

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

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THE STATE OF WYOMING,

Plaintiff,

vs.

JOHN HENRY KNOSPLER, JR.,

Defendant.

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TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
VOLUME IV of VII

Page 860 through Page 1191

9:35 a.m., Thursday  
December 18, 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

FOR THE STATE:           MR. MICHAEL A. BLONIGEN  
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                                          and  
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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>
<b>ZACK MILLER</b>	
Direct Examination by Mr. Itzen	257
Cross-Examination by Mr. Low	264
Redirect Examination by Mr. Itzen	280
<b>MARK DAIGLE</b>	
Direct Examination by Mr. Itzen	311
Cross-Examination by Mr. Low	315
<b>SEAN ELLIS</b>	
Direct Examination by Mr. Itzen	317
Cross-Examination by Mr. Low	337
Redirect Examination by Mr. Itzen	385
Recross-Examination by Mr. Low	388
<b>SONNY PILCHER</b>	
Direct Examination by Mr. Blonigen	405
Cross-Examination by Mr. Low	417
Redirect Examination by Mr. Blonigen	460
Recross-Examination by Mr. Low	467
<b>ASHLEE LOGAN</b>	
Direct Examination by Mr. Itzen	475
Cross-Examination by Mr. Low	496
Redirect Examination by Mr. Itzen	551
<b>AARON SHATTO</b>	
Direct Examination by Mr. Blonigen	579
Cross-Examination by Mr. Low	625
Redirect Examination by Mr. Blonigen	671
Recross-Examination by Mr. Low	673
<b>DR. JOHN CARVER</b>	
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 GUILL**

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

<b>KEVIN ELKIN</b>	
Direct Examination by Mr. Low	1809
Cross-Examination by Mr. Itzen	1816
<b>SCOTT LEHMAN</b>	
Direct Examination by Mr. Low	1821
Cross-Examination by Mr. Itzen	1879
Redirect Examination by Mr. Low	1886
<b>SEAN ELLIS</b>	
Direct Examination by Mr. Low	1890
Cross-Examination by Mr. Blonigen	1894
Defense Rests	1897

## REBUTTAL EVIDENCE

<u>FOR THE STATE:</u>	<u>PAGE</u>
<b>SEAN ELLIS</b>	
Direct Examination by Mr. Blonigen	1898
Cross-Examination by Mr. Low	1901
Redirect Examination by Mr. Blonigen	1902
<b>BRAD HALTER</b>	
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 COURT: Good morning. Thank you  
3 so much. Please be seated. Court will come to  
4 order.

5 Just so the record is clear, we convene  
6 for day four in the jury trial proceedings in the  
7 case of the State of Wyoming versus John Henry  
8 Knospler, Jr., Criminal Action 19548-B.

9 The Court does note the presence of  
10 defendant, defense counsel, counsel for the State,  
11 and the 13 members of the jury. Good morning.

12 The parties ready to proceed here in day  
13 four, the State of Wyoming?

14 MR. ITZEN: The State is ready, sir.

15 THE COURT: And the Defense?

16 MR. LOW: Yes, Your Honor.

17 THE COURT: Okay. We're still in  
18 the State's case. The Court would give the jury a  
19 heads up that I'm going to allow a witness to be  
20 called out of order at 10:15, but we'll proceed  
21 with evidence in the regular course until then.

22 So, Mr. Itzen.

23 MR. ITZEN: Your Honor, State would  
24 call Amber Hudson.

25 THE COURT: Please come forward, Ms.

1 Hudson, if you would. The Clerk of Court will  
2 give you the oath over here to my left, and then  
3 after you're sworn, you'll sit to the other side.

4 THE CLERK: You do solemnly swear  
5 that the testimony you will give in the case  
6 before the Court will be the truth, the whole  
7 truth, and nothing but the truth, so help you God?

8 THE WITNESS: Yes.

9 THE CLERK: Out and around and in  
10 that chair.

11 THE COURT: Ms. Hudson, we'd ask you  
12 to speak into the microphone. It is adjustable,  
13 so you can move it a little bit if you need to.  
14 Thank you.

15 AMBER HUDSON,  
16 called for examination by the State, being first  
17 duly sworn, on her oath testified as follows:

18 DIRECT EXAMINATION

19 BY MR. ITZEN:

20 Q. Good morning, ma'am.

21 A. Good morning.

22 Q. Could you please state your name.

23 A. Amber Hudson.

24 Q. And do you recall the night of October  
25 3rd of 2013?

1           A.     I do.

2           Q.     Where were you working back then?

3           A.     Where was I working?

4           Q.     Yes, ma'am.

5           A.     I was working at Racks as well as Wyoming  
6 Trench and Repair.

7           Q.     All right.  And --

8           A.     Sorry.  I ran here.

9           Q.     I apologize.  If you don't hear me, just  
10 let me know.

11          A.     Okay.

12          Q.     What did you do out at Racks?

13          A.     I worked the door, carded people, took  
14 their money.

15          Q.     All right.  On that night, do you know  
16 what time you arrived at work?

17          A.     Yeah, about eight o'clock, between 7:00  
18 and 8:00.

19          Q.     How would you describe that night as far  
20 as were you guys busy or not?

21          A.     It was a basic night.  It wasn't really  
22 busy.  It was steady.

23          Q.     Were there any patrons causing any  
24 problems inside the bar?

25          A.     Not so much, no.



1 Q. Did you also that evening meet a Kade  
2 Baldwin?

3 A. I mean, not meet anybody; but I'm sure I  
4 ran across him, yes.

5 Q. All right. I think he was called  
6 birthday boy?

7 A. Yeah. I just carded him, just doing my  
8 job. It was another person that just was coming  
9 through the door.

10 Q. Did he cause any problems inside the bar?

11 A. No.

12 Q. Now, do you recall when Kade left the  
13 bar?

14 A. Not so much.

15 Q. Ultimately, did you end up looking  
16 outside in the parking lot?

17 A. Yes.

18 Q. Were you able to see outside?

19 A. Somewhat, but not -- I mean, I didn't  
20 really -- I mean, yeah, I saw what was outside;  
21 but I didn't see all the activities that were  
22 going on out there. I mean, I didn't see exactly  
23 what was going on, no, at that moment, no.

24 Q. Sure. Did anyone pick you up so you were  
25 able to see better?

1 A. Yeah.

2 Q. Who was that?

3 A. Andujar.

4 Q. And when he picked you up, were you able  
5 to see anything?

6 A. Not so much, no.

7 Q. All right. Now, did you figure out  
8 something was wrong in the parking lot?

9 A. Yes.

10 Q. How did that come about?

11 A. Andujar. He just ran out there, checked  
12 it out, came back, realized that there was some  
13 issues going on, so I went out there and just  
14 helped out with the situation.

15 Q. Describe for the ladies and gentlemen of  
16 the jury when you went outside kind of what it  
17 looked like.

18 A. It was cold, snowy. When I went out  
19 there, he was on the ground. I thought he was  
20 stabbed. I called 911.

21 Q. And let me back you up just a second.  
22 How was Kade's body on the ground?

23 A. On his back.

24 Q. All right.

25 A. It was just on the ground laying there.

1 Q. Were people trying to give CPR and that  
2 type of thing?

3 A. Yeah. I mean, a lot of people were  
4 trying to bring him inside. At that point when I  
5 was talking to 911, she's, like, Leave him where  
6 he is. And so then I tried to just get everybody  
7 out of the way because it was chaotic, and  
8 everybody wants to be involved because --

9 Q. Sure. And you said you thought he was  
10 stabbed?

11 A. Yeah.

12 Q. Why is that?

13 A. Because from when I was in the bar, so I  
14 guess I didn't hear it. I have never seen a  
15 situation such as that, so --

16 Q. You just kind of made that --

17 A. In turn, I just --

18 Q. Made that assumption?

19 A. Yes, I made an assumption.

20 Q. Were you able to see any injuries on  
21 Kade?

22 A. Uh-huh.

23 Q. Where was the injuries that you saw?

24 A. From what I recall, again, a lot of it is  
25 repressed, the abdomen, right in the belly area.

1 I honestly, I -- I kind of remember it and I  
2 don't.

3 Q. All right. You saw some blood there?

4 A. Yeah.

5 Q. Was Kade ever conscious at all when you  
6 were outside?

7 A. Uh-huh.

8 Q. Was he speaking?

9 A. Not so much. He was trying to gasp for  
10 air.

11 Q. All right. Did you call 911 then?

12 A. Yes.

13 Q. Allow me to show you what's been marked  
14 as State's 330.

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

17 THE COURT: You may.

18 Q. (BY MR. ITZEN) Do you recognize that,  
19 ma'am?

20 A. I do.

21 Q. How do you recognize that?

22 A. We went over it the day we had the  
23 meeting, and I signed it and dated it.

24 Q. All right. And is that your phone call  
25 to 911?

1           A.     It is.

2                   MR. ITZEN:   Your Honor, if I may  
3 approach and retrieve the exhibit.

4                   THE COURT:   Yes, certainly.

5                   MR. ITZEN:   Your Honor, State would  
6 ask that we be allowed to play the 911 tape.

7                   THE COURT:   It needs to be received  
8 into evidence first.

9                   MR. ITZEN:   I apologize.   State  
10 would offer it.

11                   THE COURT:   Any objection?

12                   MR. LOW:    No, sir.

13                   THE COURT:   Exhibit 330 is received.  
14 Permission to play is granted.

15                                   (State's Exhibit 330 is  
16 played in open court.)

17           Q.     (BY MR. ITZEN)  Is the other voices that  
18 we hear in the background, are those folks trying  
19 to help?

20           A.     Yes.

21                   MR. ITZEN:   Thank you for your time,  
22 Ms. Hudson.  Mr. Low may have a question.

23                   THE COURT:   Thank you, Counsel.

24                                   Cross-examination.

25

## CROSS-EXAMINATION

1  
2 BY MR. LOW:

3 Q. Ma'am, morning to you.

4 A. Good morning.

5 Q. I believe that Mr. Itzen asked you if you  
6 were able to see what was going on outside.

7 A. Uh-huh.

8 Q. And I think you had words to the effect  
9 that no, you couldn't see? Is that about right?

10 A. No, I did not see exactly what happened,  
11 no.

12 Q. Okay. Can you say what it was, if you  
13 can recall, why you couldn't see what was  
14 happening?

15 A. I believe the position that I was in. I  
16 wasn't, you know, paying attention to what was  
17 going on outside. I pay attention to what comes  
18 in and out of the door. The carding, of course,  
19 charging people. But no, I did not actually see  
20 the incident happen.

21 Q. Sure. So I guess what you're saying is  
22 by the time you had an opportunity to look, the  
23 movement of people had already happened and you  
24 just saw someone laying down; is that fair?

25 A. That's fair.

1 MR. LOW: I don't have any further  
2 questions. I appreciate it, ma'am.

3 THE COURT: Anything on redirect,  
4 Mr. Itzen?

5 REDIRECT EXAMINATION

6 BY MR. ITZEN:

7 Q. Were there other people in better  
8 positions to see what happened?

9 MR. LOW: Objection. Calls for  
10 speculation.

11 THE COURT: Mr. Itzen?

12 MR. ITZEN: Your Honor, I think if  
13 she knows.

14 MR. LOW: He asked her to qualify  
15 the position as being better or not. That's  
16 speculation. She wasn't there to see it.

17 THE COURT: I think that's correct  
18 as to the form. I'll sustain, but you may reask.

19 Q. (BY MR. ITZEN) All right. Was there  
20 anyone at the door?

21 A. There were, yes. We had -- do you --  
22 yes, there were people at the door.

23 MR. ITZEN: All right. Thank you.

24 THE COURT: Thank you, Counsel.

25 Anything on recross, Mr. Low?

1 MR. LOW: No, sir.

2 THE COURT: Okay. Thank you, Ms.  
3 Hudson. You're excused, and you're also excused  
4 from any subpoena in the case; okay? You're free  
5 to go.

6 MR. BLONIGEN: The State would call  
7 Deputy Johnny Taylor.

8 THE COURT: Please come forward if  
9 you would, Officer. The clerk will give you the  
10 oath, and then you'll sit to the other side once  
11 sworn.

12 THE CLERK: Please raise your right  
13 hand. You do solemnly swear that the testimony  
14 you will give in the case before the Court will be  
15 the truth, the whole truth, and nothing but the  
16 truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Please be seated.

19 THE COURT: We do ask that you speak  
20 into the microphone. It is adjustable in this  
21 courtroom. You can move it if you need to. Thank  
22 you. You may proceed.

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



## DIRECT EXAMINATION

1  
2 BY MR. BLONIGEN:

3 Q. Would you state your name for the record,  
4 please.

5 A. Johnny Taylor.

6 Q. Where are you employed, sir?

7 A. For the Natrona County Sheriff's Office.

8 Q. Were you so employed on October 4th of  
9 2013?

10 A. Yes, I was.

11 Q. That morning, were you informed of an  
12 incident that had occurred at Racks?

13 A. Yes, sir.

14 Q. Is that location in Natrona County?

15 A. Yes, sir.

16 Q. And what was the general nature of that  
17 call?

18 A. We were called to the location for an  
19 alleged stabbing which occurred at -- in the  
20 parking lot of the bar.

21 Q. Do you recall the time you received the  
22 call?

23 A. It was very early, shortly after  
24 midnight.

25 Q. Okay. 12:20 a.m.?

1           A.     Approximately, sir.

2           Q.     Now, where were you when you received the  
3 call generally?

4           A.     I was traveling southbound on Salt Creek  
5 Highway about MJB Road and Progress Circle heading  
6 towards Mills.

7           Q.     So you're heading towards Mills?

8           A.     Yes, sir.

9           Q.     Weather that night?

10          A.     It was snowing, and it was starting to  
11 accumulate on the roads; but it was otherwise  
12 fairly clear.

13          Q.     You were in uniform, I take it?

14          A.     Yes, sir.

15          Q.     Marked vehicle?

16          A.     Yes, sir.

17          Q.     What kind of vehicle?

18          A.     2013 Chevrolet three-quarter ton patrol  
19 truck.

20          Q.     What did you do upon receiving the call?

21          A.     When I received the call, I notified  
22 dispatch that I would be en route to assist with  
23 the call. I continued traveling southbound on  
24 Salt Creek Highway until I got to Yellowstone  
25 Highway, and then I traveled westbound towards the

1 bar.

2 Q. Okay. At that time, did you have a  
3 vehicle or suspect description?

4 A. The only description we had was that it  
5 was a white male with facial hair in a dark  
6 colored sedan.

7 Q. Okay. Any further, small, large, any of  
8 that detail?

9 A. All they said was that it was a small,  
10 dark colored sedan.

11 Q. As you proceeded to that location, were  
12 you observing traffic for a potential suspect  
13 vehicle?

14 A. Yes, sir, I was.

15 Q. At some point, did you observe a vehicle  
16 which appeared to be -- possibly to match the  
17 description?

18 A. Yes, sir, I did.

19 Q. Where were this at?

20 A. As I crossed the bridge into Mills in  
21 front of Norco, I was traveling westbound still,  
22 this is when the intersection was still under  
23 construction. As soon as I rounded the corner in  
24 front of Wyoming Recycling, I only observed one  
25 vehicle, and it was traveling faster than it

1       should have been. And as I crossed him, I was in  
2       the middle of the intersection, and I was  
3       committed to the construction zone. And it was a  
4       small, dark colored sedan, didn't appear to have  
5       tinted windows, and it appeared to be occupied by  
6       one male occupant.

7           Q.     What would you estimate the speed you  
8       observed it traveling at?

9           A.     According to my radar, he was traveling  
10      40 miles per hour.

11          Q.     Now, what was the limit in that zone?

12          A.     It was a posted construction zone, and  
13      the speed limit was 30 miles an hour.

14          Q.     I see. Now, as you -- did you pass door  
15      to door to him?

16          A.     Yes, sir. He was in his lane of travel;  
17      I was in mine. I was probably 10 to 15 feet away  
18      from him as I drove past him.

19          Q.     Could you observe him have any  
20      difficulties operating the motor vehicle at that  
21      time?

22          A.     At that time, I did not.

23          Q.     What did you do?

24          A.     I continued through the construction zone  
25      until approximately Highway Street, which is just

1 past the RV sales area there. I turned around, I  
2 called out what -- I told dispatch the vehicle  
3 description. I saw the direction that it was  
4 traveling and let them know that it was one male  
5 occupant, as far as I could tell. And once I  
6 turned around, I, as quickly as I could with the  
7 road conditions, caught back up to him.

8 Q. Now, did you ever estimate a speed at 50  
9 miles an hour?

10 A. Once I passed him and I turned on the  
11 rear radar, he was accelerating as he passed me,  
12 and he did accelerate to approximately 50 miles an  
13 hour, but my initial reading was 40.

14 Q. Oh, I understand. So it's 40 when you  
15 first see him, but once he passes you, he begins  
16 to accelerate?

17 A. Right. Once he gets through the  
18 construction zone, he continues to accelerate.

19 Q. Okay. You state you have a marked truck?

20 A. Yes, sir.

21 Q. How is it marked?

22 A. It's clearly marked with gold and brown  
23 striping, the reflective striping. It says  
24 Natrona County Sheriff's Office on the side of it.

25 Q. You have a light bar on that truck?

1           A.     Yes, sir.

2           Q.     Now, you said you turned around?

3           A.     Yes, sir.

4           Q.     What happens then?

5           A.     Once I've turned around, a Casper police  
6           officer makes a traffic stop as I -- I'm sorry.  
7           Let me back up a little bit.  Once I turned  
8           around, he had gone over the bridge, so I lost  
9           sight of him.  Once I turned back around and  
10          passed back in front of Norco and I started coming  
11          down the hill right at about Salt Creek Highway  
12          and Yellowstone's intersection, I seen -- I saw  
13          taillights at about where NAPA is on East First --  
14          I'm sorry, West First Street.  I catch back up to  
15          him, and a Casper police officer, I believe it was  
16          Sergeant Dabney, makes a traffic stop on First  
17          Street about Durbin.  And it's a vehicle that  
18          matches the description, so I don't pull him over  
19          immediately.  I just followed him for a short  
20          while until I found out if the vehicle that  
21          Sergeant Dabney had was, in fact, the suspect.

22          Q.     So Sergeant Dabney cleared that vehicle?

23          A.     Yes, sir.

24          Q.     Now, tell us again, then, where you are  
25          when you begin following him.  You turn around and

1       you're following him in the same direction. Where  
2       are you at that point?

3           A.     I caught up to him at about Star Lane.  
4       He had slowed back down after he crested the hill  
5       and was going under the speed limit at that point,  
6       so it was a little bit easier to catch up to him.  
7       I followed him from about Star Lane to First and  
8       Poplar Street.

9           Q.     Okay. As you followed him to First and  
10      Poplar, did you observe any difficulties operating  
11      the motor vehicle?

12          A.     Yes, sir. He was driving all the way  
13      into the center lane, all the way to the shoulder  
14      of the eastbound lane. You could still see the  
15      striping on the road. It wasn't very visible, but  
16      you could tell it was there. And he was all the  
17      way over the shoulder lane line, over the fog  
18      line, and all the way back across the double  
19      yellow of the center lane.

20          Q.     Okay. And was it slushy at that time?

21          A.     Yes, sir, it was.

22          Q.     Now, you followed him to First and  
23      Poplar?

24          A.     Uh-huh.

25          Q.     What happens at First and Poplar?

1           A.     At First and Poplar, well, I continued to  
2 follow him eastbound from about that location. I  
3 was going to initiate a traffic stop, and then  
4 another Casper police officer called out that they  
5 observed another vehicle that matched the  
6 description. So I waited to see what they were  
7 going to do with that vehicle. They very quickly  
8 said it wasn't the vehicle that they were looking  
9 for, so as we approached First and Wolcott Street,  
10 he signaled to make a right-hand turn. So as soon  
11 as he rounded the corner, I initiated the traffic  
12 stop.

13           Q.     Okay. You have a camera in your car?

14           A.     Yes, sir, I do.

15           Q.     And at any time, did you activate that  
16 camera?

17           A.     The camera is automatically activated  
18 once the lights are activated, so.

19           Q.     It's not going to come on until the  
20 lights come on?

21           A.     Yes, sir.

22           Q.     Did he pull over promptly?

23           A.     He did.

24           Q.     He had already made the turn before or  
25 after you turned your lights on, do you know?



1           A.     I was in the middle of making the turn  
2 myself when I initiated the stop.

3           Q.     So where is he stopped at?

4           A.     He stops just off of First Street on  
5 Wolcott.

6           Q.     Okay. Right across from the federal  
7 courthouse and by the bank there?

8           A.     Yes, sir.

9           Q.     Have you had an opportunity to review  
10 your video?

11          A.     Yes, sir.

12          Q.     I'm going to hand you an item we've  
13 marked 207. Did you have an opportunity to review  
14 207?

15          A.     Yes, sir, I did.

16          Q.     And is that portion of your video  
17 recording an accurate image of what happened when  
18 you first stopped the vehicle that night?

19          A.     Yes, it is.

20                   MR. BLONIGEN: Move for the  
21 introduction of 207, Your Honor.

22                   THE COURT: Any objection?

23                   MR. LOW: No, sir.

24                   THE COURT: Exhibit 207 is received.

25          Q.     (BY MR. BLONIGEN) Okay, Officer. This

1       then picks up when you activated your lights;  
2       correct?

3             A.     Yes, sir.

4             Q.     So you actually activated them First and  
5       Ash or so?

6             A.     No.   It wouldn't have been that far west.  
7       It was right as he was turning onto Wolcott.   The  
8       video prerecords approximately a minute and a half  
9       to two minutes.   There won't be any audio until  
10      the lights are on.

11            Q.     So the video is working, but the audio  
12      won't come on until you turn the lights on?

13            A.     Yes, sir.

14                   MR. BLONIGEN:   Oh, Your Honor,  
15      excuse me.   We're not getting it up on the big  
16      screen or -- I'm not sure, is it on the small  
17      screens?

18                   THE COURT:   We'll have to restart.

19                   MR. BLONIGEN:   I think, Your Honor,  
20      we're perhaps on their feed.

21                   THE COURT:   That's the way it's  
22      indicated.   I'm on attorney one here.

23                   MR. BLONIGEN:   Your Honor, we're  
24      still not -- we had it up there, but.

25                   THE COURT:   Did it, in fact, go on

1 the screen?

2 MR. LOW: Mr. Blonigen, would it be  
3 appropriate for me to say I'm sympathetic?

4 THE COURT: Let me try to switch  
5 here. The only thing we keep coming up with is  
6 reference PC two, and I'm not sure about that.

7 MR. BLONIGEN: Do we have two  
8 computers running at once? Is that our problem?

9 THE COURT: Give us a second, we'll  
10 try to reset the whole system. We shut the entire  
11 system down, so it takes about a minute or so for  
12 us to be able to restart it. So everybody just  
13 sort of stand at ease here for a second, see if we  
14 can troubleshoot this.

15 Well, my apologies. It looks like unless  
16 you want to hit play again just to see if there's  
17 some change, it looks like we've got a problem  
18 there. We asked for our assistant to maybe reset  
19 things in the back because of the problems we were  
20 having at tables two and four, so there may have  
21 been a difficulty there.

22 MR. BLONIGEN: No, Judge, we're  
23 playing and you're not getting anything.

24 THE COURT: You're not getting  
25 anywhere? Okay. Let's do this. Let's go ahead

1 and just take a five-minute break, and we'll  
2 let -- well, let's make it ten minutes in case  
3 anyone needs to use the restroom, and then we'll  
4 start with the new witness at a little after  
5 10:15.

6 And, Officer, I'd ask that you be back at  
7 11:00, and we'll try to resume your testimony and  
8 see if in the interim we can troubleshoot the  
9 problems.

10 MR. BLONIGEN: Your Honor, during  
11 that break, can we address something very briefly  
12 with the Court concerning the next witness?

13 THE COURT: Okay. The ladies and  
14 gentlemen of the jury are excused.

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

18 THE COURT: Officer, you're free to  
19 go stretch your legs.

20 Mr. Blonigen.

21 MR. BLONIGEN: Your Honor, in  
22 reference to the next witness, Judge, I think I  
23 mentioned yesterday, we received no CV until last  
24 Wednesday. In addition to that, we have never  
25 received any notes, statements, report, or

1 anything resembling that under either Rule 26.2 or  
2 under Rule 16; and the Court stated that all  
3 witness statements should be provided by a week  
4 before trial.

5 Not only did we not get the CV, Judge,  
6 now I am handed this morning, this morning, a  
7 PowerPoint including conclusions of the expert,  
8 including photos of the dramatization that we  
9 talked about yesterday. Judge, I would ask that  
10 the -- the PowerPoint not be allowed. I'd also  
11 ask that if it is allowed, that these references  
12 to Mr. Daily's dramatization be removed.

13 You know, this is -- this is all -- and  
14 they're conclusions as to the position of the  
15 shooter and the victim and the characteristics of  
16 the entrance and exit wounds. I don't know how  
17 that isn't a statement of a witness. I don't know  
18 how that isn't a conclusion of an expert who's  
19 been judiciously woodshedded from the beginning of  
20 this process, Judge.

21 I turned around literally during Mr.  
22 Taylor's cross-examination to find this -- or  
23 excuse me -- direct examination to find this. And  
24 I believe the Court stated yesterday that when we  
25 indicated our concerns, that we would have to

1 basically reveal our cross-examination of the  
2 other expert they intended to call if this  
3 dramatization is used. So Judge, we still have  
4 that same issue.

5 And as far as the PowerPoint, I just  
6 don't think it's, Judge, appropriate to be handing  
7 this to me ten minutes before a witness is to  
8 testify. I believe it does fall under Rule 26.2  
9 and under Rule 16.

10 THE COURT: Okay. Thank you very  
11 much.

12 Mr. Low.

13 MR. LOW: Sir, I brought you a copy  
14 so that you can have something to look at if you'd  
15 like to see it. I think it's important.

16 THE COURT: Sure.

17 MR. LOW: If I may.

18 THE COURT: Thank you.

19 MR. LOW: So, Your Honor, the first  
20 slide there is a PowerPoint. It has no new  
21 opinions, Your Honor. This expert, as you know,  
22 cannot bring evidence. This expert only can, if  
23 you will, explain the evidence that she was given.  
24 She's taking the evidence that the coroner found  
25 and explaining it. And like we said yesterday and

1 you're going to hear today, she agrees with what  
2 the coroner found. So first of all, as you know,  
3 experts don't bring evidence, they explain it. So  
4 that first PowerPoint she made this morning.

5 You saw Mr. Lawson walk in and hand it to  
6 me because I don't have the ability to print these  
7 out, and I wanted to give them to everybody before  
8 she testified so there wasn't any problems. So he  
9 agreed to do that, and he brought them right to  
10 me. I handed them over as soon as I could.

11 So the second slide, I can draw that on a  
12 piece of paper if you like. This is nothing more  
13 than describing exactly what is found in the  
14 autopsy photo, and that is the round hole in his  
15 neck. It's just a demonstrative aid. There is no  
16 new opinion there whatsoever. The second slide is  
17 another example of nothing more than a round hole  
18 from an entrance wound. It's just demonstrative.

19 The third slide, I'm sorry, the fourth  
20 slide is something that's been received into  
21 evidence; and I have that picture. So that's  
22 something that was turned over to her by the  
23 State.

24 The next slide is an example,  
25 demonstrative of what happens when a bullet goes

1       into skin and then ricochets off a bone. And this  
2       is what the entrance wound will look like when  
3       there is a ricochet involved. It is demonstrative  
4       only. And again, the coroner yesterday said that  
5       there was no ricochet. That's exactly what she's  
6       going to say, there wasn't. And she's just  
7       describing so people can understand what that  
8       would like look if there had been, and there  
9       wasn't, so, again, no new information.

10               The next slide is another example of an  
11       exit wound. That just shows you what an exit  
12       wound will look like. It's just demonstrative.  
13       Then we have the next slide, which is a bullet  
14       leaving tissue and what it looks like when it  
15       leaves. It's a diagram, black and white. It's  
16       demonstrative. Again, another demonstrative slide  
17       which agrees with exactly what the coroner said  
18       because she's limited to what information is given  
19       to her, and she didn't disagree with it.

20               The next one is a slide from this case,  
21       it's the exit wound. And, again, it shows that is  
22       what his exit wound looked like, and it's  
23       consistent with what the coroner found and what we  
24       know from science. Again, there's nothing new  
25       here. She's just explaining.



1           You said, I want you to do it quick,  
2 Mr. Low; and instead of using a lot of words, we  
3 just show the picture. It lets us go through it  
4 quicker.

5           The next slide, again, these are pictures  
6 taken from the coroner in the autopsy. All we did  
7 here is put a person on black and white with a  
8 straight line through it. You saw me draw that  
9 yesterday. That's all we did. And again, the  
10 coroner agreed with it. That's it. It's just a  
11 general path through which the bullet went.  
12 That's all she's saying. She's agreeing with the  
13 evidence.

14           Now, lastly, it's the third to last  
15 slide, Your Honor, and it has, I believe, a  
16 highway patrolman, you've got the detective -- I'm  
17 sorry, Investigator Ellis here. This is pictures  
18 that were taken by Detective Ellis and the expert.  
19 And all these pictures were provided to my expert  
20 before she got any report from John Daily. There  
21 is probably, like, 50 or more of these. This is  
22 just one of them. And it says that she agrees  
23 with the coroner and the trajectory of the bullet,  
24 and she believes that he was bent over when he was  
25 shot just like the coroner. And here's just a

1 demonstrative picture of that that was taken by  
2 the Government and given to us. She doesn't go  
3 through any part of Mr. Daily's report.

4           The last -- second to last slide is just  
5 a demonstrative of what -- how someone takes and  
6 figures out the range. In other words, it's just  
7 a picture of a guy shooting a gun at some cloth.  
8 And on the right are just pictures as you back up,  
9 you see how the pattern disperses. It's  
10 demonstrative. And she's just explaining what we  
11 have here. She's agreeing with it. And the last  
12 slide is the same thing. It's quick, it's just  
13 visuals, and that's all she's going to say.  
14 Submit.

15           THE COURT: Thank you.

16           Anything else, Mr. Blonigen?

17           MR. BLONIGEN: No, Your Honor.

18           THE COURT: Here's how I see this.  
19 One, we had the discovery problem; and the Court,  
20 from the initial scheduling conference in this  
21 case, urged the attorneys to try to address  
22 discovery. And I was quite taken back by the  
23 Defense's refusal to have the standard reciprocal  
24 discovery order entered providing for Rule 16 and  
25 Rule 26.2 discovery.

1           But I have to respect that the Defense  
2 did not want to do that, and I did enter a general  
3 discovery order for *Brady* discovery and left  
4 things as they were for the parties to, I guess,  
5 undertake discovery. I know the State, it was  
6 indicated, had and would continue to have an open  
7 file and provide discovery; so at least that side  
8 of the thing was taken up. But I didn't receive  
9 any other motions.

10           I did urge that we try to take care of  
11 these discovery matters, and I respect very much  
12 that the State did call up and have me address the  
13 Rule 26.2 statements provision. And I don't see  
14 this as a classic statement of the expert witness.  
15 Perhaps the Court should have delved into trying  
16 to have witnesses identified, statements, expert  
17 designations. I did not do that. I was sort of  
18 waiting for counsel to file motions or require me  
19 to figure out how to handle those kinds of things,  
20 but we did not have that in this case.

21           Quite honestly, I don't see these  
22 demonstrative aids as being Rule 26.2 statements,  
23 and so I can't say that the Defense, in attempting  
24 to utilize these things, has violated a court  
25 order for that discovery. And just looking at

1       them, I think they are pretty much demonstrative  
2       aids, and I would not preclude them subject to  
3       obviously any objections if we get into the areas  
4       relative to Mr. Daily's actual opinions or  
5       evaluation. So to the extent you're asking for  
6       any relief to preclude testimony or preclude these  
7       exhibits, I'd deny that request.

8               Let's go ahead and take a five-minute  
9       break. We'll see if we can address -- I guess one  
10      of the problems is we may not even be able to put  
11      the PowerPoints up, so.

12             MR. LOW: It may be all for nothing.

13             THE COURT: So we may have to just  
14      use it in the form that it's in anyhow, so.

15             MR. LOW: Can we check and see if  
16      the Elmo works?

17             THE COURT: Pardon?

18             MR. LOW: Would we be able to check  
19      and see if the Elmo works, and I can just pull the  
20      pictures and use the pictures and that'll go  
21      faster?

22             THE COURT: I'll let you take a look  
23      at that as we break. But the Elmo should still  
24      work, and we'll see if we can get the other  
25      problem addressed. Five-minute break at this

1 time.

2 (At 10:19 a.m., a recess was taken  
3 until 10:27 a.m.)

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

6 THE COURT: Yes, thanks much.  
7 Please be seated. Court will reconvene with the  
8 13 members of the jury panel joining us.

9 The Court does note counsel, defendant,  
10 and the party representatives are present.

11 As I mentioned when I let you go, we have  
12 an agreement -- and I guess it really wasn't an  
13 agreement, but the Court ruling to allow a witness  
14 to be called out of order. I did so very  
15 reluctantly but try to accommodate witnesses when  
16 necessary, and I did so in this case.

17 So I'm allowing Mr. Low to call a witness  
18 out of order, with a representation there would be  
19 direct examination of only 15 to 20 minutes and  
20 that there would be no references to a report or  
21 opinions of another expert witness that may be  
22 called later and that there may be objections to  
23 the proposed opinion testimony if it crosses over  
24 into that other area of expertise.

25 With those advisements, Mr. Low, you may

1 call Dr. Melinek out of order.

2 MR. LOW: Thank you. And just  
3 before I do, Your Honor, I have six exhibits that  
4 I have premarked as Defense Exhibits Ulysses, V as  
5 in Victor, W as in Whiskey, X as in X-Ray, Y as  
6 in -- I always forget that one -- as in Yankee,  
7 and Z as in Zebra, and request these be received  
8 into evidence, Your Honor.

9 THE COURT: Any objection to those  
10 exhibits?

11 MR. BLONIGEN: Not given the Court's  
12 previous rulings.

13 THE COURT: I want to make sure I  
14 know what they are.

15 MR. LOW: Yes, sir. They're from  
16 the slides I showed you. These are the  
17 photographs that correspond to the slides you saw.  
18 And I'll give them to you so you can see them and  
19 double-check, Your Honor.

20 THE COURT: I understand it's just  
21 the photographs and not the PowerPoint materials.

22 MR. LOW: Exactly. Just the  
23 photographs only.

24 THE COURT: Is there any objection  
25 to the authenticity of those photographs?

1                   MR. BLONIGEN: No, sir. They're  
2                   ours.

3                   THE COURT: Okay. I understand.  
4                   But the State did have another objection, so that  
5                   is noted; and the Court would receive those six  
6                   exhibits.

7                   MR. LOW: Thank you, Your Honor.  
8                   May we call Dr. Judy Melinek. And come over here,  
9                   let me move this here, ma'am. Come over here,  
10                  Doctor, by the witness --

11                  THE WITNESS: Oh, sure.

12                  THE COURT: The Clerk will give you  
13                  the oath here, and then you'll go over to the  
14                  other side. Thank you.

15                  THE WITNESS: Got it.

16                  THE CLERK: You do solemnly swear  
17                  that the testimony you will give in the case  
18                  before the Court will be the truth, the whole  
19                  truth, and nothing but the truth, so help you God?

20                  THE WITNESS: I do.

21                  THE COURT: Around the podium and to  
22                  the chair. And we do ask you to speak into the  
23                  microphone. And I would advise it is adjustable.  
24                  I think you can see that, but you can adjust it,  
25                  so.

1 THE WITNESS: Thank you, Your Honor.

2 DR. JUDY MELINEK,

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

5 DIRECT EXAMINATION

6 BY MR. LOW:

7 Q. Ma'am, please introduce yourself to the  
8 folks in the jury.

9 A. Hello. My name is Dr. Judy Melinek.  
10 It's spelled J-U-D-Y, M-E-L-I-N-E-K. I'm a  
11 forensic pathologist.

12 Q. And to become a pathologist, forensic  
13 one, just briefly tell us about the education,  
14 training, and experience that you have that allows  
15 you to work in that job.

16 A. Sure. So I got my undergraduate degree  
17 at Harvard. I graduated magna cum laude in 1991.  
18 After that, I went to medical school in Los  
19 Angeles at UCLA Medical School. I graduated in  
20 1996. And then I did training in pathology called  
21 a pathology residency, and that was also at UCLA.  
22 I did a total of five years, and one of those  
23 years while I was in medical school and the  
24 remaining four afterwards. I graduated in 2001  
25 from my pathology training.



1           Now, pathology training has to do with  
2           laboratory science and laboratory medicine. And I  
3           had to do the training at the hospital, which is  
4           like an apprenticeship, and then I studied for an  
5           exam called a board certification exam. And I  
6           became board certified in anatomic and clinical  
7           pathology.

8           Anatomic pathology has to do with organs  
9           and tissues, looking at them when they come out of  
10          surgery and determining whether they have cancer;  
11          or if there is cancer, how much it's spread; or if  
12          there's no cancer, what is the diagnosis. The  
13          pathologist makes the diagnosis by looking at the  
14          organs with the naked eye and also under the  
15          microscope. And anatomic pathology is also where  
16          you do autopsies. But in the hospital setting,  
17          you do it on hospitalized patients; and in the  
18          forensic setting, you do it on patients who aren't  
19          in the hospital who died at home or on the street.

20          Clinical pathology is also what I'm board  
21          certified in, and that has to do with laboratory  
22          medicine. So it means I can manage or run a lab.  
23          It has to do with all the labs in the hospital:  
24          blood bank, chemistry, toxicology, hematology.  
25          Any time they say, I'm going to run some tests on

1 you and they don't mean x-rays, it's the lab. So  
2 that's clinical pathology.

3 And so then after I did those five years  
4 of training in pathology, I then went to New York  
5 City where I trained at the Office of the Chief  
6 Medical Examiner in New York from 2001 to 2003. I  
7 did two years there, and that was my forensic  
8 fellowship training. The first year was forensic  
9 pathology, and the second year was forensic  
10 neuropathology, specifically focused on the brain  
11 and spinal cord.

12 Now, forensic pathology has to do with  
13 medicine that's pertaining to the law. So when  
14 you do autopsies in forensics, it's not on people  
15 in the hospital; it's people who die suddenly,  
16 unexpectedly, or violently. And you have to be  
17 able to interpret injuries, so that involves scene  
18 investigation, working with crime scene or the  
19 police, doing rotations outside of just the  
20 autopsy room, and also testifying in court.

21 Q. And may I ask you, in this particular  
22 case, how was the manner of death classified by  
23 the either coroner's office or the medical  
24 examiner?

25 A. It was classified as a homicide in this

1 case.

2 Q. And please tell us why it was classified  
3 that way, from your understanding.

4 A. So when you're a pathologist, you have to  
5 determine both the cause and the manner of death.  
6 The cause of death is the disease or injury that  
7 causes someone to die, that starts the lethal  
8 sequence of events. Then, there's a manner of  
9 death, which is a classification system where you  
10 can say that a death is natural, when it's due to  
11 disease, okay, natural disease. It can be an  
12 accident if it's due to some sort of unforeseeable  
13 act. The typical accidents we see are falls from  
14 standing, people who trip and fall, or motor  
15 vehicle collisions that are accidents.

16 Then there's suicide, when death is at  
17 one's own hand, when you kill yourself. And then  
18 there's homicide, which is death at the hand of  
19 another. So if a person does something to kill  
20 somebody else, that's a homicide. But that's not  
21 a legal determination; it's a medical-legal  
22 determination. It's part of the classification  
23 scheme for forensics.

24 Q. Thank you. So does that mean that the  
25 coroner's office figured out who done it or is

1       that just saying, look, we know this person died  
2       because of the hand of another?

3           A.     All it says is that's the hand of  
4       another.  It doesn't make any legal judgments  
5       about whether it's justifiable or not.  That  
6       decision is up to the courts.

7           Q.     Thank you, ma'am.  Now, you have a slide  
8       up here that you've prepared.  Please explain to  
9       us what direction of fire is in this case.

10          A.     So I put together this PowerPoint.  It's  
11       actually a teaching -- these are teaching slides  
12       that I use when I teach pathology residents at  
13       UCSF and at Stanford as a professor.  So I thought  
14       that it would be helpful for the jury to  
15       understand the issues in this case if I explained  
16       some of the issues that we think of, as  
17       pathologists, about how to determine direction of  
18       fire.

19                So, if you look at the slide, the  
20       direction of fire means how the bullet traveled in  
21       the body, from what direction, right to left,  
22       front to back, downward, upward, that kind of  
23       thing.  And it's derived from the relationship of  
24       the entrance to the exit wound.  So you need to be  
25       able to identify what's an entrance and what's an

1 exit. And you always have to consider that  
2 sometimes if a bullet will hit bone, it might get  
3 deflected. So the standard practice for  
4 pathologists is if they see that the bullet is  
5 deflected, they will comment on it in their  
6 report. Okay. They will say, The bullet -- the  
7 bullet hit the bone and then it was deflected.  
8 That's standard practice.

9 So an entrance, the way we know what an  
10 entrance is, typical entrances look like hole  
11 punch holes. They're round, punched out holes.  
12 But they can look weird, they could look irregular  
13 and not like round holes if there's a bone right  
14 underneath that entrance. If the bone is  
15 deflecting it, the wound looks atypical. It looks  
16 irregular. And I'll show you examples of that in  
17 a minute.

18 Exits are lacerated. So what happens is  
19 as the bullet exits the body -- I'm going to  
20 demonstrate with my hand -- the skin goes out into  
21 the air, so that way you can reapproximate those  
22 edges. And so they're not round, punched out  
23 holes; they're irregular in their appearance, and  
24 you can reapproximate them and you won't have a  
25 hole anymore just by squeezing the skin together.

1 I'll show you examples of what that looks like.

2 Q. Next slide.

3 A. And then all the entrance and exits tell  
4 you is the relative position of the shooter and  
5 the victim. So here's what an entrance happens,  
6 when a bullet goes in, it makes a punched out hole  
7 and you can see it on the right. Is there a way I  
8 can point to this? Is there a pointer?

9 Q. Yes. They know how to tell you to do it.  
10 I don't.

11 A. Do you know where the pointer is?

12 Q. You can use your finger on the screen.

13 A. I just touch it? Oh, there we go. Oh,  
14 look at that. It's -- now it's going down. I  
15 don't know what's --

16 THE COURT: Maybe reset, lower left  
17 corner, tap.

18 A. Okay. So if I just point. I guess  
19 that's not working.

20 If you look on the picture on the right  
21 side, you can see how it makes a round, punched  
22 out hole.

23 Over there, exactly. Thank you, Mr. Low.

24 Okay. So the next slide. So this is an  
25 example of a typical entrance wound, round,

1 punched out hole with a margin of abrasion. This  
2 is not from this case. It's just a classic  
3 example of an entrance wound.

4 And now if we go to the next slide, you'll  
5 see the entrance wound in this case. And you  
6 could see it's a pretty round -- it's kind of oval  
7 really, punched out hole.

8 MR. LOW: Can I stop you for a  
9 second? I got to do this for the record. We are  
10 now looking at what's been received into evidence  
11 as Defense Exhibit W, as in whiskey. Sorry.

12 Go ahead, Doctor.

13 THE COURT: So noted. Thank you.

14 A. So this is from Mr. Baldwin's autopsy  
15 from this case. And you could see the entrance is  
16 a round hole, and it's what we call a typical or a  
17 usual entrance wound.

18 And now the next photo.

19 So this is an atypical wound given from  
20 one of my examples. I know it's an entrance wound  
21 because there was actually soot next to it. You  
22 can see the black thing on the left of the wound.  
23 But the wound itself isn't a round, punched out  
24 hole. It's kind of a slit. Do you see that?  
25 It's not like a hole punch.

1           Next slide.

2           Q.     (BY MR. LOW)   Can I stop you for a  
3 second?

4           A.     Yeah, sure.

5           Q.     Why would it be a slit like that as  
6 opposed to the punched out circle?

7           A.     So the reason it's atypical here is  
8 because this is right over someone's collarbone,  
9 right over the clavicle, and the bone was right  
10 underneath, and it was fractured. So in this  
11 particular case, because the wound came right over  
12 the bone, it was irregular, and the bone deflected  
13 that, okay. So it came over the bone, and it  
14 deflected it, both.

15          Q.     So the bone itself, which is right  
16 underneath, deflected it; and the deflection is  
17 seen because you have an irregular shaped hole?

18          A.     Correct.

19          Q.     Thank you. Go ahead, Doctor.

20          A.     And then the next one, same thing, it's  
21 the bone of the foot was right underneath there,  
22 and it holds up the skin and deflects it somewhat;  
23 and that's why the entrance looks irregular.

24          Q.     And, again, these were not pictures from  
25 this case, these are demonstrative pictures of



1        what they would look like if there was a  
2        deflection; is that correct?

3            A.     If the bone was right under the skin and  
4        deflected it immediately when the bullet went in  
5        or got fractured immediately when the bullet hit  
6        it and went in, either one.

7            Q.     All right.

8            A.     And in this case, I'll show you, it's  
9        different. So in this case, we have a round,  
10       punched out hole. We don't have these  
11       irregularities. And when you look at the autopsy  
12       photos -- before we get to this next slide, when  
13       you look at the autopsy photos, the skin of the  
14       gunshot wound is a little higher than where the  
15       rib is. The skin is actually above the  
16       collarbone. And then the rib is fractured a  
17       little lower down, so it's actually going through  
18       skin first before it even hits the bone. And  
19       there's no evidence of deflection either by the  
20       appearance of the gunshot wound or by the  
21       description of the pathologist in his report.

22            Q.     And showing you again, Doc, what's been  
23        marked as Defense Exhibit W. Does this look like  
24        that entrance wound where there was a deflection?

25            A.     No. And it also, as you can tell from

1       this photo above where the rib is, so if you look  
2       at that ruler, the first rib is actually closer to  
3       the top line on your ruler on the right. Go  
4       higher, go a little higher. That's where the  
5       first rib is right there.

6               So the rib was broken further away from  
7       the entrance. And you can see the track of the  
8       blood going downward in the later photos that show  
9       it's already going downward before it even hits  
10      the rib.

11             Q.     So if I may, are you saying that the  
12      bullet came in here, traveled down, and then broke  
13      the rib?

14             A.     Correct.

15             Q.     And that's from this case; correct?

16             A.     Yes. That's based on not just this photo  
17      but my assessment of all the autopsy photos and  
18      the autopsy report written by the pathologist.

19             Q.     And this was consistent with what the  
20      forensic examiner for the Government concluded as  
21      well?

22             A.     Yes, that is correct.

23             Q.     Thank you. Go ahead, Doctor.

24             A.     His findings are correct. If we go back  
25      to the exit, so if you look -- oh, go back one

1 more. Yeah. So if you look at this, this is what  
2 happens when the bullet exits the body and the  
3 skin gets -- goes out into air. And so you get  
4 these lacerated edges that then you can push them  
5 back in together, okay. And I'm demonstrating by  
6 kind of holding my hands and my fingers together  
7 and interlacing them.

8 So if you look at the next photo, that's  
9 more typical of an exit wound. This is not from  
10 this case. It's just an example of a typical exit  
11 wound. It's not a round, punched out hole. It's  
12 got those irregular edges. Okay.

13 And now the next photo. This is the exit  
14 wound from this case.

15 Q. Got to stop you real quick. This is  
16 Defense Exhibit V, as in Victor.

17 A. So in the back of Mr. Baldwin, this is,  
18 you can see, it's irregular. It's not a round  
19 punched out hole, so that's how we know that this  
20 is the exit. Entrance came in over the neck,  
21 lower neck, upper chest; and then the exit is in  
22 the back.

23 And so the next slide.

24 So when you figure that out, where is the  
25 entrance and where is the exit, you can see the

1 two exhibits on the left, which Mr. Low is going  
2 to tell you the numbers.

3 Q. Those are Defense Exhibit -- I've got it  
4 right here -- Y and X.

5 A. So you can see the entrance is in the  
6 upper chest, kind of at the base of the neck;  
7 okay? And you can see on the lower one on the  
8 bottom left, you can see the exit's in the lower  
9 back above the buttocks, in the -- slightly right  
10 of the midline, I believe. And then when you then  
11 take a body diagram and draw an arrow roughly  
12 connecting those -- and this is an approximation,  
13 okay, using this diagram, you can see it's going  
14 from front to back and pretty sharply downwards.  
15 I mean, it's going downward at at least 60  
16 degrees, approximately in that ballpark.

17 Q. Thank you.

18 A. Okay. And so that does not make sense if  
19 the person is upright, given our scene and  
20 circumstances. But given what we know about what  
21 the witnesses saw and what the findings in the  
22 vehicle were, all the scene and the circumstantial  
23 information, now the next slide, that trajectory  
24 is consistent with Mr. Baldwin leaning in this  
25 direction through the window of the car after

1       having broken the window.

2               And you can see that same trajectory,  
3       front to back and sharply downward, now makes  
4       sense when the driver of the vehicle is in the  
5       driver's seat and Mr. Baldwin is leaning over and  
6       into there. And it also makes sense because in  
7       this position, you will notice that his arm and  
8       his armpit -- can you go over and point at it  
9       since the pointing thing doesn't work?

10       Q.     I sure can. And I am pointing at what's  
11       been received into evidence as Exhibit U, and I'm  
12       directing my pen at the white T-shirt area and  
13       underarm area of the person in the picture.

14       A.     So just like his armpit area where the  
15       white T-shirt rim is, is right at the level where  
16       the window was broken and was punched into  
17       basically. You could see in the bottom lower  
18       photo, which is another exhibit, this is a photo  
19       taken of Mr. Baldwin at the scene.

20       Q.     This is Defense Exhibit Z, as in Zebra.

21       A.     He's got dicing abrasions on his upper  
22       outer arm and even on the T-shirt that corresponds  
23       to that. So it's indicative not only that he  
24       punched the windshield because we've got the  
25       dicing abrasions on the hand and the wrist, but

1 that he went all the way through up to the upper  
2 arm where these injuries occurred and then was in  
3 this position when shot.

4 Q. May I ask you, did the glass found in the  
5 side of the right hand mean anything to you?

6 A. Yes. It's embedded in the skin, so it's  
7 a significant amount of force. This is, you know,  
8 he's punching through that window in order to get  
9 the glass embedded in there. And the pathologist  
10 who did the autopsy actually collected that glass  
11 as evidence.

12 Q. The doctor yesterday said he called the  
13 range of fire, that that means how far the weapon  
14 he thought was away from Mr. Baldwin, he said --  
15 he called that indeterminate and approximated that  
16 means it was anywhere between two to twenty feet  
17 away. Do you have an opinion on that?

18 A. Yes, I do. And in order to explain that,  
19 we can go to the next slide, which explains what  
20 range of fire is. So when a bullet comes out of a  
21 gun, it's not just the bullet that's coming out.  
22 You also have gunpowder that comes out and flame  
23 that comes out. So in order to figure out how far  
24 away the muzzle of the gun was from the target,  
25 you can actually do what we call range of fire

1 testing; and that's what you see over here. So  
2 this is a demonstration of range of fire testing  
3 being done by an officer using a sample weapon,  
4 not -- this is not from this case, okay. This is  
5 just giving you an example of how it's done.

6 Q. Is this an example of what you called a  
7 close contact fire, that the gun is right up  
8 against the target?

9 A. Correct. So what he's doing right now is  
10 close contact, and that causes the pattern at the  
11 very top where there's soot, which is like burned  
12 powder, similar to the soot from your chimney.  
13 And it surrounds the wound in a very tight way,  
14 and it actually burns the fibers somewhat so you  
15 get burning right at the wound when it's tight  
16 contact like that.

17 And then what he does is he has a ruler, I  
18 don't know if you can see it there, it's on the  
19 ground, by his elbow -- on the table, I should  
20 say. And as he moves further away in increments,  
21 two inches, four inches, eight inches, and for  
22 this gun, eighteen inches, you can see how the  
23 powder -- first, it's the smoky stuff, and then  
24 you get the little particles, the unburnt  
25 particles when you're at eight inches that leave

1 little red marks on the skin. And that's called  
2 stippling when it leaves red marks on the skin.

3 So by doing range of fire testing, you can  
4 get an estimate of the distance that the muzzle of  
5 the gun was from the target. The problem is that  
6 there may be an intermediary target, and that's  
7 the next slide. So if you have a gun that's just  
8 shooting at the target and nothing is in the way,  
9 then the soot and the powder will deposit on the  
10 clothing or the skin of the person who was shot.  
11 But if there's something in the way, like in this  
12 case, possibly broken glass or a window, you know,  
13 partially broken window, that will serve as an  
14 intermediary target; and the -- the soot and the  
15 particulate material will deposit on that, and the  
16 bullet will reach the target but not the soot.

17 So since we don't know exactly whether the  
18 bullet was just going through air or whether it  
19 may have also glanced part of the broken window  
20 before it hit Mr. Baldwin, there may have been an  
21 intermediary target. And that's why it's  
22 appropriate to say we don't know the distance.  
23 It's indeterminate. We can't say definitively.

24 Q. Thank you. And lastly, did you see any  
25 other evidence on the right arm and from reading



1 the coroner's report or from all the pictures that  
2 you looked at that had any -- indicated any  
3 significance to you?

4 A. Oh, there were other abrasions, so there  
5 were what we call dicing abrasions. They're  
6 injuries caused by broken shards of glass. And  
7 they were on the knuckles and they were on the  
8 side of the wrist and they were going -- this was  
9 on the forearm and also on that upper outer arm,  
10 and it's all on the right. So it would be  
11 consistent with punching through the glass.

12 Q. Would you expect to see those type of  
13 injuries that are in this case and in these  
14 pictures if someone had just fallen into a car  
15 window that had already been broken?

16 A. No. That doesn't make sense to me under  
17 these circumstances.

18 Q. Please say why.

19 A. Well, first of all, if someone falls in,  
20 it's not going to be on the hand, the wrist, the  
21 arm, and the upper outer arm if they're falling  
22 in. So the injuries are going to be to the upper  
23 chest and neck where the broken glass is at the  
24 bottom of the window. And he doesn't have any  
25 dicing abrasions on his upper chest and neck where

1 he would have fallen in.

2 Second of all, I have no expectation that  
3 he would have fallen in. This gunshot wound went  
4 through the heart, but it didn't go through the  
5 brain or the spinal cord. And a gunshot wound  
6 through the heart still gives you several seconds,  
7 15, 20, sometimes even up to a half a minute of  
8 consciousness where you would not necessarily fall  
9 down or collapse at all on the bullet going  
10 through. You could actually run and walk and  
11 fight for a period of time after the gunshot wound  
12 hit you.

13 I had one case, for example, where someone  
14 was shot through the heart and ran across six  
15 lanes of traffic before they collapsed on the  
16 other side. So you can -- you would not collapse.  
17 There's no physiologic reason. Your brain and  
18 spinal cord are still intact. There's still blood  
19 in your brain and in your head for several seconds  
20 allowing you movement, and there's no expectation  
21 that you would collapse forward with this gunshot  
22 wound.

23 Q. In order to get someone to collapse, you  
24 have to sever the electrical impulses to their  
25 muscles; is that correct?

1 A. That is correct.

2 Q. And in order to do that, you either have  
3 to tap the brain or the spinal cord in order to  
4 cause an instant collapse; is that fair?

5 A. That's what I would expect, yes.

6 Q. We didn't see that in this case, did we?

7 A. That is correct.

8 Q. And if the witness testimony said they  
9 saw him turn and take a step or fall or even just  
10 turn a little bit and fall or even just fall where  
11 he was, is that consistent with what you saw in  
12 the coroner's report?

13 A. Yes.

14 Q. Okay. Lastly, do you see or find  
15 anything that resembles blunt force injury on the  
16 right hand of Mr. Baldwin?

17 A. Well, there's some bruising there, too.  
18 It's not just an abrasion, there's also some  
19 contusion, and I believe the coroner/pathologist  
20 testified to that as well.

21 Q. How do you know that --

22 A. He said there was a blunt trauma based on  
23 discussing it with you.

24 Q. Yes. And did I tell you that yesterday?

25 A. Yes, sir.

1 Q. After Mr. Carver testified?

2 A. Yes.

3 Q. Because that wasn't in his report, was  
4 it?

5 A. It wasn't, but you could see it in the  
6 photographs.

7 Q. Okay. And lastly, did you review any lab  
8 reports that told you what was in Mr. Knospler's  
9 blood and urine?

10 A. Yes.

11 Q. And what did those reports tell you?

12 A. There was some alcohol. I have to -- let  
13 me check the number. I want to make sure I'm  
14 accurate.

15 Q. Well, first of all, was one test taken to  
16 see what kind of drugs or alcohol were in Mr.  
17 Knospler's blood?

18 A. Yes.

19 Q. And was there another test that was run  
20 to see what kind of drugs and alcohol were in his  
21 urine?

22 A. Yes.

23 Q. And what kind of drugs and things do they  
24 screen for in the blood and the urine test?

25 A. It's a full panel, so it includes

1 cocaine, methamphetamine, I believe there was also  
2 a cannabinoids and other drugs or common  
3 intoxicants.

4 Q. What's cannabinoids?

5 A. Cannabinoids would be marijuana.

6 Q. What did the blood results reveal that  
7 the Government took of Mr. Knospler's blood?

8 A. That's what I want to make sure I get the  
9 level right.

10 I believe it was 0.13 of alcohol for the  
11 blood, and then in the urine, there was also  
12 alcohol. The blood was negative for marijuana,  
13 but the urine was positive.

14 Q. Can you please explain for the jury why  
15 the blood would be negative, meaning no marijuana  
16 detected in the blood, but yet there was some  
17 detected in the urine? What does that tell us?

18 A. Well, marijuana can stay in your system  
19 for weeks, even months. So it just means that he  
20 was exposed to marijuana within the past month or  
21 so. It doesn't mean that he's acutely intoxicated  
22 with marijuana.

23 MR. LOW: I believe that's it, Your  
24 Honor. I just want to double-check.

25 Thank you, Your Honor. Appreciate it.

1 THE COURT: Thank you, Counsel.

2 Cross-examination, Mr. Blonigen.

3 CROSS-EXAMINATION

4 BY MR. BLONIGEN:

5 Q. Doctor, then, you had a chance to review  
6 Dr. Carver's report?

7 A. I did.

8 Q. You had no disagreements with the report  
9 as it was contained in your --

10 A. No major disagreements. I agree with the  
11 trajectory and the cause and the manner of death,  
12 that is correct.

13 Q. Okay. Now, also, on microscopic study,  
14 Dr. Carver found minute glass particles on the  
15 surface of the skin around the entry wound; is  
16 that correct?

17 A. That's what he said in his report, that's  
18 correct.

19 Q. Yes. And that is consistent with a  
20 bullet passing through glass, isn't it?

21 A. Not necessarily. There could be lots of  
22 different reasons for that. One could be that  
23 it's passing through glass. Another could be that  
24 there's glass on the clothing and it got brought  
25 in that way.

1 Q. Didn't you state to me last Friday that  
2 that would be consistent with?

3 A. I did. I said that's one of the  
4 explanations, that's correct.

5 Q. And so you also stated here today that  
6 perhaps the window was partially broken out and  
7 the bullet passed through a part of the glass  
8 still hanging there?

9 A. That is correct.

10 Q. That's not -- is that -- I don't want to  
11 misstate you; is that correct?

12 A. That is what I said. We don't know how  
13 much of the glass was broken out. The -- whether  
14 it's the entire window immediately or just  
15 portions thereof, given this dynamic process.

16 Q. And also, once that window is broken, it  
17 probably breaks a lot easier, doesn't it, if  
18 somebody hits it?

19 A. I would expect that once it's fragmented,  
20 it would be easier to break further, that is  
21 correct.

22 Q. And you said that after somebody is  
23 injured, they -- even though with a shot like  
24 this, they continue to fight, I think is the word  
25 you used, can fight?

1           A.     They can, yes. They will have the  
2 capacity to still fight.

3           Q.     They'll have the capacity to lash out and  
4 throw a punch, for instance, even though they've  
5 been shot like this?

6           A.     Not necessarily. It's a question of the  
7 shock, you know, the shock of being shot. So I  
8 can't speak to that, but they would be able to  
9 move their body.

10          Q.     All right. So you talked about  
11 toxicology, too. Mr. Baldwin's a .208, that's  
12 pretty intoxicated, isn't it?

13          A.     Yes.

14          Q.     And you would expect impairments in  
15 balance, physical coordination, things like that?

16          A.     It depends. It depends on his tolerance  
17 level. If he's a chronic alcoholic, he might look  
18 fine at that level; but I would expect that at  
19 least from a motor standpoint, he'd be  
20 sufficiently impaired to, let's say, not be able  
21 to drive a vehicle.

22          Q.     Right. And if he's having trouble  
23 standing, walking right, those would be  
24 indications of poor balance and coordination,  
25 wouldn't they?



1           A.     That is correct.  If he's unsteady in his  
2 walk that people can observe that at that level,  
3 that is correct.

4           Q.     Now, Mr. Knospler, you said, is a .13 in  
5 the testing?

6           A.     I believe so, yes.

7           Q.     That was taken about four and a half  
8 hours after the incident, wasn't it?

9           A.     I don't recall when it was taken.

10          Q.     About 4:45 in the morning?

11          A.     I'd have to pull up the report.  I don't  
12 remember off the top of my head.

13          Q.     I don't think you have to.  Let me ask my  
14 next question.  And the question is, his blood  
15 alcohol, assuming he did not drink between the  
16 time of the event and the time it was tested,  
17 would have been much higher at the time of the  
18 event, wouldn't it?

19          A.     It's calculatable.  So you would have to  
20 know his metabolism during that time period, but  
21 you can calculate.  It would be higher; I don't  
22 know if it would be much higher.  It depends on  
23 the amount of time, like you said.

24          Q.     Okay.  And probably much closer to Mr.  
25 Baldwin's at that time?

1 A. So it's four hours?

2 Q. Four and a half.

3 A. Four and a half. It would be around that  
4 ballpark, that's correct.

5 Q. Okay. And you said we found marijuana in  
6 the urine but not the blood?

7 A. Yes.

8 Q. And, again, if we have that time period,  
9 four and a half hours, we might not find it in the  
10 blood; isn't that true?

11 A. No, I don't think so. I don't think that  
12 that's an amount of time it would disappear in the  
13 blood. Marijuana sticks around for a pretty long  
14 time. You'd have to consult with a toxicologist,  
15 but my understanding is that it wouldn't  
16 necessarily disappear from the blood in that time.

17 Q. Well, you're aware that Mr. Knospler  
18 stated to Nurse Karen Fuller at 11:30 the next  
19 morning that he had smoked marijuana yesterday?

20 A. I don't recall that statement.

21 Q. Now, when we then talk -- by the way, you  
22 don't have a report?

23 A. I have the presentation. I haven't  
24 written a formal report in this case.

25 Q. And when you're retained by an attorney,

1 it's the attorney who directs you to write a  
2 report or not; isn't it?

3 A. It's up to the needs of the attorney and  
4 the Court, that is correct.

5 Q. Now, we talked about the hand; but we  
6 also talked about some of these scenarios. And  
7 I'm going to show you a few other photographs.  
8 There were multiple scenarios laid out in that  
9 photograph packet, do you agree with that?

10 A. Are you talking about the reconstruction?

11 Q. Yes.

12 A. Yes.

13 Q. But let's -- let's start a little bit and  
14 let's talk about our model in the reconstruction,  
15 Mr. Ellis. Mr. Baldwin was measured at 72 inches  
16 and 230 pounds. Do you recall that?

17 A. I do.

18 Q. Mr. --

19 MR. LOW: I'm sorry. If I may, it  
20 was my memory it was 74 inches and 232 pounds, but  
21 I might be wrong. I'm just wanting to ask.

22 MR. BLONIGEN: Oh, 7 -- 74, you're  
23 right, six foot two inches. We're talking --

24 MR. LOW: 232.

25 A. Okay. Sorry. I was thinking six foot

1 two as well, so I was confused.

2 Q. (BY MR. BLONIGEN) All right. That was  
3 on me. I should have said 74. But so we have  
4 that height. Now, of course, do you realize they  
5 never measured Mr. Ellis before they did these  
6 dramatizations?

7 A. I thought the report -- I thought there  
8 was a measurement saying that they were the same  
9 height but different weights. That's what I seem  
10 to recall --

11 Q. Well, Mr. Ellis --

12 A. -- in the report.

13 Q. -- would it surprise you, is six foot  
14 three?

15 A. Well, it wouldn't surprise me. I'm just  
16 working off the information I'm given. I don't  
17 have additional material.

18 Q. Sure. I appreciate that.

19 A. Okay.

20 Q. But he's also wearing shoes in the  
21 photograph?

22 A. And so was Mr. Baldwin. I don't  
23 understand your point.

24 Q. But when Mr. Baldwin is measured at  
25 autopsy, he's not clothed?

1           A.     I don't know that. We'd have to ask the  
2     investigators how they measured them. Sometimes  
3     they measure them with the clothing.

4           Q.     And very different build. Mr. Baldwin is  
5     pretty big through the shoulders, the upper body;  
6     isn't that fair?

7           A.     I -- I think he was average size based on  
8     my assessment of the photos.

9           Q.     But he's 232 pounds; Mr. Ellis is about  
10    200 pounds?

11          A.     Yes. There was a weight difference  
12    between the two.

13          Q.     Okay. Now, and then so when they're  
14    doing these scenarios, they went through several  
15    of them, as we said. Now, when we went through  
16    those scenarios, they always had that trajectory  
17    of that bullet coming right through the middle of  
18    the window, didn't they, roughly?

19          A.     Well, I think that it depends. They had  
20    various different positions, but they were  
21    primarily -- I can't really answer that. I think  
22    there were some that the trajectory wasn't going  
23    through the window. Depends which one you're  
24    talking about.

25          Q.     Okay. What information do we have about

1       how the gun was being held at that time?

2           A.     Well, my understanding is that it was  
3       being held by Mr. Knospler who was seated in the  
4       vehicle.    So he's not on top of the vehicle; he's  
5       not outside the vehicle; he's inside his vehicle.  
6       So there's a limited height where he can --

7           Q.     Sure.

8           A.     He can't go above the roof of the ve --  
9       interior roof of the vehicle.

10          Q.     There's things that are impossible;  
11       right?

12          A.     Right.

13          Q.     But there's a wide range of things that  
14       are possible as far as angle and distance and  
15       things like that.  We don't know exactly how the  
16       gun, was it held here, was it held here, was it  
17       held like this.  We don't know those things, do  
18       we?

19          A.     I wouldn't say wide.  I think it's a  
20       limited range.  It was limited by the interior  
21       compartment of the vehicle --

22          Q.     Okay.

23          A.     -- and by the length of Mr. Knospler's  
24       arms.

25          Q.     Okay.  And further, do you know when we

1 have people, we assume people are six foot and  
2 they're both six foot tall, but some have long  
3 torsos and some have long legs; right?

4 A. That is correct.

5 Q. So things like that can matter when we're  
6 trying to recreate things, can't they, as far as  
7 the accuracy of what you're showing?

8 A. Yes and no. I mean, I think that  
9 ultimately, we're not aiming for a hundred percent  
10 certainty. We're trying to come up with an  
11 estimate that's reasonable given the physiologic  
12 parameters that we have. We're trying to rule out  
13 at least the absurd. So it's unlikely, for  
14 instance, that Mr. Baldwin was standing up when he  
15 was shot.

16 Q. Right.

17 A. Because for that scenario, the shooter  
18 would have to be above him on top of the car, and  
19 we know that that's ruled out, so he's clearly  
20 leaning over. But the other injuries, the other  
21 findings help us triangulate his position.

22 Q. Yeah. We can't say all these things with  
23 absolute -- that this is it with absolute  
24 precision without -- is -- isn't that correct?  
25 There's also going to be some room for a little

1 leeway in these things, isn't there?

2 A. There's leeway, but there's absurdity. I  
3 mean --

4 Q. True.

5 A. -- ultimately we want to be able to  
6 testify within reasonable forensic and medical  
7 probability. That's the standard that I'm held  
8 to.

9 Q. Okay.

10 MR. BLONIGEN: Judge, could I have  
11 the overhead projector activated?

12 THE COURT: The document camera;  
13 right?

14 Q. (BY MR. BLONIGEN) So we have the absurd.  
15 This is absurd. There's no way this can happen,  
16 is it, he's not sitting on top of the car?

17 A. Well, it's inconsistent with the  
18 findings. So you can see that in this scenario  
19 that you've posted on the Elmo, that the  
20 trajectory is going through his body with the  
21 correct entrance and exit; but because of the  
22 position of where he is, the shooter would have to  
23 be sitting on top of the car in order to shoot  
24 like that.

25 Q. On the other hand, that is not so absurd,



1 is it?

2 A. Again, it's not completely consistent  
3 with the physical findings in this case. You've  
4 got the trajectory going in at the top of the  
5 chest and exiting at the back, and he is leaning  
6 over in the proper orientation for the gunshot  
7 wound to go through him if the shooter is seated.  
8 But you'll notice his hands are on the bottom of  
9 the window, and we don't have dicing abrasions or  
10 shard injuries or glass embedded in the palms of  
11 his hand.

12 Also, if he was shot, he would then get up  
13 and move back or collapse down, if he were to  
14 collapse, straight down due to gravity. And I  
15 wouldn't expect the dicing abrasion on the wrist  
16 or on the upper outer right arm in that scenario.

17 Q. Okay. But as far as the hands, I'm  
18 looking more at the angle at which he is bent over  
19 and the trajectory shown.

20 A. Well, if you just are thinking about the  
21 gunshot wound, yes. But there are a lot of other  
22 findings in this case, and I don't think it's  
23 consistent with the findings in this case.

24 Q. Okay. And again, if our model is not  
25 consistent with Mr. Baldwin, the more inconsistent

1 he is, the more leeway arises; isn't that true?

2 A. I'm sorry. I don't understand that  
3 question.

4 Q. What the -- what if Mr. Baldwin's  
5 physical size and dimensions are different than  
6 Mr. Ellis's?

7 A. We know that they are. But they're not  
8 significantly so that I would expect differences  
9 in where the abrasions are going to be on his  
10 hands or on his upper arm.

11 Q. So you --

12 A. That doesn't make sense to me.

13 Q. -- you say there is not a significant  
14 difference is your testimony?

15 A. No. There is a difference between them,  
16 but it's not -- he's not morbidly obese, like, 350  
17 pounds. They're not that discrepant that I would  
18 expect differences in the patterns of injury on  
19 their bodies.

20 Q. In fact, they even did one where he's in  
21 the car?

22 A. This one, I don't see the trajectory rod  
23 being put there, so I can't answer this one  
24 because we also have to accommodate for a strike  
25 mark on the other vehicle, so I don't know how and

1 why that was taken.

2 Q. Okay. On the strike mark on the other  
3 vehicle, were you aware that that strike mark was  
4 never measured at the scene, it was only  
5 discovered later?

6 A. I believe that there was documentation to  
7 that effect, but they were trying to approximate  
8 it based on what they saw.

9 Q. And also, we talked about the hand and  
10 injuries to the hand. There were exit rays of the  
11 right hand, weren't there?

12 A. What did you say? Exit rays?

13 Q. X-rays. I'm sorry.

14 A. Oh, x-rays of the right hand. I recall  
15 x-rays of the torso and the abdomen. I don't  
16 recall x-rays of the hand.

17 Q. Did you know there were x-rays of the  
18 right hand? Were they provided to you?

19 A. I don't recall them being provided to me.

20 Q. You saw no evidence of a fracture in the  
21 materials you were provided?

22 A. There was no documentation of a fracture  
23 of the right hand.

24 Q. Okay. In what you were provided?

25 A. Correct.

1 Q. Now, we talked a little bit about the  
2 hands on the window. And this is because on  
3 October 4th, Mr. Andujar had said he saw the --  
4 Mr. Baldwin with his hands on the car door; isn't  
5 that right?

6 A. Well, he said lots of different things.  
7 There were multiple statements, one of which he  
8 was pounding on the window or knocking on the  
9 window, another in which he said that he thought  
10 the window was open and he was leaning in based on  
11 his perception from a distance. I'm talking based  
12 on the police reports here. I haven't heard his  
13 testimony.

14 Q. Well, I understand that. But he didn't  
15 say pounding, he said tapping, didn't he?

16 A. I recall knocking, but I'd have to go  
17 back and check.

18 Q. And in fact, Mr. Guill the same morning  
19 describes him tapping on the driver's side window?

20 A. I believe there was knocking or tapping.  
21 I don't recall now the exact wording.

22 Q. A rather light blow was your impression?  
23 It wasn't like a punch or anything like that from  
24 what they described?

25 A. Well, my understanding was that it was

1 dark and that it was snowing and that it was  
2 difficult to see from that distance. Plus, I  
3 believe Mr. Andujar at some point looked away and  
4 looked back --

5 Q. Well --

6 A. -- so I didn't get a complete assessment  
7 of the statements. Plus, they were internally  
8 inconsistent. On one hand --

9 Q. Doctor, my question was did the  
10 statements convey a relatively inoffensive action,  
11 that is, tapping or knocking on the window?

12 A. I can't comment on whether it's offensive  
13 or inoffensive. I don't think that that's -- I --  
14 the offensiveness of it is by the perception of  
15 the person who's in the vehicle, not mine. I'm  
16 only talking about the inconsistencies that I saw  
17 in his testimony. And based on --

18 Q. Doctor, I asked you whether it indicated  
19 relatively inoffensive conduct, tapping?

20 A. I can't answer that.

21 Q. Okay. Now, you also were shown a  
22 photograph, talked about the shoulder, arm in the  
23 car; correct?

24 A. You're talking about from the  
25 reconstruction?

1 Q. Yes.

2 A. Yes.

3 Q. Arm in the car that has cuts on the hand?

4 A. The reconstruction photo doesn't have  
5 cuts. It's another person.

6 Q. No. When you reviewed the photos of Mr.  
7 Baldwin at the scene, there was blood from these  
8 wounds on his hands and arms, weren't there?

9 A. Yes.

10 Q. If he's up to the shoulder, the hand and  
11 arm is in the window?

12 A. Well, I'm very confused by the form of  
13 your question.

14 Q. Okay.

15 A. In the photographs, his hand and arm are  
16 not in the window. He's down on the ground in the  
17 snow, and the photograph is just showing the  
18 injury.

19 Q. I was asking you very specifically about  
20 the photo of what you call a recreation or a  
21 dramatization that you went through with counsel.

22 A. Okay.

23 Q. And in that picture, the individual is in  
24 the car up to the shoulder; correct?

25 A. In the reconstruction photo, yes. I

1 thought you were -- I'm very confused. I thought  
2 you were asking about the scene photo.

3 Q. Now, if we go out to the scene; and, in  
4 fact, Mr. Baldwin has cuts on his hands at that  
5 time, they're bleeding, aren't they?

6 A. I'd have to look at them again, but  
7 there's blood on them is what I recall. They're  
8 not actively bleeding. You're using a gerund.  
9 There's different --

10 Q. There's blood present on the skin  
11 surface. How's that?

12 A. Correct. That's more accurate because  
13 after death, there's no active bleeding.

14 Q. So what we're talking about is things  
15 like this?

16 A. Yes, sir.

17 Q. And like this?

18 A. Correct.

19 MR. LOW: Your Honor, I believe  
20 we're supposed to indicate what the witness is  
21 being shown, what exhibit number for the record.

22 MR. BLONIGEN: These will be  
23 introduced at a later time, Judge, but those were  
24 316 and 317, those last two pictures.

25 THE COURT: Thank you for

1 identifying.

2 MR. BLONIGEN: I can certainly do  
3 that.

4 Q. (BY MR. BLONIGEN) When I talked to you  
5 on Friday, you stated that the -- Mr. Baldwin's  
6 blood was found within the car?

7 A. I believe I said that there was spatter  
8 within the car, but -- at the time, I had told you  
9 I had just came out of the morgue, and I haven't  
10 had a chance to review the material. I've  
11 recalled since then by looking at the information  
12 that it wasn't confirmed to be blood.

13 Q. Right. They did DNA testing on it, and  
14 it wasn't blood?

15 A. They did phenolphthalein testing on it,  
16 and it wasn't blood. I think there was  
17 insufficient material for DNA.

18 Q. Okay. You viewed the photographs?

19 A. Yes.

20 Q. That is usually a sufficient blood stain  
21 to get a DNA result, isn't it?

22 A. I can't answer that. That's for a DNA  
23 technician to answer.

24 Q. Mr. Knospler had no injuries?

25 A. Mr. Knospler -- not that I'm aware of.



1 Q. You indicated on the phone Friday that  
2 you saw evidence of struggle within the car?

3 A. Yes.

4 Q. Mr. Knospler had no injuries you recall?

5 A. Yes.

6 Q. Tempered glass has sharp edges?

7 A. Yes.

8 Q. No tearing or stretching of the clothing  
9 as far as you can see in the photographs of Mr.  
10 Knospler?

11 A. Whose? I'm sorry. That's not clear.

12 Q. Of Mr. Knospler's.

13 A. I'm not aware of tearing or stretching of  
14 Mr. Knospler's clothing, but then I don't think it  
15 was assessed for that. It was mostly assessed for  
16 stains and blood and things like that.

17 Q. But, in fact, the defendant himself said  
18 ten minutes after this shooting, There was no  
19 altercation?

20 A. He said multiple things. I believe he  
21 said one of those things, that is correct.

22 Q. He was also asked what happened to the  
23 window; and he said, I wonder how that happened.

24 A. I believe he was joking. That's the tone  
25 I got out of it.

1 Q. He just shot a man and he's joking?

2 A. Well, I think that he was intoxicated, so  
3 that might be an aspect of it.

4 Q. Now, as far as the car goes, it was  
5 removed from the scene by Mr. Knospler, wasn't it?  
6 It was driven away?

7 A. Yes.

8 Q. And during that, he made several sharp  
9 turns?

10 A. That, I don't know.

11 Q. There were no cuts to Mr. Baldwin's left  
12 arm or shoulder, were there?

13 A. Mr. Baldwin had cut -- oh, not on the  
14 left. On the right.

15 Q. The left, on the left.

16 A. Correct. None on his left that I recall.

17 Q. Did you refer Friday to his clothing as  
18 heavy clothing?

19 A. No, I don't recall saying that he had  
20 heavy clothing. He was wearing a T-shirt.

21 Q. And when you looked at the gun itself,  
22 the gun itself was in easy reach of the driver,  
23 was it not?

24 A. I don't know where the gun was at the  
25 time of the shooting. I know where the gun was

1 when he was pulled over. It was in the  
2 passenger's seat. So I don't know whether it was  
3 within easy reach at the time of the shooting. Is  
4 that what you're asking?

5 Q. No. I'm asking when it was -- is seen in  
6 the photographs, it's within easy reach?

7 A. So when he's pulled over?

8 Q. Yes.

9 A. Yes, it was.

10 MR. BLONIGEN: Could I have just a  
11 moment, Your Honor? I think I'm done.

12 THE COURT: Yes, sir, you may.

13 Q. (BY MR. BLONIGEN) Just to be certain,  
14 there is absolutely no evidence this is a contact  
15 wound or a near contact wound, is there?

16 A. No. I don't think that there's evidence  
17 that this is a contact wound or a near contact  
18 wound. It's indeterminate. That's what I  
19 testified to.

20 Q. Or an intervening target?

21 A. No, I think that there may have been an  
22 intervening target, which would have been the  
23 uneven glass at the bottom of the window.

24 Q. Okay. So if it went through the window  
25 or went through the glass, that's the intervening

1 target?

2 A. That's one potential intervening target,  
3 correct.

4 Q. What's the other potential intervening  
5 target in the scenario that we know about?

6 A. I don't know. I don't know if there was  
7 other items that could have potentially intervened  
8 that were not collected as evidence. It's an  
9 unknown.

10 Q. And just for clarification, the T-shirt  
11 isn't an intervening target, is it?

12 A. It is to some degree. I mean, you'd  
13 expect that there would be soot on the T-shirt  
14 before there would be on the body; but we have the  
15 T-shirt in evidence. When I say intervening  
16 target, I'm saying something between the muzzle  
17 and the T-shirt.

18 Q. Right. And that's what I wanted to  
19 clarify.

20 A. Yes.

21 Q. Now, you saw no stippling certainly?

22 A. I saw no stippling, no.

23 Q. Do we wash stippling away with a wet  
24 towel or a washcloth?

25 A. Stippling on the skin cannot be washed

1 away. They're abrasions in the skin. But  
2 gunpowder residue, whether it's the full  
3 combustion of gunpowder or the incomplete, the  
4 powder fragments that cause stippling on skin,  
5 those can be washed away from clothing.

6 Q. Now, on the clothing itself, if it's a  
7 contact wound, we actually would see searing and  
8 actual physical damage to the clothing, wouldn't  
9 we?

10 A. If it was a contact wound to the  
11 clothing, the clothing typically tears or gets  
12 burned.

13 Q. Okay. That doesn't wash away, does it?

14 A. The burns do not wash away, but the  
15 gunpowder at a few inches' distance can.

16 Q. Just one other quick question. You know,  
17 and lawyers use references. I think this one is  
18 pretty common, *Medicolegal Investigation of Death*  
19 by Spitz, Fourth Edition.

20 A. Spitz and Fisher's, I'm familiar with it.

21 Q. That's a very common sort of treatise in  
22 the area, isn't it?

23 A. It's a textbook I'm familiar with, yes.

24 Q. Okay. And do you have any major  
25 disagreements with it?

1           A.     I have disagreements with lots of things  
2     in it.  It's become outdated.  There are a lot  
3     more current textbooks.  It depends on the edition  
4     you have.

5           Q.     This is the fourth edition.  Also  
6     Dr. DiMaio, who also has a work that's often used  
7     on these kinds of investigations, too.

8           A.     Vincent DiMaio's *Gunshot Wounds*, yes.  I  
9     own that as well.

10          Q.     And in these texts, they state that in  
11     determining direction of fire, the eyewitness  
12     statements should be consulted; is that true?

13          A.     They are consulted in this case, that's  
14     correct.

15          Q.     Okay.

16                   MR. BLONIGEN:  That's all the  
17     questions I have, Your Honor.

18                   THE COURT:  Thank you very much,  
19     Counsel.

20                   Redirect, Mr. Low?

21                   MR. LOW:  Yes, Your Honor.

22                   REDIRECT EXAMINATION

23     BY MR. LOW:

24           Q.     In any of the studies, reports, or  
25     literally hundreds of pages of information, did

1       you see any data as to the length of Mr.  
2       Knospler's arms?

3           A.     No.    That measurement was not taken by  
4       the medical examiner.

5           Q.     Can we do that now?

6           A.     Sure.

7           Q.     Mr. Knospler, will you stand right here,  
8       please?  Stand right here.  What I want you to do  
9       is take this and put it --

10                  MR. BLONIGEN:  Your Honor, this is  
11       beyond the scope of the cross.

12                  THE COURT:  Mr. Low?

13                  MR. LOW:  It goes to the range, Your  
14       Honor, the indeterminate range that Mr. Blonigen  
15       just asked about.

16                  THE COURT:  I'm going to sustain.  I  
17       don't see it as being directly toward -- I know  
18       there was testimony about the indeterminate range,  
19       but I don't see that as the arm length of Mr.  
20       Knospler being directly covered in cross, so I'll  
21       sustain.

22           Q.     (BY MR. LOW)  Well, let me ask it this  
23       way.  Since the coroner and you agree that the  
24       pistol could have been anywhere between two and  
25       twenty feet away, is it consistent that if the

1 hand is out here and the other hand is back here  
2 and we take a general measurement of what that is,  
3 as to three feet, would that be consistent with  
4 the data and the information that the science has  
5 produced in this case?

6 A. So can I repeat it so I understand the  
7 question and the hypothetical?

8 Q. Please. Yes, ma'am.

9 MR. BLONIGEN: Your Honor, that's  
10 too vague. It refers to the other expert's  
11 report. Secondly, it's just the second way of  
12 doing the same thing you already sustained the  
13 objection on.

14 THE COURT: I think I'll agree.  
15 I'll sustain.

16 MR. LOW: Your Honor, Mr. Blonigen  
17 well went into the other gentleman's report, and I  
18 never mentioned it. And now he's opened the door,  
19 and I would like to be able to address this point  
20 because it was made by Mr. Blonigen himself. He  
21 violated his own request.

22 MR. BLONIGEN: Your Honor, I never  
23 referred to the report, not once. I referred to  
24 the same pictures you did, which you said weren't  
25 part of the report.



1                   MR. LOW: You had different pictures  
2 that I never referred to, and you did refer to his  
3 report.

4                   THE COURT: I think there's some  
5 merit to both positions. Just sitting here with  
6 the parameters that we set forth for this  
7 testimony and given the fact that Mr. Daily may be  
8 subject to examination and clarification, I'm  
9 going to sustain. I'll stand by my ruling. Thank  
10 you.

11                   MR. LOW: I'll move along, sir.

12                   Q.       (BY MR. LOW) Would you consider it  
13 offensive if someone in the middle of night, say,  
14 roughly 12:30, while you're asleep in your car, is  
15 knocking on your window and threatening to kill  
16 you? Would that might be offensive to you?

17                   MR. BLONIGEN: Your Honor, this is  
18 improper opinion evidence. Not only --

19                   THE COURT: Mr. Low?

20                   MR. LOW: He asked her if it was  
21 offensive for knocking on the window. I'm  
22 certainly entitled to follow up on that. He asked  
23 her three questions on it.

24                   MR. BLONIGEN: It also assumes facts  
25 not in evidence.

1           MR. LOW: All right. I'll lay some  
2 foundation. I'll lay foundation.

3           THE COURT: Here's what I'm going to  
4 do. I'm going to allow -- I think we may be  
5 getting outside the scope of the expertise here  
6 dealing with just the term "offensive"; but in the  
7 context of the pathological evaluation, I think  
8 I'll grant some leeway, so I'll overrule.

9           MR. LOW: I'll be very brief, Your  
10 Honor.

11           THE COURT: And you may answer.

12           Q. (BY MR. LOW) Did you read in the police  
13 reports that Mr. Knospler said when the police  
14 officer pulled him over, that somebody threatened  
15 to kill me?

16           A. Yes, he did.

17           Q. And combined with that and someone  
18 knocking on your window in the middle of the night  
19 if you were asleep, could that be offensive to  
20 somebody?

21           MR. BLONIGEN: Your Honor, improper.

22           MR. LOW: You know what, I'll  
23 withdraw the question. He's right. I'll move on.  
24 We got it. I think that's fair.

25           Q. (BY MR. LOW) I won't ask you about that

1 because we're going to hear that in the video in a  
2 second, so I'll leave that. I forgot to ask you  
3 this part. Mr. Blonigen asked you about the blood  
4 alcohol content of Mr. Baldwin. Do you recall  
5 that?

6 A. Yes.

7 Q. And I believe you said it was a .208?

8 A. Yes.

9 Q. Is it more accurate to say that it was  
10 really a .206?

11 A. I -- I don't recall. I was working off  
12 what he said. I'd have to look it up in the  
13 report.

14 Q. I want to be fair to everyone. I just  
15 want to make sure we're precise because the  
16 devil's in the details.

17 A. Sure. Let me confirm it by looking it up  
18 in the autopsy reported because numbers I want to  
19 confirm to be accurate. Yes, so 0.206, and it's  
20 grams per deciliter is the measurement.

21 Q. And I don't want to quibble because let's  
22 be honest, the difference is about, what, two  
23 one-thousandths?

24 A. Yes.

25 Q. And that's effectively nothing; right?

1           A.     From a physiologic standpoint, it's not  
2     that significant.

3           Q.     Okay.  However, did you also receive some  
4     slides, tissue slides of the liver?

5           A.     Yes.

6           Q.     And did you note anything interesting or  
7     worth -- I'm sorry, relevant in those slides?

8                   MR. BLONIGEN:  Your Honor, I'm going  
9     to object.  This is irrelevant.  If there's any  
10    evidence of prior drug or alcohol use, it's  
11    irrelevant under *Blumhagen versus State*.  It is  
12    obvious where counsel is going with this.

13                   THE COURT:  Would it relate to,  
14    Counsel, the blood alcohol?

15                   MR. LOW:  It would, Your Honor, and  
16    especially the tolerance because he asked her  
17    about tolerance, and this point goes right to  
18    tolerance.

19                   THE COURT:  I'll allow.

20           A.     So there were some microscopic fatty  
21    changes of the liver that the pathologist did not  
22    comment on in his report, and that is an  
23    indication of alcohol use and abuse.

24           Q.     (BY MR. LOW)  Well, can we say it's maybe  
25    an indication of tolerance?

1           A.     Well, that combined with his previous  
2 history of --

3           Q.     We're not going through that.

4           A.     Okay. It would not be alone; it would be  
5 in combination with the history.

6           Q.     And if someone had experience with  
7 alcohol ingestion in the past, does that increase  
8 the amount of alcohol they need to affect them?

9           A.     Yes. So the longer you're drinking  
10 alcohol over your life span and the more you drink  
11 on a regular basis, the more tolerant you become.  
12 It would still affect your motor skills, but your  
13 perception, your ability to stand, your -- how  
14 drunk you look to other people, you may not look  
15 as drunk if you're tolerant to the alcohol and if  
16 you're a regular drinker.

17          Q.     Are you aware, though, the facts in this  
18 case are that Mr. Baldwin was found asleep at a  
19 table in the bar, and he was asked to leave as a  
20 result?

21          A.     Yes.

22          Q.     Just minutes before this happened?

23          A.     Correct.

24          Q.     Okay. And lastly, it's my last area, the  
25 oval-shaped entrance wound, did you notice in the

1 coroner -- sorry, the medical examiner's report he  
2 said that the wound was oval shaped?

3 A. Yes.

4 Q. Can you just comment on what that means.

5 A. Well, typically, bullet wounds, if  
6 they're going straight in, are round; but if it's  
7 coming in at a sharper angle, it'll be oval. And  
8 sometimes there's an abrasion, but in this case  
9 there wasn't.

10 Q. I'm just going to show you --

11 MR. LOW: Can we just put this slide  
12 up, Your Honor, and then I'll be done?

13 Q. (BY MR. LOW) So since we have an angle  
14 from up to down as opposed to straight, would that  
15 cause an oval-shaped wound?

16 A. It would.

17 Q. Is that what was found in this case?

18 A. Yes, sir.

19 Q. And lastly, how many autopsies have you  
20 performed in your career?

21 A. Over 25 hundred to date, 2,500.

22 Q. Were some of those in the 9-11 bombings?

23 MR. BLONIGEN: Your Honor, I object  
24 to relevance and outside the scope of cross.

25 THE COURT: I would it would be

1 outside the scope, so I'll sustain.

2 MR. LOW: Appreciate it. That's all  
3 we have.

4 THE COURT: Thank you very much.  
5 Anything on recross, Mr. Blonigen?

6 RECROSS-EXAMINATION

7 BY MR. BLONIGEN:

8 Q. Now, with Mr. Knospler, the same would be  
9 true, his history of alcohol would be relevant,  
10 consumption, as to his behavior, whether he  
11 tolerates it?

12 A. Okay. Sorry. I'm trying to understand.

13 Q. Yeah. That was a bad question.

14 A. Oh, so can you repeat the question,  
15 please?

16 Q. I will. For Mr. Knospler, the same would  
17 be true, if he had a history of drinking, he would  
18 have a higher tolerance?

19 A. Correct. So he would be able to tolerate  
20 higher levels and not appear intoxicated and  
21 respond appropriately.

22 Q. Is that true of marijuana as well?

23 A. It -- there is some tolerance with  
24 marijuana. But, like I said, in this case,  
25 there's no evidence that there's marijuana in his

1       bloodstream, so I don't think it's intoxicating  
2       him. There's no evidence it's intoxicating him.

3           Q.     Is it true of cocaine?

4           A.     You can have tolerance to cocaine in  
5       terms of its effects on you, but it can still  
6       cause a cardiac arrhythmia.

7                   MR. BLONIGEN: Thank you. That's  
8       all the questions I have.

9                   THE COURT: Thank you, Doctor.  
10      You're excused, and you may step down from the  
11      witness chair.

12                   I believe we return to the testimony of  
13      Officer Taylor, then.

14                   Officer, thank you for your patience with  
15      us. Appreciate it. You can return to the witness  
16      chair if you would. And let me confer with  
17      counsel at bench before we go forward just to  
18      address something.

19                                   (The following proceedings  
20      were held at the bench between the Court and  
21      counsel, out of the hearing of the jury:)

22                   THE COURT: We previous gave the  
23      other acts instruction, but I left out references  
24      to statements made by the defendant to law  
25      enforcement.



1 MR. BLONIGEN: Correct, Judge.

2 THE COURT: Are we going to get back  
3 close to that area? Do I need to reinstruct?

4 MR. BLONIGEN: No. Given your  
5 ruling, what we did is we redacted that so this  
6 portion only deals with questions and answers  
7 about what's going on tonight because you ruled  
8 that after that invocation, we cut it off. Now,  
9 we might get into it later if there's  
10 cross-examination or something that opens it back  
11 up. For instance, since it's a *Miranda* issue, if  
12 he testifies and says, I don't use drugs, then we  
13 get back into it. But I actually have a  
14 transcript of what we propose, if you want to look  
15 at it.

16 MR. LOW: I would, too. Can I look  
17 at it real quick? Show me where it cuts off.

18 MR. BLONIGEN: It cuts off right  
19 before the invocation.

20 MR. LOW: Here it looks like it does  
21 cut off the part where he walks back to the side  
22 of the car and they start having dialogue at the  
23 side of the squad car, you know where I'm talking  
24 about, where he's asking about drugs and stuff  
25 after he's already --

1           MR. BLONIGEN: Yeah. That cuts that  
2 part out of there because the judge ruled on that,  
3 so the invocation would come right there in the  
4 next sentence.

5           MR. LOW: I understand.

6           THE COURT: Okay. Here's my  
7 question, if I could hear from Mr. Newcomb,  
8 because I know we talked a little bit about the  
9 proposed instruction in this area. Does the  
10 Defense want me to give this instruction again  
11 relative to statements made by the defendant to  
12 law enforcement, even though we've modified what  
13 I'm giving here?

14           MR. LOW: In my opinion, I would say  
15 it's not necessary. And honestly, I would like  
16 the question that precedes the invocation to be  
17 out because with no answer to the question, it's  
18 irrelevant, and it heightens the cutoff. So since  
19 the questions aren't relevant because they're not  
20 evidence, then if we had it after his last answer  
21 and before the last question, then I don't  
22 think -- I think we're good.

23           MR. BLONIGEN: Your Honor, I  
24 provided exactly what the redaction was going to  
25 be last Friday. I provided them a physical copy

1 of it Monday. To now object that it's in there  
2 now --

3 THE COURT: Here's my ruling as to  
4 this. I'm going to allow the State to play it  
5 with the redacted form; but you may, if you feel  
6 there needs to be clarification or an addition,  
7 I'll give the Defense leeway, as long as it's  
8 clear that the defendant is proposing some  
9 additional portion of this that may touch on the  
10 invocation of these rights.

11 MR. LOW: Can you -- I'm sorry. I  
12 missed something. I know you were clear, but I'm  
13 not tracking. I don't understand. I'm sorry.

14 THE COURT: Okay. Well, let me see  
15 if I've got it right because I might be off.  
16 Mr. Blonigen has redacted the statement that I  
17 presume you're going to touch on here, Mr.  
18 Knospler's statement to law enforcement on the  
19 night in question. Under the rules governing  
20 404(b), that -- those statements may be other acts  
21 evidence, so I included them in the instruction.  
22 Sort of intertwined here was his invocation of his  
23 right to an attorney. And therefore, I'm  
24 precluding any reference to that or to follow-up  
25 questions about marijuana use. I think the State

1 has taken that out. If you want to add back in  
2 the evidence as to his invocation of his right to  
3 counsel, the follow-up question after that, any  
4 questions relative to marijuana use, you could do  
5 that. I'll allow you to add back in the evidence,  
6 but I want to make sure it's clear that --

7 MR. LOW: That you'll exclude that,  
8 I'm with you now. I have one question, then, on  
9 that, and then I'll be able to answer yours. If I  
10 asked for the later statements of him being a  
11 law-abiding citizen, which come after this point  
12 in time, to be added back in, will I also then get  
13 everything added back in that is currently  
14 excluded?

15 MR. BLONIGEN: Your Honor, in the  
16 transcript, that's exactly when this takes place.  
17 He says, You got any needles in here, anything  
18 that's going to stick me?

19 He says, I'm not a drug user. I was  
20 acting as a law-abiding citizen.

21 So if you're going to open that door up,  
22 you open up to the statements that are reasonably  
23 contemporaneous with it on redirect. But it is  
24 not in here, I want to make that clear. This is  
25 just questions about what happened tonight.

1           MR. NEWCOMB: Your Honor, briefly,  
2 just so you understand our position. Any  
3 statements that are made where a reasonable person  
4 would feel they were in custody and were not free  
5 to leave are inappropriate.

6           MR. BLONIGEN: I believe the Court's  
7 ruled on that, though.

8           MR. NEWCOMB: I'm just saying it for  
9 objection for the record.

10          MR. BLONIGEN: I see.

11          THE COURT: Yeah, thank you. Well,  
12 here's how I'm going to -- this is the best I  
13 think I can do. I appreciate the State has  
14 proposed this statement with the redaction, and  
15 I'll allow them to go ahead with that. If you do  
16 want to add to that, we'll take that up in course.  
17 But I think any references to his invocation of  
18 his right to counsel and the follow-up questions  
19 as to marijuana use I'll continue to preclude.  
20 We'll go that way.

21          MR. LOW: Yes, sir. Thanks for  
22 bringing that to our attention.

23          MR. BLONIGEN: Wait a second.  
24 There's still one issue on those, Judge. He says,  
25 I'm not a drug user. That's a voluntary comment

1 after the invocation.

2 THE COURT: And that's excluded.

3 MR. BLONIGEN: It's excluded now,  
4 but if they open up this door, Judge, they're --  
5 they're -- you're allowing them to get in what  
6 they want to pick and choose and not the rest of  
7 them.

8 MR. LOW: I will say this on the  
9 record. If I ask for statements from this officer  
10 as to what he said that are twined up or tangled  
11 up with your -- the statement you're talking  
12 about, I think I understand what's probably going  
13 to happen. Is that fair? Is that what you're  
14 asking about?

15 THE COURT: I think it's going to  
16 open the door to at least the Court considering  
17 whether the whole statement --

18 MR. LOW: I mean, if we went through  
19 the officer only and I asked about it, then I  
20 could surgically remove the exculpatory statements  
21 without offending the ruling. I'm saying that if  
22 I asked him to play the video, there's no way we  
23 can redact because they're tangled up. But I  
24 could just ask the officer that question and then  
25 we get all the benefits that he should under law

1 without any of the perils. And that's what I'm  
2 asking about. I'd just like to ask the officer.  
3 It's that simple.

4 MR. BLONIGEN: Well, and then I  
5 should be able to ask the officer follow-up  
6 questions directing him to specific areas, then  
7 say, Did he tell you he wasn't a drug user?

8 Judge, to allow them to simply act like  
9 he never said anything that would -- because  
10 that's going to -- I have a right to impeach those  
11 statements if he brings them in. And when we can  
12 show that, in fact, he lied to the officers, he is  
13 a drug user, that goes directly to the credibility  
14 of those statements.

15 THE COURT: Let's do it this way.  
16 I'll allow the State to play the redacted  
17 statement. I'll grant leeway to the Defense to  
18 ask as to that topic that question from the  
19 officer if you wish to do so. And I'll think  
20 about and revisit whether that opens the door.  
21 But I'll think about that and address it outside  
22 the presence of the jury before we go -- if we get  
23 there.

24 MR. LOW: I understand, sir. Thank  
25 you.

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

3 THE COURT: Your patience with us,  
4 ladies and gentlemen of the jury, is appreciated.  
5 We had an evidentiary matter we needed to clarify  
6 with the prior rulings in the case. I think the  
7 attorneys needed to allow me to clarify as best I  
8 could the issue that was still pending, so your  
9 patience is appreciated.

10 MR. BLONIGEN: Your Honor, I think  
11 we're at the point we were going to play 207.

12 THE COURT: And you may do so.  
13 Thank you.

14 (State's Exhibit 207 is  
15 played in open court.)

16 THE COURT: How long is this,  
17 Counsel?

18 MR. BLONIGEN: It's only three  
19 minutes, Your Honor.

20 THE COURT: You want the lights  
21 lowered?

22 MR. BLONIGEN: Please.

23 DIRECT EXAMINATION (Resumed)

24 BY MR. BLONIGEN:

25 Q. Now, it's obvious that at some point in



1 the stop, things changed?

2 A. Yes, sir.

3 Q. They change. What happened?

4 A. Well, based on information that I had, I  
5 wasn't entirely certain that the vehicle that I  
6 had stopped was actually the suspect's vehicle;  
7 however, I did believe I had enough reasonable  
8 suspicion for a DUI stop. That's why I didn't  
9 make a felony stop when I stopped the vehicle. It  
10 was more just a -- to contact the driver of that  
11 vehicle.

12 Q. And as you contacted him and went to the  
13 vehicle and went to the window, did you notice any  
14 indications of intoxication?

15 A. Yes, sir. As soon as I approached the  
16 vehicle, I could smell a strong odor of alcohol  
17 and marijuana coming from the vehicle, but what  
18 came to my attention was the broken window.

19 Q. Did you see the gun at first?

20 A. No, sir.

21 Q. How did you become aware of gun?

22 A. Officer Peterson, who was my backup  
23 officer, is the one that identified the firearm in  
24 the vehicle. I was not able to see it from my  
25 angle.

1 Q. And is that the point when the stop  
2 changed?

3 A. Yes, sir. That was when we asked him to  
4 step out.

5 Q. And so this is, obviously, just a brief  
6 contact on the street?

7 A. Yes, sir.

8 Q. Now, at that time you removed him from  
9 the car, what happened to him?

10 A. I put handcuffs on him. That was more of  
11 an officer safety issue. I let him know he was  
12 not under arrest at that point, he was just being  
13 detained so that we could investigate the  
14 situation a little bit further.

15 Q. And what did you do with him, where did  
16 he go?

17 A. I put him in the back of my vehicle and  
18 into the prisoner compartment just so he would be  
19 out of the snow and out of the cold.

20 Q. While he was in the prisoner compartment,  
21 did you attempt to photograph him?

22 A. Yes, sir.

23 Q. Why did you attempt to photograph him?

24 A. We had witnesses on scene at the  
25 Gentlemen's Club that had stated they would be

1       able to identify him through a photograph, so I  
2       did attempt to.

3           Q.     What did Mr. Knospler do when you  
4       attempted to photograph him?

5           A.     He turned his head away from me so that I  
6       couldn't get a photograph of him. He was adamant  
7       about not having his picture taken.

8           Q.     And it -- at that time, is he in  
9       handcuffs?

10          A.     Yes, sir.

11          Q.     Okay. You said you took him down to the  
12       Sheriff's Office?

13          A.     Yes, sir.

14          Q.     That's just down here a couple blocks  
15       away?

16          A.     Yes, sir.

17          Q.     Now, at one time when you're through with  
18       this, you actually noticed something on your right  
19       breast pocket, didn't you?

20          A.     Yes, sir.

21          Q.     What -- do you have a stain there?

22          A.     I did have a stain, and it appeared --  
23       I'm sorry -- to be blood or a red liquid of some  
24       kind.

25          Q.     Okay. And that was collected and sent

1 for testing to your knowledge?

2 A. Yes, sir, it was.

3 Q. Did you see a similar stain on Mr.  
4 Knospler's shoulder or on his arm?

5 A. Yes, sir. He had a red droplet on a  
6 Velcro patch on his coat jacket which had a --  
7 just a Velcro portion for a Velcro patch to be  
8 adhered to.

9 Q. All right. And to your knowledge, that  
10 was also subsequently collected?

11 A. Yes, sir, as far as I'm aware.

12 Q. And then they could be sent to the lab  
13 for testing; right --

14 A. Yes, sir.

15 Q. -- to see that what red substance was?

16 A. Yes, sir.

17 Q. When Mr. Knospler drives from Racks, at  
18 least from the position you saw him in, what  
19 street would he have come down to get to where you  
20 first observed him?

21 A. He would have traveled east on West  
22 Yellowstone as far as I'm aware.

23 Q. And along that route, are there places to  
24 stop that are open at that time of night?

25 A. Oh, absolutely. There's several places.

1 Q. In addition to that, does he drive by any  
2 law enforcement agencies?

3 A. He actually did drive by -- right by the  
4 Mills Police Department at one point.

5 Q. Okay. And how close is the Sheriff's  
6 Office and CPD to where you stopped him?

7 A. Within a few blocks.

8 MR. BLONIGEN: I believe that's all  
9 the questions I have. Thank you, Mr. Taylor.

10 THE COURT: Thank you very much.

11 Cross-examination on behalf of the  
12 Defense, Mr. Low.

13 MR. LOW: Appreciate it, sir.

14 CROSS-EXAMINATION

15 BY MR. LOW:

16 Q. Sir, if I may ask you, we're going to put  
17 this square here. Can I call that Racks? Would  
18 that be okay?

19 A. Yes, sir.

20 Q. You have been there before? Have you  
21 driven by this place before?

22 A. Yes, sir.

23 Q. So you know where it's located?

24 A. Yes, sir.

25 Q. Are you able to tell us if I -- this is

1 the front door. I put on the front with these  
2 hash marks. If you're located somewhere in this  
3 parking lot area that's in front, general area of  
4 the front of the door, do you know how I can exit  
5 my car? Can I go out this way, this way, both, do  
6 you have any idea?

7 A. There are entrances on both sides of the  
8 parking lot, yes, sir.

9 Q. All right. And if I tell you, and if it  
10 helps, if not, whatever, let's suppose that  
11 someone goes this way, where would they now go in  
12 order to get out?

13 A. They would go through the east entrance  
14 or exit.

15 Q. And just tell me where that's at here so  
16 I can -- so we can make the line go. Does that  
17 mean I make a right or a left?

18 A. It would be a generally straight line in  
19 the direction you're already going.

20 Q. Okay. Then what happens?

21 A. Then you would make a left -- or I'm  
22 sorry -- a left- or a right-hand turn. You would  
23 make a right-hand turn to exit the area.

24 Q. I make a left or right?

25 A. Yeah. Left will go into an industrial

1 area.

2 Q. Right. So here's my question. If I make  
3 a left, let me use a different color, that goes  
4 into an industrial area, which is what,  
5 warehouses, shops, things like that?

6 A. Yes, sir.

7 Q. Doesn't look populated or civilized?  
8 It's usually kind of darker at night?

9 A. Usually.

10 Q. If I go to the right at night, what kind  
11 of things would I see to the right?

12 A. First thing you would come to is a stop  
13 sign on the old West Yellowstone Highway.

14 Q. Thank you. Is it running this direction,  
15 sideways here?

16 A. Yes, sir.

17 Q. Can you orient the map for us, if I've  
18 drawn it like this already, where is north at?

19 A. Your red arrow is pointing north.

20 Q. Thank you. There we go. All right.

21 So now if I've now come this way, and I  
22 got a choice on West Yellowstone, if I make a  
23 right, where do I go? Where do I end up heading  
24 towards?

25 A. If you make a right at the stop sign,

1       you're going to travel westbound on the old West  
2       Yellowstone Highway.

3           Q.     And what do I run into as I start going  
4       down there?

5           A.     Ghost Town Truck Stop.

6           Q.     And then is that heading into town or  
7       heading out of town?

8           A.     That's heading out of town.

9           Q.     Out of town?

10          A.     Yes, sir.

11          Q.     We know that didn't happen; right?

12          A.     I can't speculate as to whether he went  
13       left or right there.

14          Q.     All right. That's not where you found  
15       him?

16          A.     No, sir.

17          Q.     Which direction is Lusk from here?

18          A.     Lusk would be generally south.

19          Q.     That direction --

20          A.     Yes, sir.

21          Q.     -- on the map? But in this case, he made  
22       a left on old Yellowstone Highway. And where does  
23       that take me?

24          A.     Couple -- I don't know, 50 yards or so,  
25       you can make a right-hand turn onto Talc Road,



1       which if you make that right-hand turn, it will  
2       take you onto the actual West Yellowstone Highway,  
3       or you can continue straight on the old West  
4       Yellowstone Highway.

5           Q.     Now, if I want to go to the downtown area  
6       where you pulled him over, which way do I need to  
7       turn?

8           A.     Either direction will take you there.

9           Q.     Yellowstone over here?

10          A.     Old Yellowstone Highway will take you  
11       into Mills, and then you'll get --

12          Q.     Got it. Were you following Mr. Knospler  
13       when he supposedly went by the Mills Police  
14       Station?

15          A.     No, sir. He would have passed that  
16       before I contacted him.

17          Q.     So in order to make a left or right,  
18       either one, that will take me downtown, one will  
19       go past Mills Police Station, the other one will  
20       not; correct?

21          A.     If -- either direction is going to come  
22       onto the actual West Yellowstone Highway before it  
23       passes the Mills Police Station.

24          Q.     Yeah. Okay. But we definitely know that  
25       downtown there is a police station; right?

1           A.     Yes, sir.

2           Q.     It's a big one, isn't it?

3           A.     Yes, sir.

4           Q.     It's the biggest one, isn't it?

5           A.     Yes, sir.

6           Q.     And you pulled him over -- or when you  
7 first saw him, he was headed right toward that  
8 direction, wasn't he?

9           A.     Towards Casper Police Department and the  
10 Sheriff's Office, yes.

11          Q.     Civilization, lots of lights, more  
12 people; correct?

13          A.     Yes, sir.

14          Q.     Now, can you give me an idea or maybe you  
15 know, what is the speed limit, first of all, on  
16 this Yellowstone Highway here?

17          A.     On old West Yellowstone Highway, it's 50  
18 miles an hour. In that area, I believe it drops  
19 to 30, though, because of the industrial area.

20          Q.     And what is the general -- as best you  
21 can, what's the distance approximately from Racks  
22 to the place where you pulled him over? About how  
23 far is that?

24          A.     I would estimate four or five miles.

25          Q.     Four or five miles. And given the

1 weather conditions that night and the speed  
2 limits, I realize you can't tell us exactly how  
3 fast he's going the whole time, but just  
4 generalize the speed limits, weather conditions,  
5 and so forth, about how long would that take to  
6 drive from Racks to where you pulled him over?

7 A. Depending on how fast he was going,  
8 probably four minutes, three minutes.

9 Q. And during that four minutes of time, he  
10 has no driver's side window, does he?

11 A. No, sir.

12 Q. Now, when you first came up to the  
13 window, Mr. Knospler didn't have a joint hanging  
14 out of his mouth, did he?

15 A. No, sir.

16 Q. And you searched the vehicle after you  
17 detained him, as you say, and put him in the back  
18 of the car, you all searched the vehicle; correct?

19 A. I was not involved in that, sir, so I  
20 can't attest to that.

21 Q. Okay. Well, you're aware that no  
22 marijuana was found in the car; correct?

23 A. I was not aware of that.

24 Q. To be fair, there was a vial found in  
25 there, an old pill bottle; but it didn't have any

1 marijuana in it, just what they call residue. But  
2 in your experience, residue means you can't smoke  
3 it, you can't eat it, there's nothing you can do  
4 with it; right?

5 A. I don't partake, sir. I can't attest to  
6 that either.

7 Q. But yet you still believed you could  
8 smell a strong odor of marijuana?

9 A. Yes, sir.

10 Q. Okay. You also said you could smell a  
11 strong odor of alcohol?

12 A. Yes, sir.

13 Q. You didn't find any -- well, I think we  
14 know, but I gotta ask. You didn't see any open  
15 containers in the car, did you?

16 A. No, sir.

17 Q. Or any empty bottles?

18 A. No, sir.

19 Q. But out of fairness to you, one way you  
20 could smell alcohol is sometimes when the person  
21 is breathing, if they've been drinking, sometimes  
22 you can smell that coming out of their breath?

23 A. Yes, sir.

24 Q. And that may have been, as far as you  
25 know, the sources of odor of alcohol?

1           A.     Yes, sir.

2           Q.     Okay.  Now, he said to you -- remember  
3 when he first got out of the car, and this was  
4 that part of the video, and you're ordering him to  
5 get out, and he says to you, See this?

6                     Do you remember that?

7           A.     I wasn't paying attention to what he was  
8 saying at that point.  I was more concerned about  
9 my safety.

10          Q.     Okay.  Can we play that again, please, so  
11 that we can focus on that?  Want to make sure that  
12 we're accurate on that.

13                     MR. LOW:  Thank you, sir, for doing  
14 that.

15                             (State's Exhibit 207 is played in  
16 open court.)

17          Q.     (BY MR. LOW)  Okay.  I want to freeze it  
18 there.  You asked him what was going on.  He said,  
19 Sir, at this moment in time -- and then we hear  
20 some voices in the background.  Did you hear that?

21          A.     Yes, sir.

22          Q.     Were those other voices, that was a  
23 police officer, your partner; correct?

24          A.     Yes, sir.

25          Q.     He was standing on Mr. Knospler's

1 passenger side; correct?

2 A. Yes, sir.

3 Q. And what he saw as he was looking through  
4 the passenger window; right?

5 A. Yes, sir.

6 Q. And as he's looking through the passenger  
7 window, he sees a backpack on the front seat?

8 A. Yes, sir.

9 Q. And hanging out of the backpack on top is  
10 what appears to be a brown handle of a pistol;  
11 correct?

12 A. I believe so, yes, sir.

13 Q. And what you hear is your partner say,  
14 Hey, partner, we got a gun, we have a gun?

15 A. Yes, sir.

16 Q. Right?

17 A. Yes, sir.

18 Q. Now, you're all trained to do that;  
19 right?

20 A. Yes, sir.

21 Q. I mean, that's really good police work  
22 because when you come up to a scene and you don't  
23 know what's going on, while one of you is keeping  
24 the attention of person inside, the other one is  
25 looking for such things like weapons?

1           A.     Yes, sir.

2           Q.     Because you want to clear the area;  
3 correct?

4           A.     Yes, sir.

5           Q.     Make sure that, you know, everyone is  
6 safe; right?

7           A.     Yes.

8           Q.     So in that moment when Mr. Knospler is  
9 asking you the question, he starts to respond, he  
10 starts listening to what your partner is asking  
11 about a gun, and you two -- you and your partner  
12 are having a conversation about it; right?

13          A.     Yes, sir.

14                   MR. LOW:   Please go ahead and finish  
15 that, sir.  Appreciate it.  Thank you for that.

16                               (State's Exhibit 207 is played in  
17 open court.)

18          Q.     (BY MR. LOW)  Is that where he's saying  
19 to you, Can you see this?

20          A.     He may have been.  I'm not sure.

21          Q.     We'll play a little bit more.  Just  
22 wanted to point it out, okay.

23                               (State's Exhibit 207 is played in  
24 open court.)

25                   MR. LOW:   Thank you for that.

1 Q. (BY MR. LOW) What is he pointing to,  
2 sir, when he says, Do you see this, do you see  
3 this, and you said yes. What is he pointing to?

4 A. I was just trying to get him out of the  
5 vehicle at that point. I don't know what he was  
6 specifically pointing to.

7 Q. When he stood up out of the car and he  
8 stood on the ground, did you see any glass, window  
9 glass fall from his lap and his chest area onto  
10 the ground?

11 A. No, sir, I did not.

12 Q. Did you look for it?

13 A. No, sir.

14 Q. Out of fairness to you, you're watching  
15 things like hands?

16 A. Yes, sir.

17 Q. And where they're at, movements?

18 A. Yes, sir.

19 Q. Correct?

20 A. Yes, sir.

21 Q. Because, again, that's your job, and you  
22 have to make sure everyone is safe?

23 A. Yes, sir.

24 Q. And your job now is to watch him until  
25 you can get his hands cuffed so that you now know



1       you have more control; right?

2           A.     Yes, sir.

3           Q.     So is it fair to say he could have had a  
4       lot of auto glass on him that fell on the ground  
5       and because you're doing your job, which is  
6       securing the scene, you may have missed it?

7           A.     It's possible, sir, yes.

8           Q.     Okay. Did you go back to the driver's  
9       side at any point after the detention or anything  
10      else you want to call it to see if you could find  
11      some automobile glass on the ground?

12          A.     I did not.

13          Q.     Now, when you asked Mr. Knospler the  
14      question, Were you in an altercation at the bar  
15      tonight, is that the question you asked?

16          A.     If I could refer to my report, I can tell  
17      you exactly what I said.

18          Q.     You sure may, sir, please.

19                   MR. BLONIGEN: Your Honor, I'm going  
20      to object to that. In no place in the transcript,  
21      in the tape -- we've heard it twice now -- did he  
22      ever ask that question whether there was an  
23      altercation or not.

24                   MR. LOW: I may have got the  
25      question wrong. I would play it again if I got it

1 wrong. Let's play it again. Let's be clear,  
2 then. Go ahead and play it again, please.

3 THE COURT: I'll allow.

4 (State's Exhibit 207 is played in  
5 open court.)

6 Q. (BY MR. LOW) I'm sorry. Thank you for  
7 playing that because I was wrong. The question  
8 was, Did you have a fight out at the bar.

9 Did you hear that?

10 A. Yes, sir.

11 Q. And Mr. Knospler's question was -- I'm  
12 sorry, answer was?

13 A. He said, I wonder how that happened.

14 Q. I think he said, No, sir, he did not have  
15 a fight out at the bar.

16 You can play it, though. Let's find out.

17 MR. BLONIGEN: Your Honor, what are  
18 we doing here? This has been played multiple  
19 times. I think the jury knows what they heard or  
20 did not hear.

21 THE COURT: I don't think we need to  
22 play it again. And this is an exhibit, so the  
23 jury can do that. But if you have questions of  
24 this officer, you certainly may follow up as to  
25 that topic.

1 Q. (BY MR. LOW) Sir, do you know for sure  
2 or would you have to guess to the following. When  
3 you asked Mr. Knospler if he had a fight at the  
4 bar and Mr. Knospler said no -- if he did -- that  
5 he was saying he got into no fights or  
6 altercations of any kind inside the bar, do you  
7 have any idea what he meant when he answered your  
8 question?

9 A. I can read from my report exactly how the  
10 conversation went between the two of us.

11 Q. I'm not asking you what he said. I'm  
12 asking you do you know what he meant.

13 MR. BLONIGEN: Well, Your Honor, I'm  
14 going to object to that. He doesn't know the  
15 defendant's state of mind.

16 THE COURT: I think I'd agree.  
17 Calls for speculation, so I'll sustain.

18 Q. (BY MR. LOW) So you'd have to guess,  
19 then, wouldn't you?

20 A. I would, but it wouldn't be fair to me or  
21 the defendant.

22 Q. No, it wouldn't. It wouldn't be fair to  
23 either one of you to guess, would it?

24 A. No, sir. I can only attest to what he  
25 told me.

1 Q. Now, is it also true, sir, in your report  
2 that you noted that you did not observe any blood  
3 on Mr. Knospler's hands; correct?

4 A. Yes, sir.

5 Q. But you did notice that the front  
6 driver's side window was shattered?

7 A. Yes, sir.

8 Q. Shards of glass were in the windowsill?

9 A. Yes, sir.

10 Q. That means that as the door is here and  
11 the door ends, glass starts, there was glass still  
12 sticking up?

13 A. Yes, sir.

14 Q. All the way across; correct?

15 A. Yes, sir.

16 Q. And on the dashboard?

17 A. Yes, sir.

18 Q. All the way across?

19 A. Yes, sir.

20 Q. And on Mr. Knospler's lap?

21 A. Yes, sir.

22 Q. Meaning his legs and his groin and pelvis  
23 area?

24 A. Yes, sir.

25 Q. And on the floorboard?

1           A.     Yes, sir.

2           Q.     And it was clear to you that Mr. Knospler  
3 told you someone threatened to kill him that  
4 night?

5           A.     Yes, sir.

6                     MR. LOW:   One second.   I think I'm  
7 done, Your Honor.   I would just want to ask Mr. --

8                     THE COURT:   That will be fine.

9                     MR. LOW:   Just one second.

10                    Your Honor, thank you.   That's all we  
11 have.   I appreciate it.

12                    THE COURT:   I think we'll go ahead  
13 and work into the lunch hour just briefly to  
14 finish this witness.

15                    Mr. Blonigen, redirect.

16                    MR. BLONIGEN:   Yes, sir.   And it  
17 would be very brief.

18                                    REDIRECT EXAMINATION

19                    BY MR. BLONIGEN:

20                    Q.     You said you didn't go into the car and  
21 see exactly what was in there.   Who took charge of  
22 the car at that time?

23                    A.     At that point, Officer Mitch Baker with  
24 Casper Police Department started gathering  
25 photographs and things of that nature.

1 Q. You were asked about routes to Lusk. The  
2 most obvious route to Lusk is probably I-25?

3 A. I would imagine.

4 Q. On his path, did -- would the defendant  
5 have -- at Poplar Street, are there signs that  
6 indicate you can access I-25?

7 A. Yes, sir. He would have passed three  
8 access points to the interstate.

9 Q. Are they all well posted?

10 A. Yes, sir.

11 Q. How would you describe his demeanor that  
12 night?

13 A. His demeanor, he was -- he wasn't rude.  
14 He just seemed to be very evasive with me. He  
15 didn't want to answer my questions. But he -- he  
16 did respond when I asked him, like, to get out of  
17 the car. He was happy to at least do that much.

18 Q. And the exact question --

19 MR. LOW: Objection, Your Honor. We  
20 have seen no evidence of Mr. Knospler in any way  
21 refusing to answer this gentleman's questions.  
22 That is not only speculation, but it's facts not  
23 in evidence and it's a motion to strike.

24 MR. BLONIGEN: Well, Your Honor, I  
25 think what he's referring to is he asked him what

1 had happened, and he stated that, You're going to  
2 have to investigate that.

3 A. Yes, sir.

4 THE COURT: Okay. I'll allow that  
5 clarification. So with that clarification, the  
6 answer will stand.

7 Q. (BY MR. BLONIGEN) The exact answer about  
8 the altercation is as follows: your question,  
9 Okay, so did you get into a fight at the bar?

10 Mr. Knospler: I had no altercation with  
11 anyone.

12 A. Yes, sir.

13 Q. Now, counsel did ask you about the odor  
14 of marijuana and alcohol?

15 A. Yes, sir.

16 Q. In addition to seeing him in the car  
17 window, he was also placed in your vehicle?

18 A. Yes, sir.

19 Q. Once placed in the vehicle, did you  
20 continue to detect those odors?

21 A. Yes, sir, I did.

22 Q. How strong would you describe them as  
23 being?

24 A. It was strong enough that I could smell  
25 into the vehicle from the passenger compartment.

1 Q. And when he was placed in your vehicle?

2 A. While he was in my vehicle, yes, sir.

3 Q. Okay. Thank you for that clarification.

4 MR. BLONIGEN: That's all the  
5 questions I have.

6 THE COURT: Anything on recross, Mr.  
7 Low?

8 MR. LOW: No, sir. Thank you,  
9 appreciate it.

10 THE COURT: Thank you, Officer. You  
11 may step down, and you're excused and free to go.

12 THE WITNESS: Thank you, sir.

13 THE COURT: Ladies and gentlemen of  
14 the jury, we'll go ahead and break for lunch until  
15 1:30 p.m.

16 It was indicated by counsel yesterday  
17 that this trial may not conclude within the five  
18 days that I advised you of, and it is extremely  
19 concerning. And I would note, first of all, that  
20 at an initial scheduling conference in this case,  
21 the Court was advised of five days. At a  
22 rescheduling on one or two occasions, that same  
23 date was indicated. The Court sends out a  
24 scheduling order each and every week that  
25 indicates the amount of time. And at a pretrial



1 conference approximately two weeks before trial,  
2 that was indicated. On the other hand, I  
3 understand that cases may take longer or, on  
4 occasion, they take a shorter period of time; and  
5 so those are sort of guesstimates as we go.

6 But with that explanation to try to  
7 defend the Court a little bit, what I'd like for  
8 you to do over the lunch hour is to take a look at  
9 your schedules. I know next week is Christmas  
10 week, but there's a possibility we could go Monday  
11 and maybe Tuesday of next week. And then the  
12 following week, which is the week before New  
13 Year's, there would be a possibility of a Monday  
14 or Tuesday of that week. And then finally, the  
15 following week would be the week beginning Monday,  
16 January 5th. Those -- that might be a possible  
17 time, too; but I know that some of you may have  
18 conflicts with Christmas, maybe travel, I'm not  
19 sure, other conflicts, you may have business  
20 concerns.

21 And so if you would check those three  
22 possibilities, we'll explore where we go if we do  
23 not conclude tomorrow and need to have additional  
24 time from you. So please do that, if you'd check  
25 your schedules as to this coming Monday, Tuesday,

1 and then the following week, Monday, Tuesday.  
2 There would be no way that the Court could go on  
3 Christmas Eve day, Christmas, day after Christmas,  
4 nor during the New Year's Eve or New Year's Day.  
5 So if you'd check that out, we'll try to visit and  
6 see where we go from there as far as additional  
7 time for this trial beyond tomorrow.

8 So court will stand adjourned. Please  
9 keep in mind the rules and admonitions about the  
10 case.

11 (At 12:06 p.m., a recess was  
12 taken until 1:34 p.m.)

13 THE COURT: Court will reconvene.  
14 Please be seated.

15 Let the record reflect that after our  
16 luncheon break, we're back in order in State  
17 versus Knospler, Criminal Action 19548-B; and the  
18 entire jury panel and parties, party  
19 representatives, and counsel are with us. So the  
20 State may call its next witness.

21 MR. ITZEN: Your Honor, State would  
22 call Crystal Mize.

23 THE CLERK: Please raise your right  
24 hand. You do solemnly swear that the testimony  
25 you will give in the case before the Court will be

1 the truth, the whole truth, and nothing but the  
2 truth, so help you God?

3 THE WITNESS: Yes.

4 THE CLERK: Have a seat on the other  
5 side of the judge.

6 THE COURT: Before we start, I think  
7 we better have another bench conference of concern  
8 to the other acts instruction.

9 Counsel, if you'd approach.

10 (The following proceedings were  
11 held at the bench between the Court and counsel,  
12 out of the hearing of the jury:)

13 MR. LOW: Good afternoon, sir.

14 THE COURT: I don't think we need to  
15 go on the record unless we need to.

16 (A bench conference was held off  
17 the record.)

18 (The following proceedings were  
19 held in open court, in the presence of the jury:)

20 THE COURT: Ladies and gentlemen of  
21 the jury, I hate to delay things; but you might  
22 recall I read you an instruction about the other  
23 acts evidence previously. And in that  
24 instruction, we referred to activities of the  
25 defendant on the evening of October 3rd and

1 alcohol and drug use of the defendant. I'm going  
2 to regive this, directing you to an additional --  
3 I'll call it category of other acts evidence.

4 You are about to hear a certain category  
5 of evidence called other acts evidence. Here,  
6 that evidence is of statements made by the  
7 defendant at the Racks Bar during the evening.  
8 You may not use this other acts evidence to decide  
9 whether the defendant committed the crime charged  
10 in the Information. In order to consider the  
11 other acts evidence at all, you must first  
12 unanimously find beyond a reasonable doubt, based  
13 on the rest of the evidence introduced, that the  
14 defendant carried out the acts involved in the  
15 crime charged in the Information. If you make  
16 that finding, then you may consider the other acts  
17 evidence to decide the course of conduct, natural  
18 progression of events, and intent.

19 Other acts evidence must be proven by a  
20 preponderance of the evidence. That is, you must  
21 find that the evidence is more likely true than  
22 not true. This is a lower standard than proof  
23 beyond a reasonable doubt. If you find that this  
24 evidence is proven by a preponderance of the  
25 evidence, you should give it the weight and the

1 value you believe it is entitled to receive. If  
2 you find that it is not proven by a preponderance  
3 of the evidence, then you shall disregard such  
4 evidence.

5 Remember, even if you find that the  
6 defendant may have committed these other acts,  
7 this is not evidence that he may have committed  
8 the crime charged in this case. You may not  
9 convict a person simply because you believe he  
10 committed these other acts. The defendant is on  
11 trial for the crime charged, and you may consider  
12 the evidence of these other acts only on the  
13 issues of course of conduct, natural progression  
14 of events, and intent.

15 Once again, this instruction with the  
16 additional category of evidence will be provided  
17 to you at the conclusion of the trial, so keep  
18 that in mind.

19 And with that, again, we're back to  
20 testimony. Mr. Itzen.

21 MR. ITZEN: Thank you.

22 CRYSTAL MIZE,  
23 called for examination by the State, being first  
24 duly sworn, on her oath testified as follows:  
25

## DIRECT EXAMINATION

1  
2 BY MR. ITZEN:

3 Q. Good afternoon, ma'am.

4 A. Hi.

5 Q. Could you please state your name.

6 A. Crystal Mize.

7 Q. And do you recall the night of October  
8 3rd of last year?

9 A. Yes.

10 Q. Where were you working back then?

11 A. Racks Gentlemen's Club.

12 Q. All right. What time did you arrive at  
13 work that evening?

14 A. About 6:30.

15 Q. And when you arrived, how was business?

16 A. Slow, dead.

17 THE COURT: I'm going to ask you if  
18 you'd speak directly into the microphone. And you  
19 can adjust that, you can move it if you need.  
20 Thank you very much.

21 Q. (BY MR. ITZEN) Sorry.

22 A. Okay.

23 Q. When you arrived at work, did anybody  
24 catch your attention?

25 A. I call him "cheeser."

1 Q. All right. And you see that individual  
2 in the courtroom today?

3 A. Uh-huh.

4 Q. Could you tell me what he's wearing?

5 A. Blue tie.

6 Q. And where is he seated?

7 A. Right there.

8 Q. Is he in the middle of the group?

9 A. Yes.

10 MR. ITZEN: Your Honor, may the  
11 record reflect she's identified the defendant?

12 THE COURT: It shall so reflect.  
13 Thank you.

14 Q. (BY MR. ITZEN) And I know he's changed a  
15 little bit. Let me show you State's 216. Is that  
16 what he looked like that evening?

17 A. Yes.

18 Q. And you had a nickname for him?

19 A. "Cheeser."

20 Q. Why is that?

21 A. Because he had a creepy smile.

22 Q. All right. And where was he seated in  
23 the bar?

24 A. Kind of on the corner where we walk by to  
25 go to the dressing room.

1 Q. All right. Allow me to show you State's  
2 337.

3 MR. ITZEN: Your Honor, if I may  
4 approach.

5 THE COURT: Yes, you may.

6 Q. (BY MR. ITZEN) Ma'am, I'm handing you  
7 what's been marked as State's 337. Does that  
8 roughly show where he would have been seated?

9 A. You mean, like, the view from where he  
10 was sitting?

11 Q. Yes, ma'am.

12 A. Yes.

13 Q. And do you recognize that photo as being  
14 inside of Racks?

15 A. Yes.

16 MR. ITZEN: Your Honor, State would  
17 move to introduce 337.

18 THE COURT: Any objection?

19 MR. LOW: No objection, sir.

20 THE COURT: Exhibit 337 is received.

21 Q. (BY MR. ITZEN) This is the corner where  
22 he was seated?

23 A. Yes.

24 Q. All right. Now, before you start  
25 dancing, what do the girls do?



1           A.     Just sit and drink or just hang out with  
2 customers.

3           Q.     All right. Did you go and speak with the  
4 defendant?

5           A.     Yes.

6           Q.     And what was the conversation about?

7           A.     The first one?

8           Q.     Yes, ma'am.

9           A.     Okay. It was just he was having a  
10 conversation with one of our regulars and another  
11 guy that was sitting next to him. And, I mean, it  
12 was just -- I don't really remember what the first  
13 conversation was. Just guy talk, just B.S.  
14 basically.

15          Q.     All right. Did that conversation get  
16 heated?

17          A.     It did.

18          Q.     Tell us about that.

19          A.     Our regular, Bob, who was sitting next to  
20 me, was talking about the run that he had just  
21 made in his truck. And he was talking about a  
22 particular mountain range that goes a different  
23 direction than most. And he -- Knospler started  
24 arguing with him about it and how he knows that  
25 mountain range better and it doesn't go that way.

1 It was -- it was an odd argument, but I just kind  
2 of --

3 Q. Did you attempt to settle the argument  
4 down?

5 A. Yes.

6 Q. How did you attempt to do that?

7 A. I was just, like, Okay guys, you know,  
8 let's all be friends. No -- no snipping, let's  
9 just have another drink.

10 Q. All right. Did that work?

11 A. It did.

12 Q. Now, as you were part of that  
13 conversation, did you notice anything about the  
14 level of impairment of the defendant?

15 A. Yes.

16 Q. How would you describe that?

17 A. He seemed a little bit drunk, but he also  
18 seemed just off, like.

19 Q. All right. Did you notice if the  
20 defendant ever got up and left the bar?

21 A. Several times.

22 Q. All right. And anything about how long  
23 he would be outside?

24 A. It was different times every time, I  
25 think.

1 Q. Do you know how many times or  
2 approximately how many times he got up and left?

3 A. Three that I noticed, but I wasn't  
4 watching him all night.

5 Q. Sure. Now, when he came back in, was he  
6 dressed any differently?

7 A. Sometimes he'd have on a hat, sometimes  
8 he'd have different clothes on, sometimes he'd  
9 have his coat, and one time he was just carrying  
10 his coat, and sometimes he wouldn't have it.

11 Q. All right.

12 A. So.

13 Q. Did his demeanor ever change when you  
14 were talking with him?

15 A. Yes.

16 Q. How so?

17 A. When I first approached him when he was  
18 sitting by himself, he was impressed because I had  
19 noticed that he was sitting by himself on his  
20 phone. And then he was -- he was just kind of  
21 talking casual, and then he would flip back and  
22 forth between casual and calm to agitated and  
23 angry.

24 Q. All right. Did you ever notice his  
25 behaviors when other gentlemen would walk by?

1 A. Yes.

2 Q. Explain that.

3 A. He would glare at them. Like, when I  
4 came in, he, you know, he did his little smile and  
5 followed me; but when a guy would walk by, he  
6 would just glare at them, just -- and follow them  
7 until he couldn't see them, and then he would just  
8 turn back to me and do that smile again.

9 Q. All right. Now, the second time you  
10 spoke with him, did that conversation make you  
11 uncomfortable?

12 A. Yes.

13 Q. Why so?

14 A. A couple reasons. One, he asked me if he  
15 could buy me a drink. I told him no, I don't  
16 drink past 9:00. And then he asked me if I knew  
17 where to get any cocaine, and I told him I -- I  
18 don't know, I don't do that, and I don't hang out  
19 with people who do that.

20 Q. How did he respond when you told him you  
21 don't do cocaine?

22 A. He seemed very, like, astonished. He  
23 seemed surprised that I wouldn't -- I told him you  
24 can't raise kids, you can't take care of kids if  
25 you're all coked out. And he was -- went into an

1 explanation of, you know, you've got to find that  
2 nice balance, you know, where you can still handle  
3 your responsibilities and be high at the same  
4 time. He said it's a beautiful place to be.

5 Q. All right. And that made you  
6 uncomfortable?

7 A. Well, that and when he -- when he said  
8 that he -- that it didn't matter to him if someone  
9 gets in his way, he'll -- he'll take care of them,  
10 he'll shoot them, he'll stomp their face in the  
11 ground, stomp their face in the concrete, it  
12 doesn't matter to him.

13 Q. Did he say why?

14 A. It was more of a general statement. And  
15 it was kind of out of the blue, so it was really  
16 uncomfortable.

17 Q. Sure. When he made that statement, was  
18 that in context to anything else or did that  
19 just --

20 A. He talked to himself a little bit before  
21 he said that. He was kind of mumbling to himself.  
22 It wasn't to a question that I asked or to  
23 anything that I said, it was just -- seemed like a  
24 conversation that I wasn't really part of.

25 Q. All right. And did he follow this

1 comment up with anything else?

2 A. I left.

3 Q. Did you also meet Kade Baldwin that  
4 evening?

5 A. I didn't really have much contact with  
6 him.

7 Q. All right. Were you aware that he was  
8 inside?

9 A. Uh-huh, yes.

10 Q. And from what you saw, how would you  
11 describe his demeanor that evening?

12 A. Happy drunk. He was just having a good  
13 time.

14 Q. How could you tell he was intoxicated or  
15 drunk?

16 A. He was really loud, and he just acted  
17 like a lot of drunk people you see. He was just  
18 loud and big movements, you know.

19 Q. All right. Did he cause any trouble that  
20 you saw inside the bar?

21 A. Not that I noticed.

22 Q. Did you ever notice Kade and the  
23 defendant interacting together that evening?

24 A. After the comment that he made, I  
25 didn't -- I tried not to follow him in the bar at

1 all, so I didn't.

2 Q. All right. In the comment about killing  
3 folks and stomping them or shooting them, what --  
4 what part in the evening -- and I know time  
5 probably doesn't mean a lot to you -- would you  
6 say that occurred?

7 A. I honestly don't know. I mean, it was  
8 before -- before Kade and them came in, I think.  
9 It was still pretty slow.

10 Q. All right. And after he makes that  
11 comment, where do you go?

12 A. Just to sit with another customer, just  
13 away.

14 Q. All right.

15 MR. ITZEN: If I can just have a  
16 moment, Judge.

17 THE COURT: Yes, you may.

18 Q. (BY MR. ITZEN) Now, after you -- you  
19 heard the comment about, you know, killing folks  
20 and that, did you tell any of the bouncers about  
21 it?

22 A. No, I -- I didn't. I mean, people talk a  
23 lot of noise, you know, when they drink and --

24 Q. Sure.

25 A. -- and he didn't actually threaten me, so

1 I didn't tell the bouncer anything.

2 Q. Was Andujar around -- or excuse me --  
3 Ervin Andujar around at that point?

4 A. He was there. Westy was close by, too.

5 Q. Okay.

6 A. He was sitting past, like, over here or  
7 standing there.

8 Q. All right. I guess this side of that  
9 photo?

10 A. That way, yeah.

11 Q. Did the defendant ever say "nobody means  
12 nothing to me"?

13 MR. LOW: Objection, leading.

14 THE COURT: Would be leading. I'll  
15 sustain.

16 Q. (BY MR. ITZEN) Were there any other  
17 comments you heard from the defendant that  
18 evening?

19 A. I just -- it was really strange that  
20 he -- I asked him, you know, what his name was,  
21 where he comes from. And he's, like, Well, I  
22 don't give any -- any kind of information about  
23 who I am or where I come from or where I'm going  
24 or anything like that. He talked a lot about all  
25 of his women all over the country.



1 Q. All right. Did you ever ask him what he  
2 did for a living?

3 A. I did. He wouldn't tell me anything. He  
4 said he doesn't form attachments and stuff like  
5 that, but.

6 Q. All right.

7 MR. ITZEN: That's all the questions  
8 I have. Mr. Low may have a couple for you.

9 THE COURT: Thank you, Counsel.

10 Cross-examination.

11 MR. LOW: Thank you. Your Honor,  
12 appreciate it.

13 CROSS-EXAMINATION

14 BY MR. LOW:

15 Q. How long did you sit with Mr. Knospler?

16 A. I really don't remember. I sat with him  
17 two different times.

18 Q. You have no idea, none?

19 A. No. If you watch the clock there, the  
20 night goes really slow.

21 Q. So could have been five seconds as far as  
22 you remember; right?

23 A. No. It was a little while longer than  
24 that.

25 Q. So you do have some idea, then?

1           A.     Well, more than five seconds, but not an  
2 hour.

3           Q.     Well, please, estimate for us, if you  
4 can, how long you think you sat with him.

5           A.     The first time was long enough for me to  
6 have two drinks, so maybe 20, 30 minutes there.  
7 And then, I don't know the second time, 15, 20  
8 minutes, 30. I really don't know.

9           Q.     How many drinks did you have the second  
10 time?

11          A.     None.

12          Q.     You sure about that?

13          A.     Yes.

14          Q.     Because your memory is not real good  
15 about how long you sat with him.

16          A.     Because --

17          Q.     Let me finish, please. How is it you  
18 cannot remember how long you sat with him, but you  
19 can remember how many drinks you had or you didn't  
20 have?

21                   MR. ITZEN: Well, Judge, I'm going  
22 to object. I think it's argumentative.

23          A.     Because it was after nine o'clock.

24                   THE COURT: I'll allow. You may  
25 answer.

1           A.     Because it was after nine o'clock when he  
2 offered to buy me a drink. I told him I don't  
3 drink after 9:00 because I drive home.

4           Q.     But I thought you just said that you  
5 don't watch the clock because time goes really  
6 slow. Didn't you just say that?

7           A.     Uh-huh. The bartenders know I don't  
8 drink after 9:00.

9           Q.     That's not what I asked you. How is it  
10 that you knew that it was after nine o'clock if,  
11 well, you're not watching the clock?

12          A.     Because I know when nine o'clock is.  
13 They tell me, they'll ask me, Do you want another  
14 drink because it's almost 9:00.

15          Q.     So you try and get that last drink in  
16 just before 9:00; is that right?

17          A.     No, I didn't say that.

18          Q.     Okay. See if I can understand this. The  
19 very first thing you notice when you lay eyes on  
20 Mr. Knospler is he's a cheeser. That's what you  
21 come up with; right?

22          A.     The smile he had, cheeser, yeah.

23          Q.     Sure. And you say that I'm going to call  
24 him a cheeser, that rather derogatory term for a  
25 Marine Corps combat vet, because of the smile on

1 his face; isn't that right?

2 MR. ITZEN: Judge, I'm going to  
3 object. It's argumentative.

4 THE COURT: That question is  
5 argumentative, so I'll sustain.

6 Q. (BY MR. LOW) Let me ask you it this way.  
7 You just simply look at a smile, you decided it  
8 was a creepy smile; right?

9 A. Yes, his eyes.

10 Q. So what was going on inside of you that  
11 allowed you to overcome that feeling of creepy so  
12 that you could go up and sit down next to him for  
13 20 or 30 minutes and drink with him?

14 A. Because I needed groceries the next day.

15 Q. Say more about that.

16 A. My kids --

17 Q. Say more about what it is about grocery  
18 money that makes you overcome these creepy  
19 feelings.

20 A. Well, mostly because I was sitting with  
21 Bob, the guy next to me, because he's a regular;  
22 and I have drinks with him whenever he's in.

23 Q. So your goal was to see if you could  
24 induce Mr. Knospler to give you money; correct?

25 A. Absolutely. That's my job -- that was my

1 job.

2 Q. Okay. And fair enough. That's --  
3 there's nothing wrong with that; right?

4 A. Uh-huh.

5 Q. Okay. And so tell me, is part of the way  
6 you get them to give you money is to be friendly?

7 A. Absolutely.

8 Q. Conversationalist?

9 A. Yes.

10 Q. To pretend to take an interest in them?

11 A. Yeah. So I was asking him about his  
12 past.

13 Q. And a lot of times they've been drinking;  
14 correct?

15 A. Yes.

16 Q. Because let's be honest, if they're  
17 drinking, they're more apt to lower their  
18 inhibitions; correct?

19 A. Yes.

20 Q. And they become more open; right?

21 A. Yes.

22 Q. And more friendly?

23 A. Uh-huh.

24 Q. And if they're more friendly, it's easier  
25 for you to get them to give you a lap dance?

1 A. Yes.

2 Q. Okay. And so is it fair to say that  
3 you'll pretend to like them?

4 A. No.

5 Q. Because if you pretend to like them, that  
6 makes them feel good about themselves; right?

7 A. I didn't make as much money as other  
8 girls because I don't like to lead people on.

9 Q. Yes. And you will use your charisma or  
10 your charm so that the man feels like they're  
11 different or they're special or there's something  
12 about them that you like as opposed to the other  
13 men in the room; isn't that right?

14 A. More like there's something about me that  
15 they should like.

16 Q. And you tell them things about you;  
17 right?

18 A. Yes.

19 Q. And are all those things true that you  
20 tell them?

21 A. No. We're -- no, we don't give our real  
22 names usually.

23 Q. Yeah. From the very first second you  
24 walk up to somebody, you're giving them a fake  
25 name, aren't you?

1           A.     Yes.

2           Q.     You give them a fake smile, too; right?

3           A.     No.

4           Q.     You give them a fake attitude, it's a  
5     role that you've manufactured so that you can get  
6     grocery money; right?

7           A.     I was me. That's what people liked about  
8     me is because I wasn't usually fake. Yes, it was  
9     in my contract that we had a stage name. It's for  
10    our safety.

11          Q.     And isn't it fair to say that after you  
12    left the first time, there was something about Mr.  
13    Knospler that, well, brought you back a second  
14    time; isn't that right?

15          A.     No. There were just no other customers.

16          Q.     Oh. So despite the fact that now you've  
17    left because he's creepy, what was it again now  
18    that allowed you to overcome that feeling so you'd  
19    go back and try again to get his money?

20          A.     Actually, the first time I was there just  
21    hanging out, having drinks, and then he left and  
22    was sitting off behind the stage in the dark  
23    texting. And then when I spoke to him the second  
24    time was after he returned to that seat and, like  
25    I said, there were no other customers.

1 Q. How does it make you feel when you go and  
2 you spend time with a man and it's because you're  
3 trying to get money from him so you can dance for  
4 him, and they get up and they leave and they  
5 reject you, they don't want to give you any money?  
6 How does that make you feel?

7 MR. ITZEN: Judge, I'm going to  
8 object to relevancy.

9 A. He didn't reject me.

10 THE COURT: Hold up if you would.  
11 Mr. Itzen.

12 MR. ITZEN: Relevancy, sir.

13 MR. LOW: Goes to bias, Your Honor.

14 THE COURT: I'll overrule. You may  
15 answer.

16 A. He didn't reject me. He was on the  
17 phone. There were three other -- two other guys  
18 there still. There was no rejection. I don't  
19 take things personally. It was a job.

20 Q. (BY MR. LOW) And so you've been there 20  
21 to 30 minutes, and how much money has he given you  
22 at this point?

23 A. Are you talking about the first time or  
24 the second time?

25 Q. Yes, ma'am, the first time.



1 A. No money.

2 Q. But you decided you was going to try  
3 again when you saw him the second time; right?

4 A. The second time was when I tried the  
5 first time.

6 Q. So now he's sitting down at the bar  
7 again, and you go up to him once again; right?

8 A. Yes.

9 Q. And this time, you decided to have some  
10 conversation with him; correct?

11 A. Correct.

12 Q. And isn't it true that you just kind of  
13 stopped paying attention to that?

14 A. No.

15 Q. Sure about that?

16 A. Yes.

17 Q. Okay. Were you paying close attention to  
18 that?

19 A. As much as I could follow. He jumped  
20 around a lot.

21 Q. Uh-huh. You gave an interview in this  
22 case, didn't -- isn't that right, ma'am?

23 A. I'm sorry, what?

24 Q. I said you gave an interview in this  
25 case?

1 A. Uh-huh, yes.

2 Q. And you gave it to a detective?

3 A. Yes.

4 Q. Couple hours later?

5 A. Yes.

6 Q. That morning, if you will, of the 4th?

7 A. The morning before --

8 Q. Of the 4th?

9 A. Yes.

10 Q. October the 4th, I'm sorry. And were you  
11 telling the truth when you were answering the  
12 detective's questions?

13 A. Yes.

14 Q. You sure?

15 MR. ITZEN: Well, Judge, he's  
16 commenting on the credibility of the witness.

17 MR. LOW: I'm looking at her facial  
18 expressions. I'm just asking if she's sure it was  
19 a year ago.

20 THE COURT: I'll allow. You may  
21 answer.

22 A. Yes.

23 Q. (BY MR. LOW) Okay.

24 A. I know I was tired that morning. It was,  
25 like, five o'clock in the morning, and --

1 Q. So maybe you didn't say things right or  
2 maybe you got a few things wrong?

3 A. If anything, I had not said everything  
4 that I remembered.

5 Q. Oh, you mean you remember more things now  
6 than you did then?

7 A. Which is exactly what he said would  
8 happen. And he told me to call him if I  
9 remembered anything extra and anything additional.

10 Q. Did you call him?

11 A. I did.

12 Q. Who did you call precisely?

13 A. I don't remember the detective's name.  
14 That was a year ago.

15 Q. Well, how was it you were able to call  
16 him if you didn't remember his name?

17 A. Because at the time I had his card, and  
18 it had his name on it.

19 Q. Now, has the amount of time that went by  
20 from the time you called the detective the second  
21 time, that's a shorter amount of time than when  
22 you first gave the statement; right?

23 A. Would you repeat that?

24 Q. Sure. You gave the first statement  
25 October the 4th; right?

1 A. Okay.

2 Q. And how much time went by before you  
3 called the detective back?

4 A. A couple days.

5 Q. And you called him?

6 A. Yes.

7 Q. And used his card?

8 A. Yes.

9 Q. Did you give him a telephone interview or  
10 did you go see him in person?

11 A. I told him what I remembered, and he told  
12 me to write it down so I didn't forget again.

13 Q. Okay. Did you write it down?

14 A. I did.

15 Q. Did you give it to him?

16 A. No.

17 Q. What did you do --

18 A. He said to remember for myself.

19 Q. What did you do with the writing?

20 A. It's at my house somewhere.

21 Q. Okay. And were you asked these questions  
22 on October the 4th, and did you give these  
23 answers: What was he saying -- by the  
24 detective -- I know it's disgusting, but what he  
25 was he specifically saying?

1           How he can get any woman that he wants,  
2 talking about, like, sexual exploits with these  
3 women. I wasn't really paying close attention.

4           A.     Actually --

5           Q.     Did you -- I'm sorry. Hold on a second.  
6 Were you asked those questions and did you give  
7 those answers?

8           A.     Yes.

9           Q.     So when you said here to the police  
10 officer that you weren't really paying close  
11 attention, what did you mean by that?

12          A.     I meant I wasn't trying to memorize what  
13 he was saying because it was disgusting.

14          Q.     Well, if you're not trying to memorize  
15 it, what makes you think that you can accurately  
16 quote it over a year later?

17          A.     I didn't quote his sexual exploits.

18          Q.     Anything he said, what makes you think  
19 you can quote it a year later if you're not paying  
20 close attention?

21          A.     Because I talked to girls in the back  
22 room about it, about what he had said.

23          Q.     Sure. I mean, the truth of the matter is  
24 that you're just there trying to get them to get a  
25 dance, and oftentimes they're going, Blah, blah,

1       blah. And you're just, Hey, I just need to get a  
2       lap dance. Isn't that what goes on?

3           A.     No. Because if you actually pay  
4       attention and you can recall what they have said,  
5       they like that a lot more.

6           Q.     And the detective said on the same  
7       morning right after this, he said, Okay.

8                   And you say, quote, But I was, like --  
9       and this is in quotes -- so you're due for a dance  
10      if you haven't had one in, like, ten years. And  
11      he was, like, No, I'm not your guy for that. And,  
12      yeah, I was -- well, I left after that.

13                   Is that what Mr. Knospler said to you,  
14      that he's not your guy for that dance?

15           A.     He said more than that.

16           Q.     Did he say that he was not your guy for  
17      that dance, yes or no?

18           A.     Yes. He, like -- he said that he had not  
19      been with a naked woman without having sex for a  
20      very long time.

21           Q.     So the idea is -- let's make sure we're  
22      clear. What is it you're wearing when you're  
23      trying to get him to give you money for a dance?

24           A.     A bikini top and some sort of bottoms,  
25      either, like, some type, like bootie shorts or --

1 Q. What were you wearing that day,  
2 specifically?

3 A. I don't remember. That wasn't important  
4 to me.

5 Q. I don't understand. I mean, you're the  
6 one who put it on; right?

7 A. Do you remember what you were wearing a  
8 year ago?

9 Q. Please, ma'am.

10 MR. ITZEN: Judge, I think this is  
11 argumentative. She said she doesn't recall.

12 THE COURT: Yeah. Let's go to the  
13 next question. She was asked what she was  
14 wearing; she said I don't remember.

15 MR. LOW: Your Honor, I'd like to  
16 ask -- yes, I understand she doesn't remember, so  
17 I'm asking her why she doesn't remember because  
18 currently her memory is at issue.

19 A. Because I have a lot of different outfits  
20 that I wore there, and I don't exactly remember  
21 which outfit I had on at that time.

22 Q. (BY MR. LOW) And when you get a dance  
23 and you perform a dance, is it in the same place,  
24 in this case at the bar, or is it someplace else?

25 A. No. It's in the lap dance room.

1 Q. And where is that?

2 A. It's just off to the side there.

3 Q. Is it a darker room?

4 A. No.

5 Q. Is it a more private room?

6 A. Sort of. You can kind of close curtains.

7 Q. And when you dance for them, how far away  
8 are you from the person you're dancing for?

9 A. It depends.

10 Q. Well, give us a rough estimate, best you  
11 can.

12 A. Six inches to no inches.

13 Q. And does that mean you're making contact  
14 with the person?

15 A. Yes.

16 Q. You're rubbing your body parts on them?

17 MR. ITZEN: Judge, I'm going to  
18 object to relevancy at this point.

19 A. No.

20 MR. ITZEN: She said she never gave  
21 the defendant a lap dance.

22 THE COURT: Yeah, I think that's  
23 right, so I'll sustain.

24 Q. (BY MR. LOW) Then I guess I'll have to  
25 ask it this way, then. Mr. Knospler is responding



1 to his idea of what's going to go on in that lap  
2 dance room, and that is, he's telling you he does  
3 not want a woman who he's not intimate with  
4 touching him; isn't that what he's saying?

5 A. No. He said he wanted more than a dance.

6 Q. Oh. You told the detective that he  
7 wanted more from you? Is that what you say you  
8 said to the detective that morning?

9 A. Is that what I just said?

10 Q. Well, let's find out. Give the jury your  
11 following answer to this question, did Mr.  
12 Knospler tell you that he wanted to have  
13 intercourse with you?

14 A. He did not say that exactly. He said he  
15 wants -- does not want a dance because he does not  
16 like being that close to a naked woman without  
17 more.

18 Q. Yeah. He's got his limits or his  
19 boundaries; right?

20 A. That's not how he was saying it.

21 Q. Oh. Did you tell the detective that that  
22 morning, ma'am, because that's nowhere in the  
23 transcript. Maybe I'm wrong. Are you just making  
24 this up as you go along?

25 A. Excuse me?

1                   MR. ITZEN: Your Honor, I'm going to  
2 object. That's argumentative.

3                   THE COURT: I think that's right.  
4 As to the previous question that, I think,  
5 precipitated the last discussion, she answered  
6 that question; and said that was not right. So I  
7 think it would cause speculation for her to  
8 further interpret things, so I'll sustain.

9                   MR. LOW: Yes, sir.

10                  Q. (BY MR. LOW) Isn't it true, ma'am, that  
11 he did give you a reason as to why he didn't want  
12 you rubbing on him in the back in the dark room?

13                  A. Because he likes sex not lap dances.

14                  Q. You sure about that?

15                  A. Yes.

16                  Q. Did you tell the detective that on the  
17 morning of October the 4th?

18                  A. The detective wasn't asking me about lap  
19 dances.

20                  Q. So that would be a no; right?

21                  A. Yes, that's right.

22                  Q. Okay. Why did you leave that out until  
23 right now?

24                  A. Because you're the one asking me about  
25 the lap dance, not the detective.

1           Q.     Isn't it true that you did give the  
2     detective a reason why, and that reason was  
3     because his girlfriend is coming into Lander,  
4     she's flying in; isn't that right?

5           A.     Actually, he refused to call that one his  
6     girlfriend. He said that she is one of his many,  
7     and he doesn't like to put labels on things  
8     because that's just who he is.

9           Q.     Okay. Well, let's quote exactly what you  
10    told the detective; and we'll see what you said  
11    then versus now.

12          A.     Uh-huh.

13          Q.     Did you tell the detective, quote, that  
14    she was going to fly out to Lander, and he was  
15    going to meet her there; but he -- even though he  
16    wanted to go to Montana. Detective says okay.  
17    And then you say, And that, you know, she's a free  
18    spirit and he likes her, and he doesn't like to  
19    stay in one place very long. Detective says, What  
20    did you talk about from there. And further, he  
21    asked you, So he's talking about texting the love  
22    of his life. And you say, Yeah.

23                 Are those questions that you were asked  
24    the morning of 4th and the answers that you gave?

25          A.     He didn't say the love of his life. He

1       said his love. And then later on, he said, No,  
2       that's not just my love.

3           Q.     Oh. So the videotape and the audiotape  
4       must be lying, then; is that right?

5                   MR. ITZEN: Judge, I'm going to  
6       object.

7                   THE COURT: It's argumentative, I'll  
8       sustain.

9           Q.     (BY MR. LOW) Do you have any reason to  
10      believe that the videotape and the audiotape is  
11      inaccurate?

12          A.     No.

13          Q.     Okay. Do you have any reason to believe  
14      that you're inaccurate?

15          A.     It could be.

16          Q.     Let's see if I can figure this out. How  
17      many days approximately has it been since this  
18      happened?

19          A.     It's been over a year.

20          Q.     How many days? Don't remember?

21          A.     You got a piece of paper? I'll figure it  
22      out real quick.

23          Q.     You either know or you don't.

24          A.     No, I don't know exactly how many days  
25      it's been since October 3rd.

1 Q. How many days since this happened, since  
2 you gave this statement on October 4th, did you  
3 drink? How many days over the last year and a  
4 month?

5 MR. ITZEN: Judge, I'm going to  
6 object to relevancy.

7 MR. LOW: Your Honor, it goes to  
8 credibility and memory. That's always at issue.  
9 It goes to her memory and ability to perceive and  
10 recall events.

11 THE COURT: I'll sustain.

12 Q. (BY MR. LOW) Ma'am, is it fair to say  
13 you've had some alcoholic drinks over the last  
14 year?

15 A. Absolutely. I'm an adult.

16 Q. You have reason to believe that alcohol  
17 can affect your memory?

18 MR. ITZEN: Judge, same objection.  
19 We focused our direct on the night in question.

20 THE COURT: I think I'll allow. You  
21 may answer, if there's some reason.

22 A. I think if you drink a lot, that it can  
23 affect your memory.

24 Q. (BY MR. LOW) Do you have reason to  
25 believe that maybe your memory isn't as good as

1 the audiotape is?

2 A. Yes.

3 Q. And so when you asked him for this last  
4 time after spending the amount of time that you  
5 generally kind of remember with him, he said once  
6 again, No, I'm not your guy; isn't that right?

7 A. Sort of, yeah.

8 Q. And how did that make you feel after all  
9 the time you spent?

10 A. It happens. He was the only person in  
11 the bar. It didn't matter to me. He -- he was  
12 creeping me out. It didn't matter.

13 Q. What didn't matter to you?

14 A. That he didn't want a lap dance. Like I  
15 said, I don't take it personally. Like, some guys  
16 have, you know, like blonde hair, blue eyes, some  
17 guys like brown hair. It doesn't bother me. You  
18 can't let anything like that bother you.

19 Q. Isn't it true, ma'am, that you just said  
20 while this good gentleman here was asking you  
21 questions, that he would first be calm, then  
22 agitated?

23 A. Uh-huh.

24 Q. And he would glare at them and follow  
25 them around? Did you say that?

1 A. Yes, yes.

2 Q. Do you realize that you did not say any  
3 of those things in your statement to the police  
4 officer on the morning of October the 4th, 2013?  
5 Do you realize that?

6 A. Yes.

7 Q. Okay. What was it about today that you  
8 decided that you was going to share that for the  
9 first time?

10 A. I didn't really know what was important  
11 when the detective was talking to me. And it was  
12 five o'clock in the morning, and I had been up  
13 since six o'clock the morning before.

14 Q. So what happened between now and then  
15 that allows you now to realize it's important? I  
16 mean, what is it about a police officer in the  
17 station after there's been a shooting that makes  
18 it too hard for you to figure out it's important?

19 A. It's not every day somebody gets shot,  
20 you know.

21 Q. Right. And so it's going to make a real  
22 impression on you that this is important, right,  
23 because it doesn't happen to you every day; right?

24 A. Exactly.

25 Q. So did you intentionally leave some

1 things out in front of the police officer?

2 A. No.

3 Q. Did you intentionally add some new things  
4 today?

5 A. No.

6 Q. Well, you just admitted that you did. I  
7 don't understand. You said for the first time  
8 today --

9 A. Okay. I did not intentionally do  
10 anything. I remembered later.

11 MR. ITZEN: Judge, this is  
12 argumentative.

13 THE COURT: I'll allow the answer to  
14 stand. Thank you.

15 Q. (BY MR. LOW) I guess what I'm asking is  
16 did anybody make you say these things today?

17 A. No. No one can make me do anything.

18 Q. So you're the one who made the decision  
19 to say these things; right?

20 A. Would you prefer me to remember and leave  
21 it out?

22 Q. Ma'am, you're the one who made the  
23 decision to say these things today; correct?

24 A. Yes, because they're true.

25 Q. If they're true, then why did you



1 withhold them earlier? That's all I'm trying to  
2 figure out.

3 A. I wasn't withholding anything. That was  
4 part of the -- what I called the detective back  
5 and told him.

6 Q. The other one, if someone gets in my way,  
7 he will shoot, stomp their face, take care of  
8 them. Do you realize that you didn't say that  
9 anywhere on October the 4th, 2013?

10 A. Yes.

11 Q. But you said it today?

12 A. Yes.

13 Q. I mean, there's been a shooting, you  
14 believe that the detective, investigators are  
15 investigating John Knospler here, and you forget  
16 to tell them, oh, if he gets in the way, he will  
17 shoot them, stomp their face in the ground, and  
18 take care of them, that slipped your mind that  
19 morning?

20 A. I said in the ground or on the concrete.

21 Q. You didn't say it that morning, though,  
22 did you?

23 A. No, I didn't. Actually, I thought the  
24 person that they -- that they were saying did the  
25 shooting was a completely different guy.

1 Q. Didn't matter really who it is, why would  
2 you leave that out if it's true?

3 A. Again, that was another thing that I  
4 called the detective later.

5 Q. Are you --

6 A. I wasn't thinking of the violent stuff.  
7 I don't know. It was just too much that night.

8 Q. Yes. Are you able to prove with any  
9 other evidence these things that you claim he said  
10 to you?

11 MR. ITZEN: Judge, I'm going to  
12 object. That's an improper question. She doesn't  
13 have to do that.

14 MR. LOW: I didn't say she does.  
15 I'm just asking her if she has it.

16 THE COURT: I think the word *prove*  
17 is inappropriate, and it sort of has an  
18 argumentative tone to it. You might reask, but  
19 I'll sustain.

20 MR. LOW: I'll reask, Your Honor.

21 Q. (BY MR. LOW) Are you aware there's  
22 cameras that record in the club?

23 A. Yes.

24 Q. And you're aware that when they're  
25 watching, they'll record it on some device so it

1 memorializes it?

2 A. Uh-huh, yes.

3 Q. And have you seen any video footage of  
4 you having a conversation with John Knospler?

5 A. No. I wish I would. I'm pretty sure  
6 it's funny because he tried to touch my side and I  
7 moved.

8 Q. Because you don't want men touching you  
9 in that bar; is that right?

10 A. I do not put up with that. I never did.  
11 I got in trouble for not putting up with that.

12 Q. And do you have any video coverage of the  
13 creepy cheeser smile that you have labeled him  
14 with?

15 A. No. I think he was always looking this  
16 way when he would do it. The cameras are from  
17 this angle.

18 Q. So we'll just have to take your word for  
19 it; right?

20 A. Sure, yes.

21 MR. LOW: Thank you.

22 THE COURT: Redirect examination,  
23 Mr. Itzen.

24 MR. ITZEN: Yes, sir.

25

## 1 REDIRECT EXAMINATION

2 BY MR. ITZEN:

3 Q. Now, you told Detective Ellis about the  
4 argument in the bar about the mountain ranges?

5 A. Yes.

6 Q. And that, in fact, the defendant made you  
7 uncomfortable?

8 A. Yes.

9 Q. And you told Detective Ellis that he  
10 attempted to buy you a drink?

11 A. Yes.

12 Q. And that you don't drink after 9:00 p.m.?

13 A. Yes.

14 Q. You told Detective Ellis that the  
15 defendant was acting strange or different all  
16 evening?

17 A. Uh-huh, yes.

18 Q. You told Detective Ellis where you were  
19 sitting with the defendant in that bar; correct?

20 A. Yes.

21 MR. LOW: Objection, Your Honor.  
22 That's four leading questions in a row.23 MR. ITZEN: Your Honor, they're  
24 prior consistent statements.

25 THE COURT: I'll allow in this form

1 relative to the references to any prior consistent  
2 statements because I think it would shorten things  
3 up, so I'll allow.

4 Q. (BY MR. ITZEN) Defense attorney asked  
5 you about, well, you didn't say this and that.  
6 Were you specifically asked those questions in the  
7 interview?

8 A. No.

9 Q. Did you try to give as much detail about  
10 the shooting as you could or what you knew of it?

11 A. Yes.

12 Q. And you said you wrote down some things  
13 when you got home?

14 A. Yes.

15 Q. What did you write down?

16 A. I wrote down the violent comments. I --  
17 I wrote down a lot of different things. I also --  
18 I wrote down, you know, what the detective asked  
19 me, what I said then also because I knew if it  
20 ever came up again, it would probably be a long  
21 time. I wrote down how the other girls felt about  
22 him, like how most of the other girls wouldn't sit  
23 with him because they were creeped out. I just --  
24 I tried to write down as much as I could to try to  
25 write down how I felt.

1 Q. Sure. Had you ever been through a  
2 situation like this?

3 A. No.

4 Q. How much did you drink that evening?

5 A. Just a couple drinks. Two I think. And  
6 then later when a regular customer was in, I was  
7 drinking some stuff that we put in alcohol to make  
8 it not taste like alcohol just because he likes to  
9 drink and giving him the illusion that I'm  
10 drinking helps.

11 Q. They're nonalcoholic drinks?

12 A. Yeah.

13 MR. ITZEN: I believe that's all the  
14 questions I have for you. Thank you.

15 THE COURT: Thank you, Counsel.  
16 Anything on recross, Mr. Low?

17 RECROSS-EXAMINATION

18 BY MR. LOW:

19 Q. Just did you see the shooting that night?

20 A. No.

21 Q. So you have no idea whether -- never  
22 mind. That would just be argumentative.

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

25 THE COURT: Thank you, Ms. Mize.

1 You may step down, and you're excused from any  
2 subpoena, process in the case, free to go. Thank  
3 you.

4 THE WITNESS: Thank you.

5 THE COURT: The State may call its  
6 next witness.

7 MR. ITZEN: Your Honor, State would  
8 call Elizabeth Tatton.

9 THE COURT: What was the last name?

10 MR. ITZEN: Tatton.

11 THE COURT: Please come forward, if  
12 you would. The Clerk of Court to my left will  
13 give you the oath, and then you'll sit over to the  
14 other side; okay?

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

20 THE WITNESS: Yes.

21 THE CLERK: Around the table and  
22 over to that chair.

23 ELIZABETH TATTON,  
24 called for examination by the State, being first  
25 duly sworn, on her oath testified as follows:

## 1 DIRECT EXAMINATION

2 BY MR. ITZEN:

3 Q. Good afternoon, ma'am.

4 A. Hi.

5 Q. Could you please state your name.

6 A. Elizabeth Tatton.

7 Q. And did you recently get married and  
8 change your last name?

9 A. Yes.

10 Q. What did it used to be October of last  
11 year?

12 A. Carroll-Abaunza.

13 Q. All right. Do you recall the night of  
14 October 3rd of last year?

15 A. Yes.

16 Q. Where were you working back then?

17 A. At Racks.

18 Q. And how long had you been there?

19 A. Like, a month and a half.

20 Q. All right. And what did you do at Racks?

21 A. I was a dancer.

22 Q. What time did you have to be at work?

23 A. Usually 5:00.

24 Q. Excuse me. And then what time would you  
25 start dancing?



1 A. I think around 8:00.

2 Q. All right. What would you do between the  
3 hours of 5:00 to 8:00?

4 A. Just talk with people.

5 Q. And when you got there that evening, how  
6 busy was the bar?

7 A. It wasn't busy at all.

8 Q. Did you go up and talk with anyone?

9 A. I did.

10 Q. Allow me to show you State's 216. Do you  
11 recognize the person in that photo?

12 A. Yes.

13 Q. Did you have a conversation with him that  
14 evening?

15 A. Yes.

16 Q. Now, when you were speaking with him, did  
17 you ever notice if he left the bar and came back?

18 A. Yeah.

19 Q. And when he'd come back, would he sit in  
20 the same position as he was before?

21 A. Yes.

22 Q. How much time did you spend with him that  
23 evening would you say?

24 A. Over an hour.

25 Q. As you spoke with him, how would you

1 describe his level of impairment?

2 A. I could definitely tell he was -- I don't  
3 know how to explain it. He wasn't all there.

4 Q. All right. And how did your conversation  
5 with him start?

6 A. With inspirational things.

7 Q. All right.

8 A. About life.

9 Q. Like what?

10 A. You got to work hard for things,  
11 nothing's free, living life to the fullest.

12 Q. Did his demeanor change from that  
13 inspirational tone?

14 A. Yes.

15 Q. And how did it change?

16 A. He started sounding like he was sad,  
17 depressed.

18 Q. Do you know why he kept going outside?

19 A. I don't.

20 Q. And why did you quit talking to him?

21 A. I had to go put my songs in and get ready  
22 to dance.

23 Q. All right. Did you see him go up to the  
24 stage?

25 A. No.

1 Q. Or interact with other patrons?

2 A. I didn't, no.

3 Q. How did the defendant spend most of his  
4 night inside Racks?

5 A. As far as I saw, just sitting by himself.

6 Q. Now, did you also meet an individual by  
7 the name of Kade Baldwin?

8 A. I did.

9 Q. And how did you meet him?

10 A. Andujar introduced us.

11 Q. All right. Did you see Kade causing any  
12 fights or troubles that you noticed inside the  
13 bar?

14 A. I did not.

15 Q. How would you describe Kade's level of  
16 intoxication?

17 A. Very drunk.

18 Q. What makes you say that?

19 A. Slurring his words, could barely -- he  
20 couldn't even really stand up on his own.

21 Q. Was he using anything for balance?

22 A. Yes.

23 Q. What was that?

24 A. Andujar and I.

25 Q. And how was he doing that?

1 A. Just had his arm around us.

2 Q. And where was Kade and his group of  
3 friends inside the bar, do you recall?

4 A. By the pool tables.

5 Q. And was that close to where the defendant  
6 was setted -- seated? Excuse me.

7 A. It was across the way where he was  
8 sitting.

9 Q. All right. Did you notice when Kade left  
10 the bar that evening?

11 A. I did not.

12 Q. And how did you know anything happened in  
13 the parking lot?

14 A. Andujar told me.

15 Q. All right. And have you since quit  
16 working at Racks?

17 A. Yes.

18 Q. How long after this did you quit working?

19 A. Very shortly after.

20 Q. Have you had any contact with the other  
21 folks that used to work at Racks?

22 A. No.

23 MR. ITZEN: Your Honor, if I could  
24 just have a moment.

25 THE COURT: Surely, you may.

1 MR. ITZEN: I have no further  
2 questions. Mr. Low may have a question.

3 THE COURT: Cross-examination,  
4 Counsel, Mr. Low?

5 MR. LOW: Thank you, Your Honor.  
6 Appreciate it.

7 CROSS-EXAMINATION

8 BY MR. LOW:

9 Q. Good afternoon, ma'am.

10 A. Hi.

11 Q. How are you?

12 A. Good.

13 Q. Okay. Is it your memory that you spoke  
14 to or conversed with Mr. Knospler about one to two  
15 hours?

16 A. Yes.

17 Q. Okay. And when you would be walking  
18 around sometimes, when you weren't sitting next to  
19 him, you would look over, and you'd see him  
20 texting on his phone the entire time?

21 A. I saw him sitting there, yes.

22 Q. Texting on his phone?

23 A. I never saw him texting on his phone.

24 Q. I'm sorry?

25 A. I saw him sitting there.

1 Q. Did you not see him texting on his phone?

2 A. I can't recall.

3 Q. Okay. That -- I understand. It's been  
4 about a year; right?

5 A. Yes.

6 Q. Well, did the detective take a statement  
7 from you the morning of October the 4th, early in  
8 the morning?

9 A. Yes.

10 Q. And did he ask you some questions about  
11 what you remembered?

12 A. Yes.

13 Q. And then did you say the following to  
14 him? Detective says: Or he moved there when you  
15 got up to do your dance?

16 And did you say: I saw him sitting back  
17 there the whole time and --

18 The detective says okay.

19 And then you say, quote, Like, when I  
20 would be walking around when I wasn't dancing, all  
21 I would see was him, he was on his phone, like,  
22 the entire time.

23 Right?

24 A. Every time I would look over, he was  
25 sitting.

1 Q. And during any of that time, did you see  
2 him texting?

3 A. I can't recall right now.

4 Q. Okay. And is it true that when you would  
5 come up and talk with him, at one point, the two  
6 of you looked at his phone together?

7 A. Yes.

8 Q. And he was talking about being in the  
9 war?

10 A. He talked about military.

11 Q. And he talked about buddies, friends?

12 A. He did talk about friends.

13 Q. Friends of his, close friends that he  
14 lost in the war?

15 A. Yes.

16 Q. In fact, at one point, you looked at his  
17 phone and you saw a link on it, and the link when  
18 he touched it would come up and say something  
19 about a memorial to a fallen soldier or, in this  
20 case, a Marine?

21 A. It was just a list of names that I saw.

22 Q. And did you see anything about a memorial  
23 on the text or the link?

24 A. No. All I saw were a list of names.

25 Q. And you felt that, well, at that point,

1       you have had a lot of experience in your  
2       estimation with people in the military; correct?

3           A.     Yes.

4           Q.     In fact, you've even had a former spouse  
5       who is a combat vet?

6           A.     Yes.

7           Q.     And you have some experience with people  
8       who can be troubled by things they've seen in a  
9       war?

10          A.     Yes.

11          Q.     And as a result, your impression was that  
12       Mr. Knospler was just -- he was -- he's just  
13       awkward. Is that the word you used when you told  
14       the detective the morning of October the 4th?

15          A.     Yes.

16          Q.     And did you tell the detective about the  
17       Internet or the Facebook or something he was  
18       showing that -- no, it wasn't Facebook, it was,  
19       like -- and it literally was just a list; and then  
20       you could click on, like, the person's name, and  
21       it was a link that took you. And he clicked on  
22       some of them, and it said, you know, in loving  
23       memory. And it had a whole bunch of stuff about  
24       people, so.

25                 Did you tell the detective that the



1 morning of October the 4th?

2 A. I must have.

3 Q. About the names of people on the phone he  
4 was looking at?

5 A. Yep.

6 Q. Okay. And at some point, he was talking  
7 about some of his experiences in the military;  
8 isn't that right?

9 A. Yes.

10 Q. And how it involved people losing their  
11 life; correct?

12 A. Yes.

13 Q. And how he's, in service to his country,  
14 been asked by this country to kill people; isn't  
15 that right?

16 A. Yes.

17 MR. ITZEN: Judge, I'm going to  
18 object to that, it's argumentative, and it's  
19 outside the scope of direct.

20 THE COURT: I'll overrule. You may  
21 answer.

22 A. Can you repeat it?

23 Q. (BY MR. LOW) Yes. And that how the  
24 Government has asked Mr. Knospler to do things for  
25 them overseas in combat which involved killing

1 people; correct?

2 A. That's what the Army is, yes.

3 Q. That's what he said, that's what he was  
4 saying; right?

5 A. Yes.

6 Q. Okay. And the detective -- well, you  
7 told the detective you thought John was a happy  
8 drunk, he was just trying to be cool; right?

9 A. I don't recall that.

10 Q. Were you asked this question on the  
11 morning of October the 4th and did you give this  
12 answer. Okay, says the detective -- and it's not  
13 this gentleman here, is it? It's a different  
14 detective; correct?

15 A. Yes.

16 Q. Okay. And when he was getting in  
17 Andujar's face, that confrontation -- it says that  
18 confrontational with him -- that's a typo, I think  
19 it's probably asking was he confrontational with  
20 him.

21 And your answer was, No, it was just,  
22 like, the happy drunk. Like, just to -- he was  
23 just trying to be cool, I guess.

24 Were you asked that question and did you  
25 give that answer?

1 A. Yes.

2 Q. And did you tell the detectives that John  
3 Knospler was just laughing quite a bit, just  
4 laughing a lot?

5 A. Yeah.

6 Q. Now, later that evening, you did bump  
7 into Mr. Baldwin; correct?

8 A. Yes.

9 Q. And is it fair to say that he was  
10 celebrating his birthday?

11 A. Yes.

12 Q. And he was buying himself some lap  
13 dances?

14 A. I'm not sure about that.

15 Q. Are you not -- well, let me ask you. I  
16 asked you two questions in one. That was my  
17 fault. Let me do it better. Did you notice  
18 whether or not Mr. Baldwin got some lap dances?

19 A. I did not notice.

20 Q. Okay. And when you first interacted with  
21 Mr. Baldwin, you thought he was rude; isn't that  
22 correct?

23 A. He was just really drunk.

24 Q. Yes. But you also thought he was rude;  
25 isn't that correct?

1           A.     Yes, he was a little rude.

2           Q.     And why did you tell the detectives you  
3 thought he was rude?

4           A.     Just some of the comments he said.

5           Q.     To who? Who was he saying them to?

6           A.     To me.

7           Q.     Anybody else?

8           A.     I don't recall him saying anything to  
9 anybody else.

10          Q.     Were you asked this question and did you  
11 give this answer to the detective on the morning  
12 of October the 4th. That -- here's the question:  
13 What about when you got introduced to him --  
14 referring to Mr. Baldwin.

15                   Your answer: That was a little earlier.  
16 I remember seeing him, like, I was sitting at a  
17 table here with some guy. This is before I met  
18 him. And I thought he was rude because he was  
19 being rude to some guys.

20                   Question: Met this guy?

21                   Answer: Yeah.

22                   Detective: Met this guy.

23                   Yeah.

24                   Detective: Okay.

25                   And your response: And so I thought he

1 was being really rude because him and his friend  
2 were walking past, and these guys were sitting  
3 here. And they're, like, I don't even know what  
4 they are, Arabian or something. And I was just  
5 talking with them, and -- or -- no, I'm sorry. It  
6 was just the white guy that was sitting there with  
7 me.

8 Detective: Okay.

9 Did you give -- were you asked those  
10 questions and did you give those answers on the  
11 morning of October the 4th?

12 A. I must have.

13 Q. And you went on to say: And that -- just  
14 the white guy, and they walked by and kind of made  
15 a comment. And his friend asked him, Hey, do you  
16 want to go up and throw some dollar bills up there  
17 while he was talking to me. And he kind of, like,  
18 was stumbling his words like, quote, I don't know  
19 if I want to, end quote. And then he just kind of  
20 mouthed off. It was like, quote, either you do or  
21 you don't, end quote.

22 So I thought he was rude at first. And  
23 then the other -- and then the two other times I  
24 talked to him, he was not rude or anything, so.

25 Is that another answer that you gave?

1           A.     I don't remember all that.

2           Q.     Okay.  And it's true that during the hour  
3     or two hours you spent with Mr. Knospler, he  
4     didn't show any anger during that time while  
5     talking to you; isn't that true?

6           A.     Yes.

7           Q.     He just -- in your words, he just kept  
8     laughing and telling his stories and that was it,  
9     laughing and telling his stories; isn't that  
10    right?

11          A.     Yes.

12          Q.     And you said, So that was what was weird  
13    is I just thought he was a little messed up.  I  
14    just thought he was awkward because of PTSD or  
15    something.  I didn't think he would do anything.

16                 Isn't that what you told the detective?

17          A.     Yes.

18                         MR. LOW:  Thank you, Your Honor.

19    That's all I have.

20                         THE COURT:  Thank you.

21                         Anything on redirect, Mr. Itzen?

22                                 REDIRECT EXAMINATION

23    BY MR. ITZEN:

24          Q.     Were some of the stories he's telling you  
25    about about drugs?

1 A. Yes.

2 Q. And specifically cocaine?

3 A. Yes.

4 Q. Now, you said Kade was rude when you  
5 spoke to him. Why did you think that?

6 A. Just because he said he wouldn't buy a  
7 dance.

8 Q. A dance from you?

9 A. Yeah.

10 Q. Was he rude by his behavior or just his  
11 words to you?

12 A. It was just more he was really drunk.

13 Q. Thank you for your time, ma'am.

14 A. Uh-huh.

15 THE COURT: Anything on recross,  
16 Counsel?

17 MR. LOW: No thank you, sir. No  
18 thank you, Your Honor.

19 THE COURT: Ms. Tatton, could you  
20 spell your last name and make sure we have it  
21 right.

22 THE WITNESS: T-A-T-T-O-N.

23 THE COURT: Thank you very much.  
24 I'm glad I asked. You're free to step down,  
25 you're excused, and you're excused from any

1 subpoena; okay?

2 THE WITNESS: Okay.

3 THE COURT: State may call its next  
4 witness.

5 MR. ITZEN: Your Honor, State would  
6 call Kara Sterner.

7 THE COURT: Please come forward, if  
8 you would. The Clerk of Court to my left will  
9 give you the oath, and then -- you can come right  
10 through the middle there, and then we'll have you  
11 sit over to the other side.

12 THE CLERK: Please raise your right  
13 hand. You do solemnly swear that the testimony  
14 you will give in the case before the Court will be  
15 the truth, the whole truth, and nothing but the  
16 truth, so help you God?

17 THE WITNESS: Yes.

18 THE COURT: I would ask you to speak  
19 into the microphone. It is adjustable, so you can  
20 move it. But speak directly into it if you would.  
21 Thank you.

22 KARA STERNER,  
23 called for examination by the State, being first  
24 duly sworn, on her oath testified as follows:

25



## DIRECT EXAMINATION

1  
2 BY MR. ITZEN:

3 Q. Good afternoon.

4 A. Hi.

5 Q. Could you please state your name.

6 A. Kara Sterner.

7 Q. And do you recall the night of October  
8 3rd of last year?

9 A. Yes.

10 Q. Did you know Kade Baldwin?

11 A. Yes.

12 Q. How did you know him?

13 A. He was my best friend.

14 Q. And how long have you -- how long did you  
15 know him?

16 A. About a year and a half.

17 Q. All right. Was there a text conversation  
18 between the two of you in the late afternoon of  
19 October the 3rd?

20 A. Yes.

21 Q. And what was that about?

22 A. It was his birthday. I had texted him  
23 around 4:30, told him happy birthday. He asked if  
24 I wanted to go out with him for his birthday, so I  
25 said yes. He was going to meet me at my house.

1 He got there before I did and told me he was  
2 there, and then I met him there shortly after  
3 that.

4 Q. All right. And you were living in  
5 Evansville at the time?

6 A. Yes.

7 Q. Do you recall what time you got home and  
8 Kade was there?

9 A. I want to say about 6:00, 6:30.

10 Q. All right. Was anyone else to go with  
11 the two of you that evening?

12 A. Yes. Christopher Syverson was with us.

13 Q. All right. Now, how long did you guys  
14 stay at your house before you left?

15 A. About an hour, maybe a little longer.  
16 Kade was taking a shower and doing a load of  
17 laundry before we went.

18 Q. All right. And was that common for him?

19 A. Yeah.

20 Q. And when Kade was at your home, describe  
21 his demeanor.

22 A. Happy. He was excited it was his  
23 birthday.

24 Q. All right. Now, when you left to go to  
25 the bar, who drove?

1 A. Kade did.

2 Q. And what type of car did Kade have?

3 A. A black Ford Fusion, I think it was.

4 Q. Let me show you -- I'll show you State's  
5 Exhibit 103. Do you recognize that vehicle?

6 A. Yes.

7 Q. Whose vehicle is that?

8 A. That's Kade's car.

9 Q. And was that the car you guys rode to  
10 Racks in that night?

11 A. Yes.

12 Q. When you start to leave your home, what's  
13 the weather like?

14 A. It was okay. It was starting to get  
15 chilly, but it hadn't quite started snowing yet.

16 Q. And from your house, where do you go?

17 A. We started heading out towards Racks, and  
18 we stopped at a house in Mills. Kade said that he  
19 had to stop at a buddy's house. We stopped there,  
20 and it had just about started snowing about that  
21 time.

22 Q. All right. And then from that stop, do  
23 you go to Racks?

24 A. Yes.

25 Q. And once inside, where do the three of

1 you go?

2 A. I stayed in the car. Chris and Kade had  
3 gone inside the house.

4 Q. All right. And once you leave the home  
5 and go to Racks, where do you guys go inside the  
6 bar?

7 A. Oh, inside the bar?

8 Q. Yes, I apologize.

9 A. We walked in and I walked left. I  
10 believe Kade went straight to the bar first and  
11 got some drinks while we went -- me and Chris went  
12 and got a table.

13 Q. And was that close to the pool tables?

14 A. Yes. It was at the very end by the pool  
15 tables.

16 Q. Let me show you 341. I believe it's  
17 already been introduced. Does this roughly show  
18 the area?

19 A. It's changed since then. I can't be for  
20 sure.

21 Q. All right. The pool tables are different  
22 directions?

23 A. Uh-huh, yeah.

24 Q. But you were next to the pool tables?

25 A. Yes.

1 Q. Did you generally stay in that area all  
2 evening?

3 A. For the most part, yes.

4 Q. And how was Kade's demeanor once he was  
5 inside the bar?

6 A. Good. He was happy, hanging out, started  
7 playing pool, chitchatting with everybody.

8 Q. Did you notice any problems with anyone  
9 inside the bar?

10 A. No.

11 Q. Now, Kade was working then; correct?

12 A. Yes.

13 Q. And who was buying the drinks?

14 A. Kade.

15 Q. How much did you have?

16 A. I probably had six to eight beers and a  
17 couple shots.

18 Q. All right. Do you recall how much Kade  
19 had to drink?

20 A. Close to double that.

21 Q. Did Kade ever go outside?

22 A. Once that I know of for sure. He told me  
23 he got hot and wanted to go outside and cool off  
24 for a minute.

25 Q. All right. Did anyone ever go out with

1 him?

2 A. I know Chris did at one point, that one  
3 time; but I don't know if there was any other  
4 times for sure.

5 Q. Now, was there a time in the evening that  
6 you decided you wanted to go home?

7 A. Yes.

8 Q. Do you recall about what time that was?

9 A. I was supposed to pick up my son around  
10 10:00, 10:30. And that's when I had started  
11 talking to them about leaving, and they didn't  
12 want to go. So I talked to my baby-sitter. She  
13 said it was fine, I could take another hour. So  
14 about 11:30, I told them I had to go, and we  
15 needed -- all of us needed to go together.

16 Q. All right. Did everyone decide they were  
17 going to leave together at about that 11:30 mark?

18 A. No. Kade didn't want to go. He had a  
19 conversation back and forth whether he was going  
20 to stay or go. And finally I told him, It's your  
21 birthday, you can stay. Chris was going to come  
22 back and get him after he took me and my son home,  
23 was going to get his truck and go back and get  
24 Kade because it had been snowing.

25 Q. All right. And Kade was part of that

1 conversation?

2 A. Yes.

3 Q. And was he okay with being left behind?

4 A. Yeah.

5 Q. How would you describe Kade's level of  
6 intoxication when you're getting ready to go?

7 A. He was really drunk but he wasn't falling  
8 over.

9 Q. All right. And how were you to get home,  
10 then, if Kade had driven there?

11 A. Because Chris wasn't drinking very much  
12 and he slowed down at the end of the night, he had  
13 only had a few from what I know of, and he was  
14 fine to drive.

15 Q. All right. So --

16 A. That was the plan from the beginning.

17 Q. And do you leave right at 11:30 or is it  
18 after that?

19 A. I had walked out of the bar probably  
20 around 11:45, and Chris was talking to Kade  
21 inside. And so I waited in the car for a good 15  
22 or 20 minutes before we left.

23 Q. So you leave around midnight?

24 A. Yeah.

25 Q. And how is the weather when you're

1 getting ready to leave?

2 A. Bad. It was snowing pretty hard.

3 Q. And up to that point, had you seen any  
4 problems with Kade at all that evening?

5 A. Not one.

6 Q. And was that your last contact with Kade?

7 A. Yes.

8 MR. ITZEN: If I can have a moment,  
9 Judge.

10 THE COURT: Yes, sir.

11 MR. ITZEN: That's all the questions  
12 I have. Thank you for your time.

13 THE WITNESS: Thank you.

14 MR. ITZEN: Mr. Low will have some  
15 questions.

16 THE COURT: Thank you.

17 Cross-examination, Mr. Low.

18 MR. LOW: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. LOW:

21 Q. Good afternoon, ma'am.

22 A. Good afternoon.

23 Q. I see you have long black hair?

24 A. Yes.

25 Q. Was your hair like that on the evening of



1       October the 3rd, 2013?

2           A.     Yes.

3           Q.     And through the course of either later  
4       that -- let me back up. Mr. Baldwin is your best  
5       friend, you say?

6           A.     Yes.

7           Q.     I imagine you probably gave him a hug  
8       when you saw him the first time on October the  
9       3rd?

10          A.     Yes, I -- at my house.

11          Q.     Sure. And maybe through the course of  
12       the evening, you may have given him a few other  
13       hugs or, like, buddy hugs, or?

14          A.     Yeah. That was normal for us.

15          Q.     Right?

16          A.     Uh-huh.

17          Q.     So if long black hairs, your long black  
18       hairs were found on his T-shirt, that would be  
19       quite usual?

20          A.     Yeah.

21          Q.     Okay. And it's true that on the way to  
22       the bar that evening, you rode in Mr. Baldwin's  
23       car?

24          A.     Yes.

25          Q.     And your -- is it proper to call him your

1        boyfriend, Chris Syverson?

2            A.        He was my boyfriend at the time, yes.

3            Q.        Right.    And he was in the car also?

4            A.        Yes.

5            Q.        And Chris Syverson, where was he sitting  
6        in the car?

7            A.        In the backseat.    I don't remember which  
8        side.

9            Q.        And you were sitting in?

10          A.        The front seat, passenger's seat.

11          Q.        Got it.    Now, is it your opinion that Mr.  
12        Baldwin that evening -- well, let me -- is it your  
13        opinion that Mr. Baldwin, when he gets to  
14        drinking, can get pretty mouthy; is that right?

15          A.        Yeah, just joking wise.    Not in an angry  
16        tone at all.

17          Q.        And when he gets mouthy, it's your  
18        opinion that he kind of puffs up; isn't that  
19        right?

20          A.        Little bit.

21          Q.        And that evening -- sorry.    Earlier that  
22        evening, the way this plan came together was that  
23        Kade texted you and asked you about coming over to  
24        your house?

25          A.        Yes.

1 Q. And then you remembered because -- well,  
2 he told you that it was his birthday. And you  
3 said, Oh, you know what, you're right. I'm sorry.  
4 I meant to text you earlier today. I forgot to do  
5 it. But now that we're texting, words to the  
6 effect, happy birthday to you?

7 A. That's right.

8 Q. Maybe even very happy birthday?

9 A. Uh-huh.

10 Q. I'm sorry. You gotta say "yes" or "no"  
11 for the court reporter.

12 A. Yes.

13 Q. And then he said that he wanted to go to  
14 the club?

15 A. Yes.

16 Q. And do you remember the words that were  
17 used to describe where you all were going to go?

18 A. He said, I want to go see some titties.

19 Q. Sure. That's how places like this are  
20 commonly referred to; right?

21 A. Yes.

22 Q. And your response was, well, you're  
23 broke?

24 A. Uh-huh. Yes.

25 Q. But because you guys are best friends, he

1 said he's paying?

2 A. Yes.

3 Q. And that's what he did that evening;  
4 right?

5 A. Yes.

6 Q. And he bought lap dances for himself;  
7 right?

8 A. Yes.

9 Q. And he also bought -- well, did you see  
10 if he bought them for anybody else?

11 A. I am not aware if he did or not.

12 MR. LOW: Thank you. I appreciate  
13 it. That's all we have, Your Honor.

14 THE COURT: Redirect examination,  
15 Mr. Itzen?

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

17 THE COURT: Okay. Thank you very  
18 much, Ms. Sterner. You may step down. You're  
19 free to go and excused from any subpoena.

20 THE WITNESS: Thank you.

21 THE COURT: Thank you.

22 State may call its next witness.

23 MR. ITZEN: State would call Chris  
24 Syverson.

25 THE COURT: Mr. Syverson, please

1       come up to the Clerk of Court and take oath, and  
2       then you'll sit over to the other side after  
3       sworn.

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

9                   THE WITNESS:  I do.

10                  THE CLERK:  Please be seated.

11                  THE COURT:  And we do ask that you  
12       speak into that microphone.  It is adjustable, so  
13       you can move it if you need to.  Thank you.  You  
14       may proceed.

15                   CHRISTOPHER SYVERSON,  
16       called for examination by the State, being first  
17       duly sworn, on his oath testified as follows:

18                   DIRECT EXAMINATION

19       BY MR. ITZEN:

20           Q.     Good afternoon, sir.

21           A.     Hi.

22           Q.     Could you please state your name.

23           A.     My name is Christopher James Syverson.

24           Q.     And do you recall the night of October  
25       3rd of last year?

1 A. Yes, I do.

2 Q. Did you meet up with Ms. Sterner and Kade  
3 Baldwin that evening?

4 A. Yes, I did.

5 Q. Where did you meet them?

6 A. I think we met up at Kara's house in  
7 Evansville, 1411 Sixth Street.

8 Q. How did you know Kara back then?

9 A. I -- she -- at the time, we were dating.  
10 I had met her previous at the Sandbar, and we hung  
11 out years prior.

12 Q. All right.

13 A. And I -- and basically just had a  
14 relationship in the past.

15 Q. I apologize for interrupting. How did  
16 you know Kade?

17 A. There was a time I was gone that Kade and  
18 Kara had met and they were friends, and when I  
19 came back, they -- I met Kade through Kara.

20 Q. All right. And did you meet up with both  
21 of those at Kara's home that evening?

22 A. Yeah, yes.

23 Q. Do you recall about what time you got  
24 there?

25 A. No, I do not.

1 Q. When you arrived, was Kade already there?

2 A. Yes.

3 Q. And where were you going to head that  
4 evening or go to?

5 A. The plan was to go out to the strip club,  
6 out to Racks, and celebrate Kade's birthday.

7 Q. And how did you guys get out there?

8 A. We drove in Kade's brother's car. It's a  
9 black Ford Focus. Kade drove us out there  
10 basically.

11 Q. All right. Let me show you 103. Is that  
12 the vehicle?

13 A. Yes, it is.

14 Q. Now, as you guys left Kara's house, who  
15 was driving?

16 A. Kade was.

17 Q. And where did you go from Kara's house?

18 A. We drove out -- there was a house in  
19 Mills. I don't recall the address, but it was one  
20 of Kade's friends. I believe it was one of his  
21 work buddies. He stopped there to pick up some  
22 money from him, and we went inside and had a beer,  
23 they talked, he gave him fifty dollars, told him  
24 happy birthday, and then we left and went to the  
25 strip club.

1 Q. All right. When you arrived at the strip  
2 club, do you remember where you parked?

3 A. Kade parked the car.

4 Q. All right. Do you recall where that was?

5 A. It was out by the fence, kind of to  
6 the -- if you walk out the door, kind of to the  
7 right, and he pulled in.

8 Q. All right. Let me show you what's  
9 already been entered into evidence as 333. Does  
10 this generally show the area where Kade pulled in  
11 to?

12 A. Yes, it does.

13 Q. And I think you might be able to touch  
14 your screen and circle the area where he parked.

15 A. Probably somewhere in this general area.

16 Q. All right. Kind of by the yellow poles?

17 A. Yeah. It's -- it would be better if I  
18 could tell from the door, but he did park out  
19 towards -- away from the building towards the  
20 fence.

21 Q. All right. Now, how was Kade's demeanor  
22 that evening?

23 A. He seemed like every other day, just  
24 wanted to go out and celebrate, have fun.

25 Q. All right. Did that ever change through



1 the night?

2 A. No.

3 Q. Once you get inside the bar, where do you  
4 guys go have a seat?

5 A. We kind of walked past the stage toward  
6 the end where the pool tables are, and we got a  
7 table back toward kind of the back corner of the  
8 building.

9 Q. All right. Were you drinking when you  
10 were at the bar?

11 A. Yes, we were.

12 Q. How much did you have to drink would you  
13 say?

14 A. I was drinking about a beer every hour to  
15 hour and a half because I knew I was going to be  
16 driving later. And then towards the end before I  
17 left, I had a few vodka drinks, too.

18 Q. All right. And who was paying for  
19 drinks?

20 A. I don't really recall. I know Kade had  
21 some money, I might have had a few dollars here  
22 and there, but I don't recall who all paid for  
23 drinks the whole time.

24 Q. Were there any problems inside the bar?

25 A. No, not that I recall.

1 Q. Was there a time that you and Kade went  
2 outside?

3 A. The video that you showed me in your  
4 office, that showed me and Kade going outside.

5 Q. All right. Was there a time that you  
6 went outside?

7 A. Yeah. There was a time I went out to  
8 clear off the car. And as I was walking out  
9 there, Kade was already in the parking lot. He  
10 was walking towards me, and there was a person  
11 behind him. He was saying that the gentleman that  
12 he was with wanted to smoke marijuana and asked me  
13 if I wanted to come with them. And I told him no,  
14 and then he -- he asked me if I had a lighter. I  
15 told him it was in on the table. And then I  
16 continued to -- I walked toward the car to clean  
17 it off. And as I was walking back in, Kade was  
18 coming out with the lighter and was, like, Hey,  
19 where did that guy go? And I was, like, I don't  
20 know, man. I was, like, It's kind of weird; let's  
21 just go back inside.

22 Q. Can you describe the fellow?

23 A. It was a guy. He was shorter than Kade.  
24 He had a really dark beard. He had some kind of  
25 hat on or a hoodie. I couldn't really make out

1 his face. I just remember him having a hat, but I  
2 can just remember he had dark facial hair.

3 Q. And how long did you spend outside  
4 cleaning the car off?

5 A. I don't remember. Probably a couple  
6 minutes.

7 Q. All right.

8 A. I was kind of surprised there was no ice  
9 on the windshield since, you know, usually you  
10 pull up a car at the bar and it's snowing, it  
11 would melt the snow and then it will freeze to  
12 ice. But I just brushed off all the snow, and  
13 when I went back in, like I said, I ran into Kade  
14 coming back out.

15 Q. And how long were you at the bar that  
16 evening would you say?

17 A. I don't remember what time exactly we got  
18 there. Maybe 9:00, 9:30. But I think I left  
19 around 12:15 to take Kara back to my sister's  
20 house.

21 Q. Did Kara want to leave before you and  
22 Kade were ready to go?

23 A. The plan was, initially in the night, she  
24 was going to go back around maybe 11:00 or 12:00  
25 because my sister was watching her son. And so we

1       were, like, kind of lost track of time; but we  
2       wanted -- I wanted to try to get her home by at  
3       least 12:00, and then I was supposed to go back  
4       and get Kade.

5           Q.     All right.  And whose vehicle were you  
6       going to use to take Kara home?

7           A.     It was Kade's -- that black Ford Focus.  
8       It was his brother's.  He told me -- that's, like,  
9       the last word he said to me is "don't wreck my  
10      brother's car."

11                  But previously that night, I told him that  
12      I was going to take his brother's car to my  
13      sister's house, drop it off and pick up my truck  
14      since it was snowing, and I figured four-wheel  
15      drive would be better.

16           Q.     Sure.  Did you tell him that you and Kara  
17      were going to leave?

18           A.     Yeah.  I walked up to him and said, Hey,  
19      me and Kara, I'm going to go take her right now,  
20      I'm going to get my truck, I'll be back.  And  
21      that's when he told me, Don't wreck my brother's  
22      car.  And I was, like, All right.  And I told him  
23      happy birthday and I walked out the door.

24           Q.     All right.  Why did Kade stay behind?

25           A.     I have no idea.  After we found out what

1       happened to him, Kara had told me that she was  
2       trying to get him to go with us.

3           Q.     Okay.  And was Kade part of the  
4       conversation of you coming back to pick him up?

5           A.     Yeah.  We had had the conversation  
6       basically more than once.

7           Q.     Was he okay with that?

8           A.     Yeah, he was fine.  Like I said, he told  
9       me not to wreck his brother's car and that he'd  
10      see me when I got back.

11          Q.     All right.  And were you able to get back  
12      to Kade that evening?

13          A.     No.  I -- when I got to my sister's  
14      house, Kara wanted me to take her to her house in  
15      Evansville.  So I switched to my truck, took her  
16      to Evansville, and to try to hurry back, I took  
17      the interstate.  The roads were really bad, and I  
18      ended up rolling my truck.

19                   MR. ITZEN:  All right.  Your Honor,  
20      if I can just have a moment.

21                   THE COURT:  Yes.

22          Q.     (BY MR. ITZEN)  When you left the bar  
23      that evening, how would you describe Kade's level  
24      of intoxication?

25          A.     I know that he had been drinking, but he

1       wasn't slurring his words. He didn't -- I don't  
2       think that he was that intoxicated at the time  
3       when I left.

4           Q.     All right. Did you see Kade have any  
5       altercations with anybody?

6           A.     No.

7           Q.     Was that his style, so to speak?

8           A.     No. He'd never really start stuff with  
9       people. He'd always try to introduce you to  
10      people, try and make friends. Every time I went  
11      out with him, there was always someone he knew  
12      from his past, and he always just wanted to  
13      introduce me to them and basically have everybody  
14      hang out and have a good time.

15                   MR. ITZEN: Thank you for your time.  
16      Mr. Low will have a couple questions for you.

17                   THE WITNESS: All right. Thank you.

18                   THE COURT: Thank you, Counsel.

19                           Cross-examination on behalf of the  
20      Defense.

21                   MR. LOW: Thank you.

22                           CROSS-EXAMINATION

23      BY MR. LOW:

24           Q.     Sir, do you recognize the gentleman on  
25      the far right here in the green blazer and the

1 green shirt and the green tie?

2 A. Yeah.

3 Q. Is that -- did you give him a statement  
4 as to what you recall from the events on October  
5 the 4th, 2013?

6 A. Yes, I do.

7 Q. And during that statement, did you tell  
8 him the truth?

9 A. Yes.

10 Q. Did you leave anything out?

11 A. No.

12 Q. Told him everything?

13 A. Yeah, that he asked.

14 Q. Sure. Did he ask you about if you'd gone  
15 outside or not that evening?

16 A. I think the initial statement, he --  
17 he -- I told him about the incident that I had  
18 mentioned at the parking lot.

19 Q. Let's go nice and slow on this now. On  
20 the morning of October the 4th, did you tell  
21 Mr. -- Detective Ellis everything or did you leave  
22 anything out?

23 A. No. I told him everything that he asked.

24 Q. And was it down at the police station?

25 A. Yes.

1 Q. Okay. And did you -- do you believe that  
2 you told him on the morning of October the 4th,  
3 2013, that Mr. Baldwin had come up to you and said  
4 he wanted to smoke marijuana with somebody?

5 A. Yes, I told him that.

6 Q. Okay. You're sure about that; right?

7 A. Yeah.

8 Q. And when you met with -- was it Mr.  
9 Itzen, a couple days ago?

10 A. I think it was a week ago, but.

11 Q. Sure. A week ago. And did you go over  
12 this testimony about the discussion about  
13 marijuana in the parking lot with Mr. Itzen?

14 A. Yes.

15 Q. You told him about it as well?

16 A. Yes.

17 Q. Okay. Did they give you any documents to  
18 review in preparation for your testimony today?

19 A. They gave me the report that the sheriff  
20 had wroten [sic] up from my interview --

21 Q. All right.

22 A. -- the first time.

23 Q. In fact, it was the interview that was  
24 typed up, that was Mr. -- I'm sorry, Detective  
25 Ellis's report; correct?



1 A. Yeah.

2 Q. And is it true that, well, nowhere in  
3 that interview did you see anything about  
4 marijuana?

5 A. Yeah. I don't -- I'm not sure if it said  
6 anything about marijuana or not.

7 Q. Well, you were reading it at the time  
8 they showed it to you just a week ago. Isn't it  
9 true that nowhere in that report does it say  
10 anything about marijuana?

11 A. I guess so. You have it in your hand,  
12 so.

13 Q. Well, I'll hand it to you because I make  
14 mistakes, and we want to be -- want to be precise  
15 on this.

16 MR. LOW: Sorry, gentlemen. I want  
17 to show him Bates number stamp 321 and 322.

18 Q. (BY MR. LOW) Do you know the name of the  
19 detective that took your statement on the morning  
20 of October the 4th, sir?

21 A. Yes, Mr. Ellis.

22 Q. All right. And is that his name on the  
23 bottom of the report?

24 A. Yes, it is.

25 Q. What does it say right here?

1 A. Interview, Christopher Syverson.

2 Q. Is that you?

3 A. Yes.

4 Q. Okay. Now go ahead and review that. If  
5 you notice, it goes here on the second page as  
6 well. There's both those pages. And just go  
7 ahead and review that.

8 A. In my review, no, it does not mention --

9 Q. Wait a minute. Do you see it anywhere in  
10 those two documents?

11 A. I just read my interview; I didn't read  
12 Kara's. But yes, I didn't see any mention of  
13 marijuana.

14 Q. This is the document you reviewed just  
15 about a week ago you said; right?

16 A. Yeah.

17 Q. Did you point out to the detective when  
18 you read it and said, Hey, sir, there's something  
19 missing from this report? Did you say that to  
20 him?

21 A. No.

22 Q. Why not?

23 A. Just didn't think I had to.

24 Q. Sorry?

25 A. I didn't think I had to.

1           Q.     You didn't think you had to tell him  
2 something about smoking, you know, the marijuana  
3 out in the parking lot?

4           A.     I had told him that in the interview. I  
5 just didn't think -- I didn't -- I guess I didn't  
6 catch that it wasn't in the report.

7           Q.     Out of fairness to you, it's not your job  
8 to -- to edit reports, is it?

9           A.     No.

10          Q.     Okay. Is it your memory, sir, that you  
11 told Mr. Baldwin just before you left -- well,  
12 first of all, you had to ask him for the key, is  
13 that correct, or had he given it to you earlier in  
14 the evening, to the car?

15          A.     I'm not sure. I believe Kara was already  
16 waiting out in the car, so she might have already  
17 had the keys.

18          Q.     And it's your memory that you told Mr.  
19 Baldwin that you would come back and get him in  
20 the truck?

21          A.     Yep.

22          Q.     And what color is the truck?

23          A.     It's gray.

24          Q.     And is it one of those small Toyota mini  
25 trucks or something different?

1 A. It's a Chevy short bed quarter ton.

2 Q. Big -- well, bigger truck?

3 A. Yes. It's bigger than a car is.

4 Q. Is it bigger than the car you guys came  
5 in that evening?

6 A. Yes, it is sir.

7 Q. Is it raised in anyway?

8 A. No.

9 Q. Has it got tires -- well, bigger tires  
10 than normal?

11 A. Than a car, yes, it does.

12 Q. Looks substantially different than the  
13 car you guys came in?

14 A. Yes, it does.

15 Q. And it's your understanding Mr. Baldwin  
16 knew that you would not be coming back to get him  
17 in his car?

18 A. Yes.

19 MR. LOW: Thank you, Your Honor.  
20 That's all I have.

21 THE COURT: Thank you very much.

22 Anything on redirect, Counsel for the  
23 State?

24 MR. ITZEN: Just briefly, Judge.

25

## REDIRECT EXAMINATION

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BY MR. ITZEN:

Q. In the report that you just read, are there things that you've told Investigator Ellis since then that are in the report?

A. Yes.

Q. Is this just a summary of what you said?

A. Yeah. It's basically a summary of my first interview.

MR. ITZEN: Thank you for your time.

THE COURT: Any request for anything on recross?

MR. LOW: No thank you, sir.

THE COURT: Okay. Thank you, Mr. Syverson. You may step down, you're free to go, excused from any subpoena in the case. Okay.

THE WITNESS: Thank you.

MR. LOW: Your Honor, in light of this, we have an issue that we need to take up when you're ready, of course.

THE COURT: Okay. Well, I was going to break for the afternoon break, so let's go ahead and do that.

Ladies and gentlemen of the jury, we'll excuse you at this time. And keep in mind the

1 admonition about not discussing the case with  
2 anyone, including one another, and we'll take a  
3 15-minute break.

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

7 THE COURT: Court will reconvene  
8 briefly. The record should reflect that the jury  
9 has exited.

10 Mr. Low, you wish to be heard?

11 MR. LOW: Thank you. And I will be  
12 very brief.

13 Your Honor, based on this witness, Mr.  
14 Syverson, and his disclosure of substantial  
15 information that was not disclosed to the  
16 Defense -- and I will give you the report as an  
17 exhibit when I file my motion -- as well as the  
18 prior witness, whose name is Crystal Mize, we've  
19 just heard testimony from two witnesses that they  
20 provided information to the Government that the  
21 Government has not provided to us.

22 And so what I wanted to do is I  
23 double-checked and triple-checked to make sure, in  
24 fact, I didn't have it; and I clearly don't. I  
25 will show them the report. So I just wanted the

1 opportunity to brief this issue because I'm going  
2 to be asking the Court to strike both witnesses  
3 and all of their testimony to not be considered as  
4 a result of two direct discovery violations.

5 I'll submit on that, Your Honor. I  
6 didn't want to argue it much. Just wanted to let  
7 you know that's what I was thinking so I made the  
8 record.

9 THE COURT: Okay.

10 Anything from the State?

11 MR. BLONIGEN: Your Honor, we gave  
12 them every scrap of paper we have and every video  
13 we have. And, in fact, Judge, in reference to Ms.  
14 Mize's statements, we laid those out in a pretrial  
15 motion. You know, I don't see where that is  
16 different from anything. She said it a little  
17 differently today, but certainly I don't care  
18 about other people, talked about shooting other  
19 people, cocaine, that's all in that -- the  
20 pretrial statement. So I don't know how it can be  
21 argued they didn't know about it. Moreover --

22 THE COURT: Let's just clarify that  
23 are you talking about Ms. Mize and Mr. Syverson  
24 or?

25 MR. LOW: Yes. The two witnesses

1 I'm referencing are Ms. Mize and Mr. Syverson,  
2 yes, sir.

3 THE COURT: Okay. Thank you.

4 Well, I appreciate the heads up. I'll be  
5 real interested in the authority and I guess the  
6 rules and case law that would support striking  
7 witness's testimony under those circumstances, and  
8 we'll take that up in due course.

9 But we'll go ahead and take our break at  
10 this time. Thank you.

11 MR. LOW: Thank you, Your Honor.

12 (At 3:17 p.m., a recess was  
13 taken until 3:35 p.m.)

14 THE COURT: Please be seated. Court  
15 will come back to order after the afternoon break.

16 I note the presence of the entire jury  
17 panel, the attorneys, and the defendant. And  
18 we're still in the State's case, so Mr. Itzen and  
19 Mr. Blonigen, you may call your next witness.

20 MR. ITZEN: State would call  
21 Jennifer Cormier.

22 THE COURT: Ms. Cormier, please come  
23 forward. The clerk here to my left will give you  
24 the oath, and then you'll sit on the other side.

25 THE CLERK: Please raise your right



1 hand. You do solemnly swear that the testimony  
2 you will give in the case before the Court will be  
3 the truth, the whole truth, and nothing but the  
4 truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Please be seated.

7 THE COURT: We do ask you to speak  
8 directly into the microphone. And it is  
9 adjustable, so you can move it a little bit if you  
10 need to. Counsel, you may proceed.

11 MR. ITZEN: Thank you.

12 JENNIFER CORMIER,  
13 called for examination by the State, being first  
14 duly sworn, on her oath testified as follows:

15 DIRECT EXAMINATION

16 BY MR. ITZEN:

17 Q. Good afternoon, ma'am.

18 A. Hi.

19 Q. Could you please state your name.

20 A. Jennifer Cormier.

21 Q. And do you recall the night of October  
22 3rd of last year?

23 A. Yes, sir.

24 Q. And that night, where did you first go in  
25 the evening?

1           A.     I went and picked up my friend at Prime  
2 Time.

3           Q.     And who was that?

4           A.     That was Ginger Jenkins, a recruiter out  
5 at my work.

6           Q.     And how long did you spend at Prime Time?

7           A.     15, 20 minutes. Just grabbed a beer,  
8 they finished playing their game, her and her  
9 boyfriend; and then they followed me back to their  
10 apartment to drop off her boyfriend, and me and  
11 Ginger left from there.

12          Q.     All right. And where did you go from her  
13 apartment?

14          A.     To Racks.

15          Q.     How was the weather when you were heading  
16 out to Racks?

17          A.     It was snowing. Really slick on the  
18 roads.

19          Q.     Do you know what time approximately you  
20 got to Racks?

21          A.     A little after 10:00.

22          Q.     And do you recall where you took a seat  
23 inside the bar?

24          A.     Yeah. We walked into the bar, I said hi  
25 to my friend that was working, and then we sat up

1 at the bar top. It was closest to the trash cans.  
2 They had two gold bars. And Ginger sat closest to  
3 that, and I sat on her right.

4 Q. All right. Let me show you State's 337.  
5 Does that show where you would have been sitting?

6 A. Yes, sir. We were sitting --

7 Q. And you can press on the screen.

8 A. Ginger was sitting right over here past  
9 the trash can, and I was sitting right next to  
10 her.

11 Q. All right. Was there anyone inside the  
12 bar that you recognized?

13 A. Yes.

14 Q. Who was that?

15 A. I recognized Amber. She was working the  
16 front door. And then me and Ginger sat down, we  
17 ordered a drink, and then I saw that Chris  
18 Syverson was there, and I recognized him.

19 Q. All right.

20 A. And Kara. Sorry.

21 Q. And how did you know them?

22 A. I knew Chris from back in the day. I  
23 used to live with his sister.

24 Q. Okay. And where were they seated?

25 A. Well, when I first saw Chris, he was up

1 at the bar talking to people; and then he went and  
2 sat down at a table behind me and Ginger.

3 Q. All right. Can you -- does that  
4 photograph kind of show?

5 A. Kind of. This guy is standing there, but  
6 we were behind him.

7 Q. All right. At some tables?

8 A. Yes.

9 Q. And did you join them that evening at  
10 those tables?

11 A. Yes, we did. After a little bit, me and  
12 Ginger finished our drink, ordered another one,  
13 and then we went and sat where I pointed, behind  
14 this gentleman. And we pushed two tables  
15 together, and that's where we sat with Chris,  
16 Kara, and Kade.

17 Q. All right. Did you know Kade prior to  
18 that night?

19 A. No, I didn't.

20 Q. Could you tell if Kade was intoxicated?

21 A. He seemed pretty drunk.

22 Q. All right. What makes you say that?

23 A. Well, I sat right next to Kade, so I was  
24 sitting at the round table, and Kade was sitting  
25 right next to me. And I remember because we were

1 talking, and he kept on leaning, and he was  
2 slurring his words a little bit. He -- just the  
3 look on his face, you could tell that he was  
4 really drunk by this time.

5 Q. All right. Was he causing any problems  
6 when you were sitting with him?

7 A. No, sir.

8 Q. Any. Did Kade finally put his head down  
9 on the table?

10 A. After a little bit of sitting at that  
11 table -- he didn't put his head down at that  
12 table. After Chris had left with Kara, the  
13 bouncer had come up to me and Ginger and asked if  
14 that guy was with us. And we said who, and he  
15 pointed down the way, further towards this way.

16 Q. All right.

17 A. Back that way. And Kade was laying on  
18 the table like this passed out.

19 Q. And did anyone find his wallet anywhere  
20 that night?

21 A. Yes, Ginger did. She came up to me -- I  
22 had gone to the restroom. And I went back to take  
23 my seat, and Ginger came up and she had a black  
24 wallet. And she said, I think I found that kid's  
25 wallet. And we looked over, and I said, I think

1 he's over there. And this was before he had  
2 passed out. And he was at that same table that he  
3 had passed out at, and Ginger walk up and gave him  
4 his wallet and then came back and sat with me.

5 Q. All right. Do you recall what time you  
6 left Racks?

7 A. It was a little after midnight.

8 Q. And do you recall where you parked that  
9 night?

10 A. Yes, sir.

11 Q. Let me show you what I believe has been  
12 admitted into State's evidence as 335.

13 THE COURT: I'd ask you to tap the  
14 lower left of the screen. It'll take those blue  
15 marks off. Thank you.

16 Q. (BY MR. ITZEN) Would that -- would you  
17 be able to show the ladies and gentlemen of the  
18 jury where you parked that evening?

19 A. Well, that evening, we pulled in this  
20 way. And there was really no free spots except  
21 for right over in this area. We parked around  
22 this area over here -- excuse me -- it was between  
23 here and here. It was on the left side. And we  
24 were facing towards the highway. And my truck was  
25 facing towards the highway, and then we got out

1 and walked into the bar over there.

2 Q. All right. And when you left that  
3 evening, did you have to scrape the snow and ice  
4 off your windows?

5 A. Oh, yes, sir. It was snowing a lot. So  
6 when -- when we left and left the bar, I said  
7 good-bye to my friend at the front, Amber; and we  
8 walked out and we went to the left. That's where  
9 I was parked. And I unlocked my truck, I opened  
10 it, I leaned in, started my truck, closed the  
11 door, and started brushing off the windows, got  
12 back in, rolled down my window, lit a cigarette,  
13 couple of seconds, and then put it in reverse and  
14 drove off.

15 Q. All right. When you were in the parking  
16 lot and scraping your windows, did you hear any  
17 arguments?

18 A. No. I didn't hear anything.

19 Q. Did you hear any glass breaking or that  
20 type of thing?

21 A. No. I didn't hear anything.

22 Q. And how long did you wait in the parking  
23 lot before you left?

24 A. We were -- from the time we got out there  
25 and I started the truck, couple minutes. It

1 wasn't too long at all.

2 MR. ITZEN: All right. Thank you  
3 for your time. Mr. Low may have a question for  
4 you.

5 THE COURT: Cross-examination --

6 MR. BLONIGEN: Dan.

7 THE COURT: -- Mr. Low.

8 MR. ITZEN: Sorry.

9 CROSS-EXAMINATION

10 BY MR. LOW:

11 Q. Was it cold that night?

12 A. Yes, sir.

13 Q. So when you came out to the car, you got  
14 the snow off the windshield?

15 A. After I started my truck, yes, sir.

16 Q. So you got the engine running?

17 A. Yes, sir.

18 Q. Got the heater on in there, too; right?

19 A. I didn't turn on the heater. I just  
20 turned on the truck.

21 Q. What about the defroster, to defrost the  
22 windshield?

23 A. No. I didn't turn any of that on.

24 Q. You wouldn't turn that stuff on?

25 A. I just reached in and started my truck.



1 Q. What about the radio? Did it come on?

2 A. It was on a little bit.

3 Q. Door was closed?

4 A. After I leaned in and started the truck,  
5 I closed the door and brushed off the windows.

6 MR. LOW: Yes, thank you. That's  
7 all I have. Thank you, Your Honor.

8 THE COURT: Anything on redirect,  
9 Mr. Itzen?

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

11 THE COURT: Thank you, Ms. Cormier.  
12 You're excused, and you're free to go and released  
13 from any subpoena.

14 THE WITNESS: All right. Thank you,  
15 sir.

16 THE COURT: Thank you. Either way.  
17 Thank you.

18 MR. ITZEN: Sorry.

19 THE COURT: Mr. Blonigen.

20 MR. BLONIGEN: State would call  
21 Officer Mitch Baker.

22 THE COURT: Officer, please come  
23 forward. The Clerk of Court will give you the  
24 oath here to my left, and then you'll sit to the  
25 other side once sworn.

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

6 THE WITNESS: Yes, ma'am.

7 THE CLERK: Please be seated.

8 THE WITNESS: Thank you, Your Honor.

9 MITCHELL BAKER,

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

12 DIRECT EXAMINATION

13 BY MR. BLONIGEN:

14 Q. Would you state your name for the record,  
15 please.

16 A. Mitchell Baker.

17 Q. Where are you employed, sir?

18 A. The City of Casper Police Department.

19 Q. How long have you been a police officer?

20 A. Roughly four years.

21 Q. And were you so employed on October 4th  
22 of 2013?

23 A. Yes, sir I was.

24 Q. On that date, did you become aware of an  
25 attempt to locate on a vehicle from the Racks

1 Gentlemen's Club?

2 A. Yes, sir.

3 Q. What time did you first become aware of  
4 that call?

5 A. It would have been approximately 25  
6 minutes after midnight.

7 Q. Okay. And were you on duty that night?

8 A. Yes, sir, I was.

9 Q. Were you in uniform?

10 A. I was, sir.

11 Q. Were you operating a marked patrol  
12 vehicle?

13 A. Yes, sir.

14 Q. When you heard that call, where were you?

15 A. I was actually at Second and Beverly when  
16 I heard the call get aired. And I then began to  
17 float closer to First and Poplar just to cover our  
18 boundaries because there was a vehicle that left  
19 the scene.

20 Q. Okay. Did you have any description of  
21 the vehicle or suspect at that time?

22 A. Yes, sir, I did.

23 Q. Generally what was that description?

24 A. Initially it was reported as a green  
25 passenger vehicle with snow covering the back

1 windshield. The reporting party did not give a  
2 license plate, so we weren't able to get an actual  
3 identification on the vehicle.

4 Q. Any suspect identification?

5 A. Yes, sir. There was a white male driver  
6 with brown hair.

7 Q. Okay. Very general then?

8 A. Yes, sir.

9 Q. What did you do at that point in time as  
10 you headed towards First and Poplar?

11 A. So again I was heading westbound on First  
12 Street. As I came past First and Yellowstone, I  
13 saw a blue passenger vehicle with a white male  
14 driver heading eastbound on First Street. When I  
15 saw that vehicle, I was around the area of First  
16 and Park Street. I began to make a U-turn to get  
17 behind the vehicle. At that point in time, I saw  
18 my patrol sergeant. He actually cut in front of  
19 me and initiated a stop on that specific vehicle,  
20 and we stopped the driver of that one.

21 Q. Who is that sergeant? What's his name?

22 A. Sergeant Dabney.

23 Q. After stopping the vehicle, what did you  
24 determine about that vehicle?

25 A. We identified that that vehicle was not

1 the vehicle in question. The driver had nothing  
2 to do with what was going on with this ATL.

3 Q. What did you do at that point?

4 A. He -- as we were talking to the driver,  
5 and then Sergeant Dabney informed me -- because he  
6 was actually speaking to the driver, he informed  
7 me that this was not the vehicle. I overheard  
8 radio traffic from a Natrona County deputy saying  
9 that he's making a traffic stop several blocks  
10 away from me. And Sergeant Dabney disregarded me,  
11 so I headed his direction.

12 Q. Okay. And so you were at First and Park  
13 then?

14 A. Yes, sir.

15 Q. How far is First and Wolcott from First  
16 and Park?

17 A. About five blocks.

18 Q. Okay. Did you proceed to that location?

19 A. Yes, sir, I did.

20 Q. Upon arriving at that location, was there  
21 any other peace officer present?

22 A. Myself, Officer Peterson, and Natrona  
23 County Deputy Johnny Taylor.

24 Q. Was the vehicle stopped at this time?

25 A. Yes, sir.

1 Q. When you first arrive, where is Officer  
2 Taylor?

3 A. Officer Taylor was making his approach on  
4 the vehicle.

5 Q. What did you do at that point?

6 A. I then walked up on the same side, which  
7 would have been the driver's side, the back  
8 driver's side of the vehicle. The vehicle was  
9 facing south right in front of First Interstate  
10 off of First and Wolcott. So I began walking up  
11 behind Officer Taylor as a security measure.

12 Q. As you did so, did you become aware of an  
13 officer safety issue?

14 A. Yes, sir, I did.

15 Q. And could you describe that for us,  
16 please.

17 A. Officer Peterson was walking on the  
18 passenger side of the vehicle. And when he got  
19 between the door frame of the passenger side  
20 doors, he informed me that there was a -- he could  
21 see what was a handgun in the passenger side area.  
22 And he specifically notified me by doing this and  
23 pointing down towards the passenger's seat.

24 Q. Okay. And so at that time, what did you  
25 do?

1           A.     Then I informed Deputy Taylor that there  
2 was a handgun that we were observing, and he needs  
3 to be aware of that.

4           Q.     At that point in time, was the driver  
5 removed from the interior of the vehicle?

6           A.     Yes, sir. He was asked to step out.

7           Q.     And was he placed in custody or was he  
8 handcuffed at that time?

9           A.     Yes, sir.

10          Q.     Did you later learn this individual's  
11 name?

12          A.     Yes, sir, I did.

13          Q.     What was that?

14          A.     John Knospler.

15          Q.     Okay. Now, when you encountered him that  
16 night, did he match the description you received?

17          A.     Like I said, it was a general  
18 description; but he's a white male driver, he had  
19 brown hair, yes, sir.

20          Q.     From your observations at the scene, did  
21 Officer Taylor and Officer Peterson ever enter the  
22 vehicle in any manner that had been stopped and  
23 driven by Mr. Knospler?

24          A.     No, sir.

25          Q.     Now, you indicated Mr. Knospler was

1 removed?

2 A. Yes, sir.

3 Q. Where was he taken?

4 A. He was placed in I believe Deputy  
5 Taylor's vehicle at the scene.

6 Q. Who then took charge of the vehicle that  
7 was stopped?

8 A. I did.

9 Q. What did you do at that point in time?

10 A. I began my initial -- I -- we call it  
11 processing of the vehicle, which is just the  
12 initial photographs as the vehicle is in place.

13 Q. Did you ever enter the vehicle?

14 A. No, sir, I did not.

15 Q. Did you move anything in the vehicle?

16 A. No, sir.

17 Q. Did you take multiple photographs?

18 A. I did, sir.

19 Q. When you were at the scene, did you ever  
20 observe any glass drop off of Mr. Knospler when he  
21 got out of the car?

22 A. No, sir.

23 Q. And when you photographed the scene  
24 around there, did you see any glass outside the  
25 car?



1           A.     No, sir.

2           Q.     I'm going to hand you four photographs,  
3     208, 209, 210, and 211.  Would you briefly look at  
4     these, Officer Baker.

5           A.     Yes, sir.

6           Q.     And tell us what car that is in the  
7     photographs.

8           A.     What vehicle it is?

9           Q.     Yes.

10          A.     This is the same vehicle from the night,  
11     it's a blue 2008 Chevy Cobalt.

12          Q.     Is that the vehicle that was stopped that  
13     night?

14          A.     Yes, sir, it was.

15          Q.     And are you the individual that took  
16     these photographs?

17          A.     Yes, sir.

18          Q.     Do they accurately reflect what you saw  
19     that night on the initial stop?

20          A.     Yes, sir.

21                   MR. BLONIGEN:  Move for the  
22     introduction of 208 through 212, Your Honor.

23                   THE COURT:  Is there a 212?  I just  
24     had four.  Are there five?

25                   MR. BLONIGEN:  Four, Your Honor,

1       excuse me. 211. You're correct. 208 through  
2       211.

3                       THE COURT: Any objection?

4                       MR. LOW: No, Your Honor.

5                       THE COURT: Okay. Exhibits 208  
6       through 211 inclusive are received.

7               Q.       (BY MR. BLONIGEN) Direct your attention,  
8       if I might, to your computer monitor. Can you see  
9       that?

10              A.       Yes, sir.

11                      THE COURT: Just tap the lower left  
12       corner. It'll take off those marks. It should at  
13       least. Thank you.

14              Q.       (BY MR. BLONIGEN) And I believe these  
15       are probably better on the monitor. The vehicle  
16       when you stopped it, we see the door open here.  
17       In fact, was that door open from when he came out  
18       of the vehicle?

19              A.       Yes.

20              Q.       When Mr. Knospler came out of the  
21       vehicle?

22              A.       When the driver stepped out, yes, sir.

23              Q.       Did he open the vehicle car door, if you  
24       recall?

25              A.       I do not remember if somebody reached in

1 or if he actually stepped out himself.

2 Q. Now, at that time, then, the car door is  
3 open; is that correct?

4 A. Yes, sir.

5 Q. How would you describe the condition of  
6 the front end? How much of the front end was  
7 covered with snow?

8 A. Almost the entirety of the front end was  
9 actually covered with snow other than the driver's  
10 side window.

11 Q. Okay. Did you notice anything unusual  
12 about the driver's side window?

13 A. Yes, sir, I did.

14 Q. What was that?

15 A. The driver's side window was smashed out.

16 Q. Okay. Was there glass on the windowsill  
17 of the window?

18 A. Yes, sir.

19 Q. In fact, was there glass in the ice and  
20 snow on the side of the car?

21 A. On the side of the car?

22 Q. Yes.

23 A. On the outside?

24 Q. Yes.

25 A. Of the door there was, yes, sir.

1 Q. Referring, then, to 209, does this show  
2 some of the glass we're talking about on the  
3 outside car ledge door and actually in the ice and  
4 snow on the car door itself?

5 A. Yes, sir.

6 Q. Particularly in this case, direct you to  
7 the top portion of the window. Did glass remain  
8 in certain parts of the frame of the window?

9 A. Yes, sir, it did.

10 Q. In fact, we have a rather large piece of  
11 glass in the middle on the left?

12 A. Yes, sir.

13 Q. Could you circle that, please.

14 A. I'll try.

15 Q. And that's how the door was found that  
16 night when it was stopped?

17 A. Yes, sir. That glass remained intact  
18 when the door was opened.

19 Q. In fact, then there's other glass in  
20 different areas of the frame itself?

21 A. Yes, sir.

22 Q. On 210, it appears there's glass for most  
23 of the frame, but there's a section where there  
24 doesn't appear to be much glass?

25 A. Yes, sir. Right here.

1 Q. Okay. Now, does this appear to be auto  
2 safety glass such as you see in all automobiles?

3 A. Yes, sir.

4 Q. By the way, how hard is it to break one  
5 of these windows from your experience?

6 A. Are we talking with a weapon or just in  
7 general?

8 Q. How do you do it if you're an officer and  
9 you need to get in there?

10 A. Well, it depends on the particular  
11 window, I guess. So I guess we're going to use  
12 this driver's side window as a reference. If the  
13 window is all the way up, which by looking at the  
14 glass that's still inside the rubber frame would  
15 suggest the window was all the way closed, there  
16 is enough force and protection from that window  
17 that if I would use my baton, which is a metal  
18 object, it would probably take at least three  
19 good, extremely good swings to break that.

20 Q. They're not easy to break, then?

21 A. Not at all.

22 Q. And then when you looked and begin  
23 photographing the interior, couple things here.  
24 There's glass, quite a bit of glass?

25 A. Yes, sir.

1 Q. A lot of it still in rather large pieces?

2 A. Yes, sir.

3 Q. But you said when the defendant got out,  
4 you didn't see any glass fall off him?

5 A. Not off of his person, no, sir.

6 Q. Now, direct you to the edge of the doors.  
7 Can you see that in the photograph?

8 A. Yes, sir.

9 Q. Does there appear to be any glass there  
10 that you can see?

11 A. No, sir.

12 Q. I see an object on the passenger side  
13 seat. Can you identify for us what that is?

14 A. Up here in this part?

15 Q. Yes.

16 A. That's a black backpack.

17 Q. Okay. Now, you indicated that Officer  
18 Peterson saw a weapon?

19 A. Yes, sir.

20 Q. Once Officer Peterson alerts you guys to  
21 the presence of the weapon, you indicated none of  
22 the officers ever touched it?

23 A. Yes, sir. No, it was unmanipulated.

24 Q. Did -- did anybody in the car, including  
25 Mr. Knospler, touch the weapon?

1           A.     Not from my observation. I could not see  
2 him at the time that he was being talked to, so.

3           Q.     So it should be in the position it was  
4 when Officer Peterson observed it?

5           A.     Yes, sir.

6           Q.     Now, I take it you drive?

7           A.     Yes, sir.

8           Q.     If I end up with material on my dashboard  
9 and I start making a bunch of turns and driving,  
10 what happens to it?

11                   MR. LOW:  Objection.  That's going  
12 to be speculation, incomplete hypothetical, facts  
13 not in evidence, lack of foundation.

14                   MR. BLONIGEN:  This is common,  
15 everyday experience.  Everybody that puts  
16 something on a dashboard knows this.

17                   THE COURT:  I'll allow.  You may  
18 answer.

19           A.     Like, again, if you -- if there's  
20 something on the dashboard, depending on the type  
21 of material the dashboard is made out of and the  
22 type of object that's on top of that, if you're  
23 making abrupt turns, you're decelerating or  
24 accelerating, going up and down elevations such as  
25 hills, it would move all over the place.

1 Q. (BY MR. BLONIGEN) Now, I'm going to hand  
2 you two photographs that are the close-up of that  
3 backpack, 212 and 213.

4 MR. LOW: Thank you, sir.

5 Q. (BY MR. BLONIGEN) Can you identify 212  
6 and 213 as photographs you took on the evening in  
7 question?

8 A. Yes, sir.

9 Q. And generally, do they accurately show  
10 the position that pistol was in when you  
11 discovered it in the car?

12 A. Yes, sir.

13 MR. BLONIGEN: Move for the  
14 introduction of 212 and 213, Your Honor.

15 THE COURT: Any objection to these  
16 two exhibits?

17 MR. LOW: No, sir. No, Your Honor.

18 THE COURT: Exhibits 212 and 213 are  
19 received.

20 Q. (BY MR. BLONIGEN) When you're at or near  
21 the car, did you ever observe any unusual odors in  
22 the vehicle?

23 A. No, sir. I did not detect any odors.

24 Q. Now, how close -- you said you never  
25 entered the vehicle?



1           A.     Never actually put my head inside the  
2 vehicle, no, sir.

3           Q.     Now, in this particular instance, then,  
4 using 212, would you show us where the handgun is  
5 first observed?

6           A.     Yes, sir.  If you look on the passenger  
7 side of the vehicle, this black backpack, you can  
8 see the handle of the weapon right there.

9           Q.     Okay.  And again, you did not disturb  
10 this in any way, this is how it was found?

11          A.     This is exactly how it was found, sir.

12          Q.     Was that orange pill bottle still in the  
13 exact same place as well?

14          A.     Yes, sir.

15          Q.     Well, let me make it easier.  You didn't  
16 move anything in the car you said?

17          A.     Nothing.

18          Q.     Going to hand you two -- or excuse me,  
19 I'll illustrate 213, then.  Is this a closer view  
20 of the same weapon you talked about?

21          A.     Yes, sir.  This is a photograph from the  
22 passenger side.  You can tell by the angle.

23          Q.     As you observed the weapon, did you  
24 notice anything about the weapon and the clip of  
25 the weapon?

1 A. Yes, sir.

2 Q. What was that?

3 A. If you look right here, this is the butt  
4 of the -- the handle. That silver piece you see  
5 right there is actually the magazine. That  
6 magazine is not fully seated inside the well.

7 Q. You indicated you're trained as a police  
8 officer?

9 A. Yes, sir.

10 Q. You also trained in the military?

11 A. Yes, sir?

12 Q. What branch?

13 A. Marines.

14 Q. And, in fact, are -- if a sidearm is  
15 jammed, are there things you can do to attempt to  
16 clear the weapon?

17 A. Yes, sir.

18 Q. What are some of the things you can do to  
19 attempt to clear the weapon?

20 A. Marines commonly associate themselves  
21 working with what's called "tap rack bang," where  
22 you would -- you would hit the weapon. You re --  
23 try to rechamber a round and try to pull the  
24 trigger to see if it engages again. There's  
25 different classifications of a weapon's

1 malfunction. And so that -- essentially, that's  
2 what we -- we base it off of.

3 If there's higher -- higher malfunctions  
4 of the weapon, such as what's called a stovepipe  
5 or something like that, then you'd have to try and  
6 remove the magazine, try to eject that round  
7 that's stuck inside of the chamber, and try to put  
8 the magazine back in and rechamber a new round.

9 Q. So manipulating the slide and removal of  
10 the clip could both be part of trying to clear the  
11 weapon?

12 A. Yes, sir.

13 Q. Now, after you photographed it, the car,  
14 where is the car taken?

15 A. The car was taken to our Marathon  
16 Building. We have a special storage unit that's  
17 covered so we protect it from weather, the  
18 elements.

19 Q. Is that an inside facility?

20 A. Yes, sir, it is.

21 Q. Is it also a secure facility?

22 A. It is, sir.

23 Q. On taking -- how did the motor vehicle  
24 get to the Marathon Building?

25 A. It was picked up by A to Z Towing by my

1 request.

2 Q. Did you keep eyes on the vehicle until it  
3 arrived at the Marathon Building?

4 A. Yes, sir, I did.

5 Q. Was there any tampering or anything else  
6 with the vehicle?

7 A. No, sir.

8 Q. Now, at that point in time, where was the  
9 vehicle put?

10 A. The vehicle was placed inside of the  
11 building. There's -- it's a one-vehicle storage  
12 unit, and so we place it inside there; and then I  
13 sealed the doors.

14 Q. Okay. I'm going to hand you two  
15 photographs, 214 and 215. What do 214 and 215  
16 show?

17 A. 214 is an angled view from the front of  
18 the vehicle that -- that same 2008 Chevy Cobalt.  
19 This angle specifically is -- basically, it's  
20 taking a picture west, facing west inside of the  
21 complex. There's a big overhead door that's to  
22 the backside of me on this picture.

23 And Exhibit 215, it shows the driver's  
24 side window has been sealed. And those red and  
25 yellow -- I mean red and white tapes are the

1 evidence sealing tapes.

2 Q. Thank you.

3 MR. BLONIGEN: Move for the  
4 introduction of 214 and 215, Your Honor.

5 THE COURT: Any objection?

6 MR. LOW: No, Your Honor.

7 THE COURT: Exhibits 214 and 215 are  
8 received.

9 Q. (BY MR. BLONIGEN) Just very briefly,  
10 seals are placed on the doors and other openings  
11 for the vehicle so that any tampering will be  
12 obvious?

13 A. Yes, sir.

14 Q. But, obviously, you're missing a front  
15 window?

16 A. Yes, sir.

17 Q. Did you work to, in fact, secure the  
18 front window as well?

19 A. I did, sir.

20 Q. Was also anything done to -- to -- when  
21 was this covering placed on the window?

22 A. After I'd removed the snow from it  
23 because it was all wet.

24 Q. Okay. So it wouldn't stick?

25 A. Yes, sir.

1 Q. And so you removed the snow from the  
2 outside of the vehicle. The seals and paper  
3 attach to the outside of the vehicle; is that  
4 correct?

5 A. Yes, sir.

6 Q. Again, this is done so if anybody  
7 accesses that area, we'll know the seal is broken?

8 A. Yes, sir. Anybody who is unfamiliar with  
9 this tape, it's an extremely thin film, so even  
10 the slightest, like, say manipulation of trying to  
11 open the door would break that tape.

12 Q. After securing the vehicle in the secure  
13 area, what did you do next?

14 A. After I secured it, I again took  
15 photographs just to show that everything in the  
16 vehicle was as it was placed and was sealed. I  
17 stepped outside the facility. Like I said, it has  
18 a large metal overhead door that's electronic.  
19 When that drops, then because I'm an evidence  
20 technician, we commonly seal that door with the  
21 same tape to show that that door's integrity has  
22 also been kept.

23 Q. Did you do that in this case?

24 A. Yes, sir.

25 Q. After doing that, what did you do?

1           A.     And then I went and contacted ADA Itzen  
2     and explained to him where I put the vehicle and  
3     how it was stored.

4           Q.     Okay. Did you have any further  
5     involvement in this case?

6           A.     Yes, sir, I did.

7           Q.     How is that?

8           A.     Again, because I was an evidence  
9     technician and they were kind of using different  
10    ones during this process, I was requested to  
11    assist in collection of his -- of the suspect's  
12    clothing.

13          Q.     Okay. And where was that at?

14          A.     That was inside the Natrona County  
15    Sheriff's Office, the investigations division.

16          Q.     Did any officer work with you in doing  
17    that?

18          A.     Deputy Hulshizer was present when I did  
19    it, but all the evidence collection was done on my  
20    part.

21          Q.     So you did the collection. What happened  
22    to it after you collected it?

23          A.     Everything that I -- so, for instance,  
24    for the clothing, every time I took an article of  
25    clothing, that article of clothing was

1       photographed to show it, then it was placed -- I  
2       would literally place it inside the bag that  
3       Deputy Hulshizer was opening or had opened and  
4       he'd place it off to the side. And we just  
5       methodically worked our way through the process.

6           Q.     So each item removed from the defendant  
7       is placed in a separate container, then sealed and  
8       kept in a secure area?

9           A.     Yes, sir.

10          Q.     Now, so you engaged in that process on  
11       this date; is that true?

12          A.     I did, sir.

13          Q.     I'm going to start with a number of  
14       photographs. Beginning with the head or front  
15       view of the defendant, which -- one has already  
16       been placed into evidence; but looking at 232,  
17       217, and 218, is this the individual you've been  
18       speaking of as driving the blue Cobalt?

19          A.     Yes, sir.

20          Q.     And are these photographs you took that  
21       night of his condition?

22          A.     Yes, sir.

23          Q.     And when you have an incident like this,  
24       do you attempt to fully document the condition of  
25       the clothing and the person?



1 A. Yes, sir.

2 Q. Of a suspect?

3 A. Yes, sir. He is essentially a piece of  
4 evidence.

5 Q. Okay. And does that show his front view  
6 as you saw it that night?

7 A. Yes, sir.

8 Q. Now, as you -- as you collect this  
9 clothing -- and, obviously, he is taking the  
10 clothing off?

11 A. Yes, sir.

12 Q. Are photographs also taken to show the  
13 condition of his body at the time of arrest?

14 A. Yes, sir.

15 Q. In this entire process, did you see  
16 any -- any injuries that could be associated with  
17 an assault or a fight?

18 A. At that time no, sir, I did not.  
19 Obviously, you can see, like, in this photo, which  
20 was Exhibit 217, there's some red marks on his  
21 face. A lot of that usually is caused by  
22 conditions of changing from cold to warm weather,  
23 the way the skin is conditioned. But there were  
24 no physical outright injuries. There were no  
25 abrasions, skin tears. If I do recall, there was

1 on his -- on his left hand, one of the knuckles,  
2 there was a little nick with some dried blood, but  
3 it was very minute.

4 Q. Okay. On one of his hands? We'll get to  
5 that in a moment.

6 A. Okay.

7 MR. BLONIGEN: I'd move for the  
8 introduction of 217, 218, and 232, Your Honor.

9 THE COURT: Any objection?

10 MR. LOW: No objection, Your Honor.

11 THE COURT: Okay. Exhibits 217,  
12 218, and 232 are received.

13 Q. (BY MR. BLONIGEN) How would you describe  
14 Mr. Knospler's demeanor that night when you're  
15 dealing with him?

16 A. Carefree.

17 Q. Carefree?

18 A. To be honest, at times I think  
19 antagonistic.

20 Q. Now, starting with 232, is this the same  
21 jacket he's going to have on when he's taken out  
22 of the vehicle?

23 A. Yes, sir.

24 Q. And as you handled it and you packaged  
25 it, was there any indications of stretching,

1 tearing, or any damage to the coat itself?

2 A. No, sir.

3 Q. Was caution had in collecting the items  
4 to preserve any evidence that might be on it?

5 A. Yes, sir.

6 Q. And did you wear gloves, I assume?

7 A. Yes, sir, latex.

8 Q. And so they're each packaged separately?

9 A. Yes, sir.

10 Q. Now, we see the left area where the  
11 Velcro patch is and the shirt and things. Again,  
12 on the underlying shirt, was there any indications  
13 of any stretching, tearing, or anything like that?

14 A. Prior to bagging it, I did notice it  
15 looked like it had been worn, but that's about it.  
16 Obviously, there was some minor fabric -- I guess  
17 abrasions if you want to call them, but other than  
18 that, no, sir.

19 Q. You talked about the condition of his  
20 face and, you know, kind of the reddish we see  
21 when you go out of real cold air to the hot. What  
22 are you talking about?

23 A. Just we call it raspberrying of the skin.  
24 That's when your skin is -- so the conditions  
25 outside were cold. Your skin gets used to that

1 temperature. When you go from that to going  
2 inside, and he was fully dressed in a room which,  
3 at this time I do remember it was kind of warm.  
4 It causes your skin to raspberry a little bit,  
5 where the blood starts to flow to the surface.

6 Q. I'm going to hand you several more  
7 pictures of -- or detailed pictures of that  
8 jacket, 219, 220, and 221. Do 219, 220, and 221  
9 again show the condition of that jacket as you  
10 first observed it that day?

11 A. Yes, sir.

12 Q. And those are photographs you took?

13 A. They are, sir.

14 MR. BLONIGEN: Move for the  
15 introduction of the exhibits, Your Honor, 219,  
16 220, 221.

17 THE COURT: Any objection to these  
18 three exhibits?

19 MR. LOW: No, Your Honor. Thank  
20 you.

21 THE COURT: Exhibits 219, 220, and  
22 221 are received.

23 Q. (BY MR. BLONIGEN) This would be on the  
24 right side of the jacket; is that correct?

25 A. Yes, sir.

1 Q. Same view of the left side of the jacket?

2 A. Yes, sir.

3 Q. And particularly, this left side of the  
4 jacket would be what presents to the driver's side  
5 window, would it not?

6 A. Yes, sir.

7 Q. And the rear of the jacket as well?

8 A. Yes, sir.

9 Q. You indicated that after that, in fact --  
10 or let me first show you, he also had some kind of  
11 cargo type pants on that night?

12 A. I wouldn't call them cargo pants. I'd  
13 call them, like, all weather, kind of water  
14 repellent pants.

15 Q. I'm going to hand you a photograph, 224.  
16 Are those the pants?

17 A. Yes, sir, they are.

18 Q. Again, any evidence of tearing, damage to  
19 the pants at all?

20 A. No, sir.

21 Q. Do they appear to be snagged?

22 A. No, sir.

23 Q. And is it kind of a nylon type material?  
24 Nylon is not the right term. What are they?

25 A. I guess I don't even know what you would

1 actually call something like this. I believe the  
2 specific type is something like -- oh, what is it.  
3 It's not nylon.

4 Q. It's a --

5 A. It's actually like -- it's like a poly,  
6 like a polynylon. It's a crossbreed. So it is  
7 water repellent. I guess I don't really know what  
8 the explanation is, but.

9 MR. BLONIGEN: Move for the  
10 introduction of 224, Your Honor.

11 THE COURT: Any objection?

12 MR. LOW: No, sir.

13 THE COURT: Exhibit 224 is received.

14 Q. (BY MR. BLONIGEN) These are the pants  
15 you're referring to in the photograph in your  
16 testimony?

17 A. Yes, sir.

18 Q. Those were also saved?

19 A. Yes, sir, they were.

20 Q. All the items of his clothing were  
21 handled in the manner you've described?

22 A. Yes, sir.

23 Q. And they were turned over to Mr.  
24 Hulshizer?

25 A. Yes, sir.

1 Q. Now, you stated that, in fact, you took  
2 pictures of some of -- the pictures of his  
3 physical condition as well?

4 A. Yes, sir, I did.

5 Q. Is that correct?

6 A. Yes, sir.

7 Q. And particularly, focusing on his left  
8 side, I'm going to hand you four photographs, 222  
9 and 223, 227, and 228. Do these photographs --  
10 are these the photographs you took of the left  
11 side of his body that day?

12 A. Yes, sir, they are.

13 Q. And do they accurately show what you saw  
14 that day?

15 A. Yes, sir.

16 MR. BLONIGEN: Move for the  
17 introduction of the exhibits, Your Honor.

18 THE COURT: Any objection to these  
19 four exhibits?

20 MR. LOW: No, Your Honor.

21 THE COURT: Okay. Okay, Exhibits  
22 222, 223, 227, and 228 are received.

23 Q. (BY MR. BLONIGEN) Again, focusing on the  
24 left side of the body, any indications of redness,  
25 bruising, or any soft tissue injury at all of any

1 description to the left side of the body?

2 A. No, sir. No visible injuries.

3 Q. You indicated that the -- referring to,  
4 again, the top -- is this the top of the left  
5 hand?

6 A. Yes, sir.

7 Q. Any damage to that at all?

8 A. No, sir.

9 Q. The palm of the left hand, any  
10 indications of cutting or anything like that?

11 A. No, sir.

12 Q. Now, you did say there was one little  
13 nick on his fingers on the left hand. This is  
14 that, isn't it?

15 A. Yes, sir, it is.

16 Q. And why don't you point out what you're  
17 talking to for us -- talking about for us.

18 A. So right here, this is obviously the most  
19 substantial one I think that we can all see, and  
20 then over here on these knuckles as well, which  
21 would be his index finger and his ring finger. On  
22 the index finger right on the knuckle, you see  
23 those two marks right there. Those are very  
24 minor. They're dry. There's no fresh blood or  
25 anything like that. And then the one on his ring



1 finger is right there, the tip right between his  
2 cuticle and his nail.

3 Q. So these were all dry and everything,  
4 there's no -- this doesn't appear to be from that  
5 evening or is it hard to say?

6 A. Yeah, that's hard to say because  
7 obviously I can't tell how long that blood has  
8 been there. But it is dry. There was no -- there  
9 was no smearing or anything on his hand that would  
10 indicate that the blood was manipulated or  
11 anything like that.

12 Q. Okay. So it's not like it had been cut  
13 recently and there's, like, blood smeared around  
14 the skin or anything like that?

15 A. Right.

16 Q. I'm going to turn, then, to his right  
17 hand, top and bottom, 225 and 226. Do those show  
18 the condition of the right hand?

19 A. Yes, sir.

20 Q. Again, any injuries to the right hand or  
21 the palm of the right hand?

22 A. No, sir.

23 Q. Going to hand you a front and back photo,  
24 229 and 230. Do these show a front view and a  
25 back view of the defendant that morning?

1           A.     Yes, sir, they do.

2           Q.     Again, do we see any injuries to the --  
3     in any of those photographs other than the one you  
4     described for us here earlier?

5           A.     No, sir.

6                     MR. BLONIGEN:   Move for the  
7     introduction, Your Honor, of 229 and 230.

8                     THE COURT:   Any objection?

9                     MR. LOW:    No, Your Honor.

10                    THE COURT:   Exhibits 229 and 230 are  
11     received.

12           Q.     (BY MR. BLONIGEN)   And just briefly to  
13     publish these, this is the front view?

14           A.     Yes, sir.

15           Q.     And the rear view as well?

16           A.     Yes, sir.

17           Q.     While you were there, were certain  
18     samples collected from the defendant?

19           A.     Yes, they were.

20           Q.     And particularly, was blood drawn for a  
21     blood alcohol kit?

22           A.     Yes, sir.

23           Q.     Did you observe that occur?

24           A.     I did.

25           Q.     Now, in observing that occur, was the

1 blood then placed in secure vials?

2 A. Yes, sir, it was. The package, it comes  
3 with various containers in which you take it out  
4 of and you put it right back into.

5 Q. And these are the kits provided by the  
6 Wyoming State Chemical Testing Laboratory?

7 A. Yes, sir.

8 Q. They have multiple seals on them?

9 A. Yes, sir, they do.

10 Q. Were all the seals affixed and the  
11 samples secured?

12 A. Yes, sir.

13 Q. What happened to the blood sample at that  
14 time?

15 A. That was also -- after the package was  
16 sealed, it was then turned over to the Natrona  
17 County Sheriff's Office.

18 Q. And particularly Deputy Hulshizer?

19 A. Yes, sir.

20 Q. Did you attempt to collect a urine sample  
21 from the defendant?

22 A. Yes, sir, I did.

23 Q. When you first attempted that, how did he  
24 respond to that?

25 A. Initially, we were in the interview room.

1 We asked him if he was going to give us a urine  
2 sample, and he agreed to doing so.

3 Q. Did he then provide the sample?

4 A. No, sir.

5 Q. What happened?

6 A. I went with him into the bathroom, and he  
7 stood in front of the urinal and placed the cup,  
8 as I directed him to, with the lid opened. And he  
9 stood there. And he wasn't facing me, so I asked  
10 him, I said, Are you going to provide me a sample?  
11 And he stood there.

12 And in all honesty, I did, I got a little  
13 frustrated. And I said, If you're not going to do  
14 it, then we need to just leave. And then I asked  
15 him, I inquired as to him being a Marine because  
16 that's I was being told, and I was going to try  
17 and have a conversation with him. And he kind of  
18 blew me off. And he was told again after that  
19 point because he was refusing to give me a urine  
20 sample that we were done, we weren't going to play  
21 a game with him.

22 Q. How did you finally obtain a sample?

23 A. I believe that sample was obtained up at  
24 the Natrona County Detention Center.

25 Q. By Deputy Hulshizer?

1 A. Yes, sir.

2 Q. So he didn't want to give you a sample?

3 A. No, sir.

4 Q. Now, did you -- you say you observed the  
5 collection of the clothing and the collection of  
6 that kit. Did you also observe the collection by  
7 Detective Hulshizer of the gunshot residue kit?

8 A. I did not personally see that.

9 Q. Did you have any further contact or  
10 further involvement with the defendant on this  
11 occasion?

12 A. Other than some swabs that I took of him,  
13 other than that, that was it.

14 Q. Okay. Now, you did take some swabs from  
15 him; is that correct?

16 A. Yes, sir.

17 Q. Can you describe what kind of swabs  
18 you're talking about?

19 A. They're called buccal swabs, which is a  
20 DNA. It's just a known DNA sample that we take  
21 from his saliva inside his mouth --

22 Q. Are they --

23 A. So -- oh, go ahead. Excuse me.

24 Q. Tell us how you do that.

25 A. Okay. So for those specific samples, you

1 use clean Q-Tips with sterile water if you need  
2 it. Oftentimes, there's enough saliva in the  
3 mouth you don't need to add any sort of moisture  
4 or anything like that. You take the samples, and  
5 you rub them on the insides of the cheek and then  
6 the lower portions down here below the gums by the  
7 teeth where there's saliva buildup. That is  
8 then -- those items are then placed inside of  
9 what's called a bindle, which you'll see is a  
10 white -- a white container for them to be in, and  
11 then it's packaged and sent off to the State.

12 Q. Again, was it packaged in a secure manner  
13 to prevent cross-contamination and tampering?

14 A. Yes, sir.

15 Q. After you secured those, who did you  
16 deliver those to?

17 A. Again, I gave everything over to Deputy  
18 Hulshizer.

19 Q. I'm going to hand you an item I've marked  
20 for identification purposes only as Exhibit 200.  
21 Is that the item that you collected the known  
22 sample of Mr. Knospler and sealed in the boxes?

23 A. Yes, sir.

24 Q. And then it is placed in the paper bag  
25 and sealed?

1           A.     Yes, sir.

2           Q.     Okay. All in accordance with your  
3 training?

4           A.     Well, I will say that this package, I --  
5 on the bindles, when I deal with other agencies,  
6 because I do that quite frequently in my position,  
7 I do not mark the bindles as I usually would for  
8 mine, where on those bindles I'll have the call  
9 reference number, which is a case specific number,  
10 my name, and then where that sample came from.  
11 But I do that just as what I do for the state lab,  
12 but it's not a necessity, no.

13          Q.     But it doesn't change the manner that you  
14 sealed them and collected them and preserved them,  
15 does it?

16          A.     No, sir. All that is the same procedure.

17          Q.     Thank you. Were you involved in any  
18 other evidence collection in this case?

19          A.     Other than the buccal swabs from the  
20 mouth, I did take some swabs from his fingernails  
21 and his hands.

22          Q.     Do you recall what kind of swabs those  
23 were?

24          A.     Those were just normal sterile water  
25 swabs of his hands to get any sort of transfers or

1 anything like that from the areas of his hands.

2 Q. I'm not sure if you -- frankly, if it was  
3 you or Officer Hulshizer who collected this, but  
4 I'll hand them to you, 202 and 203. Are either of  
5 these the items that you're referring to?

6 A. Yes, sir. This one right here.

7 Q. Okay. Tell us what that is.

8 A. This, again, is the same kind of sample.  
9 This is the one where I would use sterile water.  
10 And all we're trying to do is we're trying to  
11 recover any sort of transfer so in the case of  
12 anything of violent -- a violent manner, we want  
13 to try and get any sort of DNA transfers, fabric  
14 transfers, anything like that we can get from the  
15 fingernails because your fingernails have a lot of  
16 material.

17 Q. Okay. Thank you.

18 THE COURT: Just so we're clear,  
19 which exhibit was just --

20 MR. BLONIGEN: 203, Your Honor.

21 THE COURT: Thank you.

22 Q. (BY MR. BLONIGEN) And this also, for the  
23 record, has Mr. Hulshizer's name on it, labeled  
24 left hand swabs; is that correct?

25 A. Yes, sir.



1           Q.     Again, did you provide these items to Mr.  
2 Hulshizer?

3           A.     I did, sir.

4                   MR. BLONIGEN:   If I can have just a  
5 moment, Judge, I think I'm finished.

6                   THE COURT:    You certainly may.

7                   MR. BLONIGEN:   Oh, Your Honor, point  
8 of order, I guess.  I don't believe I formally  
9 moved 225 and 226.  If I have not, I'd move those  
10 for introduction.

11                   THE COURT:    I don't believe you did.  
12 Any objection?

13                   MR. LOW:    No, Your Honor.

14                   THE COURT:    Exhibits 225 and 226 are  
15 received.

16                   Cross-examination, Mr. Low.

17                   MR. LOW:    Thank you, Your Honor.  I  
18 have one, two, three, four, five, six, seven  
19 pictures that I have labeled as following, Your  
20 Honor.  They start with AA and they go through GG.  
21 That's Defense next in order.  And I seek to have  
22 them identified as such.

23                   THE COURT:    So noted.  Thank you.

24                   MR. LOW:    And I'm going to show them  
25 to this gentleman.

1                   MR. BLONIGEN: Your Honor, if I may,  
2 these are all photographs taken through Mr.  
3 Norcross's search the next day. I -- he's going  
4 to testify tomorrow.

5                   MR. LOW: They're pictures in the  
6 case.

7                   MR. BLONIGEN: I know they're  
8 pictures in the case, but I'm saying this witness  
9 might not be familiar with them.

10                  MR. LOW: Let's find out.

11                  MR. BLONIGEN: But I would stipulate  
12 to authentication, Your Honor.

13                  THE COURT: Okay.

14                  MR. LOW: Would ask that these be  
15 received into evidence, Your Honor.

16                  MR. BLONIGEN: Until some knowledge  
17 on the part of the witness is shown, Judge, I'm  
18 going to object.

19                  THE COURT: Objection noted, and I'd  
20 decline at this time without more foundation.

21                  MR. LOW: Yes, sir.

22                                   CROSS-EXAMINATION

23 BY MR. LOW:

24                  Q.     Officer Baker?

25                  A.     Yes, sir.

1 Q. How would you characterize or how would  
2 you describe your attention for detail?

3 A. Very good, sir.

4 Q. Very good?

5 A. Yes, sir.

6 Q. Okay. And when you were at the scene  
7 where Mr. Knospler's car gets pulled over --

8 A. Yes, sir.

9 Q. -- where were you first standing when you  
10 got out of the car?

11 A. When I got out of my vehicle, my vehicle  
12 was positioned so if you're looking at Deputy  
13 Taylor's vehicle, which is right behind the  
14 suspect's vehicle, my vehicle would have been to  
15 the back driver's side area of his vehicle.

16 Q. Thank you. And where were you positioned  
17 when Mr. Knospler's car door first opens?

18 A. I was right -- I guess if the gas cap  
19 would have been on that side, I was on the back  
20 driver's side by the tailgate area.

21 Q. And were you standing in front of Officer  
22 Taylor's squad car?

23 A. Deputy Taylor, yes, sir. We were both  
24 standing in front of it.

25 Q. Have you seen the video that was recorded

1 by Officer Taylor's car?

2 A. I did not, sir.

3 Q. You haven't seen it?

4 A. No, sir.

5 Q. Are you aware, then, whether or not you  
6 appear anywhere in that video?

7 A. If I'm in his video?

8 Q. Yeah.

9 A. I'm not sure. I haven't seen the video,  
10 sir.

11 Q. Okay. At some point when Mr. Knospler's  
12 car pulls over and before his door opens, do you  
13 recall whether or not another officer walked up on  
14 the passenger side of Mr. Knospler's car?

15 A. Yes, sir, he did.

16 Q. Who was that?

17 A. That was Officer Peterson with the Casper  
18 Police Department.

19 Q. So it was not you; right?

20 A. No, sir.

21 Q. Okay. And when Mr. Knospler's car  
22 first -- door first opens, swings open, how far  
23 away would you say you were from it?

24 A. From his door --

25 Q. Yes, sir.

1           A.    -- or from him?  His door, maybe less  
2 than two feet.

3           Q.    So if there is a video camera in Officer  
4 Taylor's car recording all this, and you're only  
5 two feet away from the driver's side door, you'd  
6 clearly be in it?

7           A.    I would be in that video, yes, sir.

8           Q.    Okay.  After the car door swings open, do  
9 you see Mr. Knospler get out?

10          A.    Yes, sir.

11          Q.    Did you hear him say anything?

12          A.    I do not recall anything he said, sir.

13          Q.    Well, I didn't ask you what he said.  I  
14 asked you do you recall if he said anything.

15          A.    I do not recall that.

16          Q.    Okay.  Do you recall whether or not Mr.  
17 Knospler pointed towards anything or gestured  
18 towards anything as he got out of his car?

19          A.    I do not recall that.

20          Q.    Do you recall where Mr. Knospler's hands  
21 were located when he first came into your view?

22          A.    They were down at his side.

23          Q.    You sound like you're asking me a  
24 question.  I'm asking you, do you know or do you  
25 not know?

1           A.     They were down at his side.  They weren't  
2 up in anybody's face or anything like that.

3           Q.     Were they up in the air at all?

4           A.     No, sir.

5           Q.     Okay.  And after Mr. Knospler got out of  
6 the car, what did you see happen next?

7           A.     Then he was directed to place his hands  
8 on the back passenger window and remain there.

9           Q.     Then what happened?

10          A.     Then he was placed in handcuffs and  
11 removed from the scene.

12          Q.     By who?

13          A.     Deputy Taylor.

14          Q.     Okay.  And when you say he was removed  
15 from the scene, where was he removed to?

16          A.     He was walked back to the -- the deputy's  
17 patrol vehicle.

18          Q.     Great.  And then at that point, did you  
19 go up and close the driver's side door?

20          A.     No, sir.

21          Q.     Did you take pictures first?

22          A.     I did, sir.

23          Q.     And was there snow on the ground  
24 underneath the driver's side door?

25          A.     Yes, sir, there was.

1 Q. And how deep was the snow?

2 A. Couple of inches.

3 Q. Two inches?

4 A. More or less -- no -- yeah, I'd say two  
5 inches probably.

6 Q. Are you sure?

7 A. Yes, sir.

8 Q. Okay. And how many footprints were in --  
9 located in the general area of the driver's side  
10 door and the snow when you went up there to  
11 photograph it?

12 A. I cannot say how many exactly there were.

13 Q. Did you look?

14 A. I didn't stare at the footprints, no,  
15 sir.

16 Q. Did you count them?

17 A. No, sir.

18 Q. Did you look for any evidence?

19 A. I looked down to see if there was any  
20 glass down there, yes, sir, I did.

21 Q. Was there?

22 A. I did not see any, sir.

23 Q. Did you check the snow?

24 A. I didn't sift through, but there was  
25 nothing apparent on the surface, sir.

1 Q. Did you take a photograph of it so we  
2 could look at it later and see for ourself if  
3 there was any glass down there?

4 A. No, sir, I did not, unless it occurs in  
5 the photos of vehicle that I took on scene.

6 Q. So you're not sure if you did or not?

7 A. I did not take any of where those  
8 footprints would have been, sir.

9 Q. Okay. So let me ask you this. Tell the  
10 jury again what you believe Mr. Knospler's  
11 demeanor was that night.

12 A. Carefree and at times antagonistic.

13 Q. Anything else?

14 A. That's all I recall.

15 Q. Okay. Do you recall saying to Mr.  
16 Knospler the following: Okay, and I know you're a  
17 decent enough guy. Well, just don't take anything  
18 off yet. Don't take anything off yet. We're  
19 going to start in a very systematic way, okay, the  
20 way we do stuff. I know you're going to be  
21 cooperative. You seem to be a nice enough guy.  
22 Okay.

23 Did you say that to him?

24 A. I don't remember saying that, but if --

25 Q. Well, you realize that that -- that whole



1 scenario while you're photographing his clothes  
2 back at the station is all being video and audio  
3 recorded; correct?

4 A. Yes, sir.

5 Q. And we got the audio recording and we  
6 transcribed it. Do you got any reason to believe  
7 that that's not accurate?

8 A. If that's on the video, sir, it's on the  
9 video. I can't refute that.

10 Q. How good is your memory about that?

11 A. About my conversations with him?

12 Q. Yes, sir.

13 A. Not that good --

14 Q. Okay.

15 A. -- obviously.

16 Q. Could you have been wrong, then, about  
17 him being antagonistic?

18 A. No, sir.

19 Q. Okay. Did you also say -- and this is  
20 seven pages later, I don't have a time stamp on  
21 it: I will. We're just doing our stuff, man, you  
22 know that. You seem to be a nice enough guy.

23 Did you say that to him, sir?

24 A. I do not recall saying that.

25 Q. And then did John say this to you a few

1 moments or seconds later -- did you say: Oh, is  
2 there? Okay. All right. Just leave your hand  
3 there for us, man. Okay. You can put your hand  
4 down.

5 John Knospler: Okay. Guys, don't worry  
6 about all this glass?

7 Detective, you: We'll have to take care  
8 of that afterwards.

9 John: And walking through it?

10 And let's stop there right for a second.  
11 Isn't it true that back at the station house in an  
12 interview room, you put John Knospler; correct?

13 A. I did not specifically. That's where he  
14 was put, yes, sir.

15 Q. Fair enough. And at some point during  
16 the time you're taking pictures and inventorying  
17 the way he looks --

18 A. Yes, sir.

19 Q. -- you did that; right?

20 A. Yes, sir.

21 Q. Didn't he point out to you that there was  
22 glass all over the floor?

23 A. He made an indication that that was such,  
24 yes, sir.

25 Q. And, in fact, it was true; isn't that

1 right?

2 A. There may have been very minor shards of  
3 it, yes, sir.

4 Q. Did you take pictures of it?

5 A. Not of the carpet, no, sir.

6 Q. Did you take pictures of it as it was on  
7 the table because he had taken and he piled it up  
8 in a pile? Did you do that?

9 A. Did not take those pictures, sir.

10 Q. But you're aware they were taken;  
11 correct?

12 A. I do not remember those pictures being  
13 taken.

14 Q. I'll get to that in a second. I don't  
15 want to waste time. We'll pull them up. And did  
16 he say this at that time --

17 MR. BLONIGEN: Well, Your Honor, at  
18 this point, he keeps placing his client's hearsay  
19 statements in evidence. He cannot do that under  
20 Rule 801. They're not a statement of a party  
21 opponent, they're the statement of the person  
22 themselves, nor are they relative to any  
23 statements I introduced.

24 MR. LOW: These are impeachment,  
25 Your Honor.

1                   MR. BLONIGEN: Well, Your Honor, he  
2 still can't offer self-serving statements from his  
3 defendant.

4                   MR. LOW: These are recorded.  
5 They're not self-serving.

6                   THE COURT: Well, I think the only  
7 concern I'd have is whether you're asking him  
8 about statements he would have made at or about  
9 that time.

10                  MR. LOW: That's what I'm asking,  
11 Your Honor.

12                  THE COURT: And surely, observations  
13 also come into play. So as long as we're  
14 addressing what he would have said at that point  
15 in time and whether there's other statements out  
16 there that's inconsistent or may refresh  
17 recollection, he can use it for that purpose. So  
18 looking back at the last question, I'll allow for  
19 it to stand.

20                  MR. LOW: Thank you.

21                  Q.       (BY MR. LOW) And isn't it true, sir,  
22 that John was pointing out to you that he's got  
23 this glass and it's on the floor and you're  
24 walking through it, and he's asking you to do  
25 something about it; isn't that right, sir?

1           A.     I do not recall him pointing that out,  
2     no, sir.

3           Q.     Well, would the audio and videotape lie  
4     about that?

5           A.     If it's on there, it's on there, sir.

6           Q.     And, in fact, he said to you, and it may  
7     have been a little sarcastic: Yeah, don't you  
8     think that's pretty important information for you  
9     guys?

10                   And you said: Can you tell me why it  
11     would be important to us?

12                   Did you say that to him?

13           A.     If I -- if I'm on the recording, then  
14     yes, I said that.

15           Q.     I mean, this is glass that's in the  
16     station house coming off of him; correct?

17           A.     That's where it would have come from,  
18     yes, sir.

19           Q.     And you know he was in the car earlier  
20     because you saw him get out of it; right?

21           A.     Yes, sir.

22           Q.     And it was therefore located on his body;  
23     right?

24           A.     There's potential, yes, sir.

25           Q.     And you believe he's been involved in a

1 shooting; correct?

2 A. At that time, I did not know that, no,  
3 sir.

4 Q. And you're being told that your job as an  
5 evidence custodian is to take detailed information  
6 and evidence so you can preserve it for later;  
7 right?

8 A. Yes, sir.

9 Q. But somehow you're just missing all this  
10 glass falling off his clothing, standing right in  
11 front of you; right?

12 A. Okay.

13 Q. Right?

14 A. If that's on the video, then yes, sir,  
15 that's correct.

16 Q. And isn't it also true that then -- was  
17 it a nurse that came by because she's going to  
18 collect a sample while you're there?

19 A. The blood sample, yes, sir.

20 Q. And John actually says to her, Ma'am, I  
21 want you to look at this, look at this glass here.

22 He points it out to her; isn't that  
23 right?

24 A. Again, I do not recall these statements,  
25 sir.

1 Q. Is this what you mean by him being  
2 antagonistic?

3 A. No, that was not it, sir.

4 Q. Okay. And he actually says to her, Be  
5 careful, ma'am. I don't want you to get cut.

6 He says that to her, doesn't he?

7 A. Again, I do not recall those statements,  
8 sir.

9 Q. Okay. And, sir, isn't it true that the  
10 very last thing you said to John Knospler at the  
11 end of your collection of evidence was, I  
12 appreciate you being polite, man?

13 A. I do not remember saying that; but if  
14 it's on the video, yes, sir.

15 MR. LOW: May I approach, Your  
16 Honor, show what's been received -- or I'm  
17 sorry -- it's been marked as AA through GG.

18 THE COURT: Okay.

19 Q. (BY MR. LOW) Give me a second, if you  
20 would.

21 A. Yes, sir.

22 Q. Sir, did you take this -- this picture --  
23 and I'm showing what's been marked as FF.

24 A. Did I take that picture?

25 Q. Yes.

1           A.     No, sir.

2           Q.     Do you see this down here on -- well,  
3     what does this picture appear to be?

4           A.     It appear to be -- I can't tell what  
5     exactly it was, but it's a Chevy passenger car,  
6     and that's the passenger side.

7           Q.     And does it appear to be a picture from  
8     the passenger door looking down on the floorboard?

9           A.     Yes, sir.

10          Q.     What appears to be on the floorboard down  
11     there?

12                   MR. BLONIGEN:   Well, Your Honor, I'm  
13     going to object to testimony from the exhibits  
14     unless he can establish this officer knows when,  
15     where, how, why that's taken and what  
16     circumstances, foundation.

17                   THE COURT:   Hold up.   We should have  
18     no testimony until an exhibit is received.

19          Q.     (BY MR. LOW)   All right.   Let me ask it  
20     this way, then.   Does this appear to be the exact  
21     same car that you photographed in detail the night  
22     you were doing that?

23          A.     I could say it bears resemblance, but  
24     with the detail, I can't say if it's the exact  
25     same vehicle.



1           Q.     So just by looking at the interior of  
2 car, you can't remember whether or not it's the  
3 same one?

4           A.     No, sir.

5           Q.     Okay. Let me show you just generally,  
6 what does that appear to be?

7                   MR. BLONIGEN: Your Honor, same  
8 objection.

9                   THE COURT: Which exhibit are we  
10 talking about?

11                  MR. LOW: Thank you. EE.

12                  MR. BLONIGEN: Your Honor, these are  
13 not photos taken by this officer, these are photos  
14 taken the next day by an officer who will testify  
15 in this case tomorrow. Now, to keep asking this  
16 witness questions about this photograph he hasn't  
17 established he has knowledge of is inappropriate.

18                  THE COURT: The question that was  
19 pending was not a foundational one. The nature of  
20 it was for him to describe it, so I'll sustain the  
21 objection.

22           A.     That is the back passenger seat.

23                  THE COURT: No. Hold up. I  
24 sustained the objection, so we'll go to the next  
25 question.

1 Q. (BY MR. LOW) Let me ask it this way.

2 Sir, did you look at the interior of Mr.

3 Knospler's car that evening when you took all them  
4 pictures?

5 A. Yes, sir.

6 Q. Did you stick your head in the window --  
7 let me ask this. How was it you were able to look  
8 in the interior?

9 A. Through the windows.

10 Q. Did you open any of the doors?

11 A. No, sir.

12 Q. And were the windows tinted or were they  
13 clear?

14 A. The back passenger ones were mildly  
15 tinted, yes, sir.

16 Q. Did anything obstruct your view so that  
17 you could not see into the interior of the car?

18 A. At which point, sir?

19 Q. When you were looking through them.

20 A. When the vehicle was clean or when it was  
21 covered in snow?

22 Q. Either.

23 A. Okay. Well, when it was clean, obviously  
24 I could see inside the vehicle, yes, sir.

25 Q. Okay. So are you familiar with what the

1 inside of Mr. Knospler's car looked like?

2 A. His car, yes, sir.

3 Q. Okay. Try this again. I'm showing you  
4 what's been marked as FF for identification. Does  
5 that picture look like the interior of Mr.  
6 Knospler's car?

7 A. It looks like that, yes, sir, but I can't  
8 say for a hundred percent certainty that's the  
9 same vehicle.

10 Q. You're not sure?

11 A. I can't say that because that's just the  
12 interior of a vehicle, sir.

13 Q. Okay. Showing you GG. Does that look  
14 like the interior of John Knospler's car?

15 A. Like I said, it bears resemblance. I  
16 can't say it's his vehicle, no, sir.

17 Q. I'm showing you EE. Does that look like  
18 the interior of John Knospler's car?

19 A. Again, bears resemblance, yes, sir.

20 Q. Showing you AA for identification. Does  
21 that look like the interior of John Knospler's  
22 car?

23 A. Honestly, I cannot tell from that photo.

24 Q. Fair enough. I'm showing you BB. Does  
25 that look like the interior of John Knospler's

1 car?

2 A. Yes, sir, as far as these ones go.

3 Q. I'm showing you CC. Does that look like  
4 the interior of John Knospler's car?

5 MR. BLONIGEN: Your Honor, I'm going  
6 to object to this. Counsel is repeatedly asking  
7 questions, he knows he cannot lay foundation.  
8 It's inappropriate. I'll object.

9 THE COURT: I'll overrule as to this  
10 question alone. You may answer.

11 A. Again, it bears resemblance, yes, sir.

12 Q. (BY MR. LOW) I'm showing you DD. Does  
13 that look like the interior of John Knospler's  
14 car?

15 A. Again, bears resemblance, yes, sir.

16 Q. Sir, when you look through the window,  
17 the clean windows, as you said, that evening --

18 A. Yes, sir.

19 Q. -- tell us what you saw on the backseat.

20 A. Backseat, there was an almost empty case  
21 of water bottles, and there's another case of  
22 water bottles that have a few missing. There was  
23 what I believe was a beach towel, multiple colored  
24 beach towel as well on the backseat.

25 Q. Anything else?

1           A.     That's what I remember seeing in the  
2 backseat, sir.

3           Q.     So now I'm going to show you what's been  
4 marked as Exhibit DD for identification.

5                   THE COURT:   Counsel, let's stay out  
6 of the witness's bar.  You surely may approach,  
7 and I'll give you continuing permission.

8                   MR. LOW:    Thank you, sir.

9           Q.     (BY MR. LOW)  Does that appear to be the  
10 half used case of water bottles that you just  
11 testified to and the beach towel in the back seat  
12 of Mr. Knospler's car?

13           A.     I'd say that's the same case of water  
14 bottle brand.  I can't tell if it's the same one.  
15 And for the beach towel itself, I can't tell if  
16 that's the exact same one, no, sir.

17           Q.     And did you note any automobile broken  
18 glass in the backseat of Mr. Knospler's car when  
19 you looked at it?

20           A.     No, sir.  I could not tell when I was  
21 looking through it.

22           Q.     Yes.  But do you see any in that picture?

23                   MR. BLONIGEN:  Your Honor --

24                   THE COURT:  I'll sustain.  The  
25 exhibit has not been received, so no questions

1 should go to that exhibit until it's received.

2 MR. LOW: Sir, I'm sorry. Did you  
3 just say I can't ask any questions about this  
4 picture until it's received into evidence?

5 THE COURT: Yes. As far as  
6 description, other than foundational questions.

7 MR. LOW: Yes, sir.

8 Q. (BY MR. LOW) And I'm showing you Exhibit  
9 EE. Does that look like the backseat that you  
10 described in Mr. Knospler's car?

11 A. Looks like the backseat, yes, sir.

12 Q. Anything else in that picture that you  
13 recognize?

14 A. That I recognize from the event?

15 Q. Yes, sir.

16 A. There are empty water bottles.

17 Q. Empty water bottles. Those are on the  
18 floor; right?

19 A. In this photo, yes, sir, they are.

20 MR. BLONIGEN: Your Honor --

21 Q. (BY MR. LOW) When you were at the scene,  
22 how were you able to recognize empty water  
23 bottles --

24 MR. BLONIGEN: No, no, Your Honor --

25 Q. (BY MR. LOW) -- when you saw them?

1 THE COURT: Here we go.

2 MR. BLONIGEN: Counsel is --

3 THE COURT: Mr. Blonigen.

4 MR. BLONIGEN: Counsel is asking  
5 detailed questions about the pictures that have  
6 not been admitted into evidence. The Court has  
7 already ruled on this several times.

8 THE COURT: Until there is  
9 foundation that it is a true and accurate  
10 portrayal that he can identify, the exhibits  
11 cannot be received.

12 MR. LOW: I'm not asking for them to  
13 be received.

14 THE COURT: Until we get to that  
15 threshold showing, to ask him what the photographs  
16 depict or things that he refers to as his  
17 observations at a different point in time are not  
18 proper. So I guess what I'd do is I'd sustain the  
19 objection to the last question and see if you want  
20 to go further with that advisement.

21 MR. LOW: Yes, sir. And, Your  
22 Honor, I'd just like to say that I asked this  
23 witness how keen his eye was for observation of  
24 detailed evidence, and these are going right to  
25 that. And so if Mr. Blonigen doesn't want to

1 authenticate these, we'll save them for later. I  
2 understand.

3 THE COURT: I think that might be  
4 proper, yes.

5 Q. (BY MR. LOW) Did you take pictures of  
6 the contents that were in Mr. Knospler's pockets  
7 while you were photographing him?

8 A. What was removed from his pockets in the  
9 interrogation room, yes, sir.

10 Q. Yes. And how much glass did you find?

11 A. In his pockets?

12 Q. Yeah. No, not in his pockets, anywhere.

13 A. Could you be a little bit more specific  
14 about anywhere?

15 Q. Yes, sir. Do you remember?

16 A. That was -- that's a pretty vague  
17 question, sir. Could you clarify that for me?

18 Q. Yes. Yes, I will. Can you recall how  
19 much glass you found while inventorying Mr.  
20 Knospler and his clothes?

21 A. I cannot recall how much, no, sir.

22 Q. Can you recall whether there was any at  
23 all?

24 A. Small amounts.

25 Q. Are you sure?



1           A.     Yes, sir.

2           Q.     Okay. Did you photograph that?

3           A.     I photographed what was laying around,  
4     yes, sir, but nothing specifically gathered.

5           Q.     Okay.

6                     MR. LOW: Your Honor, I have one,  
7     two, three, four, five, six photographs; and I'd  
8     like to label as HH, II, JJ, KK, LL, MM.

9                     MR. BLONIGEN: No objection to  
10    authentication, Your Honor.

11                    MR. LOW: And I've got four more  
12    that I'll label NN, as in Nancy, OO, PP, QQ.

13                    May they be so marked, Your Honor?

14                    THE COURT: Are you offering them to  
15    be received?

16                    MR. LOW: I was just marking the  
17    next four.

18                    THE COURT: Okay. So noted. Thank  
19    you.

20                    MR. LOW: And I'm going to ask a  
21    they be received into evidence.

22                    THE COURT: Any objection to the  
23    receipt?

24                    MR. BLONIGEN: I've got to see these  
25    photos. Otherwise, I do not, Your Honor.

1 THE COURT: Are you asking for all  
2 ten exhibits to be received?

3 MR. LOW: I am, Your Honor.

4 THE COURT: Okay.

5 MR. BLONIGEN: No objection, Your  
6 Honor.

7 THE COURT: Okay. Exhibits HH  
8 through QQ inclusive are received.

9 Q. (BY MR. LOW) I'm going to show you --

10 MR. LOW: Sorry. I'm referring to  
11 MM, Your Honor.

12 THE COURT: Okay. Thank you.

13 Q. (BY MR. LOW) I'll take the Post-its off  
14 there. Is that the contents of Mr. Knospler's  
15 pockets there, sir?

16 A. Yes, sir, it is.

17 Q. What do these look like down there? Any  
18 idea what those are?

19 A. Those appear to be glass shards, but the  
20 picture is not in detail.

21 Q. Thank you. This one I'm showing you now,  
22 what's been received as LL, does that appear to be  
23 some of the contents of Mr. Knospler's pocket?

24 A. Yes, sir.

25 Q. What's down there in the lower right-hand

1 corner?

2 A. That is a piece of glass.

3 Q. Showing you KK. What's that?

4 A. That is one of his shoes, presumably his  
5 left shoe.

6 Q. And what is the vantage point? Is that  
7 outside the shoe, sole of the shoe, inside of the  
8 shoe?

9 A. That is where the heel is placed against  
10 the shoe.

11 Q. That's the inside of his shoe?

12 A. Yes, sir.

13 Q. What's in there?

14 A. That's glass.

15 Q. That's glass?

16 A. Yes, sir.

17 Q. This is going to be JJ. Resolution may  
18 not be so good. We're going to find out. We'll  
19 do the best we can. Do you recognize this?

20 A. I do.

21 Q. What is it?

22 A. That is a photograph of the front portion  
23 of his pants.

24 Q. His pants?

25 A. Yes, sir.

1 Q. His lap area?

2 A. Yes, sir.

3 Q. And do you see anything in there of note  
4 or distinction?

5 A. Yes. That coloration on the fabric.

6 Q. Which one? Here?

7 A. Right here.

8 Q. Thank you. Anything else? That's okay.  
9 I'm going to hand this one to you personally, if  
10 the judge will allow me.

11 THE COURT: Yes, you may do so.

12 Q. (BY MR. LOW) When looking at the picture  
13 here, do you note anything else besides that  
14 discoloration?

15 A. No, sir.

16 Q. You see any of these little white things  
17 reflecting light back at the camera? You see  
18 those in there?

19 A. I do see those, yes, sir.

20 Q. Any idea what those are?

21 A. Those could be various things. A lot of  
22 things reflect light, sir.

23 Q. I'm just asking you if you have any idea  
24 what those things are. You took the picture.

25 A. I cannot tell by the resolution, sir.

1 Q. Did you look for any fine particles of  
2 glass in his clothing, sir?

3 A. I did not specifically look for them, no,  
4 sir.

5 Q. Why not? That's evidence; right?

6 A. For the little shards of glass?

7 Q. Yeah.

8 A. Yes, sir.

9 Q. Did you decide that wasn't important or  
10 wasn't relevant?

11 A. That's why we gathered the clothing, sir.

12 Q. Okay. Showing you HH. Recognize that,  
13 sir?

14 A. Yes, sir.

15 Q. What's that?

16 A. That is a photograph of his feet as he's  
17 facing me.

18 Q. See anything else in that photograph of  
19 evidentiary value?

20 A. These glass shards.

21 Q. Did you collect those?

22 A. No, sir.

23 Q. Why not?

24 A. Those glass shards?

25 Q. Yes.

1           A.     There's no reason to.  What relevance  
2     does multiple glass shards have to do with it?

3           Q.     This look familiar to you, sir?  I'm  
4     showing you OO.

5           A.     That looks like a photograph of my table.  
6     I can't be sure that it's mine, sir.

7           Q.     I'm just asking you if it looks familiar  
8     to you.

9           A.     Not that I recall, no, sir.

10          Q.     So you have no memory of that; is that  
11     right?

12          A.     I do not, sir.

13          Q.     Wherever this glass was found, you didn't  
14     see it, is that fair, in OO?

15          A.     I can't say I didn't see it.  I said I do  
16     not recall.

17          Q.     All right.  I'll show you another one.  
18     Maybe this will refresh your memory.  This I'm  
19     showing you is PP.  Any idea where that's at, sir?

20          A.     That would appear to be the same table,  
21     and this would be the chair where Mr. Knospler was  
22     sitting.

23          Q.     So this is the room that you -- that you  
24     took all those photos in?

25          A.     Yeah, would appear so, yes, sir.

1 Q. Does that glass look familiar to you?

2 A. Like I said, I do not recall it.

3 Q. How did this escape your attention?

4 MR. BLONIGEN: Well, Your Honor, I'm  
5 going to object unless he can tell how the shards  
6 got on the table. As I said, Mr. Shatto took  
7 these, not the --

8 THE COURT: I'll allow the witness  
9 to explain. I'll overrule. You may answer.

10 A. Could you ask again?

11 Q. (BY MR. LOW) How did that escape your  
12 attention, that glass?

13 A. It's been a year. It's been a very long  
14 time. I deal with a lot of major cases.

15 Q. Okay. Does this picture look familiar?

16 A. That -- again, that would appear to be  
17 the same room in which Mr. Knospler was sitting.

18 MR. LOW: I'm sorry. That last  
19 picture, Your Honor, was QQ. I needed to do that.

20 Q. (BY MR. LOW) I'll put those here.

21 Sir, just before you asked Mr. Knospler  
22 to provide you -- Knospler to provide you a urine  
23 sample, can you tell us when the last time was  
24 that he used the restroom?

25 A. I do not recall, sir.

1 Q. Just before you asked Mr. Knospler to  
2 give you a urine sample, did -- were you aware of  
3 how much urine he had in his bladder?

4 A. No, sir.

5 Q. Well, what facts, then, did you have that  
6 Mr. Knospler actually had refused to give you a  
7 urine sample? What facts did you have?

8 A. That he refused to give me a urine  
9 sample?

10 Q. Yes, sir.

11 A. Because when he was questioned multiple  
12 times if he was going to provide us a sample and  
13 refused to answer those questions, it would be  
14 very simple for an individual to say, I cannot  
15 pee.

16 Q. Yes, but that's just your guess; right?

17 A. That would be a fact, sir.

18 Q. That he could absolutely answer your  
19 questions if he wanted to, that's a fact?

20 A. That he could answer my questions?

21 Q. Yes.

22 A. Yes, sir, he was competent.

23 Q. You're aware that people have rights in  
24 this country; right?

25 A. Yes, sir, I am.



1 Q. In fact, you've, at one time, if not  
2 currently, as an officer but also as a Marine,  
3 fought for those rights; correct?

4 A. Yes, sir.

5 Q. So can you think of any reason why Mr.  
6 Knospler may not feel motivated to answer a lot of  
7 questions?

8 MR. BLONIGEN: That's speculation,  
9 Your Honor. He can't speculate.

10 THE COURT: It would call for  
11 speculation, I'll sustain.

12 Q. (BY MR. LOW) So let me see if I can get  
13 this right. You can tell us what he could have  
14 done, but you can't tell us why; is that right?

15 A. I don't know how to do that, sir.

16 Q. That's all right. That's a bad question.  
17 That one actually wasn't fair to you. I'll  
18 withdraw it. But thank you.

19 Did Mr. Knospler provide a urine sample?

20 A. Not to me, sir.

21 Q. Did Mr. Knospler provide somebody other  
22 than you a urine sample?

23 A. As I was told, he may have, yes, sir.

24 Q. And how much time went by from the time  
25 you tried to get him to do it until the time he

1 did?

2 A. I do not know that, sir.

3 Q. No one had to hold him down to get it  
4 either, did they?

5 A. I was not there for that, sir.

6 MR. LOW: Thank you, Your Honor.  
7 That's all I have at this time.

8 THE COURT: Thank you very much.

9 Redirect examination, Mr. Blonigen.

10 REDIRECT EXAMINATION

11 BY MR. BLONIGEN:

12 Q. There were some items of glass in the few  
13 pictures he showed you that were yours; isn't that  
14 fair?

15 A. Yes, sir.

16 Q. Did you realize all those were collected  
17 and put in a little pile on a table and  
18 Investigator Shatto took a picture of it?

19 A. I did not, sir.

20 Q. And we can tell who took the picture  
21 because it says so on the card, doesn't it?

22 A. Yes, sir, right here.

23 Q. It wasn't you?

24 A. No, sir.

25 THE COURT: Counsel, could we

1 identify that exhibit?

2 MR. BLONIGEN: NN.

3 THE COURT: Thank you. Appreciate  
4 it.

5 Q. (BY MR. BLONIGEN) Now, you were shown a  
6 series of photographs that you were not familiar  
7 with; correct?

8 A. Yes, sir.

9 Q. You're an evidence technician?

10 A. Yes, sir.

11 Q. You've conducted searches on search  
12 warrants before?

13 A. Yes, sir.

14 Q. As you go through the vehicle or the  
15 house or whatever you're searching, are items then  
16 removed and taken out of the vehicle or the house?

17 A. Yes, sir.

18 Q. Are they -- is that, then, photographed  
19 step by step?

20 A. The house or the items?

21 Q. The house, the items, the car, whatever  
22 it is. As they're removed from the house or the  
23 car, are the items photographed?

24 A. Yes, sir.

25 Q. Is the area where they were found

1       photographed?

2           A.     Yes, sir.

3           Q.     Do you have any idea what phase of the  
4       search warrant that was in in those pictures?

5           A.     I do not, sir.

6           Q.     So you don't know if it was moved?

7           A.     No, sir.

8           Q.     You don't know if it was collected?

9           A.     No, sir.

10          Q.     You don't know what's changed?

11          A.     No, sir.

12          Q.     That would be the person who did that;  
13       correct?

14          A.     Yes, sir.

15          Q.     Now, what was -- now you were called  
16       about 20:18 -- or that can't -- excuse me -- 0:18?

17          A.     Yes, sir.

18          Q.     Approximately how long from the call to  
19       the time you responded to where Deputy Taylor was,  
20       how much time elapsed, approximately?

21          A.     Well, in all fairness, I -- I responded  
22       without being directed by dispatch.

23          Q.     Okay.

24          A.     But yes, I saw the call as it came up on  
25       the board, and we were on the exact same time. So

1 I would say approximately 13 to 15 minutes.

2 Q. Okay. Now, Mr. Low asked you a very  
3 specific question when you were talking to Mr.  
4 Knospler in the interview room. And by the way,  
5 are you going to be confrontational with a person  
6 in this situation?

7 A. No, sir.

8 Q. Why not?

9 A. Well, compliance is a very big issue.  
10 It's something we deal with. And in order to work  
11 my case and to do my job, having good rapport with  
12 individuals is important.

13 Q. Okay. So you were going to say things  
14 like, You're a good guy, you're a nice guy?

15 A. Yes, sir. I have been trained in  
16 interview techniques.

17 Q. So that's not inconsistent with your  
18 observations, is it?

19 A. No, sir.

20 Q. He asked you one specific question,  
21 though, about the glass. He -- he said Mr.  
22 Knospler said, Are you going to collect that?

23 And you asked him, Why don't you tell us  
24 why it is important.

25 Do you remember that question?

1 A. I remember him asking, yes, sir.

2 Q. Do you recall the defendant's response?

3 A. No, sir.

4 Q. Do you know if he gave you a response?

5 A. I do not recall that, sir.

6 MR. BLONIGEN: Thank you. That's  
7 all the questions I have.

8 THE COURT: Thank you. Any request  
9 for anything on recross?

10 MR. LOW: Yes, Your Honor.

11 THE COURT: Go ahead.

12 RECROSS-EXAMINATION

13 BY MR. LOW:

14 Q. What was the detective's name that took  
15 these out of NN? It says Shatto; is that right?

16 A. Yes, sir, it says that.

17 Q. Do you know Officer Shatto?

18 A. Not personally, no, sir.

19 Q. Does he work down there at the Casper  
20 Police Department?

21 A. No. He's a Natrona County deputy.

22 Q. He's a what?

23 A. A deputy.

24 Q. He works at the Sheriff's Office?

25 A. Yes, sir. Two different departments.

1 Q. Is that where you work?

2 A. I work at the Casper Police Department,  
3 sir.

4 Q. Were you guys in the building together  
5 that day?

6 A. I do not recall meeting him there, no,  
7 sir.

8 Q. Would it appear from picture NN -- I will  
9 zoom in -- that Officer Shatto found evidence  
10 that, well, you left behind; isn't that right?

11 MR. BLONIGEN: Your Honor, that is  
12 an inaccurate -- that's an inaccurate presumption.  
13 It's not supported by the evidence.

14 MR. LOW: Just the photograph.

15 THE COURT: I'll allow the witness  
16 to answer if he knows.

17 A. Could you ask that again? I'm --

18 Q. (BY MR. LOW) Yeah. It appears that  
19 Officer Shatto found evidence, well, that you left  
20 behind?

21 A. I can't say specifically that I left  
22 behind, sir.

23 Q. That you were not aware of?

24 A. Yes, sir.

25 Q. So how would you rate your ability to

1 find evidence now? Would you still say it's  
2 excellent?

3 A. When I'm working a call, yes, sir.

4 Q. Okay.

5 THE COURT: Is that all, Counsel?

6 MR. LOW: Yes, sir. Thank you, Your  
7 Honor.

8 THE COURT: Okay. Thank you. I was  
9 looking down.

10 Thank you, Officer. You may step down  
11 and you're excused.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Ladies and gentlemen of  
14 the jury, I was advised -- and I appreciate the  
15 jury taking a look at the additional time question  
16 that I posed to you. I'm advised that next Monday  
17 and Tuesday, if necessary, would be the  
18 preference. And I know it will have to be an  
19 inconvenience but something that everyone can  
20 commit to, so we'll try to block it off. I've got  
21 a schedule that's really not too bad next Tuesday,  
22 but Monday is going to be challenging to  
23 reschedule. But we'll go ahead and block off next  
24 Monday and Tuesday for additional trial  
25 proceedings. And I appreciate very much your



1 understanding and your giving me that input.

2 Ladies and gentlemen, again, as we break,  
3 please keep in mind the admonitions and rules.

4 I'm not going to repeat them all to you again, but  
5 it's very important that you avoid any outside  
6 influences and keep your minds open. You've heard  
7 a tremendous amount of evidence, but you still  
8 haven't heard all the evidence, you haven't heard  
9 the final arguments. So we ask you to keep your  
10 minds open and to not discuss the case until we  
11 get to that final submission of the case to the  
12 jury. So once again, thank you very much for your  
13 time. We'll excuse the jury, and I have just a  
14 brief matter to take up on the record.

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

18 THE COURT: Thank you. With the  
19 jury having exited, just a very short matter.

20 Before our last break, Mr. Low mentioned  
21 a possible motion to strike two witnesses. And as  
22 I heard it, one was Mr. Syverson and one was Ms.  
23 Mize. And if I heard the topic correct, and I may  
24 be off topic again, my decision letter and order  
25 of December 12th on 404(b) evidence, there was a

1 specific notice and summary of Ms. Mize's  
2 supplemental statement or information that was  
3 taken down by law enforcement that was given to  
4 the Defense. I filed it in the case, and that  
5 supplemental information -- and counsel can take a  
6 look at it -- did directly disclose evidence  
7 concerning cocaine, drug use, and the statements  
8 that Ms. Mize heard and testified to.

9 I don't know if it impacts things, but I  
10 noted that at the time we made that final  
11 decision, the Court did file in that supplemental  
12 report on Ms. Mize's law enforcement contact, and  
13 that was provided to Defense counsel. I think it  
14 was even e-mailed that day to Defense counsel. So  
15 I don't know if there is something I was missing.  
16 It seemed that the motion to strike, at least as  
17 to Ms. Mize, may have went directly to those  
18 matters that were surely disclosed by the State  
19 and by the Court. So I just noted that.

20 MR. LOW: If I may, Your Honor, this  
21 is very quick. I think I can do a better job,  
22 then, if I can just get a copy of that transcript  
23 today when available. And then once I have that,  
24 I'll do a thorough job.

25 THE COURT: Thank you.

1                   We'll stand adjourned until 9:30 tomorrow  
2 morning.

3                                 (The trial proceedings recessed at  
4 5:02 p.m., December 18, 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 1190 pages constitute a full, true, and correct transcript.

Dated this 8th day of June, 2015, at Casper, Wyoming.

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JONI L. CHANEY, RPR  
Official Court Reporter