in the belly can drain
6 out and then -- in a delayed fashion we take the patients
7 back and reexplore them in the next day or two.

8 Q. And did A.J. require follow-up surgeries?

9 A. He did. He had multiple.

10 Q. So the -- the wound that's visible in that photo,
11 I think you said you opened it up maybe another centimeter
12 or two?

13 A. Correct. Both at the top and bottom it would
14 have been a centimeter or two.

15 Q. Okay. So other than that, that's the -- the
16 centimeter or two on the bottom, centimeter or two on top,
17 that's the wound -- the size of the wound he came in with?

18 A. Correct.

19 MR. ANDERSON: Judge, I'd move to publish 29, and
20 I'm just going to hand it to the jury, not put it on the
21 screen.

22 THE COURT: Any objection to 29?

23 MR. CHIRAFISI: No.

24 THE COURT: All right. You may publish.

25 Q. (By Mr. Anderson, continuing) And was there a --

1 a BAC taken of A.J.?

2 A. There was not.

3 Q. Would A.J. have survived without medical
4 intervention?

5 A. No.

6 Q. You're a trauma surgeon, you deal with a lot of
7 traumatic cases. Does this case stand out to you?

8 A. It does.

9 Q. You specifically remember the --

10 A. I do. I have not had a -- a patient with that
11 large of a penetrating wound previously.

12 Q. And then Dante Carlson, how was he transported to
13 the hospital?

14 A. He came via helicopter.

15 Q. Was he given any medications on the helicopter?

16 A. He was.

17 Q. Do you recall off hand what those were?

18 A. Fentanyl, and if I can look at the record here
19 I -- I think it was Ondansetron or Zofran.

20 Q. What's Fentanyl used for?

21 A. It -- it's both used for pain, as well as for
22 sedation, depending on the clinical scenario.

23 Q. Is it a narcotic?

24 A. Yes.

25 Q. And what was Dante's injury?

1 A. So he had -- actually ended up having nothing
2 internal, but as I had said earlier, one of the -- the
3 issues with penetrating trauma is you don't know how deep
4 anything goes and what is injured until you actually look
5 at it. So in his case it was early the next morning we
6 took him to the operating room, did a diagnostic
7 laparoscopy, confirmed there was no injuries beyond his
8 abdominal wall. So his -- his injury was a traumatic
9 hernia, that we repaired.

10 Q. And why -- if there's a penetrating injury in the
11 torso or stomach, you said you had a -- so did you use a
12 camera or how did you --

13 A. Yes. So we used a camera, put air into the belly
14 so that we had space to do a few little incisions, and
15 then evaluated the -- the intrarial (verbatim) space to
16 make sure there was nothing injured.

17 Q. And you said you have to do that to make sure
18 none of those vital organs or arteries or anything else
19 damaged inside?

20 A. Correct. You need to make sure there's not
21 something injured in the gastrointestinal tract that is
22 leaking contents, or even if a --a blood vessel or your
23 spleen is injured, it may not bleed significantly but you
24 may end up with injuries to your supra aneurysms that can
25 build -- bleed in a delayed fashion.

1 Q. And what was -- did -- was a -- Dante's blood
2 drawn and tested for BAC?

3 A. It was.

4 Q. What was his BAC?

5 A. .09.

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

7 THE COURT: Mr. Chirafisi.

8 MR. CHIRAFISI: Thank you.

9 CROSS-EXAMINATION

10 BY MR. CHIRAFISI:

11 Q. Good morning, doctor.

12 A. Good morning.

13 Q. I'm gonna start with Ryhley, if I could --

14 A. Sure.

15 Q. -- okay? I'm gonna start with this: You had
16 mentioned that her -- her blood was drawn and her alcohol
17 concentration level was a .09, is that right?

18 A. Correct.

19 Q. Do you remember what time that was?

20 A. That would be -- I -- I can look and find the
21 minutes if you need that. That would be when he -- when
22 she first arrives to the ED we take blood from most
23 patients and -- and send it off as part of a rainbow draw
24 that every lab that we could get we get available and then
25 we send it to the lab and select what we're going to

1 choose --

2 Q. Okay.

3 A. -- from there.

4 Q. If -- if -- and you're free to look, I'm not here
5 to trick you. If I told you that it was drawn at about
6 4:55, that makes sense?

7 A. That would sound about right.

8 Q. Okay. And -- I don't want to interrupt you while
9 you're looking. What did -- do you recall, on the records
10 that you have, what she weighed about?

11 A. I do not.

12 Q. Okay. I think she -- there's been testimony I
13 think 115 is what she had said, is that -- is that --

14 A. That -- that's kind of a ballpark. That sounds
15 correct.

16 Q. Okay. So you would agree that if the draw is at
17 4:55, she's an 09 at 4:55, right?

18 A. Correct.

19 Q. That doesn't mean that's what her alcohol
20 concentration was when this incident happened, true?

21 A. I'm not a toxicologist so I'm -- I'm not gonna --
22 I don't know that I have expertise to get into specifics
23 on that, but common knowledge -- common sense would say
24 yes.

25 Q. Okay. So -- and again, I'm not going to ask for

1 your expert opinion on anything. What I'm going to ask
2 you is do you -- whether it's personal experience,
3 training and experience as a medical professional, you
4 understand that alcohol absorbs and eliminates at
5 different rates, right?

6 A. Correct.

7 Q. Okay. So if this is alcohol, this water bottle,
8 and I drink it, it's not fully absorbed into my body
9 immediately, right?

10 A. Correct.

11 Q. It would take some period of time to do that,
12 yes?

13 A. Correct.

14 Q. Okay. So I'm assuming -- well, tell me if you
15 can answer this. Do you have any information that after
16 she was injured she was consuming any alcohol?

17 A. I do not.

18 Q. Okay. So the blood draw is about an hour and
19 change before the incident. Her alcohol concentration,
20 based on what you know, based on your training and
21 experience, is not an 09 at the time likely, correct?

22 A. Most likely.

23 Q. Okay. And you -- I want to just make sure I have
24 this right. You had said that if Ryhley's injuries were
25 left untreated, sepsis, other types of infections, I don't

1 want to discount what you're saying, I was trying to write
2 as fast as I could, other infections and a hernia, is that
3 right?

4 A. Correct.

5 Q. Okay. And --

6 MR. CHIRAFISI: Can I approach, Judge?

7 THE COURT: Yes.

8 Q. (By Mr. Chirafisi, continuing) So I'm gonna talk
9 to you about A.J. for a minute.

10 A. Okay.

11 Q. Okay. And I -- you said that his injuries were
12 kind of -- is the belt line or a little bit lower than the
13 belt line kind of --

14 A. No, higher than that.

15 Q. Okay. So the belly button?

16 A. Below that.

17 Q. Okay. Between the belly button and the belt.
18 All right.

19 Can I ask you this: We've -- all of us
20 here have seen the video of kind of what the injury to
21 A.J. Martin looked like, okay. I'm not saying you did,
22 I'm just saying we all have?

23 A. Um-hum.

24 Q. Okay. Can the -- can the trajectory of the
25 injury, meaning what it ends up looking like, change based

1 upon what the person who's being injured does? Do you
2 understand my question?

3 A. Well, sure. I mean, penetrating trauma is all
4 about what the trajectory of your info of the object doing
5 the injuring does, and our job is to figure out what that
6 trajectory is. So if someone moves as that penetrating
7 object goes through them --

8 Q. Um-hum.

9 A. -- that would change the trajectory and what the
10 injuries would be.

11 Q. Right. Fair enough. So if, for example, I
12 stabbed you, and when I stabbed you were shoving me and --
13 and actually knocking me backwards off my feet, okay, that
14 could change, like, my arm angle and what ends up
15 happening to you as a result of that, is that fair?

16 A. It's a dynamic process, so the two would be
17 affecting each other for sure.

18 Q. Sure. So something that looks like a stab wound
19 that's going straight, right, that's kind of going in,
20 that might not certainly have the same impact of taking an
21 injury from your navel area up to your chest area as it
22 would be if that same penetrating wound happened and the
23 person got shoved and the knife got moved, is that fair?

24 A. It would, although I would worry with A.J. he
25 would have had a worse injury if it went deeper and it

1 didn't go up.

2 Q. Okay. Say -- can you say that again for me?

3 A. So you're saying if -- if -- if the -- the force
4 is that someone gets pushed and instead of the knife going
5 straight --

6 Q. Um-hum.

7 A. -- it comes up, in his case that would have
8 actually been a better thing because his deepest injury
9 was that lowest part. And if that knife went deeper, it
10 would have had a bigger injury and he probably would have
11 never made it to the hospital.

12 Q. Okay. But in terms of what -- you know, the jury
13 has seen this photo of his abdomen area. Again, I just
14 want to make sure that I understand. For example, Ryhley
15 suffered a puncture -- if that's fair, a puncture wound.
16 Her abdomen or her side here didn't open up like that,
17 right?

18 A. It was wide open. It just wasn't as large.

19 Q. Right. Understood. And that could be, meaning
20 the -- what it looks like, I think you've said this, could
21 be based upon what the person's body is doing when the
22 injury is occurring, is that fair?

23 A. Generally, yes.

24 Q. Okay. And does it also change in terms of the --
25 the possible penetration of the wound? If I'm standing

1 still and you stab me, okay, versus if I'm running at you
2 and then you stab me, could that have an impact on the --
3 the force used in the depth of the wound?

4 A. It could.

5 Q. And it would make -- it seems logical to me but
6 you tell me if this is right. If I'm running at you and
7 I'm a grown person and I'm running at you with some force,
8 it certainly is possible that the wound could go deeper
9 because of the force that I'm providing, is that fair?

10 A. Sure.

11 Q. Okay. Was -- it's not a criticism, it's a
12 question. A.J. Martin's -- because of the transfusions
13 his blood couldn't be tested for alcohol, is that fair?

14 A. No. The reason, it -- we did not hang around
15 long enough to get blood specimens in the trauma bay.

16 Q. Okay.

17 A. We moved so quickly to the OR that he did not get
18 the normal labs drawn in the ED.

19 Q. Okay.

20 A. And our anesthesia team takes over the
21 resuscitation in the operating room, that wouldn't be part
22 of the -- the orders set that they would send off, because
23 it wouldn't have affected his care.

24 Q. Okay. Very good. Thank you.

25 And Dante Carlson, just the same, he has a

1 test result of an 09, but that's also at a later time,
2 right?

3 A. Correct.

4 Q. Okay. So it -- it certainly may not be what his
5 test result was at the -- at the time of the incident,
6 true?

7 A. It may not be what his level was at the time of
8 the incident, yes.

9 Q. Right. And I think this is fair, and you tell
10 me. What you ended up doing for Mr. -- for Dante Carlson
11 was repairing a -- a hernia, is that fair?

12 A. Correct.

13 Q. Okay.

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

15 THE COURT: Mr. Anderson, do you have more
16 questions?

17 REDIRECT EXAMINATION

18 BY MR. ANDERSON:

19 Q. As far as what people's movements contributed,
20 you don't know. You can speculate or say it could affect
21 it, but is that the extent of what you're able to say?

22 A. Correct. I mean, physics is physics and -- and
23 it's a very dynamic thing, and movement of two objects
24 that are interacting is going to lead to different
25 outcomes.

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

2 THE COURT: Mr. Chirafisi.

3 MR. CHIRAFISI: No, sir.

4 THE COURT: All right.

5 Thank you, Dr. Myer. You may step down.

6 (Whereupon, the witness is excused.)

7 THE COURT: This might be a good place for a
8 short recess. Let's come back at 9:35. Please take the
9 jury out.

10 (Whereupon, the jury exits the courtroom.)

11 THE COURT: We're in recess. Ten minutes.

12 (Whereupon, a break was held.)

13 (Whereupon, the jury enters the courtroom.)

14 THE COURT: We are back on the record with the
15 attorneys, Mr. Miu, and 14 jurors. Let's continue with
16 the testimony.

17 Mr. Smestad, who will be the next witness?

18 MR. SMESTAD: Sally Standaert.

19 (Whereupon, the witness enters the courtroom.)

20 THE COURT: Investigator Standaert, please come
21 forward. Please face the clerk, raise your right hand,
22 she will administer the oath.

23 INVESTIGATOR SALLY STANDAEART,
24 after having been first duly sworn on oath by the clerk,
25 testifies and says as follows:

1 THE WITNESS: I do.

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

4 Mr. Smestad.

5 DIRECT EXAMINATION

6 BY MR. SMESTAD:

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

8 A. Sally Standaert.

9 Q. How do you spell your last name?

10 A. S-t-a-n-d-a-e-r-t.

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

12 A. I'm employed with the St. Croix County Sheriff's
13 Office as an investigator.

14 Q. And how long have you been in law enforcement?

15 A. 22 years.

16 Q. What are your general duties as an investigator
17 with the sheriff's department?

18 A. I investigate sensitive crimes, drug crimes,
19 crimes against children, burglaries, homicides.

20 Q. Were you asked to assist in the investigation of
21 the Apple River stabbings back in July of 2022?

22 A. I was.

23 Q. Were you given specific duties or assignments?

24 A. Yes.

25 Q. Specifically, were you asked to collect some DNA

1 samples?

2 A. Yes.

3 Q. Do you recall whose DNA you collected?

4 A. I collected Alexander Martin's, Ryhley Mattison,
5 and Dante Carlson.

6 Q. What kind of collection method did you use?

7 A. We use a buccal swab, which looks similar to a
8 one-sided Q-tip. We collect the -- we use that Q-tip on
9 the inside of the cheek to collect the sample from there.

10 Q. Are the swabs sterilized or come in sterile
11 packaging when you're using them for this collection?

12 A. They do.

13 Q. Do you recall -- when you took the -- the -- the
14 buccal swab from A.J. Martin, was that here or at his home
15 or somewhere else?

16 A. At his home.

17 Q. What day was that? Do you remember what date?

18 A. September 1st, 2022.

19 Q. Did you drive over to his house?

20 A. I did.

21 Q. Collected the swab?

22 A. I did.

23 Q. What did you do with the swab after you collected
24 it from him?

25 A. I packaged it, logged it in to our computer

1 system, and then placed it into evidence at the sheriff's
2 office.

3 Q. Did you collect the -- the same type of buccal
4 swab from Ryhley Mattison, Tony Carlson, and Dante
5 Carlson?

6 A. From Ryhley and Dante I did, and then
7 Investigator Shilts collected it from Anthony.

8 Q. Where was that done?

9 A. Here at the Government Center.

10 Q. All right. And did you use the same process with
11 Ryhley and Dante?

12 A. I did.

13 Q. What did you do with those swabs once they were
14 collected?

15 A. I packaged them, logged them into evidence, and
16 placed them in the evidence room at the sheriff's office.

17 Q. Were you present when Investigator Shilts took
18 Anthony Carlson's buccal swab?

19 A. I was.

20 Q. Did you -- what happ -- what happened to that
21 swab?

22 A. I also packaged that one and logged it.

23 Q. Do you remember the day that that happened?

24 A. September 2nd, 2022.

25 Q. When you say you placed them in evidence, is that

1 a secure facility at the sheriff's office?

2 A. Yes.

3 Q. And were they kept in that secure facility until
4 transported?

5 A. To my knowledge, yes.

6 Q. Where were they transported to?

7 A. The State Crime Lab.

8 Q. All right. Were you involved in that?

9 A. No, not that I recall that I was there.

10 Q. Is it possible you were involved in that?

11 A. I could have been.

12 Q. Was it quite a while ago?

13 A. Yes.

14 Q. Is there another Sally Standaert who works for
15 the sheriff's office?

16 A. No.

17 Q. If the crime lab paperwork says that samples were
18 dropped off by a Sally Standaert, would that have been
19 you?

20 A. Yes.

21 MR. SMESTAD: Could I have Exhibit 64?

22 Can I approach the witness, Judge?

23 THE COURT: Yes, you may.

24 Q. (By Mr. Smestad, continuing) Investigator, I'm
25 showing you what's been marked as Exhibit 64. Can you

1 identify that?

2 A. It appears to be the property and evidence
3 summary from the Case Number 20226400.

4 Q. Is that the -- this case that we're here for?

5 A. Yes.

6 Q. Did you -- as you log in evidence, specifically
7 these buccal swabs, is there a number assigned for that
8 evidence?

9 A. There is.

10 Q. An item number I guess it's called?

11 A. There is an item number, yes.

12 Q. I'm referring you to, I guess, the bottom of Page
13 5 and top of Page 6. Do you see the entries for the
14 buccal swabs that you collected on September 1st and 2nd?

15 A. Yes.

16 Q. Can you just tell us the numbers for the swabs
17 that you entered into evidence?

18 A. 257, 258, 259, and 260.

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

20 THE COURT: Mr. Chirafisi.

21 MR. CHIRAFISI: Just very few.

22 CROSS-EXAMINATION

23 BY MR. CHIRAFISI:

24 Q. So, investigator, when you get the buccals -- and
25 I think you said got them on September 1st and

1 September 2nd?

2 A. Correct.

3 Q. Okay. -- you log them into evidence, right?

4 A. I do.

5 Q. Okay. And when are they transported to the crime
6 lab?

7 A. The date that they were transported?

8 Q. Um-hum.

9 A. I don't know.

10 Q. Do you do anything with -- I understand you
11 package this, the evidence, right?

12 A. Correct.

13 Q. Okay. Do you do anything with the DNA evidence;
14 meaning, do you refrigerate it? What do you do with it?

15 A. Once the buccal swab is collected it's placed in
16 an evidence box and in also a bag, the label is placed on
17 that, and then it's placed in evidence. There's no
18 refrigeration that happened with that when I placed it
19 into evidence.

20 Q. I'm sorry, I didn't hear you. You said there was
21 no refrigeration, is that what you said?

22 A. When I placed it into evidence it's in a locker.

23 Q. Okay. And in this particular case, I'm not being
24 critical, you don't know how long it's there before it's
25 transferred?

1 A. Correct. I'm not the evidence technician.

2 Q. Okay. Do you transfer it?

3 A. (No response.)

4 Q. Do you drive the evidence to the crime lab?

5 A. We can. At times we may go with the evidence
6 technician.

7 Q. Okay. You don't have a recollection of that in
8 this case?

9 A. I don't.

10 Q. Okay. Do you have that exhibit in front of you,
11 ma'am? Could I just take a peek at it?

12 A. Sure.

13 Q. Appreciate it. Thank you.

14 And to be fair, the information on here
15 doesn't say who transferred it or when, right?

16 A. Not on that form, no.

17 Q. Okay.

18 MR. CHIRAFISI: That's all I have. Thank you,
19 ma'am.

20 THE COURT: Mr. Smestad, anything else?

21 MR. SMESTAD: Nothing further.

22 THE COURT: All right.

23 Thank you, investigator. You can step
24 down.

25 (Whereupon, the witness is excused.)

1 THE COURT: Who is the next witness?

2 MR. SMESTAD: One moment, Judge. It's gonna be
3 Ashley Hoffman. She may appear on the witness list as
4 Ashley Price, Your Honor. She's had a name change.

5 THE COURT: Okay.

6 (Whereupon, the witness enters the courtroom.)

7 THE COURT: Ms. Hoffman, please come forward.
8 Keep coming. Right down the middle. There is good.
9 Please face the clerk, raise your right hand, she'll
10 administer the oath.

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

14 THE WITNESS: Yes.

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

17 Mr. Smestad.

18 DIRECT EXAMINATION

19 BY MR. SMESTAD:

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

21 A. Ashley Hoffman.

22 Q. Were you formerly known as -- with a different
23 last name?

24 A. Yes. Ashley Price is my maiden name.

25 Q. All right. And what's your occupation?

1 A. I'm a nurse.

2 Q. What kind of nurse are you?

3 A. Forensic nurse examiner for SART, and then my
4 full-time job is I'm an OB nurse manager.

5 Q. What is SART?

6 A. SART, Sexual Assault Response Team.

7 Q. Is that something affiliated with St. Croix
8 County?

9 A. Yes. We cover St. Croix County, Polk County,
10 Barron County, Rusk County. It's a community resource.

11 Q. All right. Can you briefly describe your
12 education that led you to your job as a nurse?

13 A. Yes. Specifically for a forensic nurse examiner
14 I take a 40-hour didactic training, which is where they
15 kind of teach you how to perform medical forensic
16 examinations, and then I also did a two-day, hands-on
17 skills education with Hennepin County for their HART,
18 which is Hennepin Assault Response Team.

19 Q. Do you have a bachelor's degree in nursing?

20 A. Yes.

21 Q. From where?

22 A. University of North Carolina at Wilmington.

23 MR. SMESTAD: Your Honor, if I could approach the
24 witness?

25 THE COURT: Yes, you may.

1 Q. (By Mr. Smestad, continuing) Ma'am, I'm going to
2 show you what's been marked as Exhibit 57, and I'll ask
3 you if you recognize that document?

4 A. Yes, I do.

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

6 A. It is my CV for nursing with my experience.

7 Q. And what's a CV?

8 A. A CV is just a document that lays out different
9 experiences for how long I was with different
10 organizations.

11 MR. SMESTAD: Your Honor, I move for the
12 admission of Exhibit 57.

13 THE COURT: Any objection?

14 MR. NELSON: No, Judge.

15 THE COURT: 57 is received.

16 Q. (By Mr. Smestad, continuing) Now, you -- you've
17 testified that you are involved in a number of different
18 roles in your job?

19 A. Yes.

20 Q. I want to specifically talk to you about your
21 position as a -- what you call a SART nurse. What are you
22 asked to do as a SART nurse?

23 A. Yes. So typically we do forensic examinations on
24 sexual assault victims. It also spans across to suspects
25 of assault cases, including sexual assault, homicides,

1 anything where evidence collection would need to be done.

2 Q. Does part of your duties include responding to
3 the St. Croix County Jail when requested to examine folks
4 in the jail?

5 A. Yes.

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

7 A. Yes, I do.

8 Q. Were you on duty that day?

9 A. Yes, I was.

10 Q. Is a SART -- is a SART nurse on call or do you
11 have specific hours, or how does that work?

12 A. We do on-call hours.

13 Q. All right. Did you get called to the St. Croix
14 County Jail that day?

15 A. Yes, I did.

16 Q. Do you remember what time?

17 A. It was around dinnertime. I was sitting down to
18 eat dinner.

19 Q. All right. Did you go to the jail?

20 A. Yes, I did.

21 Q. What were you asked to do?

22 A. I was asked to collect evidence on a homicide
23 suspect.

24 Q. As part of your duties do you perform -- do you
25 typically get asked to perform an examination of someone

1 who may or -- may -- may have been involved in a homicide
2 case?

3 A. It can happen. Certainly we typically do sexual
4 assault cases but, yes, it can happen.

5 Q. And on this day were you specifically asked to do
6 an examination of a -- of a homicide suspect?

7 A. Yes. And I should change my verbiage a little
8 bit. I was asked to do an examination on a suspect that
9 had stabbed five people.

10 Q. You -- you -- you had that information when --

11 A. Yes.

12 Q. -- you went to the jail?

13 A. Correct.

14 Q. One of the things that you do as part of your
15 examination is you prepare a written report?

16 A. Yes.

17 Q. Do you -- do you prepare a report?

18 A. Yes.

19 MR. SMESTAD: Your Honor, if I could approach?

20 THE COURT: Yes, you may.

21 Q. (By Mr. Smestad, continuing) Ma'am, I'm showing
22 you what's been marked as Exhibit 55. Do you recognize
23 that?

24 A. Yes, I do.

25 Q. Can you tell us what it is?

1 A. This is our Suspect Evidence Collection
2 Examination Form.

3 Q. Is that the report you filled out on your
4 examination with Nicolae Miu?

5 A. Correct.

6 Q. Can you briefly describe what type of examination
7 you do in this -- in this context?

8 A. Yes. So generally whenever I first arrive I
9 speak with law enforcement and kind of get a brief
10 description of why I'm there, why I've been asked to be
11 called in to collect evidence. They briefly tell me a
12 little bit about what happened, I meet with the suspect,
13 and then I'm -- it's kind of a templated form where I go
14 through a bunch of questions just asking general medical
15 history, if they have a twin. Just different questions
16 that might point me into what type of evidence there might
17 be, how I would collect it, if there's any scars, if
18 there's any injuries. I do a full head-to-toe assessment
19 of the suspect and document any findings. I do take
20 photographs.

21 Typically I get consent at the beginning of
22 these examinations. If I do not get consent, generally
23 we'll go with a warrant if there is one that is issued
24 that lays out exactly what I would be looking for.

25 Q. Do you remember if Mr. Miu consented to the

1 examination?

2 A. Yes. There is a signed consent form in here on,
3 I believe --

4 Q. One of the things that you do as part of your
5 examination is to -- is it to inquire as to whether the
6 suspect has specific injuries to direct you to?

7 A. Yes. Yep. So I go through -- when I ask
8 different questions, I take what law enforcement has given
9 me and then I take what the suspect tells me a little bit
10 about. If I notice anything that I had not been told
11 about, I will ask a question, oh, how did you get this
12 injury? Just to kind of point me to what I'm seeing and
13 where that might have come from.

14 Q. All right. With regard to medical history, did
15 Mr. Miu tell you anything that you noted as significant in
16 his medical or surgical history?

17 A. Yes. He had had a coronary artery bypass graft
18 in 2021.

19 Q. He told you it was in 2021?

20 A. Yes.

21 Q. Did you have any medical data to support that
22 date?

23 A. No.

24 Q. You took his height and weight?

25 A. Correct.

1 Q. How tall was he when you examined him?

2 A. 69 inches tall.

3 Q. And what did he weigh?

4 A. 248 pounds.

5 Q. Mr. Miu reported some injuries to you that he
6 took -- you made note of on Page 4 -- pardon me, Page 5?

7 A. (No response.)

8 Q. Near the top.

9 A. Yes.

10 Q. And what did he report as being the -- the
11 injuries?

12 A. He reported getting hit in the back of the head
13 and in the back, did not have any pain when I was talking
14 with him. The only pain is -- was on his butt from
15 hitting the stones on the river.

16 Q. Did he report any kind of injury to his ears?

17 A. He had reported that someone told him there was
18 blood on his ear. Part of my examination, I do look in
19 the ears with a otoscope, and I did not noted -- note
20 anything worth mentioning. No injuries or anything like
21 that.

22 Q. Did you see any blood in his ear?

23 A. No, not at that time.

24 Q. Did he report which ear he supposedly had blood
25 from?

1 A. (No response.)

2 Q. If you know? Or did you check both ears?

3 A. I checked both ears, but I do not remember which
4 ear specifically.

5 Q. Down at the -- towards the bottom of Page 5
6 there's a category that indicates statements made by
7 suspect during the exam.

8 A. Yes.

9 Q. Did you fill that part out?

10 A. Yes, I did.

11 Q. What kind of statements did Mr. Miu make to you
12 during the exam?

13 A. One statement was there were about seven people
14 on top of me, hitting me in the back of the head and on
15 the back. I don't know with what.

16 A second statement made was they just
17 attacked me, they called me a child rapist.

18 A third statement made was a guy pulled a
19 knife on me. I took his wrist and turned it into his
20 belly.

21 Q. In the -- when he was reporting his injuries to
22 you, did he make any mention of being struck in the face,
23 if you recall?

24 A. I do not recall directly.

25 Q. All right. Did he make any mention of being

1 strangled?

2 A. Not to my recollection.

3 Q. All right. And if he had, would you have noted
4 that?

5 A. Yes.

6 Q. Did you examine his neck and throat area?

7 A. Yes.

8 Q. Did you find anything that would indicate that he
9 had been strangled?

10 A. No, not that I noted.

11 Q. You examined his face?

12 A. Yes.

13 Q. Did you see any bruising or cuts?

14 A. (No response.)

15 Q. That you --

16 A. I noted a two-centimeter by one-centimeter
17 abrasion to his posterior head, so the back of the head.

18 Q. Right. How about his face? Did you notice
19 anything to his face?

20 A. Nothing to the outside of his face. On the
21 inside of his left cheek there was an abrasion.

22 Q. All right. On the outside of his face, did you
23 see any puffiness or swelling?

24 A. No, not that I recall.

25 Q. Any red marks of any kind?

1 A. No, not that I recall.

2 Q. You did talk about an abrasion to the inside of
3 his cheek. Did he tell you how that happened?

4 A. Yes.

5 Q. What did he tell you?

6 A. I bit it when I was attacked.

7 Q. With regard to the abrasion on the back of his
8 head -- is that at the top of his head or at the lower
9 part of his head?

10 A. It's at the base.

11 Q. All right.

12 A. Of his skull.

13 Q. And was his hair covering it, if you know?

14 A. I do not recall. Where I have it drawn is kind
15 of right where that hairline would be.

16 Q. All right. And did he tell you how he received
17 the abrasion to the back of his head?

18 A. Yes. He said I was hit back there.

19 Q. All right. Did you note any swellings or
20 bleeding on the back of his head?

21 A. No.

22 Q. At some point did you examine the side of his
23 head?

24 A. Yes, I did examine the right side of his head.

25 Q. Did you note any injuries?

1 A. No.

2 Q. Did he make a statement with regard to what
3 injury he thought he had to the side of his head?

4 A. Yes. To the right side he stated I was hit on
5 the side of the head.

6 Q. Did you make a -- or examine his hands?

7 A. Yes.

8 Q. Did you note anything of concern with his hands?

9 A. There were scattered abrasions on his knuckles of
10 his right hand.

11 Q. Was there anything on his left hand?

12 A. Not that I have noted.

13 Q. Did you also examine his -- his back?

14 A. Yes.

15 Q. Did you -- what did you find when you examined
16 his back?

17 A. He had about six different injuries that I noted.
18 Starting from the upper back, he had a couple of linear
19 abrasions that were red in color, as well as a
20 seven-centimeter by eight-centimeter abrasion on his lower
21 back on the right side.

22 Q. Did you notice any bruising on his back?

23 A. No, not that I have noted.

24 Q. I think -- just to make sure, what -- what time
25 of day did you complete your exam? Is it included on your

1 report?

2 A. Yes, it is included on Page 3. Time was 21:03,
3 so 9:03 p.m.

4 Q. Understood.

5 Did you take some photos during your
6 examination of the injuries that you just noted?

7 A. Yes, I did.

8 MR. SMESTAD: Your Honor -- if I can approach?

9 THE COURT: Yes.

10 Q. (By Mr. Smestad, continuing) Ms. Hoffman, I'm
11 going to show you what's been marked as Exhibit Number 56.
12 Do you recognize that?

13 A. Yes, I do.

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

15 A. Yes. This first image is a photo identification
16 card stating my name as the photographer, who the law
17 enforcement was involved, date of the photos, and patient
18 name and patient birth date.

19 Q. And is the rest of the exhibit the photos that
20 you took?

21 A. Yes.

22 Q. And the last page, what is that? Or is that just
23 a duplicate of the first?

24 THE REPORTER: Of the?

25 MR. SMESTAD: Of the first page.

1 A. The last page, I take a picture of the photo
2 identification card at the beginning, as well as at the
3 end.

4 Q. (By Mr. Smestad, continuing) All right. On your
5 photo identification card, are you using your former
6 maiden name?

7 A. Correct.

8 Q. All right.

9 MR. SMESTAD: Your Honor, I'm going to ask for
10 admission for Exhibit 56. I'd ask permission to publish
11 to the jury.

12 THE COURT: Any objection to 56, the photos?

13 MR. NELSON: No. Did -- did we publish 55 as
14 well yet or --

15 MR. SMESTAD: No.

16 THE COURT: 55 has not been offered.

17 MR. NELSON: Okay.

18 THE COURT: So 56 is received. Go ahead and
19 publish.

20 MR. SMESTAD: Well, Your Honor, I will offer 55,
21 which is her report, but I wasn't intending to publish it.

22 THE COURT: Any objection to it being received as
23 evidence?

24 MR. NELSON: No, Judge.

25 THE COURT: All right. 55 is received.

1 MR. SMESTAD: We're gonna publish digitally here,
2 so if you give us a second.

3 We're ready.

4 Q. (By Mr. Smestad, continuing) All right. Ms.
5 Hoffman, is this the photo identification card you
6 referred to?

7 A. Yes.

8 Q. All right. Page 2, can you show us what that
9 is -- tell us what that is?

10 A. Yes. I do a profile image of the suspect so that
11 we know whose photos these belong to.

12 Q. All right. And this is a photo of his face and
13 upper torso?

14 A. Correct.

15 Q. And as you noted earlier, photo -- does the photo
16 show any injuries to his face?

17 MR. NELSON: Objection. I think that's for the
18 jury to decide.

19 THE COURT: Agreed. Sustained.

20 Q. (By Mr. Smestad, continuing) Moving on to Page
21 3. What's that a photo of?

22 A. That is a distant photo of the back.

23 Q. All right. Did Mr. Miu make any comments as to
24 how he got the abrasions on his back, do you remember?

25 A. No, none that I have noted.

1 Q. All right. Did he -- all right. We'll move on.

2 Page 4. Can you tell us what that is?

3 A. That is an up-close abrasion injury to the upper
4 back on the right side.

5 Q. All right. Photo 5, Page 5, what's that?

6 A. That is a measurement of that abrasion that I
7 noted on the upper right back.

8 Q. And what was the -- go back. What was the --

9 A. Two-centimeter linear abrasion.

10 Q. All right. Next page. What's that?

11 A. That is a photo of more abrasions to the left
12 side -- or to the right side of the first noted abrasion,
13 with measurements as well. So that was a one-centimeter
14 linear -- linear abrasion.

15 Q. And that's what the next photo shows?

16 A. Yes.

17 Q. This photo here?

18 A. Correct.

19 Q. All right. Move on one more. What's -- what is
20 this? I guess it's listed as image 251.

21 A. That is an up-close photo of an injury further to
22 the right side.

23 Q. All right. What -- what type of injury is that?

24 A. It is an abrasion.

25 Q. And then next slide, is this you again measuring

1 it?

2 A. Correct.

3 Q. And how -- how --

4 A. One -- one centimeter.

5 Q. The next photo, can you tell us what that is?

6 A. Yes. That is an abrasion further down on the
7 upper right side of the back.

8 Q. Next photo. Can you tell us what that is?

9 A. That is a more up-close photo of the same injury.

10 Q. And is that one also measured?

11 A. Correct. That is a measurement 3.5-centimeter
12 linear abrasion.

13 Q. All right. And the next photo, what does this
14 show?

15 A. That would be a picture -- a distant picture of
16 the abrasions a little bit further, kind of mid-back, on
17 the right side.

18 Q. All right. Next photo.

19 A. It's a more up-close image of the same injury.

20 Q. Understood. And you measured that as well?

21 A. Correct.

22 Q. And this photo that you're looking at now, does
23 that show the measurements?

24 A. Yes. They were 2.5-centimeter abrasions.

25 Q. This next photo, is that a -- tell us what that

1 is.

2 A. That is a reddened linear abrasion on the lower
3 right part of the hip.

4 Q. And this next photo, is that a close-up of that
5 same abrasion?

6 A. Correct.

7 Q. You measured that as well?

8 A. Yes.

9 Q. That show --

10 A. Measured that as well.

11 Q. That's shown in the follow-up photo?

12 A. Correct.

13 Q. And what were -- what were the measurements for
14 that abrasion?

15 A. Seven centimeter by eight centimeter.

16 Q. Did you take a couple measurements of that
17 particular abrasion?

18 A. Correct.

19 Q. And that's what this -- does this photo show the
20 second measurement for that abrasion?

21 A. Yes.

22 Q. And then last page, that's what you described
23 earlier as being the after photo of the identification
24 card?

25 A. Correct.

1 Q. Is that all the photos that you took?

2 A. Yes.

3 Q. As you're examining Mr. Miu, was he interacting
4 with you, talking with you?

5 A. Yes, he was answering any questions that I had.

6 Q. Did -- do you remember what his demeanor was?

7 A. He was very cooperative.

8 Q. All right. Did he show any signs of being under
9 distress?

10 A. Not at that time that I can remember.

11 Q. Did you take his pulse?

12 A. Yes.

13 Q. And do you remember what it was?

14 A. Pulse was 91.

15 Q. As you were interacting with him, did you observe
16 any indications that the -- he was under the influence of
17 any drugs or alcohol?

18 A. Not that I can recall.

19 Q. All right. You -- did you draw any blood?

20 A. I did not.

21 Q. While you were doing your examination, did Mr.
22 Miu complain of any pain in his ear?

23 A. Not that I can recall.

24 Q. Did you take any samples from Mr. Miu?

25 A. (No response.)

1 Q. Did you take samples from Mr. Miu during your
2 examination?

3 A. Yes.

4 Q. What kind of samples did you take?

5 A. I took a couple of different collection swabs on
6 fingernails; we do a buccal swab, so that is in the inside
7 of the cheek, and that collects suspect DNA so we have
8 something to reference; as well as skin-to-skin contact
9 swabs, so that would be on the hands. That is all the
10 swabs that I collected on him.

11 Q. All right. Did you do any swabs of his back at
12 all, if you remember?

13 A. Not that I can remember.

14 Q. All right. What did you do with all this
15 material that you gathered? I mean -- I mean, your
16 report, the photos, swabs, the samples?

17 A. Yep. The evidence samples we package up; we seal
18 them, seal them in an evidence box; and then that gets
19 handed over to law enforcement as part of chain of
20 custody.

21 Q. Did you do that?

22 A. Yes.

23 Q. Do you remember which officer you gave the
24 materials to?

25 A. Brandie Hart.

1 Q. All right.

2 MR. SMESTAD: Your Honor, I'll move for the
3 admission of 56, if it hasn't already been admitted, and I
4 don't have any other questions for her.

5 THE COURT: I believe 56 was received, as well as
6 55.

7 Mr. Nelson.

8 CROSS-EXAMINATION

9 BY MR. NELSON:

10 Q. Morning. You're a nurse examiner?

11 A. Yes.

12 Q. And you come and examine people when you're
13 asked, correct?

14 A. Correct.

15 Q. Sometimes those people are alleged victims,
16 correct?

17 A. Yes.

18 Q. Sometimes those people are alleged suspects,
19 correct?

20 A. Yes.

21 Q. Sometimes those people might be both, correct?

22 A. Yes.

23 Q. When you examine you do that by asking questions,
24 correct?

25 A. Yes.

1 Q. And then you gather information by listening to
2 the answers, correct?

3 A. Yes.

4 Q. And then you do an examination with your eyes as
5 well, correct?

6 A. Yes.

7 Q. And then you note what you observe, correct?

8 A. Yes.

9 Q. So essentially Exhibit Number 55 notes what you
10 heard, correct?

11 A. Yes.

12 Q. And what you saw, correct?

13 A. Yes.

14 Q. When you -- often times, most of the time I'm
15 guessing, you're dealing with people who, as it says on
16 here, are sexual assault victims, correct?

17 A. Yes.

18 Q. I would imagine that you've dealt with -- you
19 consider that to be a person who's a victim of assault,
20 correct?

21 A. Yes.

22 Q. And I would imagine there's times when you've
23 dealt with people who are victims of an attempted assault,
24 correct?

25 A. Yes.

1 Q. There's certainly times when somebody comes in
2 and they said somebody was trying to assault me and attack
3 me and I fended them off, correct?

4 A. Yes.

5 Q. I defended myself in some way, correct?

6 A. Yes.

7 Q. You would still do an examination, correct?

8 A. Yes.

9 Q. You would agree that person's still a victim of
10 assault, correct?

11 A. Yes.

12 Q. Whether that assault is completed or not
13 completed, they're still the victim, correct?

14 A. Yes.

15 Q. And in that sense you deal with these victims of
16 violence, correct?

17 A. Yes.

18 Q. And -- and you would agree that victims of
19 violence often suffer physical injury, correct?

20 A. Yes.

21 Q. But also psychological trauma?

22 A. Yes.

23 Q. They're victims of trauma, correct?

24 A. Correct.

25 Q. And I would imagine you have a lot of training

1 and experience in dealing with people who are in the acute
2 phase of dealing with some trauma that they've suffered,
3 correct?

4 A. Yes.

5 Q. And it maybe changes over time, how that shows,
6 correct?

7 A. Yes.

8 Q. I would imagine you've seen some people within
9 minutes, if not within an hour of the trauma that they've
10 suffered, right?

11 A. Yes.

12 Q. And then you've seen some people maybe 24 hours
13 or later, correct?

14 A. Yes.

15 Q. And how people -- the signs that they might show
16 of that trauma might depend upon when you see them on that
17 time continuum, correct?

18 A. Yes.

19 Q. As somebody is closer in time to the event, their
20 trauma might be more acute, correct?

21 A. Yes.

22 Q. And as somebody -- time goes on, that might be
23 harder for you to observe, correct?

24 A. Yes.

25 Q. Because obviously a lot of the psychological

1 trauma is internal, correct?

2 A. Yes.

3 Q. You're noting physical injuries, right?

4 A. Correct.

5 Q. But it's hard for you to know what's going inside
6 -- going on side that person's brain or body, right?

7 A. Yes, unless they tell me.

8 Q. Unless they tell me, correct?

9 A. Yes.

10 Q. And I would imagine sometimes in those positions
11 people who are victims of violence, a victim suffering
12 from trauma, they may not be in the best time to fully
13 disclose the trauma that they've just suffered, correct?

14 A. Correct.

15 Q. One of the things that I'm sure you're trained on
16 is, is how to get that information from somebody, correct?

17 A. Correct.

18 Q. Because sometimes that's difficult to do when the
19 person has just suffered some life-altering trauma,
20 correct?

21 A. Yes.

22 Q. And it's not unusual for you, in your experience,
23 to know that these victims of violence may not be in the
24 best position to tell you things right away, right?

25 A. Correct.

1 Q. Because the trauma, it impacts that person,
2 correct?

3 A. Yes.

4 Q. It impacts their -- how their body functions,
5 right?

6 A. Correct.

7 Q. And in fact, in here you took a pulse of Mr. Miu,
8 correct?

9 A. Yes.

10 Q. And his resting heart rate was 91, correct?

11 A. Correct.

12 Q. You would agree that that's elevated, correct?

13 A. I -- it depends on the person.

14 Q. Sure.

15 A. Some people do have more elevated resting heart
16 rates, so I would not, at this first meeting, be able to
17 determine if that was elevated or not as I had not
18 received any other medical history about Mr. Miu.

19 Q. Sure. You're a nurse though, right?

20 A. Yep.

21 Q. You've taken people's heart rates quite a bit,
22 correct?

23 A. Yes.

24 Q. Would you agree that a -- a resting heart rate of
25 91 for a 52-year-old male is outside the normal range of

1 what you would expect for a resting heart rate?

2 A. Yes.

3 Q. It's elevated, correct?

4 A. Yes, slightly.

5 Q. So there's other things that might happen to a
6 victim of trauma, to their body, correct?

7 A. Yes.

8 Q. The one thing, again, that you were -- that you
9 were able to measure is heart rate, that's all, correct?

10 A. Correct.

11 Q. You -- you could -- and again, I -- I'm just
12 trying to figure out what you did. You could take blood
13 pressure, correct?

14 A. Yes.

15 Q. Is that something you did?

16 A. Yes.

17 Q. Was that elevated as well?

18 A. Blood pressure was 144 over 97.

19 Q. Okay.

20 A. Which, yes, is elevated. Then again, some people
21 can have more elevated blood pressures --

22 Q. Sure.

23 A. -- normally, but yes, that would be more elevated
24 than I would normally see.

25 Q. Other than those two measurements, did you do any

1 other measurements of his body? Not height and weight,
2 but just like internal measurements, so to speak.

3 A. Yes. So I collected a full set of vital signs,
4 so that includes that pulse; that blood pressure;
5 respiratory rate, which was 18 at that time; and
6 temperature, 98.2 Fahrenheit.

7 Q. And you would agree that a respiratory rate is,
8 again, same thing, a bit elevated, agreed?

9 A. 18 is within normal limits for an adult.

10 Q. Okay. So other things that might be happening
11 inside a person's body that they're a victim of trauma you
12 can't always measure, correct?

13 A. Correct.

14 Q. You know through your training and experience
15 that sometimes somebody who suffers violence upon them,
16 they might have an adrenaline rush, correct?

17 A. Correct.

18 Q. And after that adrenaline rush their body might
19 dump all kinds of chemicals into them, correct?

20 A. Correct.

21 Q. And that might have an impact on them, correct?

22 A. Yes.

23 Q. What you see sometimes for victims of trauma is
24 sometimes that those victims may have a foggy mind,
25 correct?

1 A. Yes.

2 Q. May not have the best memory, correct?

3 A. Correct.

4 Q. Or even if they have a memory they may not be in
5 the best position to retrieve that memory?

6 A. Correct.

7 Q. Or even if they can retrieve a memory they may
8 not be in the best position to disclose that memory,
9 correct?

10 A. Correct.

11 Q. Sometimes those -- the violence done on somebody
12 might be so impactful that they're just not in a position
13 to talk about it, correct?

14 A. Yes.

15 Q. And you certainly know sometimes that people who
16 are victims of violence, they also might just get the --
17 inaccurately report the violence that was done to them,
18 correct?

19 A. Sometimes, yes, correct.

20 Q. Because if violence is being done to a person,
21 that's obviously a high-stress situation, correct?

22 A. Yes.

23 Q. And that might impact their memory of the event,
24 correct?

25 A. Yes.

1 Q. And this is all things that you've dealt with
2 when you dealt with people who are victims of violence,
3 correct?

4 A. Yes.

5 Q. And the same holds true even if that person,
6 thankfully, was able to fight off the assault being done
7 to them, correct?

8 MR. SMESTAD: Objection, Your Honor, as to the --
9 speculation. Foundation. Stating facts not in evidence.

10 MR. NELSON: I'm asking her in general.

11 THE COURT: Overruled.

12 Q. (By Mr. Nelson, continuing) Would you agree?

13 A. Yes.

14 Q. And what you're doing in your examining is
15 you're, again, trying to gather facts, correct?

16 A. Yes.

17 Q. Because sometimes those facts might tell a story,
18 correct?

19 A. Correct.

20 Q. Because ultimately part of what you're here to do
21 is to, say, figure out what happened, correct?

22 A. Yes.

23 Q. I would imagine it's unusual in your world for
24 you to be able to have a video of actually what happened,
25 correct?

1 A. Correct.

2 Q. So you don't know when you're doing these
3 examinations whether there's going to be some other
4 evidence that might tell the story, correct?

5 A. Correct.

6 Q. And so you're, again, just collecting the facts,
7 because we might not have that video, right?

8 A. Yes.

9 Q. I want to go through some of the things that you
10 did in this case. Just gonna jump ahead for a second
11 before we get into this. One of the things you said is
12 you take a medical history, right?

13 A. Yes.

14 Q. And the medical history that you received is that
15 Mr. Miu had had -- I think of it as quadruple bypass. Is
16 there another term that you used?

17 A. Yes. Coronary artery bypass graft.

18 Q. Okay. And you made observations of Mr. Miu,
19 correct?

20 A. Yes.

21 Q. You saw his chest, correct?

22 A. Yes.

23 Q. He certainly had a scar consistent with the
24 surgery that he said to you that he had done -- had done
25 to him, correct?

1 A. Yes.

2 Q. And one of the things that you said you ask about
3 is whether somebody or not has a twin brother, correct?

4 A. Correct.

5 Q. Because that's important for some of the DNA
6 analysis, correct?

7 A. Yes.

8 Q. And you've learned that Mr. Miu in fact has a
9 twin brother, correct?

10 A. Yes. A fraternal twin.

11 Q. Correct. Okay. I want to go through a little
12 bit then Exhibit 55, and I'm just going to go through some
13 different pages here, okay?

14 A. Okay.

15 Q. And on Page 4 I want to go through -- start
16 there. Make -- does that make sense?

17 A. Yes.

18 Q. The handwriting there, that's your handwriting,
19 agreed?

20 A. Yes.

21 Q. And you wrote those things down because that's
22 what somebody told you, correct?

23 A. Correct.

24 Q. So like when you report here suspect, you're
25 talking about Mr. Miu, correct?

1 A. Yes.

2 Q. Depending upon the view it could be alleged
3 victim too, agree?

4 A. Agreed.

5 Q. So can we just replace that with his actual name?
6 Does that make sense?

7 A. Yes.

8 Q. Mr. Miu reports he was being attacked, bystander
9 noted blood coming out of suspect's left here. Do you
10 agree?

11 A. Yes.

12 Q. Are you aware of the video evidence showing him
13 getting hit upon his left ear?

14 A. No, not at that time.

15 Q. And then it notes, Mr. Miu notes he washed the
16 ear off in the river, correct?

17 A. Correct.

18 Q. And of course on your form there's a note that
19 says post-incident actions, did somebody take a bath or a
20 shower, correct?

21 A. Correct.

22 Q. And here you put no, but you noted incident
23 happened in river, correct?

24 A. Yes.

25 Q. It's noteworthy to know that water was a part of

1 this, correct?

2 A. Correct.

3 Q. Because water could impact the ability for the
4 evidence to stick around for your collection, lack of a
5 better phrase --

6 A. Correct.

7 Q. -- you agree?

8 Including blood, correct?

9 A. Yes.

10 Q. On Page 5 you note, again, replacing with his
11 name, Mr. Miu reports getting hit in the back of the head
12 and in the back. Do you agree with that?

13 A. Yes.

14 Q. Okay. He said at that point there was no pain,
15 only pain on his butt from hitting the stones on the
16 river, correct?

17 A. Correct.

18 Q. Did you ask him some follow-up questions about
19 how it is that he came to be falling into the river?

20 A. I did not.

21 Q. Did you ask him some follow-up questions to -- to
22 see the amount of force that was used against him to fall
23 into the river?

24 A. No, I did not.

25 Q. And then on the bottom of Page 5 you note some

1 other statements by Mr. Miu, is that right?

2 A. Yes.

3 Q. And he said that there were about seven people on
4 top of me, hitting me in the back of the head and on back.
5 He said that, correct?

6 A. Correct.

7 Q. He said that he did not know with what they were
8 hitting him, correct?

9 A. Correct.

10 Q. And again, that's not unusual in your experience
11 for a victim of violence to not know what it is that
12 they're getting hit with, correct?

13 A. Correct.

14 Q. Certainly if they're getting hit from the
15 backside, they would just feel the impact, correct?

16 A. Correct.

17 Q. Whether the impact is with a open hand or a
18 closed hand, it's just an amount of force that comes
19 there, correct?

20 A. Correct.

21 Q. And at the end of the day, an open hand can cause
22 force just like a closed hand can cause force, correct?

23 A. Correct.

24 Q. Mr. Miu also stated they attacked me and called
25 me a child rapist, right?

1 A. Yes.

2 Q. And then lastly you noted, just so we're
3 inclusive here, he also said a guy pulled a knife on me, I
4 took his wrist, and turned it into his belly, correct?

5 A. Correct.

6 Q. He was, in those statements, fair to say in
7 summary, he said he was attacked, right?

8 A. Yes.

9 Q. And then on Page 6 you have a -- there's pictures
10 of heads, correct?

11 A. Yes.

12 Q. And that's, again, looking at the front, the
13 back, the left, and the right side of a person's head,
14 correct?

15 A. Correct.

16 Q. So we'll just note we're just going to go through
17 that, if I -- if I could?

18 A. Yes.

19 MR. NELSON: And actually, could I publish that?

20 Q. (By Mr. Nelson, continuing) Do you have that
21 page there in front of you?

22 A. Yes.

23 Q. Can I trade with you, so I can use the actual
24 exhibit?

25 MR. NELSON: Permission to publish the exhibit,

1 Judge?

2 THE COURT: Yes.

3 Q. (By Mr. Nelson, continuing) We're on Page 6.

4 A. Okay.

5 Q. Looks like it's on.

6 So on the top there on the upper left-hand
7 corner it asks the questions injury noted, and you say
8 yes?

9 A. Correct.

10 Q. And then it asks to give a description and you
11 say an abrasion to the inside of the left cheek, correct?

12 A. Correct.

13 Q. Obviously you don't know how that happened,
14 correct?

15 A. Correct.

16 Q. It's not unusual in your world for victims of
17 violence to note that they have an injury, correct?

18 A. Correct.

19 Q. And then they might give a -- they might have a
20 specific memory and sometimes they might just use
21 deduction to try to determine how it is that they got that
22 injury, correct?

23 A. Correct.

24 Q. Sometimes they're accurate, agreed?

25 A. Yes.

1 Q. Sometimes they're inaccurate, correct?

2 A. Sure. Yes.

3 Q. And what he noted is he -- I bit it when I was
4 attacked, correct?

5 A. Correct.

6 Q. You didn't ask follow-up questions to say, Did
7 you bite it when someone was punching you in the left side
8 of your face?

9 A. No.

10 Q. You didn't ask that follow-up question?

11 A. No, I did not.

12 Q. Again, sounds critical, I didn't mean it to be
13 that way, it's just you're asking a question, you get an
14 answer, and then you kind of move on, correct?

15 A. Correct.

16 Q. At that point I would imagine your -- there's a
17 fine line between being too invasive, would that be fair
18 to say?

19 A. Yes.

20 Q. You want to be respectful of somebody who might
21 be a victim of assault, correct?

22 A. Correct.

23 Q. You're not going to cross-examine them in that
24 setting, correct?

25 A. Correct.

1 Q. You're not going to follow-up with multiple
2 questions to make them relive the trauma, correct?

3 A. Correct.

4 Q. You're going to ask one simple question, correct?

5 A. Correct.

6 Q. And then you're going to note whatever they say?

7 A. Yes.

8 Q. And then moving to the right as we go along,
9 we're looking at the back of the head. You -- again, you
10 noted injuries, correct?

11 A. Yes.

12 Q. And that was an abrasion to the posterior head,
13 and you had a measurement of two centimeters plus
14 one centimeter, agreed?

15 A. Correct.

16 Q. You noted that with your eyes, correct?

17 A. Yes.

18 Q. And then you asked one the simple question and
19 Mr. Miu said, I was hit back there, agreed?

20 A. Yes.

21 Q. It may be that he was hit by a person, correct?

22 A. Correct.

23 Q. It may be that he actually hit his head on a --
24 on the ground or something else, some other object that
25 would have caused -- could have caused that injury,

1 agreed?

2 A. Yes.

3 Q. Moving to the bottom of the page.

4 MR. NELSON: Can I fold this?

5 THE COURT: Yes. I thought there was --

6 MR. NELSON: How about I just do this. There we
7 go.

8 Q. (By Mr. Nelson, continuing) The bottom of the
9 page we're looking at the left side of Mr. Miu's face, is
10 that right?

11 A. Correct.

12 Q. And what he told you is that a witness, somebody
13 else, had observed blood in his ear, correct?

14 A. Yes.

15 Q. And this is, again, I think you said before, he
16 had said he heard that and he washed it off in the river
17 and he looked and he didn't observe it, correct?

18 A. Correct.

19 Q. And that's what you note essentially there,
20 correct?

21 A. Yes.

22 Q. And then on the next one to the other -- to the
23 right, right, you ask if you observed any injuries and you
24 didn't, correct?

25 A. Correct.

1 Q. But you note that he says, I was hit on the side
2 of the head, correct?

3 A. Yes.

4 Q. So he's mentioning he's hit to the head multiple
5 times, fair to say?

6 A. (No response.)

7 Q. Both to the back of the head, to the right of the
8 head --

9 A. Correct.

10 Q. -- and maybe on the -- something causing him to
11 bite his cheek on the left side of his head?

12 A. Correct.

13 Q. And then as we move on to Page Number 7, you do
14 kind of a full body scan to some degree, correct?

15 A. Yes.

16 Q. And on the back of the body you made some
17 observations, is that right?

18 A. Correct.

19 Q. And you note those observations then by making a
20 mark on the back where you saw that with your eyes,
21 correct?

22 A. Yes.

23 Q. And then you went through and took photographs of
24 those areas, correct?

25 A. Correct.

1 Q. And that's those photos that we saw here,
2 correct?

3 A. Yes.

4 Q. The photos that you took of Mr. Miu were photos
5 of where you made observations of injuries, correct?

6 A. Correct.

7 Q. Also if a person in that situation told you I
8 have an injury in a particular place and you didn't
9 observe it with your eyes, you'd still take a photo,
10 correct?

11 A. Correct.

12 Q. Because at the end of the day it's not
13 necessarily what you observe, it's like maybe somebody
14 else sees it and I don't, correct?

15 A. Yes. Typically I only take photos of things that
16 I'm measuring/seeing so I can describe them appropriately.

17 Q. Sure. But if somebody told you I got hit in a
18 particular place and I feel pain in a particular place,
19 you might try to document that one way or the other,
20 correct?

21 A. Yes.

22 Q. Even if you don't see it, you'd want to document
23 it, what you see on that day, correct?

24 A. Correct, yes.

25 Q. And what the best way to document that is to take

1 a photograph, correct?

2 A. Yes. Typically if I do not see it I will
3 document it on the form. I will not necessarily take a
4 photo of it.

5 Q. Sure. In this case you took a photo of Mr. Miu's
6 face, correct?

7 A. Correct.

8 Q. And again, that photo in the background we see
9 the time is at about 9:20, correct?

10 A. Yes.

11 Q. And so if the 911 call was at 3:45 or so in the
12 afternoon, this is more than five hours after this alleged
13 event, correct?

14 A. Correct.

15 Q. So five hours after whatever trauma it was that
16 Mr. Miu said that he had been the victim of, correct?

17 A. Correct.

18 Q. And that might impact what state in that trauma
19 he is going through, agreed?

20 A. Agreed.

21 MR. NELSON: That's all.

22 THE COURT: Mr. Smestad.

23 REDIRECT EXAMINATION

24 BY MR. SMESTAD:

25 Q. Nurse Hoffman, you were asked some questions

1 about elevated blood pressure and elevated pulse. Does
2 having a heart bypass cause folks who survive that
3 procedure to have a higher pulse and blood pressure in
4 general, if you know?

5 A. That's not my specialty. It certainly can.
6 Generally, a normal pulse is 60 to 90, and Mr. Miu was
7 noted to be 91, so just slightly elevated. A general
8 blood pressure, typically heart patients have higher blood
9 pressures, especially when they're on medications.
10 However, it's hard to know if that's typical for heart
11 patients or not because they're so different.

12 Q. And he was on some medications, right?

13 A. Yes. It looks like he was on Atorvastatin,
14 aspirin, and potasium.

15 Q. Atorvastatin is what type of med?

16 A. It's a med for cholesterol.

17 Q. Is the -- is that prescribed for folks who have
18 high cholesterol?

19 A. Yes, typically.

20 Q. Does high cholesterol affect your blood pressure,
21 or can it?

22 A. It certainly can. Again, it's not my specialty.

23 Q. Mr. Nelson had asked you about whether Mr. Miu
24 has a twin. You indicated fraternal twin?

25 A. Correct.

1 Q. Do fraternal twins have the same DNA, if you
2 know?

3 A. Not typically. That's not my specialty either
4 but --

5 Q. Understood.

6 Mr. Nelson had asked you about Mr. Miu's
7 statement to you that, quote, a guy pulled a knife on me,
8 I took his wrist and turned it into his belly. Was that
9 something that he volunteered or is that in response to a
10 question from you, if you remember?

11 A. I don't recall exactly where that statement came
12 from. I do know when I was observing the injuries on his
13 knuckles I did note a couple of statements when I asked
14 him how he got those injuries. I was trying to stop my
15 tube, these happened maybe when they kicked me. I -- I
16 don't know if it was around then. I know I was examining
17 his hands. I don't know if it was when I was swabbing
18 them or noted the injuries when that statement was made.

19 Q. All right. Did you end up taking any photos of
20 his hands?

21 A. I did not.

22 Q. Do -- do you know why?

23 A. I do not. I wish I would have but I -- I didn't.

24 Q. You indicated that, as you're examining Mr. Miu,
25 he indicated that he had been kicked.

1 A. Correct.

2 Q. When you were examining Mr. Miu, other than
3 the -- the bite on the inside of his cheek, did he
4 complain of any pain in his face?

5 A. No.

6 Q. All right.

7 MR. SMESTAD: Nothing further.

8 THE COURT: Mr. Nelson.

9 RECROSS-EXAMINATION

10 BY MR. NELSON:

11 Q. I just want to make sure I got, I think, three
12 brief areas here. One of them is medications. He talked
13 to you about medications, correct?

14 A. Yes.

15 Q. Did he tell you at that time, do you have any
16 knowledge that at that time he was being prescribed
17 Prazosin?

18 A. No.

19 Q. Are you familiar with Prazosin?

20 A. No, not particularly.

21 Q. Okay. A medication to deal with PTSD/nightmares.

22 A. Okay.

23 Q. Did he tell you at that point he was using that
24 medication?

25 A. No.

1 Q. Okay. Medications are something that a doctor
2 has to give, correct?

3 A. Correct.

4 Q. So you can't just go out and ask for some
5 prescription and you get it, correct?

6 A. Correct.

7 MR. SMESTAD: I'm gonna object, Your Honor. This
8 is irrelevant.

9 MR. NELSON: You asked about med --

10 MR. SMESTAD: -- it was a medication he wasn't
11 taking.

12 THE COURT: Hold on. Please come up.

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

14 THE COURT: All right.

15 Next question, Mr. Nelson.

16 MR. NELSON: Thank you, Judge.

17 Q. (By Mr. Nelson, continuing) You were asked some
18 questions about what he disclosed about pain. I want to
19 follow up on that, okay?

20 A. Okay.

21 Q. Again, in your experience dealing with victims of
22 violence, in your experience sometimes the pain is acute
23 at that time, correct?

24 A. Correct.

25 Q. And sometimes the pain might come later, correct?

1 A. Correct.

2 Q. And some of that might be because of the body's
3 response to the trauma that they suffered, correct?

4 A. Correct.

5 Q. A body might be doing things to -- to protect
6 them from feeling that pain in that moment, correct?

7 A. Correct, yes.

8 Q. And the pain might come later, correct?

9 A. Yep.

10 Q. Not unusual in your world, agreed?

11 A. Agreed.

12 Q. And then lastly, you said he had made some
13 statements to you. He made some statements in general
14 about what happened, correct?

15 A. Yes.

16 Q. And then he made some specific statements about
17 the manner in which he thinks it happened, correct?

18 A. Correct.

19 Q. But what we know is in his general statements to
20 you were I've been a victim of violence, correct?

21 A. Correct.

22 Q. Somebody attacked me, correct?

23 A. Correct.

24 MR. SMESTAD: Objection. Asked and answered,
25 Judge. We've been down this road.

1 THE COURT: Sustained.

2 MR. NELSON: That's all.

3 THE COURT: All right.

4 Thank you, Ms. Hoffman. You are finished.

5 You may step down.

6 THE WITNESS: Thank you.

7 THE COURT: Please see with the witness
8 coordinator in the back, she'll tell you where to go next.

9 Oh, leave those on the table.

10 THE WITNESS: Okay.

11 THE COURT: Perfect thank you.

12 (Whereupon, the witness is excused.)

13 THE COURT: Mr. Smestad, who is the next witness?

14 MR. SMESTAD: I think we're going to be swapping
15 positions here, Judge, if you can give us a minute.

16 MR. ANDERSON: We'd call Investigator John
17 Shilts.

18 THE COURT: Investigator, please stand, raise
19 your right hand and be sworn.

20 INVESTIGATOR JOHN SHILTS, JR.,
21 after having been first duly sworn on oath by the clerk,
22 testifies and says as follows:

23 THE WITNESS: I do.

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

1 Mr. Anderson.

2 DIRECT EXAMINATION

3 BY MR. ANDERSON:

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

6 A. It's John Shilts. Last name spelling
7 s-h-i-l-t-s.

8 Q. And how are you employed?

9 A. I'm an investigator with the St. Croix County
10 Sheriff's Office.

11 Q. And can you briefly describe your training and
12 experience for your position?

13 A. Again, specifically to investigations I have
14 attended numerous courses geared towards investigators and
15 detectives.

16 Q. And are you trained in doing digital --
17 processing digital evidence?

18 A. I am.

19 Q. What other roles have you held at St. Croix
20 County Sheriff's Office?

21 A. I started in the jail as a corrections deputy.
22 Then I was -- went to field services where I was a patrol
23 deputy. Some of the extra activities or special
24 activities that I've been include K-9, honor guard, dive
25 team, an operator for our ERU team, crisis negotiator, to

1 name a few.

2 Q. ERU, is that what some places refer to as like a
3 SWAT team?

4 A. It is.

5 Q. And are you the lead investigator on this case?

6 A. I am.

7 Q. How did you end up as the lead investigator?

8 A. We have on-call weekends, and I was on call that
9 weekend.

10 Q. Did you respond to the scene at the Sunrise
11 Bridge?

12 A. I did.

13 Q. When you were there, did you make contact with
14 some of the witnesses who testified?

15 A. I did.

16 Q. And do you recall who you spoke with at the
17 scene?

18 A. As far as witnesses that have testified, I spoke
19 with Owen Peloquin, Ryan Nelson, Alex Vang, Madison Coen,
20 Janelle Duxbury, Quinton Carlson, and I believe that was
21 it.

22 Q. And was that a in-depth interview or quickly
23 gathering information? How was that?

24 A. I was just looking for a quick synopsis: Name,
25 date of birth, telephone number. A synopsis.

1 Q. Were you trying to sort out who actually saw
2 things and who were just bystanders?

3 A. I was.

4 Q. When you made contact with Owen Peloquin, Alex
5 Vang, and Ryan -- Alex Vang and Ryan Nelson, those were
6 all -- they were with Isaac's Group?

7 A. They were.

8 Q. Did you notice any signs of intoxication when you
9 spoke with them?

10 A. I did not.

11 Q. Were they -- did you notice any slurred speech?

12 A. I did not.

13 Q. Any swaying while they were standing?

14 A. No, sir.

15 Q. And that was on body cam when you were
16 interacting with them?

17 A. It was, yes.

18 Q. Did you get blood or breath samples for BAC for
19 the witnesses you spoke with?

20 A. I did not.

21 Q. Why not?

22 A. I had no clues of impairment for any of them.

23 Q. Did you -- you heard -- you were here for Sally
24 Standaert's testimony. Did you collect any buccal swabs?

25 A. I did from Anthony Carlson.

1 Q. And was that placed in evidence and secured in
2 the sheriff's office?

3 A. Yes.

4 Q. Have you ever been trained that you're supposed
5 to put DNA samples in refrigeration?

6 A. No.

7 Q. There's been some questions of witnesses about
8 have you seen the video. Did -- did law enforcement ever
9 show witnesses the video of the incident prior to
10 interviews?

11 A. No.

12 Q. And did you -- did you go anywhere else from the
13 Sunrise Bridge?

14 A. (No response.)

15 Q. Let me -- let me rephrase. Did you do -- did you
16 do any more interviews that day?

17 A. I did.

18 Q. And where were those done?

19 A. At Regions Hospital.

20 Q. And who did you speak with there?

21 A. At Regions I spoke with Quinton Carlson again;
22 Anthony Carlson, Tony Carlson he goes by; Dante Carlson.
23 I believe that was it that day. I attempted to talk to
24 Ryhley and A.J. but I couldn't because of their
25 conditions.

1 Q. Did -- as part of the investigation, did law
2 enforcement search the river for evidence?

3 A. We did.

4 Q. Including actually in the water?

5 A. Correct.

6 Q. How was that done?

7 A. We utilized our dive team, who came over and
8 searched that area.

9 Q. They -- did they -- did that include metal
10 detectors?

11 A. It did.

12 Q. Did they find any knives?

13 A. They did, yes.

14 Q. And can you describe those?

15 A. I can. One was a corroded box cutter and another
16 was a corroded pocketknife.

17 Q. And when you say corroded, do you mean it looked
18 like they had been in the water for a while?

19 A. Yes, sir.

20 Q. The -- watching the video, so we -- part of what
21 you got is the video from Jawahn and then you got
22 individual frames of that video, right?

23 A. I did, yes.

24 Q. And so -- so were you able to, by looking at the
25 total frames compared to the total length of the video,

1 figure out the frames per second for that video?

2 A. Yes. It is 24 frames per second. On average.

3 Q. I want to ask you about Larrion Davis. So
4 when -- did you make contact with him on scene of the
5 river?

6 A. I did, yes.

7 Q. And did you -- did he mention something about
8 having a video?

9 A. He did.

10 Q. And did you get that video from him?

11 A. I did, yes.

12 Q. And how did that happen?

13 A. I asked him to e-mail it to me. He thought it
14 was going to be too big so he text it to me.

15 Q. And did you see it come through in your texts?

16 A. I did.

17 Q. Did you -- and you -- you were here when it was
18 played in court, that video?

19 A. Yes.

20 Q. And is that the video -- is that how you received
21 it?

22 A. I believe so.

23 Q. And did you notice right away that it was all
24 blurry?

25 A. I did. After I started to review it, yes, I did.

1 Q. But right away when he sent it to you did you
2 notice?

3 A. I did not, no.

4 Q. Did you follow up -- did law enforcement follow
5 up with Larrion to try to get the original?

6 A. We did, yes.

7 Q. And what -- what was done to try to get the
8 original unblurred or version?

9 A. It was sent -- well, first we recovered his
10 phone. Is that what you're asking? I'm sorry.

11 Q. Yeah. Yeah.

12 A. First we recovered his phone. We learned that
13 Larrion's phone had water damage and that it was sent to
14 an Apple facility in Indiana. We acquired a search
15 warrant to obtain that. We did get that. I got the phone
16 back. Part of my duties I do extractions on electronics
17 to include cell phones, and I was not able to get a -- get
18 an extraction from his device. Because I couldn't do
19 that, we also utilized other message -- methods, including
20 search warrants to his cell phone provider, Snapchat, as
21 well as iCloud in an attempt to get that video.

22 Q. Were you ever able to get the original video?

23 A. We were not.

24 Q. And did you do anything to see if you could try
25 to get the video enhanced or cleaned up so it would go

1 from distorted to more like how a normal video would look
2 on -- from a cell phone?

3 A. Yes, sir.

4 Q. What was that?

5 A. It was sent to MOCIC, which is Mid-States
6 Organized Crime Information Center. They offer a lot of
7 resources to a number of law enforcement agencies. They
8 have a lot more resources than -- than most agencies can
9 afford. One of those things that they can do is assist
10 law enforcement with videos, photographs, things of that
11 nature, so I sent it to them.

12 Q. And did you get back another version of the
13 video?

14 A. I did.

15 Q. Did it look like a normal cell phone video?

16 A. (Inaudible.)

17 THE REPORTER: I'm sorry, I didn't hear a
18 response.

19 THE WITNESS: No.

20 Q. (By Mr. Anderson, continuing) Still -- still
21 blurry?

22 A. Correct.

23 Q. Was MO -- and what was the acronym you used?

24 A. MOCIC.

25 Q. MOCIC. Is that also who did the frames for you?

1 A. It is.

2 MR. ANDERSON: I'm just gonna pull up Exhibit 2
3 so the jury can see the difference between the two videos.

4 Wrong exhibit. It's going to be 21, Judge.

5 THE COURT: I had planned to take another break
6 before lunch. I suggest we break now while you're --

7 MR. ANDERSON: Sure.

8 THE COURT: -- looking for the video.

9 MR. ANDERSON: Sure.

10 THE COURT: So let's take a -- a short 10-minute
11 break. We'll come back before eleven o'clock.

12 (Whereupon, the jury exits the courtroom.)

13 THE COURT: All right. Back in 10 minutes,
14 please.

15 (Whereupon, a break was held.)

16 (Whereupon, the jury enters the courtroom.)

17 THE COURT: All right. We're back on the record
18 with the attorneys, Mr. Miu, and 14 jurors. We are ready
19 to resume.

20 Mr. Anderson, are you ready --

21 MR. ANDERSON: Yes.

22 THE COURT: -- with your video? Go ahead and
23 play it.

24 Investigator Shilts, please retake the
25 witness stand.

1 Q. (By Mr. Anderson, continuing) And, Investigator
2 Shilts, so this bottom one, is that the -- would that be
3 the original video you got from Larrion Davis?

4 A. Yes, sir.

5 Q. Okay.

6 MR. ANDERSON: I'm just gonna open it up, Judge,
7 and just go through a few frames so the jury can see in
8 comparison.

9 THE COURT: Yes.

10 Q. (By Mr. Anderson, continuing) Okay. And then
11 this resized one is the one we you got from MOCIC?

12 A. Correct.

13 (Whereupon, the video was played.)

14 Q. (By Mr. Anderson, continuing) Was there
15 anything -- were there any items that were turned in as
16 found from civilians that turned out to have some
17 connection to the case?

18 A. Yes, there was.

19 Q. Was one of those a cell phone?

20 A. Yes.

21 Q. And were you able to determine the owner of the
22 cell phone?

23 A. I was. When I received the cell phone, again,
24 part of my job is doing cell phone extractions. I took
25 the SIM card out of the phone and recognized it --

1 recognized it as belonging to T-Mobile. So I contacted
2 T-Mobile, provided them with identifying numbers on that
3 SIM card, and I learned the phone belonged to Ariel.

4 Q. And was another item that was turned in a
5 pocketknife?

6 A. Yes.

7 Q. And can you just -- what brand pocketknife was
8 it?

9 A. TacticalGearz.

10 Q. And was -- was there somebody that was
11 interviewed that described having lost a TacticalGearz
12 knife on that day on the river?

13 A. Yes. Mr. Baldazo, I believe is how you pronounce
14 his last name.

15 Q. Would that be the husband of the nurse, Andrea,
16 who testified?

17 A. It would be, yes.

18 Q. So are you aware that there was -- that Nicolae
19 said in his interview that one of the boys had a kitchen
20 knife?

21 A. I am.

22 Q. And was a kitchen knife located?

23 A. Yes.

24 Q. Where was that located?

25 A. At the Hideaway.

1 MR. ANDERSON: May I approach?

2 THE COURT: Yes.

3 Q. (By Mr. Anderson, continuing) So this is
4 Exhibit 25A, the river map. So the incident is here.
5 Kitchen knife was found here?

6 A. Yes.

7 Q. Was there -- did you review body cam regarding --
8 for the time that the kitchen knife was found?

9 A. I did.

10 Q. Was it discussed over the radio?

11 A. It was.

12 Q. Was Nicolae in custody at that time?

13 A. Yes.

14 Q. And were the officers around him wearing radios?

15 A. They were.

16 Q. Was there a radio in the squad car when he got
17 placed in the squad car?

18 A. Yes.

19 Q. So I wanna talk a little bit about Madison Coen.
20 You were -- were you -- I think you said Madison Coen was
21 one of the ones you made brief contact with on the -- at
22 the scene?

23 A. Yes.

24 Q. Do you recall seeing any injury on Madison Coen?

25 A. I did not.

1 Q. Were you present for her testimony that -- when
2 she said the sheriff's office told her that the sheriff's
3 office didn't want a photo of her injuries?

4 A. I was.

5 Q. Is that true?

6 A. No.

7 Q. And did you -- had you actually previously made
8 efforts to retrieve the photo that she said she took?

9 A. Yes.

10 Q. What was that?

11 A. I did an extraction -- I did not do the
12 extraction. I reviewed an extraction from Madison Coen's
13 cellular -- cellular device. I also did an extraction and
14 reviewed it on Madison Coen's mother's device.

15 Q. What did you do to her mother's phone also?

16 A. I spoke with -- or I learned that Madison was not
17 sure if she took the photo or if her mother took the
18 photo. So both provided their cell phones so law
19 enforcement could search them for the photos.

20 Q. And did you locate any photos during the time
21 frame she said she thought she took it that could have
22 been -- or that was consistent with her description?

23 A. Not during the time frame, no.

24 Q. And were there any deleted photos recovered from
25 either phone?

1 A. There were not.

2 Q. And the -- when you do a download -- well, why
3 don't you just explain to the jury how you do a forensic
4 download on a phone.

5 A. Sure. So a phone in particular, I'll get the
6 device. There's a lot of different variables but I'll
7 summarize. So we pay for -- for software, and I would
8 plug the phone into a box, which goes into our computer,
9 which more or less copies the data on the device and then
10 puts it into a readable format that's user friendly so we
11 can review the data.

12 It's not uncommon that we don't always get
13 everything, and really there's no rhyme or reason. Even
14 the trainers, when I'm going through all these courses,
15 say sometimes they don't know why we get X and sometimes
16 why we -- why we do. Just electronics are electronics.
17 Sometimes we do, sometimes we don't.

18 Q. And when you do a forensic download, and
19 including with Madison's phone and her mother's phone,
20 that includes everything the download's able to pull off
21 the phone?

22 A. Correct.

23 Q. So photos, texts, calls, all those things?

24 A. Yes.

25 Q. And so you testified the sheriff's office didn't

1 tell her you didn't want the photos. Were you present for
2 a meeting at the DA's Office with Mady when the phones
3 were -- the photos were discussed?

4 A. I was.

5 Q. And what was -- what was Madison -- well, did she
6 express some anxiety about deleting the photos?

7 A. She did, yes.

8 Q. And was there an effort to console her?

9 A. Yes.

10 Q. And what was said to her?

11 A. Not to worry about the photos.

12 Q. So she wasn't told you didn't want them, she was
13 told not to worry about it?

14 A. Correct.

15 Q. And that was after you'd already made all these
16 efforts to get the phone that she consented to?

17 A. Yes. Well, after.

18 Q. So you were -- you're the court officer, so
19 you've been present for the trial?

20 A. Yes, sir.

21 Q. And do you recall the testimony with Lieutenant
22 Coleman about how -- or he -- he got those points for
23 incident locations from you, right?

24 A. Yes.

25 Q. And can you explain to the jury how you estimated

1 those circles for the incident location and the group
2 locations?

3 A. I can. As stated earlier, I got frame-by-frames
4 from that MOCIC, which was taken from the original -- or
5 one of the videos from Mr. Cockfield. From those
6 frame-by-frames I walked out to the river, I would get in
7 generalized locations and review my -- or the photos from
8 the video, the frame-by-frames, to landmarks on shore,
9 which assisted me in getting in the general location of
10 where the person taking the video, in this case Mr.
11 Cockfield, was at specific times.

12 Q. And how -- do you remember how long you were out
13 there? Was it a half hour or several hours?

14 A. It was several hours.

15 Q. And that your -- you said you're comparing frames
16 to the terrain?

17 A. Correct.

18 Q. When you were -- did you walk all along the
19 scene, like, from the area of the bridge to the area of
20 the sandbar?

21 A. Yes. I wasn't right next to the bridge but where
22 that grassy area was where victims were being pulled out,
23 from that area down to the sandbar, yes.

24 Q. And was -- this was after -- this wasn't on
25 July 30th, right?

1 A. No.

2 Q. Do you recall when it was?

3 A. I went out there on multiple occasions. I
4 believe twice in August and once in -- once in September.

5 Q. And did you -- were there any deep spots in the
6 river in that area?

7 A. Not really. There was one kind of back by the
8 sandbar, if you would continue going upriver, and then
9 there was one kind of in the area of the bridge towards
10 the -- the center of the river.

11 Q. Okay.

12 MR. ANDERSON: May I approach?

13 THE COURT: Yes, you may.

14 Q. (By Mr. Anderson, continuing) This is marked as
15 Exhibit 89. Can you draw on here -- well, actually, the
16 bridge -- is the bridge on this map?

17 A. No.

18 Q. Okay. So the -- the area by the bridge, wouldn't
19 that be above where this map cuts off?

20 A. Yes.

21 Q. And where was the -- you said there was another
22 spot kind of closer to the sandbar?

23 A. Where it was deeper?

24 Q. Yeah.

25 A. Yes. Actually, almost right where it says that

1 155.31, in that general location.

2 Q. Like around here?

3 A. Yes, sir.

4 Q. And then the other one would have been --

5 A. Up closer to the bridge, yes.

6 Q. Okay. And how deep?

7 A. I could touch the whole time. To my
8 recollection, like my stomach, maybe up to my chest.

9 Q. And in the rest of the areas of that section of
10 the river, what was the depth like, from what you recall?

11 A. It varied, but not much. Definitely -- I
12 shouldn't say definitely. For the most part it was below
13 my knee. Sometimes it would go up to my thighs.

14 Q. Lower thigh or upper thigh?

15 A. Lower thigh. And depending on where I was,
16 again, I --

17 Q. Sure. And you said when you were out there you
18 were taking photos?

19 A. I did. I also took photos myself, yes.

20 MR. ANDERSON: Judge, this is Exhibit 84. I'd
21 ask to publish.

22 THE COURT: Has 84 been received into evidence?

23 MR. ANDERSON: No. I'd move to admit it and
24 then --

25 THE COURT: Any objection to 84?

1 MR. CHIRAFISI: No, sir.

2 THE COURT: All right. 84's received.

3 Go ahead and publish.

4 MR. ANDERSON: I'll let the clerk know when I'm
5 ready.

6 All right. I'm ready.

7 Q. (By Mr. Anderson, continuing) So it looks like
8 there's 132 photos. I'm not going to go through all of
9 them with you. So what are we looking at here in the
10 Image 1?

11 A. My back would be to the bridge, kind of near that
12 grassy point where the victims were being pulled out, and
13 we're looking upstream.

14 Q. And I'm just going to go through this as -- two
15 -- until we get closer to some -- three, four, five. I'm
16 just going to keep scrolling.

17 So what are these flags? In this is Image
18 13, what are these flags we're seeing?

19 A. I use those flags when I had the frame-by-frames,
20 I would mark them, so then we would know where that spot
21 was and I could continue to the next spot.

22 Q. And from this is how you came up with those
23 locations on that map, Exhibit 89?

24 A. Yes.

25 Q. Okay.

1 MR. ANDERSON: You can take the screen down.

2 I don't have anything else.

3 THE COURT: Mr. Chirafisi.

4 CROSS-EXAMINATION

5 BY MR. CHIRAFISI:

6 Q. Investigator Shilts, have you had -- being the
7 lead investigator in this case, does every report, every
8 interview, everything ultimately work its way across your
9 desk?

10 A. No, sir.

11 Q. Okay. So you don't -- if this is fair, you don't
12 see some of the work that other people are doing in the
13 case, is that right?

14 A. Correct.

15 Q. Okay. You -- in terms of your background, you
16 are or have been involved in the Crisis Negotiation Team?

17 A. Yes, sir.

18 Q. Okay. And the -- and the SWAT team, right?

19 A. Yes, sir.

20 Q. Would it be fair if I said to you those are
21 situations in your experience, your training and
22 experience, that sometimes involve high -- highly
23 stressful events?

24 A. Correct.

25 Q. Okay. You were asked a couple of questions

1 regarding the knives or -- that were located in the river.

2 A. Yes, sir.

3 Q. Do you remember that?

4 A. I do.

5 Q. Okay. And then you had mentioned that a
6 civilian, I think that you mentioned, a civilian had
7 located a knife that had belonged to a Robert Baldazo, is
8 that right?

9 A. Yes.

10 Q. Okay. And do you know, as the lead investigator,
11 Robert Baldazo's kind of involvement in this case?

12 A. I do, yes.

13 Q. Okay. Do you know when that knife -- because Mr.
14 Baldazo lost the knife, to be fair, on that day, right, on
15 the 30th?

16 A. Yes.

17 Q. He lost it in the river going to that scene, is
18 that right?

19 A. I don't believe so, sir.

20 Q. You don't believe that he had pulled his knife
21 out and was running over to the scene and then fell and
22 dropped it?

23 A. I -- I watched a lot of the body cam. I'm not
24 trying to be argumentative --

25 Q. You're not.

1 A. -- I -- I think he said at one point he thought
2 he pulled it out but then in the body camera footage you
3 can actually see it clipped into the back of his swim
4 trunks, so I'm not sure when it was lost. I apologize.

5 Q. No, but it -- he's saying it was lost on that
6 day, right?

7 A. Yes, sir.

8 Q. Going to or as he's moving toward that incident,
9 right?

10 A. I believe he said he wasn't sure when he lost it.

11 Q. Okay.

12 A. If -- if there's a report, I could review it
13 but --

14 Q. No, that's okay. I'll talk to him about it.

15 A. Okay.

16 Q. You also mention that in your, I guess, training
17 and experience, these -- these clips and videos that we're
18 watching, just so I understand it, when we go through
19 these stills, 24 of those consecutive stills equals one
20 second in time, is that fair?

21 A. Yes.

22 Q. All right. And I want to ask you some questions
23 about your duties or your responsibilities on the 30th of
24 July --

25 A. Yes.

1 Q. -- okay?

2 You're -- and on the 30th of July, you're
3 wearing -- as this is going on and you arrive on the
4 scene, you're wearing a body camera, true?

5 A. Yes.

6 Q. Okay. You make contact with, I think you said --
7 I'm not saying in which order, but you make contact with
8 Owen Peloquin, Ryan Nelson, and Alex Vang, right?

9 A. Correct.

10 Q. Okay. Do they ever mention to you that they have
11 information that he was looking for little girls, Mr. Miu?

12 A. I do not believe they did.

13 Q. Okay. You then have contact with Ms. Coen, is
14 that right?

15 A. Correct.

16 Q. And you had contact with her, I think, two times,
17 maybe briefly but two times, right?

18 A. I believe that's correct, yes, sir.

19 Q. Okay. And she's providing you some information
20 as to what had happened, right?

21 A. Correct.

22 Q. And how long -- I don't know if I heard this.
23 How long have you been an officer?

24 A. I don't recall the exact dates. I've been
25 employed by St. Croix County for 16 years this month.

1 Q. Okay.

2 A. Three I was in dispatch, three I was in the jail,
3 the rest field services.

4 Q. Okay. So for a substantial period of your career
5 you're out trying to investigate alleged criminal
6 behavior, right?

7 A. Yes.

8 Q. Okay. And with what you know at that point about
9 what's going on, you're -- you're looking at Madison Coen
10 as you're talking to her, right?

11 A. Yes.

12 Q. Okay. Having been a law enforcement officer for
13 the length of time that you have, if you had noticed
14 something on her face which was consistent with what she
15 was telling you, would you note that?

16 A. Yes.

17 Q. Okay. So if I said to you, Investigator Shilts,
18 I got -- somebody punched me in the face. If I had
19 physical injuries that were consistent with that, you'd
20 write that down, right?

21 A. Yes.

22 Q. Okay. Would you, in some situations, photograph
23 that?

24 A. Yes.

25 Q. Okay. And you don't see on either one of your

1 contacts with her on that day, anything on her face that
2 supports the claim that she was punched, correct?

3 A. Correct.

4 Q. Do you remember her -- her testimony saying that
5 it was -- her eye was puffy? Do you remember that?

6 A. Vaguely I believe, yes.

7 Q. Okay. You didn't see that, did you?

8 A. No.

9 Q. Okay. Do you remember she also mentioned that
10 the next day she had, like, some -- a yellow, almost like
11 bruising, do you remember that?

12 A. I'm sorry, I don't remember her saying that. If
13 you're telling me she did, I believe you.

14 Q. And then she says, any bruise -- the question
15 was: Any bruise? She said a little yellow.

16 A. Okay. Yes, sir.

17 Q. Okay. You -- do you say to people -- in this
18 particular case, do you say to Ms. Coen, look, if
19 something shows up later, if a physical injury shows up
20 later, capture that for us, we'd like that?

21 A. I don't recall what all I said, sir.

22 Q. Okay. But was that something that you might do
23 in these type of cases where a physical injury may appear
24 later?

25 A. Yes.

1 Q. Okay. And you know, if this is fair, at some
2 point there is an attempt to get a photograph or an
3 alleged photograph off of her phone, right?

4 A. Correct.

5 Q. Okay. And can you tell me this: You are -- you
6 are a forensic examiner of cell phones?

7 A. Correct.

8 Q. All right. And you didn't do the extraction on
9 her phone but you reviewed it, right?

10 A. Correct.

11 Q. Okay. And can you tell me, there's -- is there a
12 difference in, when you do these extractions, between
13 allocated and unallocated space?

14 A. Yes. Unallocated is just deleted space.

15 Q. Okay. So if I'm on my phone looking at some
16 website or some video or something and I click off that,
17 does that go into unallocated space?

18 A. It could be cache. I guess I'm not sure if goes
19 into unall -- unallocated or not. I apologize.

20 Q. Is it -- in your experience, in your training and
21 experience, is it more difficult to locate things in
22 allocated or unlocated space?

23 A. It's easier to locate it if it's not deleted,
24 yes.

25 Q. Okay. And you agree -- well, let me ask you

1 this: What you -- the reason you do these downloads
2 sometimes in law enforcement is you're looking
3 specifically in some situations for things people delete
4 off of their phones, right?

5 A. Yes.

6 Q. Okay. And you can get a bunch of stuff sometimes
7 off of deleted images or videos or text messages, things
8 like that, right?

9 A. Generally speaking, yes.

10 Q. Yeah. Okay. And in your review of what you saw
11 on the document review of Madison Coen, there's no
12 photograph recovered, correct?

13 A. (No response.)

14 Q. We know that.

15 A. Correct. On that time frame when she said it was
16 taken, correct.

17 Q. And there's nothing in that document review or
18 that report that indicates that there was a photo that had
19 been deleted either, right?

20 A. Correct, there showed no deleted photos on either
21 examination of Madison Coen or her mother's phone.

22 Q. And I think Madison -- I -- I don't disagree with
23 what you're saying. I think Madison also had said that
24 she might have actually texted that picture to her mother.
25 Do you remember that?

1 A. Yes. Or vice versa.

2 Q. Okay. And that's the reason that you want to
3 look at mom's phone, is to, well, there could be this text
4 that went through. So even if Madison deleted it, we can
5 get it from mom, right?

6 A. And there was -- I -- I don't have the right
7 word. Neither was certain which one took it either, so we
8 weren't sure if mom took it or Madison took it but, yes,
9 that was part of it as well.

10 Q. Okay. And you do the forensic examination for
11 Madison Coen's mother's phone?

12 A. Correct.

13 Q. Okay. And if I word this incorrectly, let me
14 know.

15 A. Yes, sir.

16 Q. No photograph that was in her, what I'm gonna
17 say, like, saved images, right?

18 A. Yes.

19 Q. Okay. So I have photos on my phone of my
20 children and things like that.

21 A. Yes.

22 Q. Nothing in that area that you could just access
23 by kind of swiping through, right?

24 A. I'm sorry --

25 Q. Nothing as it relates to Madison's --

1 A. Oh.

2 Q. -- picture of her face?

3 A. Correct, yes.

4 Q. And nothing in her deleted images, which would
5 support the claim that either she took the photo or
6 Madison sent her the photo, correct?

7 A. Correct.

8 Q. Okay. So I know that you said in some situations
9 sometimes we just don't get images, right?

10 A. Yes.

11 Q. But that would have to happen in both of these
12 cases then, right?

13 A. Yes.

14 Q. You agree that you would never say or you didn't
15 say to Madison Coen I don't need that photo, it doesn't
16 matter, right?

17 A. Correct.

18 Q. Okay. You would, in a case like this, you guys
19 -- when I say you guys, law enforcement -- you wanted
20 every piece of evidence you could get, right?

21 A. I can. And can I correct myself on my last one
22 just to clarify?

23 Q. Yep.

24 A. If she told me she had a photo, yes, I would want
25 that. Maybe being empathetic in saying it's okay, don't

1 worry about it, yes; but no, if there was a photo, yes, we
2 would want it.

3 Q. Sure. So when she said I told them I have a
4 photo and they said don't worry about it, that's not
5 something you would say, right?

6 A. (No response.)

7 Q. Like --

8 A. Well, we did say don't worry about it, but we
9 didn't say that we did not want it, if that's what you're
10 asking. I'm sorry.

11 Q. Right. No, you would -- in a homicide case, you
12 would want all the information that you could possibly get
13 your hands on, right?

14 A. Correct, yes, sir. I'm sorry, I misunderstood
15 you.

16 Q. No, you're good.

17 Did you ever, and I don't know if this is
18 possible. This MOCIC --

19 A. Yes --

20 Q. -- do they have the ability to get information
21 off of phones that you don't?

22 A. I asked them and they -- actually, this is where
23 I learned it got compressed. I didn't know that that
24 could happen, and they said there's nothing else that they
25 can do besides the resize of the video.

1 Q. I'm -- I'm -- I'm asking --

2 A. So no. No, they couldn't do anything more than I
3 did.

4 Q. Okay. So as it relates to looking for the
5 information on Madison's and Madison's mother's phone --

6 A. Yes.

7 Q. -- you giving that to this -- this organization
8 that has more resources, that wouldn't have been useful?
9 I'm just asking.

10 A. I don't know if they take phones. They might. I
11 assume that they use the same Cellebrite and/or AXIOM.
12 Maybe it's AXIOM that we use, but I don't know, sir.

13 Q. Okay. You were asked questions about when you
14 saw Owen, Ryan, and Alex, if you ever tested their alcohol
15 level or asked for a test. Do you remember that?

16 A. I do.

17 Q. Okay. And you've heard, for example, Owen
18 testify that he had -- he was drinking beer and doing
19 shots of alcohol and using marijuana, right?

20 A. Correct.

21 Q. Okay. And I'm not being critical, it's more of
22 a -- a background question. You would agree drinking and
23 using drugs may have a person -- may impact a person's
24 ability to accurately perceive what's going on, right?

25 A. Yes.

1 Q. Okay. And it can also impact their ability to
2 just recall it too, right?

3 A. It can.

4 Q. Okay. And you know or you've heard by sitting at
5 trial all of these people admit that they had been
6 drinking, some admit that they'd been drinking and using
7 marijuana, right?

8 A. I believe with the exception of Sheena, I think
9 she said she was not drinking.

10 Q. I'm -- I meant the boys.

11 A. Oh, sorry. Yes.

12 Q. That's -- that's okay. And do you think it would
13 be -- knowing this -- I'll ask it this way. Bad question.

14 Do you know what Isaac Schuman's alcohol
15 concentration was?

16 A. I don't recall. I can estimate, but I don't
17 recall exactly what it was.

18 Q. You know -- well, I'll ask it to you this way:
19 You know that he was illegally intoxicated, right?

20 A. Yes.

21 Q. Okay. And you know that he was well above the
22 legal limit, right?

23 A. Yes.

24 Q. Okay. Would it be helpful for you to know if
25 those boys were also above the legal limit and highly

1 intoxicated when you took those statements?

2 A. It could be. As I talked about earlier, it could
3 have an impact on what they said.

4 Q. Okay. If those boys would have said to you that
5 Mr. Miu was looking for little girls, would you have noted
6 that somewhere?

7 A. Yes.

8 Q. Okay. Because we throw this word around, you've
9 heard this word pedophile thrown around over and over.
10 You take that seriously, right?

11 A. Yes. The majority of the crimes I investigate
12 involve crimes against children.

13 Q. Right. So if -- if somebody says to you,
14 investigator, this guy's talking about looking for little
15 kids, based on your background you'd be interested in
16 that, right?

17 A. Yes.

18 Q. Okay. And you'd agree nowhere in any report that
19 you prepared do you document or indicate that they ever
20 mention to you that he was looking for little girls, true?

21 A. I'm not trying to be argumentative again. Them
22 specifically, no, but other people told me that they said
23 that so I documented it my reports; but the boys
24 specifically, no, sir.

25 Q. Right. Well, you heard the testimony in this

1 case. You heard Owen Peloquin today said that Mr. Miu
2 told him that, right?

3 A. Yes.

4 Q. Owen Peloquin never told you that, right?

5 A. Correct.

6 Q. Okay. So can you tell me, based on your training
7 and experience, both as a hostage kind of negotiator and
8 as a SWAT team -- member of the SWAT team, would you
9 consider what happened here to be a highly stressful
10 event?

11 A. Yes.

12 Q. Okay. And your training and experience, if this
13 is fair, tells you that people react differently in highly
14 stressful events, is that fair?

15 A. Correct.

16 Q. Okay. Had you been -- you -- it sounds like you
17 have been, in multiple times in your professional life, in
18 highly stressful events?

19 A. Correct.

20 Q. Okay. And you might react differently than
21 another officer might react, right?

22 A. Correct.

23 Q. Okay. And in these highly stressful events, have
24 you, through your training and experience, seen situations
25 where people's bodies react to the highly stressful event?

1 Do you know what I mean by that?

2 A. No. I'm sorry.

3 Q. Okay. Do you know or has -- has it been your
4 experience that sometimes people might, as you've heard,
5 go white, where their body reacts to a highly stressful
6 event? Have you seen people go pale in highly stressful
7 events?

8 A. I'm sure I have. I can't recall, but I'm sure I
9 have.

10 Q. Have you seen them become quiet, kind of almost
11 catatonic?

12 A. Again, I'm sure I have, I just can't think of a
13 specific time.

14 Q. Wide-eyed?

15 A. Yes.

16 Q. Okay. And does your training and experience tell
17 you that those are things that their -- that their body is
18 just doing, right, their body is getting wide-eyed or
19 they're getting white or things like that, right?

20 A. Yes.

21 Q. Okay.

22 A. I -- I'm sorry, I don't know that I understand
23 all of it.

24 Q. Don't apologize, investigator, you -- you're
25 doing fine.

1 Can I ask you, you were asked some
2 questions about the river and the depths of the river and
3 things like that?

4 A. Correct.

5 Q. Okay. Now, you would agree, to be fair, you
6 can -- you can drown in calf-deep water, right?

7 A. Potentially, yes.

8 Q. Right. So especially if you get knocked
9 unconscious, so you can drown in six inches of water,
10 right?

11 A. I would suspect so, yes.

12 Q. Yeah. I mean, I guess what I'm saying is you had
13 talked about different areas of the river where you were
14 kind of maybe up to your shoulders or up to your chest or
15 up to your waist. You don't need to be in that deep of
16 water, if you're unconscious, to drowned?

17 A. Correct.

18 Q. So when Mr. Miu is -- I think you heard the
19 testimony, he's walk -- they're asking him to walk
20 downriver, right, that's what you heard for the testimony?

21 A. I believe it was all angles, but mostly
22 downriver, especially initially with Ms. Coen I believe.

23 Q. Okay. So I just want to make sure I get it
24 right. They want him -- according to the testimony, they
25 want him to walk this way, the way the arrow's pointing,

1 right?

2 A. At some points, yes.

3 Q. Okay. And did you hear Mr. Miu say that at some
4 points there the river is a little bit deeper than where
5 he was standing?

6 A. Did I hear him say that? No, sir.

7 Q. I -- you didn't hear that on -- I --

8 MR. NELSON: Coleman.

9 Q. (By Mr. Chirafisi, continuing) Coleman said
10 that.

11 A. Oh, I'm sorry. Could you repeat the question?
12 Coleman --

13 Q. Coleman said that the river, at various points as
14 you move downriver, becomes deeper, right?

15 A. Yes.

16 Q. Okay. So that's -- is that true as you -- the
17 direction that they were pointing him to walk, the water
18 would have been deeper, right?

19 A. Yes.

20 Q. Okay. Did you -- as a lead investigator, were
21 you the officer who prepared the information for the crime
22 lab regarding DNA on what was to be swabbed and where it
23 was to be swabbed?

24 A. No, sir.

25 Q. Okay. Do you know who did that?

1 A. I don't. I'm sorry.

2 Q. That's okay.

3 MR. CHIRAFISI: I'm done, Judge. Thank you.

4 THE COURT: Mr. Anderson.

5 REDIRECT EXAMINATION

6 BY MR. ANDERSON:

7 Q. You were asked about deleted photos. When you
8 did these forensic downloads of the phones, was it more
9 common to find deleted photos or find -- or not find
10 deleted photos?

11 A. It's more common to not find the deleted photos
12 than it is to find them.

13 Q. And you -- you were asked about Roberto Baldazo
14 and his statement that he had thought he dropped it while
15 running up to aid some stabbing victims. Do you recall
16 that question?

17 A. I do.

18 Q. And you said that you saw body cam of him with
19 the knife in his shorts. What was he doing at that point
20 in the body cam?

21 A. Providing aid to Isaac.

22 Q. And prior to July 30th, 2022, had you ever seen
23 Madison Coen before?

24 A. No.

25 Q. So you didn't have any sort of frame of reference

1 for what her cheeks or what she looked like before that?

2 A. Correct.

3 MR. ANDERSON: Can I get Exhibit 51?

4 Q. (By Mr. Anderson, continuing) Just because our
5 map is cut off there you were asked about the spot by the
6 bridge. I want to pull up Lieutenant Coleman's
7 presentation.

8 MR. ANDERSON: I'll let the clerk know when I'm
9 ready.

10 All right. Can we have the screen, please?

11 Q. (By Mr. Anderson, continuing) Can you -- is the
12 spot where it got deep close to the bridge visible on that
13 image on the right?

14 A. I'm sorry, I don't think I'm following.

15 Q. Can you -- are you able -- can you draw on your
16 screen, if the Judge can enable it, where the -- where you
17 call that deep spot being that was near to the bridge?

18 A. Where it gets deeper? Yes.

19 Q. Yeah.

20 A. To the best of my recollection -- can I use it on
21 the regular one or do you want it on Lieutenant Coleman's
22 drawing?

23 Q. I guess either.

24 A. Right in that area there.

25 Q. Okay.

1 MR. ANDERSON: And just for the record, Judge,
2 this is slide 13 of Exhibit 51.

3 I don't have -- I don't have anything else.

4 THE COURT: Mr. Chirafisi?

5 RE CROSS-EXAMINATION

6 BY MR. CHIRAFISI:

7 Q. Do you ask Madison Coen why she would possibly
8 delete a photograph in a case like this?

9 A. We did, yes.

10 Q. You did?

11 A. I guess I don't know if we asked, but she made a
12 statement that it was causing her anxiety, she didn't want
13 to think about it, that's possibly why she deleted the
14 photos.

15 Q. Okay. And in terms of what you observed when she
16 came out of the water, you've heard in this courtroom far
17 more detail about kind of how this went down than you did
18 that day, right?

19 A. Yes, I --

20 Q. Right. So, I mean, you heard Madison Coen get on
21 the witness stand for however long and testify about what
22 had occurred, right?

23 A. Correct, yes.

24 Q. You've heard other people explain what they
25 observed between Mr. Miu and Madison Coen as well,

1 correct?

2 A. Yes.

3 Q. Okay. And so you've heard that this 248-pound
4 man threw a hook -- by some people's estimation, threw a
5 hook to this girl's face and knocked her down, right?
6 You've heard that?

7 MR. ANDERSON: I guess -- I guess object on
8 relevance with this witness. I don't know what he can
9 answer about what other people said.

10 THE COURT: Well, overruled. I mean, it was said
11 in court.

12 Let's continue.

13 Q. (By Mr. Chirafisi, continuing) You've heard
14 that, right?

15 A. Yes, some had said that.

16 Q. Okay. And you didn't see a single mark on her
17 face based on that, did you?

18 A. I did not see a mark on her face, no, sir.

19 MR. CHIRAFISI: That's it, Judge. Thanks.

20 THE COURT: All right.

21 Thank you, investigator. You can step
22 down.

23 THE WITNESS: Thank you, Judge.

24 THE COURT: It is 11:45. This is probably the
25 best place to break for lunch, so we'll break a little bit

1 early. We'll reconvene at 12:45.

2 Please take the jury out.

3 (Whereupon, the jury exits the courtroom.)

4 THE COURT: Lunch recess for one hour.

5 MR. NELSON: Judge, my understanding is we had
6 told our witnesses to be here at one, so hopefully they're
7 here early, but I just, you know, wanted to let you know.

8 THE COURT: Yes. Thank you.

9 (Whereupon, a break was held.)

10 (Whereupon, the jury enters the courtroom.)

11 THE COURT: We are back on the record with the
12 attorneys, Mr. Miu is present, along with 14 jurors.

13 Mr. Smestad, do you have a witness?

14 MR. SMESTAD: Ben Trebian.

15 (Whereupon, the witness enters the courtroom.)

16 THE COURT: Deputy, please come forward. It's
17 been a couple days so we'll re-administer the oath. The
18 clerk will do so now.

19 DEPUTY BENJAMIN TREBIAN,
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. Smestad.

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DIRECT EXAMINATION

BY MR. SMESTAD:

Q. Will you state your name for the record.

A. Deputy Benjamin Trebian.

Q. Who do you work for?

A. St. Croix County Sheriff's Office.

Q. You -- did you testify last week in this matter?

A. I did.

Q. Do you recall testifying that you interviewed Ernesto Torres as part of your duties in this matter?

A. Yes.

Q. What date -- what day and where did that interview take place?

A. It occurred day on the river. It occurred below the Somerset bridge in Village Park where the tubing exit is.

Q. Did you record that interview on your body camera?

A. I did, yes.

Q. Did Mr. Torres, meaning Ernesto Torres, give you some information about what he heard and saw that day?

A. Yes.

Q. Were you present in the courtroom when he testified, I believe, on Friday?

A. I was not.

1 Q. Are you aware of some of the things he said?

2 A. Yes.

3 MR. SMESTAD: Your Honor, we're going to play a
4 portion of Deputy Trebian's body cam of the interview with
5 Ernesto Torres. We're starting at 2:35.

6 THE COURT: All right. Let us know when you're
7 ready.

8 (Whereupon, the video was played.)

9 MR. SMESTAD: Okay. We're stopping at 8:08.

10 Q. (By Mr. Smestad, continuing) So, deputy, if Mr.
11 Torres came in and testified last week that Nic Miu never
12 said that they took my knife, would that be accurate?

13 A. No.

14 Q. On the small clip that we watched, did you count
15 how many times he told you that Nic claims that these
16 folks took his knife?

17 A. In that portion, I'm not sure, but in the total
18 video more than ten times.

19 Q. When you were talking to him -- well, first off,
20 this interview, this occurred right after Nic Miu was
21 taken into custody?

22 A. Yes.

23 Q. During that interview did he ever say anything
24 like someone tried to follow Nic up the river?

25 A. No.

1 Q. Did he ever say something like somebody
2 approached him and he point -- he was pointing at him and
3 he yelled at him to get back?

4 A. No.

5 MR. SMESTAD: I don't have anything further.

6 THE COURT: Mr. Chirafisi.

7 CROSS-EXAMINATION

8 BY MR. CHIRAFISI:

9 Q. Were you involved in -- with multiple interviews
10 of Mr. Torres?

11 A. No, just the initial.

12 Q. Did you know that Mr. Torres gave multiple
13 interviews?

14 A. I did not, no.

15 Q. Okay. You don't know what Mr. Torres told, for
16 example, Investigator Schaeppi and Deputy Williams about
17 what happened, right?

18 A. I do not.

19 Q. Okay. And in your training and experience, can
20 sometimes people, who give multiple interviews, say
21 something in one interview and then not say it in another
22 interview?

23 A. Potentially.

24 Q. Okay. Tell me if this is fair: On the interview
25 that you conducted with Mr. Torres, the one thing that he

1 never waivers on as well is that he saw Mr. Miu being
2 attacked, right?

3 A. He says that he was punched or pushed, correct.

4 Q. Right. And he actually says I witnessed that
5 happen, true?

6 A. Yes.

7 Q. Okay. He doesn't tell you -- or he mentions that
8 he doesn't see the knife, correct?

9 A. Yes.

10 Q. Okay.

11 A. Yes.

12 Q. In your interview -- I want to make sure I got
13 this right though. In your interview with Mr. Torres, it
14 appears that he says to you -- tell me if you remember
15 this -- his wife tell me he's in trouble. We go. What do
16 you mean trouble? Yes, you see they punching his --
17 inaudible -- in the floor, and I go there, you know, help.
18 And when I say get out, get out, get out of there, because
19 there's a lot of -- a bunch of people wanting punching
20 him. I don't know. That's weird. Do you remember that?

21 A. I remember the portion that you're talking about.
22 I don't remember exact verbatim on it.

23 Q. So he apparently is -- he says that he is
24 telling -- or saying get out, get out of there, right?

25 A. He's saying that he was yelling that to Nic, was

1 to get out of here.

2 Q. Okay. Do you remember a conversation where he
3 tells you that he is -- do you know if he's saying get
4 out -- because he said it multiple times to you, right,
5 that he -- that he says get out, get out of there?

6 A. Correct.

7 Q. Okay. Do you know if he's talking about Nic or
8 he's pointing to other people to get away?

9 A. In my belief was that he was telling Nic to get
10 out of there.

11 MR. CHIRAFISI: I don't have anything else,
12 Judge. Thanks.

13 THE COURT: Mr. Smestad.

14 MR. SMESTAD: Nothing else.

15 THE COURT: All right.

16 Thank you, deputy. You can step down.

17 (Whereupon, the witness is excused.)

18 THE COURT: Mr. Smestad, who is next?

19 MR. SMESTAD: I'm gonna switch up with Mr.
20 Anderson here, Judge.

21 MR. ANDERSON: Carlos de la Cruz.

22 MR. NELSON: Judge, I'm going to handle this,
23 we're just not gonna change seats.

24 (Whereupon, the witness enters the courtroom.)

25 THE COURT: Detective de la Cruz, please come

1 forward. Since it's been a few days since your last
2 testimony we will re-administer the oath.

3 DETECTIVE CARLOS DE LA CRUZ,
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?

13 A. Carlos de la Cruz.

14 Q. And we heard earlier you work for the New
15 Richmond Police Department.

16 A. Yes.

17 Q. And you interviewed Ariel as part of this
18 investigation?

19 A. Yes.

20 Q. So when you went to that interview, did you bring
21 any still frames from the video with you?

22 A. The investigators that accompanied with --
23 accompanied me had some various frames, still frames.

24 Q. And do you recall what those showed and why they
25 were brought?

1 A. They kind of showed correlation between some of
2 the witnesses compared to where the events were happening,
3 and so they were kind of brought to try to identify some
4 of the witnesses, as well as to where the people were, and
5 hopefully get some information from the witnesses, if they
6 knew who was where, who they were, what they were wearing.

7 Q. Was there one that showed Ariel standing next to
8 Nicolae when Nicolae had the knife in his hand?

9 A. Yes.

10 Q. And -- so did you ask Ariel what he saw?

11 A. Throughout the interview that we had discussed
12 particularly where he was and what he could see, what he
13 couldn't see. The picture came up after he told us he
14 wasn't up by where everything had occurred, that he had
15 never gotten close to Nicolae, and so that's when we
16 showed him that photo.

17 Q. And after you -- so in the context of him saying,
18 hey, I never got close, was he saying he didn't see
19 anything Nic did?

20 A. Yes, he repeatedly said he was -- there was so
21 many people between him and the event that it was hard for
22 him to understand what was going on or to see anything
23 that Nic did.

24 Q. And after you showed him the photo of him
25 standing next to Nicolae when Nicolae had the bloody

1 knife, did he still maintain that he didn't see Nic do
2 anything?

3 A. Initially, he was rather surprised that he was
4 that close. I think the -- seeing the actual knife in
5 Nic's hand surprised him more than anything. He didn't
6 say that he didn't recall being that close to Nicolae.

7 Q. And did he still deny seeing Nic do anything
8 in --

9 A. Correct. Yes.

10 Q. Did he ever say anything even remotely close to
11 that he saw Nicolae defend himself?

12 A. No.

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

14 THE COURT: Mr. Nelson.

15 CROSS-EXAMINATION

16 BY MR. NELSON:

17 Q. You just told this jury that Ariel told -- I
18 think your testimony was he, being Ariel, repeatedly said
19 it was hard to see. Is that your testimony?

20 A. He had mentioned that more than once, yes.

21 Q. He told you, We looked over there and we saw a
22 lot. There were two groups in front of us. He said those
23 words, agreed?

24 A. Yes.

25 Q. He said, There were a lot of people, agreed?

1 A. Correct.

2 Q. He said, I saw from far away, was like as if they
3 were bullying him.

4 A. That's what he said, yes.

5 Q. He said, When I see it, I thought it was
6 bullying.

7 A. Yes.

8 Q. He said, They pushed him. He fell. He fell.

9 A. Yes.

10 Q. He said, He got up, he being Mr. Miu. Ariel said
11 Miu got up and they started beating him, women as well as
12 men.

13 A. Yes.

14 Q. He said, I only saw when they were beating him.

15 A. Yes.

16 Q. So despite your saying that he told repeatedly it
17 was hard to see, he told you repeatedly actually that he
18 saw these two groups of people beating Mr. Miu. He said
19 that, right?

20 A. Also, yes.

21 Q. You asked him questions about Mr. Miu, correct?

22 A. Yes.

23 Q. And when you asked him questions about Mr. Miu,
24 he told you the man was a quiet person, correct?

25 A. Yes.

1 Q. He told you Nic was really mellow --

2 MR. ANDERSON: Objection.

3 Q. (By Mr. Nelson, continuing) -- and cool?

4 MR. ANDERSON: Objection. It's character
5 evidence --

6 MR. NELSON: 908.01, prior consistent statement
7 to --

8 THE COURT: I'll overrule. Prior consistent
9 statement, it's also evidence of his demeanor on the day
10 in question.

11 Please continue.

12 Q. (By Mr. Nelson, continuing) He told you Nic is a
13 calm person, correct?

14 A. Yes.

15 Q. Doesn't get any angry a lot, agreed?

16 THE REPORTER: Any --

17 (Whereupon, crosstalk occurred.)

18 THE COURT: Hold --

19 THE REPORTER: Whoa, one moment. It doesn't get
20 any what? I didn't hear the last part of your question.

21 THE COURT: Ask the question.

22 Q. (By Mr. Nelson, continuing) I just want to read
23 from the transcript, okay. At times you're asking Ariel
24 questions, correct?

25 A. Yes.

1 Q. In Spanish. Ariel would answer you in Spanish?

2 A. Both sometimes, but yes.

3 Q. And then you would -- you had a colleague there,
4 correct?

5 A. Two of them, yes.

6 Q. And the -- your colleagues that were there didn't
7 understand Spanish, correct?

8 A. Correct.

9 Q. So sometimes in the moment when Ariel would tell
10 you something, you would turn and tell the officers here's
11 what he said, correct?

12 A. Yes.

13 Q. And one of the times that you said that, you
14 said, It sounds like that day he was calm too. Is he a
15 calm person or does he get angry a lot? You asked him
16 that question, correct?

17 MR. ANDERSON: Judge, I'm gonna object. Can we
18 approach?

19 THE COURT: Yes.

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

21 THE COURT: The objection is sustained.

22 Next question, please.

23 Q. (By Mr. Nelson, continuing) What -- just one
24 last quote from Page 38 of that transcript. What Ariel
25 never wavered on, he said that I did see that they were

1 beating him up, correct?

2 A. Correct.

3 MR. NELSON: Nothing else.

4 THE COURT: Mr. Anderson.

5 REDIRECT EXAMINATION

6 BY MR. ANDERSON:

7 Q. He also never wavered on saying that he never saw
8 Nic, he -- he didn't see Nic do anything?

9 A. Correct.

10 MR. ANDERSON: Nothing else.

11 THE COURT: Anything else?

12 RECROSS-EXAMINATION

13 BY MR. NELSON:

14 Q. He never said the words I didn't see Nic do
15 anything, those aren't his words, correct?

16 A. I would have to re-read the whole transcript if
17 those were correct or not. I just --

18 Q. He didn't say those words?

19 A. I'd have to --

20 MR. ANDERSON: Objection. Asked and answered.
21 He needs to see the transcript.

22 THE COURT: The objection's overruled.

23 Mr. Nelson, if you want to pursue that, you
24 may.

25 Q. (By Mr. Nelson, continuing) You can't cite

1 anywhere in this transcript where he says those words that
2 you just said he did?

3 A. If you have the transcripts and that's what
4 you're saying, then I would agree with you.

5 Q. I'm not the witness, sir, you are. Do you agree?

6 A. That I'm not the witness -- that you're not the
7 witness, yes, I agree.

8 Q. You agree that as you sit here right now you
9 don't have a memory, knowledge, information that he said
10 what you said under oath, I never saw Nic do anything. He
11 didn't say those words?

12 A. Those exact words I couldn't -- I -- I could not
13 recall if those what -- were the exact words.

14 Q. But even if you can't recall it, you still said
15 it under oath --

16 MR. SMESTAD: Objection, Judge. Argumentative.

17 THE COURT: Sustained.

18 MR. ANDERSON: Can we approach?

19 THE COURT: It's argumentative. Sustained.

20 MR. NELSON: I'll move on.

21 Nothing else.

22 THE COURT: All right.

23 Thank you, investigator. You may step
24 down.

25 (Whereupon, the witness is excused.)

1 THE COURT: Who is the next witness?

2 MR. ANDERSON: Judge, I think Defense had a
3 couple people to call.

4 THE COURT: Okay.

5 Members of the jury, similar to Friday,
6 sometimes the attorneys make accommodations for witnesses'
7 schedules. The State has more witnesses but they are not
8 scheduled until tomorrow, I understand.

9 MR. ANDERSON: Yes.

10 THE COURT: So rather than sending you home, the
11 Defense has agreed to call some of their witnesses so that
12 we can continue working.

13 So I -- I will say, I think it goes -- I
14 think it's worth saying to the attorneys, I appreciate
15 your flexibility and your professionalism to see that we
16 can keep moving and get some work done today despite the
17 scheduling obstacles.

18 So we'll continue with Defense witnesses.
19 Mr. Chirafisi.

20 MR. CHIRAFISI: Judge, we're going to call
21 Investigator Dittman.

22 (Whereupon, the witness enters the courtroom.)

23 THE COURT: Investigator, please come forward.
24 Face the clerk, raise your right hand, she will administer
25 the oath.

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

4 THE WITNESS: Yes, I do.

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

7 THE WITNESS: Thank you.

8 THE COURT: Mr. Chirafisi.

9 MR. CHIRAFISI: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. CHIRAFISI:

12 Q. Sir, can you tell us your name, spelling your
13 last name?

14 A. Andrew Dittman, d-i-t-t-m-a-n.

15 Q. And, sir, what's your occupation?

16 A. I'm an investigator with the St. Croix County
17 Sheriff's Office.

18 Q. How long have you been an investigator?

19 A. A couple years. I've been employed with the
20 sheriff's office since 2012.

21 Q. Okay. And in your role as an investigator, is
22 part of your job interview witnesses, take statements,
23 things that they might -- might tell you?

24 A. Yes.

25 Q. Okay. And was that your role in this particular

1 matter, that you were to take statements from witnesses
2 whom might have some information?

3 A. Correct.

4 Q. Okay. And do you recall, either yourself or
5 being present with another officer, when there were
6 interviews taken of Ryan Nelson, Jawahn Cockfield, Owen
7 Peloquin, Alex Vang, and Landon Weyer?

8 A. Yes.

9 Q. Okay. You were present for all of those?

10 A. Correct.

11 Q. Those interviews, were they recorded?

12 A. Yes.

13 Q. And they were recorded how, sir?

14 A. At the time we had Visual Labs, which would have
15 been an application, a body cam application, through our
16 cell phone.

17 Q. And do you recall whether or not each one of
18 those interviews of those five people were recorded?

19 A. They all were recorded.

20 Q. And that recording was captured and provided to
21 the DA's Office, is that right, to your knowledge?

22 A. Yes.

23 Q. I want to ask you very few questions on this, but
24 there's been testimony from witnesses regarding what they
25 mentioned to officers during their interview, okay?

1 A. Okay.

2 Q. You interview Jawahn Cockfield. Did Jawahn
3 Cockfield ever tell you during your interview with him
4 that Mr. Miu was looking for little girls?

5 A. Not that I recall, he did not say that.

6 Q. If he would have said that, is that something you
7 would put in a report?

8 A. Our job is to be fact-finders and document
9 everything as -- as best as we can accurately.

10 Q. So your job, you're not really to pick sides,
11 you're just kind of to -- to get the information in and
12 then get it back out, right?

13 A. Correct.

14 Q. Okay. And in our jobs, maybe people don't think
15 about this, but telling a police officer that someone's
16 looking for little girls, you're not gonna let that go
17 without trying to dig a little deeper if you hear that,
18 right?

19 A. Correct.

20 Q. Okay. So if he would have said to you, I've been
21 told by Mr. Miu that he was looking for little girls,
22 that's something that would have drawn your attention,
23 right?

24 A. Yes.

25 Q. Okay. Same question with Ryan Nelson, sir. Your

1 interview with Ryan Nelson, did he ever mention -- or he
2 never mentioned to you, right, that Mr. Miu told him that
3 he was looking for little girls?

4 A. I guess all the interviews that I was never told
5 anything that anybody was looking for little girls.

6 Q. So you'd agree Mr. Cockfield, Mr. Nelson, Mr.
7 Peloquin, Mr. Vang, and Mr. Weyer, none of them in their
8 interviews with you, which were recorded, mentioned to you
9 that Nic -- that Nic Miu told them he was looking for
10 little girls, right?

11 A. To my recollection, I do not believe that was
12 ever said.

13 Q. And again, for each one of these people,
14 especially if you heard it over and over again, that might
15 be something you would really document then because
16 there's continued statements regarding it, right?

17 A. Correct.

18 Q. And you didn't do it, right?

19 A. Correct.

20 MR. CHIRAFISI: That's all.

21 THE COURT: Mr. Anderson.

22 CROSS-EXAMINATION

23 BY MR. ANDERSON:

24 Q. One thing you heard over and over from the
25 witnesses you interviewed was that this turned physical

1 when Nicolae punched the blonde girl, right?

2 A. Correct.

3 Q. Owen said he believed she punched -- or Nicolae
4 punched her, right?

5 A. Yes.

6 Q. And the other boys all saw, they actually
7 witnessed, Nicolae punch the blonde girl?

8 A. Correct.

9 Q. And that's what started -- what turned the
10 incident physical?

11 A. Yes. From my recollection, that's when I was
12 told the chaos ensued, was when the punch was thrown.

13 MR. ANDERSON: Nothing else.

14 THE COURT: Mr. Chirafisi.

15 REDIRECT EXAMINATION

16 BY MR. CHIRAFISI:

17 Q. Mr. Vang told you that Mr. Miu slapped the girl,
18 right?

19 A. Correct.

20 Q. So he didn't say that he punched her, right?

21 A. Sometimes I guess people classify punch and slap,
22 it's what the person's viewing.

23 Q. Well, you'd agree a punch and a slap are
24 different things?

25 A. They could be, yes.

1 Q. You agree that you testified under oath that
2 everyone told you it was a punch, right?

3 A. I was present during all the interviews that
4 were -- that took place. To get to the nitpicky, I'd have
5 to review who told me who punched and who slapped.

6 Q. I guess what I'm asking you is you just told
7 Attorney Anderson that all of those people told you that
8 he was -- that Mr. Miu punched this girl in the face,
9 right?

10 A. That was brought up multiple times through the
11 interviews that we had conducted, that there was punching,
12 and I don't recall exactly who said he had been -- or that
13 he had given a slap.

14 Q. Okay. If I told you Alex Vang said open hand,
15 open hand, you have any reason to dispute that's what's on
16 tape?

17 A. I do not.

18 Q. Okay. Some of those people also told you that
19 she was knocked down into the water, is that right?

20 A. Correct.

21 Q. Some people told you that she wasn't knocked down
22 into the water, right?

23 A. Correct.

24 Q. They all told you that the injuries that were
25 suffered on the river only occurred after Mr. Miu was

1 attacked though, right?

2 A. I guess what do you -- what do you mean by that?

3 Q. Well, they told you that he was punched in the
4 face, right?

5 A. Okay.

6 Q. Yes?

7 A. Yes.

8 Q. They told you that he was -- some of them might
9 have told you that he was then hit multiple times,
10 correct?

11 A. Correct.

12 Q. Some of them told you that the group --

13 MR. ANDERSON: Judge, I'm going to object on
14 leading and also beyond the scope of cross.

15 THE COURT: Sustained on leading.

16 MR. CHIRAFISI: Sustained on the --

17 THE COURT: Leading.

18 Q. (By Mr. Chirafisi, continuing) Would you agree
19 that some people in the -- that you interviewed explained
20 to you what they observed happening to Mr. Miu after he
21 was punched?

22 A. Yes.

23 Q. Okay. And those descriptions included their
24 belief that he was being attacked, is that fair?

25 A. Yes.

1 Q. And you know that after that happened, what I
2 just said to you --

3 MR. ANDERSON: Objection. Leading again.

4 MR. CHIRAFISI: I'm not --

5 THE COURT: Let's get the question in first and
6 then make your objection.

7 Q. (By Mr. Chirafisi, continuing) You know through
8 your investigation and the interviews that you've
9 conducted after, sequentially, after these people told you
10 what they observed happening to Mr. Miu, that's when the
11 incident with the knife occurred, correct?

12 MR. ANDERSON: Objection. Leading.

13 MR. CHIRAFISI: Is that --

14 THE COURT: It is, but it's harmless in this
15 instance. Overruled.

16 Q. (By Mr. Chirafisi, continuing) Is that right?

17 A. That'd be accurate.

18 Q. Yeah. Okay.

19 MR. CHIRAFISI: That's all.

20 THE COURT: Mr. Anderson.

21 RE CROSS-EXAMINATION

22 BY MR. ANDERSON:

23 Q. Any of the interviews you were involved in
24 between -- or any of the interviews -- well, did you
25 interview anyone from the Carlsons' Group?

1 A. I do not believe so.

2 Q. The -- so you were involved with all the
3 interviews with the boys that were with Isaac?

4 A. Correct.

5 Q. And whether -- do you remember -- well, strike
6 that.

7 They're all consistent on the first time it
8 turned physical, was Nicolae striking the blonde girl,
9 whether it was a punch or a slap?

10 A. Yeah, I -- I recall, I believe it was Owen, that
11 said that he had observed a closed fist -- closed fist
12 punch.

13 Q. And then later he clarified he said he believed
14 that Nicolae punched her, right?

15 A. Correct.

16 MR. ANDERSON: Nothing else.

17 THE COURT: All right.

18 Thank you, investigator. You may step
19 down.

20 THE WITNESS: Thank you.

21 (Whereupon, the witness is excused.)

22 THE COURT: Is there another witness?

23 MR. NELSON: He's out in the hallway.

24 MR. ANDERSON: Can we approach, Judge?

25 THE COURT: Yes, you can.

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

2 (Whereupon, the witness enters the courtroom.)

3 THE COURT: Do you need a moment or are we ready
4 to go?

5 MR. CHIRAFISI: I'm ready to go if everyone else
6 is ready to go.

7 THE COURT: Mr. Anderson?

8 MR. ANDERSON: Yeah.

9 THE COURT: Okay.

10 Who is the next witness?

11 MR. CHIRAFISI: Roberto Baldazo.

12 THE COURT: Mr. Baldazo, please come forward.
13 Face the clerk, raise your right hand, she will administer
14 the oath.

15 ROBERTO BALDAZO,
16 after having been first duly sworn on oath by the clerk,
17 testifies and says as follows:

18 THE WITNESS: I do.

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

21 Mr. Chirafisi.

22 MR. CHIRAFISI: Thank you.

23 DIRECT EXAMINATION

24 BY MR. CHIRAFISI:

25 Q. Good afternoon, sir.

1 A. Good afternoon.

2 Q. Would you state your name and can you spell your
3 last name, please?

4 A. My -- my full name is Roberto Baldazo, and you
5 spell my last name b-a-l-d-a-z, as in zebra, o.

6 Q. Okay. And, Mr. Baldazo, you were on the Apple
7 River on July 30th of 2022, is that right?

8 A. Correct.

9 Q. Okay. And can you tell the ladies and gentlemen
10 of the jury who you were with?

11 A. I was with my wife, my three children, my cousin,
12 and a friend of mine and his wife.

13 Q. And had you been drinking that day?

14 A. Yes.

15 Q. Okay. Can you give us an idea of about how much
16 you had to drink?

17 A. Oh, I would say the total for the day was about
18 six beers.

19 Q. How would you describe your intoxication level
20 when you were witnessing what you were witnessing?

21 A. I was slightly buzzed. I mean, I -- I was still
22 able to walk and talk and such.

23 Q. Okay. If you -- if you said to the -- and I
24 don't want to put words in your mouth. If you said to the
25 police that you were drunk, would that be fair or not?

1 A. No, not -- not really fair. I wasn't drunk. I
2 was definitely drinking.

3 Q. Okay. And so you, your family, your friends are
4 just kind of having a lazy day on the river, is that --

5 A. Correct.

6 Q. -- would that be reasonable?

7 A. Correct.

8 Q. Okay. And does there come a point when you're on
9 the river that you -- that something draws your attention?

10 A. Yeah. We were floating along and we had been
11 stopping along the ways just kind of meeting people and
12 kind of conversing with other groups. We had just left
13 the little bar. There's a little bar that you kind of
14 climb up the hill and you can get -- order drinks and
15 whatnot. They -- you needed to have cash and we didn't
16 have cash on us so we just left.

17 We started to take off from there and I
18 noticed -- I didn't have my glasses on but it looked to me
19 like people were dancing, kind of partying, and so I told
20 the group, I said, hey, I think there's people dancing
21 over there, let's go check it out.

22 So as we started floating up I started
23 noticing that it -- it looked a little bit more than
24 dancing. I wasn't sure because I -- I could only see,
25 like, their shadows, their outlines, because it was so far

1 away.

2 As I started to veer off to the right of
3 the river and then immediately my wife jumps off and takes
4 off towards the bank, and that's when I took off and
5 followed her.

6 Q. Okay. I'm gonna just back it up for a minute,
7 okay?

8 A. Okay.

9 Q. Now, to be fair, I think your interview with the
10 police, there was questions about your ability to see --

11 A. Um-hum.

12 Q. -- based upon whether or not you were wearing any
13 type of corrective lenses or anything, is that fair?

14 A. Correct. I actually made that a -- a point right
15 from the beginning.

16 Q. All right. And how -- without glasses -- because
17 you said you weren't wearing them, right?

18 A. Correct.

19 Q. -- how would you describe your eyesight?

20 A. I mean, it's fair. I can see well enough to
21 drive, I just can't see details that far away.

22 Q. Okay. You can -- is it fair to say you -- I
23 think I -- if I heard you correctly, you can see shapes
24 and outlines?

25 A. Correct. A little bit more than just that

1 though. I mean, I can -- I can see what's -- you know, I
2 can see that far away, I just can't see in detail, if you
3 will. It's not crisp, it's fuzzy.

4 Q. And when you see the people that you believe
5 initially might be dancing --

6 A. Um-hum.

7 Q. -- about how far away from them are you? Best
8 guess.

9 A. I would say approximately about 60 yards or so.

10 Q. Okay. And can I ask you in terms of -- I want to
11 try to put this together. 60 yards away, no glasses, how
12 would you describe your ability to kind of see that based
13 on the distance and the no glasses? How does that --

14 A. I mean, I can't see detail from that far away but
15 I can definitely see people.

16 Q. Okay. Do you -- do you hear what's happening?

17 A. No. It's loud.

18 Q. Okay. So you don't -- you can't hear anything in
19 particular coming from that group, is that a fair
20 statement?

21 A. No, all I could hear is water rushing.

22 Q. And if I -- if I heard you right, you said that
23 at some point you believed it didn't look like they were
24 dancing, it looked like there was more going on?

25 A. Yeah. A little bit. I mean, I -- I couldn't

1 quite put my finger on it, but it looked odd after a
2 minute because it was a lot of, you know, kind of
3 crouching down. Some people were kind of crouching down.

4 Q. Can I ask you about how long do you think this
5 was going on in terms of what you initially believed might
6 have been dancing and then you believed was something
7 else?

8 A. So I would -- I -- definitely under a minute, if
9 I understand the question correctly.

10 Q. Yep. All right. And then you -- if I heard you
11 right, you said that your wife got up and took off?

12 A. She did. At that point we did kind of notice
13 that there was some people laying on the -- on the bank,
14 and so at first she had said I think somebody was impaled
15 by a tree, and so as she was kind of saying that she was
16 leaping off of her tube to take off running. That's when
17 I took off after her.

18 Q. Okay. So although you can't hear necessarily
19 what's going on, you heard what your wife said?

20 A. Correct. She was right next to me. Elbows
21 touching.

22 Q. And about how far away from the groups that you
23 said you saw, like, laying there, about how far away from
24 them are you?

25 A. Ew, somewhere, I would say, in the proximity of

1 maybe 40 feet at that point, maybe fif -- maybe 50.

2 Q. And is your wife ahead of you in this --

3 A. Yes. I was pursuing her, yes.

4 Q. Seeing what you're seeing --

5 A. Um-hum.

6 Q. -- that day, did that cause you some concern for
7 either your physical safety or your wife's physical
8 safety?

9 A. At -- at first, yes, my wife, because we had no
10 idea what she was rushing into. Or I didn't.

11 Q. And as a result of your concern for her physical
12 safety, what did you do?

13 A. Took off running after her.

14 Q. Okay. What else did you do?

15 A. Tripped over a rock. I had my knife on the
16 inside of my waistband, my swim trucks --

17 Q. Okay.

18 A. -- and when I came up it was -- the water was
19 about knee high, there was a huge set of rocks there. So
20 my right leg kind of got stuck on the rock, my left
21 tripped or slipped, and I went forward, and I felt the
22 butt end of my knives -- knife kind of jab me in the
23 stomach so I reached down and I did something, but I kept
24 running towards my wife.

25 Q. Do you -- did you pull your knife out?

1 A. I don't know. I don't remember.

2 Q. Do you remember telling the police that you
3 pulled out your knife, you just don't remember if you
4 opened the blade or not?

5 A. Right. Because it had jabbed me, so I don't know
6 if I pulled it out, and the reason for my confusion is
7 when my wife asked -- so my wife was asking for a chest
8 seal. I was -- I was -- I'm pushing up the -- the -- the
9 narrative here a bit. She was asking for a chest seal, so
10 later on I kind of don't remember if I had pulled out my
11 knife and kept it out when I tripped, but I remember my
12 wife asking for a chest seal so I turned back to my
13 daughter, Aubrie, and she ran back to our tubes and got me
14 a sandwich baggy, and I don't remember if I cut the baggy
15 to make it a lengthier, because it was folded over, but I
16 don't remember cutting the bag. I remember seeing the bag
17 cut open perfectly square to make it longer to cover the
18 hole in Isaac's chest.

19 Q. Do you remember that when your wife took off
20 running, that you had said to the police that you were
21 attempting to kind of make a threat assessment at that
22 point as to what was happening?

23 A. Correct. I tried to scan the area to see what
24 was going on. Because I noticed there was -- sorry. I
25 noticed there was somebody else that was hurt on this

1 side, so it led me to believe that it could possibly be
2 something like that so I was kind of just scanning, making
3 kind of a threat assessment. I didn't really see much so
4 I started focusing on my wife.

5 Q. And based on that threat assessment, you informed
6 the police that you pulled your knife?

7 A. I don't recall that exactly.

8 Q. Okay. If it says that you pulled your knife
9 after doing a threat assessment, would you disagree with
10 that?

11 A. I -- I think maybe that's taken out of context
12 because I didn't feel threatened at any point, nor did I
13 pull out the knife in a thought of needing of defending
14 myself or anything like that.

15 Q. So when you would say to the police, I was
16 looking into the crowd because right away my thought
17 process, threat assessment, where is the threat? Who is
18 doing what? Let me get a -- let me get a good, ah, you
19 know, summary of what's going on here. But then my wife's
20 already en route, so I jump off the tube, take off
21 running, I see what appears to be someone doing this, and
22 then you make a motion --

23 A. Um-hum.

24 Q. -- okay?

25 Then your responding to -- and so I pulled

1 out my knife, but I don't remember if I opened the blade
2 or if I just pulled it from my trunks. Do you remember
3 that statement?

4 A. It -- it sounds like something I would say for
5 sure.

6 Q. Okay. And I think you said to the police --
7 well, let me ask you this: Did you ultimately keep your
8 knife or was it lost?

9 A. It was lost. I don't know what happened to it.

10 Q. And it was lost in the -- presumably in the
11 river?

12 A. I would assume so, yes.

13 Q. Okay. And do you know what's happening?
14 Meaning, are you able to see what's happening at that
15 point?

16 A. Well, yeah, I was focused on my wife. I noticed
17 the -- Isaac's body laying there. That's where most of my
18 focus was at.

19 Q. And did you notice -- I think you had made
20 mention to the police that you ultimately noticed the
21 individual that you thought was responsible for this,
22 right?

23 A. No, I never said that. And maybe something I
24 said was taken out of context, but I can't see that far.

25 Q. Okay.

1 A. I saw an individual run to the top of the hill --

2 Q. Yep.

3 A. -- make eye contact with me, take off running,
4 but I couldn't tell you who that person was.

5 Q. Okay. So you don't have any reason to know
6 whether or not that person was involved?

7 A. No.

8 Q. Okay. And I know that you assisted and
9 participated in -- with your wife in trying to tend to and
10 take care of Isaac, is that right?

11 A. Correct.

12 Q. Okay. And does there come another -- a point
13 after that happened where you come across something in the
14 river that you think might be relevant?

15 A. Yes. I saw the snorkel.

16 Q. Okay.

17 A. Which I didn't know what relevance it played at
18 the time. I just had picked it up, and there was actually
19 a police officer standing with me, we were conversing,
20 when I reached down and grabbed it.

21 Q. Okay.

22 A. Then another gentleman ran up and was kind of
23 screaming, that's the -- that's the -- the snorkel.
24 That's the snorkel. I didn't know what so I just handed
25 it to the officer.

1 Q. Was it one person or a bunch of people that came
2 over to you?

3 A. With the snorkel you mean?

4 Q. Yes, sir.

5 A. I can only remember one man.

6 Q. Okay. And if you told the police that it was a
7 bunch of guys and they started coming at you, filming you,
8 and I'm using your words, talking shit to you, do you
9 remember that?

10 A. No, not at all.

11 Q. Okay. It's on your recorded statement.

12 MR. ANDERSON: Objection, Judge. He's
13 testifying.

14 THE COURT: Sustained.

15 Q. (By Mr. Chirafisi, continuing) Are you aware
16 that you provided a statement providing the information
17 I've just told you?

18 A. Yes.

19 Q. Okay.

20 A. Yes, I actually do remember the gentleman coming
21 at me. He was pretty animated. He was heated. I know
22 exactly what you're talking about, and I just told the
23 guy, I said, hey, look, I don't know anything about the
24 snorkel, I just picked up the snorkel. I said, officer,
25 would you like to take the snorkel?

1 Q. Okay. And I guess I just want to clarify. Is it
2 one person or more than one person?

3 A. I only remember the one guy, how was engaging me.
4 There were multiple people around but the one individual
5 was actually engaging me verbally.

6 Q. Okay. And was his verbal engagement making you
7 nervous?

8 A. No. I wasn't nervous, the police officer was
9 standing right next to me.

10 Q. Okay. So did you believe they were gonna -- that
11 person was going to attack you?

12 A. No.

13 Q. Okay. If you told the police that you believe
14 that?

15 A. I told them that he was heated and elevated.

16 Q. You said it was like they were gonna come and
17 attack me. I'm like, I don't know what the hell is going
18 on. I looked at the officer and just threw the effing
19 snorkel at him. Right?

20 A. I don't remember using those words.

21 Q. Is it -- I want to make sure I understand this.
22 Is it -- well, I don't want to put words in your mouth
23 either. Did you or did you not see specifics of what
24 happened with Mr. Miu and any of the people on the river?

25 A. No.

1 Q. Okay. And that was because you didn't have
2 your -- was it because you didn't have your glasses on?

3 A. I think it was a combination of the distance, I
4 didn't have my glasses on. I mean, we were -- we pretty
5 much arrived after the fact.

6 MR. CHIRAFISI: Appreciate your time, sir. Thank
7 you.

8 THE COURT: Mr. Anderson.

9 CROSS-EXAMINATION

10 BY MR. ANDERSON:

11 Q. So if I'm understanding you right, you don't
12 remember when your knife got lost?

13 A. I don't. It -- it has to be between -- sometime
14 between when I left the tube, pursuing Andrea, or my wife,
15 to the shoreline. Somewhere in there. It has to be
16 somewhere in there.

17 Q. Did you -- you talked about cutting the Ziploc
18 bag. So could it have been after you got to the shore
19 accident?

20 A. I don't remember doing -- cutting the bag, but I
21 remember the bag being cut.

22 Q. Okay.

23 A. I -- I played that in my head, I just can't
24 connect the two.

25 MR. ANDERSON: May I approach?

1 THE COURT: Yes.

2 MR. ANDERSON: For the record, Judge, I'm just
3 going to show him a screen grab from Officer Farrell's
4 body cam at 15 minutes 27 seconds.

5 Q. (By Mr. Anderson, continuing) And are you
6 assisting CPR on Isaac?

7 A. Yes.

8 Q. It looks like you have your pocket knife in
9 your --

10 A. Yes.

11 Q. -- in the back of your shorts?

12 A. Yes. Let me just --

13 Q. Oh, yeah.

14 A. Yeah, that looks like it.

15 Q. Okay. And it looks like it's on your -- like
16 your -- your backside of your hip?

17 A. Yes.

18 Q. And you testified you didn't remember if you --
19 when it jabbed you, when you tripped on the rock, you
20 didn't remember if you took it out or just slid it over?

21 A. Correct.

22 Q. You agree it looks like you slid it over to your
23 back so it wouldn't jab you?

24 A. Correct. That makes sense.

25 Q. So was the -- the rest of your group was over by

1 the sandbar, right, if you remember?

2 A. Roughly.

3 Q. Kind of --

4 A. On the other side of the river.

5 Q. Yeah. Kind of after you came around the bend?

6 A. Correct.

7 Q. And were there other tubers there?

8 A. Yes.

9 Q. And were people -- was -- was there a lot of
10 commotion going on?

11 A. Yes.

12 Q. And people didn't know where the guy with the
13 knife went, the stabber?

14 A. Correct.

15 Q. If you know.

16 A. That -- well, that's -- no one specifically told
17 me that, I just kept hearing people say, Where did he go?
18 Where did he go?

19 Q. Okay. And when you left to go aid Isaac, did you
20 leave from that sandbar area?

21 A. Can you repeat that sir, please?

22 Q. When you left, like, from your group to follow
23 your wife, was that from the sandbar area?

24 A. Poss -- I can't remember where exactly we were on
25 the river in regard to that sandbar. I can't -- I can't

1 remember if we were before or after it.

2 Q. Okay.

3 A. But I know we were around it.

4 Q. Did your group stop there and wait, is that why
5 they were there, waiting for you and Andrea, if -- if you
6 know?

7 A. Correct.

8 Q. Okay. So you might have went straight to Isaac
9 after coming around the bend?

10 A. Correct.

11 Q. Okay. Was Isaac already on the shore when you --

12 A. Yes. Yep.

13 Q. Okay.

14 MR. ANDERSON: Nothing else.

15 THE COURT: Mr. Chirafisi.

16 REDIRECT EXAMINATION

17 BY MR. CHIRAFISI:

18 Q. Sir, if you didn't -- if you didn't pull the
19 knife, how did you lose the knife?

20 A. I have no idea. Like I said, we -- we had to
21 make a chest seal. I may -- actually, I don't remember,
22 but I may have used the knife to cut the bag open to
23 get -- to make it longer because the -- the -- the gash
24 was significantly wide and long.

25 MR. CHIRAFISI: That's all.

1 THE COURT: Mr. Anderson?

2 RECROSS-EXAMINATION

3 BY MR. ANDERSON:

4 Q. Your -- you describe that -- your knife you lost
5 to law enforcement, right?

6 A. Correct.

7 Q. And you're aware that they located one that
8 matches the description?

9 A. I would -- I assumed to. No one actually said
10 they found it, but I assumed they did.

11 Q. Oh, okay. Well, what kind of knife was it?

12 A. It was a -- a knife called -- it's -- it's made
13 by a company called TacticalGearz.

14 Q. With a Z?

15 A. Correct.

16 MR. ANDERSON: Nothing else.

17 THE COURT: Thank you, Mr. Baldazo. You may step
18 down.

19 THE WITNESS: Thank you, sir.

20 THE COURT: You are excused.

21 (Whereupon, the witness is excused.)

22 MR. NELSON: Judge, we have one more witness, but
23 if I could take a brief bathroom break before we call that
24 witness?

25 THE COURT: Sure. Let's come back at

1 two o'clock.

2 (Whereupon, the jury exits the courtroom.)

3 THE COURT: Before we break, Mr. Nelson, did you
4 want to make a record about the sidebar concerning the
5 testimony?

6 MR. NELSON: Yes. If you give me 30 seconds here
7 to properly prepare the cite.

8 Yes, Judge, we had a -- during the
9 cross-examination of Mr. de la Cruz, I wanted to bring up
10 the fact that during -- whoops, wrong page. -- Ariel's
11 recorded interview, which I believe has been marked and
12 the transcript, which has been marked, during that
13 recorded interview from August 2nd, that Ariel had said to
14 Mr. de la Cruz, The man was a quiet person. Question: It
15 sounds like all day he was calm too, huh? You mean, the
16 man, Nic, is he a calm person or does he get ang -- angry
17 a lot? Question. Answer: No.

18 And lastly, Mr. de la Cruz statement, Nic's
19 always really mellow and cool, really mellow, calm, and
20 this was a surprise, to which Ariel said, I don't know,
21 man, it all happened too fast. It was too fast.

22 I wanted to bring that up as a prior
23 statement of the witness under 908.01(4) (a)(2) because
24 those statements are consistent with the declarant,
25 Ariel's, testimony and is offered to rebut and implied

1 charge against the declarant, Ariel, that he was
2 fabricating or had an improper influence.

3 I understand that may not have been
4 impeached or there was not an expressed or implied charge
5 that he fabricated his thoughts on Mr. Miu's character,
6 but they're attacking his credibility in general. And so
7 I imagine, I expect the State's going to say how do we
8 really know Mr. Miu had such a character? The only people
9 that they called are people who we've impeached.

10 And so for those reasons I think it was
11 relevant and it's admissible because of their implied
12 charge against Ariel of recent fabrication or improper
13 influence or motive.

14 THE COURT: Mr. Anderson.

15 MR. ANDERSON: Under 904.04 the permissible
16 character evidence that's allowed is what's already been
17 admitted. Are you aware of the reputation? Do they have
18 a reputation for peacefulness? That's been admitted. The
19 State has not even cross-examined anyone on that, never
20 suggested. They're just saying that because he's on
21 trial. So to then go beyond that is exceeding what's
22 allow -- allowed under 904.04, and I --

23 As Attorney Nelson acknowledged, under
24 908.01(4)(a)(2), it's only to rebut an expressed or
25 implied charge against recent fabrication, which we didn't

1 do, on that statement. It's in and of inadmissible. We
2 didn't accuse him of lying about it so --

3 MR. NELSON: Just briefly. I don't agree with
4 his assessment of my argument, but I think Your Honor
5 understands my argument so --

6 THE COURT: The record's been preserved. I -- I
7 ruled it as inadmissible. Although the State used
8 Detective de la Cruz to impeach Mr. Chaguez's credibility,
9 it did not mean that everything is admissible. The
10 Defense may use prior consistent statements to
11 rehabilitate the credibility of a witness, but the Defense
12 is not allowed to use inadmissible character evidence to
13 do so.

14 I had previously ruled I believe on Friday
15 that testimony about expansive use of Mr. Miu's demeanor,
16 his personality, his character traits on days other than
17 July 30, 2022, are inadmissible other than the pertinent
18 character trait of being peaceful. That was the sole
19 character trait that I allowed to come in, and any other
20 descriptions about Mr. Miu's character was inadmissible.

21 I did carve out a small exception because I
22 thought it was relevant to addressing his demeanor on the
23 day in question or at the time of the incident, but the
24 questions that Mr. Nelson was eliciting from the witness
25 went far beyond that exception, so that's why I ruled the

1 way I did.

2 All right. We'll take a short break, come
3 back at two o'clock.

4 MR. NELSON: And then our -- just so you know,
5 maybe have 20, 30 minutes, and that's our only witness
6 left for day. So I imagine we're taking a break then to
7 come back tomorrow, is that what it sounds like the plan
8 is?

9 THE COURT: Unless there's more witnesses or
10 videos or something that we can do productively.

11 MR. ANDERSON: We -- we have a little bit to talk
12 about, exhibits, so we can do that.

13 THE COURT: Okay. All right. Two o'clock,
14 everyone.

15 (Whereupon, a break was held.)

16 (Whereupon, the jury enters the courtroom.)

17 THE COURT: We are back on the record with the
18 attorneys, Mr. Miu, and 14 jurors present. We continue to
19 take witnesses out of order.

20 Mr. Nelson.

21 MR. NELSON: Thank you. Defense called Amanda
22 Torres.

23 THE COURT: Okay. Ms. Torres, would you please
24 come forward, face the clerk, raise your right hand.

25 AMANDA TORRES,

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

3 THE WITNESS: Yes.

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

6 Mr. Nelson.

7 DIRECT EXAMINATION

8 BY MR. NELSON:

9 Q. You're Amanda Torres?

10 A. Yes.

11 Q. Is your husband Ernesto?

12 A. Yes.

13 Q. You know this man here to my right?

14 A. Yes.

15 Q. Who's that?

16 A. That's Nic Miu.

17 Q. And how do you know Nic?

18 A. I've known him for almost 20 years.

19 Q. How did you get to know him through those
20 20 years?

21 A. Work.

22 Q. Did you ever socialize him -- socialize with him
23 outside of work?

24 A. Yes. Probably the past five, six, seven years.

25 Q. Okay. You've been to his house?

1 A. Yep.

2 Q. He's been to your house?

3 A. (Non-verbal response.)

4 Q. You just need to say yes or no --

5 A. Yes.

6 Q. -- verbally or -- as opposed to shaking your or
7 nodding your head?

8 A. (Non-verbal response.)

9 Q. Does that make sense?

10 A. (Non-verbal response.)

11 Q. (Non-verbal response.)

12 A. Yes.

13 Q. Okay. I want to ask you some questions about Mr.
14 Miu's character, okay. Do you think -- do you feel like
15 you know his character?

16 A. Yes.

17 Q. Does he have a character for peacefulness?

18 A. Yes. Yeah.

19 Q. I want to now switch a little bit and ask you in
20 general about July 30th of 2022, okay?

21 A. Okay.

22 Q. Were you on the river that day with your husband
23 and Nic and Nic's wife?

24 A. Yes.

25 Q. And other friends?

1 A. Yep. Yes.

2 Q. During that time, did you see people within your
3 group drinking alcohol?

4 A. They had a few.

5 Q. Did you observe anyone that was intoxicated?

6 A. No.

7 Q. Did you have any concerns about anybody's level
8 of intoxication?

9 A. No.

10 Q. How about Nic in particular?

11 A. No.

12 Q. I want to ask you about a knife, okay?

13 A. Yes.

14 Q. Had you seen Nic carry a pocketknife before?

15 A. Yes.

16 Q. Have you seen him use that pocketknife before?

17 A. Yes.

18 Q. How -- can you just describe in what context or
19 where you've seen him use that pocketknife?

20 A. He's -- he always seems to have one. Like at our
21 house with the pool, help setting up the pool and things
22 like that, and -- that's about all I really seen.

23 Q. Have you seen him use it as a tool to fix things?

24 A. Yeah. Yes.

25 Q. You seen him use it as a -- a sharp item to cut

1 rope or other matters?

2 A. Yes.

3 Q. Okay. On that day did you see Nic with a knife?

4 A. I believe I did, but at the beginning.

5 Q. On that day did you see Nic use a knife to cut
6 some rope?

7 A. Yes. I think I did, yes.

8 Q. Okay. At some point on that day did you see --
9 did you become aware that someone in your group had lost a
10 phone?

11 A. Yes.

12 Q. Whose phone was lost?

13 A. Ariel.

14 Q. Up until that point, can you just describe Mr.
15 Miu's demeanor, your observations of that -- him that day?

16 A. He was happy. Everybody was relaxed, he was
17 relaxed. Just having a good time, just relaxing on the
18 river.

19 Q. Same character you've seen of the 20 years over
20 -- that you've known him?

21 A. Yes.

22 Q. When Ariel lost his phone, did you see -- I don't
23 want to know the contents, but was there discussion about
24 what to do?

25 A. I didn't really hear much of that conversation,

1 just -- I just knew that he lost it and Nic said I'll go
2 find it. I can go find it. I know Ariel said don't worry
3 about it.

4 Q. Okay. Did you see Nic leave to -- in what you
5 thought was him going to look for the phone?

6 A. Yes.

7 Q. At the time that he left, what was he wearing?

8 A. What was he wearing?

9 Q. What's that?

10 A. Shorts.

11 Q. Had you seen him wearing other items earlier in
12 the day?

13 A. A shirt and a hat, I think.

14 Q. Had you seen him snorkeling earlier in the --

15 A. Yes.

16 Q. -- day?

17 When you saw him snorkeling earlier in the
18 day, did he wear his hat and sunglasses?

19 A. No.

20 Q. Did he wear his shirt?

21 A. No. He put it back on when he came back.

22 Q. We'll get to that in a second.

23 A. Okay.

24 Q. When you saw him leave to go look for the phone,
25 did he have his snorkel and goggle with him?

1 A. I didn't notice that.

2 Q. My understanding is, just to cut to the chase
3 here, that you didn't observe anything going down --
4 happening downriver between Nic and any other group of
5 people?

6 A. No.

7 Q. Do you agree?

8 A. Yes.

9 Q. The first you learned about it is you heard
10 somebody say something, right?

11 A. Yes.

12 Q. What did you hear?

13 A. Sandi said Nic's in trouble. Nic's in trouble.
14 Go help him.

15 Q. And when you heard that, did you see people in
16 your group leave?

17 A. I think it was Ernesto and Ariel. I think that
18 was the only two people I saw.

19 Q. Once you heard that, though, you still weren't
20 able to -- for whatever reason, you either didn't look or
21 you couldn't see what was going on down there?

22 A. I couldn't from where I was sitting, and the
23 tubes were -- whoops, sorry -- in front of me and I
24 couldn't really see over it. I had to get up --

25 Q. Okay.

1 A. -- like stand up.

2 Q. And I see you're wearing glasses today?

3 A. Yeah.

4 Q. Were you wearing glasses when you were going
5 down --

6 A. Sunglasses.

7 Q. Okay. Prescription sunglasses?

8 A. Yes.

9 Q. Okay. So your vision wasn't impaired from lack
10 of glasses?

11 A. No.

12 Q. It was more just your positioning, where you were
13 at?

14 A. Yes.

15 Q. And I understand at some point after this you saw
16 Nic come back to your group, is that right?

17 A. Yeah, I didn't see him walk up, I just was
18 standing just watching the crowd, and then he disappeared
19 on my right side.

20 Q. Okay. And now I'm going to ask you some
21 questions but I don't want the content of the words, okay.
22 So I don't want -- I'm going to ask you about did you --
23 did Nic -- did you ask Nic what happened?

24 A. I looked at him and I said, What happened?

25 Q. Just did you ask Nic what happened: Yes or no?

1 A. Yes.

2 Q. And did -- you can't tell me the words, but did
3 Nic tell you an answer to that question?

4 A. Yes.

5 Q. He gave you an answer?

6 A. Yeah, a few words.

7 Q. Okay. Now I want to ask you about what you saw
8 of him, okay. When you were having that conversation with
9 him you're standing right in front of him?

10 A. (Non-verbal response.)

11 Q. Again, you just need to give a verbal answer,
12 ma'am.

13 A. Yes.

14 Q. Okay. And when you -- you've seen him for
15 20 years, right?

16 A. Yes.

17 Q. In that time, I think you spoke with the police
18 before, but when you're sitting there on the river or
19 standing there on the river talking to him, how did he
20 appear?

21 A. Well, in shock.

22 Q. What's that?

23 A. In shock.

24 Q. And --

25 A. Just stunned and, like, frozen.

1 Q. Okay. Had you seen him in that state before?

2 A. No.

3 Q. All right. I think you previously used words
4 like ghostly white or pale?

5 A. Yes.

6 Q. Would those accurately describe what you saw him
7 that day?

8 A. Yeah. Yes.

9 Q. I think you had said he had a -- a ghost look on
10 his face?

11 A. Yes.

12 Q. Is that what you saw?

13 A. Yes.

14 Q. And you concluded, based upon your knowing him
15 for as long as you had, that he appeared to be in shock?

16 A. Yes.

17 Q. Not like shock as in surprised but shock like as
18 in a physiological/psychological condition?

19 A. Yeah. Yes.

20 Q. Obviously not from a medical term but just a
21 colloquial person term, right?

22 A. Yes.

23 MR. ANDERSON: Judge, I'm going to --

24 MR. NELSON: That's all.

25 MR. ANDERSON: Okay.

1 MR. NELSON: Thank you.

2 THE COURT: Mr. Anderson, any questions?

3 MR. ANDERSON: Yes.

4 CROSS-EXAMINATION

5 BY MR. ANDERSON:

6 Q. So you told law enforcement Nic wasn't drinking
7 much that day, right?

8 A. No.

9 Q. No, you didn't him that -- say that or, yes, you
10 did say that?

11 A. I believe I said that.

12 Q. Yeah. You said he was dumping out his beers and
13 putting water in them?

14 A. Oh, he does that, like, when we have
15 get-togethers at the house.

16 Q. Okay. He wasn't on that day?

17 A. No. Not that I know.

18 Q. So as far as you know, there's no reason Nic
19 would say I was drinking a lot?

20 A. No.

21 Q. So you -- did you have -- did you see injured
22 people?

23 A. I did not. I saw the young boy on the side. I
24 didn't know what his injuries were.

25 Q. You saw he was getting CPR?

1 A. Yes.

2 Q. And did you see someone else on the shore
3 getting -- being aided?

4 A. No.

5 Q. You didn't hear anyone crying for help or
6 anything like that?

7 A. I did not. It was really loud. It was screaming
8 and people running but, no, I didn't see anybody else
9 injured.

10 Q. Do you speak Spanish?

11 A. No.

12 Q. So Nicolae was in shock and you determined that
13 because his face was pale and, what, not speaking?

14 A. Yeah, he just said a very brief -- few words and
15 just stood there just kind of like in shock.

16 Q. Okay.

17 MR. ANDERSON: Can I get a couple exhibits?
18 Seven and 63.

19 Q. (By Mr. Anderson, continuing) Was he stiff or
20 rigid or -- like his body?

21 A. I'd say kind of stiff.

22 Q. He wasn't like relaxed at all or anything?

23 A. No.

24 Q. I'm going to show you a video and I'll ask you
25 some questions about it. This is Exhibit 60 -- or no.

1 So was he like that the whole time you were
2 with him until he was taken into custody?

3 A. Yes.

4 Q. So stiff, rigid, not talking, white face.
5 Anything else?

6 A. No.

7 Q. Okay. This is Exhibit 85.

8 MR. ANDERSON: It's spinning. I apologize,
9 Judge.

10 All right. Can we have the monitor,
11 please?

12 Something's wrong. Sorry. I'm going to
13 have Investigator Shilts do it.

14 Q. (By Mr. Anderson, continuing) All right. I want
15 you to pay attention to Nicolae in -- in this video and
16 I'm gonna ask you some questions.

17 (Whereupon, the video was played.)

18 MR. ANDERSON: Can you pause?

19 Q. (By Mr. Anderson, continuing) He looks pretty
20 nonchalant and relaxed in that video, agreed?

21 A. Yeah.

22 Q. And that was after you had left the incident
23 location, right?

24 A. Yes.

25 Q. He doesn't look stiff?

1 A. Not that I can see, no.

2 Q. He's --

3 A. I can't see his face.

4 Q. He's leaning back in his tube and paddling along
5 with his hands?

6 A. Um-hum. Yes.

7 Q. I'm going to show you another video. And so
8 you -- you known him a long time, you said you could
9 recognize that he was in shock, so I want to ask you about
10 this video. This is the 23-second body cam of Sheriff
11 Knudson.

12 MR. ANDERSON: I think we're ready.

13 (Whereupon, the video was played.)

14 Q. (By Mr. Anderson, continuing) Agreed he doesn't
15 look pale or ghostly white there?

16 A. No.

17 Q. He doesn't sound distressed, agreed?

18 A. He sounds a little distressed.

19 Q. He does?

20 A. I think so.

21 Q. Okay. Why? What -- what about it sounds
22 distressed?

23 A. Just the way he's talking and he's not -- he's
24 more energetic, more -- not just kind of sitting there.

25 Q. It could also be because he's nervous because of

1 what just happened and --

2 A. Yes.

3 Q. Okay. And do you know if his -- if you -- you
4 don't know if him being quiet was because he was afraid he
5 was gonna get arrested or because he was in shock, right?

6 A. Yeah.

7 Q. You do know?

8 A. No, I don't know. Say that again.

9 Q. You don't know if he was quiet and different on
10 how he normally is because he thought he was gonna get
11 arrested or because he was in shock?

12 A. I think in shock.

13 Q. You think, but you don't know, right?

14 A. Well, no, I don't know.

15 MR. ANDERSON: Nothing else.

16 THE COURT: Mr. Nelson.

17 REDIRECT EXAMINATION

18 BY MR. NELSON:

19 Q. You came here to tell the jury about your
20 observations of a man you know, correct?

21 A. Yes.

22 Q. And the observations that you told the jury, were
23 those accurate?

24 A. Yes.

25 Q. Is that what you saw?

1 A. Yes.

2 Q. Then you were asked some questions about a video.
3 Was that at a different time than what you've told the
4 jury about what you saw?

5 A. The video I just saw?

6 Q. Yeah. You -- you -- I think there was three
7 moments in time you were asked about. I asked you about
8 what did Mr. Miu look like right when he came back to the
9 tube, agreed?

10 A. Yes.

11 Q. And then you were asked -- showed a video about
12 another moment in time that's later, agreed?

13 A. Later, yeah.

14 Q. You agree that's about an hour later?

15 A. Yeah.

16 MR. ANDERSON: Objection. Judge, these are all
17 leading. This is his witness.

18 THE COURT: Sustained.

19 Q. (By Mr. Nelson, continuing) Do you know what
20 time that video was taken in relation to when you made
21 your observations of him in shock?

22 A. The second.

23 Q. The video where he was sitting in the tube, do
24 you know when that was in time in relation to when you saw
25 him with a white face and pale?

1 A. Oh, I -- maybe 20 minutes. I'm just guessing.

2 Q. Okay. Did you -- when he came back to the tubes,
3 did the group wait at the tubes or did they leave right
4 away?

5 A. No, we waited.

6 Q. Do you know how long the group waited?

7 A. It seemed like a very long time. It was probably
8 maybe 20, 25 minutes.

9 Q. Okay. And do you know when that video was taken,
10 right away when you guys started going back down or was it
11 near the exit or was it some other time? Do you know when
12 that video is?

13 A. I think towards the exit.

14 Q. Okay. Do you know how long the trip was from
15 when you left the sandbar after the 20, 25 minutes that
16 you stayed there until you got to the exit?

17 A. Is it like 45 minutes, I think.

18 Q. Okay. So would you -- I'm just trying to get us
19 to the math here. It sounds like it's about an hour after
20 when you had the conversation with him where you were
21 talking?

22 A. I think so, yes.

23 Q. Okay. In that video that we saw, were you able
24 to see his face?

25 A. No.

1 Q. Do you know what Mr. Miu was doing in that
2 60 minutes between the time that you described him as
3 shocked, stunned, rigid, until that time?

4 A. What he was doing? No.

5 Q. Do -- do you know if -- if, at all, his
6 appearance changed?

7 A. I don't know. I couldn't see his face.

8 Q. Do you know if it did change, when it changed?

9 A. No.

10 Q. Do you know if it did change, why it changed?

11 A. I don't know.

12 Q. You were then asked some questions about what
13 you -- this 23-second video. That's a different moment in
14 time, agreed?

15 A. Yes.

16 Q. And, I think, would you -- do you -- does that
17 happen after the video where you see him in the water or
18 before the video in the water?

19 A. Which video?

20 Q. There was a video of Mr. Miu in the back of the
21 squad car --

22 A. Okay.

23 Q. -- that was 23 seconds long.

24 A. Yes.

25 Q. Do you know, did that take place before he was in

1 the tube that we saw or after he was --

2 A. That was after.

3 Q. And in that video could you see his face?

4 A. Yes.

5 Q. When you saw his face there, did you, having
6 known this man, sink -- think that he looked like he was
7 in some sort of distress?

8 A. It looked to me, yes.

9 MR. NELSON: That's all.

10 THE COURT: Mr. Anderson.

11 RECROSS-EXAMINATION

12 BY MR. ANDERSON:

13 Q. The reason you waited 20 minutes is because Eric
14 Von Williams was helping with the people who were injured,
15 right?

16 A. I didn't know he went down there.

17 Q. And then when you eventually did leave, it was
18 because Nicolae said let's go, right?

19 A. He did not say let's go.

20 Q. He didn't?

21 A. I didn't hear it.

22 MR. ANDERSON: Nothing else.

23 THE COURT: All right.

24 Thank you, Ms. Torres.

25 THE WITNESS: All right.

1 THE COURT: You may step down.

2 THE WITNESS: Thank you.

3 (Whereupon, the witness is excused.)

4 THE COURT: Mr. Nelson, do you have any other
5 witnesses?

6 MR. NELSON: We do, but not for today. So we'd
7 just -- those are the only witnesses we had -- we were
8 able to call on short notice to get prepared for today.

9 THE COURT: Very good.

10 Anything else that we can do today, Mr.
11 Anderson?

12 MR. ANDERSON: Not in the presence of jury, no.
13 Just some exhibits I think we need to clean up.

14 THE COURT: All right. So we can do that after
15 we excuse the jury.

16 Members of the jury, the attorneys assure
17 me that we are ahead of schedule. We still are ahead of
18 schedule and expect to be so in the next couple of days,
19 so that's all good news despite the fact that we're going
20 to get an early recess today.

21 My reminders are the same as before: No
22 independent research, no investigation, do not speak to
23 anybody about this case, and do not watch any media
24 reports or social media accounts about this trial.

25 We'll see you back tomorrow morning,

1 8:00 a.m.

2 Please take the jury out.

3 (Whereupon, the jury exits the courtroom.)

4 THE COURT: All right. We are outside the
5 presence of the jury with the attorneys and Mr. Miu.

6 Mr. Anderson, is it correct that tomorrow
7 we'll hear from Dr. Froloff?

8 MR. ANDERSON: And Lieutenant Hart.

9 THE COURT: Okay. And that's the end of the
10 State's case?

11 MR. ANDERSON: Yes.

12 THE COURT: All right. And then we'll pick up
13 where we left off with the Defense witnesses.

14 You have some exhibits that you want to
15 address?

16 MR. ANDERSON: 86, the Trebian body cam, I don't
17 remember if it was moved or if it was admitted or not. It
18 was played for impeachment.

19 MR. NELSON: No objection to obviously the
20 portion that was played but only the portion that was
21 played.

22 MR. ANDERSON: I think it was 2:35 to 8:08.

23 MR. NELSON: Agreed.

24 THE COURT: All right. So the exhibit will be
25 received, the portions played only, for purposes of

1 impeachment.

2 MR. ANDERSON: And then Exhibit 19 was the lab
3 report. The Court reserved on it because we hadn't had
4 testimony on the buccal swabs.

5 THE COURT: Any objection?

6 MR. CHIRAFISI: Just one second, Judge.

7 THE COURT: Yes.

8 (Whereupon, a discussion was held off the record
9 between counsel.)

10 MR. NELSON: Judge, I'm not sure they established
11 the foundation. I think there was -- testimony from Ms.
12 Standaert was she didn't know who brought it, whether that
13 potential problem with chain of custody, we're objecting,
14 but that's the issue.

15 THE COURT: Mr. Anderson?

16 MR. ANDERSON: The -- the lab analyst testified
17 that based on the receipt it was dropped off in person by
18 Sally Standaert. There's no other Sally Standaert, as
19 testified to by Sally Standaert. She said she couldn't
20 remember if she brought them but she has in the past.

21 THE COURT: I think there was adequate foundation
22 for receipt of Exhibit 19. Any irregularities associated
23 with the investigator's lack of memory of the actual
24 transit I think are questions for the weight of the
25 evidence, not its admissible. So 19 is admitted.

1 Anything else?

2 MR. ANDERSON: Judge, and then I think we spoke
3 about this at the bench. Exhibit 40 has some -- the
4 current version has some personal information --

5 THE COURT: Yes.

6 MR. ANDERSON: -- contact information. This is a
7 redacted version just taking out that personal
8 information, so I just ask if we can -- and my
9 understanding there's no objection to replace the current
10 Exhibit 40 with this one.

11 MR. NELSON: Correct.

12 THE COURT: So we have Exhibit 40 in our custody
13 right now, correct?

14 MR. ANDERSON: Yes.

15 THE COURT: Just have the clerk verify that.

16 THE CLERK: Yes, sir.

17 THE COURT: Okay. What I'll do then is I'll
18 receive Exhibit 40 that we now have, it'll be received
19 under seal since it contains personal identifying
20 information that could be considered confidential. You'll
21 offer what I'll mark as 40A --

22 MR. ANDERSON: Okay.

23 THE COURT: -- which is the redacted version.

24 And you do not have an objection?

25 MR. NELSON: Agreed.

1 THE COURT: All right. So 40A is also received.
2 Exhibit 40, however, will be received under seal.

3 MR. ANDERSON: And then the other one I think --
4 the river map, the big one --

5 THE COURT: It was here this morning.

6 THE CLERK: This it?

7 MR. ANDERSON: Yes.

8 I think it's 89. 89.

9 THE COURT: Any objection?

10 MR. NELSON: No, Judge.

11 THE COURT: All right. 89 is received for
12 illustrative purposes.

13 MR. NELSON: That's --

14 MR. ANDERSON: That's all I can remember off the
15 top of my head.

16 (Whereupon, a discussion was held off the record
17 between counsel.)

18 MR. ANDERSON: Does -- can I ask the clerk if
19 there's any other ones that show discussed but not
20 admitted?

21 THE CLERK: Let's see here. Give me one minute
22 so I can look through.

23 THE COURT: And while she's doing that, Mr.
24 Chirafisi, Mr. Nelson, do you have any exhibits that need
25 to be addressed?

1 MR. NELSON: I don't.

2 MR. CHIRAFISI: I don't think so, Judge.

3 MR. NELSON: I don't believe so. I think 102
4 through 112 are the only ones offered and have all been
5 received.

6 THE COURT: Okay.

7 THE CLERK: The only thing I have is the tube
8 rental receipt, which I returned back to the State.

9 MR. ANDERSON: Yeah, we decided not to admit that
10 so --

11 THE CLERK: Okay.

12 MR. ANDERSON: -- I think we're good.

13 THE CLERK: Okay.

14 MR. SMESTAD: I do have one thing I guess to put
15 on the record, Judge. I talked to your clerk earlier.
16 When the SART nurse was testifying, somehow she ended up
17 with two copies of, I believe, the report. They both had
18 evi -- evidence stickers on them. One was a photocopy.
19 The one with the yellow sticker was missing pages. She
20 testified from the one that was the photocopy. That's
21 what the Court has.

22 THE COURT: Okay.

23 MR. SMESTAD: It has all the pages.

24 THE COURT: All right.

25 MR. NELSON: I think the -- I think the yellow

1 sticker one I put all the pages there. So they might not
2 be together because they weren't stapled, they were loose,
3 and so my hope is that they're somewhere in that pile of
4 papers that were on there. I'm happy to help look for
5 those.

6 MR. SMESTAD: I -- I didn't find them so I just
7 -- I just gave her the -- she kept the copy with all the
8 pages.

9 THE COURT: Okay.

10 THE CLERK: It appeared to be together because it
11 was stapled and the staple was not removed.

12 MR. SMESTAD: I have a copy.

13 MR. NELSON: So the -- the -- the original wasn't
14 stapled?

15 THE CLERK: The ones that had the Plaintiff
16 sticker on it that had the information wasn't stapled.

17 THE COURT: In any event, maybe when we're done
18 with court today the attorneys can just visit with the
19 clerk to make sure all the exhibits are where they're
20 supposed to be and intact.

21 Is there anything else?

22 MR. ANDERSON: I don't think so, Judge.

23 MR. SMESTAD: I don't think so, Judge.

24 THE COURT: Okay. We'll start again tomorrow
25 morning at 8:00 a.m. Since we're ending early and we're

1 going to recess, I would like to meet with the attorneys
2 so we can at least start talking about jury instructions.
3 Let's use our time wisely.

4 So meet with the clerk afterwards, take a
5 break, and then we'll come back in and just have the
6 informal discussion about the jury instructions.

7 MR. ANDERSON: What time do you want us back in?

8 THE COURT: 2:45.

9 We are -- court is recessed for the day,
10 however.

11 (The proceedings came to a close at this time.)

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C E R T I F I C A T E

I, **VANESSA M. MELSTROM**, Official Court Reporter
for the State of Wisconsin, St. Croix County, hereby
certify that the foregoing is a true and accurate
transcript of the proceedings herein all done to the best
of my skill and ability.

Dated at Hudson, Wisconsin, this 10th day
of March, 2026.

/s/ Vanessa M. Melstrom

Vanessa M. Melstrom, RMR, CRR

Official Court Reporter - Branch 4

St. Croix County Government Center