

IN THE DISTRICT COURT OF NATRONA COUNTY, WYOMING
SEVENTH JUDICIAL DISTRICT
CRIMINAL ACTION NO. 19548-B

THE STATE OF WYOMING,

Plaintiff,

vs.

JOHN HENRY KNOSPLER, JR.,

Defendant.

TRANSCRIPT OF JURY TRIAL PROCEEDINGS
VOLUME II of VII

Page 284 through Page 556

9:41 a.m., Tuesday
December 16, 2014

Proceedings before the **Honorable W. Thomas Sullins**, a Judge of the Seventh Judicial District of Wyoming, and a Jury of Twelve at the Natrona County Townsend Justice Center, Casper, Wyoming.

A P P E A R A N C E S

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ALSO PRESENT: The Defendant

INDEX

	<u>PAGE</u>
Voir Dire Examination by Mr. Blonigen	44
Voir Dire Examination by Mr. Low	94
Opening Statement by Mr. Blonigen	184
Opening Statement by Mr. Low	214

INDEX TO WITNESSES

<u>FOR THE STATE:</u>	<u>PAGE</u>
ZACK MILLER	
Direct Examination by Mr. Itzen	257
Cross-Examination by Mr. Low	264
Redirect Examination by Mr. Itzen	280
MARK DAIGLE	
Direct Examination by Mr. Itzen	311
Cross-Examination by Mr. Low	315
SEAN ELLIS	
Direct Examination by Mr. Itzen	317
Cross-Examination by Mr. Low	337
Redirect Examination by Mr. Itzen	385
Recross-Examination by Mr. Low	388
SONNY PILCHER	
Direct Examination by Mr. Blonigen	405
Cross-Examination by Mr. Low	417
Redirect Examination by Mr. Blonigen	460
Recross-Examination by Mr. Low	467
ASHLEE LOGAN	
Direct Examination by Mr. Itzen	475
Cross-Examination by Mr. Low	496
Redirect Examination by Mr. Itzen	551
AARON SHATTO	
Direct Examination by Mr. Blonigen	579
Cross-Examination by Mr. Low	625
Redirect Examination by Mr. Blonigen	671
Recross-Examination by Mr. Low	673
DR. JOHN CARVER	
Direct Examination by Mr. Blonigen	676
Cross-Examination by Mr. Low	712
Redirect Examination by Mr. Blonigen	732
Recross-Examination by Mr. Low	736

ERVIN ANDUJAR

Direct Examination by Mr. Itzen	744
Cross-Examination by Mr. Low	774
Redirect Examination by Mr. Itzen	812

WESTY GULL

Direct Examination by Mr. Itzen	816
Cross-Examination by Mr. Low	831
Redirect Examination by Mr. Itzen	844

AMBER HUDSON

Direct Examination by Mr. Itzen	882
Cross-Examination by Mr. Low	889
Redirect Examination by Mr. Itzen	890

JOHNNY TAYLOR

Direct Examination by Mr. Blonigen	892
------------------------------------	-----

FOR THE DEFENDANT:PAGE**DR. JUDY MELINEK**

Direct Examination by Mr. Low	915
Cross-Examination by Mr. Blonigen	937
Redirect Examination by Mr. Low	961
Recross-Examination by Mr. Blonigen	970

FOR THE STATE:PAGE**JOHNNY TAYLOR**

Direct Examination (Resumed) by Mr. Blonigen	979
Cross-Examination by Mr. Low	984
Redirect Examination by Mr. Blonigen	1000

CRYSTAL MIZE

Direct Examination by Mr. Itzen	1009
Cross-Examination by Mr. Low	1020
Redirect Examination by Mr. Itzen	1047
Recross-Examination by Mr. Low	1049

ELIZABETH TATTON

Direct Examination by Mr. Itzen	1051
Cross-Examination by Mr. Low	1056
Redirect Examination by Mr. Itzen	1065

KARA STERNER

Direct Examination by Mr. Itzen	1068
Cross-Examination by Mr. Low	1075

CHRIS SYVERSON

Direct Examination by Mr. Itzen	1080
Cross-Examination by Mr. Low	1089
Redirect Examination by Mr. Itzen	1096

JENNIFER CORMIER

Direct Examination by Mr. Itzen	1100
Cross-Examination by Mr. Low	1107

MITCHELL BAKER

Direct Examination by Mr. Blonigen	1109
Cross-Examination by Mr. Low	1149
Redirect Examination by Mr. Blonigen	1181
Recross-Examination by Mr. Low	1185

DAVID HULSHIZER

Direct Examination by Mr. Blonigen	1214
------------------------------------	------

JENNIFER MALONE

Direct Examination by Mr. Blonigen	1229
Cross-Examination by Mr. Low	1243
Redirect Examination by Mr. Blonigen	1249

KEVIN NORCROSS

Direct Examination by Mr. Blonigen	1251
Cross-Examination by Mr. Low	1306
Redirect Examination by Mr. Blonigen	1340
Recross-Examination by Mr. Low	1346

KATIE PRECIADO

Direct Examination by Mr. Blonigen	1350
Cross-Examination by Mr. Low	1359
Redirect Examination by Mr. Blonigen	1370
Recross-Examination by Mr. Low	1372
Re-redirect Examination by Mr. Blonigen	1373

JESUS HERMOSILLO

Direct Examination by Mr. Blonigen	1374
Cross-Examination by Mr. Low	1388
Redirect Examination by Mr. Blonigen	1395
Recross-Examination by Mr. Low	1396

AMANDA HERRON

Direct Examination by Mr. Blonigen	1398
Cross-Examination by Mr. Low	1400

JAMES MICHAEL MOORE

Direct Examination by Mr. Itzen	1402
Cross-Examination by Mr. Low	1409
Redirect Examination by Mr. Itzen	1427
Recross-Examination by Mr. Low	1429

LEAH INNOCCHI

Direct Examination by Mr. Blonigen	1431
Cross-Examination by Mr. Low	1451
Redirect Examination by Mr. Blonigen	1452

JENNIFER BRAMMEIER

Direct Examination by Mr. Blonigen	1454
Cross-Examination by Mr. Low	1476
Redirect Examination by Mr. Blonigen	1476

STEVEN NORRIS

Direct Examination by Mr. Blonigen	1484
Direct Examination (Resumed) by Mr. Blonigen	1535
Cross-Examination by Mr. Low	1566
Redirect Examination by Mr. Blonigen	1635
Recross-Examination by Mr. Low	1644

DR. JOHN CARVER

Direct Examination by Mr. Blonigen	1650
Cross-Examination by Mr. Low	1653

State Rests	1655
-------------	------

Defense Motion by Mr. Newcomb	1656
Response by Mr. Blonigen	1657
Rebuttal by Mr. Newcomb	1659
The Court	1659

FOR THE DEFENDANT: PAGE**RIA ENGBRETSSEN**

Direct Examination by Mr. Low	1664
Cross-Examination by Mr. Blonigen	1674
Redirect Examination by Mr. Low	1676

JOHN DAILY

Direct Examination by Mr. Low	1679
Cross-Examination by Mr. Blonigen	1764
Redirect Examination by Mr. Low	1796
Recross-Examination by Mr. Blonigen	1802

KEVIN ELKIN

Direct Examination by Mr. Low	1809
Cross-Examination by Mr. Itzen	1816

SCOTT LEHMAN

Direct Examination by Mr. Low	1821
Cross-Examination by Mr. Itzen	1879
Redirect Examination by Mr. Low	1886

SEAN ELLIS

Direct Examination by Mr. Low	1890
Cross-Examination by Mr. Blonigen	1894
Defense Rests	1897

REBUTTAL EVIDENCE

FOR THE STATE:PAGE**SEAN ELLIS**

Direct Examination by Mr. Blonigen	1898
Cross-Examination by Mr. Low	1901
Redirect Examination by Mr. Blonigen	1902

BRAD HALTER

Direct Examination by Mr. Itzen	1904
Cross-Examination by Mr. Low	1909
Redirect Examination by Mr. Itzen	1910

Jury Instruction Conference	1913
-----------------------------	------

Closing Argument by Mr. Blonigen	1926
Closing Argument by Mr. Low	1953
Rebuttal Argument by Mr. Blonigen	1983

Verdict	1991
---------	------

INDEX TO EXHIBITS

<u>FOR THE STATE:</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
100 - Known DNA Sample	1461	1462
101 - Baldwin's T-Shirt	605	607
102 - Photo: Contents of Wallet	581	582
103 - Photo: Baldwin Car	601	601
104 - Photo: Baldwin Car	601	601
105 - Photo: Baldwin-Upper Torso	583	584
106 - Photo: T-Shirt with Bullet Hole	583	584
107 - Photo: Baldwin-Palm	591	591
108 - Photo: Baldwin-Back of Hand	591	591
109 - Photo: Baldwin-Forearm/Wrist	591	591
110 - Photo: Baldwin-Forearm	591	591
111 - Photo: Baldwin-Hand and Wrist	596	597
112 - Photo: Baldwin-Arm	596	597
113 - Photo: Baldwin-Exit Hole	596	597
114 - Photo: Baldwin-Lower Torso	596	597
115 - Photo: Baldwin-Entry Wound	609	609
116 - Photo: Baldwin-Right Hand	620	620
117 - Photo: Baldwin-Upper Torso	620	620
118 - Photo: Baldwin-Exit Wound	620	620
119 - Autopsy Photo	620	620
120 - Photo: Baldwin-Upper Arm	620	620
121 - Photo: Baldwin-Right Hand	620	620
122 - Photo: Baldwin	620	620

124 - Photo: Baldwin and Body Bag	672	673
200 - Known DNA Sample	1461	1462
201 - Gray Jacket	1217	1217
202 - Gunshot Residue Kit	1233	1243
203 - Gunshot Residue Kit	1470	1470
204 - Firearm	1284	1285
205 - Clip from Firearm	1285	1286
206 - Spare Clips	1291	1291
207 - Video of Stop	900	900
208 - Photo: Knospler Car at Stop	1116	1117
209 - Photo: Knospler Car at Stop	1116	1117
210 - Photo: Knospler Car-Door Frame	1116	1117
211 - Photo: Knospler Car-Interior	1116	1117
212 - Photo: Knospler Car-Interior with Backpack	1123	1123
213 - Photo: Knospler Car-Backpack	1123	1123
214 - Photo: Knospler Car	1127	1128
215 - Photo: Knospler Car	1127	1128
216 - Photo: Knospler-Front	335	336
217 - Photo: Knospler-Head	1131	1133
218 - Photo: Knospler-Front	1131	1133
219 - Photo: Knospler-Back	1135	1135
220 - Photo: Knospler-Left Side	1135	1135
221 - Photo: Knospler-Right Side	1135	1135
222 - Photo: Knospler-Left Side	1138	1138
223 - Photo: Knospler-Left Hand	1138	1138

224 - Photo:	Knospler-Pants	1136	1137
225 - Photo:	Knospler-Right Palm	1140	1148
226 - Photo:	Knospler-Right Hand	1140	1148
227 - Photo:	Knospler-Left Palm	1138	1138
228 - Photo:	Knospler-Left Hand	1138	1138
229 - Photo:	Knospler-Back	1140	1141
230 - Photo:	Knospler-Front	1140	1141
232 - Photo:	Knospler	1131	1133
233 - Spent Cartridges		1287	1287
234 - Photo:	Gun in Packaging	610	611
300 - CD:	Officer Miller Video	262	263
301 - CD:	Racks Video	320	320
302 - Racks Photo:	East End	1342	1343
303 - Racks Photo:	Front	1258	1259
304 - Racks Photo:	West End	1257	1259
305 - Racks Photo:	Front Door	1257	1259
306 - Racks Photo:	Front Door	1258	1259
307 - Racks Photo:	Parking Lot	1353	1353
308 - Racks Photo:	Parking Lot	1353	1353
309 - Racks Photo:	Scene without Body and Car	1254	1255
310 - Racks Photo:	Parking Lot	1353	1353
311 - Racks Photo:	Parking Lot	1258	1259
312 - Racks Photo:	Parking Spot	1272	1272
313 - Racks Photo:	Body at Scene	1253	1253

314	- Racks Photo: Body with Tarp Lifted	1269	1269
315	- Racks Photo: Body without Tarp	827	828
316	- Racks Photo: Hand	1269	1269
317	- Racks Photo: Forearm	1269	1269
318	- Racks Photo: Scene	1342	1343
319	- Racks Photo: Tire Tracks and Footprints	1357	1358
320	- Racks Photo: Glass	1266	1266
321	- Racks Photo: Glass and Footprints	1266	1266
322	- Racks Photo: Shovel with Glass	1266	1266
323	- Racks Photo: Shovel with Glass	1266	1266
324	- Racks Photo: Front of Truck	1381	1381
325	- Racks Photo: Dent in Truck	1381	1381
326	- Racks Photo: Dent in Truck with Measurement	1381	1381
327	- Racks Photo: Dent in Truck with Measurement	1381	1381
328	- Racks Photo: Dent in Truck with Measurement	1381	1381
329	- CD: 911 Call #1	490	492
330	- CD: 911 Call #2	887	888
331	- Daytime Racks Photo: Exterior	406	406
332	- Daytime Racks Photo: Exterior	406	406

333	- Daytime Racks Photo: Parking Lot	406	406
334	- Daytime Racks Photo: Exit	406	406
335	- Daytime Racks Photo: West View of Parking Lot	406	406
336	- Daytime Racks Photo: East View of Parking Lot	406	406
337	- Racks Photo: Bar Area	1011	1011
338	- Racks Photo: Pool Table Area	482	483
341	- Racks Photo: Pool Table Area	761	761
343	- Racks Photo: Bar Area	745	746
344	- Racks Photo: Front Bar Area	750	751
345	- Racks Photo: Body with Tarp	1342	1343
346	- Racks Photo: Footprints and Glass	1780	1781
400	- Gunshot Residue Kit: Headliner	1238	1243
401	- Gunshot Residue Kit: Weather Stripping	1238	1243
402	- Gunshot Residue Kit: Window Frame	1238	1243
403	- Pill Bottle	1302	1303
404	- Rolling Papers	1303	1303
405	- Photo: Knospler Car	492	493
406	- Photo: Knospler Car Passenger Side	1274	1275
407	- Photo: Knospler Car Driver Side	1274	1275
408	- Photo: Knospler Car Back Seat	1277	1278

409	- Photo: Knospler Car Interior with Glass	1277	1278
410	- Photo: Knospler Car Driver Seat with Glass	1277	1278
411	- Photo: Knospler Car Interior Door	1277	1278
412	- Photo: Knospler Car Interior Front Seats	1277	1278
413	- Photo: Knospler Car Gun in Backpack	1281	1282
414	- Photo: Knospler Car Gun in Backpack	1281	1282
415	- Photo: Gun as Found	1281	1282
416	- Photo: Gun	1288	1288
417	- Photo: Gun Close-up	1288	1288
418	- Photo: Gun Barrel Close-up	1288	1288
419	- Photo: Clips in Place in Backpack	1290	1290
420	- Photo: Extra Clips	1290	1290
421	- Photo: Knospler Car Front Seat without Backpack	1292	1293
422	- Photo: Knospler Car Console	1292	1293
423	- Photo: Knospler Car	1295	1295
424	- Photo: Knospler Car Glass in Driver Door Window	1295	1295
425	- Photo: Knospler Car Window Frame with Marker	1295	1295
426	- Photo: Knospler Car Collection of GSR	1298	1299
427	- Photo: Knospler Car Collection of GSR	1298	1299

428	- Photo: Knospler Car Collection of GSR	1298	1299
429	- Photo: Knospler Car Collection of GSR	1298	1299
430	- Photo: Knospler Car Collection of GSR	1298	1299
431	- Photo: Rolling Papers	1304	1304
432	- Photo: Knospler Car Driver Side Door	1305	1305
433	- Photo: Knospler Car Inside Driver Door	1305	1305
434	- Photo: Knospler Car Interior	1385	1385
435	- Photo: Knospler Car Areas of Swabs	1385	1385
436	- Photo: Areas with Lumalight	1385	1385
437	- Photo: Knospler Car Swabbing	1385	1385
438	- Photo: Knospler Car Pill Bottle	1304	1304
439	- Racks Photo: Parking Space with Footprints	1261	1261
440	- Photo: Reenactment	1777	1778
441	- Photo: Reenactment	1777	1778
442	- Photo: Reenactment	1777	1778
443	- Photo: Reenactment	1777	1778
444	- Photo: Reenactment	1777	1778
445	- Photo: Reenactment	1777	1778
446	- Photo: Reenactment	1777	1778
447	- Photo: Reenactment	1777	1778

448 - Photo: Knospler Car with Measurement	1777	1778
449 - Photo: Finger with Measurement	1777	1778
502 - Photo: Firearm	1490	1490
503 - Photo: Firearm	1490	1490
504 - Photo: Front of T-Shirt	1500	1500
505 - Photo: Back of T-Shirt	1500	1500
506 - Photo: T-Shirt Entry Hole	1500	1500
507 - Photo: T-Shirt Entry Hole	1500	1500
508 - Photo: Contact Test Firing	1549	1549
509 - Fabric: 6" Test Firing	1549	1549
510 - Photo: 6" Test Fire	1549	1549
511 - Fabric: 6" Test Pattern	1549	1549
512 - Photo: 18" Test Firing	1549	1549
513 - Fabric: 18" Test Fire	1549	1549
514 - Photo: 24" Test Firing	1549	1549
515 - Fabric: 24" Test Fire	1549	1549
517 - Photo: Back of Jacket	1435	1436
518 - Photo: Jacket with Markers	1437	1438
519 - Photo: Jacket with Markers	1437	1438
520 - Photo: Location of LI4	1444	1445
521 - Photo: Location of LI5 and LI6	1444	1445
522 - Photo: Jacket with Markers	1439	1440
523 - Photo: Close-up of LI9	1446	1453

524 - Photo: Back of Jacket with Markers	1446	1447
525 - Photo: Deputy Taylor's Shirt with Markers	1448	1449
526 - Photo: Deputy Taylor's Shirt with Markers	1448	1449
527 - Photo: Close-up of Shirt	1448	1449
528 - Photo: Close-up of Shirt	1448	1449
528 - Griess Test - Contact	1545	1546
529 - Griess Test - 6"	1545	1546
530 - Griess Test - 18"	1545	1546
531 - Griess Test - 24"	1545	1546
533 - Griess Test	1543	1543

FOR THE DEFENSE:

A - Diagram	365	366
B - Racks Photo: Parking Lot	369	370
C - Racks Photo: Parking Lot Front Doors	370	370
D - Photo: Body Bag and Seal	649	650
E - Photo: Body Bag	649	650
F - Photo: Body Bag	649	650
G - Photo: Body Bag and Seal	649	650
H - Photo: Body Bag and Seal	649	650
I - Photo: Body Bag and Seal	649	650
J - Photo: Placard	650	651
K - Photo: Baldwin Vehicle Trunk	661	662

L - Photo:	Baldwin Vehicle Interior	661	662
M - Photo:	Baldwin Vehicle Interior	661	662
N - Photo:	Baldwin Vehicle Interior	661	662
O - Photo:	Baldwin Vehicle Interior	661	662
P - Photo:	Baldwin Vehicle Interior	661	662
Q - Photo:	Baldwin-Forearm and Hand	722	722
R - Photo:	Baldwin-Hand and Forearm	722	722
S - Photo:	Baldwin-Hand	725	725
T - Photo:	Baldwin-Arm	730	730
U - Photo:	Reenactment	913	914
V - Photo:	Baldwin-Exit Wound	913	914
W - Photo:	Baldwin-Entry Wound	913	914
X - Photo:	Baldwin-Exit Wound	913	914
Y - Photo:	Baldwin-Entry Wound	913	914
Z - Photo:	Baldwin	913	914
AA - Photo:	Knospler Car Interior	1162	1309
BB - Photo:	Knospler Car Interior	1162	1309
CC - Photo:	Knospler Car Interior	1162	1309
DD - Photo:	Knospler Car Back Seat	1162	1309
EE - Photo:	Knospler Car Back Seat	1162	1309
FF - Photo:	Knospler Car Interior Front	1162	1309
GG - Photo:	Knospler Car Interior Rear	1162	1309
HH - Photo:	Knospler-Feet	1172	1173
II - Photo:	Knospler-Shoe	1172	1173

JJ - Photo	1172	1173
KK - Photo: Knospler-Shoe Close-up with Glass	1172	1173
LL - Photo: Money	1172	1173
MM - Photo: ID Cards, Credit Cards, Cash, Lip Balm	1172	1173
NN - Photo: Glass on Table	1172	1173
OO - Photo: Glass on Table	1172	1173
PP - Photo: Glass on Table	1172	1173
QQ - Photo: Glass on Table	1172	1173
RR - Racks Photo: Outside	1309	1309
SS - Racks Photo: Outside	1309	1309
TT - Racks Photo: Outside	1309	1309
UU - Racks Photo: Outside	1309	1309
VV - Racks Photo: Outside	1309	1309
WW - Racks Photo: Outside	1309	1309
XX - Racks Photo: Outside	1309	1309
YY - Racks Photo: Tire Tracks	1309	1309
ZZ - Racks Photo: Outside	1309	1309
A1 - Racks Photo: Outside	1309	1310
A2 - Racks Photo: Outside	1309	1310
A3 - Racks Photo: Outside	1309	1310
A4 - Racks Photo: Outside	1309	1310
A5 - Racks Photo: Outside	1309	1310
A6 - Racks Photo: Outside	1309	1310
A7 - Racks Photo: Outside	1309	1310

A8 - Racks Photo:	Outside	1309	1310
A9 - Racks Photo:	Parking Lot	1309	1310
A10 - Racks Photo:	Parking Lot	1309	1310
A11 - Racks Photo:	Parking Lot	1309	1310
A12 - Racks Photo:	Parking Lot	1309	1310
A13 - Racks Photo:	Parking Lot and Front Doors	1309	1310
A14 - Racks Photo:	Shovel with Glass	1309	1310
A15 - Racks Photo:	Baldwin at Scene	1309	1310
A16 - Racks Photo:	Baldwin at Scene	1309	1310
A17 - Racks Photo:	Baldwin at Scene	1309	1310
A18 - Racks Photo:	Tire Tracks with Measurement	1309	1310
A19 - Racks Photo:	Tire Tracks with Measurement	1309	1310
A20 - Racks Photo:	Tire Tracks with Measurement	1309	1310
A21 - Racks Photo:	Parking Space and Footprints	1309	1310
A22 - Racks Photo:	Tire Tracks	1309	1310
A23 - Racks Photo:	Tire Tracks	1309	1310
A24 - Racks Photo:	Tire Tracks	1309	1310
A25 - Photo:	Knospler Car Interior	1310	1310
A26 - Photo:	Knospler Car	1310	1310
A27 - Photo:	Knospler Car Driver Door	1310	1310
A28 - Photo:	Knospler Car Interior Front	1310	1310

A29	- Photo: Knospler Car Console	1310	1310
A30	- Photo: Knospler Car Console	1310	1310
A31	- Photo: Knospler Car Passenger Seat	1310	1310
A32	- Photo: Knospler Car Passenger Side	1310	1310
A33	- Photo: Backpack with Laptop	1310	1310
A34	- Photo: Knospler Car Floor	1310	1310
A35	- Photo: Knospler Car Console	1310	1310
A36	- Photo: Knospler Car Console	1310	1310
A37	- Photo: Knospler Car - Towel	1310	1310
A38	- Photo: Knospler Car Interior	1310	1310
A39	- Photo: Knospler Car Console, Part of Backpack	1310	1310
A40	- Photo: Knospler Car Emergency Brake, Console	1310	1310
A41	- Photo: Knospler Car Driver Seat with Glass	1310	1310
A42	- Photo: Knospler Car Driver Seat with Glass	1310	1310
A43	- Photo: Knospler Car Driver Seat with Glass	1310	1310
A44	- Photo: Knospler Car Driver Seat with Glass	1310	1310
A45	- Photo: Knospler Car Interior	1310	1310
A46	- Photo: Knospler Car Glass in Door	1310	1310
A47	- Photo: Knospler Car Glass in Door	1310	1310
A48	- Photo: Knospler Car Interior	1310	1310

B1 - Glass in Bag	1711	1712
F1 - Photos: Reenactment	1719	1807
LB2 - Photo: Knospler Car Glass with Hair	1310	1310
LB3 - Photo: Knospler Car Glass with Hair	1310	1310
LB4 - Photo: Knospler Car Glass with Hair	1310	1310
LB5 - Photo: Knospler Car Glass with Hair	1310	1310
LB6 - Photo: Knospler Car Glass with Hair	1310	1310

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

2 (The following proceedings
3 were held in open court, out of the presence of
4 the jury:)

5 THE COURT: Good morning. Thank you
6 very much. Please be seated. Court will come to
7 order. The record should reflect that we convene
8 for day two in the trial proceedings in the State
9 of Wyoming versus John Henry Knospler, Jr.,
10 Criminal Action 19548-B.

11 And I note the presence of the defendant,
12 defense counsel, counsel for the prosecution. The
13 jury is not present. I, last night, took a look
14 at the objection that was made during Mr. Low's
15 opening statement in this case, and I have debated
16 about how to handle that. Every judge wants to
17 allow the attorneys to try the case, but I have a
18 big problem with a violation of what I think was a
19 very clearly expressed order in limine.

20 We had references in Mr. Low's opening to
21 the 2009 battery and interference with a peace
22 officer matter that was totally appropriate,
23 properly noticed, and excluded from my order in
24 limine. But then he went into saying "but there's
25 more" and referred to I believe it's Kevin Elkin

1 and not being invited to a lake party, to weapons
2 and confrontation, to surrounding a car and
3 threatening statements being made.

4 I went back and looked at my written
5 order and my decision letter. It's very clear
6 that what was noticed by the Defense in a very
7 abbreviated notice was, quote, between 2002 and
8 2004, Mr. Baldwin and several others showed up
9 uninvited to a party. And that was expressly
10 excluded from evidence in this case. And if
11 counsel was referring to some other incident or
12 event, it was not properly noticed. And the Court
13 made very specific findings, I did a written order
14 that quoted verbatim the Defense Notice of the
15 Other Acts Evidence under 404(a) and 405 it
16 proposed, and I feel that the reference during
17 opening statement to this matter was not proper.
18 And I'll take up with the State whether they wish
19 for me to formalize striking that reference in
20 some manner or to let it stand.

21 But I don't see an excuse for that direct
22 violation, and like I said, I sort of come into
23 this not wanting to make a big deal out of it, but
24 I think it is. And Mr. Low, if in other
25 jurisdictions, the Courts don't require compliance

1 with the time limits, they don't require
2 compliance with orders in limine, things are
3 different here. And I expect strict compliance by
4 both sides to these orders in limine that I spent
5 time on, I tried to analyze. I may have made
6 mistakes, but that will be for appeal. And if
7 there's not compliance from the Defense side with
8 this order in limine, Mr. Newcomb is going to have
9 to try this case because I presume he's familiar
10 with Rule 801 of the Uniform District Court Rules.

11 So with those advisements, Mr. Blonigen,
12 do you wish the Court to direct any further
13 attention to that last matter and the objection
14 made?

15 MR. BLONIGEN: Well, Your Honor, as
16 you know, I did object. I think the Court was
17 very specific that if there were specific
18 instances of alleged misconduct on Mr. Baldwin's
19 part, they had to be noticed, and that was to be
20 complied with strictly. And this is a pretty big
21 deviation from what you were noticed. I mean,
22 this is a pretty serious allegation just to float
23 out there. But, Judge, my fear is that if you
24 order them not to pay attention to it, you've
25 simply drawn more attention to it. I believe it

1 may be more appropriate for me to handle in
2 argument simply by the instruction usually given
3 by the Court, that the arguments of counsel are
4 not evidence, and we have to base it on what we
5 have here.

6 But beyond that, Judge, this is the kind
7 of thing that could really prejudice a party.
8 When a Court makes all this trouble and does
9 not -- and I even considered moving for a
10 mistrial. I don't want to do that. But if
11 there's further instances like this, we might find
12 ourselves confronting that issue. But I think
13 calling attention back to the jury now is just
14 going to draw attention to the matter, and that's
15 not productive, Your Honor.

16 I think we can handle it in argument
17 simply by referring to the fact that the Court
18 tells you you got to follow the evidence and not
19 the statements of the attorneys. Okay.

20 THE COURT: Okay. Thank you. I'll
21 go along with your request in this regard.

22 I believe all the other preliminary
23 matters have been taken care of other than that we
24 had a couple of large filings yesterday which were
25 involving in part, once again, notices of the

1 Defense under 404(a) and 405. And I read through
2 most of it last night. I didn't get all the way
3 through. But based upon my review, I would
4 confirm the prior rulings, the prior orders in
5 limine, and I'll try to get through the rest of
6 the materials as time permits today.

7 Mrs. Tuma, could we have the jury brought
8 in.

9 THE CLERK: Yes, sir.

10 (The following proceedings
11 were held in open court, in the presence of the
12 jury:)

13 THE COURT: Thank you very much.
14 Looks like we have everybody. Please be seated
15 and court will reconvene.

16 Let the record reflect that the ladies
17 and gentlemen of the jury have joined us. Good
18 morning to you. My apologies for being a little
19 late. It's my fault that we ran over on the other
20 matters I had this morning, so my apologies.

21 Parties ready to proceed with day two of
22 the trial proceedings, the State of Wyoming?

23 MR. ITZEN: Yes, sir.

24 THE COURT: And the Defense?

25 MR. LOW: Yes, Your Honor.

1 THE COURT: Okay. We're in the
2 State's case, so the State may call its next
3 witness.

4 MR. ITZEN: State would call Mark
5 Daigle.

6 THE COURT: Please come forward, Mr.
7 Daigle. The Clerk of Court here to my left will
8 give you the oath.

9 THE CLERK: You do solemnly swear
10 that the testimony you will give in the case
11 before the Court will be the truth, the whole
12 truth, and nothing but the truth, so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Around the table and
15 please be seated over there.

16 THE COURT: Mr. Daigle, we do ask
17 that you speak into the microphone. It is
18 adjustable, so you can move it if you need to.

19 THE WITNESS: Okay.

20 THE COURT: You may proceed.

21 MR. ITZEN: Thank you.

22 MARK DAIGLE,
23 called for examination by the State, being first
24 duly sworn, on his oath testified as follows:
25

DIRECT EXAMINATION

1
2 BY MR. ITZEN:

3 Q. Good morning, sir.

4 A. Morning.

5 Q. Could you please state your name.

6 A. Mark Trapper Daigle.

7 Q. And how are you employed, sir?

8 A. I am a contractor to Racks.

9 Q. All right. And what do you do for them?

10 A. I installed and maintain the security
11 camera system.

12 Q. All right. And over the course of
13 installing that, have you become familiar with how
14 the security system works?

15 A. Yes.

16 Q. How many cameras does Racks have?

17 A. It has three.

18 Q. And can you tell the ladies and gentlemen
19 of the jury generally where they're pointed at?

20 A. One is pointed at the front door, one is
21 pointed towards the stage, and another is pointed
22 at the bar.

23 Q. All right. Are they equipped with audio?

24 A. No, they're not.

25 Q. And are there any cameras outside the

1 building?

2 A. No, there's not.

3 Q. And how does the system work?

4 A. It records the three cameras continuously
5 up to the maximum storage capacity, and then it
6 re -- then it writes over.

7 Q. All right. And how long does the system
8 maintain the videos?

9 A. About two weeks.

10 Q. Now, can you download the surveillance
11 tape if asked to?

12 A. Yes.

13 Q. And at the time of October the 13 -- or
14 excuse me, October 3rd, 2013, were you the only
15 person that could do that?

16 A. Yes, I was.

17 Q. And once you download the video, is it
18 able to be altered in any way?

19 A. No, it's not.

20 Q. Were you asked on the early morning hours
21 of October 14th of last year to download the
22 previous night's surveillance tape?

23 A. Yes.

24 Q. Were you able to do that?

25 A. Yes, I was.

1 Q. What did you do with the copy that you
2 downloaded?

3 A. I -- it was on a hard drive, and I gave
4 it to an officer of the sheriff's department.

5 Q. All right. Now, did you just download
6 the entire evening?

7 A. Yeah. They requested ten -- ten hours
8 worth of all three cameras, so I just copied it
9 all to the hard drive.

10 Q. So there were times on there that
11 necessarily didn't apply to this case?

12 A. Correct.

13 Q. Allow me to show you what I've marked for
14 identification as 532.

15 MR. ITZEN: Your Honor, if I may
16 approach.

17 THE COURT: You may.

18 Q. (BY MR. ITZEN) Mr. Daigle, do you
19 recognize that?

20 A. Yes, I do.

21 Q. How do you recognize that?

22 A. By my initials and the date.

23 Q. All right. Have you reviewed that?

24 A. Yes, I have.

25 Q. And what does that contain?

1 A. Video clips -- it actually contains the
2 full length of all the videos that were given.

3 Q. All right. To the law enforcement
4 officer that night?

5 A. Yes.

6 Q. Now, let me show you 301 as well.

7 MR. ITZEN: Your Honor, if I may
8 approach.

9 THE COURT: Yes, you may.

10 Q. (BY MR. ITZEN) Do you recognize State's
11 Exhibit 301?

12 A. I do.

13 Q. How do you recognize that?

14 A. By my initials and the date.

15 Q. All right. Have you reviewed State's
16 Exhibit 301?

17 A. Yes, I have.

18 Q. And does it contain excerpts from the
19 overall surveillance tape that night?

20 A. Yes, it does.

21 Q. And are they accurate as to the overall
22 tape?

23 A. Yes.

24 MR. ITZEN: If I can just have a
25 moment, Judge.

1 THE COURT: Yes, you may.

2 MR. ITZEN: I'll retrieve my
3 exhibits. That's all the questions I have, Mr.
4 Daigle. Mr. Low may have a few for you.

5 THE COURT: Thank you very much.

6 Cross-examination on behalf of the
7 Defense.

8 CROSS-EXAMINATION

9 BY MR. LOW:

10 Q. Sir, have you been asked prior to this
11 occasion to provide video coverage from Racks to
12 the police officers?

13 A. Pertaining to this case?

14 Q. Prior to this case, have you ever before
15 been asked to give video coverage from Racks to
16 some police officers?

17 A. No.

18 Q. Okay. And you said that once you
19 download the information, you can't alter it; is
20 that correct?

21 A. No.

22 Q. It's not correct?

23 A. No, that is correct, you can't alter it.

24 Q. Once you download it?

25 A. Yes.

1 Q. Can you alter it before you download it?

2 A. No.

3 Q. And I'm pretty sure we know the answer,
4 but I just got to make sure. And you didn't do
5 anything to try and alter it for us?

6 A. No, I did not.

7 Q. You wouldn't do that; right?

8 A. No.

9 MR. LOW: Thank you. No further
10 questions. Appreciate that.

11 THE COURT: Thank you very much,
12 Counsel.

13 Anything on redirect?

14 MR. ITZEN: No, sir. Thank you.

15 THE COURT: Thank you, Mr. Daigle.
16 You can step down and you're free to go.

17 MR. ITZEN: We'd ask that he be
18 excused, Judge.

19 THE COURT: You're excused from your
20 subpoena. So as I said, you're free to go and
21 released from any process in the case.

22 The State may call its next witness.

23 MR. ITZEN: Your Honor, State would
24 call Investigator Ellis.

25 THE COURT: Please come forward and

1 be sworn, Officer.

2 THE CLERK: Please raise your hand.
3 You do solemnly swear that the testimony you will
4 give in the case before the Court will be the
5 truth, the whole truth, and nothing but the truth,
6 so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Please be seated.

9 SEAN ELLIS,
10 called for examination by the State, being first
11 duly sworn, on his oath testified as follows:

12 DIRECT EXAMINATION

13 BY MR. ITZEN:

14 Q. Good morning, sir.

15 A. Good morning.

16 Q. Could you please state your name.

17 A. Sean Ellis.

18 Q. Where are you employed?

19 A. Natrona County Sheriff's Office.

20 Q. How long have you been in law
21 enforcement, sir?

22 A. Since 2006.

23 Q. Were you so employed on October 3rd of
24 last year?

25 A. I was.

1 Q. Is that the day all these events
2 occurred?

3 A. October 3rd and into the morning of the
4 4th.

5 Q. Where did they occur?

6 A. 1910 Talc Road.

7 Q. Is that here in Natrona County?

8 A. It is.

9 Q. During the course of your investigation,
10 did you come into contact with John Knospler?

11 A. I did.

12 Q. Do you see him in the courtroom?

13 A. I do.

14 Q. Could you tell me where he's seated and
15 what he's wearing?

16 A. He's seated at the defense table wearing
17 the checked coat and striped tie with a white
18 shirt.

19 MR. ITZEN: Your Honor, may the
20 record reflect he's identified the defendant?

21 THE COURT: It shall so reflect.

22 Q. (BY MR. ITZEN) How did you become
23 involved in this case, sir?

24 A. I was contacted approximately 1:00 a.m.
25 on October 4th by my command staff advising that

1 there had been a homicide at Racks Gentlemen's
2 Club.

3 Q. Did that call come in via a 911 phone
4 call?

5 A. The call to me?

6 Q. No, the call to law enforcement.

7 A. Yes.

8 Q. As part of your investigation, did you
9 review the security tape from Racks?

10 A. I did. I reviewed the entire security
11 tape from Racks.

12 Q. Where did you find the cameras were
13 pointed at Racks?

14 A. Like Mr. Daigle stated, there are three
15 cameras on the interior of Racks. One faces the
16 front door, which is the main entrance into the
17 bar; the second one is actually behind the bar,
18 and you can see the back of the countertop of the
19 bar and the bottles and everything that are behind
20 it; and then the third basically faces the stage
21 and the left side of the bar.

22 Q. All right. And did you review the entire
23 ten hours, I believe?

24 A. Yes.

25 Q. During the course of reviewing that, were

1 you able to find the defendant on that tape?

2 A. I was.

3 Q. Were you also able to find the victim on
4 that tape?

5 A. I was.

6 Q. Allow me to show you what I've identified
7 as 301.

8 MR. ITZEN: If I may approach, Your
9 Honor.

10 THE COURT: You may.

11 Q. (BY MR. ITZEN) Investigator, do you
12 recognize that?

13 A. I do.

14 Q. How do you recognize that?

15 A. With my initials that are written on the
16 corner right here.

17 Q. All right. And is it an accurate
18 download of the security tape that night?

19 A. It is.

20 MR. ITZEN: Your Honor, State would
21 move to introduce 301.

22 THE COURT: Any objection?

23 MR. LOW: No, sir.

24 THE COURT: The exhibit is received.

25 Thank you.

1 Q. (BY MR. ITZEN) Now, does the video
2 camera have time stamps?

3 A. It does.

4 Q. Were you able to determine if those time
5 stamps were accurate?

6 A. The time stamps that are on the video are
7 not accurate. If you consider what we'll call
8 real time, which is the time that's in our
9 dispatch center, the time stamps that you'll see
10 on the video are approximately 17 to 20 minutes
11 behind real time. This was a time stamp that was
12 inlaid into the surveillance camera system, but it
13 took us -- it took us a little bit to figure out
14 approximately how far behind it was.

15 Q. All right. And just to be clear, if it
16 says 1:15, for example, in reality it's one
17 o'clock?

18 A. Exactly.

19 Q. All right.

20 MR. ITZEN: Your Honor, State would
21 move to play 301.

22 THE COURT: Permission granted.
23 Would that be from Mr. Blonigen's table?

24 MR. ITZEN: Yes, sir.

25 THE COURT: Okay. You wish the

1 lights to be dimmed?

2 MR. ITZEN: Yes, sir. It may take
3 us a minute to get it up and running.

4 THE COURT: Sure. Thank you.

5 MR. ITZEN: I believe we're ready,
6 Judge. Thank you.

7 THE COURT: Go ahead. And the
8 jury's monitors are all on, aren't they?

9 THE BAILIFF: Yes.

10 THE COURT: Okay. Thank you.

11 (State's Exhibit 301 is
12 played in open court.)

13 Q. (BY MR. ITZEN) Now, Deputy, in this
14 first segment, what are we going to see?

15 A. The very first segment you'll see is a
16 time stamp of 5:41 p.m., and it's the first time
17 that I identify the defendant entering the
18 establishment.

19 Q. And how long does he stay inside the
20 establishment?

21 A. Approximately two minutes.

22 Q. How long, then, does he go outside?

23 A. Excuse me. He -- he stays outside for
24 about eight minutes.

25 Q. All right. Did you notice anything

1 different about him when he came in the second
2 time?

3 A. He had added a gray jacket.

4 Q. When he comes back in, does he sit in the
5 same spot in the bar?

6 A. Not exactly. He actually -- he actually
7 sits in three different locations after he comes
8 back in the bar the second time.

9 Q. When he comes in this time, how long does
10 he stay?

11 A. Approximately, I believe, 28 minutes.

12 Q. All right. And then does he go back out?

13 A. He does.

14 Q. What do you notice about once he leaves
15 the doors? Does he always go the same direction
16 or?

17 A. From the camera view that you'll see,
18 which is the camera that faces the exit doors, the
19 main exit doors, the defendant basically goes
20 left, right, or straight forward until he comes
21 out of camera view; but it's in different -- let
22 me rephrase that. He goes left, right, or
23 basically straight until he's out of camera view
24 but never the same direction.

25 Q. All right. And this time, how long is he

1 outside?

2 A. I believe he's outside three minutes,
3 approximately.

4 Q. Now, through the course of the evening,
5 do the bar lights dim and that back corner become
6 a little bit more difficult to see?

7 A. They do. The bar lights actually go
8 completely out, and then black lights are turned
9 on.

10 Q. All right. And eventually, does anyone
11 join him in that corner?

12 A. Yes. A female dancer by the name of Liz
13 Tate.

14 Q. All right. And this would be Ms. Tate in
15 the white boots walking up?

16 A. That's correct.

17 Q. Do you know how long they spend together
18 talking?

19 A. I can't be positive.

20 Q. All right. Now at 8:46, what do we see
21 here?

22 A. The defendant leaving the bar again.

23 Q. All right. That's the individual that's
24 walking?

25 A. Correct. And you'll see him approach the

1 front door.

2 Q. And how long is he outside this time?

3 A. Roughly, I believe, seven minutes or so.

4 Q. All right. And when does Kade Baldwin
5 and his friends arrive?

6 A. Mr. Baldwin arrives approximately 8:54
7 p.m. using the time stamp.

8 Q. All right. Who do we see here?

9 A. The gentleman in the white shirt, blue
10 jeans, and black and white shoes is Kade Baldwin.
11 The female in the black sweatshirt behind him is
12 his friend named Kara Sterner. And then the
13 gentleman in the gray sweatshirt and blue jeans
14 with the baseball cap backwards is Christopher
15 Syverson.

16 Q. And who are they speaking with?

17 A. They're speaking with an employee of
18 Racks by the name of Westy Guill.

19 Q. And once this cover charge is paid, where
20 do they go inside the bar?

21 A. The three basically go to the area of the
22 pool tables, which is in the back of the bar. And
23 that's more or less where the three spent the
24 evening.

25 Q. All right. Now, we saw Mr. Baldwin kind

1 of walk down a hallway there?

2 A. Uh-huh.

3 Q. What's down that hallway?

4 A. Down the hallway that Mr. Baldwin walks
5 down is a vending machine. It has food and
6 cigarettes and that sort of stuff in it.

7 Q. All right. And who is this coming
8 through the door?

9 A. That would be the defendant coming back
10 in.

11 Q. Now, is this the defendant again going
12 back out?

13 A. It is.

14 Q. Who's he speaking with there?

15 A. He's speaking with the Racks security
16 guard or what we call a bouncer, and his name is
17 Ervin Andujar.

18 Q. And how long does the defendant spend
19 outside this time?

20 A. I'd have to refer to my notes. I believe
21 it's roughly three minutes.

22 Q. All right. Did you notice anything about
23 his clothing this time?

24 A. I had. He had added a ball cap.

25 Q. All right. You had earlier spoke about

1 the pool tables. Does this clip show where
2 they're located?

3 A. Yes. You can see on the upper left
4 corner of the screen, there are three pool tables
5 that run together. And Mr. Baldwin's table or the
6 tables that they were sitting at are in proximity
7 to the very last pool table on the left.

8 Q. And it's hard to see, but the individual
9 moving, is that Mr. Knospler?

10 A. It is.

11 Q. Now, did you find a time where the
12 defendant and the victim had contact that night?

13 A. I did. At approximately 10:02 p.m.,
14 while I reviewed the surveillance footage, I
15 noticed that the victim and the suspect came from
16 the area of the men's bathroom together and then
17 proceeded out the front doors and into the parking
18 lot together.

19 Q. And that would be the individuals
20 walking?

21 A. Correct. The individual in the front is
22 the defendant, and the individual in the white
23 shirt is Mr. Baldwin.

24 Q. At this point, where is Chris Syverson?

25 A. Chris Syverson is still inside the bar in

1 the area of the pool tables.

2 Q. Does he go outside with them as well?

3 A. He does.

4 Q. And is that Mr. Syverson there?

5 A. That is. He's taken off his sweatshirt.

6 Q. How long do they stay out?

7 A. Less than a minute.

8 Q. And where do Mr. Baldwin and Mr. Syverson
9 go?

10 A. Upon entering the bar?

11 Q. Yes, sir. I apologize.

12 A. Back to the area of the pool tables.

13 Q. All right. And where does the defendant
14 go when he comes back in?

15 A. He goes to the -- the bar top in the
16 approximate area where he was sitting before.

17 Q. And that would be him sitting down there;
18 is that correct?

19 A. Yeah. And excuse me, I misspoke. He sat
20 on the near side of the bar towards the door.

21 Q. Now, was there also a time where Mr.
22 Syverson and Mr. Baldwin eventually go back out
23 together?

24 A. They do.

25 Q. Does the defendant join them that time?

1 A. He does not.

2 Q. And the lady sitting behind the counter,
3 were you able to identify her?

4 A. I was. She was another employee of Racks
5 Gentlemen's Club, and her name is Amber Hudson.

6 Q. And this is Mr. Andujar here?

7 A. That's correct, on the left. And Mr.
8 Baldwin on the right, and then Mr. Syverson
9 basically approaching the counter.

10 Q. All right. During the course of your
11 investigation, were you able to determine what Mr.
12 Andujar is looking at?

13 A. I was.

14 Q. What was that?

15 A. Mr. Baldwin had a utility knife in a
16 sheathe attached to the right hip on his belt.

17 Q. And what happens to that?

18 A. Mr. Andujar asks him to remove it and
19 give it to Mr. Andujar.

20 Q. And is that what's occurring here?

21 A. That's correct. You'll see Mr. Baldwin
22 undoing his belt and taking the sheathe off. The
23 knife has already been removed from the sheathe
24 and is sitting on the counter.

25 Q. And what happens to that utility knife?

1 A. After he removes it?

2 Q. Yes, sir.

3 A. You'll see Mr. Andujar take it, and Mr.
4 Andujar walks over to the bar and he gives it to
5 the bartender who is behind the bar. You'll see
6 she's basically the one that is on the left-hand
7 side sitting basically by the green dot. And her
8 name is Amber Hudson, and Amber Hudson places the
9 knife behind the bar.

10 Q. I believe you misspoke. Ashlee Logan?

11 A. Oh, I'm sorry. Ashlee Logan, correct.

12 Q. Now, does Ervin Andujar have a
13 conversation with the defendant that evening?

14 A. He does.

15 Q. Are you able to see what the defendant
16 had in his hand --

17 A. I was not.

18 Q. -- there? This is hard to see, but what
19 are we looking at here?

20 A. So this is the camera that's behind the
21 bar. And the gentleman you can -- just to the
22 right of the green dot, you can see a white towel,
23 and that is in the pocket of Mr. Andujar.
24 Directly across the bar from Mr. Andujar is where
25 the defendant is sitting.

1 Q. All right. During the course of your
2 investigation, other than the one time where the
3 defendant and victim walk outside together, are
4 they seated close to one another in the bar?

5 A. No.

6 Q. Do you ever see them having contact other
7 than that one time?

8 A. No.

9 Q. Is this the last time the defendant is
10 seen on the surveillance tape?

11 A. It is.

12 Q. Now, where do we next see Kade?

13 A. The next clip that you'll see of Mr.
14 Baldwin is in the area of the pool tables, more or
15 less the same table that he sat at most of the
16 night; and he's having a conversation with Mr.
17 Andujar.

18 Q. Now, again, can you point out to the
19 ladies and gentlemen of the jury where Mr. Andujar
20 is?

21 A. I can. This is going to be Mr. Andujar's
22 head in the bottom left-hand corner of the screen,
23 and you'll see Mr. Baldwin come onto the screen
24 from approximately the same place.

25 Q. And that would be Mr. Baldwin there?

1 A. That's correct. That's the back of Mr.
2 Baldwin's head.

3 Q. As a law enforcement officer, what did
4 you notice about Mr. Baldwin's balance?

5 A. Throughout the entire review of the
6 surveillance footage, it's obvious that there are
7 signs of impairment on Mr. Baldwin's behalf.
8 There are signs of him not being able to maintain
9 balance, and there are signs of not being able to
10 have coordination.

11 Q. And speaking of coordination, does this
12 towards the end of this clip show that, an example
13 of that?

14 A. Yeah, that's correct. Like I talked to
15 my son about giving knucks, Mr. Baldwin attempts
16 to do that, and it takes him a couple tries to
17 accomplish it.

18 Q. Now, in this clip, were you able to
19 determine what's in Mr. Baldwin's hands?

20 A. In Mr. Baldwin's left hand are two
21 12-ounce beer bottles.

22 Q. And does this kind of show his balance
23 that you were talking about?

24 A. It does. As you watch this, you'll see
25 Mr. Baldwin take a large step backwards and catch

1 his balance.

2 Q. Now, at this point, is Mr. Syverson still
3 with Kade?

4 A. Yes.

5 Q. When does Mr. Syverson leave?

6 A. Mr. Syverson leaves approximately 12:30
7 on the time stamp. And remember that 12:30 on the
8 time stamp is going to be closer to 12:10 real
9 time.

10 Q. And this is Mr. Syverson here?

11 A. Correct. That's Mr. Syverson and Ms.
12 Hudson speaking.

13 Q. Now, is this Mr. Baldwin and Mr. Andujar
14 in this clip?

15 A. It is. You'll see Mr. Baldwin. That's
16 the back of Mr. Baldwin on the left-hand side of
17 the screen, and that would be Mr. Andujar walking
18 with him.

19 Q. Does Kade ever come back into the bar
20 after this?

21 A. He does not.

22 Q. The two girls walking up to the counter,
23 were you able to identify them?

24 A. I was.

25 Q. And who are they?

1 A. The female in the white coat is named
2 Jennifer Cormier, and the taller female who is
3 just exiting the door's name is Ginger Jenkins.

4 Q. How long do they leave after Mr. Baldwin?

5 A. They exit into the parking lot 30 seconds
6 after Mr. Baldwin.

7 Q. The area where they're looking, were you
8 able to later determine that's where the
9 defendant's vehicle is parked?

10 A. That's correct.

11 Q. And will you be able to see that vehicle
12 drive away?

13 A. You will.

14 Q. How long is it when Mr. Andujar goes out?

15 A. Mr. Andujar goes into the parking lot
16 approximately two minutes after Jennifer Cormier
17 and Ginger Jenkins go into the parking lot.

18 Q. And does this pretty much end the
19 surveillance tape of that evening?

20 A. It does.

21 Q. For the relevant portions?

22 A. For the relevant portions.

23 MR. ITZEN: I lost my little sleeve.
24 When I find it, I'll give it to you.

25 Q. (BY MR. ITZEN) Now, did you also

1 participate in the collection of swabs from the
2 "A" pillar of the defendant's vehicle?

3 A. I did.

4 Q. And who collected those?

5 A. During the collection, Deputy Jesus
6 Hermosillo was the evidence technician, and I was
7 the photographer.

8 Q. And did you maintain custody of those
9 swabs in a secure location after the collection?

10 A. Upon completing the collection, they are
11 logged into evidence at the Natrona County
12 Sheriff's Office until which time I was -- I
13 transported them personally to the Wyoming State
14 Crime Lab in Cheyenne for testing.

15 Q. Allow me to show you State's 216.

16 MR. ITZEN: Your Honor, if I may
17 approach.

18 THE COURT: You may. Thank you.

19 Q. (BY MR. ITZEN) Do you recognize that
20 photograph?

21 A. I do.

22 Q. How do you recognize that?

23 A. State's Exhibit 216 was a photograph
24 taken of the defendant the -- after being placed
25 under arrest.

1 Q. And is it a true and accurate depiction
2 of what he looked like in the early morning hours
3 of October 4th of last year?

4 A. Yes, it is.

5 Q. And is that the same individual that we
6 see on the videotape you were pointing out?

7 A. Yes.

8 MR. ITZEN: Your Honor, State would
9 move to introduce 216.

10 THE COURT: Any objection to this
11 exhibit?

12 MR. LOW: No, Your Honor.

13 THE COURT: Exhibit 216 is received.

14 MR. ITZEN: Your Honor, if I may
15 have permission to publish the photo.

16 THE COURT: Yes, you may.

17 The process we follow, ladies and
18 gentlemen of the jury, is to allow exhibits to be
19 handed to the bailiff; and she'll allow you to
20 circulate the exhibit and take a look at it. I
21 would remind you that at the conclusion of the
22 case, all exhibits will be available for further
23 review.

24 I ask that while I'll allow this, do not
25 be distracted from hearing the ongoing testimony

1 in the case. So make sure you prioritize to make
2 sure you hear the ongoing testimony. Thank you.

3 MR. ITZEN: I'll give them a moment,
4 Investigator. Nothing further, Investigator.

5 Mr. Low may have a few questions for you.

6 THE COURT: Thank you very much,
7 Counsel.

8 Cross-examination on behalf of the
9 Defense.

10 MR. LOW: Thank you.

11 CROSS-EXAMINATION

12 BY MR. LOW:

13 Q. Morning, sir.

14 A. Mr. Low.

15 Q. Thank you. Your purpose for getting the
16 videotape is because it may give you some facts
17 about what happened that night?

18 A. That's correct.

19 Q. And so makes sense to go and talk to the
20 people that control the videotape and ask them to
21 turn it over to you; right?

22 A. Correct.

23 Q. And they did that; correct?

24 A. Correct.

25 Q. And your mission, then, was to watch all

1 ten hours of that video coverage; correct?

2 A. That's correct.

3 Q. And through all that ten hours, it didn't
4 contain a solid ten hours of John Knospler, did
5 it?

6 A. No.

7 Q. Or solid ten hours of Mr. Baldwin, did
8 it?

9 A. No.

10 Q. So you had to watch all of it to see if
11 you could find out of the video the portions that
12 you thought were relevant; correct?

13 A. Yes. I filtered the video.

14 Q. And you're looking for pieces that you
15 thought are relevant; correct?

16 A. Correct.

17 Q. To either Mr. Baldwin; correct?

18 A. Correct.

19 Q. Or Mr. Knospler?

20 A. Correct.

21 Q. And before you saw that video footage,
22 you had conducted interviews with people who were
23 inside the bar that evening; correct?

24 A. That's correct.

25 Q. And you conducted some interviews that

1 led you to believe that some of these people had
2 actually had conversations with Mr. Knospler?

3 A. That's correct.

4 Q. And some with Mr. Baldwin?

5 A. Correct.

6 Q. And so what you saw to do, based on the
7 stories that they told you, is you try to see if
8 you could confirm on the video the things that
9 they had said to you; correct?

10 A. That's correct.

11 Q. Because that would give you an idea as to
12 maybe the accuracy of what they were telling you;
13 correct?

14 A. Correct.

15 Q. Or maybe the inaccuracy of what they were
16 telling you; correct?

17 A. Correct.

18 Q. So we saw the video. Let's see if I can
19 ask you this. Since you said you put everything
20 on the video that you felt was accurate or had
21 anything to do with Mr. Baldwin or Mr. Knospler,
22 did you find any video coverage of a shouting
23 match or a heated exchange or a yelling match
24 between Mr. Knospler and, say, a truck driver?

25 A. I did not.

1 Q. Did you find any video coverage of John
2 picking something up from the ground and Mr.
3 Andujar -- if I don't say the name right, forgive
4 me, Andujar I think is how you said it -- and Mr.
5 Andujar ejecting him from the bar? Did you see
6 any video coverage of that?

7 A. I did, and it was in the excerpts that
8 you saw.

9 Q. Yes. So please, let's look at that again
10 and point it out to us where you see Mr. Andujar
11 ejecting Mr. Knospler and Mr. Knospler picking
12 something up off the ground, putting it back in
13 his pocket, and going outside. Can you -- can you
14 show us, please?

15 MR. ITZEN: I believe the tape is on
16 the court reporter's desk, Mr. Low.

17 MR. LOW: Can you play that for him?

18 Q. (BY MR. LOW) And do you know where that
19 is, sir?

20 A. Yeah, it's towards the end.

21 MR. LOW: Thank you, sir.

22 Appreciate you doing that.

23 THE WITNESS: Your Honor, if you
24 could clear the green dots. I forget how to do
25 that.

1 THE COURT: Lower left corner.

2 THE WITNESS: That's right.

3 THE COURT: Thank you.

4 (State's Exhibit 301 is
5 played in open court.)

6 Q. (BY MR. LOW) Is this the area, sir?

7 A. Yeah. It'll be in the next two sections.

8 Q. Thank you. And then describe here --
9 we've got Mr. Knospler sitting down at the bar
10 closest to the front entrance; is that correct?

11 A. That's correct.

12 Q. And from this angle, is he -- Mr.
13 Knospler still in the same place at the bar?

14 A. Due to -- I can't tell due to the lights.
15 Yeah, he will be in that same area.

16 Q. That's Mr. Syverson going outside; is
17 that correct?

18 A. Syverson, yes.

19 Q. Thank you. Mr. Baldwin going out with
20 him?

21 A. Correct.

22 Q. Thank you. Same individuals come back
23 in?

24 A. That's correct.

25 Q. Thank you. Appears in that video that

1 Mr. Baldwin and Mr. Andujar are quite friendly?

2 A. Yes.

3 Q. Turns out they worked together for quite
4 a while or a good period of time; is that correct?

5 A. I wouldn't know that.

6 Q. Did you learn that during your
7 investigation?

8 A. I knew that Andujar knew him, but I
9 didn't know they worked together.

10 Q. They worked at a construction company
11 together, at a power company; correct?

12 A. If you're saying that's what it is.

13 Q. Okay. You don't know is the point?

14 A. Correct.

15 Q. Thank you.

16 MR. LOW: Can you freeze it there
17 for a moment. Thank you. I appreciate you, sir.

18 Q. (BY MR. LOW) Now, we see that person on
19 the lower left hand of the screen wearing the
20 baseball cap. Do you see that, sir?

21 A. Yes.

22 Q. Is that Mr. Knospler?

23 A. It is.

24 Q. And that's Mr. Andujar coming up to speak
25 to him?

1 A. It is on the right.

2 Q. And were you able to notice whether or
3 not Mr. Andujar had a smile on his face as he was
4 walking up to talk to Mr. Knospler?

5 A. I was not.

6 MR. LOW: Can we roll that back
7 maybe just a few seconds, please, so we can get
8 one more look at that?

9 MR. ITZEN: Sure, Mr. Low, if you
10 would like to do that.

11 MR. LOW: Thank you, sir. I
12 appreciate you. I'll try and go back just a bit.
13 I'll do the best I can.

14 Q. (BY MR. LOW) It's frozen. Can you tell
15 one way or the other, sir?

16 A. I'm not going to say yes or no. I can't
17 tell.

18 Q. Sure. Fair enough. We'll leave that to
19 the jury to decide because they can see it. And
20 when you all look up, I'll move on, and I'll try
21 and stop it again. I just want to give you all a
22 chance to look and see. All right. Let's go a
23 little bit further.

24 At this point, is Mr. Knospler sitting at
25 the bar?

1 A. I believe so.

2 Q. And have you been in that bar?

3 A. I have.

4 Q. And if you're sitting at the bar, is
5 there a bar in front of you? In other words, is
6 the chair right up next to the bar?

7 A. Yeah. The stool is next to the bartop.

8 Q. Is the stool mounted?

9 A. No.

10 Q. Is it able to move around the floor?

11 A. Yes.

12 Q. Is it a chair with four legs?

13 A. Yes.

14 Q. Are you able to tell at this video how
15 close to that bar Mr. Knospler is?

16 A. No.

17 Q. Are you able to tell with your
18 familiarity of the bar if Mr. Knospler was facing
19 in towards the well of the bar?

20 A. He is.

21 Q. So he's not facing away from it; correct?

22 A. Correct.

23 Q. Thank you. Can you tell, sir, there
24 whether Mr. Andujar is smiling or not?

25 A. Yes, I would say he was smiling.

1 Q. Does he look angry?

2 A. No.

3 Q. Does he look like he is confrontational?

4 A. No.

5 Q. Does he look like he is telling somebody
6 something that they might react poorly to?

7 A. No.

8 Q. Does he look like he is telling somebody
9 that although you have paid your money to come
10 into this bar and you have been here for a while,
11 at this point about four hours; correct?

12 A. Correct.

13 Q. That even though you've paid your money
14 and you've been here for four hours and you
15 haven't disturbed anybody, you need to get up and
16 leave? Does it look like that's what he's saying
17 right here, sir?

18 A. I believe so.

19 Q. You think that's what he looks like he's
20 saying right here?

21 A. I believe this is the time where he tells
22 him to leave.

23 Q. I understand. I'm not asking you if this
24 is the time, in your opinion, this may have
25 happened. I'm just asking for the facts. And

1 that is, does this look like to you a bouncer
2 whose job it is to use his size and his command
3 authority to get people to leave a premises they
4 may not want to, does that look like what he's
5 doing right here, sir?

6 MR. ITZEN: Well, Judge, at this
7 point, I'm going to object. I think it calls for
8 speculation. Mr. Andujar will be here to testify
9 about this. We're asking the deputy to comment on
10 it.

11 THE COURT: I think that would be
12 the better evidence, but I think the question is
13 proper. I'll overrule. You may answer.

14 A. Can you state it again, please, sir.

15 Q. (BY MR. LOW) Yes. Is this the scene
16 where you say Mr. Andujar is using his size, his
17 title, role as a bouncer, and his command voice
18 and authority to eject somebody from the bar? Is
19 this it?

20 A. I'm saying this is where the conversation
21 took place.

22 Q. Thank you.

23 Is -- was Mr. Knospler, was that a smile
24 on his face, too? Did you see that?

25 A. I believe so.

1 Q. And did you see that head nod by Mr.
2 Andujar?

3 A. Yes.

4 Q. The smile on his face?

5 A. Yes.

6 Q. Freeze that for a second. You see Mr.
7 Knospler's head right there?

8 A. I do.

9 Q. At any point did you see in this video
10 where Mr. Knospler bent down to pick something up?

11 A. I did not.

12 Q. Do you believe that Mr. Knospler is still
13 seated in the same position?

14 A. I do.

15 Q. Are you aware, sir -- and that's the
16 conclusion of that point. Are you aware, sir, if
17 you can sit on the barstool at that location where
18 Mr. Knospler is at and bend all the way down and
19 touch the floor?

20 A. From the height of the barstools, that
21 would be a feat and a stretch that I know I
22 couldn't do.

23 Q. Who is that, sir, on the lower left-hand
24 corner?

25 A. The defendant.

1 Q. Seated in the exact same location just a
2 couple minutes later than the discussion he had
3 with Mr. Andujar?

4 A. That's correct.

5 Q. Do you see Mr. Andujar anywhere around?

6 A. I believe he is on the opposite side.

7 He's inside the well of the bar.

8 Q. Do you see him anywhere in the frame of
9 the video, sir?

10 A. No.

11 Q. Why do you believe that's where he's at?

12 A. Because the next frame which is attached
13 to this will show him in the well of the bar.

14 Q. Point out where you see Mr. Andujar.

15 A. I may have misspoke. You're right. He
16 was -- it's the frame previous where he's in the
17 well.

18 Q. Is that Mr. Andujar there?

19 A. Yes.

20 Q. Do you see anywhere Mr. Knospler bending
21 down and picking something up and putting it in
22 his pocket?

23 A. Inside the bar?

24 Q. Yes, sir.

25 A. No.

1 Q. Do you see anywhere where he's now told
2 Mr. Andujar anything about what was in his pocket
3 or what he's picking up or why he had it?

4 A. No.

5 Q. Mr. -- you learned that supposedly that
6 conversation happened, though; correct?

7 A. During my interview with Mr. Andujar,
8 yes.

9 Q. You were told that, but did you actually
10 see that on the video anywhere during the ten
11 hours?

12 A. No.

13 Q. Mr. Knospler is outside?

14 A. Yes.

15 Q. Did you see him bend over and pick
16 anything up off the ground out there in this
17 video, sir?

18 A. I did see him bend over, but I couldn't
19 tell if he picked something up or placed something
20 down.

21 Q. Is it fair to say that he's looking down
22 at the ground right there?

23 A. I believe it's the frame just prior to
24 this where I see it, but yes.

25 Q. I'll go back. Let's watch it. Point out

1 where you see him bend over.

2 A. Would be right there.

3 Q. He's still upright. Is it right there?

4 A. Yep.

5 Q. Is he bending over and touching the
6 ground, sir?

7 A. I wouldn't know.

8 Q. Well, let's see if we can go one more
9 frame. Do you see his left hand in his pocket?

10 A. I do.

11 Q. His leg look straight?

12 A. Yes.

13 Q. His head right about the level of the top
14 of the door of that truck, that four by four?

15 A. Are you talking about the window sill?

16 Q. Yes, sir, I am. Thank you.

17 A. Yes.

18 Q. Does it look like he can touch the ground
19 from this body position, sir?

20 A. I could assume that.

21 Q. Does it look like he's touching the
22 ground from his body position, sir?

23 A. I'm not going to say that I can see him
24 touching the ground.

25 Q. You can see his left hand is in his left

1 pocket; right?

2 A. Correct.

3 Q. About how far off the ground is that?

4 A. Mr. Knospler is approximately five-eight,
5 so I would say he -- his left hand is probably
6 three to three and a half feet off the ground.

7 Q. Now, with the position of his shoulders
8 in relation to his left arm there, do you think
9 his right arm is touching the ground at all?

10 A. It could be.

11 Q. Okay. Let's see. Freeze. Where is his
12 right arm?

13 A. It appears that it's resting at his right
14 side.

15 Q. Does it look like it might be in his
16 pocket?

17 A. I can't tell that from this.

18 Q. Sure. Does it look like in that body
19 position he can bend over and touch the ground in
20 any way?

21 A. Again, I can't tell you.

22 Q. Clearly, you can see that Mr. Andujar at
23 this point in time and Mr. Knospler are not having
24 a conversation in any way, are they?

25 A. That's correct.

1 Q. And this is the last frame of any kind
2 where you see Mr. Knospler in a video; correct?

3 A. Correct.

4 MR. LOW: Gentlemen, I appreciate
5 you letting me borrow that. It was nice of you.

6 THE COURT: Counsel, since you
7 paused there, we're at about 10:45. This is about
8 the latest I usually take a break. So I'll keep
9 my promise to the ladies and gentlemen of the
10 jury, take a 15-minute morning break. Please keep
11 in mind the rules and the admonitions that I gave
12 to you several times yesterday, including not to
13 discuss the case with one another, and we'll stand
14 in recess. We'll try to reconvene at 11 o'clock
15 sharp.

16 (At 10:46 a.m., a recess was
17 taken until 11:04 a.m.)

18 THE COURT: Thank you so much.
19 Please be seated, and court will reconvene after
20 the morning break.

21 The Court notes that Officer Ellis is on
22 the stand and defendant, defense counsel, counsel
23 for the State are present.

24 Cross-examination continues, Mr. Low.

25 MR. LOW: Appreciate it, Your Honor.

1 Q. (BY MR. LOW) And Detective -- it's
2 detective, correct, sir?

3 A. Investigator.

4 Q. I'm sorry. Investigator Ellis, sir, you
5 watched the video coverage of Mr. Andujar looking
6 out the -- the door watching Mr. Baldwin leave;
7 correct?

8 A. Mr. Baldwin or the defendant?

9 Q. Mr. Baldwin.

10 A. Yes, I did.

11 Q. So make sure I'm clear because sometimes
12 I'm not. Thank you. Later in the videotape, Mr.
13 Baldwin leaves; correct?

14 A. Correct.

15 Q. And why did Mr. Baldwin leave, sir, as
16 far as you know?

17 A. Mr. Baldwin left the bar at the request
18 of Mr. Andujar.

19 Q. Is it your understanding that at one
20 point, Mr. Baldwin had fallen asleep at the table
21 near the dance floor?

22 A. Yes. In the area of pool tables where
23 he'd been sitting before.

24 Q. And were you able to actually see that on
25 the videotape?

1 A. No.

2 Q. Were you able to see Mr. Andujar approach
3 what appears to be Mr. Baldwin's table, and Mr.
4 Baldwin's table is just outside the purview or the
5 view of the camera?

6 A. Yes.

7 Q. And were you able to see Mr. Andujar
8 interact with him in some way or -- I'm sorry --
9 in his general -- Mr. Baldwin's general area?

10 A. Yes.

11 Q. And was it your understanding that he
12 woke Mr. Baldwin up?

13 A. Yes.

14 Q. And the purpose of that, as far as you
15 could understand, is that the establishment does
16 not want people in the bar who are so drunk that
17 they're passed out?

18 A. That's correct.

19 Q. And, sir, in the videotape, the ten
20 hours, did you save or find the portions of
21 videotape that showed how many drinks that the bar
22 served to Mr. Andujar?

23 A. I did review those throughout -- to Mr.
24 Andujar?

25 Q. You know what, it was a bad question.

1 Thank you for getting me on that. Let me do it
2 again. It's true that you were looking forward to
3 seeing about how many drinks the bar served Mr.
4 Baldwin?

5 A. Yes, I did. I reviewed those.

6 Q. And were you able to find those on the
7 videotape?

8 A. Yes.

9 Q. All of them?

10 A. I wouldn't say all of them but a large
11 portion of them.

12 Q. And so while watching the videotape, you
13 could watch the bar serve Mr. Baldwin drink after
14 drink after drink?

15 A. That's correct.

16 Q. To the point that Mr. Baldwin is at the
17 table and he passes out drunk?

18 A. Correct.

19 Q. At any point did you see anything on the
20 tape from one of the bartenders saying to Mr.
21 Baldwin, "We think you've had enough"? Did you
22 ever see that on there?

23 A. No.

24 Q. Did you see anywhere on the videotape --
25 you remember that part where Mr. Baldwin walks to

1 the front door and he's got those two beer bottles
2 in his hand, sets them down on the counter, did
3 you see that?

4 A. Yes.

5 Q. And you pointed out that he was kind of
6 stumbling around a little bit as evidence that he
7 was pretty drunk?

8 A. Correct.

9 Q. And that was right in front of the bar as
10 well? At that point, the bar is right behind him;
11 correct?

12 A. Correct.

13 Q. Did you find anywhere on the videotape,
14 sir, where the bar establishment said, "You know,
15 it's maybe time, you've had enough, we're not
16 going to serve you anymore"?

17 A. No.

18 Q. Did you see any point Mr. Andujar at that
19 point, because he was standing right next to him,
20 did Mr. Andujar say to his buddy, "Hey, you know
21 what, I think you've had too much to drink, I
22 think that's enough"?

23 A. No.

24 Q. So Mr. Andujar had to ask Mr. Baldwin to
25 leave, and we see Mr. Baldwin walking out the

1 front door; correct?

2 A. Correct.

3 Q. Did you see anywhere in that videotape
4 Mr. Baldwin stop before he gets to the door and
5 have a conversation or say something to Mr.
6 Andujar?

7 A. There is a conversation basically --
8 there are some blank spots in the video cameras
9 where they don't overlap, where the two fields of
10 view don't overlap; and you see what is perhaps a
11 conversation right before the camera that faces to
12 the out door.

13 Q. Okay. May we see that again? You said
14 "perhaps a conversation." Can we look at that?
15 Would that be okay?

16 MR. LOW: I'm sorry to bother you,
17 sir. That's kind of you. If you'd like, I'll
18 operate it. I hate to ask you to do it.

19 MR. ITZEN: He can go ahead and run
20 it.

21 Q. (BY MR. LOW) We're going to try and get
22 there right now, sir.

23 (State's Exhibit 301 is
24 played in open court.)

25 Q. (BY MR. LOW) Is this close to where we

1 need to be? That's Mr. Syverson?

2 A. That's correct.

3 Q. This is about 12:15 --

4 A. It would be --

5 Q. -- give or take?

6 A. -- approximately 12:10.

7 Q. And this is really, what, 12, what, 15?

8 A. Yeah.

9 Q. Describe what you believe this is.

10 A. In the left corner of the screen, this is
11 going to be Mr. Baldwin here.

12 Q. And then who's entering there?

13 A. This will be Mr. Andujar that walks with
14 him.

15 Q. Thank you. You saw him pat him on the
16 back; correct?

17 A. Yes.

18 Q. And did you see the area where you
19 thought they had a conversation?

20 A. From my understanding, the conversation
21 took place while they were walking to the door.

22 Q. And let's freeze for a second. And the
23 conversation supposedly is that Mr. Baldwin says,
24 Hey, my buddy's car is there; correct?

25 A. Correct.

1 Q. So that means he would have to have seen
2 his buddy's car and say, Hey, look, my buddy's car
3 is there; correct?

4 A. Correct.

5 Q. You can't see the car from here in this
6 location of the bar; is that correct, sir?

7 A. Into the parking lot?

8 Q. Yes, sir.

9 A. No.

10 Q. Can you see them having a conversation
11 anywhere here?

12 A. As I stated, I believe the conversation
13 was while they were walking.

14 Q. Freeze. Did you notice right there, he
15 patted Mr. Andujar on the back and now begins to
16 walk in front of him and move past him. Did you
17 see that, sir?

18 A. Yes.

19 Q. And now here's the next frame, and he's
20 in front of him; correct?

21 A. Correct.

22 Q. And is this the area you believe they may
23 have had a conversation?

24 A. I believe the conversation was the entire
25 segment that we've just watched.

1 Q. Okay. Now, which direction is
2 Mr. Baldwin facing right now?

3 A. Rephrase that for me, sir.

4 Q. Sorry. Which way is Mr. Baldwin looking?
5 Is he looking outside or is he looking back inside
6 towards Mr. Andujar?

7 A. He would be looking at Mr. Andujar.

8 Q. He's walking out the door; correct?

9 A. Yes.

10 Q. At any point did you see him look outside
11 and appear to recognize something that was
12 unexpected and then tell Mr. Andujar, Hey, my
13 buddy's come to get me or my buddy is out there?
14 Did you see that anywhere, sir?

15 A. No.

16 Q. Now, you realize that his buddy at this
17 point has already left. We saw that in the
18 earlier frame; correct?

19 A. Correct.

20 Q. And you realize the way that the buddy
21 left was in Mr. Baldwin's car; right?

22 A. That's correct.

23 Q. And the way for his buddy to leave in Mr.
24 Baldwin's car is Mr. Baldwin would have had to
25 give him, Mr. Syverson, his car key; correct?

1 A. Sometime during the night, yes.

2 Q. Because Mr. Baldwin drove there earlier
3 that day; right?

4 A. He did.

5 Q. So Mr. Baldwin knows that Mr. Syverson is
6 gone and has taken Kara with him; correct?

7 A. That's correct.

8 Q. And your understanding is that Mr.
9 Andujar said he was calling Mr. Baldwin a cab;
10 right?

11 A. Rephrase again.

12 Q. It's your understanding that Mr. Andujar,
13 the bouncer here, had called Mr. Baldwin a cab?

14 A. No.

15 Q. No?

16 A. No. My understanding was that Mr.
17 Andujar had told him he would call him a cab.

18 Q. Thank you. That was Mr. Andujar's
19 intention. It's a good thing to do; right?

20 A. Yes.

21 Q. Clearly, that gentleman is maybe too
22 intoxicated to drive if he's passed out on the
23 table?

24 A. Correct.

25 Q. Okay. Now, here, is it fair to say

1 that's Mr. Andujar watching Mr. Baldwin walk out
2 the door?

3 A. Yes.

4 Q. And he walks straight out the door;
5 correct?

6 A. Yes.

7 Q. You see that part in the -- maybe I can
8 point it out. Did you see that part, sir, up at
9 the top of this window, where it appears that a
10 person walked from the left to the right wearing a
11 white T-shirt? If you didn't, I'll replay it.

12 A. Go ahead and replay it.

13 Q. Sorry. I can't get it more fine-tuned
14 than that. That went way too far back. I'm
15 sorry. Give me a second. Here we go.

16 Go on the outside, watch the upper left
17 of the window. Right there. Did you see that,
18 sir?

19 A. I did.

20 Q. Does that appear to be Mr. Baldwin?

21 A. It is.

22 Q. He's going out the front and then making
23 a right in the parking lot?

24 A. Correct.

25 Q. That's Mr. Andujar standing in the door

1 watching something?

2 A. Yes. If you'll pause it, I'll identify.
3 This is Mr. Andujar here. This is Westy Guill
4 here and then Amber Hudson, Jennifer Cormier, and
5 Ginger Jenkins.

6 Q. Thank you. And are you aware, sir, did
7 Mr. Andujar watch the -- Mr. Baldwin the entire
8 time Mr. Baldwin was outside?

9 A. I am aware that he was at the door the
10 entire time.

11 Q. Yes. I'm asking you did he keep his eyes
12 on Mr. Baldwin the entire time he's outside?

13 A. No. The surveillance footage shows him
14 having a conversation with Ginger Jenkins, Amber
15 Hudson, and Westy Guill.

16 Q. Sir, did you determine how many times Mr.
17 Andujar may have looked away or had his attention
18 distracted from what was going on outside?

19 A. I did not count those.

20 Q. Did you count how many seconds had gone
21 by each time Mr. Andujar has had his attention
22 diverted from what's going on outside?

23 A. No.

24 Q. Was that maybe something important to
25 note?

1 A. I believe that this was just the
2 surveillance footage for what it was.

3 Q. Well, sir, you realize that Mr. Andujar
4 told you that, Well, he saw Mr. Baldwin get
5 stabbed; right?

6 A. He did not say that.

7 Q. No?

8 A. No. If you'll recall Mr. Miller's video,
9 he is asked that question very specific, and he
10 says he did not see that.

11 Q. So at no time did Mr. Andujar indicate
12 that he -- he believed that he saw Mr. Baldwin get
13 stabbed?

14 A. That's correct.

15 Q. Okay. Right there, sir. What's Mr.
16 Andujar looking at?

17 A. The departure of Jennifer Cormier and
18 Ginger Jenkins.

19 Q. He's opened the door for them like a
20 gentleman?

21 A. Correct.

22 Q. How much time now has elapsed from the
23 time Mr. Baldwin walked out the front door and
24 made a right to this point in time?

25 A. Approximately 30 seconds.

1 Q. 30 seconds?

2 A. Yes.

3 Q. Now it appears he looks back over to his
4 right; is that correct, sir?

5 A. That's correct.

6 Q. Well, let me see if I ask you this way.
7 You made a diagram of the parking lot as -- in
8 relation to where the truck was next to Mr.
9 Knospler's car and the entrance to the Racks
10 building; is that correct?

11 A. A diagram was made, but I didn't
12 personally do it.

13 MR. LOW: May I show him this, sir?

14 Your Honor, may I have this exhibit
15 marked next in evidence for -- or first in
16 evidence for the defendant? It's page number 87,
17 Gentlemen.

18 Would you like numbers or letters?

19 THE COURT: Do you have a letter or
20 other designation for the exhibit?

21 MR. LOW: May we please have Defense
22 A for identification, sir.

23 THE COURT: Okay. Very good.

24 MR. LOW: May I approach and show
25 this to the good investigator?

1 THE COURT: Certainly.

2 Q. (BY MR. LOW) Sir, you've seen this
3 diagram marked as Defense A for identification?

4 A. I have.

5 Q. Does that appear to be a diagram of
6 roughly the positioning of the car -- I'm sorry --
7 of the truck and the spot where Mr. Knospler's car
8 was and the front door of Racks?

9 A. Yes.

10 Q. All right.

11 MR. LOW: Sir, may I publish to this
12 the jury?

13 THE COURT: Needs to be received
14 first. Any objection?

15 MR. ITZEN: No, sir.

16 THE COURT: Okay. Defendant's A is
17 received and permission is granted. You wish to
18 publish by the Elmo?

19 MR. LOW: The Elmo, please.

20 THE COURT: Okay. Give me just a
21 second here.

22 Q. (BY MR. LOW) All right. Let's orient so
23 it's easier to see. Let's go this way. You able
24 to see that on your monitor, sir?

25 A. I am.

1 Q. And if I can use my pen, I'm pointing
2 here where it says entrance; correct?

3 A. That's correct.

4 Q. In this diagram, that's supposed to be
5 the building here, this line. It says building,
6 front of, and the address of Racks; correct?

7 A. That's correct.

8 Q. And over here to the right is the pickup
9 truck; correct?

10 A. Yes.

11 Q. Now, this car to the right of the pickup
12 truck, that is just another car. It didn't have
13 any involvement in the scene, did it, sir?

14 A. Yes, correct. It was used as reference.

15 Q. And in this spot here, you've got a dot
16 that says victim; correct, sir?

17 A. Correct.

18 Q. And so this spot here is where Mr.
19 Knospler's car would have been; correct?

20 A. Yes.

21 Q. So when someone wants to walk from the
22 entrance to the car, they would have had to go out
23 the front and walk to the right?

24 A. That's correct.

25 Q. And if you look, Mr. Knospler's car is

1 basically parked at the end of the Racks building;
2 correct?

3 A. Correct.

4 Q. And how long was that building if you
5 start measuring from the front door and you walked
6 right? How long is the building, sir?

7 A. I couldn't tell you that number. I have
8 those numbers, but I can't tell them to you off
9 the top of my head.

10 Q. I don't expect you to remember. That's
11 okay. We'll get them in a little bit, then. And
12 I'm going to guess that the distance, then, from
13 the entrance to Mr. Knospler's car, we'll have to
14 look at that up also?

15 A. I do know that one.

16 Q. What's that distance, sir?

17 A. It's 102.9 feet.

18 Q. Thank you. And over here where these
19 cars are, there's no lighting system, is there?

20 A. No.

21 Q. And so how would you describe the light
22 in that location roughly 12:15, 12:25 in the
23 morning?

24 A. It would be artificial light from the
25 building's neon system that's on the outside of

1 the building.

2 Q. Yes. And how would you describe the
3 lighting, sir, in the area of these cars at 12:30
4 in the morning?

5 A. I guess I don't understand the question
6 you want me to answer.

7 Q. When you say ambient light, does that
8 mean that it's bright enough for me to, you know,
9 read books?

10 A. No. I said artificial light, sir.

11 Q. Is that bright enough for me to read
12 books and so forth over there?

13 A. I would assume not.

14 MR. LOW: I'd like to mark this.
15 Request to mark the next exhibit, which is a
16 picture I'm going to show as Defense Exhibit B for
17 identification as in Beta or Bravo.

18 THE COURT: You propose its
19 introduction?

20 MR. LOW: I figured I'd show it to
21 the detective real quick and lay the foundation
22 unless there's no objection now. Would you let me
23 show it to him?

24 MR. ITZEN: No objection, Mr. Low.

25 THE COURT: There being no

1 objection, the Court will receive Defendant's
2 Exhibit B. And it may be shown to the witness.

3 MR. LOW: Can I show the next one,
4 C, request the next picture marked as Defense
5 Exhibit C for identification, request to move it
6 into evidence.

7 THE COURT: Any objection?

8 MR. ITZEN: No objection.

9 THE COURT: Defendant's Exhibit C is
10 also received.

11 MR. LOW: Request permission to
12 publish, Your Honor.

13 THE COURT: Yes, you may do so.

14 Q. (BY MR. LOW) All right, sir. What does
15 that appear to be to you?

16 A. That's a photograph of the front of Racks
17 Gentlemen's Club.

18 Q. And off to the right here, those are the
19 two doors?

20 A. That's correct.

21 Q. And this is a pickup truck?

22 A. Yes.

23 Q. Now, is that the same pickup truck that
24 was in the windows as we're watching Mr. Andujar
25 look through the window, that's the same pickup

1 truck; correct?

2 A. Yes. This is the pickup truck that is
3 parked that you can see from the surveillance
4 footage from inside the bar.

5 Q. And that's the neon lights you're talking
6 about that are on the front of Racks?

7 A. Yes, that's correct.

8 MR. LOW: Request permission to
9 publish Defense Exhibit B.

10 THE COURT: Yes, you may.

11 Q. (BY MR. LOW) And sir, this picture, this
12 is taken from the front of the bar; correct? The
13 camera person is standing in the front of the bar;
14 correct?

15 A. I would say in that general area, yes.

16 Q. And they're looking out towards the
17 parking lot; correct?

18 A. Correct.

19 Q. And they're looking out to right where
20 the police cars have come; correct?

21 A. Correct.

22 Q. And the police cars have surrounded the
23 area where Mr. Knospler's car was parked and Mr.
24 Baldwin is located?

25 A. Yes.

1 Q. And you can see in the back behind the
2 car that dark pickup truck, it's the one that has
3 the bullet dent in it; correct?

4 A. That's correct.

5 Q. And Mr. Knospler's car would have been
6 parked right here; correct?

7 A. Yes. It would have been on this side of
8 that truck.

9 Q. And although the police cars have their
10 headlights on, you can see that; right?

11 A. Yes.

12 Q. And you can see their lights shining down
13 here; correct?

14 A. Yes.

15 Q. And the camera person has got a flash,
16 and that's doing the best it can; correct?

17 A. Yes.

18 Q. You can see the darkness back there; is
19 that fair to say?

20 A. Yes.

21 Q. And do you believe this picture is an
22 accurate portrayal of, if you will, the lighting
23 system, the lack of it, however you like to
24 characterize it, as it appeared that night?

25 A. Yes.

1 MR. LOW: May -- may we please go
2 back to the video? I don't know --

3 THE COURT: Yes, sir.

4 MR. LOW: Thank you, sir.

5 (State's Exhibit 301 is
6 played in open court.)

7 Q. (BY MR. LOW) And so now Mr. Andujar has
8 again started to -- what appears to be watching
9 off to his right over there; correct?

10 A. Correct.

11 Q. And even though he stopped watching for
12 30 seconds; correct? Correct, sir?

13 A. I'm going to disagree that he stopped
14 watching for 30 seconds. I believe that the
15 females left 30 seconds after Mr. Baldwin, so I
16 don't know how long he stopped watching for.

17 Q. That's fair. Thank you. I think I
18 misspoke. Okay. The time counter on the bottom
19 says 15 -- actually it was 36, we'll go with 37.
20 You can see Mr. Andujar is no longer looking out
21 towards the right and towards the back parking
22 lot; correct?

23 A. Correct.

24 Q. He's just now started looking again;
25 correct?

1 A. Correct.

2 Q. And that says about 15:46, so you were
3 accurate. The ticker says about nine to ten
4 seconds?

5 A. Correct.

6 Q. And, sir, do you have any idea how long
7 it takes to throw a punch?

8 A. I don't.

9 Q. Do you have any idea that if you want to
10 throw a really hard punch, that the faster you
11 throw it, the more force you generate?

12 A. I'm taking your word on that, sir.

13 Q. Well, let's try it. If I go really
14 slow --

15 A. I see what you're saying.

16 Q. Not too much force; right?

17 A. Correct.

18 Q. If I go really -- I'm not going to do
19 that, but if I go really fast, I'll probably get a
20 little more force; correct?

21 A. Correct.

22 Q. About how long does it take the average
23 person or the average man, say, 24 years old, six
24 foot three, 240 pounds, to throw a fast punch?
25 Any idea?

1 MR. ITZEN: Well, Judge, I'm going
2 to object at this point. I think it's
3 speculation. It's outside the scope of direct.

4 THE COURT: I'd sustain without more
5 foundation. I don't think there's proper
6 foundation for that opinion, so I'll sustain on
7 that basis.

8 MR. LOW: That's fair.

9 Q. (BY MR. LOW) How long does it take you
10 to throw a quick punch?

11 A. I can't tell you. I've never timed it I
12 guess.

13 Q. Okay. Would I be outrageous if I said
14 less than a second?

15 A. I would agree that the speed changes how
16 fast it is, yes.

17 Q. Freeze right there.

18 Now we're at 12:53. Actually, it's
19 12:52. I couldn't stop it, but whatever, clearly
20 he turns his back on the scene; correct, sir?

21 A. Yes.

22 Q. And that's about 12 -- 12:59?

23 A. Yeah. I should note that it's not 12,
24 it's actually 15.

25 Q. Sorry. But the point is the number of

1 seconds that's gone by.

2 A. Correct.

3 Q. And that's been how many seconds now?

4 A. Approximately five.

5 Q. Could be a little bit more, don't you
6 think? You want me to go back to 53 and it's 59
7 now? That's all right. We'll go five seconds,
8 give or take.

9 He's turned away a third time; is that
10 correct, sir?

11 A. That's correct.

12 Q. Did Mr. Andujar tell you that he watched
13 what was happening the whole time?

14 A. He did.

15 Q. Does it appear from the video that that's
16 accurate?

17 A. No.

18 Q. And did you ask him why he told you that?

19 A. State that again.

20 Q. Did you ask him why he told you he'd
21 watched the entire time, but once you saw this
22 video, you can clearly see he didn't?

23 A. Did I ask him that?

24 Q. Yes, sir.

25 A. No.

1 Q. Right there, does it appear that he's
2 watching or that he's having a conversation with
3 this gentleman on the right? Do you want me to go
4 backwards?

5 A. Yeah. I need a little bit more
6 reference.

7 Q. Yes, sir. He's turned his head, he's
8 talking to the gal; correct?

9 A. Correct.

10 Q. Talking to her. See that head nod and
11 the jaw moving right there?

12 A. Yes.

13 Q. Same thing?

14 A. Yes.

15 Q. His hand -- his left hand is moving as
16 well?

17 A. Yes.

18 Q. Does it appear that his full and
19 undivided attention is focused on somebody or
20 something that's going on outside?

21 A. No.

22 Q. Do you see that, how he again turned his
23 head even further to the right and is talking to
24 not only -- who's that gentleman right there in
25 the black T-shirt?

1 A. Westy Guill.

2 Q. But he is also watching or talking to the
3 gal; correct?

4 A. Yes.

5 Q. He's now turned away yet another time;
6 correct?

7 A. Yes.

8 Q. And now he's tilted his head down,
9 beginning to talk to the gal, and she's talking
10 back to him; correct?

11 A. Yes.

12 Q. Would it appear that his full and
13 undivided attention or his ability to be very
14 detailed and exact about what he can or cannot see
15 may be affected here; is that fair to say, sir?

16 A. That's fair.

17 Q. Do you see that gal standing on her tippy
18 toes?

19 A. Yes.

20 Q. Do you know why she's doing that?

21 A. I assume because she needs to look over
22 the vehicle.

23 Q. She's having trouble seeing?

24 A. Correct.

25 Q. Meaning that truck might be in her way?

1 A. Correct.

2 Q. See if we see anything else that helps us
3 figure that out. Did you find out why Mr. Andujar
4 had to pick her up?

5 A. Yes.

6 Q. And what did you learn?

7 A. She said that she couldn't see.

8 Q. And it's clear that yet again, Mr.
9 Andujar has now diverted his attention away from
10 what's going on outside?

11 A. That's correct.

12 Q. And again, did you see that?

13 A. Just the frame previous?

14 Q. Yes.

15 A. Yes.

16 Q. And again, did you see that?

17 A. Yes.

18 Q. Did you see Mr. Andujar just stand up on
19 his toes?

20 A. No.

21 Q. Let's go back and look at that again.
22 Watch his neck and his feet. See that?

23 A. Yes.

24 Q. Did he tell you that he was having
25 trouble seeing because of the truck and actually

1 had to try and peer up over the top of it because
2 his vision was obstructed?

3 A. No.

4 Q. He didn't tell you that?

5 A. No.

6 Q. Looks away again; correct?

7 A. Yes.

8 Q. Talking to people there; correct?

9 A. Yes.

10 Q. And this is where he goes outside to see
11 what's happening; fair enough?

12 A. That's correct.

13 Q. Now, sir, isn't it true that the way Mr.
14 Knospler's car was parked, it was backed into the
15 parking spot; correct?

16 A. Correct.

17 Q. So if I'm Mr. Knospler's car, I'm facing
18 the general direction of where the bar is at?

19 A. Yes.

20 Q. But it's off to my right, correct, the
21 entrance and the main building?

22 A. Yes, it would be off to your right.

23 Q. And so my passenger door is over on the
24 right; correct?

25 A. From the orientation of the building or

1 from the car?

2 Q. I'm still in the car right now. I am the
3 car. Let me do it this way.

4 A. So yes.

5 Q. I got a better idea. You're the car.

6 A. Okay.

7 Q. Be the car for a second. And if you
8 want, you can sit in the driver's seat of the car.
9 And if you're looking straight ahead, tell me what
10 you're looking at.

11 A. The building.

12 Q. Well, actually the building is a little
13 bit to your right according to the diagram, isn't
14 it?

15 A. Correct.

16 Q. So you're looking straight ahead, you're
17 looking at the parking lot, aren't you?

18 A. I wouldn't know. I would assume that --
19 you stated it was even with the edge of the
20 building, so I would be looking at the building.
21 And to the right would be the front door and the
22 east of the building.

23 Q. I just showed you the diagram that y'all
24 generated. It's y'all's diagram, isn't it?

25 A. Correct.

1 Q. Is it inaccurate?

2 A. No.

3 Q. Is it wrong?

4 A. No.

5 Q. So it's at the end of the building;
6 correct?

7 A. Yes.

8 Q. So if you're looking straight ahead, you
9 can see the parking lot; correct?

10 A. I disagree.

11 Q. Okay. And if you gaze and you move, say,
12 about two o'clock on the clock dial, so look to
13 your right a little bit, go ahead, and what do you
14 see over there?

15 A. You would see the front doors.

16 Q. So is it fair to say that if I'm now --
17 let's go to the front door of the building. Walk
18 over there, take your time, and stand at the front
19 doors. You've done that before; right?

20 A. Yes.

21 Q. And now you're looking at the front
22 doors, and which way do you have to turn your head
23 if you want to look at Mr. Knospler's car?

24 A. To the right.

25 Q. As you look at the right of the car,

1 which side of the car do you see?

2 A. State that again, please.

3 Q. As you look at the car, what side of the
4 car do you see?

5 A. You would see his passenger side.

6 Q. Can you see the driver's side door from
7 the front door?

8 A. I don't know.

9 Q. Did you try it?

10 A. Well, obviously Mr. Knospler's car wasn't
11 parked there still.

12 Q. Did you put some other car there and try
13 it?

14 A. No.

15 Q. Well, how about the picture of the truck?
16 Turns out that we have a picture of the truck that
17 was taken shortly -- just a little bit of time
18 after this all happened; correct?

19 A. Yes.

20 Q. Let's put that back on the screen and
21 take a look at that.

22 MR. LOW: Please, Your Honor.

23 THE COURT: Yes.

24 MR. LOW: Thank you for that. If --
25 I don't know if we can dim the light for a second,

1 and I'm going to pass it out; but for right now,
2 is there a chance we could dim the light a bit,
3 Your Honor?

4 Q. (BY MR. LOW) That's the truck; correct?

5 A. Yes.

6 Q. Now, you can clearly see the side of the
7 truck from the front; correct?

8 A. Yes.

9 Q. From the front of the building; correct?

10 A. Yes.

11 Q. Can you see the back end of the truck?

12 A. Yes.

13 Q. Can you see the tailgate of the truck
14 clearly? You can see the whole back end of the
15 truck?

16 A. I can see the upper left corner of the
17 tailgate.

18 Q. Can you see the drive -- I mean the
19 passenger door on that car?

20 A. Of the truck?

21 Q. Yes, sir.

22 A. No.

23 Q. So from this vantage point of the front
24 of the building, the only thing you can see is the
25 side of the car; isn't that fair?

1 A. That's correct.

2 Q. So the case of Mr. Knospler's car, if
3 it's pointed towards the building, from that
4 vantage point, you can't see -- you cannot see the
5 driver's door, can you?

6 A. No.

7 Q. Did -- did Mr. Andujar tell you that he
8 could see the driver's side door?

9 A. I believe he did.

10 MR. LOW: Your Honor, may I have
11 just a moment? I may be finished.

12 THE COURT: Yes, you may.

13 MR. LOW: May I ask Mr. Blonigen a
14 quick question about time? Would that be all
15 right?

16 THE COURT: Sure. That's fine.

17 MR. LOW: Thank you, Investigator
18 Ellis. That's all I have for this part now. I
19 may have some more later. Appreciate you, sir.

20 THE COURT: Redirect examination,
21 Mr. Itzen.

22 MR. ITZEN: Yes, sir.

23 REDIRECT EXAMINATION

24 BY MR. ITZEN:

25 Q. Detective Ellis, this photo of the police

1 cars, do you know the vantage point of the person
2 taking the picture?

3 A. I do not.

4 Q. Would that be something important to
5 know?

6 A. Yes.

7 Q. Now, we talked a lot about the video and
8 what's on the video and not on the video. You
9 recall those questions?

10 A. I do.

11 Q. Were you ever able to find where Kara
12 Sterner left the bar that evening?

13 A. No.

14 Q. Did your investigation reveal, in fact,
15 she did and she was at home when this occurred?

16 A. Yes.

17 Q. So there are things on the video that you
18 didn't see; correct?

19 A. Correct.

20 Q. And there's no audio at all; correct?

21 A. No.

22 Q. So we don't know the conversations that
23 are occurring other than what the witnesses are
24 going to testify about?

25 A. That's correct.

1 Q. Now, in your review of the video early
2 on, was the defendant at times facing away from
3 the bar?

4 A. He was, earlier in the evening.

5 Q. The -- at the 10:31 mark in the video,
6 Mr. Andujar is speaking with the defendant;
7 correct?

8 A. Correct.

9 Q. And let me back up. The 10:18 mark, I
10 apologize. The defendant is speaking and Mr.
11 Andujar is speaking with the defendant; correct?

12 A. Correct.

13 Q. Are you able to see anything at that
14 point in the defendant's hands?

15 A. You notice something small that's pinched
16 between the defendant's left pointer finger and
17 right index finger that catches the attention of
18 Mr. Andujar.

19 Q. Now, you've spoken with Mr. Andujar on
20 several occasions?

21 A. I have.

22 Q. And each time you speak with him, is it
23 fairly consistent as to what he saw?

24 A. It is.

25 MR. ITZEN: Thank you for your time.

1 THE COURT: Thank you, Counsel.

2 Any requests on recross, Mr. Low?

3 MR. LOW: Yes, briefly. I missed
4 one part.

5 RECROSS-EXAMINATION

6 BY MR. LOW:

7 Q. Sir, since you watched the entire ten
8 hours, how many other people came in the bar and
9 left more than one time? You know, came in, left,
10 came back in, left. How many other people did
11 that?

12 A. I didn't pay attention to those.

13 Q. Why not?

14 A. I paid attention to Mr. Baldwin and the
15 defendant.

16 Q. Yes. Why didn't you pay attention to how
17 many other people came, left, and came back in
18 more than one time?

19 A. Upon identifying the people that came and
20 left from the bar, I felt that the investigation
21 and specifically the surveillance footage focused
22 on the night in question with Mr. Knospler or
23 excuse me, Mr. Knospler and Mr. Baldwin.

24 Q. I mean, you have heard that there's been
25 some suggestion that because Mr. Knospler left the

1 bar more than one time and came back more than one
2 time, in fact, you made us this nice video and
3 isolated the six times he came in and left, came
4 in and left; right?

5 A. As well as the times Mr. Baldwin left.

6 Q. Did you try and see if maybe that's the
7 type of establishment or bar where it's common for
8 folks to leave and then come back again?

9 A. Those questions were asked.

10 Q. And were you able to -- did you have an
11 opportunity to check the video and see if that, in
12 fact, was true, a lot of people come and go and
13 it's not unusual at all?

14 A. Again, I did not count the times other
15 people came in.

16 Q. Well, if you found out that a lot of
17 other people would leave the bar and come back in,
18 leave the bar and come back in, maybe then the
19 claim that that's unusual behavior on Mr.
20 Knospler's part wouldn't, in fact, really be that
21 unusual, would it?

22 A. Again, I'm not making a claim that
23 anything was unusual.

24 Q. No, I'm not asking you that. I'm asking
25 you, though, if that claim had been made and then

1 you've focused on it and you've shown him coming
2 and going six times, would it be fair to see if
3 anybody else was coming and going more than one,
4 two, or three times?

5 MR. ITZEN: Well, Judge, I think
6 this has been asked and answered. He said he
7 didn't keep track of anybody else.

8 THE COURT: I think he has, but I'll
9 allow it as clarification. You may answer.

10 Q. (BY MR. LOW) Would it be fair to see if
11 anybody else is coming and going and see if that's
12 unusual behavior for this establishment? Would
13 that be fair?

14 A. I believe there are two questions there.
15 The first, is it unusual for people to come and go
16 from a bar. The answer to that is no. I believe
17 your second question is -- and correct me if I'm
18 wrong -- was it the assumption that we were making
19 off that; is that correct, Mr. Low?

20 Q. No, sir. Let me see if I can say it this
21 way. Thank you for asking me. Smoking is not
22 allowed in the building in this state; correct?

23 A. That's incorrect.

24 Q. So it is allowed in the bar?

25 A. In that bar, yes.

1 Q. And is there any reasons you're aware of
2 why people would go out in the parking lot and
3 come back in?

4 A. I can think of a lot of reasons, sir.

5 Q. And out of that long list of reasons,
6 were you able to determine if Mr. Knospler had any
7 of the reasons on your list?

8 A. The obvious reasons, no.

9 Q. Didn't you come to find out that Mr.
10 Knospler had gone outside to move his car?

11 A. I did.

12 Q. And the reason why he moved his car is
13 because he wanted to be able to see it better from
14 the establishment?

15 A. That's correct.

16 Q. From inside the establishment; right?

17 A. That's correct.

18 Q. Sir, is it reasonable or maybe you've
19 done it in your experience where you'll go to a
20 place you don't know very well -- this is the
21 first time Mr. Knospler is at this bar; correct?

22 A. I believe so, yes.

23 Q. And it's a dark parking lot; correct?

24 A. Throughout the night it is.

25 Q. And fair to say maybe Mr. Knospler

1 doesn't know what to expect about the people who
2 are there, is that fair, since it's his first
3 time?

4 A. If that's how your defendant feels.

5 Q. And you found later in Mr. Knospler's car
6 that he had an iMAC computer; correct?

7 A. He did.

8 Q. It was in the backpack on his front seat;
9 right?

10 A. Correct.

11 Q. And he also had a gun in that backpack as
12 far as you know; correct?

13 A. That's correct.

14 Q. And you also found out that that was not
15 just any ordinary gun, was it?

16 A. That's correct.

17 Q. It's a very, very special gun, isn't it?

18 A. It was a limited edition gun.

19 Q. And that limited edition gun made by
20 Nighthawk is made by some of the finest craftsmen
21 in handgun arts; isn't that true, sir?

22 A. They're a custom manufacturer, yes.

23 Q. That Nighthawk manufacturer makes pistols
24 that are so precise and so well made that they're
25 used for competition shooting; isn't that right,

1 sir?

2 MR. ITZEN: Well, Judge, I'm going
3 to object. This is beyond the scope of redirect,
4 sir.

5 THE COURT: Mr. Low, your response?

6 MR. LOW: Yes, sir. This is
7 foundation as to one of the reasons why Mr.
8 Knospler may be going in and out of the bar. So
9 it's foundational only, and it is within the scope
10 of the original redirect.

11 THE COURT: I will allow. You may
12 answer.

13 MR. LOW: I'm almost done, too, Your
14 Honor.

15 THE COURT: You may answer.

16 Q. (BY MR. LOW) Again, and this is a pistol
17 that's made to shoot at competition shootings
18 because it's so precise and so accurate; isn't
19 that right, sir?

20 A. I wouldn't know that it was used at
21 precision shootings. I do know that it's a custom
22 firearm.

23 Q. And, in fact, the cost of this gun is
24 about roughly 32 hundred dollars, \$3,200; isn't
25 that right?

1 A. I didn't know the actual exact cost.

2 Q. But you had a pretty good idea it was
3 expensive, didn't you?

4 A. Yes.

5 Q. And, in fact, that gun was originally
6 purchased by Mr. Knospler for his boy; isn't that
7 right?

8 A. That was a misunderstanding from me. I
9 believe it was purchased for Jacob.

10 Q. A family gun. And is it therefore
11 reasonable that if it's in somebody's car, they
12 want to make sure they keep an eye on that car so
13 it doesn't get broken into by someone and thieved;
14 isn't that right?

15 A. That's your defendant's choice.

16 Q. Now, he did -- Mr. Knospler did have the
17 option in this state to holster that gun on his
18 side and walk into that bar; correct?

19 A. That's incorrect.

20 Q. Here's what I'm saying. He may have got
21 stopped at the front door; right?

22 A. Yes.

23 Q. And he may have been asked, like we saw
24 Mr. Baldwin, if you have a weapon, please take it
25 off; correct?

1 A. Correct.

2 Q. But Mr. Knospler didn't know that at the
3 time, so he had the option to try and enter that
4 building with the gun on; correct?

5 A. Apparently.

6 Q. Or put it in his backpack and try to
7 carry it in; correct?

8 A. Well, there's no backpack in the video,
9 Mr. Low.

10 Q. I said the one that's in the car, he
11 could have put on his shoulder and walked in with
12 it; correct?

13 A. Sure.

14 Q. But he chose not to do that; isn't that
15 right?

16 A. There was no backpack in the video.

17 Q. So he chose not to do that; right?

18 A. Okay.

19 Q. And so is it unreasonable for somebody,
20 every hour or so, to go out and check on the car
21 and make sure everything is okay and secure?

22 A. Again, that's your defendant's choice.

23 MR. LOW: That's all, Judge. Thank
24 you, Your Honor.

25 THE COURT: Okay. Thank you very

1 much.

2 Officer, you may step down, and you're
3 excused, subject to recall as I heard it. There
4 may be a request for you to be recalled at a later
5 time.

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: I'll go with whatever
8 the State would request. Either call your next
9 witness or we can break ten minutes early and come
10 back ten minutes early.

11 MR. BLONIGEN: Well, Your Honor, I'm
12 ready to go ahead with the next witness if you
13 don't mind.

14 THE COURT: Okay. You may do so.

15 MR. BLONIGEN: State would call
16 Sonny Pilcher. Judge, may we approach just very
17 briefly?

18 THE COURT: You may. Do you wish to
19 be on the record?

20 MR. BLONIGEN: No, Judge.

21 (A bench conference was held
22 off the record.)

23 THE COURT: Ladies and gentlemen of
24 the jury, we're going to break. We'll reconvene
25 at 1:30. Thank you again for your attention this

1 morning. As we break for lunch, please keep in
2 mind the rules to not discuss the case with anyone
3 and not to permit anyone to discuss the case with
4 you, to not form or express any opinion on the
5 case, to not try to learn anything about the case
6 from outside the courtroom, to avoid all publicity
7 and accounts in the news media, and to keep your
8 minds open until you've heard all the evidence and
9 it's submitted to you. We'll go ahead and break
10 for lunch. Court will reconvene at 1:30 p.m.

11 (At 11:55 a.m., a recess was
12 taken until 1:32 p.m.)

13 (The following proceedings
14 were held in open court, out of the presence of
15 the jury:)

16 THE COURT: Good afternoon. Thank
17 you very much. Please be seated. Court will come
18 to order.

19 After the luncheon break, we do reconvene
20 in the State of Wyoming versus John Henry
21 Knospler, Jr., Criminal Action Number 19548-B.

22 Counsel and the defendant are present.
23 The jury is not present.

24 Before we broke at lunch, I appreciated
25 that counsel for the Defense advised of a topic

1 that may be raised or is desired to be raised in
2 connection with the cross-examination of Sonny
3 Pilcher and potential impeachment evidence. And
4 it was identified and the proffer was that there
5 would be evidence of a Chuck Griffin concerning
6 phony building permits and that the evidence would
7 be of moral turpitude, and I presume therefore
8 something that Mr. Pilcher could be cross-examined
9 on and that it's being proposed the Defense could
10 call a witness for impeachment purposes.

11 So if I've misstated it or if there's
12 anything else you'd like for me to consider on
13 this, I'll hear from the parties briefly. We do
14 have a jury waiting, so Mr. Newcomb.

15 MR. NEWCOMB: Yes, Your Honor.
16 Thank you.

17 There are two cases I would like
18 respectfully to refer the Court to. One is *Hall*
19 *v. State*, 2005 Wyoming 35, paragraph 6 through 11;
20 *Lawrence v. State*, 2007 Wyoming 183, and
21 paragraphs 20 to 26.

22 As *Lawrence v. State* makes clear, Your
23 Honor, the admission of evidence to establish the
24 lack of credibility rather than to challenge the
25 credibility is not governed by the Wyoming Rule of

1 Evidence 608(b). And if it's offered to show
2 self-interest or bias, that is a collateral issue.
3 And we argue that Mr. Pilcher is an unlicensed
4 contractor pulling a license fraudulently under a
5 licensed contractor's name was done for his
6 self-interest. I also, under *Lawrence and Hall*,
7 the evidence can show that the self-interest might
8 actually curry favor, like, curry favor with a
9 prosecutor for an action that was illegal that was
10 not a conviction under 609. That, too, is
11 self-interest. That is not a collateral issue
12 governed by Wyoming Rule of Evidence 608(b). We
13 can expand on it. Thank you, Your Honor.

14 THE COURT: Thank you very much,
15 Counsel.

16 Mr. Blonigen?

17 MR. BLONIGEN: Your Honor, this
18 clearly goes to credibility not bias. They're
19 using the act itself to create a bias that isn't
20 there to attack credibility. It is exactly a Rule
21 608 problem. And I'd direct the Court, I think,
22 to *Punches versus State*, which is annotated under
23 the rule, 944 P.2d 1131. This is improper
24 impeachment evidence based on what they want to --
25 Judge, the fact that he might have a motive there

1 has nothing to do with a bias he has in this case.
2 It's a -- they want to generally attack
3 credibility. And I think that's clear, and under
4 Rule 608, you can't do that by extrinsic evidence,
5 and you can't do it by specific instances of
6 conduct except in very limited circumstances.

7 To me, they're clearly offering the
8 evidence to attack Mr. Pilcher's credibility.
9 There's no logical assertion that this thing with
10 the contractor permit creates a bias in this case.
11 I mean, it's going in a great big wheel to try to
12 make the thing drive itself. It's a straw man. I
13 set up the straw man, then I claim that there's a
14 bias. This is clearly a Rule 608 issue. I think
15 this is just like *Punches* where they said, No, the
16 fact that he's involved in a theft did not address
17 whether or not he was telling the truth in the
18 matter before the Court.

19 Your Honor, this is clearly a credibility
20 attack, and it draws directly under 608, evidence
21 of character and conduct of the witness.

22 MR. LOW: Your Honor, lastly,
23 there's one point that wasn't made, and I'll be
24 brief.

25 THE COURT: Sure.

1 MR. LOW: The self-interest that the
2 impeachment evidence shows and how it links to
3 this case is following. If Mr. Pilcher is
4 concerned that somebody is going to criticize him
5 for overserving not just one but two patrons who
6 now have a problem with the police, he may be
7 significantly concerned for himself as how that's
8 going to affect him and his business license and
9 this establishment. So any evidence that goes to
10 show how he will act in his own self-interest and
11 how he will commit fraud and lies and crimes in
12 order to protect himself is relevant on that
13 issue. Submit.

14 THE COURT: Okay. Thank you.

15 I don't think this is even close. Rule
16 609 provides for certain ways of impeachment with
17 convictions of crime that are punishable by death
18 or imprisonment in excess of one year under the
19 law, and there are certain other exceptions; but
20 there's a procedure for trying to have other
21 violations of law, I guess, considered for
22 impeachment purposes, and there's been no showing
23 of that. Obviously, if there is a felony that
24 falls within 609, the case law is very strong,
25 there are four questions you can ask, that's it.

1 Under Rule 608, it's very clear. And
2 commenting on Rule 608, the *Wyoming Trial Handbook*
3 says: Introducing extrinsic evidence of specific
4 bad acts by a witness not resulting in conviction
5 is not among the permissible means of showing his
6 or her truthful -- untruthful disposition.

7 And there is a means of asking a question
8 concerning reputation for truthfulness, but
9 extrinsic evidence under Rule 608(b) is not
10 admissible. That's precisely what we have here.
11 There's been no -- nothing in the offer of proof
12 to indicate that the building permits would have
13 anything to do even with Racks, with the time
14 frame involved, with the issues in this case.
15 It's just totally extrinsic and removed based upon
16 the offer of proof.

17 So I appreciate counsel brought that to
18 my attention, and that's how I'd come down,
19 without prejudice to the right to diligently
20 cross-examine, challenge all matters. And I do
21 not see where the building permit matter would
22 affect any of Mr. Pilcher's testimony in this
23 case; but if something develops, I'll sure take a
24 look at that.

25 MR. NEWCOMB: Your Honor?

1 THE COURT: Mr. Newcomb.

2 MR. NEWCOMB: Is it permitted to
3 inquire during the cross?

4 THE COURT: I'd have to see the
5 foundation, the context in which an inquiry might
6 be made in some way relating to the building
7 permits or Mr. Griffin's knowledge of the crime or
8 something of that effect, so.

9 MR. NEWCOMB: Okay. Thank you.

10 THE COURT: Let's have the jury
11 brought in since we're behind starting time and
12 move forward from here.

13 THE CLERK: Yes, sir.

14 THE COURT: Before the jury comes
15 in, I handed to counsel the other acts pattern
16 jury instruction offered by the Defense with a
17 couple of revisions. If that comes up, I'll be in
18 a position to consider giving that instruction at
19 the appropriate time.

20 (The following proceedings
21 were held in open court, in the presence of the
22 jury:)

23 THE COURT: Thank you very much.
24 Please be seated, and court will reconvene after
25 the luncheon break. I do now note the presence of

1 all 13 members of the jury panel.

2 You might note I've been giving you the
3 eye. This goes back several years again. When I
4 convened court, I said, I note the presence of the
5 jury and counsel; and a couple minutes later, we
6 had a gentleman come in from the bathroom that we
7 had forgotten about. And so I've always been
8 really careful. I try to take a look and make
9 sure we have everybody. So your patience with us
10 since we had another short matter we had to take
11 up before going forward here is appreciated.

12 And we're still in the State's case, so
13 Mr. Blonigen.

14 MR. BLONIGEN: Call Sonny Pilcher,
15 Your Honor.

16 THE COURT: Mr. Pilcher, please come
17 up; and the Clerk of Court to my right will give
18 you the oath.

19 THE CLERK: Please raise your right
20 hand. You do solemnly swear that the testimony
21 you will give in the case before the Court will be
22 the truth, the whole truth, and nothing but the
23 truth, so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Around there and please

1 be seated.

2 SONNY PILCHER,

3 called for examination by the State, being first
4 duly sworn, on his oath testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BLONIGEN:

7 Q. Would you state your name for the record,
8 please.

9 A. Sonny Pilcher.

10 Q. Where do you live?

11 A. 1136 South Walnut.

12 Q. How long have you lived in Casper?

13 A. 47 years.

14 Q. Are you familiar with the business known
15 as Racks?

16 A. Yes, I am.

17 Q. How are you familiar with that business?

18 A. I was owner of it until just recently.

19 Q. Okay. Where is it located?

20 A. 1910 Talc.

21 Q. Okay. And is that in Natrona County?

22 A. Yes, it is.

23 Q. Were you the owner of that business on
24 October 3rd and 4th of 2013?

25 A. Yes, I was.

1 MR. BLONIGEN: Your Honor, at this
2 time, I'm going to use a series of photographs,
3 331 through 336. I've talked to Mr. Low, he
4 agrees and stipulates that these may be admitted
5 as exhibits at this time.

6 THE COURT: Mr. Low, you in
7 agreement?

8 MR. LOW: I agree, Your Honor.

9 THE COURT: Thank you. Exhibits 331
10 through 336 inclusive are received.

11 Q. (BY MR. BLONIGEN) Now, has the outside
12 condition of that building changed at all since
13 that day?

14 A. I don't believe so.

15 Q. Has it been painted a different color?

16 A. I don't remember exactly when we put
17 stucco on the outside of the building.

18 Q. Are the doors and the building itself the
19 same?

20 A. Yes.

21 Q. Are the parking lots the same?

22 A. Yes.

23 Q. I'm going to go through some photographs
24 with you and see if I can identify this. Now,
25 these are obviously taken a different date in

1 daylight, but is that still the front door of
2 Racks?

3 A. Yes.

4 Q. Okay. Now, did you go to Racks that
5 evening, October 3rd?

6 A. I went there about 5:00, 5:30.

7 Q. Okay. Why were you out at the business
8 at that time?

9 A. I was dropping off one of my construction
10 trailers.

11 Q. Do you have a video feed at that
12 business?

13 A. Do I have a video feed?

14 Q. Yes, did you?

15 A. Of the -- of the inside, not the outside.

16 Q. Okay. And did it have any audio on it or
17 was it just video?

18 A. Just video.

19 Q. And also, can you observe that video
20 remotely?

21 A. From my house, yes.

22 Q. Okay. Now, when you went there about
23 5:30, how would you describe the weather that day
24 of October 3rd --

25 A. It was a cold rain. It was just about to

1 change to snow.

2 Q. Okay. When you arrived at the bar, how
3 did you get to the bar?

4 A. I came in from the east entrance.

5 Q. Okay. And on doing that, did you notice
6 anything unusual?

7 A. Yes. I noticed a small car parked on the
8 east end of the parking lot with a gentleman
9 outside in the rain without his shirt on dancing
10 in the rain.

11 Q. Can you see that area in the picture I
12 have up on the screen now?

13 A. No.

14 Q. Okay. Let me show you another one which
15 is marked and admitted as 336. Is that a view
16 looking eastward in the parking lot as of that
17 time?

18 A. Yes, it is.

19 Q. And how close to the building was this
20 car parked?

21 A. Oh, approximately where that pickup is
22 parked now.

23 Q. Okay. Clear down at the far end of the
24 parking lot?

25 A. Yes.

1 Q. Okay. Where was this individual in
2 relation to that vehicle?

3 A. He was out in front of the vehicle about
4 10 feet.

5 Q. Okay. And what did he appear to be
6 doing?

7 A. He was just -- had his shirt off looking
8 at the sky, dancing around like he was doing an
9 Indian rain dance or something.

10 Q. Okay. Strike you as unusual?

11 A. Very unusual.

12 Q. What did you do at that point in time?

13 A. Well, I kind of hung out in the area a
14 little bit. I parked my trailer on the side, on
15 the east side of the building. And so I kind of
16 parked to watch him. And he kind of did his
17 little dance over to the parking barrier in front
18 of the building that was in the other picture.

19 Q. Okay.

20 A. And he tried to walk on that parking
21 barrier from the east end of the building to the
22 front door, and he continually fell off of it.

23 Q. Okay. I'm going to show you, then,
24 photograph 332. When you talk about the parking
25 barrier, are you referring to the orange railing

1 that the cars park in front of across the front of
2 the building?

3 A. Yes.

4 Q. Okay, what's that made out of?

5 A. Steel.

6 Q. Was he able to walk this beam or whatever
7 he was doing on it?

8 A. No.

9 Q. At this time he was doing that, was the
10 car still parked where you had first seen it?

11 A. Yes.

12 Q. Okay. Where are you at this point in the
13 parking lot?

14 A. I'm about where that new building is
15 being built.

16 Q. Okay. Are there a lot of cars out there
17 at that time?

18 A. No.

19 Q. So what did you do at that point in time?

20 A. Well, I -- I sat there, and he continued
21 on to the front door and opened the front door,
22 kind of, you know, opened it and kind of looked
23 around the corner like he was looking in the door
24 from -- and didn't want anybody to kind of see
25 that he was opening the door and looking.

1 Q. Okay. Again, strike you as unusual?

2 A. Very unusual.

3 Q. After he looked in the door, what did he
4 do?

5 A. Well, I dropped -- I went further to the
6 north and dumped the trailer and came back around
7 with my pickup. And while I was doing that, he
8 had gone back to his car and moved it to the far
9 west end of the parking lot.

10 Q. Now, can we see the far west end of the
11 parking lot on the photograph that's up now?

12 A. You can, but he would have been a little
13 bit further south, too.

14 Q. Was he parked in the parking spots facing
15 20/26?

16 A. No.

17 Q. Okay. Where was he parked?

18 A. He was, say, parked in the corner of that
19 picture there where the white fence is probably
20 or -- not the white fence. That's a storage
21 building. It's about 30 or 40 feet in front of
22 that with the front of the car pointed towards the
23 front door of Racks.

24 Q. So he's parked clear over here?

25 A. A little closer to the corner.

1 Q. The corner, like in here?

2 A. The other corner of the picture.

3 Q. Still quite a ways away from the
4 building?

5 A. Yes.

6 Q. Plenty of spots right out front?

7 A. Oh, yeah.

8 Q. Okay. You saw him do that. What
9 happened when he took the car over there?

10 A. Well, then I'm thinking, you know,
11 this guy is about to rob us. So I took my pickup
12 and drove to the end of the -- the other end of
13 the parking lot where he was parked now as quickly
14 as I could and pinned his car door shut with my
15 truck and asked him what the hell he was doing.

16 Q. Okay. So you positioned your truck in a
17 way he couldn't get his car door open?

18 A. So he couldn't get his car door open.

19 Q. And tell me how that conversation came
20 about.

21 A. Well, I just said, Well, what the hell
22 are you doing? I saw you look in the door there
23 like you were, you know, trying to figure out how
24 to get in and out or kind of do it quickly, kind
25 of like casing the joint, I guess is the word I'd

1 use. And he gave me some kind of excuse that he
2 was trying to figure out where he had to park over
3 on the west end of the parking lot that he could
4 see the corner barstool from his car.

5 Q. But he's parked clear in the far end of
6 the parking lot?

7 A. Well, I'm -- you could -- you could
8 probably see it, but not very well.

9 Q. Okay. Again, if you want to try to see
10 it, where would be the best spot to park?

11 A. Well, park right in front of the front
12 doors.

13 Q. Okay. And so he went over and parked on
14 the west side after he had looked in the front
15 door?

16 A. Yes.

17 Q. What did you say to him at that time
18 after he said, I'm looking -- trying to keep an
19 eye on my car?

20 A. You know, I made some comment about,
21 Well, I sure as hell hope you're not robbing me.

22 Q. Uh-huh. And what did he say?

23 A. Oh no, no.

24 Q. Okay. Did he say anything else to you at
25 that time?

1 A. I don't believe so.

2 Q. Okay. What did you do at that point in
3 time?

4 A. Well, I kind of pulled around to the
5 front of the building, you know, perpendicular to
6 the building, out close to the front. And that's
7 when he got out and walked over in front of the
8 Racks sign, and he was taking pictures with his
9 telephone --

10 Q. Okay. Was he still --

11 A. -- about 25 feet from the building.

12 Q. Okay. And did you go into the building?

13 A. Did I?

14 Q. Yeah.

15 A. No.

16 Q. Okay. What did you do?

17 A. I called Ashlee Logan and said, Something
18 weird is going on here, you know, don't forget
19 that that button -- that the sheriff's department
20 will be here in a minute if you poke that button
21 because I kind of have a funny feeling about this
22 guy's gonna rob you.

23 Q. Okay. In addition to the parking at the
24 east and west end, is there parking facing 20/26
25 out there?

1 A. Yes.

2 Q. Okay. And does 335 show approximately
3 that view of some of that parking directly across
4 from the front doors?

5 A. Yes, it does.

6 Q. And does 333 show the specific area in
7 that parking area this took place?

8 A. I believe so.

9 Q. Yeah. And is it easy to see that parking
10 spot from the front door?

11 A. Yes, it is.

12 Q. Okay. Now, you indicated that this is
13 right off 20/26. When I'm showing you 334, is
14 that the stop sign and sign that will take you
15 right on out to 20/26?

16 A. Yes. You make a left-hand turn and then
17 a right-hand turn, and you're at 20/26.

18 Q. Now, if you're leaving from the parking
19 lot right across from the front doors, you would
20 turn right and then left onto 20/26?

21 A. Pardon me?

22 Q. If you're in the parking spots directly
23 across from the front door and you back out and
24 you leave, you take a right and then a quick left?

25 A. A right then a quick left, yes.

1 Q. Okay.

2 A. And then another right.

3 Q. Did you talk to anybody other than Ashlee
4 Logan that night inside the bar about this fella,
5 any of your employees?

6 A. I called several times asking what was
7 going on.

8 Q. Okay. Did you check the video feed at
9 all?

10 A. I could see him on the camera, yes.

11 Q. Anything you saw in there that gave you
12 further concern?

13 A. Early on in the night, it -- you know, he
14 was kind of sitting in front of the stage, and it
15 appeared as if he was talking to himself.

16 Q. Okay. I'm going to show you a picture,
17 216. It's already been admitted into evidence.
18 Is this the individual you're talking about you
19 saw outside the bar that night?

20 A. Yes.

21 Q. Okay. When you spoke to him, did you
22 ever get closer to him than being in the cab of
23 your truck?

24 A. No.

25 Q. Could you tell if he'd been drinking?

1 A. No.

2 Q. Okay. Did he appear impaired to you in
3 any way at that time?

4 A. Yes.

5 Q. What led you to believe he was impaired
6 by something?

7 A. Well, he just kind of had this distant
8 look about himself.

9 MR. BLONIGEN: I believe that's all
10 the questions I have, Your Honor.

11 THE COURT: Thank you very much,
12 Counsel.

13 Cross-examination on behalf of the
14 Defense, Mr. Newcomb or Mr. Low.

15 MR. LOW: Thank you, sir.
16 Appreciate it.

17 CROSS-EXAMINATION

18 BY MR. LOW:

19 Q. Good afternoon, sir.

20 A. Yes.

21 Q. How are you?

22 A. Good.

23 Q. May I ask you, sir, you said you're no
24 longer the owner of Racks?

25 A. No.

1 Q. Why is that?

2 A. I sold it to my sister.

3 Q. Why did you do that?

4 A. Just ready to do something different.

5 Q. Any other reason?

6 A. I've had an IRS case going on, and it was
7 suggested by the IRS that I sell it to my sister.

8 Q. What do you mean you had an IRS case
9 going on?

10 A. I had an IRS case going on.

11 Q. Say more. What do you mean?

12 A. Pardon me?

13 Q. Say more. What do you mean?

14 MR. BLONIGEN: Your Honor, if I
15 might, if he seeks to impeach him with this, he's
16 limited to the questions under Rule 609. He
17 cannot generally discuss an issue that's outside
18 the rules of impeachment.

19 THE COURT: I think this is just a
20 little bit different, so I'll allow. Objection is
21 overruled, but I will monitor where we go with
22 this topic.

23 MR. LOW: Yes, sir, I'll --

24 THE COURT: You may answer, Mr.
25 Pilcher.

1 MR. LOW: I'll be mindful, Your
2 Honor.

3 A. Okay. The IRS has charged me with two
4 charges. One is is that I -- I loaned my best
5 friend \$600,000, and I had written a note for
6 \$258,000. And when I wrote it off on my income
7 tax return as a loss, I wrote it off incorrectly.
8 And the second thing is that on Friday and
9 Saturday night at my other location that I used to
10 own, I would -- I would give the bouncer a \$25 tip
11 if we didn't have any problems, and I didn't pay
12 any employee taxes on the tip part of their wages.

13 Q. (BY MR. LOW) If I'm understanding you
14 correctly, you said you had some charges, but did
15 that result in anything?

16 A. Yes. Yesterday, I -- I was charged.

17 Q. Well, okay. Yesterday you were charged
18 or yesterday your case finished?

19 A. Well, yesterday my case finished, I
20 guess. I got my sentencing.

21 Q. Did your case, then, result in a
22 conviction, sir?

23 A. Yes.

24 Q. How many?

25 A. Two. The two I was just speaking of.

1 Q. Thank you. And were those misdemeanors
2 or felonies?

3 A. They're felonies.

4 Q. And are those crimes of -- if you know,
5 and if you don't, you'll tell us. Are those
6 crimes of moral turpitude, sir?

7 MR. BLONIGEN: Your Honor, this
8 exceeds the boundaries of proper 609 impeachment.

9 MR. LOW: I'll withdraw it.

10 THE COURT: I'll sustain.

11 Q. (BY MR. LOW) Fair to say that the
12 federal government accused you, and you pled
13 guilty to those two felonies?

14 A. Yes.

15 Q. And basically saying that you didn't pay
16 your fair share of taxes; correct?

17 A. No.

18 Q. Sir, what was it about watching Mr.
19 Knospler in the rain that you thought was so
20 unusual?

21 A. Well, it was -- it was cold out. I mean,
22 it was a cold rain. It was just within 10, 15
23 minutes, it switched to snow. And it's pretty
24 unusual to have your shirt off and your head in
25 the sky dancing around with your hands in the air.

1 Q. And how do you know he had his shirt off?
2 And it may sound ridiculous, but go with me. How
3 do you know he had his shirt off?

4 A. Well, I saw that he had his shirt off.
5 He had bare skin.

6 Q. What did it look like, his skin?
7 Describe what you saw, detail, please.

8 A. Looked like skin.

9 Q. What color was it?

10 A. I believe he's a white man so white skin.

11 Q. Tan lines?

12 A. Didn't notice.

13 Q. Any hair on his body?

14 A. Didn't pay any attention to that.

15 Q. Were you able to see his chest?

16 A. No. I was looking at the back of him.

17 Q. Well, if he was doing a dance, did he
18 move around?

19 A. Yes.

20 Q. Did he turn in a circle?

21 A. No.

22 Q. He just stayed in one place?

23 A. No. He was headed towards the building.

24 Q. Well, describe or, if you will, you can
25 get down and show us and demonstrate what it was

1 that you saw or you can describe it, whatever you
2 think is best.

3 A. Well, I'll show you.

4 Q. Sure.

5 A. He was like this, dancing, to the sky.

6 Q. As he walked towards your building?

7 A. As he went towards the building, yes.

8 Q. So that was so unusual to you, it caused
9 you concern; correct?

10 A. Correct.

11 Q. And is it safe to say that in seeing
12 that, you thought that maybe the person was
13 psychologically unstable?

14 A. Well, that's not usual. I've never seen
15 it before.

16 Q. I understand.

17 A. I didn't go through in my mind about
18 psychologically unstable, I just -- I've seen a
19 lot of things in the bar business.

20 Q. Well, let me ask you this. Was it so
21 unusual that you did not feel like inviting him
22 home with you that night?

23 A. I wouldn't have invited him home, no.

24 Q. But you invited him into your business,
25 didn't you?

1 A. Invited him in? The front door was
2 unlocked.

3 Q. And was it so unusual that you would
4 invite him home and have a drink with him that
5 night?

6 A. Say that again.

7 Q. Was it so unusual that you felt like
8 inviting him home with you to have a drink with
9 him that night?

10 A. I didn't feel like doing anything with
11 him.

12 Q. But it was okay for you to let him go and
13 sit and drink with your employees, a young woman
14 by the name of Ms. Logan; is that right?

15 A. Yes.

16 Q. And you said you looked at him and he
17 looked distant to you. Is that what you said,
18 sir?

19 A. Yes.

20 Q. And did that make you feel that maybe he
21 was under the influence of something or that maybe
22 there wasn't something right about him?

23 A. I didn't feel there was something right
24 about him.

25 Q. Yeah. But he was right enough to go into

1 your bar and drink your booze, wasn't he?

2 MR. BLONIGEN: Objection, Your
3 Honor. That's argumentative.

4 THE COURT: Would be argumentative,
5 I'll sustain.

6 Q. (BY MR. LOW) I'll ask it this way. Did
7 you feel that he was still good enough to go in
8 your bar and you serve him alcoholic beverages?

9 A. 75 percent of the people that go into a
10 bar are, you know, somebody I wouldn't invite home
11 with me.

12 Q. So my question was you still felt that it
13 was okay for you to invite him into your bar and
14 serve him your alcoholic beverages; isn't that
15 true?

16 A. Yes.

17 Q. And the reason that you do that is
18 because that's how you make money?

19 A. Yes.

20 Q. That you keep for yourself?

21 A. Correct.

22 Q. And you saw an opportunity to make money
23 for yourself in that moment; isn't that right?

24 A. That didn't go through my head, but
25 that's what happens.

1 Q. Okay. Since that didn't go through your
2 head, isn't it also true what did not go through
3 your head was, well, if this guy is so weird and
4 so strange, I think I'm going to tell him, Excuse
5 me, thank you, appreciate you coming to Racks; but
6 I'm going to deny you access.

7 That didn't go through your mind either,
8 did it?

9 A. No. I generally don't, until they do
10 something wrong, tell them they can't go into
11 Racks or throw them out of Racks.

12 Q. Or unusual?

13 A. Everybody is unusual.

14 Q. That's right. Everybody at Racks is
15 unusual or from your judgment; right?

16 A. Not everybody. 75 percent is what I
17 said.

18 Q. So since everybody is unusual that goes
19 to Racks and you take their money, him standing
20 outside and enjoying the rain really isn't all
21 that unusual, is it?

22 A. I've never seen it before.

23 Q. Still not unusual for you, though, is it,
24 compared to everybody else you let in there and
25 take their money; right?

1 A. You know, that's hard to say.

2 Q. And can I ask you, since this night,
3 since this happened or, sorry, since you saw Mr.
4 Knospler in the rain, how many people have you
5 told the story to?

6 A. Oh, since that first week, I honestly
7 don't think I've told that story to anybody except
8 for Mr. Blonigen.

9 Q. Do you ever remember meeting with the
10 good detective or -- I'm sorry -- Investigator
11 Ellis here and telling him that story?

12 A. It was in the first week.

13 Q. So your answer is yes, I do remember
14 telling him?

15 A. In the first week, yeah.

16 Q. And do you remember sitting down with the
17 investigator there, Mr. -- I'm sorry, Officer
18 Ellis, and telling him about the rain dance?

19 A. I believe so, yes.

20 Q. You think you did? Is that your memory?

21 A. I believe so.

22 Q. And do you remember telling him that in
23 your version, you saw Mr. Knospler out there with
24 no shirt on? Do you remember saying that to him?

25 A. I don't remember saying for sure about

1 the no shirt part.

2 Q. Well, when is the first time you actually
3 remember saying that to somebody?

4 A. I don't know. I think telling Ashlee
5 Logan when I called in to say you had somebody
6 that was a little strange coming in.

7 Q. Oh, you think you told her that he had no
8 shirt on?

9 A. Yeah. I said this guy is out here in the
10 parking lot dancing around without a shirt on.

11 Q. Anybody else?

12 A. I didn't talk to anybody else, no.

13 Q. You ever remember giving any press
14 interviews and having them come up to you and
15 saying, Hey, Mr. Pilcher, tell us what happened,
16 what did you see?

17 A. Yeah, I do remember a little bit.

18 Q. And why did you decide that you wanted to
19 tell the press what you saw and what you believe
20 happened?

21 A. They asked. I told them what I saw.

22 Q. Did you tell them the truth or did you
23 exaggerate or lie?

24 A. I don't believe I exaggerated or lied.

25 Q. You're not sure or are you sure?

1 A. No, I didn't exaggerate or lie.

2 Q. Did you tell the press -- or let me put
3 it this way. Did you tell somebody that in your
4 opinion, that Mr. Knospler, in fact, was a model
5 customer, just sat there smiling, didn't bother
6 any of the dancers? Did you tell them that about
7 Mr. Knospler?

8 A. Don't remember that at all.

9 Q. So if you're quoted and someone says
10 that's exactly what you told them, would they be
11 lying or you just don't remember?

12 A. Don't remember.

13 Q. How is it that you're able to remember
14 him dancing in the rain with no shirt, but when it
15 comes to something maybe more normal and
16 complimentary, you can't seem to remember that?
17 Is there a reason for that?

18 A. Well, I think it's normal for people to
19 remember the unusual as opposed to the normal.

20 Q. I see. When was it you met with Mr.
21 Blonigen?

22 A. A few weeks ago.

23 Q. Is that the only time you've ever met
24 with him?

25 A. About this case.

1 Q. How many times did you meet with him?

2 One time? More than once? Do you remember?

3 A. Once.

4 Q. And how many times did you speak with him
5 on the phone?

6 A. I don't remember for sure if I spoke to
7 him on the phone.

8 Q. Not sure?

9 A. No.

10 Q. Okay. And in that conversation, did you
11 tell Mr. Blonigen that you felt that Mr. Knospler
12 had no shirt on?

13 A. I don't know if I mentioned that total
14 detail or not.

15 Q. Well, how long ago was that?

16 A. Two weeks ago.

17 Q. If it was just two weeks ago, how could
18 you not remember?

19 A. You know, I didn't go into a long strange
20 detail with Mr. Blonigen. He didn't ask about
21 every detail.

22 Q. Okay. Sir, would it surprise you to know
23 that no detective report, investigative report,
24 no -- of any kind does it ever show that you told
25 anybody, including the press, that there was Mr.

1 Knospler out there dancing in the rain with, and
2 here's the key, no shirt? Does that surprise you
3 to know that, that the first time anybody heard
4 that was yesterday?

5 A. That I didn't mention the shirt part?

6 Q. Yes, sir.

7 A. Doesn't surprise me.

8 Q. Why not? Why doesn't it surprise you?

9 A. You know, I don't know.

10 Q. Okay.

11 A. I guess I didn't get into that detail
12 with everybody.

13 Q. Now, here's the other thing I want to ask
14 you. You were concerned enough about Mr.
15 Knospler's dancing and looking in the rain as he
16 walked towards the front door that you called Ms.
17 Logan and wanted to warn her about that; correct?

18 A. Yes.

19 Q. And what was your concern in that moment
20 when you did that?

21 A. Well, I had a feeling he was going to rob
22 us.

23 Q. Yes. Let me ask you this. Did you call
24 the police?

25 A. No.

1 Q. But I thought you were concerned a
2 robbery was in progress?

3 A. I wouldn't call it a robbery in progress.

4 Q. About to rob is not a robbery in
5 progress, okay, let's not mince words. You were
6 concerned at any moment, he could rob you;
7 correct?

8 A. I guess you could say that, yes.

9 Q. And you didn't think it was important to
10 call anybody in the authorities and alert them to
11 that, you know, because you've got the push
12 button; right?

13 A. Yes.

14 Q. Why did you install that push button?

15 A. I didn't.

16 Q. Who did?

17 A. Whoever built the building.

18 Q. And why did you maintain it and operate
19 it and use it?

20 A. So if it got to the point where I thought
21 we needed it, we could poke it, and they'd be
22 there awful quick.

23 Q. Because you'd like them to come out
24 quickly if there's something going wrong?

25 A. Correct.

1 Q. Did you call them and have them come out
2 immediately because you thought something might be
3 going wrong?

4 A. At five o'clock in the afternoon?

5 Q. Yes, sir.

6 A. No.

7 Q. It was dark out, wasn't it?

8 A. No.

9 Q. It was still light?

10 A. Yes.

11 Q. About 5:30; right?

12 A. 5:00 to 5:30, yes.

13 Q. October the 3rd?

14 A. I believe so.

15 Q. And you decided, Well, I'm going to go
16 confront Mr. Knospler and ask him if, in fact,
17 he's getting ready to rob the place?

18 A. Yes.

19 Q. And you're a brave man?

20 A. Yes.

21 Q. Okay. So you thought you was going to
22 confront this criminal, this potential criminal;
23 is that right?

24 A. Yes.

25 Q. And when you went up there and you asked

1 him about it, he told you no, that's not what he
2 was doing at all; right?

3 A. That's the answer he gave me, yes.

4 Q. Was he standing there with his shirt off?

5 A. No. He was in his car.

6 Q. Oh. So at what point did he put his
7 shirt back on?

8 A. I didn't pay attention to when he put his
9 shirt back on.

10 Q. Hmm. Well, when you got up there and he
11 was at his car, was he wearing a shirt?

12 A. I believe so.

13 Q. You're not sure?

14 A. Not sure. I think he might -- I think he
15 might even have had a coat on at that point.

16 Q. Can we be sure? So it's either no shirt,
17 a shirt, or a coat, you have no idea?

18 A. I know this. He didn't have a shirt on
19 in the parking lot to begin with. I don't know
20 when he put the shirt back on, and I'm not real
21 sure if he had a coat on when he was in the car.

22 Q. Well, what I don't understand is you just
23 see him in the rain, according to you, and dancing
24 with no shirt on, you think he's going to rob the
25 place, where did you lose sight of him? So all of

1 a sudden now he's in the car, and you think he may
2 have some clothes on. Now, I mean, if he's just
3 about to commit a robbery or you think he is, how
4 did you lose him? He's in your parking lot.

5 A. My feeling was is that he was casing out
6 the place, okay. I didn't -- at that point, you
7 could see everything on him. He didn't have a gun
8 on him at that point or, I mean, he just didn't
9 have a shirt on. I believe the shirt was in his
10 hand. So I just, in the very beginning, thought
11 this was very strange. And then when he opened
12 the door and peeked around the corner, you know, I
13 got to thinking a little bit more, Well, what is
14 this guy doing. So then I went and dumped my
15 trailer or unloaded my trailer and came back
16 around, and he had moved all the way to the other
17 end of the parking lot. And I'm getting to
18 thinking, Well, this guy is trying to figure out
19 what goes on around the outside of this building.

20 Q. Yes, sir. And before you got sentenced
21 yesterday --

22 A. Uh-huh.

23 Q. -- in federal court; right?

24 A. Correct.

25 Q. You had an opportunity to speak with Mr.

1 Blonigen, like you said, you met with him?

2 A. Yes.

3 Q. And you knew at the time that this is the
4 district attorney in your area; right?

5 A. Yes.

6 Q. And you have two weeks to go before your
7 sentencing; right?

8 A. Say that again.

9 Q. This is two weeks before you were to get
10 sentenced in federal court?

11 A. Two or three weeks.

12 Q. And well, you were kind of hoping that
13 you'd get a good sentence in federal court,
14 weren't you?

15 A. Well, everybody is, yeah.

16 Q. And so that's the first time that you may
17 or may not have remembered telling somebody, Mr.
18 Blonigen, that suddenly, Mr. Knospler has no shirt
19 on; right?

20 A. That's a small detail in my mind was
21 whether he had a shirt on or not.

22 Q. Well, why is it such a small detail in
23 your mind?

24 A. The shirt part of it wasn't the unusual
25 part to me. The unusual part was staring at the

1 sky with your arms in the air dancing like you're
2 doing an Indian rain dance.

3 Q. See if I understand. Did you say that
4 later in the day or evening, however you like to
5 say it, that you went back to your bar?

6 A. No, I did not.

7 Q. Well, I could have swore that you said
8 that you looked at Mr. Knospler in your bar and he
9 was talking to himself. Did you just say that on
10 the direct with Mr. Blonigen?

11 A. I was looking at my tablet --

12 Q. Uh-huh.

13 A. -- at home, like he said that I could do.

14 Q. Oh, so you're looking through a video
15 monitor?

16 A. Yes.

17 Q. And it had no sound?

18 A. No sound.

19 Q. And tell me, what did Mr. Knospler have
20 with him in the bar, if anything, that you know
21 about?

22 A. I didn't notice anything.

23 Q. Why not? You were looking at the
24 monitor?

25 A. The part I noticed was the part about him

1 talking to somebody that was not around.

2 Q. And, you know, it's funny, the nice
3 investigator here, Ellis, he says he watched every
4 minute that there was video footage inside that
5 bar and looked for every single minute where he
6 could find Mr. Knospler in that bar. And he was
7 limited to only what was recorded by the video
8 cameras in that bar. And guess what he never
9 found in there?

10 MR. BLONIGEN: Judge, this is
11 improper impeachment. He's impeaching based on
12 another witness's testimony.

13 THE COURT: It's improper comment
14 and the form of the question, so I'll sustain.
15 You might reask.

16 Q. (BY MR. LOW) I'll do it this way, then.

17 Is it your understanding that if you can
18 see it on the monitor, sir, the video cam or the
19 recorder in your bar is recording footage as well?

20 A. Should have been.

21 Q. Okay. And you have any reason to believe
22 that that video footage was erased or deleted?

23 A. No. What time did it start?

24 Q. Well, I don't know, sir. You tell us.

25 You --

1 A. I don't know.

2 Q. You used to own it.

3 A. I never watched the video. I don't know
4 what time it started.

5 Q. Well, so are you testifying, then, from
6 your memory of over a year ago, that you believe
7 that there is video footage that exists of Mr.
8 Knospler sitting at the bar and talking to
9 himself?

10 A. I didn't say he was sitting at the bar.

11 Q. You believe there's video footage of Mr.
12 Knospler sitting in your bar talking to himself?

13 A. I have no idea.

14 Q. Well, there should be if you saw it;
15 right?

16 A. Should be.

17 Q. And are you aware if Mr. Knospler had a
18 cell phone with him?

19 A. No. Well, yes, I am, because he was
20 taking pictures of the Racks sign.

21 Q. Yeah. And, sir, do you own a PDA or a
22 phone or anything like that, cell phone?

23 A. I have a cell phone.

24 Q. You ever spend any time texting on it or
25 reading on it or anything like that?

1 A. No.

2 Q. Never?

3 A. I don't text.

4 Q. Is it, therefore, outside of your
5 experience that sometimes people will read
6 something on their text message and they'll kind
7 of laugh and say something as a result? You ever
8 seen anything like that before?

9 A. You know, I can't say whether I have or
10 haven't.

11 Q. Would you think I'm weird, sir, if I told
12 you that sometimes I text and my buddy sends me
13 some funny things, and I'll start talking about
14 it, and I'm doing something about it. Would that
15 surprise you and you think I'm weird?

16 A. I wouldn't necessarily think that is
17 weird, no.

18 Q. Are you aware that a number of your
19 dancers in that club said that Mr. Knospler was on
20 his phone all night long and texting all night
21 long?

22 MR. BLONIGEN: Your Honor, I'm going
23 to object again to this type of impeachment. He's
24 asking about other people's statements. That's
25 improper impeachment.

1 THE COURT: Yes, and the Wyoming
2 Supreme Court has come down real hard on
3 commenting or giving testimony on the truthfulness
4 or untruthfulness of other parties' statements or
5 evidence or the proposed testimony, so I'll
6 sustain; and I'd ask that we stay away from that.

7 MR. LOW: Yes, Your Honor.

8 THE COURT: Thank you.

9 Q. (BY MR. LOW) And when you claim that you
10 believe you saw this footage of Mr. Knospler
11 talking to himself, what did you do when you saw
12 that?

13 A. Probably giggled.

14 Q. Why did you think it was funny?

15 A. Because I thought he was kind of strange.

16 Q. If you're giggling, it tells me you were
17 not afraid of him, were you?

18 A. No. I mean, this was later on in the
19 evening. He hadn't robbed the place. But I did
20 call several times to check and see how he was
21 doing.

22 Q. Well, tell us why you would call several
23 times to check on him. What would cause you to do
24 that?

25 A. The dancing in the parking lot.

1 Q. You were still troubled by that, were
2 you?

3 A. Yes.

4 Q. So much so, you wanted to call, you say,
5 and check and see how he was doing?

6 A. But I do that every night. I'll call
7 five, six, seven times a night, see what's going
8 on.

9 Q. So you called for a different reason, but
10 while on the call, you happened to ask?

11 A. Yeah. Not a different reason. I just --
12 I call and ask how many people are in the bar and
13 if anybody is doing any lap dances and if there's
14 anybody that's bothering anybody, if we've had any
15 trouble. I ask several questions every time I
16 call.

17 Q. So you do it out of habit?

18 A. I do it out of habit.

19 Q. But I don't understand why do you need to
20 do that and call and ask if people are behaving
21 and having lap dances or whatever if you got the
22 monitors that tell you that at home?

23 A. Well, you can't see every angle. And
24 it's just been a habit of mine for the 30 years
25 that I've owned a bar, you know. I like to

1 know -- I just like to know what my help's opinion
2 of what's going on is.

3 Q. And once you saw or what you believe you
4 may have seen, Mr. Knospler sitting in your bar,
5 hearing him talk to himself, at that point, he'd
6 been there a number of hours; isn't that true?

7 A. I believe he'd be there two or three
8 hours at that point.

9 Q. And during that time period, he'd given
10 you his money; correct?

11 A. I didn't see him give me his money, but I
12 assume he did.

13 Q. Were you under the impression that you
14 were serving -- your business was serving him
15 alcohol?

16 A. Do you want me to tell you what I think
17 was going on?

18 Q. Do you believe that your business was
19 serving him alcohol, yes or no?

20 A. I think he was serving himself more in
21 the parking lot than he was in the building.

22 Q. Okay. So tell us exactly what you saw
23 that leads you to believe that he was drinking in
24 your parking lot?

25 A. Because he was in and out of that door

1 several times.

2 Q. Okay. In and out of the door. Anything
3 else? Anything else you saw that allows you to
4 conclude that he was drinking out in the parking
5 lot?

6 A. Over the 30 years that I've owned a bar,
7 you've got to deal with that, that people --

8 Q. I'm not asking you about your experience,
9 sir. Tell us what else you saw that allows you to
10 conclude that Mr. Knospler was drinking out in the
11 parking lot. Just what you saw.

12 A. I didn't see him drinking in the parking
13 lot.

14 Q. So why did you just say he was?

15 A. I assumed he was drinking in the parking
16 lot.

17 Q. And that's because of your experience?

18 A. Yes.

19 Q. The question is again, though, you
20 continued to have your bar serve him alcohol;
21 correct?

22 MR. BLONIGEN: Judge, this has been
23 asked and answered.

24 THE COURT: It's been asked and
25 answered I think twice. Sustained and let's stay

1 away from that question again.

2 Q. (BY MR. LOW) Did you feel comfortable
3 enough with Mr. Knospler in your bar after two or
4 three hours of him being there to continue to
5 serve him at this point in time?

6 A. He hadn't done anything physical yet.

7 MR. BLONIGEN: Judge, this is
8 becoming repetitive. This is -- I would object
9 again.

10 THE COURT: As to the last question,
11 Counsel, I thought we went through all of the
12 scenario of his observations --

13 MR. LOW: Yes, sir.

14 THE COURT: -- once or twice.

15 MR. LOW: I'm going now to the time
16 stamps, so we're at three hours into the bar. And
17 I want to see how he's doing, Mr. Knospler is
18 doing at the three-hour mark.

19 THE COURT: I'll allow the answer to
20 stand, and let's move to a new topic --

21 MR. LOW: Yes, sir.

22 THE COURT: -- new point in time if
23 that's what you need to do.

24 MR. LOW: Thank you.

25 Q. (BY MR. LOW) Did you view Mr. Knospler

1 any further after the three-hour mark now?

2 A. No. I mean, I could have; but, I mean,
3 it -- at that point, the crowd is bigger, and
4 you're looking at more people as opposed to just
5 very few in there early in the night. So you can
6 kind of stand out on somebody at that point; but,
7 you know, as the night gets later on, there's more
8 people in there, it's hard to pick out a person.
9 And at this point, he still hadn't done anything
10 wrong. He was just unusual.

11 Q. Do you recall meeting with the good
12 Investigator Ellis here shortly after the shooting
13 in the parking lot?

14 A. Sort of recall.

15 Q. And is it your understanding that this
16 gentleman asked you to see what you knew about
17 what you saw; correct?

18 A. Mr. Ellis asked me what I had saw?

19 Q. Yes, sir.

20 A. I believe so.

21 Q. Did he record that, do you know?

22 A. I don't believe so.

23 Q. He didn't tell if you he was recording it
24 or not?

25 A. I don't believe so.

1 Q. During that -- can we call it an
2 interview between you and Investigator Ellis?

3 A. Let me kind of -- the time that I'm
4 talking about now is they had come out to see the
5 glass in the parking lot, and that was a few days
6 after it happened. I wasn't thinking about the
7 first time I had, you know. The second time,
8 there were two officers out there, and they --
9 somebody had said the glass was still in the
10 parking lot, so they had come out to view the
11 glass. That's the one I'm talking about right
12 now.

13 Q. Yeah. I'm asking -- thank you. But I'm
14 asking you, at any point, were you -- did you go
15 and meet with Investigator Ellis?

16 A. Yes. But I don't remember whether -- I
17 wasn't talking about the recording then. I was
18 talking about when I saw him in the parking lot
19 looking at the glass.

20 Q. I understand. Can you -- can we do it
21 this way?

22 A. Okay.

23 Q. Yes or no, I'm going to ask it slow
24 because I'm confused now. Yes or no, did you meet
25 with Investigator Ellis at a place, say, down at

1 the police station?

2 A. Yes.

3 Q. Thank you. Were you tape-recorded when
4 you were down there?

5 A. Honestly, I don't remember.

6 Q. Okay. That's all right. And while you
7 were down there, isn't it true that he wanted to
8 see if you could identify this person who you
9 claim was dancing in the rain; right?

10 A. Yes.

11 Q. And he asked you some questions to see if
12 you could identify him; isn't that right?

13 A. Yes.

14 Q. And what did you tell him?

15 A. Well, I thought I could identify him.

16 Q. Okay. And is that your -- do you
17 remember what your precise words were as to
18 whether you could identify him or not?

19 A. I don't remember my precise words, no.

20 Q. Did he ask you to -- if you were sure or
21 not?

22 A. Well, I assumed I was sure enough, yes.

23 Q. And did you tell him you were sure?

24 A. I believe so.

25 Q. How sure did you tell him you were?

1 A. I don't remember.

2 Q. Is it true that you told him that you
3 were only 25 percent sure that you could identify
4 Mr. Knospler?

5 A. If I remember right, is that the -- what
6 I saw was a shaved down, hair cutted version of
7 Mr. Knospler. And my answer was, with this guy
8 with more beard and a little longer hair, this is
9 probably Mr. Knospler.

10 Q. Thank you for that, sir, but my question
11 is a little different. Were you asked this
12 question, and did you give this answer --

13 A. I don't remember.

14 Q. Pardon me. Sorry.

15 A. I don't remember.

16 Q. Were you asked this question, and did you
17 give this answer by the detective here: And how
18 sure would you be?

19 And did you say, sir: Facial hair is the
20 same.

21 Question: Be, like, zero to a hundred
22 percent scale.

23 And your answer: 25 percent.

24 Do you recall if you were asked those
25 questions and you gave those exact answers?

1 A. Do not remember that.

2 Q. Okay.

3 MR. LOW: Your Honor, if I may, I
4 have an issue you might want to know about. And I
5 want to give everyone an opportunity to be heard
6 on it. And it's a very small issue, it's not a
7 big deal, but I just wanted to bring it to your
8 attention.

9 THE COURT: You wish to be heard at
10 the bench?

11 MR. LOW: Yes.

12 THE COURT: Yes, you may approach.

13 (The following proceedings
14 were held at the bench between the Court and
15 counsel, out of the hearing of the jury:)

16 THE COURT: Go ahead.

17 MR. LOW: I have a statement here by
18 Mr. Pilcher that would give some light and, in
19 fact, is impeachment about the visibility and the
20 difficult visible conditions out in the parking
21 lot that night. This is impeachment of someone
22 who hasn't testified yet, but I've noticed you've
23 been letting witnesses go on their subpoena. And
24 if I have to wait for my case in chief to ask him
25 this statement, it may be a logistical problem, so

1 I wanted to bring it to your attention. I could
2 read to you what it is or tell you what it is I
3 want to ask him. Mr. Blonigen will probably
4 object, and I just wanted to bring that to
5 everyone's attention so we can do the right thing.

6 THE COURT: Visibility of the
7 parking lot on October 3rd?

8 MR. LOW: Yes, sir. In fact, I'll
9 be specific. Mr. Andujar told Mr. Pilcher that it
10 was very difficult to see that night because of
11 the lighting conditions, the darkness, as well as
12 the snow.

13 MR. BLONIGEN: Well, where does that
14 statement come from?

15 MR. LOW: It comes from Mr. Andujar
16 to Mr. Pilcher.

17 MR. BLONIGEN: Well, then it's
18 hearsay. Mr. Andujar hasn't testified.

19 MR. LOW: That's what I'm saying.
20 He hasn't testified yet, I'm aware of that, so I
21 have a logistical problem. I'm trying to bring it
22 to everyone's attention so I don't get prejudiced
23 later.

24 THE COURT: Okay. Here's how I view
25 it. You can ask about the visibility on the night

1 in question, but you can't ask about statements of
2 other witnesses to the case because that would be
3 commenting on their testimony. But you can surely
4 ask about the visibility and his observations on
5 the day in question.

6 MR. LOW: I'll do that. However,
7 when the case -- when he's done testifying in a
8 minute here, I would like to keep his subpoena
9 active because I may have to recall him.

10 THE COURT: Okay.

11 MR. LOW: Thank you.

12 (The following proceedings
13 were held in open court, in the presence of the
14 jury:)

15 MR. LOW: Thank you, Your Honor.

16 THE COURT: Hold up if you would.

17 Are you ready, Ms. Chaney?

18 THE COURT REPORTER: Yes, sir.

19 THE COURT: You may proceed.

20 Q. (BY MR. LOW) Mr. Pilcher, is it true,
21 sir, that it's your own understanding that the
22 visibility that night out in the parking lot -- I
23 want to be specific -- was very difficult because
24 it was dark and it was snowing?

25 A. What time are you talking about?

1 Q. Later that evening.

2 A. Well, it was snowing and it was dark, if
3 that's what you're asking me.

4 Q. So it's your memory that at no point on
5 the evening of October the 3rd did it snow?

6 A. No, it did snow. I said that at 5:30, it
7 was raining real cold and was just turning to
8 snow.

9 Q. Yes, sir. And later that evening when
10 it's dark and after it's already started snowing,
11 is it your understanding that the visibility was
12 difficult because it was dark and it was snowing?

13 A. That's normal, yes.

14 MR. LOW: May I have a second to
15 consult with Mr. Newcomb on an issue?

16 THE COURT: Yes, you may.

17 MR. LOW: Your Honor, sorry, but Mr.
18 Newcomb is advising that I should ask for a
19 sidebar real quick.

20 THE COURT: Okay.

21 MR. LOW: I'm sorry, I'm not trying
22 to delay, but I wanted to be precise.

23 THE COURT: You may do so.

24 (The following proceedings
25 were held at the bench between the Court and

1 counsel, out of the hearing of the jury:)

2 THE COURT: Yes, Mr. Low.

3 MR. LOW: Thank you.

4 I asked Mr. Newcomb in his opinion what I
5 am permitted to do at this point. I have my own
6 opinion, but I wanted to double-check. And he
7 says that he believes I can ask some foundation
8 about what we talked about earlier, but Mr.
9 Newcomb advised that I should approach and ask you
10 specifically. So I have an idea, but I wanted to
11 make sure I didn't violate anybody's rule on that.
12 So I'm getting ready to ask about what we talked
13 about, which includes foundation. I'm not going
14 to introduce evidence, but I wanted to make sure I
15 didn't make a mistake.

16 THE COURT: About his pulling
17 building permits in his construction business at
18 some other point in time that's related to the
19 offense here because you feel that it may relate
20 to moral turpitude?

21 MR. LOW: Yes, sir. And I know I
22 can't bring documents in, but I believe you may
23 have said that I'm allowed to ask him about it; I
24 just can't, at this point, bring extrinsic
25 evidence about it. So if that's true, what are

1 you permitting me to do?

2 THE COURT: Okay.

3 Mr. Blonigen?

4 MR. BLONIGEN: Your Honor, I don't
5 think that's what the Court ruled at all.
6 Specific instances of conduct -- there's still
7 none of the conditions under 608(b) that have been
8 satisfied, Your Honor; and it doesn't allow for
9 specific instances of conduct. Still
10 inappropriate.

11 THE COURT: I'd agree that the
12 proposed questions are extrinsic evidence if
13 there's been no proffer of anything that would tie
14 it to this case in some way, and so I would in
15 limine preclude the proposed questions.

16 MR. LOW: Yes, sir. I'm glad we
17 asked.

18 THE COURT: Thank you very much.

19 (The following proceedings were
20 held in open court, in the presence of the jury:)

21 THE COURT: Ladies and gentlemen of
22 the jury, from time to time we will have these
23 conferences at the bench. And please do not be
24 concerned about what we're taking up. If there is
25 some ruling that the jury should know about, I'll

1 announce that. And your patience with us is
2 tremendously appreciated.

3 So Counsel, you may proceed.

4 MR. LOW: Thank you.

5 Q. (BY MR. LOW) And, sir, it's true that in
6 your bar, you give your employees the right or, if
7 you will, the choice to ask patrons to leave if
8 your employees feel uncomfortable; is that true?

9 A. Yes.

10 Q. And you give your employees the right and
11 the power, if you will, to stop serving people
12 that they think are too intoxicated; isn't that
13 true?

14 A. That's true.

15 Q. And what is your understanding, sir, as
16 to how much you can serve somebody? Are you
17 unlimited or is there some limit on how much you,
18 as a business, can serve someone in your
19 understanding?

20 A. It's kind of a --

21 Q. I can ask it again if it was a bad
22 question. It may have been.

23 A. Well, I kind of need to answer it a
24 couple different ways, I guess.

25 Q. Let me ask it this way. Do you believe

1 that there are any limits on you and your business
2 as to how much alcohol you can serve somebody in
3 the bar?

4 A. Not in the State of Wyoming.

5 Q. And were you watching your monitors that
6 evening and did you see someone in a white T-shirt
7 stumbling around inside of your bar?

8 A. I don't think he was stumbling around.

9 Q. Do you know who it is I'm speaking of?

10 A. Well, there's -- if you're talking about
11 him, I don't think he was stumbling around. I
12 mean, there were -- generally there's people
13 stumbling around that have been drinking.

14 Q. And while you watch them stumble around,
15 do you call in and say, Stop serving that person?

16 A. I don't generally stop people for
17 stumbling around, no.

18 Q. Did you see any on this evening, October
19 the 3rd, before 12:00 a.m., you notice anybody on
20 the monitor stumbling around?

21 A. Can I tell you what I did that evening?

22 Q. I'm not asking you what you did that
23 evening. That might be a long answer. I'm asking
24 you, did you see anybody on the monitors that you
25 were watching that were in your bar stumbling

1 around?

2 A. I was off the monitor at 10:30.

3 Q. So that would be a no, I did not see
4 anyone on the monitors stumbling around that
5 evening; is that correct?

6 A. No, I couldn't have.

7 Q. Sir, do you allow people to drink so much
8 in your bar that they pass out and can they then
9 stay in your bar after they've passed out?

10 A. They can't stay and drink. If it's cold
11 or snowy outside, we'll let them -- we're not
12 going to force them out into the cold, and we're
13 not going to force them to drive. We ask them if
14 they want a cab.

15 Q. Do you ask them to leave? I'm sorry, do
16 you have the policy or tell the employees to ask
17 them to leave?

18 A. No. We try to take care of the
19 individual. We don't just say, Go jump in your
20 car and drive off drunk.

21 Q. Well, do you allow them to sleep or is it
22 your policy that you're supposed to wake them up?

23 A. We generally wake them up.

24 Q. Sometimes you don't?

25 A. I can't say a hundred percent that

1 they've been woke up.

2 Q. And why do you wake them up and ask them
3 to leave?

4 A. Well, they're -- they've had enough.

5 Q. This is what I don't understand. If you
6 don't kick them out for stumbling around the bar,
7 which arguably someone could say they've had
8 enough; but you do once they've passed out, how do
9 you weigh?

10 MR. BLONIGEN: Your Honor, we've
11 been covering this subject for quite some time.
12 It's really a very marginal relevance. The
13 question here is what these two gentlemen are
14 doing that night. This isn't a dramshop case. We
15 seem to be getting into whether the bar is serving
16 them, should have been serving them. That really
17 is irrelevant to this. What the bar policies are
18 are simply irrelevant, Your Honor; and we've asked
19 and been over this territory three and four times.

20 THE COURT: I think the policies
21 have been covered in previous questions. And if
22 there is something he has personal knowledge of
23 relative to the events involving either the
24 defendant or the alleged victim, then we can go
25 directly to that. But the policy matters have

1 been covered unless there is some additional
2 policy, so I'll sustain the objection.

3 Q. (BY MR. LOW) So with regards to this
4 particular person, why did you have the
5 establishment, your bar, your business, wait to
6 ask Mr. Baldwin to leave until after he passed
7 out?

8 A. I don't believe we asked him to leave.
9 We woke him up, offered to get him a cab, he said
10 he had his friend out in the parking lot.

11 Q. Sir, he said that to you?

12 A. He said that to the bouncers.

13 Q. You weren't there?

14 A. No. That's what was repeated to me.
15 That's our policy.

16 Q. So you really don't know what he said, do
17 you?

18 A. If those guys didn't tell me the truth, I
19 guess I don't know; but if they told me the truth,
20 that's what I do know.

21 Q. Well, what we're saying is that -- well,
22 that's okay. You're just telling what other
23 people told you; is that right?

24 A. Yes. They're required to tell me.

25 Q. Okay. I just want to make sure we were

1 clear that you didn't hear it, that it's
2 secondhand information; right?

3 A. Yes.

4 Q. Okay.

5 MR. LOW: That's all I have at this
6 time, Your Honor. Thank you.

7 THE COURT: Thank you very much,
8 Counsel.

9 Anything on redirect examination,
10 Mr. Blonigen?

11 REDIRECT EXAMINATION

12 BY MR. BLONIGEN:

13 Q. Mr. Pilcher, the first detective to
14 contact you contacted you by telephone that
15 morning, didn't he, Detective Tiller?

16 A. Yes.

17 Q. Were you aware that was tape-recorded?

18 A. No.

19 Q. And so you talked to him that very
20 morning?

21 A. Yes.

22 Q. And do you recall telling him that you'd
23 got to Racks about 5:30?

24 A. That I had gone to Racks at 5:30?

25 Q. Yes.

1 A. The --

2 Q. In the evening.

3 A. Yes.

4 Q. And do you recall telling him it was
5 raining like hell?

6 MR. LOW: Objection, leading. This
7 is redirect examination.

8 MR. BLONIGEN: Your Honor, it's
9 rehabilitation through the use of a prior
10 consistent statement.

11 THE COURT: Since I believe there
12 were prior inconsistent statement or statements
13 addressed, I believe the rule allows for prior
14 consistent statements to be reviewed, so.

15 Q. (BY MR. BLONIGEN) And do you recall
16 telling him: And it was raining like hell, and he
17 was walking across the parking lot staring up at
18 the sky just, like, spinning around, acting like
19 he was doing some kind of an Indian rain dance or
20 something. And then he got to the building, we
21 have the rail that goes across the front of the
22 building.

23 Mr. Tiller: Uh-huh.

24 And he was trying to walk on that. And
25 he kept falling off it and just kept busting his

1 ass real, real hard, you know. And he finally got
2 to the front door. And he opened the door and he
3 looked in, and then he walked all the way back to
4 his car and got in his car, went around to the
5 back of the building, and just parked as far away
6 west as he could.

7 Do you recall telling him that?

8 A. Yes.

9 Q. And is that your recollection here today?

10 A. Yes, it is.

11 Q. And do you recall telling him, then, that
12 you pulled up right close to his car, and I said,
13 Hey, I own this place, what do you got going on
14 here? Are you trying to rob me? I mean, you're
15 acting a little odd here.

16 Do you recall telling Detective Tiller
17 that?

18 A. Well, I don't remember exactly those
19 words, but it came down to that I thought he was
20 robbing us or thinking about robbing us.

21 Q. Do you recall telling him, Hey -- telling
22 Ashlee Logan, Hey, the bouncer probably won't be
23 here for about 15 minutes, but the guy that just
24 came in the door, just be prepared with that
25 button. Also be prepared with, you know.

1 Do you recall saying that to Ashlee
2 Logan?

3 A. Yeah, I think so.

4 Q. So you talked to Detective Tiller just a
5 couple hours after this all happened. In fact, he
6 woke you up at home, didn't he?

7 A. Yes.

8 Q. And do you recall describing this
9 gentleman to him as a white male, he was probably
10 about five-ten, and he had shaggy dark hair and a
11 shaggy beard?

12 A. That's how I described him.

13 Q. And is that the fella you've identified
14 from the exhibit I showed you?

15 A. Yes.

16 Q. And do you recall saying when you went
17 over to the west side and you pulled up to his
18 car, he had a green shirt and he was in the
19 process of trying to pull a jacket on?

20 A. I don't remember saying that part of it,
21 but I -- I kind of believe that he had a jacket on
22 the second time I saw him.

23 Q. Okay. Then Mr. Tiller came out to your
24 house and showed you six photographs of different
25 people in a photo lineup; is that true?

1 A. Yes.

2 Q. So when you get to see these pictures, is
3 there anybody -- when you talk about this 25
4 percent picture, and I'll show you these in a
5 minute, he didn't have the beard and the kind of
6 shaggy hair?

7 A. Not from the -- when I did the pick out
8 of the lineup.

9 Q. I'm going to hand you six photographs.
10 See if this -- are these the six photographs Mr.
11 Tiller showed you, if you can look through them
12 very briefly?

13 A. I remember the one for sure, but I don't
14 remember the -- if those are exactly the pictures
15 they showed me before.

16 Q. There are a lot of people who look a
17 whole lot the same; isn't that right?

18 A. I've seen most of the people before.

19 Q. Well, you may have seen them, so maybe
20 that's true; but you marked on one and you said 25
21 percent. And that's your initials down there,
22 isn't it?

23 A. Yes, those are my initials.

24 Q. And I'd like to show you this, if I
25 could. And were you aware that was a driver's

1 license picture of Mr. Knospler?

2 A. I had no idea what it was.

3 Q. They didn't tell you who these people
4 were when they showed you these, did they?

5 A. No.

6 Q. But when you talk in your taped
7 statement, when you made the ID, you talk about
8 the hair was too short; is that right?

9 A. Yeah.

10 Q. And the beard wasn't full enough?

11 A. Correct.

12 Q. Compared to the person you saw that
13 night?

14 A. Yeah. The person that night was a lot
15 shaggier.

16 Q. But out of the six, you thought this was
17 the fella that looked most like the fella you saw?

18 A. Yes.

19 Q. Now, they talked about your federal case
20 and it was suggested that -- very clearly, that
21 somehow you were hoping that testifying would help
22 you in your case. Was that ever discussed with
23 you and your attorney?

24 A. Now say that again.

25 Q. Did you ever think that testifying in

1 this case would do you any good in your case?

2 A. Testifying in this case would help me
3 with that case?

4 Q. Yeah.

5 A. No.

6 Q. Was it ever discussed?

7 A. No.

8 Q. Was it ever discussed with the federal
9 officials?

10 A. No.

11 Q. Was it ever discussed with me?

12 A. No.

13 Q. You gave this statement on October 3rd of
14 2013; is that correct?

15 A. Yes.

16 Q. So that would have been 14 months ago?

17 A. Yes.

18 Q. You talked about you thought he was
19 drinking in the parking lot because he kept going
20 back in and out, you testified about that?

21 A. Well, it's generally not just drinking
22 when they go to the parking lot.

23 Q. Drinks are a lot cheaper out there,
24 aren't they?

25 A. A lot cheaper.

1 Q. But also people do go out and smoke
2 marijuana?

3 A. Smoke marijuana.

4 Q. Okay. Maybe use other drugs, we don't
5 know?

6 A. Yeah. I have no idea.

7 Q. Okay. So you don't know exactly what's
8 going on out there in the parking lot, this is
9 just something you've seen with other people?

10 A. I've seen over the years a lot of it,
11 yes.

12 MR. BLONIGEN: I believe that's all
13 the questions I have at this time, Your Honor.

14 THE COURT: Okay. Thank you.

15 Any questions on recross, Mr. Low?

16 MR. LOW: I'll make it quick.

17 REXCROSS-EXAMINATION

18 BY MR. LOW:

19 Q. So when your memory was fresh -- and
20 thank you, sir, for reading that -- you didn't say
21 anything at all about a man with no shirt on?

22 A. I don't believe so.

23 Q. So what do you think gave you the
24 incentive a year -- over a year later to suddenly
25 come up with a fact like a guy with no shirt in

1 that kind of temperature with it raining for the
2 very first time? Where do you think you got that
3 incentive?

4 A. I don't think it was an incentive. I
5 just -- I'm supposed to be telling the whole thing
6 here. And I thought a lot about it, and the guy
7 didn't have a shirt on.

8 Q. I mean, like you said earlier -- and tell
9 me if this is true, that's the kind of fact that
10 you just don't forget; right?

11 A. Well, I might not forget, but I don't
12 necessarily mention.

13 Q. So why wouldn't you have mentioned it to
14 the police officer? You wanted to tell him
15 everything you thought was unusual; right?

16 A. I just woke up. It was 5:30 in the
17 morning.

18 Q. Did you tell him that, look, I'm -- my
19 memory might not be so good right now because it's
20 early, and I might make a mistake and not tell you
21 everything? Did you tell him that because I
22 didn't hear that in the statement?

23 A. No.

24 Q. You're just telling us that now for the
25 first time?

1 A. I guess.

2 Q. Hmm. Well, could you then have --
3 everything you said been completely wrong because
4 when you gave this statement that Mr. Blonigen
5 just read, could it all be wrong because it was
6 5:30 in the morning, and you don't do so well at
7 5:30 in the morning?

8 A. You're asking me about this about a guy
9 with no shirt on?

10 Q. I'm asking you the question could
11 everything that Mr. Blonigen just read be
12 inaccurate because when you said it, it was 5:30
13 in the morning and, well, you don't remember so
14 well at 5:30 in the morning?

15 A. No.

16 Q. So everything in there is true?

17 A. Yes.

18 Q. Well then, how come when I asked you on
19 the stand if Mr. Knospler was turning around and
20 going in a circle, you said no? Didn't you say
21 that here today?

22 A. I don't think he was.

23 Q. Why did you say it in the statement,
24 then, at 5:30 in the morning to police officers
25 that Mr. Blonigen just read and you agreed that's

1 what you said?

2 A. He was spinning around?

3 Q. Yeah.

4 A. You know, I don't know. That's probably
5 just something that came out of my mouth. What's
6 the difference between walking straight ahead and
7 spinning around? He was staring at the sky.

8 Q. You want to know what the difference is?

9 A. Yeah.

10 Q. Right now to him, it's all the difference
11 in the world.

12 A. No, it is --

13 MR. BLONIGEN: Your Honor, this is a
14 completely inappropriate comment, and it's
15 argumentative.

16 THE COURT: It's argumentative,
17 Counsel. And I will sustain and caution Counsel
18 to avoid argumentative tone and argumentative
19 question.

20 Q. (BY MR. LOW) So you said just now, sir,
21 you don't know why you said that. Is that what
22 you said, sir?

23 A. Didn't know why I said what?

24 Q. Why he was spinning around. I asked you
25 why you said that to Mr. Tiller that morning at

1 5:30 in the morning, just hours later, and your
2 answer is, I don't know why I said it; is that
3 correct?

4 A. I guess I wasn't thinking about spinning
5 or standing or turning. I was thinking more about
6 somebody staring up at the sky with his hands
7 raised and it raining like hell. I wasn't so much
8 thinking about spinning or standing or turning or
9 no shirt on, no shirt off. It was more the
10 unusual, like he was praying to the sky.

11 Q. So if you weren't thinking about what you
12 said, why did you include something that wasn't
13 true?

14 A. I don't know.

15 Q. Well, which one is true, was he spinning
16 or wasn't he spinning? Because today you said he
17 wasn't.

18 A. I don't think he was spinning.

19 Q. So why did you -- did you lie to the
20 police officers intentionally?

21 A. I wouldn't call that lying, no.

22 Q. What would you call it?

23 A. Just a statement.

24 Q. Could we call it an exaggeration?

25 A. No, I wouldn't think so.

1 Q. You don't think it was an exaggeration of
2 what Mr. Knospler was actually physically doing?

3 A. No.

4 Q. Would you call it an addition maybe? You
5 added a few things that he didn't really do?

6 A. No, not really.

7 Q. Because you would agree that you've added
8 some things there to Mr. Tiller's statement that
9 you say today Mr. Knospler actually did not do;
10 right?

11 A. You're --

12 MR. BLONIGEN: Your Honor, this is
13 becoming very argumentative. The witness answers
14 the question, and he argues with him about the
15 answer. It's not appropriate.

16 THE COURT: The form of the question
17 is argumentative, I'll sustain.

18 Q. (BY MR. LOW) Sir, did you add anything
19 when you spoke to Mr. Tiller that morning, Officer
20 Tiller, that you did not mention today?

21 A. I did not mention that he was spinning
22 around today.

23 Q. And so but you added that when you spoke
24 to Officer Tiller that morning; correct?

25 A. I said that.

1 Q. And can --

2 MR. LOW: Well, never mind. I've
3 been there. Thank you. That's all.

4 THE COURT: Thank you very much.

5 Do you have a subpoena on Mr. Pilcher,
6 the Defense?

7 MR. LOW: No, sir, we do not. But
8 we'd like to keep the one that currently is in
9 place with Mr. Blonigen so that we can use that
10 and have access to this witness later, sir.

11 THE COURT: Mr. Blonigen?

12 MR. BLONIGEN: Your Honor, I prefer
13 the witness be dismissed. I mean, we have those
14 folks waiting out in the hallway. They certainly
15 don't need to be waiting here, just sitting here
16 for a maybe.

17 MR. LOW: Your Honor, then in light
18 of that, I would like to ask the question that I
19 brought to the Court's attention, please.

20 THE COURT: Concerning the
21 visibility on the night in question?

22 MR. LOW: Yes, sir.

23 THE COURT: I'll grant permission,
24 but it better be quick, it better be direct.
25 We've gone a tremendous amount of time on your

1 cross and recross, and if there's a specific
2 topic, I'll grant you leeway.

3 MR. LOW: Thank you for that. And I
4 will be very precise, Your Honor.

5 THE COURT: And I think I identified
6 what the topic was, so.

7 Q. (BY MR. LOW) Sir, is it true that you
8 were told by Mr. Andujar that he found -- that he
9 thought it was difficult to see through the
10 darkness and heavy snowfall as to exactly what
11 happened? Is that what Mr. Andujar said to you,
12 sir?

13 A. I don't remember.

14 MR. LOW: Thank you, sir.
15 Appreciate it, Your Honor.

16 THE COURT: Thank you very much,
17 Counsel.

18 Mr. Pilcher, you may step down, and you
19 are excused from any subpoena or process in the
20 case. That doesn't prevent the Defense from
21 recalling the witness pursuant to its own subpoena
22 if you need to, but he is excused from the State's
23 subpoena. You're free to go. Thank you, sir.

24 THE WITNESS: So I can completely
25 leave?

1 THE COURT: Yes.

2 MR. ITZEN: Your Honor, State would
3 call Ashlee Logan.

4 THE COURT: Ladies and gentlemen of
5 the jury, anyone need a break at this juncture or
6 can we go for another hour or so? Thank you.

7 Ms. Logan, please come forward and take
8 the oath from the Clerk of Court to my left here.
9 And then after you're sworn, you'll sit to the
10 other side.

11 THE CLERK: You do solemnly swear
12 that the testimony you will give in the case
13 before the Court will be the truth, the whole
14 truth, and nothing but the truth, so help you God?

15 THE WITNESS: I do.

16 THE CLERK: Please be seated.

17 ASHLEE LOGAN,
18 called for examination by the State, being first
19 duly sworn, on her oath testified as follows:

20 DIRECT EXAMINATION

21 BY MR. ITZEN:

22 Q. Good afternoon, ma'am.

23 A. Hi.

24 Q. Could you please state your name.

25 A. Ashlee Logan.

1 Q. Do you recall the night of October 3rd of
2 2013?

3 A. I do.

4 Q. Where were you working that night?

5 A. Racks Gentlemen's Club.

6 Q. Is that here in Natrona County?

7 A. Yes.

8 Q. What do you do for them?

9 A. I was a bartender there.

10 Q. All right. And what time do you arrive
11 for work or did you arrive for work on October
12 3rd?

13 A. Just right before 4 o'clock when we
14 opened.

15 Q. All right. And when you opened, how was
16 business?

17 A. Slow.

18 Q. Now, let me show you what's been admitted
19 as 216.

20 MR. ITZEN: If I may approach, Your
21 Honor.

22 THE COURT: You may.

23 Q. (BY MR. ITZEN) Do you recognize the
24 individual in that photograph?

25 A. Yeah.

1 Q. And as we go, ma'am, if you need to take
2 a moment, just let me know; okay?

3 How do you recognize that individual?

4 A. He entered the bar about a little over an
5 hour after I opened and came in and sat at the far
6 side from the door, which is pretty -- just not
7 very regular at that time of day when there's
8 nobody in there. And came in and sat down. And I
9 had served him one drink at that point. It was
10 happy hour, which is two for one. And his
11 demeanor just didn't really rub me the right way,
12 and he was kind of -- he was all by himself, and
13 he was sitting there and kind of mumbling under
14 his -- to himself and couldn't really make out
15 anything that he was saying.

16 And then he asked for a drink, and I only
17 gave him one as opposed to the two because he
18 just -- I just was unsure. He just didn't -- I
19 just wasn't sure at that point and didn't engage
20 in conversation. Gave him his drink and then went
21 over to my other patrons that were in the bar. He
22 sat over there for a while.

23 And there -- there's two doors that go
24 into the back of the bar, and one of them was on
25 his side. And you can lock both those doors so

1 that from the bar side, you can't get back there.
2 And I had locked the door that was over on his
3 side so that I knew that nothing could happen that
4 maybe I wouldn't see and so I would feel a little
5 bit safer about that. Had asked one of my
6 regulars not to leave until my bouncer had showed
7 up for his shift so that I wasn't in the facility
8 alone with him.

9 Q. All right. And the area of the bar that
10 he sits, is that closest to the girls' changing
11 room?

12 A. Yeah. It's -- it's, like, there used to
13 be a Red Bull cooler, little cooler right there,
14 and he sat, like, right next to it.

15 Q. All right. And who was working as a
16 bouncer that evening?

17 A. Westy was a bouncer that came in, and
18 Andujar was working that night.

19 Q. And what time do they usually show up?

20 A. Westy usually showed up around six
21 o'clock, depending on pickup times with the
22 features that we had there, and Andujar would show
23 up later on in the night.

24 Q. All right. You said the defendant was
25 kind of talking to himself. Did you -- were you

1 ever able to overhear what he was saying?

2 A. No.

3 Q. He just --

4 A. He kind of -- it was -- he gave me the
5 creeps. He just -- he, like, mumbled under his
6 breath. And sometimes he was kind of chuckling.
7 And, like, at one point, he sat with his back to
8 the bar and faced, like, the stage; but there was
9 no -- no -- nobody was out there. It was before
10 the dancers go up.

11 And at one point -- he went in and out of
12 the bar. And at one point, I had gotten a phone
13 call from Sonny asking me about somebody in the
14 parking lot. And the weather had been bad. And
15 after I got off the phone call, I opened the door,
16 and there's the parking rails that are right in
17 front of the bar; and he was, like, like, walking
18 on it, like, balancing on the rail. And I just
19 looked out the door, and he had looked at me and
20 said something about moving his car.

21 And I went back in the building just
22 because I didn't want to be outside of the
23 building just with him and I, so.

24 Q. All right. Now, those observations that
25 you made, was that prior to receiving the phone

1 call from Sonny Pilcher?

2 A. Yeah. When -- from -- I had already
3 served him a drink and locked the door and had --
4 before Sonny had called me.

5 Q. How many times would you say the
6 defendant went in and out that you noticed?

7 A. I don't have -- I don't know an exact
8 number. I would say at least a handful because
9 he'd had -- he changed his clothing.

10 Q. All right. What do you mean by changed
11 his clothing?

12 A. One time he had come back in and had a
13 jacket on. Another time he had a baseball cap on.
14 And then, you know, sometimes he wouldn't have his
15 jacket on again. It just --

16 Q. All right. Would he stay outside for any
17 length of time or?

18 A. For little periods of time. It didn't --
19 I would say longer than it maybe takes to smoke a
20 cigarette.

21 Q. All right.

22 A. But there was smoking allowed in the bar,
23 so it just -- it just depends.

24 Q. So different each time?

25 A. Uh-huh.

1 Q. And when he would come back in, would he
2 resume the same seat that he had left?

3 A. Not -- no. He sat in -- he sat in a
4 different spot. Like, when he started, he sat at
5 the very far, he came out, came back in, sat at
6 the front of the bar and had faced out into the
7 bar. Way later on in the night, he had sat at the
8 side closest to the door. So he -- he moved. He
9 didn't just stay in one spot all night.

10 Q. How would you describe his level of
11 intoxication throughout the evening?

12 A. I know that I had served him two beers,
13 and I know I for sure served him one shot of
14 Jameson; but I didn't try to engage in
15 conversation.

16 Q. All right. And there's other folks that
17 he could get alcohol from?

18 A. Yeah. There was -- there was other
19 people.

20 Q. Do you recall how he was paying for his
21 drinks when you were serving him?

22 A. I believe cash.

23 Q. Now, that night, did you also meet a Kade
24 Baldwin?

25 A. Yep.

1 Q. How many people was Mr. Baldwin with?

2 A. At one point when I had saw him, he was
3 with maybe two or three other people.

4 Q. All right. And did you notice where they
5 generally sat inside the bar?

6 A. By the -- by the pool tables. From the
7 bar, like back towards the pool tables.

8 Q. All right.

9 MR. ITZEN: If I may approach, Your
10 Honor.

11 THE COURT: You may.

12 Q. (BY MR. ITZEN) Ma'am, I'm showing you
13 what's been marked as State's Exhibit 338. Do you
14 recognize what's depicted in that photograph?

15 A. Yeah.

16 Q. What is that, ma'am?

17 A. From a view from the pool tables and
18 where he was sitting at for the majority of the
19 night.

20 Q. And can you generally show from that
21 photograph where Mr. Baldwin and his friends would
22 have been?

23 A. Right here.

24 Q. All right.

25 MR. ITZEN: Your Honor, State would

1 move to introduce Exhibit 338.

2 THE COURT: Any objection?

3 MR. LOW: No, sir.

4 THE COURT: Exhibit 238 is received.

5 MR. ITZEN: 338, sir. I apologize
6 if I misspoke.

7 THE COURT: You're correct. Exhibit
8 338 is received. Thank you.

9 MR. ITZEN: May I retrieve that,
10 Judge?

11 THE COURT: Yes.

12 Q. (BY MR. ITZEN) Ms. Logan, this
13 photograph will come up on the computer monitor
14 there, and it'll be easier for you to show the
15 ladies and gentlemen of the jury generally the
16 area that we're talking about.

17 All right. Where the green dot is?

18 A. Yeah. That's the table.

19 Q. Now, did you serve Kade and his friends
20 drinks?

21 A. Yeah.

22 Q. And who was paying for those?

23 A. I served them earlier in the night, and I
24 believe that he paid cash.

25 Q. All right. Kade paid cash?

1 A. I'm not for sure, but I believe he paid
2 cash.

3 Q. All right. Now, throughout the evening,
4 did you notice Kade causing any problems inside
5 the bar?

6 A. No.

7 Q. How would you describe his level of
8 intoxication?

9 A. It was his birthday, so he was having a
10 good time and they were drinking. And I would say
11 he was intoxicated but not aggressive, like,
12 belligerent or -- he was just -- they were just
13 celebrating his birthday.

14 Q. All right. Kind of happy drunk?

15 A. Yeah. Very -- he was super pleasant to
16 deal with.

17 Q. Now, did there become a time where Kade's
18 friends left him towards the end of the evening?

19 A. Yeah. There was a -- yeah, when he was
20 by himself. They left.

21 Q. All right. Where was Kade when that
22 happened? Was he --

23 A. He was back at that table that you showed
24 in that picture. And I had seen him, he was
25 sitting at the table by himself, sitting in the

1 chair just kind of with his head down on the
2 table, like, and his arms were just crossed and by
3 himself.

4 Q. All right. You said head down on the
5 table?

6 A. Uh-huh. Like, just with his -- like, on
7 his arms kind of.

8 Q. Was he causing any problems after his
9 friends left the bar? Is that pretty much how he
10 stayed?

11 A. That was pretty much how he stayed.
12 There wasn't any problems that night prior.

13 Q. Were you aware when Mr. Andujar woke him
14 up and escorted him to the door?

15 A. Yeah.

16 Q. What did you notice about Kade's ability
17 to walk and balance?

18 A. I mean, he was able -- it's -- he didn't
19 need escorted out. He is able to walk himself
20 out. I didn't see him fall or trip or anything,
21 so, I mean, he was able to walk himself out.

22 Q. Was he aggressive at all during that walk
23 out of the bar?

24 A. Not that I could -- I didn't get that
25 feeling.

1 Q. Now, did -- after Kade leaves the bar,
2 does he ever come back in?

3 A. (Shook her head.)

4 Q. Do you end up seeing what's going on in
5 the parking lot?

6 A. Yeah. I -- he was in between a car that
7 was backed up into the parking spot and a truck
8 and was at the driver's side window and then had
9 fallen over.

10 Q. All right. Let me stop you there for a
11 minute. Do you look out the front doors of the
12 business?

13 A. Uh-huh.

14 Q. Was there anything that obstructed your
15 view of seeing what was going on?

16 A. It had snowed that night, but not -- I
17 mean, you were able to see him.

18 Q. Okay. And where do you first see Kade in
19 the parking lot?

20 A. In between a car and a truck, like, at
21 the driver's side window of the car.

22 THE COURT: Ms. Logan, could I ask
23 you to move a little closer to the microphone.
24 And you can move it, you can adjust it. There you
25 go. Thank you very much.

1 Go ahead, Counsel.

2 MR. ITZEN: Thank you.

3 Q. (BY MR. ITZEN) And what does Kade do
4 once he gets to the driver's side of that car?

5 A. I -- he was just standing for the time
6 that I -- when I -- when I saw him, he was just
7 standing there.

8 Q. Could you tell if there was anything in
9 his hands?

10 A. No.

11 Q. Was he doing any -- when you saw him,
12 anything with his hands?

13 A. No.

14 Q. Do you ever see him hit the car?

15 A. No.

16 Q. What do you see after Kade's there at the
17 driver's side?

18 A. He stood there for a little bit and then
19 had turned, like, to -- like, facing the bar and
20 went to take a step and then fell but didn't --
21 like, he didn't seem like -- when you fall or even
22 if you were intoxicated, like, you would
23 instinctively try to catch yourself. And he just
24 fell face down and then didn't -- there was no,
25 like, breaking it or --

1 Q. All right. He didn't try to catch his
2 fall?

3 A. Not -- no. He just -- it was like he had
4 taken a step and then just fell -- fell face
5 first.

6 Q. All right. Now, when he falls, do you
7 notice where his arms go?

8 A. It -- it -- it seemed like -- it looked
9 as if one of his arms was, like, kind of had --
10 was under him.

11 Q. All right.

12 A. Like he had maybe fallen on it instead
13 of, like, catch -- like, it kind of seemed like he
14 was propped up a little bit from an arm.

15 Q. In the car that he walks up to, are the
16 headlights on?

17 A. Huh?

18 Q. The headlights of the car where he was
19 standing next to.

20 A. He -- the -- where he was standing, no,
21 the -- the headlights turn on, like, right before
22 the car takes off.

23 Q. All right. And are you able to describe
24 the car at all?

25 A. I -- I knew it was a dark colored car.

1 Probably a four-door car maybe. It was just a --
2 not like a sports car or anything. Just a normal
3 dark colored, maybe dark green or dark blue
4 colored car.

5 Q. All right. And then do you watch the car
6 drive away?

7 A. Yeah. I saw the car pull out and drove
8 right in front of Andujar and I that were at the
9 door and took off and left and left the parking
10 lot and turned east.

11 Q. All right. Coming towards Casper?

12 A. Yes.

13 Q. Did the car wait a little bit after Kade
14 was on the ground to leave?

15 A. Yeah.

16 Q. I'm sorry. I couldn't hear you.

17 A. Yeah.

18 Q. With that information, did you place a
19 call to 911?

20 A. Yeah.

21 Q. Allow me to show you State's Exhibit 216.

22 MR. ITZEN: If I may approach, Your
23 Honor.

24 THE COURT: You may.

25 Q. (BY MR. ITZEN) Ma'am, do you recognize

1 that?

2 A. Yeah. That's my -- I signed that that
3 that's my dispatch call.

4 Q. All right. And that's a recording of the
5 phone call you made to 911?

6 A. Yes.

7 Q. And have you had an opportunity to listen
8 to it since you've made that call?

9 A. Yes.

10 Q. And does it accurately reflect the call
11 that you placed that night?

12 A. Yes.

13 MR. ITZEN: Your Honor, State would
14 move to introduce 216, I believe.

15 THE COURT: Any objection?

16 MR. LOW: No, Your Honor.

17 THE COURT: Exhibit 216 is received.

18 MR. ITZEN: And if I may play it,
19 Judge.

20 THE COURT: You may. Permission to
21 play the exhibit is granted. Maybe I didn't hear
22 right again. I have Exhibit 216, the photograph
23 Knospler front view.

24 MR. ITZEN: Judge, let me check that
25 out number wise. That error may be on my end here

1 in a minute. Your Honor, if I can just have a
2 moment. I apologize.

3 THE COURT: Okay. That's fine.

4 MR. ITZEN: Judge, it's just not
5 playing through the court system, so we'll just
6 have a second.

7 THE COURT: Okay. Take your time.
8 My mistake. You want me to play it through the
9 computer?

10 MR. ITZEN: I'm sorry, Judge. I
11 didn't hear you.

12 THE COURT: You want me to play it
13 through the computer on table one?

14 MR. ITZEN: Yes, sir.

15 THE COURT: Okay. My apologies, I
16 thought you were playing it without computer
17 assistance. My mistake. But I do have 216 as a
18 different exhibit.

19 MR. ITZEN: Yes, sir, I apologize.
20 I have a numbering error. It should be called 329
21 or Exhibit Number 329, Judge.

22 THE COURT: Mr. Low, no objection to
23 the renumbered exhibit?

24 MR. LOW: No, sir. No objection.

25 THE COURT: Okay. Thank you very

1 much. I'll confirm that Exhibit 329 is received.

2 (State's Exhibit 329 is
3 played in open court.)

4 Q. (BY MR. ITZEN) Prior to Kade falling
5 down, did you see the car move?

6 A. No.

7 Q. And you'll have to speak up --

8 A. No.

9 Q. -- for the court reporter. Sorry.

10 A. Sorry.

11 Q. And when Mr. Baldwin was leaving, Kade,
12 did he need a ride to leave the bar?

13 A. When he had -- he thought that he had had
14 a ride.

15 Q. He thought he had a ride?

16 A. Yeah.

17 Q. What did he say?

18 A. That he was -- his friend -- that he was
19 going to ride with his friends.

20 Q. All right. Let me show you State's
21 Exhibit 405.

22 MR. ITZEN: Your Honor, the
23 witness -- or excuse me, the Defense agrees that
24 405 can be admitted into evidence.

25 THE COURT: Do you so stipulate,

1 Mr. Low?

2 MR. LOW: I do, sir.

3 THE COURT: Okay. Thank you.

4 Exhibit 405 is received, then.

5 MR. ITZEN: And if I may approach,
6 sir.

7 THE COURT: You may.

8 Q. (BY MR. ITZEN) The car -- and let me do
9 this if I can. We'll use your computer screen.
10 The car that you saw drive off and leave the
11 parking spot after Kade had fallen down, was it
12 the same style as the car there?

13 A. Yes. Yes.

14 Q. Other than getting the color wrong, is
15 that what it looked like when it drove by you?

16 A. Yes. And it had snow on the top of it,
17 of course --

18 Q. Sure.

19 A. -- but yes.

20 MR. ITZEN: Judge, if I could just
21 have a moment.

22 THE COURT: Yes, you may.

23 MR. ITZEN: Ms. Logan, thank you for
24 your time. Mr. Low will have some questions for
25 you.

1 THE COURT: Cross-examination,
2 Counsel for the Defense.

3 MR. LOW: Your Honor, might this be
4 a good time for the afternoon recess?

5 THE COURT: I think so. I think
6 your request is a good one, so let's go ahead and
7 take our 15-minute break at this time.

8 Ladies and gentlemen of the jury, keep in
9 mind the rules and admonitions that I've given to
10 you several times as we break. Once again, 15
11 minutes. We'll try to reconvene at 3:40.

12 THE CLERK: Please rise.

13 (The following proceedings were
14 held in open court, out of the presence of the
15 jury:)

16 THE COURT: Thank you, Ms. Logan.
17 You can go stretch your legs.

18 Mr. Low, you wish to be heard for a brief
19 second while we go to break here?

20 MR. LOW: I don't want to waste your
21 time. I'll talk to Mr. Newcomb. I think I can
22 straighten it out. Appreciate it.

23 (At 3:24 p.m., a recess was
24 taken until 3:41 p.m.)

25 THE COURT: Please be seated and

1 court will reconvene. We come back to order after
2 the afternoon break. And Ms. Logan, if we can
3 have her retake the witness chair.

4 Ms. Logan, please speak directly into the
5 microphone since you're pretty soft-spoken. I
6 also had down on the witness list a reference to
7 an Edmondson. Is that a name you use or is this a
8 different Ashlee?

9 THE WITNESS: That's a different
10 Ashlee.

11 THE COURT: Okay. Thank you very
12 much. I appreciate that. I wanted to keep my
13 witness list correct.

14 Cross-examination, Mr. Low.

15 MR. LOW: Yes, thank you. And, Your
16 Honor, that's exactly what my issue was. And so I
17 wanted to ask her a question about either an
18 address or something that would let me know
19 whether what I have before me is her statement or
20 not. And I don't want to give away private
21 information or anything, so how would you like
22 me -- I just need to make sure I have the right
23 transcript is what I'm trying to say because it's
24 listed as Ashlee Edmondson, but I'm concerned
25 that's not who it is here and my transcript is

1 wrong. So, for example, I may ask the name of the
2 street she may have given at a time she was
3 interviewed earlier. Could I do that?

4 THE COURT: Yes.

5 CROSS-EXAMINATION

6 BY MR. LOW:

7 Q. Ma'am, do you recall if you gave a
8 recorded statement to Investigator Ellis at some
9 point?

10 A. Like, right after it happened?

11 Q. Sometime after it happened, within a day?

12 A. No.

13 Q. Have you been down to the police station?

14 A. Yes.

15 Q. Did you give a statement?

16 A. Yes.

17 Q. Can I ask you, did you give an address on
18 Boulder Drive at that time?

19 A. Yes.

20 Q. And if I showed you a document that had a
21 social security number, can I show that to you and
22 would you be able to verify if that's your number?
23 I won't read it, but can you just look at it and
24 tell me if that's your SSN?

25 A. Yes.

1 Q. I'm just trying to make sure I got the
2 right one.

3 MR. LOW: May I approach, Your
4 Honor?

5 THE COURT: Yes.

6 Q. (BY MR. LOW) Ma'am, do you see that
7 social security number right there?

8 A. Yes.

9 Q. Is that, in fact, yours?

10 A. That -- yes.

11 Q. Are you not sure?

12 A. No, the other Ashlee and I spell -- our
13 first names are spelled the same. Our last names
14 are different.

15 Q. I get that, but forget the names. I'm
16 going to ask you to not look at the names.
17 There's a mistake here. I'm just asking you to
18 look at the SSN. Is that yours?

19 A. No. The two is a three.

20 Q. That should be a three?

21 A. No. That should be a three.

22 Q. Can I ask you that -- is that how you
23 spell your name?

24 A. That's how I spell my name.

25 Q. Okay. And is that your phone number?

1 A. That is my phone number.

2 Q. Okay. I'm tracking. Thank you, ma'am,
3 for that. Appreciate it. And here's my other
4 concern. I'll make sure I'm correct. At that
5 time, do you recall whether or not you were
6 wearing glasses?

7 A. No. I was not wearing glasses, and I do
8 not wear glasses.

9 Q. Did you have dark hair then?

10 A. No.

11 MR. LOW: Sorry, Judge. This took
12 me by surprise. That's what I was going to talk
13 to you about, and I thought I had it figured out.

14 Q. (BY MR. LOW) Were you wearing -- if you
15 recall, were you wearing cargo or camouflage like
16 pants?

17 A. No.

18 Q. Thank you. I appreciate it.

19 We'll go on based on what you said here.
20 Thank you for that.

21 I want to ask you, you said you started
22 working earlier at Racks that day, is that right,
23 about four o'clock, the best you recall what time
24 it was?

25 A. I opened the bar and started work at four

1 o'clock.

2 Q. And do you recall if Sonny -- Sonny is
3 your boss; right?

4 A. He was, yes, he was.

5 Q. And do you recall whether he called you
6 on the phone and gave you some information about
7 somebody out in the parking lot?

8 A. Yes, I do.

9 Q. And do you recall what that information
10 was?

11 A. Yes, I do.

12 Q. And can you tell us what it was, the
13 information that you got about the person out in
14 the parking lot?

15 A. He was calling me to warn me about
16 somebody that was wandering around in the parking
17 lot aimlessly, and he had asked me if I knew what
18 he was doing. He said he had drove by.

19 Q. Anything else?

20 A. Not that I remember.

21 Q. So somebody wandering around aimlessly is
22 that what he told you?

23 A. I don't remember if those were my exact
24 words, but he had referenced somebody wandering
25 around in the parking lot that had made him have a

1 suspicious feeling.

2 Q. Anything else?

3 A. That he had had his -- he said he was
4 walking around with his hands up looking up in the
5 sky. That's what I was told.

6 Q. Wandering around, looking up, hands in
7 the sky. Those three things?

8 A. He was wandering around and he was
9 looking up at the sky and his hands were just up.

10 Q. Anything else?

11 A. Not that I remember.

12 Q. Do you recall telling the investigator
13 here during your statement you gave him that Sonny
14 told you, quote, Hey, you know, maybe just watch
15 out for him, he's got his head up in the air
16 looking at the sky. He's just walking around out
17 there.

18 Do you recall Sonny telling you that that
19 day, ma'am?

20 A. I don't remember if those were his exact
21 words or not.

22 Q. Okay. If -- well, we can do that later.

23 So is it fair to say you don't recall
24 Sonny ever telling you that somebody was doing a
25 rain dance; isn't that true?

1 A. Could you reask the question, please?

2 Q. I can. You never heard Sonny tell you
3 the guy was doing a rain dance; correct?

4 A. I don't remember.

5 Q. How long after the event did you give
6 this statement to the investigator?

7 A. After Sonny had -- from the time Sonny
8 had called me?

9 Q. No. After you gave the 911 phone call,
10 how much longer until you gave this statement to
11 Officer Ellis over there?

12 A. I would say maybe -- maybe two hours. It
13 was -- it -- I don't remember exactly. Time kind
14 of was the last thing on my mind at that point.

15 Q. Sure. Can we just narrow it down and say
16 it was at least within 12 hours after the 911
17 call, is that about ballpark; right?

18 A. Yes.

19 Q. And were the events fresh in your mind at
20 that time?

21 A. Yes.

22 Q. And when you gave your answers, were you
23 trying to be complete and thorough and accurate?

24 A. Yes.

25 Q. And then at that point, did you tell

1 Investigator Ellis that Sonny just told you that
2 his head was up in the air looking at the sky,
3 he's just walking around out there; correct?

4 A. Sonny had given me -- had told me that
5 information, but I don't remember if that was
6 exact verba -- his exact words, but Sonny had told
7 me that he was out looking up in the sky.

8 Q. Right. But you didn't tell anybody at
9 that time that Mr. Knospler's hands were in the
10 air or the arms were in the air. You didn't say
11 that, did you?

12 A. I don't -- can you reask the question?

13 Q. Yes. You don't say anything about Mr.
14 Knospler's arms or hands being in the air, do you?

15 A. To who?

16 Q. To the investigator.

17 A. I don't remember.

18 Q. And you didn't say anything about a rain
19 dance; correct?

20 A. I don't remember.

21 Q. And you don't remember being told
22 anything by Sonny about the man having his shirt
23 off and dancing in the rain; correct?

24 A. Sonny had mentioned his actions, you
25 know, that he was out there in -- like I had said,

1 in the parking lot, looking up in the sky, with --
2 if -- some people might take it as dancing, some
3 people might not. So I -- since I didn't -- since
4 I wasn't the one that saw him, I don't remember if
5 that was how I described it or not.

6 Q. Yes. Thank you. But I'm saying -- I'm
7 asking you a different question. I'm asking you
8 this question. It's true that Sonny never told
9 you that Mr. Knospler was outside with his shirt
10 off; correct?

11 A. No. He had -- Sonny told me about
12 Knospler outside. Yes, he told me about it.

13 Q. I'll narrow it down, then. Since he told
14 you he was outside, did he tell you that his shirt
15 was off?

16 A. I don't remember.

17 Q. If he had told you that, would you have
18 told the investigators that?

19 A. I -- I don't -- I don't remember. I
20 honestly -- I don't know.

21 Q. Is that the kind of fact that, if Sonny
22 had told you, may have stood out in your mind?

23 A. At that time, I would say yeah, but the
24 instances that followed, that probably wasn't the
25 first thing on my mind.

1 Q. Yes. However, would it be unusual for
2 you to hear that there was a man out in the
3 parking lot with no shirt on spinning in the rain
4 with his arms up in the air? Would you consider
5 that to be unusual?

6 A. Yes.

7 Q. But at no point did Sonny tell you that,
8 did he?

9 MR. ITZEN: Well, Judge, I think
10 this has been asked and answered. She said she
11 doesn't remember.

12 THE COURT: I believe it was, I'll
13 sustain.

14 A. Um --

15 THE COURT: I believe she
16 testified -- looking at my screen, she didn't
17 remember, so I'll sustain.

18 Q. (BY MR. LOW) How good is your memory,
19 ma'am, about what you -- your -- about the things
20 that happened that day and the things that you
21 heard?

22 A. It's pretty -- it's -- I remember it.

23 Q. Yes. How good is your memory?

24 A. I would say it's pretty well about this
25 situation.

1 Q. And what color was the shirt Mr. Knospler
2 was wearing when he walked into the bar when you
3 first saw him?

4 A. It's -- the lighting is extremely dark in
5 there. It's all purple lights or black lights.
6 And he was wearing dark colored clothing. I
7 would -- I don't know what color for sure, but I
8 know that it was maybe a gray or a -- just a
9 darker colored shirt.

10 Q. What kind of cut was it, long sleeve,
11 short sleeves, collar?

12 A. I don't remember.

13 Q. What about the pants? Tell us about the
14 pants he was wearing.

15 A. His pants were, like -- at one point, his
16 pants seemed kind of like cargo-ey.

17 Q. What color were they?

18 A. I don't -- I don't remember.

19 Q. You don't remember?

20 A. No.

21 Q. What was the material that his shirt was
22 made out of?

23 A. I didn't touch his shirt, so I don't know
24 his material.

25 Q. Well, let's see if we can narrow it down

1 here. Was it like a thick crew neck kind of
2 sweater or was it something different, like maybe
3 an oxford shirt or something?

4 A. It was a T-shirt.

5 MR. ITZEN: Judge, I'm going to
6 object at this point. She said she doesn't know,
7 and I don't really see the relevancy of the
8 material of the shirt.

9 THE COURT: I think I'll sustain.
10 She said I didn't touch his shirt, so I don't know
11 his material.

12 Q. (BY MR. LOW) By looking at the shirt,
13 could you tell what kind of material it was?

14 A. If I -- I'm not for sure what material
15 his shirt was.

16 Q. You said just a second ago you thought it
17 might have been a T-shirt?

18 A. I did say that.

19 Q. Do you think it's a T-shirt, ma'am?

20 A. From -- I'm not a hundred percent sure,
21 but I would say it was a T-shirt.

22 Q. And was he wearing anything on his head
23 when he walked in?

24 A. At what point of the night?

25 Q. When you first saw him, ma'am.

1 A. No.

2 Q. I'm sorry?

3 A. No, not that I remember.

4 Q. You don't remember?

5 A. He changed his appearance multiple times,
6 so. And it's -- I didn't just serve him. I was
7 helping other people as well, so.

8 Q. Do you -- I'm asking you about when he
9 first walked in, do you remember what he had on
10 his head?

11 A. He -- I believe he did not have a hat on
12 when he entered.

13 Q. Are you sure?

14 A. I am not a hundred percent sure.

15 Q. Do you recall whether or not while you
16 were -- while you were serving him, whether he had
17 a phone with him?

18 A. I do not recall.

19 Q. And you said earlier that you served him
20 one shot; is that correct?

21 A. Yes. I had served him a shot of Jameson.

22 Q. Your first drink you served him was a
23 shot of Jameson?

24 A. His first drink was either a shot of
25 Jameson or a Miller Lite. Those were the two

1 things that I served him.

2 Q. At any point do you remember telling this
3 investigator here during your interview that you
4 served him the first two shots of a gin and fin,
5 which they were spread out over at least an hour,
6 then he had a Miller Lite? Do you recall if
7 that's what you told the investigator?

8 A. No, I did not.

9 Q. You didn't say that?

10 A. I had served him a Jameson, and I did not
11 tell him I served him a gin and fizz.

12 Q. No, a gin and fin.

13 A. I did not say -- no, I did not serve a
14 gin and fin.

15 Q. Did you say to the investigator: Was
16 kind of, like, laughing and talking to himself all
17 night. Well, just the next time that I saw him,
18 he ordered another shot of gin and fin a while
19 later.

20 Did you say that to him?

21 A. I had said that he was laughing to
22 himself and talking to himself.

23 Q. Did you say to him: He came in on the
24 other side of the bar from when he walked in,
25 which he -- like, where he's at is just -- people

1 don't normally sit at anyways.

2 Did you say that to the investigator?

3 A. What I had said was when he walked into
4 the bar, where he sat in the bar, people normally
5 chose -- it wasn't people's normal first choice to
6 sit there.

7 Q. And nextly, did you say: He ordered a
8 shot of gin and fin -- and there's a parentheses
9 from the court reporter that says phonetic, end
10 parentheses, so I'm accurate.

11 Did you say that he ordered a shot of gin
12 and fin?

13 A. No.

14 Q. And when the investigator asked you,
15 quote, I see, so he ordered a shot of gin and fin,
16 you said?

17 And did you respond: Uh-huh?

18 Did you --

19 A. I did not say gin and fin.

20 Q. You think that this tape is wrong or --

21 MR. ITZEN: Well, Judge, I'm going
22 to object. She's given her statement. Our
23 transcript shows Jameson was the drink. She's
24 answered this multiple times that she didn't say
25 gin or fin or whatever the drink we're talking

1 about here.

2 A. I've never even heard of that.

3 THE COURT: Okay. Why don't we let
4 the answer stand, and we'll go from there.
5 Objection overruled.

6 Q. (BY MR. LOW) Let me see if I can do it
7 this way, then. Did you also give a statement to
8 Officer Tiller?

9 A. Is that the officer's name in my video?

10 Q. Do you remember if you gave more than one
11 statement, ma'am?

12 A. That -- I just spoke with one officer
13 that night down at the --

14 Q. So since --

15 A. -- and then at the -- I don't know the
16 officers' names.

17 Q. Fair enough.

18 A. So.

19 Q. That's okay. Let me try it this way,
20 then. Since this event happened, have you spoken
21 or given your statement to more than one person?

22 A. No. I spoke that night, hours after it
23 had happened.

24 Q. So when you say no, you spoke to another
25 person, does that mean no, you only spoke to one

1 person; or yes, you spoke to more than one person?

2 Do you recall, ma'am?

3 A. I spoke to -- one officer questioned me
4 the night of, him -- just him and I in a room.

5 Q. Okay. Do you recall saying to a
6 Detective Tiller: Knospler was -- Knospler was
7 talking to himself, Knospler ordered another shot
8 of Jameson and a Miller Lite.

9 MR. ITZEN: Judge, I'm going to
10 object. That's not proper cross to use one's --
11 somebody else's report to cross a witness. If he
12 would like to use a transcript, that may be
13 appropriate; but these are summary reports.

14 THE COURT: I'll grant a little bit
15 of leeway.

16 MR. LOW: Your Honor, I'm just
17 asking if she said that or not. I didn't quote
18 what it was I was reading from.

19 THE COURT: And you've got a source,
20 a reliable source from which to ask the question,
21 I take it --

22 MR. LOW: Yes, well --

23 THE COURT: -- which is a summary.

24 MR. LOW: -- I'm told it's reliable.
25 I'm trying to find that out.

1 THE COURT: Objection's overruled.

2 Q. (BY MR. LOW) Ma'am, did you say to
3 Detective Tiller that Knospler ordered another
4 shot of Jameson and Miller Lite? Is that what you
5 think you said to him?

6 A. Just at any -- just when he was
7 questioning me at any point?

8 Q. Yes, ma'am.

9 A. I had told him that I had served him a
10 shot of Jameson and a Miller Lite that night.

11 Q. Again, you agree that on page 2, that was
12 the correct spelling of your name; is that
13 accurate?

14 A. That is the correct spelling of my first
15 name.

16 Q. And you realize that you were asked to
17 spell that out, and you were the one who
18 phonetically spelled that out as recorded by the
19 tape and written down here by the court reporter;
20 do you agree with that?

21 A. That I spelled my name out?

22 Q. That you were asked to spell it out.

23 A. Okay.

24 Q. Were you?

25 A. I don't remember.

1 Q. And you agreed that was your telephone
2 number on page 2; is that right?

3 A. Yes.

4 Q. And you were asked to give your telephone
5 number; correct?

6 A. Yes.

7 Q. Do you remember doing that?

8 A. I don't exactly remember when they asked
9 me what my telephone number was. Like I said,
10 there was other things that were standing out a
11 little bit more. I know my telephone number.

12 Q. But you were able to look at this
13 telephone number today and confirm that was, in
14 fact, your phone number; correct?

15 A. That is my phone number, yes.

16 Q. So if they got that, it's likely you're
17 the one who gave that to them that day; right?

18 A. If they have my telephone number, that
19 I'm for sure the one who gave it to them? Is that
20 what you're asking me?

21 Q. Right. You were asked the question if
22 this was your phone number, and you agreed it was;
23 correct?

24 A. That is my phone number.

25 MR. LOW: This might help. Can I

1 borrow that again? May I approach, Your Honor?

2 THE COURT: Yes, you may.

3 Q. (BY MR. LOW) Ma'am, can you see that
4 person in that picture right there in that video
5 picture?

6 A. Yep.

7 Q. Who is that?

8 A. That is me.

9 Q. What is that -- where is that at, do you
10 know?

11 A. Down at the police station right across
12 the street.

13 Q. Remember when that was?

14 A. It was at -- well, that morning.

15 Q. Can you please go and play the following
16 for the jury to hear.

17 MR. LOW: I'm going to try and not
18 play the -- the numbers and whatnot unless you
19 want me to, Your Honor, unless Mr. Blonigen wants
20 me to; but I'm going to try and get real close to
21 where I want to play.

22 So you want me to leave it out or, about
23 the numbers and stuff?

24 MR. BLONIGEN: No. Well, just go
25 past her social security number and those things.

1 MR. LOW: So I'm putting the volume
2 down to get past that part. Apparently, I've got
3 technical difficulties, so I'm not going to waste
4 any more time. I'm going to try and move on.
5 Maybe we can come back to that when we've done a
6 better job. It's embarrassing. It's my fault.

7 Q. (BY MR. LOW) Your memory is about what
8 time was it that Mr. Knospler left the bar?

9 A. His final -- like, when he left and
10 stayed?

11 Q. Good point. I'm sorry. Forgive me.
12 Yes, I meant left the bar for good.

13 A. I don't know of the exact time. Like I
14 said before, I didn't engage in conversation.
15 I -- he creeped me out. I don't -- I didn't watch
16 just him all night.

17 Q. So because you didn't just watch him all
18 night and he creeped you out, you don't know what
19 time he left the bar?

20 A. No. I definitely don't know what time
21 just one person out of all the customers that
22 night left the bar.

23 Q. You definitely don't know; right?

24 A. I don't know for sure what time he left
25 the bar.

1 Q. I'm sorry. I'm not trying to quibble
2 with you, but I heard you say you definitely don't
3 know, and now you say you don't know for sure?

4 A. What I meant to say was I definitely
5 don't know what time each customer leaves the bar.

6 Q. Is it true that you told the investigator
7 that morning of the film here the following: The
8 guy was in and out all night. And then he left
9 the bar, the last time Ashlee saw him was probably
10 11:00 -- I'm sorry -- probably maybe 11:00
11 because, like I said, the last time we saw him
12 that he was in there had to have been around 10
13 o'clock.

14 Is that what you told the investigator
15 that morning?

16 A. I don't remember if those were my exact
17 words, but I know that I would say that he left
18 between 10:00 and midnight, somewhere within that
19 time range.

20 Q. But when I asked you earlier, you said
21 you didn't know. Now do you know or has your
22 memory been refreshed or is maybe your memory not
23 so good about the events that happened that night?

24 A. I told you I didn't know the exact time
25 that he left.

1 Q. And do you recall when Mr. Baldwin left?

2 A. He left right around, I would say,
3 midnight.

4 Q. And are you aware of the circumstances as
5 to why he left?

6 A. I am.

7 Q. And what are those?

8 A. He was asked, you know, to leave because
9 we can't have people sleeping in the bar, so.

10 Q. Who asked him to leave?

11 A. Andujar.

12 Q. Were you serving Mr. Baldwin alcohol that
13 night?

14 A. I had served him earlier in the night.
15 When they came up to the bar, I served him. He
16 had had other service from other employees
17 throughout the night.

18 Q. Thank you. Now, you were standing behind
19 the bar approximately the time that you believe
20 Mr. Baldwin was asked to leave the premises; is
21 that right?

22 A. I do not remember exactly where I was
23 standing when he was asked to leave.

24 Q. And did you watch Mr. Andujar escort Mr.
25 Baldwin out the door?

1 A. I -- I did not watch the whole entire --
2 I saw Andujar approach the table, Mr. Baldwin's
3 table, and -- and approach him. I did not watch
4 the whole -- the whole entire from the time that
5 he exited.

6 Q. So you did not see Mr. Andujar escort Mr.
7 Baldwin out the front door?

8 A. I -- I saw him approach him at the table.

9 Q. I'm sorry. What did you say?

10 A. I saw Andujar approach Baldwin at the
11 table.

12 Q. Yes.

13 A. So I did not watch the whole -- all of
14 their interaction from that time until he exited
15 the building.

16 Q. Did you say until he exited the building?
17 I didn't hear what you said. Did you say --

18 A. Until -- like, I did not watch the
19 whole -- Andujar and Baldwin's interaction from
20 the time at the table while they walked to the --
21 would have -- I'm assuming they walked to the
22 door.

23 Q. You're assuming?

24 A. I did not see all -- I saw Andujar
25 approach him at the table.

1 Q. Okay. My question is different. I'm
2 asking you if you saw Mr. Andujar escort Mr.
3 Baldwin to the door -- or out the door, sorry, out
4 the door?

5 A. Uh --

6 Q. That's a no?

7 A. I do not -- I do not remember fully
8 watching him escort him out the door.

9 Q. Did you say the following to detective --
10 I'm sorry, to Investigator Ellis that morning just
11 hours after this happened, Question: So these
12 two, Andujar and Westy -- that's from the
13 detective.

14 And you say: They were -- you know,
15 Andujar escorted him out the door, and then they
16 left. Well, they were standing inside the bar
17 looking out the door. So I went over, and I was,
18 like, What are you guys looking at?

19 Is that what you told the investigator
20 that morning when these events were fresh in your
21 mind?

22 A. I had told them part -- parts of that,
23 yes. I did mention that they were standing at the
24 door. I did mention that I asked them what they
25 were looking at. So I did -- I did ask them those

1 things when they were all standing by the door.

2 Q. So what I read is true, that's what you
3 said to the investigator that morning; correct?

4 A. What I said was that I had seen them
5 standing at the door, and I asked them what was --
6 what they were looking at.

7 MR. LOW: Tell me when you're -- all
8 right.

9 Your Honor, I think we got it fixed. Can
10 I play it now? I'm sorry to go back, but I'm
11 trying to be complete and thorough. Would that be
12 all right?

13 THE COURT: Yes.

14 MR. LOW: Thank you. We need it
15 turned on, Your Honor, please.

16 (A video is played in open
17 court.)

18 Q. (BY MR. LOW) That gentleman standing in
19 front of you, have you seen that man before?

20 A. Yes.

21 Q. Is he in the courtroom today?

22 A. Not that I believe, no. I -- I -- I
23 don't recognize his -- I don't remember his face,
24 to be honest, from that night. That was over a
25 year ago, so.

1 Q. Are you saying that things that may have
2 happened over a year ago you may not remember so
3 well even though they may have been right in front
4 of your face?

5 A. What I'm saying is I had one interaction
6 with him, and I don't necessarily remember his
7 exact face.

8 Q. Thank you.

9 (A video is played in open
10 court.)

11 MR. LOW: Okay. Hit sound.

12 THE COURT: Hold up, Counsel.

13 MR. ITZEN: I don't hear a question.
14 We're just playing an interview.

15 THE COURT: Right. I don't think
16 there's proper foundation or admissibility. It
17 would be an out-of-court hearsay statement.
18 If there's a very specific excerpt to refresh
19 recollection or to impeach, you need to identify
20 that with the questioning. You may have already
21 done that and we may have gotten off track, but.

22 MR. LOW: I did and I have it right
23 here and I'll be happy to show it to everybody.
24 I'm just trying to get there, and we're only about
25 four questions away. Look, I don't want to waste

1 anyone's time, but I do have it; and I'm not
2 playing the whole thing.

3 THE COURT: Okay. And do you feel
4 any additional foundation is needed?

5 MR. LOW: No, sir, because I asked
6 her about it and read it already, and she agreed.
7 So I think the people are just entitled to hear
8 it, and that's all I'm going to do.

9 THE COURT: Okay. I'll allow.

10 MR. LOW: Maybe advance it another
11 30 seconds or 20 seconds, and then we should be
12 there.

13 (A video is played in open
14 court.)

15 MR. LOW: Freeze right there.

16 Q. (BY MR. LOW) Did you say that? Was that
17 you saying that he ordered a shot of gin and fin?

18 A. I said he ordered a shot of Jameson.

19 Q. Jameson, okay.

20 A. It's a whiskey.

21 Q. So thank you because on my transcript, it
22 said gin and fin. That's why we play these
23 things, to be fair to you. I made a mistake --

24 A. Thanks.

25 Q. -- and I apologize to you. But that's --

1 sorry, that's what it said here; and I wanted to
2 be clear because I wasn't sure.

3 But let's go to the next part. Keep
4 going.

5 (A video is played in open court.)

6 MR. LOW: Play that. Freeze.

7 Q. (BY MR. LOW) Is that what you remember
8 Sonny telling you he saw out in the parking lot
9 that day?

10 A. As I said earlier, when you asked me
11 before this, I had remembered that Sonny had told
12 me that he was looking up in the sky and had his
13 hands up.

14 Q. Right. But his hands aren't up in this
15 version, are they?

16 A. If you play it again, then.

17 Q. Sure. Play it back. It's your record.

18 MR. LOW: May I show her a
19 transcript of it and ask her if it's accurate
20 while the thing is trying to load? Oh.

21 (A video is played in open court.)

22 MR. LOW: May I approach with the
23 transcript, Your Honor?

24 THE COURT: Yes, you can.

25 MR. LOW: Maybe that will speed it

1 up. I apologize.

2 THE DEFENDANT: Want me to play it?

3 MR. LOW: Play it if you got it.

4 (A video is played in open court.)

5 Q. (BY MR. LOW) He's got his head up in the
6 air looking around. Is that what you just said,
7 ma'am?

8 A. That is what I said.

9 Q. Can you tell us, then, where you got the
10 part about the putting the arms and the hands up
11 in the air? Where did that come from?

12 A. It is what I remember, so.

13 Q. Okay. Have you discussed this event with
14 anybody since it happened?

15 A. I have spoken when I -- like, to listen
16 to the video and say it's -- it's me. And it's
17 not something that -- no, it's not something that
18 I chose to discuss with people. That's not a
19 friendly conversation.

20 Q. Have you ever discussed what happened
21 that night with other employees?

22 A. We didn't -- to be honest, we didn't
23 really talk about that night after it happened.
24 It's -- it happened, and it's not -- you don't
25 just want to keep reliving it all the time. So it

1 was one of those things that wasn't a conversation
2 topic.

3 Q. All right. The part I need to go to now,
4 we'll get there, I'm going to show her the
5 transcript, it may take her a while to get there;
6 but it's another three or four minutes.

7 MR. LOW: May I again, Your Honor,
8 in the interest of time?

9 THE COURT: Yes, sir.

10 MR. LOW: May I?

11 THE COURT: Yes.

12 MR. LOW: Thank you, Your Honor.

13 Q. (BY MR. LOW) Thank you, ma'am. It says
14 here: So these two, Andujar and Westy, they
15 were -- and this is you saying this; correct?

16 A. Edmondson is not my right name.

17 Q. I understand. But remember you said
18 earlier the name is wrong on here, but these are
19 your words; correct? And let's read them, and you
20 can tell us whether these are correct or not.

21 They were, you know, Andujar escorted him
22 out the door and then they left. Well, they were
23 standing inside the bar looking out the door. So
24 I went over and I was, like, What are you guys
25 looking at?

1 Are those your words, ma'am?

2 A. Is this the same that you got, like --

3 Q. Ma'am, are these --

4 A. -- when it listened to me, is this typed
5 out?

6 Q. Ma'am, are these your words?

7 A. I -- I said some of those.

8 Q. Okay.

9 A. And I'm not -- I'm a little confused as
10 to why that says Edmondson, and that's not me. So
11 I don't know if that's a mis --

12 Q. Yes. I understand that's not your name,
13 but we cleared that up. Let's make it simple.
14 Yes or no, are these your words?

15 A. I said some of those words.

16 Q. Okay. Well, I guess we will have to play
17 it, then, and you'll get to watch. That is you up
18 there; right?

19 A. Yeah.

20 Q. Okay.

21 MR. LOW: Are you there yet? It's
22 about another four or five pages from the last
23 one. Let's go ahead and put the sound on. Play
24 it. Let it roll. I'll tell you when to stop.

25 Is it froze?

1 I apologize to you. I can't -- I don't
2 know what to do about it.

3 Your Honor, if I may make a suggestion
4 only. Since we're going to have a contest that
5 these words are not accurate -- and that's fair --
6 I can play it. It's 30 minutes before the break.
7 I'd like to think I'm confident I can fix this
8 thing so it plays seamlessly, and I will be able
9 to narrow it down to the exact precise moment so
10 we don't have to wait. I'm embarrassed and I'm
11 sorry. I don't know what else to do at this
12 point, and I feel like I'm -- I'm wearing out my
13 welcome here.

14 THE COURT: Anything from the State,
15 Mr. Itzen?

16 MR. ITZEN: Well, Judge, while the
17 devil may be in some of the details, the fact of
18 the matter is we're running behind. I would like
19 to press through. I've had a hallway full of
20 witnesses for two days. No one's fault, but.

21 MR. LOW: I can suggest we take it
22 out of turn. And we can -- I can finish this
23 cross later. And I would be willing to waive my
24 right to do that. And you could call another
25 witness now, and we could finish out the next 30

1 minutes, and I can recall her tomorrow.

2 THE COURT: I think the Court's
3 preference would be since, especially the
4 foundation for your use of the proposed exhibit
5 and the statements, why don't I give you just a --
6 let's say an eight-minute break here. We'll try
7 to reconvene at 4:40. And the jury can exit at
8 this time, and we'll give you a chance to try to
9 address the computer difficulty; okay? Thank you.
10 Jury may exit.

11 (At 4:31 p.m., a recess was
12 taken until 4:42 p.m.)

13 (The following proceedings
14 were held in open court, in the presence of the
15 jury:)

16 THE COURT: Thank you very much.
17 Court will reconvene. And the record should
18 reflect that defendant, defense counsel, counsel
19 for the State, and the 13 members of the jury
20 panel are present.

21 Mr. Low, you may proceed.

22 MR. LOW: Thank you.

23 Q. (BY MR. LOW) Appreciate your patience
24 with me. It's kind of you. When you -- is it
25 fair to say and it's true to say that at some

1 point, you notice Mr. Andujar and a guy by the
2 name of Westy, do you know that name, Westy?

3 A. Yes, I do know Westy.

4 Q. And you noticed they were standing at the
5 front door; is that true, ma'am?

6 A. Yes.

7 Q. And when you notice they're standing at
8 the front door, this is after Mr. Knospler has
9 already left; correct?

10 A. Yes.

11 Q. And it's also after Mr. Baldwin has left;
12 is that right?

13 A. Yes.

14 Q. And from your memory, Mr. Knospler has
15 left about two hours earlier than Mr. Baldwin; is
16 that right?

17 A. I believe he left in the area between
18 10:00 and midnight. I am not exactly sure what
19 time he left.

20 Q. Thank you. And shortly or close to
21 midnight, however your memory, you saw Mr. Baldwin
22 escorted out of the front door by Mr. Andujar; is
23 that correct?

24 A. I had -- I knew that Baldwin had left the
25 building, and I saw Andujar approach him at the

1 table. And then I saw Andujar and Westy at the
2 door, and they were both -- Baldwin and Knospler
3 were both already outside.

4 Q. And so you saw Mr. Andujar and Westy
5 looking out the front door at something; correct?

6 A. Correct.

7 Q. And so you walked up to them and you
8 said, Hey, what are y'all looking at?

9 A. I asked them what they were looking at,
10 yes.

11 Q. And they answered you; is that true?

12 A. Yes.

13 Q. And they said, Oh, this guy fell down out
14 there?

15 A. They had -- they had mentioned that I --
16 that he -- they had thought that he was, you know,
17 drunk or had -- had tripped on the -- slipped on
18 the snow or that, you know, he was -- they had
19 mentioned that he was laughing. And that's --
20 they watched, and then Westy left the door and
21 Andujar and I were standing there.

22 Q. So I'm going to freeze this moment in
23 time. We're going to go nice and slow right here.
24 When you're watching Mr. Andujar and Westy look
25 out the door, you can't see what they're looking

1 at at that point; isn't that true?

2 A. I cannot see what they are looking at
3 when I'm not with them -- when I'm not at the
4 door.

5 Q. And that's where you go up and ask them
6 what are y'all looking at; correct?

7 A. Correct.

8 Q. And before you get the answer to what
9 they're all looking at, you still cannot see what
10 they're looking at; correct?

11 A. When I was standing at the door, I just
12 wasn't sure -- I looked outside and asked them
13 what they were looking at as I approached them.

14 Q. I'm going to ask this question again. At
15 the moment you're waiting for the answer from Mr.
16 Andujar as to what they were looking at, you
17 personally still cannot see out in the parking lot
18 as to what they're looking at; isn't that true?

19 A. When I asked them, I did not know what
20 was going on. I -- I didn't -- did not see,
21 myself, when I asked them what they were seeing.

22 Q. You asked them because you could not see
23 what they were seeing; correct?

24 A. I asked them because I saw them around
25 the door, which made me assume they were all

1 looking at something, whether I could see what
2 they were looking at or not.

3 Q. Maybe I'm not making sense. I'm not
4 asking you about around the door what you were
5 doing. I'm asking you whether or not you could
6 see.

7 A. I could not see out the door when I was
8 not at the door.

9 Q. And you still could not see out the door
10 when you asked them what they were looking at;
11 correct?

12 A. I -- I asked them because no, I did not
13 know what they were -- I did not know what they
14 were looking at. I did not see whatever they were
15 seeing at that time. I wanted to know what they
16 were seeing.

17 Q. Thank you. And Mr. Andujar told you, oh,
18 this guy fell out there. This guy fell out there.
19 That's what he said to you; correct?

20 A. I don't know -- I don't remember exactly
21 or recall if he said fell or falling. Andujar is
22 a little hard to understand at times. He's from
23 the Dominican Republic.

24 Q. Yes, ma'am. But it was certainly clear
25 to you that he was speaking what's called the past

1 tense, which means the person out there had
2 already fallen?

3 A. I don't recall if he had said fell or
4 falling. I don't remember exactly which word he
5 had -- he had used. I know that they were at the
6 door and were looking at something, and it caught
7 my attention.

8 Q. Fell or fallen are both past tense; is
9 that your understanding, ma'am?

10 A. Falling?

11 Q. Fell or fallen are both past tense?

12 A. He said that he had -- I don't remember
13 exactly which word he had used, but falling,
14 falling, I would take it as that's what was
15 happening when he watched it, so.

16 Q. At that point you're still not looking
17 out the window and looking at what Mr. Andujar is
18 telling you about, are you? You're looking at
19 Mr. Andujar, and he's telling you what he just
20 saw; correct?

21 A. I do not fully remember if I was looking
22 right at him when he answered me.

23 Q. But you know what you were not looking
24 at; right?

25 A. I just told you I don't remember what I

1 was looking at when -- I don't remember if I was
2 looking at Andujar when he told me that.

3 Q. So and just simply at this point in time,
4 you still haven't looked out the window to see if
5 you can see what's going on, have you?

6 A. I don't remember the exact time. I can
7 tell you that it didn't take me very long of
8 approaching them to look out the window myself.

9 Q. Did you say the following words, ma'am,
10 to what I believe is Detective Tiller in that
11 video that we saw earlier: And they thought that,
12 you know, he was drunk, so he slipped in the snow
13 and fell.

14 Is that what you told Detective Tiller?

15 A. Yes.

16 Q. And so we were watching him and, like,
17 when you're at the door and you look out to the
18 right, there was a truck. And then the guy in the
19 light that was falling over, and he, like,
20 stumbled, and then he fell over. And he could,
21 like -- they thought he was laughing at first, but
22 clearly he was probably trying to get air. And
23 then, like, he was laying there. And I was, like,
24 I don't think he's laughing. I was, like, Nobody
25 is helping him. I think he's hurt.

1 Is it fair to say, ma'am, that you didn't
2 actually see the guy fall down? That's what they
3 told you, but when you looked out there, he was
4 already lying down, and now he's not moving, and
5 that was the first time you got a visual of what
6 was going on outside; isn't that true?

7 A. That is not true.

8 Q. Are you saying these --

9 A. What I was told --

10 Q. Sorry. Go ahead.

11 A. -- was what you just went over. But when
12 I was at the door, I did see him fall. So if he
13 had fallen over previous or tripped, then I did
14 not see that. But I saw him, myself, at the door,
15 fall over, as I stated at the beginning of when
16 they were asking me. So yes, I did see him fall
17 over.

18 Q. Okay. And was he laughing?

19 A. I do not recall. I cannot say a hundred
20 percent whether he was -- it did not look to me
21 like he was laughing. Like I said earlier, he
22 fell over, and he didn't even try to catch him --
23 like, catch himself or break his fall. And he --
24 not lunged, but just kind of taken kind of a step.
25 And -- and that's when --

1 Q. If at any moment you need to take a
2 break, please let us know.

3 A. Nope, I'm good.

4 Q. I'd like to freeze this moment in time if
5 I could. You believe you saw the gentleman, and
6 do you recall what he was wearing?

7 A. Kade?

8 Q. If that's how you refer to him.

9 A. He was wearing a white T-shirt and jeans.

10 Q. Okay. And when you first noticed him,
11 what was the first physical thing you saw him do?
12 I mean physical movement.

13 A. When he was outside or my first
14 initial -- or interaction with him in the -- in
15 the night?

16 Q. Good question. We're at that moment in
17 time where he's at the car and you've now just
18 laid eyes upon him where he's out in the parking
19 lot. What's the first thing you see him do?

20 A. He's standing facing the car or at, like,
21 the driver -- driver's side window, like, where
22 kind of the rear-view mirror, in that area facing
23 the car.

24 Q. And so as a result, he's facing the
25 driver's door, so that means he's facing in your

1 general direction; correct?

2 A. He was -- if I was facing this way, he
3 was facing this way. And the car was backed up.

4 Q. Thank you. And are you able to see from
5 his waist down or from only his waist up? Are you
6 able to see all of him or part of him? What can
7 you see?

8 A. My -- when he was first standing there at
9 the car, I was able to see from waist up. When he
10 had turned to kind of take a step, then I was able
11 to just see him, like, facing the bar. And then
12 he was -- I could see him laying in between the
13 car and the truck.

14 Q. And so you saw him take a step back and
15 turn around or did you just see him take a step
16 or?

17 A. He just turned and looked as if he had
18 tried to step and then fell. I don't know exactly
19 for sure if -- if he had taken two little steps or
20 even -- he -- he didn't walk away.

21 Q. Yes, ma'am. And if -- if I may, would it
22 be all right with you if we use this counter right
23 here to be the door, the driver's side door of the
24 car he was standing next to? Would that be all
25 right for now?

1 A. Sure.

2 Q. And, of course, the hood would stand out
3 a little bit; correct?

4 A. (Nodded.)

5 Q. Is that true?

6 A. Yeah.

7 Q. And so position me. I'm going to be Mr.
8 Baldwin. Position me about where you think that
9 was. And let's make this, say, about where the
10 windshield is; and then this is the hood from
11 here. So we'll call this window and window sill
12 and this is the hood. Are you with me so far?

13 A. Yeah.

14 Q. And tell me to go left, right, where you
15 remember.

16 A. I would step a little bit to your right,
17 and I would say he was in that area.

18 Q. Okay. And is it fair to say that now the
19 roof comes up this way and that way?

20 A. It looked like he was in -- by the
21 driver's side window. If he was directly center,
22 maybe a little bit in front of it or directly
23 center with the window, I'm not exactly sure on
24 that; but this is the -- that is the area that he
25 was in.

1 Q. So based on where the -- your memory of
2 where the roof is, you're probably able to see him
3 about maybe from chest up?

4 A. From where I was, I wasn't from -- I
5 didn't see from the opposite side of the car. I
6 could see the -- I could see more than his chest.
7 I could see from waist up when he was at the --

8 Q. So you remember seeing from the waist up?

9 A. When he was standing -- he was -- yeah,
10 you could see, like, his shirt; and he -- just a
11 hood -- I mean, I wasn't on the opposite -- I was
12 on the passenger side of the car.

13 Q. Right. To be fair, you've got a car
14 between you and Mr. Baldwin; correct?

15 A. This was not my -- no, I was more of,
16 like, over there in that angle -- more of a --

17 Q. Okay. Can you see Mr. Baldwin's legs?

18 A. When he's standing there?

19 Q. Yes. Next to the driver's window, can
20 you see his legs?

21 A. I -- I don't know for a hundred percent
22 if I could see all of his legs.

23 Q. Well, a little while ago, you said you
24 could see from the waist up. Can you help us now?
25 Is it different now or is it still the same, waist

1 up, no?

2 A. His whole motion --

3 MR. ITZEN: Well, Judge, I'm going
4 to object at this point. This has been asked and
5 answered, and she said from the waist up is where
6 she could see him.

7 THE COURT: I think that's correct,
8 it has been asked and answered a couple times, so
9 I'll sustain.

10 MR. LOW: Your Honor, may I ask,
11 I've got two different answers now; and I'm not
12 sure which one we should go with.

13 THE COURT: I'll allow you to
14 clarify one last question. Go ahead.

15 Q. (BY MR. LOW) Ma'am, I'm going to ask you
16 this one question. Could you see Mr. Baldwin only
17 from the waist up?

18 A. From one position that I saw him, I was
19 able to see from the waist up.

20 Q. Okay. That's where I'd like to start.
21 And the reason why you can only see him from the
22 waist up is because there's a car between you and
23 Mr. Baldwin; correct?

24 A. As I just stated, I was not at this angle
25 from him. I had more of a head -- head-on

1 diagonal angle from the front of the car.

2 Q. Okay. So does that mean that there was
3 nothing obstructing your view of Mr. Baldwin from
4 the waist down or there was something obstructing
5 your view; and if there was, what was it?

6 A. If I would say maybe it was the driver
7 headlight corner, maybe, area of his lower legs
8 that I was maybe not able to see.

9 Q. You're there. You're the one who saw it.
10 You're looking at it. Please tell us what was it
11 that was obstructing the view.

12 A. It -- when I saw him, it would be from
13 the -- the only thing that would be obstructing my
14 view from him was the front corner of the driver's
15 side headlight of the car.

16 Q. Thank you. And then the next thing you
17 see is Mr. Baldwin turn; correct? Did he turn to
18 his left?

19 A. Uh-huh.

20 Q. Sorry?

21 A. Yes.

22 Q. I hate to do that, but I'm required to
23 give a word answer so that the court reporter can
24 write it, so forgive me.

25 And once he turns, he may or may not have

1 taken a step or two, and then he falls?

2 A. Yes.

3 Q. That's what you remember seeing; correct?

4 A. Yes.

5 Q. So then is it fair to say, ma'am, that at
6 no point did you see Mr. Baldwin with his hands on
7 the car; is that correct?

8 A. I do not recall seeing his hands on the
9 car.

10 Q. And the first time you saw Mr. Baldwin
11 fall down, he didn't fall into the window of the
12 car, did he?

13 A. He fell onto the ground.

14 Q. Yeah, he fell over here on the ground;
15 correct?

16 A. Yes.

17 Q. You're sure about that; right?

18 A. I am sure that he fell onto the ground.

19 Q. And you remember seeing him lying
20 facedown?

21 A. Yes.

22 THE COURT: Any of the ladies and
23 gentlemen of the jury have any commitments that
24 would prohibit us from going for another, say,
25 maybe 15 minutes? Any problem there? Okay.

1 Thank you. You may proceed.

2 MR. LOW: Thank you.

3 Q. (BY MR. LOW) Now, you never went
4 outside; correct?

5 A. I did not go out to the -- where they
6 were. I went right out the door when I was on the
7 phone with dispatch.

8 Q. And do you recall anybody telling you
9 what happened out there? What I mean by that is
10 did you get any -- some of the information we
11 heard on the 911, was that all the information you
12 heard firsthand or did someone give you some of
13 that?

14 A. Can you reask the question, please?

15 Q. Yes, I can. The information that you
16 gave the 911 dispatcher, was that all information
17 you personally witnessed or did somebody give you
18 some of the information that you provided?

19 A. I was told some of the information.

20 Q. And do you remember by who?

21 A. I was told By Andujar that Kade was
22 stabbed. After the car had pulled off, Andujar
23 ran out there and came back in, told me that he
24 was stabbed.

25 Q. Thank you. Did you personally witness

1 the car pull off?

2 A. Yes.

3 Q. You could see it?

4 A. Yes.

5 Q. And what is the amount of time that
6 elapsed from the time Mr. Baldwin fell to the
7 ground before that car started to leave?

8 A. Maybe a couple -- couple minutes.

9 Q. So about --

10 A. He did not -- the car did not leave right
11 when Kade fell over.

12 Q. About 120 seconds?

13 A. I don't remember -- I don't know exactly
14 if it was 120 seconds. I know that it was not
15 directly after. The car sat there for a little
16 bit and then pulled out.

17 Q. And the manner, can you please describe
18 the manner with which it pulled out? You can just
19 tell us what you saw.

20 A. It pulled out and turned east, so it was
21 still in the parking lot and drove in front of the
22 front door and turned out and then turned left and
23 turned right and turned left to -- on the highway
24 to go east towards Casper.

25 Q. And are you standing inside of Racks as

1 you're watching the car pull out of its parking
2 spot and leave?

3 A. At that point, yes, I was -- I was
4 inside.

5 Q. As you look at the car, what did you
6 notice, if anything, about it?

7 A. As it was pulling off --

8 Q. Yes.

9 A. -- out?

10 Q. Yes, ma'am.

11 A. It was in -- it was -- it had snow on it,
12 and it -- I want to say it was -- I mean, it
13 wasn't a slow pull off, faster than normal, and
14 drove right in front of us, and then took his
15 turns that I just previously stated.

16 Q. So it was a slow pull out, and it slowly
17 went through the parking lot and in front of the
18 door where you were watching; correct?

19 A. I said it was not a slow -- it was not a
20 slow, cautious -- it just pulled out. It --

21 Q. Does that mean it was a normal speed,
22 just nothing slow, nothing fast, just normal? How
23 would you describe it?

24 A. I would say maybe a little fast for the
25 weather conditions being that there was that much

1 snow --

2 Q. Uh-huh.

3 A. -- but --

4 Q. What did you see that made you think it
5 was too fast or a little fast, I think is what you
6 said? What did you physically see?

7 A. My -- I saw the car and -- with my eyes.
8 It seemed fast.

9 Q. Yeah. What was it that you saw that made
10 it seem like it was going fast?

11 A. The car was moving -- can you ask your
12 question again?

13 Q. Was there anything else you can share
14 with us other than what you said that allows you
15 to make the conclusion it was going fast?

16 A. No. The car was -- I don't believe it
17 was super cautiously pulling out for that -- that
18 weather condition.

19 Q. And as it drove by, was the driver's side
20 window in front of you, meaning as it drove
21 through your line of sight?

22 A. It did not -- I -- the person that I saw
23 driving was a very clear picture, so it did not
24 seem that there was a window in -- in the car.

25 Q. That's what I wanted to ask you about.

1 So you're looking at the car. Did you see a
2 window, ma'am?

3 A. Did I see what?

4 Q. A window.

5 A. I -- I don't know a hundred percent. I
6 don't believe -- it was super clear, and so I feel
7 that with the snow, it would not be that. I was
8 able to see through the window very, very clearly.

9 Q. Yes, ma'am, I understand you could see
10 clearly. Thank you. But I'm asking you now more
11 precisely, can you please tell us if the window
12 was rolled up or not?

13 A. I don't believe the window was rolled up.

14 Q. Could you see it? Do you have a specific
15 memory of looking at the window?

16 A. I do not remember seeing a window. It
17 was much more visible than that.

18 Q. Okay. And can you describe what you saw
19 or can you describe the person you saw driving the
20 car?

21 A. That guy in that picture.

22 Q. Uh-huh. Thank you. I know you were
23 shown the picture, but I'm saying as you sit there
24 now with your mind's eye and you're looking at the
25 car, just tell us what you saw specific to the

1 driver. What -- tell us what you're looking at.
2 What can you see?

3 A. I saw him looking directly at us --

4 Q. Okay.

5 A. -- as he drove right in front of us.

6 Q. And what else? Describe anything he may
7 have been wearing or anything at all.

8 A. I remember seeing his facial hair. It's
9 not like -- I mean, he didn't drive in front of me
10 for two minutes. It was pretty quick, so. I saw
11 him looking at me and I saw the facial hair and
12 that was about all at the time. It's not like he
13 stopped in front of me.

14 Q. Anything else besides the facial hair
15 that you remember?

16 A. No.

17 Q. What color was the car?

18 A. It was a dark color. I remember -- I
19 thought it was a dark green. It was a dark
20 colored car.

21 Q. And do you recall how many doors were on
22 the driver's side of the car?

23 A. There -- I believe there was two -- I
24 believe it was all together a four-door car.

25 Q. Thank you. Did you have any issues with

1 Mr. Knospler that evening while he was in your
2 bar?

3 A. Me personally?

4 Q. Yes, ma'am.

5 A. Besides the fact that he made me super
6 uncomfortable, just creeped me out, no.

7 Q. Did you have the power, as far as you
8 understand it, or the authority to, if you didn't
9 feel comfortable serving someone, that you could
10 ask them to leave or have someone in your bar
11 request them to leave?

12 A. Uh-huh, yes, I can do that.

13 Q. And did you, in fact, ask Mr. Andujar to
14 ask Mr. Knospler to leave?

15 A. I did not ask Andujar to ask Knospler to
16 leave.

17 Q. Did you ask Mr. Knospler to leave?

18 A. I did not.

19 Q. Have you ever asked someone to leave
20 before who made you feel uncomfortable?

21 A. I -- when they're -- usually it's the
22 bouncers that ask people to leave or escort them
23 to leave, and that's when there's a physical
24 altercation usually, so.

25 Q. Thank you. My question is have you ever

1 asked yourself someone to leave?

2 A. For what reason?

3 Q. I haven't got there yet. Have you
4 yourself ever asked someone to leave?

5 A. I have asked somebody to leave the bar
6 before, yes.

7 Q. And on how many occasions?

8 A. I do not recall the exact number of how
9 many people.

10 Q. Please give us a ballpark estimate.

11 A. I would say 10 to 15 people.

12 Q. And have you ever decided that you were
13 no longer going to serve someone in that bar any
14 more alcohol because you thought you should not
15 serve them any more based on their condition?
16 Have you ever refused to serve anybody any more
17 alcohol?

18 A. I -- yes.

19 Q. And did you refuse to serve Mr. Knospler
20 any more alcohol?

21 A. No.

22 MR. LOW: Your Honor, I think that's
23 it. I'm just double-checking so I don't make a
24 mistake. So I appreciate how patient you've been
25 with me, and I think I'm about done if I have just

1 one more second. I just want to double-check.

2 That is it. Thank you, Your Honor. I
3 appreciate it again.

4 THE COURT: Okay. Thank you,
5 Counsel.

6 Redirect examination, Mr. Itzen?

7 MR. ITZEN: Yes, sir.

8 REDIRECT EXAMINATION

9 BY MR. ITZEN:

10 Q. Ma'am, in your interview with Detective
11 Tiller, he asked was there anything that
12 obstructed your view when you looked out in the
13 parking lot. And you said: Um, there's a car
14 parked right there, but it was more, like, it was
15 parked in front of the building, so we had, like,
16 a direct diagonal view; correct?

17 A. It was -- yes. It was a diagonal view.
18 Not from the side, but, yes, it was a diagonal
19 view right out the door to where they were at.

20 Q. And then Detective Tiller was talking to
21 you about standing at the door witnessing this.
22 And you said: And so we're watching him and,
23 like, when, you know, at the door, you look off to
24 the right, there's a truck. And then a guy in a
25 white -- the guy in the white that was falling

1 over and stumbled, and then he fell over.

2 So you watched it happen; correct?

3 A. I saw him fall, yeah. I saw him fall.

4 Q. And you told Detective Tiller the car was
5 backed into its parking spot; correct?

6 A. Correct.

7 Q. And there was a truck on the other side
8 of it?

9 A. The car was backed in and the truck
10 was --

11 Q. Nose first in?

12 A. In nose first, yes.

13 Q. And Detective Tiller asked you
14 descriptions, correct, of the individual driving
15 the car. And you said he was about five foot
16 nine, he wore a hat at parts of that evening, and
17 he had a gray jacket with a hood on it; correct?

18 A. Yes.

19 Q. Now, as the car leaves, does anyone from
20 the bar attempt to stop that car?

21 A. Andujar.

22 Q. Does the car stop?

23 A. No. Andujar -- we see it pull out, and
24 then that -- while that's happening, the -- he
25 opened the door and, like, whistled a really loud

1 whistle to, like, to catch somebody's attention.
2 He just looked at us and kept going.

3 Q. All right. And the driver of that car
4 was the man in the photograph that I showed you?

5 A. Yes.

6 Q. And there's no question what you saw that
7 evening in the parking lot or that morning in the
8 parking lot?

9 A. I -- (shook her head.)

10 Q. Correct?

11 A. Correct.

12 Q. And the car left after Kade was already
13 on the ground?

14 A. Correct.

15 MR. ITZEN: Just a moment, Judge.

16 THE COURT: Yes.

17 MR. ITZEN: Ms. Logan, I know it's
18 been a long day. Thank you for your time.

19 THE COURT: Thank you, Counsel.

20 Anything on recross, Mr. Low?

21 MR. LOW: No, sir. Thank you.

22 THE COURT: Okay. Thank you, Ms.
23 Logan. You may step down. Is she subject to
24 subpoena?

25 MR. ITZEN: We'd ask that she be

1 released, Judge.

2 THE COURT: I will release her from
3 the subpoena in the case, so you're free to go.
4 Thank you.

5 We're going to go ahead and break until
6 9:30 tomorrow morning. Thank you again for your
7 time today.

8 I'm going to again remind you not to
9 discuss the case with anyone, including with one
10 another and not to permit anyone to discuss the
11 case with you. I recall, and it sort of ages me a
12 little bit; but I had a case many, many years ago
13 in Rawlins where there was a gasoline station
14 attendant that made a conversation with a juror
15 that was very innocent. But it turned out to have
16 been observed and reported back to the judge, and
17 after five days of trial, we ended up with a
18 mistrial. So I ask you to, just as you go about
19 your affairs, to be very, very careful not to say
20 anything that would in any way reflect on the case
21 and your observations and your involvement as
22 jurors.

23 So if you'd keep that in mind and do not
24 try to learn anything about the case from outside
25 the courtroom. Avoid all publicity and accounts

1 in the news media. Once again, if there should be
2 something in the paper, turn the page, do not read
3 the article; and if there should be something on
4 the TV, turn it off immediately.

5 And finally, keep your minds open.
6 You've heard a whole lot of evidence today for
7 sure, but there's additional evidence to come. So
8 keep your minds open until you've received all the
9 evidence and the case is submitted to you.

10 And thanks for working over time. We'll
11 stand in recess until 9:30 a.m.

12 (The trial proceedings recessed at
13 5:17 p.m., December 16, 2014.)

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C E R T I F I C A T E

I, JONI L. CHANEY, Official Court Reporter within and for the Seventh Judicial District Court of Wyoming, do hereby certify that I reported by machine shorthand the proceedings contained herein and that the foregoing 555 pages constitute a full, true, and correct transcript.

Dated this 8th day of June, 2015, at Casper, Wyoming.

JONI L. CHANEY, RPR
Official Court Reporter