

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY
CASE NO. 2014CF5586CFAXWS

STATE OF FLORIDA, :
 :
 Plaintiff, :
-VS- :
 :
 ADAM MATOS, :
 :
 Defendant. :

PROCEEDINGS: MOTIONS
BEFORE: HONORABLE PAT SIRACUSA, JR.
Circuit Judge
DATE: June 2, 2016
PLACE TAKEN: Pasco County Government Center
7530 Little Road
New Port Richey, FL 34654
REPORTED BY: Maria A. Fortner, RPR
Notary Public
State of Florida at Large

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

2 THE COURT: All right. So as far as courtroom
3 security for Mr. Matos, are we going to be okay
4 putting him in a chair over there?

5 THE BAILIFF: Yes, sir.

6 THE COURT: We're going to be okay with that.

7 All right. Do we need to clear out the row
8 right behind him? Or have you already had a
9 conversation with this person sitting right behind
10 that row? How is that going to work?

11 THE BAILIFF: I believe she's moving now, sir.

12 THE COURT: Okay. All right. Ma'am, I can't
13 have you sit in a row immediately behind the
14 inmate. And please don't communicate with him or
15 pass him anything. Okay?

16 All right. Yeah, I think that works. Just so
17 I can start reading, which one are we going to
18 handle first, which motion?

19 MR. SARABIA: I was hoping to handle the
20 evidentiary hearing first, motion to admit the
21 hearsay statement.

22 THE COURT: Motion to admit the hearsay
23 statement.

24 Do you have the mike or do you have the sound
25 up on the 911 call?

1 MR. SARABIA: We are currently working on
2 that.

3 THE COURT: All right. Are there any short
4 ones or agreed-upon ones that we can handle before
5 that to get them out of the way?

6 MR. SARABIA: I believe there's only two,
7 Judge. There's that one and then there's one
8 motion by the Defense regarding the death penalty
9 ex post facto.

10 THE COURT: All right. I also have a motion
11 in limine to exclude amended evidence of other
12 crimes, wrongs or acts. Are we not doing that
13 today?

14 MR. SARABIA: I believe that's the same.
15 That's their objection to --

16 THE COURT: Oh, that's their written
17 objection.

18 MR. SARABIA: Yes.

19 THE COURT: Okay.

20 MR. VIZCARRA: That's correct, Judge.

21 THE COURT: All right. Well, that will keep
22 it simple.

23 And, Mr. Vizcarra, are you going to be
24 handling this for the Defense? Or who's got this?

25 MR. VIZCARRA: Your Honor, I'm going to be

1 handling the Williams Rule part of it, Judge, the
2 inextricably intertwined portion.

3 THE COURT: Okay. All right. You're okay
4 with going on that one first? Or, Mr. Livermore,
5 you're doing the death penalty motion, correct?

6 MR. LIVERMORE: That's correct.

7 THE COURT: Approximately how much time are
8 going to anticipate needing for argument, presuming
9 that I've already read your file and your response?

10 MR. LIVERMORE: It won't be long. Ten, 15
11 minutes.

12 THE COURT: Ten, 15 minutes.

13 The motion, though, is probably going to go
14 significantly longer than that, would you agree?

15 MR. SARABIA: I agree. I guess we could do
16 the other one first.

17 THE COURT: It sounds like we should do that
18 one first. You're going to sit in for the whole
19 thing, though, right, Mr. Livermore?

20 MR. LIVERMORE: Yes, sir.

21 THE COURT: All right. We'll do that one at
22 the end, then, so that we can get the witnesses out
23 of the way.

24 All right. How much more time are you going
25 to need to get your sound correct on your

1 audiotape? Because I can take a five-minute break,
2 if you need to do that.

3 MR. SARABIA: That would be great, Judge.
4 We're getting the key so we can move the laptop
5 over there and that should correct the problem.

6 THE COURT: Okay. It works for me. So let me
7 sign some paperwork here. And give me the first
8 and last file on Mr. Matos's case. How many do we
9 have now?

10 THE CLERK: Eleven.

11 THE COURT: Eleven. I'll take first and last.

12 So we are here in State of Florida versus Adam
13 Matos. It's a four-count Information. The case
14 number is 2014-5586CFAWS.

15 This is an Indictment for Murder in the First
16 Degree, a capital felony. It's a four-count
17 indictment. And the Indictment was filed with the
18 Clerk on September 23rd of 2014.

19 Mr. Matos is present. And the State is
20 represented by Mr. Sarabia. The Defense is
21 represented by Mr. Vizcarra, Mr. Livermore. I
22 apologize, Counselor, you've only been in front of
23 me --

24 MR. MICHAÏLOS: Mr. Michailos, Your Honor.

25 THE COURT: Mr. Michailos.

1 MR. MICHAÏLOS: And, Judge, for clarification,
2 when we do the arguments, Mr. Vizcarra is going to
3 deal with Williams Rule issues, I'm going to deal
4 with Crawford, just so you know ahead of time.

5 THE COURT: Okay. All right. And if I call
6 on the wrong person, just the right person jump up
7 and correct it for the record. I'll try and get
8 the correct person.

9 And it looks like the State is set up to have
10 somebody else join them. Mr. Sarabia, is anybody
11 else coming in on this?

12 MR. SARABIA: Mr. Lawhorne was supposed to be
13 here, and Mr. LaBruzzo I believe is coming.

14 THE COURT: Do we need them to be present or
15 can we start without them, provided we get the
16 technical assistance?

17 MR. SARABIA: We can start without them,
18 Judge.

19 THE COURT: Okay. All right. So as I pointed
20 out, Mr. Matos is present and he is seated at
21 defense counsel's table. He is not dressed out.
22 He is in custody. But, of course, there's no jury
23 present, so it's not necessary to have him changed
24 out for this.

25 And, Mr. Matos, at any time if you need the

1 opportunity to communicate with your attorneys,
2 because you're in the lockbox, let me be know and
3 I'll give you an extra few minutes so that you all
4 can talk. And feel free to communicate with either
5 of them, if you need them to make a note for you,
6 since we can't give you a pen right now. Okay?

7 DEFENDANT MATOS: Okay.

8 THE COURT: All right. So we'll be in recess
9 for five minutes so we can get the sound squared
10 away. As soon as we got the sound squared away,
11 let me know and we'll come back in and get started.

12 So we'll be off the record until that is
13 finished.

14 (Off The Record.)

15 THE COURT: Okay. We're back on the record.
16 We've taken a five-minute break so that we could
17 get the sound working.

18 The State is present. Defense is present.
19 Defendant is present.

20 And we're ready to do the first motion, which
21 is the State's notice of a motion to admit a
22 hearsay statement.

23 I've got the State's memorandum and motion on
24 that filed January 13th of this year. I've got the
25 Defense's motion entitled Motion in Limine to

1 Exclude Amended Evidence of Other Crimes, Wrongs or
2 Acts.

3 Is that your response motion to the State's
4 motion to admit the hearsay statement?

5 MR. VIZCARRA: It is, Judge.

6 THE COURT: Okay. And I'm just trying to
7 reconcile that because they're kind of titled
8 separately. I understand in which direction each
9 of them is going. And that one is filed on
10 April 12th of 2016, so the record is completed.
11 Mr. Vizcarra's response motion is four pages in
12 length. So I'll effectively be hearing both at the
13 same time. I imagine the evidence and testimony
14 that I'll hear will be the same.

15 Mr. Sarabia, do you wish to give an opening
16 statement in this or proceed directly into
17 witnesses and evidence?

18 MR. SARABIA: Judge, I don't think an opening
19 is -- well --

20 THE COURT: You can, if you want. I read it,
21 but if you want to paraphrase it, you can.

22 MR. SARABIA: If you read it, then I will not
23 give an opening statement.

24 I would, as the first matter, ask the Court to
25 take judicial notice of the court file, in

1 particular the probable cause filed by Detective
2 Cougill.

3 THE COURT: PC affidavit filed by detective
4 who?

5 MR. SARABIA: Cougill.

6 THE COURT: Detective Cougill. C. Cougill is
7 spelled C-o-u-g-i-l-l. And it's attached to the
8 Indictment. It appears as the fourth page within
9 the Court's file. It's the fourth, fifth and sixth
10 page, single spaced.

11 All right. Before I ask if you have any
12 objection to it, Mr. Vizcarra, do you want to give
13 an opening statement or do you want to go directly
14 into witnesses and evidence?

15 MR. VIZCARRA: I'll waive, Judge.

16 THE COURT: Okay. So then going right into
17 witnesses and evidence, do you have any objection
18 to the Court taking judicial notice of Detective
19 Cougill's -- I'm going to say C. Cougill, but I'd
20 love to know what his first name is. What is it?

21 MR. SARABIA: Chet Cougill.

22 THE COURT: Chuck?

23 MR. SARABIA: Chet.

24 THE COURT: Chet.

25 MR. SARABIA: C-h-e-t.

1 THE COURT: Detective Chet Cougill. All
2 right. So Detective Chet Cougill's three-page
3 affidavit, which is attached to the Indictment. Do
4 you have any objection?

5 MR. VIZCARRA: Judge, I don't know what the
6 limited purpose is for. I can't agree for it to be
7 as evidence in the case.

8 THE COURT: I mean for the limited purpose of
9 this hearing do you have any objection? Obviously
10 not to be introduced in the case in chief, but for
11 this hearing? Do you want a moment to confer with
12 co-counsel on this?

13 MR. VIZCARRA: That's fine, Judge.

14 THE COURT: Okay. All right. I'll accept
15 those three pages as judicial notice. And within
16 the court record it's noted that they are attached
17 in the Clerk's file to the Indictment, it's
18 actually Pages 4, 5 and 6.

19 All right. What's next, Mr. Sarabia?

20 MR. SARABIA: Judge, the State would next call
21 Dustin Brooks, currently Deputy Dustin Brooks.

22 THE COURT: All right. Dustin Brooks, please.

23 MR. MICHAÏLOS: Judge, if we can invoke the
24 rule at this time.

25 THE COURT: Okay. State, do you have any

1 witnesses that are currently present in the
2 courtroom for the purpose of this hearing?

3 MR. SARABIA: No, Judge.

4 THE COURT: All right. It's Deputy Brooks or
5 Corporal Brooks? I'm sorry.

6 THE WITNESS: Deputy, sir.

7 THE COURT: Deputy. Come on up, Deputy
8 Brooks.

9 DUSTIN BROOKS,

10 a witness herein, being first duly sworn, was examined
11 and testified as follows:

12 THE COURT: Come on up and have a seat in the
13 witness box, please.

14 Deputy Brooks, how do I spell your last name
15 correctly?

16 THE WITNESS: B-r-o-o-k-s.

17 THE COURT: Thank you.

18 You may proceed, Mr. Sarabia.

19 MR. SARABIA: Thank you, Judge.

20 DIRECT EXAMINATION

21 BY MR. SARABIA:

22 Q. Can you please introduce yourself to the
23 Court, for the record.

24 A. Deputy Dustin Brooks. I work for the Pasco
25 Sheriff's Office.

1 Q. How long have you worked for the Pasco County
2 Sheriff's Office?

3 A. Approximately one year and three months.

4 Q. I want to take you back to August 28th of
5 2014. How were you employed at that time?

6 A. At that time I was employed for the Pasco
7 County Board of County Commissioners as a 911 dispatcher
8 call-taker.

9 Q. And what were your duties as a 911 call-taker
10 dispatcher?

11 A. I fielded incoming 911 calls or administrative
12 calls to the -- as it were, it would be the Sheriff's
13 Office.

14 Q. Now, how long were you working for the 911
15 call center?

16 A. Just less than two years.

17 Q. On August 28th, 2014, were you on duty between
18 6:00 and 6:30 in the morning?

19 A. Yes, I was.

20 Q. And did you receive a call at that time from
21 somebody who identified themselves as Megan Brown?

22 A. Yes, sir.

23 Q. And did you have an opportunity to speak with
24 the individual on the other end of that call?

25 A. Yes, I did.

1 Q. How would you describe her demeanor based on
2 hearing her speaking?

3 A. Frantic.

4 Q. Did she appear to you to be frightened?

5 A. Yes, sir.

6 Q. Now, as in the 911 call center, are the calls
7 that come in recorded?

8 A. Yes, they are.

9 Q. And was this call recorded?

10 A. Yes, it was.

11 MR. SARABIA: Judge, may I approach the
12 witness?

13 THE COURT: You may.

14 BY MR. SARABIA:

15 Q. I'm showing you what's been marked as State's
16 Exhibit 1 for identification. Do you know what that is?

17 A. Yes, sir. I do.

18 Q. And what is that?

19 A. It's a recording of the call with the female
20 that identified herself to me as Megan Brown.

21 Q. And it came in at approximately 6:10 on
22 August 28, 2014?

23 A. Yes, sir.

24 Q. At 6:10 in the morning?

25 A. Yes. 6:00 A.M.

1 Q. And is this a fair and accurate copy of the
2 call that you fielded at that time?

3 A. I believe so.

4 Q. And you've had an opportunity to listen to it
5 before today?

6 A. Yes, I have.

7 Q. And did you put your initials and the date on
8 the call to indicate that you previously listened to it?

9 A. Yes, sir, I did.

10 MR. SARABIA: Judge, at this time that State
11 would like to move State's Exhibit 1 for
12 identification into evidence.

13 THE COURT: Any objection for the limited
14 purpose of this hearing?

15 MR. VIZCARRA: Judge, I'm going to object at
16 this time. I'll allow it to be played, but before
17 it's put into evidence I think there needs to be a
18 predicate laid as to the voice on the 911 call.

19 THE COURT: He's already testified
20 foundationally that he's heard the tape and that
21 that was the tape that was made. You mean as to
22 who the speaker is?

23 MR. VIZCARRA: Yes, Judge.

24 THE COURT: All right. I'll allow it to be
25 published, and then I'll field the rest of the

1 objection at the end of the publishing and at the
2 end of your questioning.

3 MR. VIZCARRA: Okay.

4 MR. SARABIA: Judge, permission to publish it
5 at this time?

6 THE COURT: You may do so.

7 (Thereupon, the audiotape was played and the
8 transcription thereof is presented in the following
9 italicized font.)

10 "OPERATOR: *Thursday, August 28, 2014 at 6:08*
11 *A.M.*"

12 THE COURT: Madam Court Reporter, best effort.
13 I believe there's a transcript that's already been
14 provided that I'm sure that the State will provide
15 you with as well.

16 "On Thursday, August 28th, 2014, at 6:08 A.M.
17 for the GMT offset of negative 240 minutes, Agent
18 IV, extension is 29.

19 OPERATOR: *Pasco County 911. What is the*
20 *address of your emergency?*

21 MEGAN BROWN: *7119 Hatteras Drive.*

22 OPERATOR: *Spell the street name for me,*
23 *please.*

24 MEGAN BROWN: *Honey, just please lay down ...*
25 *(indiscernible.)*

1 OPERATOR: Ma'am, can you spell the street
2 name for me, please.

3 MEGAN BROWN: H-a-t-t-e-r-a-s, Drive, Hudson,
4 Florida.

5 OPERATOR: Okay. And it's 7119?

6 MEGAN BROWN: 71 -- 7119.

7 OPERATOR: Ma'am, it's going to be okay.
8 7119?

9 MEGAN BROWN: Yes.

10 OPERATOR: Okay. What is your name?

11 MEGAN BROWN: Megan Brown.

12 OPERATOR: What is it? What is your first
13 name?

14 MEGAN BROWN: Megan, M-e-g-a-n, Brown, like
15 the color.

16 OPERATOR: Okay. Megan, I'm not finding a
17 7119 Hatteras Drive. That's in Hudson?

18 MEGAN BROWN: I guess so.

19 OPERATOR: Is it 77 -- Megan, you got to focus
20 with me, ma'am. Is it 7719?

21 MEGAN BROWN: No. It's 7 -- hold on a second.
22 (Inaudible).

23 OPERATOR: No, it's not.

24 MEGAN BROWN: 7719.

25 OPERATOR: Okay. Tell me exactly what

1 *happened.*

2 *MEGAN BROWN: Sorry. We just moved here.*

3 *OPERATOR: What? Tell me exactly what*
4 *happened, Megan.*

5 *MEGAN BROWN: My son's dad -- I just came*
6 *home, and my son's dad put a knife to my throat,*
7 *and he cut my hand, and I'm, like, bleeding*
8 *everywhere. And my son's freaking out. I really I*
9 *don't want to do this in front of him --*

10 *OPERATOR: Okay. Where --*

11 *MEGAN BROWN: -- but he did put a knife to my*
12 *throat.*

13 *OPERATOR: Okay. Where is he at?*

14 *MEGAN BROWN: He took off.*

15 *OPERATOR: Okay. And when did that occur?*

16 *MEGAN BROWN: My son woke up. He did this in*
17 *my son's room, and my son woke up and he --*

18 *OPERATOR: Okay. Ma'am, ma'am, ma'am. He --*
19 *he cut your hand with a knife?*

20 *MEGAN BROWN: Yes.*

21 *OPERATOR: Okay.*

22 *MEGAN BROWN: Blood's bleeding everywhere.*

23 *OPERATOR: Okay. And that's the father of*
24 *your son?*

25 *MEGAN BROWN: Yes.*

1 OPERATOR: It's going to be okay, ma'am. It's
2 going to be okay.

3 MEGAN BROWN: I'm sorry. Baby, look at me.
4 You want to play -- you want to play on mommy's
5 phone? Come on.

6 OPERATOR: Okay. So give me a --

7 MEGAN BROWN: It's okay, baby. I'm trying to
8 (indiscernible) I'm sorry. You need to have
9 someone come out here as soon as possible. He
10 literally tried to kill me.

11 OPERATOR: Okay. He left in a vehicle or on
12 foot?

13 MEGAN BROWN: On foot. He doesn't have a
14 license.

15 It's okay.

16 He probably has his bike.

17 OPERATOR: What's the current, Jamie?

18 MEGAN BROWN: He has a bike. He is a Puerto
19 Rican male. He has no shirt on. He has two
20 cross --

21 OPERATOR: Okay. Hold -- Megan, hold on a
22 second with me. Hold on. Hold on with that. I've
23 already got deputies dispatched for you. So give
24 me -- give me a time delay, okay, of when that
25 happened, when he cut you with a knife?

1 MEGAN BROWN: He just did it ten minutes ago.

2 OPERATOR: Okay. Ten minutes?

3 MEGAN BROWN: Yeah.

4 OPERATOR: Okay. What is his name?

5 MEGAN BROWN: Adam Matos. A-d-a-m, M-a-t-o-s.

6 OPERATOR: Okay. How old is he?

7 MEGAN BROWN: He's -- he's 28.

8 OPERATOR: Twenty-eight. Okay.

9 MEGAN BROWN: Almost 29.

10 OPERATOR: You said he's Puerto Rican?

11 MEGAN BROWN: Yes.

12 OPERATOR: Okay. What is he wearing?

13 MEGAN BROWN: He was wearing no shirt when he
14 left. I don't even remember what -- if he was
15 wearing shorts or not. If he is wearing shorts,
16 it's a tan pair of shorts because (inaudible) only
17 pair of shorts he has.

18 OPERATOR: Okay. Which direction did he leave
19 on foot? Like where's he --

20 MEGAN BROWN: I don't know. To be honest, as
21 soon as he left, I went and got my parents up. He
22 tried to kill me.

23 OPERATOR: Okay. Megan, do you need an
24 ambulance?

25 MEGAN BROWN: I don't know. I just want

1 *somebody to come here right now. I can see the*
2 *meat in my finger.*

3 *OPERATOR: Okay. You can see the meat in your*
4 *finger? What -- how big was the knife?*

5 *MEGAN BROWN: It was like a steak knife.*

6 *OPERATOR: Okay. Does he still have it on*
7 *him?*

8 *MEGAN BROWN: He put it right to my throat.*
9 *He said he was going to kill me.*

10 *OPERATOR: Megan, Megan, you need the calm*
11 *down, ma'am. Does he -- does he still have the*
12 *knife on him?*

13 *MEGAN BROWN: No. It's in my son's room right*
14 *now. And I'm trying to get him out of there, but I*
15 *don't want him to touch it.*

16 *OPERATOR: Okay. Megan, I need you to answer*
17 *whether you want me to get an ambulance for you.*
18 *Okay?*

19 *MEGAN BROWN: I can't leave my son by himself.*

20 *OPERATOR: Okay. It's okay. But do you want*
21 *an ambulance to respond with the deputies, ma'am,*
22 *to check out your hand?*

23 *MEGAN BROWN: Yes.*

24 *OPERATOR: Okay. That's fine. That's fine.*

25 *MEGAN BROWN: I don't know what to do. I*

1 can't even look at it it's so full of blood.

2 OPERATOR: Okay.

3 MEGAN BROWN: I'm so sorry.

4 OPERATOR: Okay. And it's on your hand?

5 MEGAN BROWN: Yes. My thumb. My left hand on
6 my thumb. I'm putting the knife in my kitchen.

7 OPERATOR: Okay. Now, do you know if he has
8 any other weapons on him?

9 MEGAN BROWN: I have no idea.

10 OPERATOR: Okay. Is he on drugs or alcohol?

11 MEGAN BROWN: Alcohol.

12 OPERATOR: Okay. Is he thin? Medium? Heavy?

13 MEGAN BROWN: He's like 6'2", and he's medium
14 built. He's -- you would think he was skinny, but
15 he's -- he's a little bit meaty.

16 OPERATOR: Okay.

17 MEGAN BROWN: But compared to people here in
18 Hudson, he's medium.

19 OPERATOR: Okay. You think he'll be violent
20 with law enforcement officers?

21 MEGAN BROWN: I'm sorry. What did you say?

22 OPERATOR: It's okay, ma'am. Do you think
23 he'll be violent with law enforcement officers?

24 MEGAN BROWN: Violent?

25 OPERATOR: Yes, ma'am.

1 MEGAN BROWN: I have no idea. This is the --
2 he did assault me like three years ago, but this is
3 the first time he's ever actually tried to kill me.
4 I'm so sorry.

5 OPERATOR: It's okay, Megan. Don't apologize.
6 Do not apologize. It's quite all right. What was
7 going on? You guys had --

8 MEGAN BROWN: I just want somebody to come
9 here.

10 OPERATOR: Okay. You guys had some kind of
11 argument or what was going on?

12 MEGAN BROWN: We haven't been together for
13 weeks now because he doesn't do anything.

14 OPERATOR: Uh-huh.

15 MEGAN BROWN: And I went out with my friends,
16 and I came home at like 5:00 in the morning and he
17 got all pissed off, and he was drinking, and he
18 just put a knife right to my throat and said he was
19 going to fucking kill me.

20 OPERATOR: Okay. Is he known to carry
21 weapons?

22 MEGAN BROWN: Pretty much because I went out.

23 OPERATOR: Ma'am, is he known to carry
24 weapons?

25 MEGAN BROWN: I don't know. He has like seven

1 *freaking felonies. One of them's a gun charge. He*
2 *stole guns from cops before.*

3 *OPERATOR: He stole -- okay.*

4 *MEGAN BROWN: Oh, man. My finger hurts.*
5 *Ohhh. Oh, man.*

6 *OPERATOR: Okay. Ma'am, I'm going to ask you*
7 *some questions. Okay.*

8 *How old are you?*

9 *MEGAN BROWN: I'm 27.*

10 *OPERATOR: Twenty-seven?*

11 *MEGAN BROWN: 7/15/87 is my birth date. I*
12 *just turned 27.*

13 *OPERATOR: (Inaudible.)*

14 *MEGAN BROWN: Hello. Hello.*

15 *OPERATOR: I'm -- I'm still with you, Megan.*
16 *Megan.*

17 *MEGAN BROWN: Oh, okay. Okay. Oh, my gosh.*
18 *Okay. I thought I lost you.*

19 *OPERATOR: Okay. Where are you bleeding from,*
20 *ma'am?*

21 *MEGAN BROWN: My left thumb. I'm cleaning it*
22 *off now.*

23 *OPERATOR: Your -- your left thumb?*

24 *MEGAN BROWN: This isn't so bad, but I don't*
25 *know. I was -- I just grabbed the knife when he*

1 *put it to my throat and --*

2 *OPERATOR: Okay. Is your bleeding normal for*
3 *you?*

4 *MEGAN BROWN: Um, I -- I coagulate pretty*
5 *well. So it's just very swollen and I can --*

6 *OPERATOR: Okay. Is your breathing normal for*
7 *you, Megan?*

8 *MEGAN BROWN: I'm sorry?*

9 *OPERATOR: Is your breathing normal for you?*

10 *MEGAN BROWN: No. I -- I have anxiety*
11 *attacks. So to me this is normal. But for*
12 *somebody else, no, it's not normal.*

13 *OPERATOR: Okay. Is the blood spurting or*
14 *pouring out?*

15 *MEGAN BROWN: No, not anymore. I've been*
16 *putting pressure on it. I'm -- I'm First-Aid*
17 *certified.*

18 *OPERATOR: Oh, it's okay. I gotcha. Do you*
19 *have a bleeding disorder? Are you on blood*
20 *thinners?*

21 *MEGAN BROWN: No. I don't, no.*

22 *OPERATOR: Gotcha. Okay. Ma'am, I'm sending*
23 *the paramedics to help you now. Just stay on the*
24 *line and I'll tell you exactly what to do next.*
25 *Okay? Okay. Do not use a tourniquet, and I'm*

1 going to tell you how to stop the bleeding. Okay.
2 Listen carefully to make sure we do it right.

3 If you haven't already, just get a clean dry
4 cloth or towel and place it right on the wound and
5 press down firmly and don't lift it up just to
6 look. Okay? Is the bleeding controlled now?

7 MEGAN BROWN: Yeah. I've -- I've been putting
8 pressure on it.

9 OPERATOR: Okay. You have been putting
10 pressure on it? Okay. Megan, well, help is on the
11 way. Okay? Don't have anything to eat or drink
12 that might make you sick or cause problems with the
13 doctor. Okay? And don't move around unless it's
14 absolutely necessary. Just be still and wait for
15 help to arrive.

16 Now, where are you at right now, Megan?

17 MEGAN BROWN: I'm in my room with my son.

18 OPERATOR: Okay. You're in your room.

19 Okay. Megan, well, the deputies are almost
20 there. Okay? So just go ahead and stay inside the
21 house. Can you lock the door?

22 MEGAN BROWN: Yeah. I'm locking my son into
23 my room. 'Cause there's -- actually when we moved
24 in here, there's a lock on the outside.

25 OPERATOR: Okay.

1 MEGAN BROWN: I just don't want him to hurt
2 him.

3 OPERATOR: Okay. Well, I'm going to stay on
4 the line with you until the deputy gets there.
5 Okay?

6 MEGAN BROWN: Yeah. Oh. Ohhh. He -- he's
7 looking around. He's here but he's -- he's going
8 up the road.

9 OPERATOR: What's that?

10 MEGAN BROWN: I think he's looking for him.

11 OPERATOR: Oh, the deputy. Okay.

12 MEGAN BROWN: Yeah. He just turned right.

13 OPERATOR: Yeah. He might not come directly
14 to you.

15 MEGAN BROWN: Sir, I am like so scared.

16 OPERATOR: It's okay, ma'am. That's why we're
17 here. We're here to help you. Don't --

18 MEGAN BROWN: If I knew he was going to do
19 that, I wouldn't even have went out.

20 OPERATOR: Gotcha. I understand.

21 MEGAN BROWN: Oh, my God. I can't believe
22 this happened.

23 OPERATOR: Megan, can you see the deputy? Is
24 he outside?

25 MEGAN BROWN: Yeah. He's turning around.

1 OPERATOR: Okay.

2 MEGAN BROWN: Ohhhh. Oh, man. And all my
3 parents care about is going to work. That's
4 wonderful. Thank God my son woke up.

5 OPERATOR: Has he ever done anything like this
6 in the past to you?

7 MEGAN BROWN: He assaulted me and busted my
8 lip.

9 He's here. He's knocking at my door right
10 now.

11 OPERATOR: Okay. Go ahead and answer it,
12 then, ma'am. That's the deputy, correct?

13 MEGAN BROWN: Yes. He's here.

14 OPERATOR: Okay. Okay. I'll let you go,
15 ma'am.

16 MEGAN BROWN: All right. Thank you very much.

17 OPERATOR: Thank you. Bye-bye.

18 MEGAN BROWN: Bye."

19 BY MR. SARABIA:

20 Q. Deputy Brooks, I want to ask you some
21 questions about the questions you're asking Megan Brown
22 on the tape that we just listened to.

23 You asked her where she was at. Why do you ask her
24 that question?

25 A. That's to maximize the safety of our

1 responding officers as well as herself and anyone we may
2 come in contact with so that we know exactly where to go
3 at the time that we respond.

4 Q. Okay. Does that include when you're asking
5 her specifically where in the house she is?

6 A. Absolutely.

7 Q. You asked her questions about who she is, what
8 her name is. Why do you ask those questions?

9 A. So our deputies know exactly who they may be
10 speaking to or need to make contact with.

11 Q. Based on what -- well, strike that. When you
12 asked her what happened, why were you asking her what
13 happened?

14 A. That's to see if we have an emergency
15 situation that's occurring and how we may need to
16 respond.

17 Q. Prior to asking her what happened and her
18 telling you some of the basics of what happened, do you
19 even know if you have an emergency situation?

20 A. At that time?

21 Q. Yes. Prior to asking her what happened -- the
22 basics?

23 A. It appeared so.

24 Q. Okay. After you asked her what happened, did
25 you determine whether or not you had an emergency

1 situation?

2 A. Absolutely.

3 Q. And did you have an emergency situation?

4 A. Yes, sir.

5 Q. Did you ask who the person she was talking
6 about who had been violent towards her was?

7 A. Yes, sir.

8 Q. Why do you ask that question?

9 A. We need to ensure that we're seeking the right
10 individual and how we need to respond appropriately.

11 Q. Okay. You asked some questions regarding the
12 relationship between the parties. I think you specified
13 you asked her to specify if the person was the father of
14 her son. Is it important for law enforcement in order
15 to responding to know whether or not they're responding
16 to a domestic violence situation?

17 A. Yes, sir.

18 Q. You asked questions regarding whether the
19 perpetrator was still on scene and how he left. Why do
20 you ask those questions?

21 A. Again, for the safety for the complainant as
22 well as the deputies, they know where the perpetrator
23 may be located.

24 Q. Is it important for them to know whether he
25 could be behind a corner in the house or somewhere off

1 the premises or possibly on the roadway?

2 A. Yes, sir.

3 Q. You asked for a time delay. Why do you ask
4 that question?

5 A. So we know what units to respond such as K-9
6 or an air unit or such.

7 Q. You asked questions about whether or not an
8 ambulance was needed or whether or not any type of
9 medical response was needed. Why do you ask that
10 question?

11 A. If she needs medical assistance, we need to
12 assess that immediately over the phone as soon as we can
13 so that it's provided to her for her own safety.

14 Q. You asked her questions about the weapon that
15 was used, what type of weapon. And why do you ask that
16 question?

17 A. So that our deputies know what kind of
18 situation they're walking into, what level of force they
19 may need to use.

20 Q. Can that be a safety issue for the law
21 enforcement officers who respond?

22 A. Absolutely.

23 Q. You asked questions regarding the location of
24 the weapon, whether it was still on the perpetrator or
25 not. Why do you ask that question?

1 A. In the event that our deputies make contact
2 with him, they can be as safe as possible, they know
3 what they're dealings with.

4 Q. You asked questions regarding how bad the
5 injury is or what the injury specifically is. Why do
6 you ask that question?

7 A. As related to her medical status, if she's,
8 you know, going to bleed out or something to that
9 effect.

10 Q. You asked questions about whether or not the
11 perpetrator is on drugs or alcohol. Why do you ask that
12 question?

13 A. The safety of our deputies. If they respond
14 and make contact with somebody who's impaired or
15 inebriated, it's going to determine that person's
16 response to the officers.

17 Q. You asked questions specifically about whether
18 Megan Brown thought that the perpetrator would be
19 violent with law enforcement. Why do you ask that
20 question?

21 A. The safety of our deputies.

22 Q. You asked questions about whether the
23 perpetrator is known generally to carry weapons. Why do
24 you ask those questions?

25 A. If we're familiar with the person or if

1 they're always carrying a gun or a knife, it just makes
2 us more aware and more safe.

3 Q. Now, you asked Miss Brown about where she was
4 in the house and whether or not she can lock the door.
5 Why do you ask that question?

6 A. If the suspect is still outside, she can lock
7 to door so he can't gain entry back into the home. Or
8 if deputies need to enter the home and the door is
9 locked, then that needs to be assessed as well.

10 Q. Is there a concern that the perpetrator could
11 potentially come back to the home?

12 A. Yes, sir.

13 Q. Is that a safety concern and is that an
14 emergency situation for you?

15 A. Yes, sir.

16 Q. At any point when you were asking these
17 questions of Miss Brown, were you trying to preserve her
18 testimony for a future hearing or trial or prosecution?

19 A. No, sir. I had no idea what the future may
20 hold for the conversation.

21 Q. What was your purpose generally in asking her
22 these questions?

23 A. In this she called 911, an emergency situation
24 has arisen, and we need to make sure that we have all
25 the information we need for responding deputies to

1 ensure the safety of others and respond appropriately.

2 Q. And when you're getting these responses, do
3 you have a way to communicate with responding deputies?

4 A. Myself not directly, but through the
5 dispatcher, she can communicate my written notes in the
6 call to them.

7 Q. So the information that you're getting is
8 being related to a system that deputies have access to
9 who are responding?

10 A. Yes, sir.

11 Q. Now, currently you are a Pasco County
12 Sheriff's deputy?

13 A. Yes, sir.

14 Q. So you're now on the other end of the 911 call
15 where you actually respond based on people calling in;
16 is that correct?

17 A. Yes, sir.

18 Q. Have you responded to domestic violence
19 situations as a deputy?

20 A. Yes, sir.

21 MR. VIZCARRA: Objection. Relevance.

22 THE COURT: Mr. Sarabia, how is that relevant
23 at this point?

24 MR. SARABIA: I'm going to ask him questions
25 about things that he needs to know as a deputy when

1 responding to a call, Judge.

2 THE COURT: He's not an expert on it. It's
3 not relevant to the information he had on hand when
4 he made the decision at the time that he took the
5 call and was asking the questions for the call. So
6 based on that, I'm going to sustain the objection.

7 BY MR. SARABIA:

8 Q. And why did you terminate the call?

9 A. She made contact with the responding deputies
10 or somebody she identified as an officer. And I ensured
11 before I disconnected, that it was an officer, and at
12 that point then I can disconnect the call.

13 Q. When you say you ensured that that was an
14 officer, how did you that?

15 A. I asked her, "Is it a deputy, correct?" I'm
16 paraphrasing, of course. And she answered in the
17 affirmative, at which time I disconnected.

18 Q. Okay. And once a law enforcement officer was
19 present and able to make contact with her, is your role
20 over?

21 A. As a call-taker, yes.

22 Q. Okay.

23 MR. SARABIA: I don't have any more questions,
24 Judge.

25 THE COURT: All right. Mr. Michailos, you may

1 inquire.

2 MR. MICHAÏLOS: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. MICHAÏLOS:

5 Q. Officer, your present capacity is a patrol
6 deputy, correct?

7 A. Yes, sir.

8 Q. And you have been a patrol deputy since
9 January of 2015?

10 A. Roughly.

11 Q. So is it fair to say that four months after
12 this call, you became a deputy?

13 A. Yes, sir.

14 Q. Okay. Now, was there an earlier call made to
15 911 by Miss Brown?

16 A. I believe there was an unverified 911 call,
17 which could be anyone at that point.

18 Q. It came back to her number, did it not?

19 A. I'm not certain.

20 Q. Do you know the time of that earlier call?

21 A. I don't. Within a half an hour,
22 approximately.

23 Q. Do you have the time for this particular call
24 that we just heard?

25 A. Approximately 0610 hours or 0608.

1 Q. Is that based on just an estimate on your part
2 or do you have personal knowledge of that?

3 A. It's an estimate.

4 Q. Now, the caller on that 911 tape did tell you
5 that the suspect had left the scene, correct?

6 A. Correct.

7 Q. That he had fled, correct?

8 A. Correct.

9 Q. He had discarded the knife, correct?

10 A. Right.

11 Q. And he was no longer armed?

12 A. Right.

13 Q. Did you ever ask for K-9 to respond to locate
14 the suspect?

15 A. No. That's not my job as the call taker.

16 Q. Did you ever ask Miss Brown if she was
17 inebriated when you talked to her?

18 A. No, sir.

19 Q. Would that be helpful if you asked her that
20 question?

21 A. The responding deputies, they can see that
22 themselves and make that assessment.

23 Q. Okay. So you leave that up to the responding
24 deputies?

25 A. Right.

1 MR. MICHAIILOS: If I could have a moment, Your
2 Honor?

3 THE COURT: You may.

4 MR. MICHAIILOS: I have no further questions.
5 Thank you, Your Honor.

6 THE COURT: Thank you.

7 Mr. Sarabia, do you have any further questions
8 for this witness?

9 MR. SARABIA: No further questions for this
10 witness, Judge.

11 THE COURT: Thank you, Deputy Brooks. You are
12 excused.

13 THE WITNESS: Thank you, sir.

14 THE COURT: State, who would do you wish to
15 call as your next witness?

16 MR. SARABIA: The State would next call James
17 Thomas.

18 THE COURT: James Thomas. State, are you
19 going to use the tape with the next witness?

20 MR. SARABIA: No, Judge.

21 THE COURT: If you could return the disk,
22 then, to the clerk, since it has been marked, even
23 if it hasn't yet been introduced into evidence.

24 THE BAILIFF: Sir, step up to the podium.
25

1 JAMES THOMAS,
2 a witness herein, being first duly sworn, was examined
3 and testified as follows:

4 THE COURT: Come on up and have a seat in the
5 witness chair, please.

6 State, you may inquire.

7 MR. SARABIA: Thank you, Judge.

8 DIRECT EXAMINATION

9 BY MR. SARABIA:

10 Q. Can you please introduce yourself to the
11 Court.

12 A. I am James Thomas, father of Megan Brown,
13 father-in-law of Greg Brown and -- grandfather of Megan
14 Brown and father of Margaret Brown.

15 Q. Okay. So I want to be clear. You were the
16 father of Margaret Brown?

17 A. That is correct.

18 Q. And what is Margaret Brown's relationship to
19 Greg Brown?

20 A. She was his wife.

21 Q. What is Margaret and Greg Brown's relationship
22 to Megan Brown?

23 A. The mother and father.

24 Q. And did Megan Brown have any children?

25 A. Yes.

1 Q. And who was that?

2 A. That would be [REDACTED] Brown.

3 Q. And do you know [REDACTED] father?

4 A. Yes.

5 Q. And who is he?

6 A. He is Adam Matos.

7 THE COURT: Hold one moment, please,

8 Mr. Sarabia.

9 Mr. Thomas, if you could pull the microphone
10 just a little bit closer to you.

11 THE WITNESS: Okay.

12 THE COURT: There you go. And also your chair
13 actually, if you want, you can scoot your chair up
14 and that may make it easier on you.

15 THE WITNESS: Okay. Thank you very much,
16 Judge.

17 THE COURT: There you go. All right. Great.

18 You may continue, Mr. Sarabia.

19 BY MR. SARABIA:

20 Q. And, Mr. Thomas, did you have occasion to help
21 Margaret, Greg and Megan Brown move into 7719 Hatteras
22 Drive on July 2nd of 2014?

23 A. Yes, I did.

24 Q. And was Adam Matos moving into the residence
25 at the same time?

1 A. Yes, he was.

2 Q. Did you have occasion to spend approximately
3 five days with them at that time?

4 A. Yes, I did.

5 Q. And you're familiar with Megan Brown?

6 A. Yes, I am.

7 Q. And you heard her voice before?

8 A. Yes, I have.

9 Q. Have you interacted with her before?

10 A. Yes, I have.

11 MR. SARABIA: And, Judge, may I approach the
12 witness with State's Exhibit 1?

13 THE COURT: Yes.

14 BY MR. SARABIA:

15 Q. I'm showing you what's been previously marked
16 as State's Exhibit 1 for identification. Do you
17 recognize this?

18 A. Yes.

19 Q. And how do you recognize this?

20 A. This is a disk that you played for us this
21 morning.

22 Q. Okay. And did you initial and date the time
23 that you reviewed it?

24 A. Yes, I did.

25 Q. And did you hear a female voice on that audio

1 recording?

2 A. Yes, I did.

3 Q. Did you recognize the female voice?

4 A. Yes, I did.

5 Q. And whose voice was it?

6 A. That was Megan Brown, my granddaughter.

7 Q. Now, did Megan Brown sound on the audiotape to
8 be in the same type of demeanor as when you would
9 regularly interact with her?

10 A. No. Not at all.

11 Q. How would you describe the demeanor that you
12 heard on the audiotape of Megan Brown?

13 A. She sounded as though she had just been
14 terrified and was very agitated.

15 Q. Did she sound like she was excited and under
16 the stress of a situation?

17 A. Yes.

18 MR. MICHAÏLOS: Objection. It's for the
19 fact-finder to determine, Your Honor. It's a
20 speculative opinion.

21 THE COURT: Response, State?

22 MR. SARABIA: Judge, it's a lay observation,
23 and he's familiar with the person involved. So I
24 believe he can indicate what his observations were
25 based on what he heard and based on his

1 familiarity. Ultimately Your Honor is the ultimate
2 fact-finder on that issue, but I think that the
3 testimony on the record and for the Court's benefit
4 is useful and relevant.

5 THE COURT: I'll consider the testimony of the
6 witness. Your objection is noted for the record
7 but overruled, and I'll set out a more specific
8 ruling in my overall order whether I'm granting or
9 denying. I'll make it more specific.

10 All right. You may continue, Mr. Sarabia.

11 BY MR. SARABIA:

12 Q. And, Mr. Thomas, when was the last time that
13 you heard from Margaret Brown, Megan Brown or Greg
14 Brown, approximately?

15 A. Approximately the 24th of August, 2014.

16 Q. And which one of the three did you
17 specifically hear from at that time?

18 A. Margaret, my daughter.

19 Q. And how frequently would you speak to Margaret
20 Brown on the phone?

21 A. Two to five times a week.

22 MR. MICHAÏLOS: Objection. Relevance.
23 Irrelevant.

24 THE COURT: Overruled. He's laying the
25 foundation for his familiarity with the voice.

1 BY MR. SARABIA:

2 Q. Okay. And would you speak to Megan Brown over
3 the phone as well at times?

4 A. Yes. At many times Megan would actually pick
5 up Margaret's phone, and I would speak to her for a
6 little bit, and then she would pass the phone to her
7 mother.

8 Q. Okay. After August 28th of 2014, was there a
9 seven-day period approximately where you were unable to
10 contact Margaret Brown?

11 A. That is correct.

12 Q. Was that unusual?

13 A. Very unusual.

14 MR. MICHAÏLOS: Objection. Irrelevant.

15 THE COURT: Sustained on that one. Any other
16 questions? You may continue.

17 MR. SARABIA: All right. I don't have any
18 other questions, then, Judge.

19 THE COURT: Okay.

20 MR. SARABIA: And at this time the State would
21 like to admit State's Exhibit 1 for identification.

22 THE COURT: All right. Mr. Michailos, would
23 you want me to allow you to question the witness
24 before I rule on the admission of State's
25 Exhibit 1? Or is it going to be Mr. Vizcarra, are

1 you taking this witness?

2 MR. MICHAÏLOS: No, Judge, we have no
3 questions.

4 THE COURT: No questions for this witness.
5 All right. Before he steps down, though, on the
6 foundation for the admission of what's been marked
7 as State's Exhibit 1, do you still have an
8 objection, Mr. Vizcarra?

9 MR. VIZCARRA: No, Judge.

10 THE COURT: All right. It shall be admitted
11 as State's Exhibit 1 in evidence.

12 And, Mr. Thomas, thank you. You are excused
13 as a witness.

14 THE WITNESS: Thank you.

15 THE COURT: All right. State, who do you wish
16 to call as your next witness?

17 MR. SARABIA: The State would next call Linda
18 Thomas.

19 THE COURT: Linda Thomas.

20 State, is this witness going to be cumulative
21 with reference to the authentication of the --

22 MR. SARABIA: She's going to testify to
23 largely the same thing that Mr. Thomas just
24 testified to.

25 THE COURT: Is there anything that's going to

1 be different or new since you've now gotten the
2 tape admitted?

3 MR. SARABIA: No, Judge. I think she's going
4 to also testify that Megan Brown sounds terrified
5 and upset and under the stress of the situation.

6 THE COURT: If you want to perfect your
7 record, I'll allow you to ask your questions in
8 reference to that aspect. There's no point in
9 doing an additional authentication since the
10 Defense has acknowledged that that can be admitted
11 as State's Exhibit 1.

12 All right. You can bring Ms. Thomas in.

13 MR. MICHAÏLOS: Same objection as before with
14 regard to characterizing the emotions in the voice.

15 THE COURT: Okay. Same ruling. Hello,
16 Ms. Thomas.

17 LINDA THOMAS,

18 a witness herein, being first duly sworn, was examined
19 and testified as follows:

20 THE COURT: Please come on up and have a seat
21 in the witness chair.

22 All right. You've done a good job at pulling
23 your chair forward slightly. My experience is that
24 by positioning the microphone directly in front of
25 you will help project your voice. Okay?

1 THE WITNESS: Thank you.

2 THE COURT: You may proceed, State.

3 DIRECT EXAMINATION

4 BY MR. SARABIA:

5 Q. Can you please introduce yourself to the
6 Court.

7 A. My name is Linda Thomas.

8 Q. And are you familiar with Megan Brown?

9 A. Yes, I am.

10 Q. And how are you related to her?

11 A. She is legally my step-granddaughter, but I
12 have been her step-grandmother since the day she was
13 born. So I've known her since she was a baby that I
14 could hold.

15 Q. Okay. And you've had an opportunity to talk
16 with her over the course of her life?

17 A. Of course. Yes, I have.

18 Q. Are you familiar with her voice?

19 A. Yes, I am.

20 Q. Are you familiar with the way she speaks and
21 her attitudes?

22 A. Oh, yes.

23 MR. SARABIA: Judge, may I approach the
24 witness with State's Exhibit 1?

25 THE COURT: You may.

1 BY MR. SARABIA:

2 Q. I'm showing you what's been entered into
3 evidence as State's Exhibit 1. Do you recognize this?

4 A. Yes. That looks to be a compact disk that I
5 initialed this morning after hearing it played.

6 Q. Okay. And you heard the audio that was played
7 from this disk?

8 A. Yes, I did.

9 Q. Did you recognize the female voice that was
10 talking to the 911 dispatcher?

11 A. Yes. I recognized my granddaughter Megan
12 Brown's voice.

13 Q. And when you heard her speaking in the call,
14 is that the way she would speak and act when she was
15 normally interacting with you?

16 A. I've never heard her talk like that before.

17 Q. How did she sound to you on the 911 audiotape?

18 A. Terrified.

19 Q. Did she sound like she was under the stress of
20 the situation she was describing?

21 A. Most certainly she did.

22 MR. SARABIA: I don't have any more questions,
23 Judge.

24 THE COURT: Thank you, Mr. Sarabia.

25 Mr. Michailos, do you wish to ask any

1 questions of this witness?

2 MR. MICHAÏLOS: No, Your Honor.

3 THE COURT: All right. Thank you, Ms. Thomas.

4 You are excused.

5 THE WITNESS: Thank you.

6 MR. SARABIA: Judge, the State would next call
7 Fredrick Heidgerken.

8 THE COURT: Okay. Fredrick Heidgerken, did
9 you say?

10 MR. SARABIA: Yes.

11 THE COURT: How do you spell that last name,
12 please?

13 MR. SARABIA: H-e-i-d-g-e-r-k-e-n.

14 THE COURT: I see that, Mr. Sarabia, the two
15 witnesses that you've already called are remaining
16 in the courtroom. You mean to tell me, then, that
17 you have no intention of recalling them under any
18 set of circumstances, correct?

19 MR. SARABIA: In this hearing, correct, Judge.

20 THE COURT: All right.

21 MR. SARABIA: The Defense has objected to and
22 the Court has sustained all the additional
23 testimony that they might be able to offer.

24 THE COURT: Okay. And, Mr. Michailos, do you
25 have any objection to the two witnesses remaining

1 present in the courtroom for the other testimony?
2 You're entitled to ask them to leave, if you wish.
3 It is the rule.

4 MR. MICHAÏLOS: Because we're going to do this
5 all over again at trial, unless we reach a
6 resolution, I think it probably would be best that
7 they are not present, Your Honor.

8 THE COURT: All right. Mr. and Mrs. Thomas, I
9 apologize, but I can't allow you to remain. And it
10 is the rule here in Florida. I have to ask you to
11 leave at this time. Thank you.

12 THE BAILIFF: Please step up to the podium.

13 THE COURT: Raise your right hand, please,
14 sir.

15 FREDERICK HEIDGERKEN,
16 a witness herein, being first duly sworn, was examined
17 and testified as follows:

18 THE COURT: Come on up and have a seat please
19 in the witness chair.

20 Mr. Sarabia, you may inquire.

21 DIRECT EXAMINATION

22 BY MR. SARABIA:

23 Q. Can you please introduce yourself for the
24 record.

25 A. My name is Fredrick Heidgerken.

1 Q. And can you please spell your last name for
2 the court reporter.

3 A. H-e-i-d-g-e-r-k-e-n.

4 Q. Now, Mr. Heidgerken, how were you employed
5 back in August of 2014?

6 A. I was a patrol deputy for the Pasco County
7 Sheriff's Office.

8 Q. And specifically on August 28th of 2014, were
9 you on duty in the morning hours?

10 A. Yes, sir, I was.

11 Q. What time did your shift start?

12 A. 6:00 A.M.

13 Q. And did you have occasion to respond to 7719
14 Hatteras Drive?

15 A. Yes, sir, I did.

16 Q. And what were the circumstances under which
17 you responded to that address?

18 A. I responded to that address approximately at
19 6:18 for an aggravated assault call.

20 Q. Okay. And how is it that you know to go to
21 7719 Hatteras Drive?

22 A. That information was relaid to me by my
23 dispatch center.

24 Q. Okay. Now, does dispatch relay other
25 information to you regarding the call that you're

1 responding to?

2 A. Yes, sir. They do.

3 Q. Is that information useful and helpful to you
4 in determining what response is necessary?

5 A. Yes, it is.

6 Q. And can you describe for the Court, when you
7 arrived at 7719 Hatteras Drive, how you went about your
8 business?

9 A. After getting on scene at the residence, I
10 made contact with Megan Brown at the residence.

11 Q. Okay. And did you go up to the front door and
12 knock on the door?

13 A. Correct. I did.

14 Q. Did she answer the door?

15 A. Correct.

16 Q. And can you describe for the Court what did
17 her demeanor appear to be like when you first came into
18 contact with her?

19 A. She was crying when I made contact with her.
20 I describe her as being terrified and slightly
21 emotional.

22 Q. Were you able to communicate with her?

23 A. Correct. I was.

24 Q. Did you see anybody else present at the
25 residence at that time?

1 A. At the initial contact at the residence, no,
2 it was just her.

3 Q. Okay. Throughout the course of your first
4 trip to 7719 Hatteras Drive, did you see any other
5 people there?

6 A. Yes. I did make contact with her mother,
7 Margaret, and the four-year-old son, [REDACTED]

8 Q. Okay. And did you speak to Megan Brown about
9 why 911 had dispatched you out there?

10 A. Correct. I asked her to walk me through what
11 transpired that morning.

12 Q. And did she do that?

13 A. Yes, sir, she did.

14 Q. Can you give us the basics of what she told
15 you had occurred?

16 MR. MICHAÏLOS: Objection. Hearsay.

17 THE COURT: Response, Mr. Sarabia?

18 MR. SARABIA: Judge, for purposes of the
19 hearing, I think it's necessary for the State to
20 established beyond a preponderance of the evidence
21 that a startling event had occurred, and hearsay
22 would be admissible for that purpose to show
23 that -- basically to walk through the deputy's
24 investigation which corroborates the startling
25 event that is described in the 911 tape, allowing

1 the Court to make a more informed decision
2 regarding whether or not by a preponderance of the
3 evidence a startling event occurred.

4 THE COURT: Response, Mr. Michailos, if any?

5 MR. MICHAIILOS: Judge, I don't believe that's
6 an exception to the hearsay rule.

7 THE COURT: Well, I'll consider it for
8 purposes of this hearing. I'm not going to admit
9 it for the purposes of the trial under these
10 circumstances, but I'll consider it for this
11 hearing. And if at the end of it it has nothing to
12 add to the Court's understanding of the issue, I'll
13 disregard it.

14 You may continue, Mr. Sarabia.

15 BY MR. SARABIA:

16 Q. What did she tell you happened?

17 A. Essentially, she told me she got home in the
18 late morning hours. When she got to the residence, an
19 argument transpired between her and Adam Matos. She
20 advised that she tried to deescalate from the situation,
21 and she went to her son's room.

22 The argument continued. Subsequently, she alleged
23 Adam Matos presented a knife and backed her into the
24 corner. He held the knife to her throat, during which
25 time she advised she put her hand up and her thumb

1 between the blade of the knife and her throat and pushed
2 the knife back causing a laceration to her thumb.

3 The argument continued. She advised this woke up
4 her four-year-old son, and at which point Adam Matos
5 fled the residence.

6 Q. Okay. And did you have an opportunity to
7 observe --

8 THE COURT: Before you go further, State, are
9 you proposing that these statements --

10 MR. SARABIA: No, Judge. We're not attempting
11 to admit these statements into evidence in the
12 trial. We are only trying to use these statements
13 to show the Court the investigation and the
14 corroborating circumstances regarding the
15 statements Megan Brown makes on the 911 call.

16 THE COURT: Thank you. I just wanted to make
17 sure that we were clear on that.

18 All right. You may continue.

19 BY MR. SARABIA:

20 Q. Did you have an opportunity to observe Megan
21 Brown's thumb?

22 A. Correct. I did.

23 Q. And what did you observe?

24 A. I observed the laceration to the inside of her
25 thumb right about here (indicating).

1 Q. Was it consistent with the account of the
2 attack that Megan Brown had given you?

3 A. Yes, it was consistent.

4 Q. Did you observe any blood in the residence?

5 A. Correct. I did.

6 Q. And where did you observe blood?

7 A. In bedroom where she advised Adam Matos held
8 the knife to her throat. In the corner there were
9 storage bins and there were droplets of blood on the
10 storage bins.

11 Q. Approximately how long were you on scene the
12 first time?

13 A. Approximately an hour and a half.

14 Q. Now, I want to back up a little bit. As a law
15 enforcement officer responding to a domestic violence
16 call of this nature, is it important for you to have a
17 basic understanding of what occurred?

18 A. It is, yes.

19 Q. Can you explain why that's important?

20 A. Having information of the suspect's
21 description, if he's still on scene, if there's any
22 threat, that helps dictate my response to the call and
23 how I respond to the individuals when I got on scene.

24 Q. Depending on the circumstances of any
25 particular call, are there situations where you might

1 not rush up to the door and instead wait for a backup
2 unit?

3 A. Correct. There are situations that that would
4 occur.

5 Q. Are there some situations where you might run
6 in with your weapon drawn in an attempt to meet whatever
7 emergency there is?

8 A. Correct. There are situations where that
9 would occur also.

10 Q. How do you know which way to respond?

11 A. That comes from the information that dispatch
12 gives me while I'm en route to that call. If they give
13 me information where someone is getting hurt or there's
14 an emergency that's still transpiring, that's going to
15 dictate that I need to get there very quickly.

16 Q. And is there also a safety concern for you,
17 other deputies and for any people you may encounter on
18 the call?

19 A. Correct. If the suspect or whoever might be
20 armed with a gun or a knife, that's an immediate concern
21 for myself, my other deputies and civilians in the area.

22 Q. Okay. And in terms of information relayed
23 about a suspect leaving potentially on foot or on a
24 bicycle, is that information that is necessary for you
25 responding to a call?

1 A. Yes. Correct.

2 Q. And why is that necessary?

3 A. That might help us locate the suspect, if he's
4 on a bicycle or on foot, in giving us a proximity where
5 he could be. If he's on a bicycle, he would get much
6 farther, rather than on foot he'd probably be closer in
7 the area.

8 Q. Are there situations where you may call a K-9
9 unit?

10 A. Correct. There are situations.

11 Q. How do you know when to call a K-9 unit or
12 when not to call a K-9 unit?

13 A. That's designated based on a timeframe or how
14 the suspect may have left. If he left in a vehicle or
15 on a bicycle, sometimes the use of a canine is not
16 appropriate.

17 Q. And is that the kind of information that you
18 would want to know immediately as opposed to after
19 you've been on the call and gotten more information?

20 A. Yes. Correct. Because that could help us
21 locating the suspect quickly.

22 MR. SARABIA: Judge, may I approach the
23 witness?

24 THE COURT: You may.

25 MR. SARABIA: Judge, I'm going to be going

1 through State's Exhibits 2 through 14. I've
2 already shown Defense counsel all of the exhibits
3 for their inspection.

4 BY MR. SARABIA:

5 Q. I'm showing you State's Exhibit 2 for
6 identification. Do you recognize that?

7 A. Yes, sir, I do.

8 Q. What is that?

9 A. That's the incident location that I responded
10 to.

11 Q. Is that a photograph that you took the morning
12 of August 28, 2014?

13 A. Yes, sir, it is. That's correct.

14 Q. Is it a fair and accurate depiction of the way
15 the residence looked on August 28th, 2014?

16 A. Yes, sir.

17 Q. I'm showing you State's Exhibit 3 for
18 identification. Do you recognize this?

19 A. Yes, sir.

20 Q. And what is this?

21 A. It's a picture of Megan Brown.

22 Q. And who took this photograph?

23 A. I did.

24 Q. When did you take this photograph?

25 A. The morning of the incident.

1 Q. So that would have been the morning
2 August 28th, 2014?

3 A. Yes, sir. That's correct.

4 Q. And is it a fair and accurate depiction of
5 what you saw at that time?

6 A. Yes, sir.

7 Q. I'm showing you State's Exhibit 4 for
8 identification. Do you recognize this?

9 A. Yes, sir.

10 Q. And what is this?

11 A. It's a picture, a photograph of Megan Brown's
12 left hand.

13 Q. And is this a photograph that you took?

14 A. Yes, sir, it is.

15 Q. Is it a fair and accurate depiction of what
16 you saw on August 28th, 2014?

17 A. Yes, sir. That's correct.

18 Q. I'm showing you State's Exhibit 5 for
19 identification. Do you recognize this?

20 A. Yes, sir.

21 Q. And what is that?

22 A. It's another photograph of Megan Brown's left
23 hand.

24 Q. Is it a fair and accurate depiction of what
25 you observed on the morning of August 28th, 2014?

1 A. Yes, sir.

2 Q. And do you see something in the glass in the
3 doorway there?

4 A. It appears to be a dog.

5 Q. Were there dogs on the scene when you were
6 present at the residence the morning of August 28th,
7 2014?

8 A. Yes, sir. There were.

9 Q. One dog or multiple dogs?

10 A. I believe there were multiple dogs inside the
11 kitchen area of the residence.

12 Q. I'm showing you State's Exhibit 8 for
13 identification. Do you recognize that?

14 A. Yes, sir.

15 Q. And what is that?

16 A. It's a picture of Megan Brown's -- the cut on
17 Megan Brown's thumb.

18 Q. And is this a photograph that you took?

19 A. Yes, sir, it is.

20 Q. Is it a fair and accurate depiction of what
21 you saw, albeit a little bit fuzzy?

22 A. Yes.

23 Q. I'm showing you State's Exhibit 7 for
24 identification. Do you recognize that?

25 A. Yes, sir, I do.

1 Q. What is that?

2 A. It's a photograph of what Megan Brown advised
3 was her son's bedroom.

4 Q. Okay. And is this a fair and accurate
5 depiction of the way it looked the morning of August
6 28th of 2014?

7 A. Yes, sir.

8 Q. Is this a photograph that you took?

9 A. Yes, sir, it is.

10 Q. I'm showing you State's Exhibit 8 for
11 identification. Do you recognize that?

12 A. Yes, sir, I do.

13 Q. And what is this?

14 A. It's another photograph of the son's bedroom.

15 Q. Okay. And in particular, kind of the center
16 of the photograph there's like a toolbox of some sort, a
17 kid's tool?

18 A. Correct. It looks like storage container.

19 Q. Was that an area of interest for you in your
20 investigation?

21 A. Correct. It was.

22 Q. And turning your attention to State's
23 Exhibit 9 for identification. Do you recognize that?

24 A. Yes, sir.

25 Q. And what is that?

1 A. It's a picture of the toolbox and the storage
2 container in the corner of the bedroom.

3 Q. Is it a fair and accurate depiction of what
4 you observed the morning of August 28th, 2014?

5 A. Yes, sir.

6 Q. Now, there's some red discoloration on the top
7 of the box. What did that appear to be to you while you
8 were on scene?

9 A. It appeared to be blood, droplets of blood.

10 Q. Turning your attention to State's Exhibit 10
11 for identification. Do you recognize that?

12 A. Yes, sir.

13 Q. And what is that?

14 A. That's closeup photograph of the top of the
15 plastic storage container and the blood that was on it.

16 Q. And is it a fair and accurate depiction of
17 what you saw on the morning of August 28th, 2014?

18 A. Correct.

19 Q. Turning your attention to State's Exhibit 11
20 for identification. Do you recognize that?

21 A. Yes, sir, I do.

22 Q. And what is that?

23 A. It's the knife that Megan Brown had alleged
24 Adam Matos used during the altercation.

25 Q. And where did you collect this item from?

1 A. This item was actually collected in the
2 kitchen of the residence.

3 MR. SARABIA: Judge, at this time the State
4 would like to introduce State's Exhibits 2 through
5 11 into evidence for purposes of this hearing.

6 THE COURT: Mr. Matos, any objection to this
7 being admitted for the purpose of this hearing into
8 evidence?

9 MR. MICHAÏLOS: No, Your Honor.

10 THE COURT: I mean Mr. Michailos. I'm sorry.

11 MR. MICHAÏLOS: That's okay.

12 THE COURT: Sorry. It shall be admitted as
13 State's Exhibit 2 through 11 in evidence for the
14 limited purpose of this hearing.

15 BY MR. SARABIA:

16 Q. Based on your investigation in terms of
17 observing the blood drops on the kid's toolbox,
18 observing and collecting the knife and observing the
19 injury, did it appear consistent with the account that
20 Megan Brown gave you of what had transpired?

21 A. That's correct. It appeared consistent.

22 Q. While you were present in the residence, were
23 you in the living room area?

24 A. Correct.

25 Q. I'm showing you what's been previously marked

1 as State's Exhibit 12 for identification. Do you
2 recognize that?

3 A. Yes, I do.

4 Q. And what is that?

5 A. That's a photograph of the living room area,
6 and the front door, which leads into the residence.

7 Q. And that front door, is that the door that you
8 went in?

9 A. Yes, sir. That's correct.

10 Q. And while you were entering through the front
11 door, did you notice a bullet hole on the side cinder
12 block wall as you go up the stairs on the right?

13 A. I did not notice.

14 MR. MICHAÏLOS: Objection. Irrelevant.

15 THE COURT: How is this relevant, Mr. Sarabia?

16 MR. SARABIA: Well, Judge, part of our
17 argument is going to involve why this is
18 inextricably intertwined with the murders, and some
19 of that deals with Deputy Heidgerken's observations
20 in the morning were different from the way the
21 crime scene appeared when we eventually got there
22 after the homicides.

23 THE COURT: How many days later?

24 MR. SARABIA: Seven days later.

25 THE COURT: So you're asking if there were

1 bullet holes in the wall seven days before?

2 MR. SARABIA: Correct. And I would note, as
3 laid out in the PC affidavit, that none of the
4 victims were seen after August 28th, the same day
5 that Deputy Heidgerken responded, as indicated by
6 Detective Cougill in regards to none of them showed
7 up for work on the 29th of August.

8 THE COURT: Is there anything else you want to
9 put on the record on this, Mr. Michailos, before I
10 rule on the objection?

11 MR. MICHAIILOS: No, Your Honor.

12 THE COURT: I'm going to overrule the
13 objection. I don't know that it's relevant yet,
14 but there's so many moving parts to this, that I
15 can't know until I've heard all of it, and I'll
16 disregard it if it becomes necessary.

17 You may continue.

18 BY MR. SARABIA:

19 Q. And drawing your attention to State's
20 Exhibit 13 for identification. Do you recognize that?

21 A. Correct. It's the entertainment center that
22 was in the living room of the residence.

23 Q. Now, when you were present on August 28th,
24 2016 [sic], in the early morning hours, and actually
25 later in the morning, was there a TV present in that

1 entertainment center?

2 A. Correct. I remember there being a TV there.

3 Q. And was it a TV that was approximately the
4 correct size for what you would expect in that
5 entertainment center?

6 A. Correct. It was a large television.

7 MR. SARABIA: Judge, at this time the State
8 would like to move State's Exhibits 12 and 13 into
9 evidence.

10 THE COURT: Mr. Michailos, do you have any
11 objection to these coming into evidence for
12 purposes of this hearing?

13 MR. MICHAIILOS: Same objection as before, Your
14 Honor.

15 THE COURT: Same ruling. I'm still not sure
16 how they tie in, but I'll hear it all the way to
17 the end, and then I may have to reserve myself
18 later if I can't find that they're relevant. But
19 it'll just be for this hearing, and it will give
20 the chance for the appellate court to look at it,
21 whichever way this goes.

22 So 12 and 13 will be admitted.

23 BY MR. SARABIA:

24 Q. Turning your attention to State's Exhibit 14
25 for identification. Do you recognize that?

1 A. Yes, sir, I do.

2 Q. And what is that?

3 A. That would be a picture of the bedroom along
4 the same hallway as [REDACTED] bedroom.

5 Q. And did you ever go into that bedroom while
6 you were present at the residence --

7 A. No, I did not.

8 Q. -- on the morning of August 28th?

9 A. No, I did not.

10 Q. Were you able to see in the doorway of the
11 residence?

12 A. Correct. The doorway was open.

13 Q. Was there a bed present in that room when you
14 were there on August 28th, 2014?

15 A. Yeah. I remember seeing a mattress on the
16 ground in the corner of the room.

17 Q. Okay. And you're referring to which corner?

18 MR. MICHAÏLOS: Judge, could we just have an
19 ongoing objection on these matters similar as
20 before?

21 THE COURT: You can.

22 You may continue.

23 THE WITNESS: The mattress would have been
24 laying in the southwest corner of the bedroom.

25

1 MR. SARABIA: Judge, at this time the State
2 would like to move State's Exhibit 14 for
3 identification into evidence.

4 THE COURT: Same objection, Mr. Michailos?

5 MR. MICHAÏLOS: Yes, Your Honor.

6 THE COURT: It shall be admitted as State's
7 Exhibit 14.

8 Could I see 12, 13, and 14, please. Thank
9 you. One moment, Mr. Sarabia.

10 You may continue.

11 BY MR. SARABIA:

12 Q. Deputy Heidgerken, you said you were on scene
13 for approximately an hour and a half. After you cleared
14 the scene, did you search for the defendant, Adam Matos?

15 A. Correct. After I cleared the call, I circled
16 the immediate area.

17 Q. And were you able to locate him?

18 A. No, sir.

19 Q. Did there come an occasion where you responded
20 back to the residence at 7719 Hatteras Drive the morning
21 of August 28th of 2014?

22 A. Yes, sir. I responded back to the location a
23 second time that morning.

24 Q. And approximately what time was the second
25 time?

1 MR. MICHAÏLOS: Objection. Totally
2 irrelevant.

3 THE COURT: What's the relevance of the second
4 time?

5 MR. SARABIA: Judge, the second time Deputy
6 Heidgerken responds, he responds in reference to a
7 call placed by Nicholas Leonard, one of the victims
8 in the homicides, reporting what turns out to be
9 the same incident that Deputy Heidgerken responded
10 to the first call that you've already heard
11 testimony about.

12 Based on that we are able to infer that he had
13 knowledge of the incident that occurred earlier in
14 the morning, which we intend to present evidence at
15 trial, led to him responding to 7719 Hatteras Drive
16 later in the day with a firearm.

17 THE COURT: Led to him who responding there?

18 MR. SARABIA: Nicholas Leonard. As I will lay
19 out further in argument.

20 THE COURT: Is this something you wish to
21 introduce in trial?

22 MR. SARABIA: I'm sorry? Which specifically?
23 The fact that Nicholas Leonard called 911, and was
24 aware of the incident that had occurred earlier in
25 the morning?

1 THE COURT: Yes.

2 MR. SARABIA: Yes. Absolutely.

3 THE COURT: Okay. Again, I'll hear it, but
4 I'm going to mark it as something that I'll
5 consider to exclude if it doesn't somehow tie into
6 your later argument.

7 You may continue.

8 BY MR. SARABIA:

9 Q. I'm sorry. I believe the question we were on,
10 did you respond to 7719 Hatteras Drive subsequent to the
11 contact that we just heard about?

12 A. Yes, sir. I responded the second time.

13 Q. And approximately what time did you respond
14 the second time?

15 A. It was approximately at 9:14 or 9:15 in the
16 morning, I believe somewhere around there.

17 Q. And why did you respond at 9:14, 9:15?

18 A. We received another call.

19 MR. MICHAÏLOS: Objection. Hearsay.

20 THE COURT: Overruled. This is 9:15, the same
21 morning as the previous call that we already heard?

22 MR. SARABIA: Correct.

23 THE WITNESS: Correct.

24 THE COURT: Okay. Overruled. I'll hear it.

25 THE WITNESS: I responded approximately 9:15,

1 9:14 in the morning for a call, which was
2 transpired as a battery, aggravated assault call.

3 BY MR. SARABIA:

4 Q. And do you know who that caller was?

5 A. It turns out the caller was Nicholas Leonard.

6 Q. Now, what was the nature of your response at
7 9:15 in the morning?

8 A. I was under the impression that, based on the
9 call notes, I was responding to an aggravated battery in
10 progress at the same location. It appeared to me that
11 possibly Adam Matos had returned to the residence and so
12 I was hoping to get there very quickly.

13 Q. Based on that impression and the information
14 you were getting, does that mean that you would respond
15 differently than when you responded at 6:10 in the
16 morning or at 6:15 in the morning?

17 A. Yes. I was under the impression that
18 altercation was actually transpiring while I was en
19 route and that Adam Matos was still on scene, so I
20 attempted to get to the residence very quickly.

21 Q. Okay. And when you arrived on residence, how
22 did you conduct yourself then?

23 A. I parked my patrol vehicle and I quickly moved
24 from my vehicle to the front door of the residence.

25 Q. Did you wait for backup units?

1 A. Not at that moment.

2 Q. Is that because you believed there to be an
3 ongoing emergency at that time?

4 A. Yes. That's correct.

5 Q. Did you knock on the front door?

6 A. I did.

7 Q. And who answered?

8 A. Megan Brown did.

9 Q. Did you make contact with her about the 911
10 call that had then just come in?

11 A. Correct. I did.

12 Q. And what did you learn about the 911 call by
13 Nicholas Leonard at that time?

14 MR. MICHAÏLOS: Objection. Hearsay.

15 THE COURT: Overruled.

16 THE WITNESS: Essentially what I had learned
17 is she was texting Nicholas Leonard about the
18 altercation which had transpired earlier in the day
19 and it was a misunderstanding and that's why he
20 made the phone call to 911, because he was under
21 the impression that that altercation was occurring
22 at that moment.

23 BY MR. SARABIA:

24 Q. Okay. And was Adam Matos on scene that second
25 time?

1 A. No, sir, he was not.

2 Q. Approximately how long were you at 7719
3 Hatteras Drive the second time?

4 A. I want to say I was approximately there for 15
5 minutes.

6 Q. Did you observe any other people other than
7 Megan Brown at that time?

8 A. Correct. I did.

9 Q. And who was that? Or describe the person?

10 A. It was an older white gentleman approximately
11 50, 60 years old.

12 MR. SARABIA: I don't have any more questions
13 at this time, Judge.

14 THE COURT: All right. Mr. Michailos, do you
15 have any questions for this witness?

16 MR. MICHAIILOS: Yes, Your Honor, please.

17 THE COURT: You may proceed.

18 CROSS-EXAMINATION

19 BY MR. MICHAIILOS:

20 Q. Sir, you're no longer a law enforcement
21 officer?

22 A. That's correct.

23 Q. What is your position now?

24 A. Right now I'm currently unemployed.

25 Q. Okay. The suspect had fled the location,

1 correct?

2 A. Correct.

3 Q. On a bicycle, correct?

4 A. That's what I was advised by Margaret.

5 Q. By whom?

6 A. Margaret.

7 Q. Prior to your arrival, he had fled, right?

8 A. Correct. Okay.

9 Q. And he was unarmed, right, when he fled? He
10 was unarmed?

11 A. I'm not sure.

12 Q. Well, you did photograph that knife that's in
13 evidence, correct?

14 A. That's correct.

15 Q. A photograph of the knife, right?

16 A. Correct.

17 Q. And that knife was in the kitchen, right?

18 A. Correct.

19 Q. And the information you had got from
20 Miss Brown was that was the knife used by the suspect,
21 right?

22 A. That is correct.

23 Q. So he was unarmed as far as that knife is
24 concerned, right?

25 A. I did not know that coming to the scene.

1 After being on scene, I learned that through the
2 investigation that that was the knife used in the
3 aggravated assault.

4 Q. Okay. So you discovered after investigating
5 that he was unarmed when he left?

6 A. Correct.

7 Q. What time did the alleged assault take place?
8 Do you know?

9 A. Prior to my arrival.

10 Q. Do you have a timeframe?

11 A. I'd say approximately five to ten minutes.

12 Q. In your report isn't it documented 5:50 as an
13 approximate time?

14 A. I'm not sure. I can take a look at my report.

15 Q. Do you have it with you?

16 A. Yes, sir.

17 Q. Go ahead.

18 A. Yes. Correct. 5:50 is what I placed in my
19 report for the timeframe.

20 Q. And Miss Brown, Megan Brown, she was
21 intoxicated, was she not?

22 A. She advised that she had been out drinking the
23 night prior, correct.

24 Q. And you perceived evidence of her being
25 intoxicated, right?

1 A. Correct.

2 Q. Slurred speech?

3 A. Slightly, yes.

4 Q. And she had been out all night drinking,
5 that's what she advised?

6 A. Correct.

7 Q. And her injury was that small laceration to
8 right her thumb, correct?

9 A. Yes, sir.

10 Q. Any other injuries?

11 A. No, sir.

12 Q. And you estimated that injury to be about a
13 one-half inch cut to her thumb?

14 A. Approximately a half inch.

15 Q. And you said earlier the kitchen knife was in
16 the kitchen sink, right?

17 A. It was in the kitchen.

18 Q. Not in the sink, but in the kitchen somewhere?

19 A. Yeah. It was in the kitchen.

20 Q. And she had placed it there?

21 A. Correct.

22 Q. Did she refuse medical care?

23 A. Medical care, EMS Fire Rescue did respond on
24 scene and they did take a look at her, they did review
25 her thumb.

1 Q. Did they put a Band-Aid on it?

2 A. I believe they wrapped it.

3 Q. Was she taken to the hospital?

4 A. No. She did not go to the hospital. While I
5 was on scene, she did not go to the hospital.

6 Q. Okay. So there was no ongoing emergency when
7 you were there, right?

8 A. Correct.

9 Q. And you don't know specifically when the
10 suspect left 7719 Hatteras Drive, correct?

11 A. I don't know an exact time.

12 Q. You have no personal knowledge as to how much
13 time elapsed from the alleged assault and the 911 call,
14 correct?

15 A. Not an exact number.

16 Q. And there was no sign of the suspect outside
17 the residence when you arrived, right?

18 A. No, sir. I did not see him outside the
19 residence.

20 Q. And I'm specifically referring to the first
21 time you went out there. There was no sign of him out
22 there, correct?

23 A. I did not see him the first time I responded
24 to the scene.

25 Q. Is it fair to say you saw no males out in the

1 vicinity when you arrived to the residence?

2 A. Correct.

3 Q. And you didn't see anybody on a bike en route
4 to the house?

5 A. No, sir.

6 Q. Was there a BOLO put out when you were coming
7 to the house based on the information you deciphered
8 from the 911 dispatch?

9 A. Basically what I did is we have a talk-around
10 channel, I went on my talk-around channel and I told
11 some of the other units basically what I had for my
12 call.

13 Q. All right. And just to clarify, the 9:15 call
14 was in error, correct?

15 A. From what I understood, it was a
16 misunderstanding by Nicholas Leonard, who was under the
17 impression that that was actually transpiring at that
18 moment.

19 Q. So for the record, Mr. Matos had never
20 returned to that residence at 9:15 or thereabouts?

21 A. According to Megan Brown, that's correct.

22 MR. MICHAÏLOS: One moment, Your Honor.

23 BY MR. MICHAÏLOS:

24 Q. Mr. Heidgerken, you said you're no longer
25 employed with the Sheriff's Office?

1 A. That's correct.

2 Q. Were you terminated or resigned?

3 A. I resigned.

4 Q. Why is that?

5 MR. SARABIA: Objection, Judge. Relevance.

6 THE COURT: Response, Mr. Michailos? Why
7 would it be relevant?

8 MR. VIZCARRA: Because of credibility, Judge.

9 THE COURT: Well, I know that you know the
10 answer, Mr. Vizcarra, but I was going to ask
11 Mr. Michailos. He doesn't get to phone a friend.

12 MR. MICHAIILOS: To see if there's any issues
13 on credibility, Your Honor.

14 THE COURT: It does go to the credibility of
15 the witness. I'll allow it.

16 THE WITNESS: There was an Internal Affairs
17 investigation, and I resigned during the course of
18 that Internal Affairs investigation.

19 MR. MICHAIILOS: Just a moment, Your Honor.

20 THE COURT: You may take a moment to consult
21 with counsel, yes.

22 BY MR. MICHAIILOS:

23 Q. So there was an Internal Affairs
24 investigation?

25 A. That's correct.

1 Q. What was the Sheriff's Office version of the
2 complaint against you?

3 MR. SARABIA: Objection, Judge. It has no
4 relevance on this particular situation. If he
5 wants to ask if it had anything to do with the
6 facts of this case or the handling of this
7 investigation, I would have no objection to that;
8 but going into a completely unrelated Internal
9 Affairs investigation would be not relevant to this
10 proceeding or any of the proceedings in regards to
11 Mr. Matos.

12 THE COURT: I understand your objection,
13 State. Let's just cut to the quick.

14 Was it founded or unfounded or did it get
15 stopped because ultimately of your resignation?

16 THE WITNESS: By default it was substantiated
17 because I resigned during the course of the
18 Internal Affairs investigation.

19 THE COURT: All right. So it was by default
20 substantiated, meaning effectively you no-contested
21 it by not challenging it.

22 What was the nature of the allegation against
23 you?

24 THE WITNESS: It was conduct unbecoming for
25 using profane, vulgar, or offensive language in

1 front of a trainee.

2 THE COURT: Okay. All right. Anything
3 further you want to go on that, Mr. Michailos?

4 MR. MICHAIILOS: Just a moment, Judge.

5 BY MR. MICHAIILOS:

6 Q. Did the finding of your wrongdoing involve
7 anything else, sir?

8 A. Inattentive of duty for using my cell phone
9 while on duty, and giving a courtesy transport to a
10 civilian and not advising dispatch of my starting and
11 end mileage. And there was --

12 Q. What was the last one? I'm sorry.

13 THE COURT: A courtesy transport.

14 THE WITNESS: A courtesy transport.

15 THE COURT: Driving somebody someplace
16 without --

17 THE WITNESS: And the disconnection of my GPS,
18 which that one was unsubstantiated eventually.

19 BY MR. MICHAIILOS:

20 Q. Anything else?

21 A. Those are the four charges.

22 Q. Thank you, sir.

23 THE WITNESS: All right. Any further
24 questions, Mr. Sarabia?

25 MR. SARABIA: Just briefly.

1 REDIRECT EXAMINATION

2 BY MR. SARABIA:

3 Q. All of those things that you detailed in
4 regards to the IA investigation, did they have anything
5 to do with your handling of the investigation in regards
6 to 7719 Hatteras Drive on August 28th, 2014?

7 A. Absolutely not.

8 MR. SARABIA: I don't have any more questions,
9 Judge.

10 THE COURT: Okay. All right. Thank you, sir.
11 You are excused.

12 State, do you have any further witnesses you
13 wish to call.

14 MR. SARABIA: Judge, may we approach on that.
15 Well, Judge, I have a detective here who I can go
16 into great detail in regards to evidence I
17 anticipate presenting in the trial against
18 Mr. Matos, and why some of the evidence that I've
19 presented to the Court today will later become
20 relevant, or I can argue that and represent to the
21 Court that I intend to present that evidence later.

22 It would cause a substantial amount of time if
23 I called Detective Cougill, but we are prepared to
24 do that.

25 THE COURT: I was going to ask you is that in

1 Detective Cougill's affidavit? Is it in Detective
2 Cougill's affidavit?

3 MR. SARABIA: There's a great deal more
4 information in Detective Cougill's affidavit;
5 however, I intend to argue it all. But in regards
6 to the specifically inextricably intertwined issue,
7 part of my argument will involve why things that
8 happened in the morning are still relevant and
9 useful into the prosecution of Mr. Matos not
10 involving the allegation that Megan Brown made.

11 THE COURT: Okay.

12 MR. SARABIA: I don't know if Defense counsel
13 has a preference.

14 THE COURT: Well, whatever way I rule, one of
15 you is going to appeal me. So I want the record to
16 be complete. I understand it's going to take some
17 is time. I'm prepared to commit the time.

18 Would now be an appropriate time to take a
19 comfort break?

20 MR. SARABIA: That would be great, Judge.

21 THE COURT: Okay. So what we'll do is we'll
22 take a five-minute comfort break. And let me see
23 the attorneys for the State and Defense up here for
24 a minute. And this can be off the record. It's
25 just purely for purposes of scheduling.

1 (Off The Record.)

2 THE COURT: We'll be in recess for five
3 minutes. If Mr. Matos needs to use the restroom,
4 give him a chance to use the restroom after he
5 talks to his attorneys.

6 (Recess Taken.)

7 THE COURT: All right. Okay. Mr. Sarabia,
8 are you ready to proceed?

9 MR. SARABIA: Yes, Judge. Is that what the
10 Defense wants to do?

11 THE COURT: Mr. Michailos, are you ready to
12 proceed? I'm just meaning to start the hearing
13 again. That's all I mean.

14 MR. SARABIA: Okay.

15 THE COURT: Not necessarily proceed as in call
16 the next witness.

17 MR. SARABIA: Yes.

18 THE COURT: All right. So at the bench, for
19 purposes of scheduling, I asked you some questions
20 about your last witness, the amount of time that
21 witness might take and the information that we
22 might be hearing from him.

23 It's now past the 5:00 o'clock hour. I don't
24 see where it would be fair to put the Defense in a
25 position of having to cross-examine this witness

1 and/or hear their testimony for the first occasion,
2 and did not yet depose them.

3 Defense, do you want me to allow this to
4 continue with that witness or do you want the time
5 to contemplate and depose this witness before this
6 evidence is offered.

7 MR. MICHAIILOS: We'd request bifurcating this
8 hearing, Your Honor.

9 THE COURT: Okay. This witness isn't yet set
10 for deposition. How long approximately before I'm
11 going to be able to hear that this witness has been
12 deposed and we can bring this witness back in to
13 finish this portion of the hearing?

14 Is this something like 30 days? Is this
15 something like next week? Is this something like
16 Monday? I'm always optimistic.

17 MR. LIVERMORE: Judge, all I can say about
18 scheduling is right now I can't ask anybody, but I
19 don't know how long it will take to get it set.

20 MR. MICHAIILOS: Right. We already have depos
21 scheduled, and I know Mr. Sarabia has limited time
22 for those two. So I don't know what Mr. Sarabia
23 thinks. Six weeks of do you think less? Thirty
24 days?

25 THE COURT: Another way that we can proceed is

1 I've taken good notes. Luckily I also have an
2 excellent court reporter who's taken excellent
3 notes.

4 I can allow the two of you to reset once
5 you've got the deposition taken. I'd ask, though,
6 not only that you coordinate with the detective,
7 but because the victim's representatives have been
8 present and patient in this courtroom, I'd ask that
9 Mr. Sarabia coordinate with them when you get the
10 date with my judicial assistant.

11 And I want you to block off at least two hours
12 again so that we make sure that we have enough time
13 to finish every aspect of it. So I'll reset it and
14 direct that you take a two-hour time block after
15 you've completed the deposition so that nobody can
16 claim surprise as to what's testified to and what
17 arguments are made.

18 So I will bifurcate this portion of the
19 hearing as it relates to both the motion to admit
20 hearsay and the motion to exclude evidence of other
21 crimes, wrongs or acts.

22 And I'll direct that you get the new court
23 date from my judicial assistant. I would like to
24 finish the motion to preclude the death penalty
25 based on ex post facto tonight, if we can finish

1 that tonight at least.

2 MR. MICHAÏLOS: If I may ask of the State, are
3 there any other witnesses I should depose before
4 the next hearing, because I don't want to be in
5 this predicament again?

6 THE COURT: Valid question. Do you know if
7 you'd call any other witnesses at this time?

8 MR. SARABIA: Well, Judge, we would intend to
9 call Detective Cougill to give a review of the
10 evidence. Some of it would be hearsay, but to
11 review for the Court what the investigation is, and
12 some of the evidence that we intend to present at
13 trial that ties to the evidence from this morning.

14 If the Defense is going to object to Detective
15 Cougill testifying to some of that stuff, which
16 some other people may have done, then we would
17 intend to call those other people. But for
18 purposes of this hearing and for the Court's
19 determination, I believe Detective Cougill would be
20 sufficient.

21 THE COURT: Let's do this, then: Akin to a
22 motion for a statement of particulars, unless you
23 have some lawful objection, provide the factors
24 that you believe Detective Cougill will testify to
25 that are not set out in the arrest affidavit, the

1 ones that are not set out in the arrest affidavit,
2 to Mr. Michailos in writing.

3 It doesn't have to be the War and Peace of
4 motions. Just a brief outline of those facts that
5 you believe that he'll testify to that are not
6 included in the arrest affidavit, so that when he
7 questions him and when he considers if he wants to
8 call rebuttal witnesses, he can have them
9 available. Okay?

10 And if you run into problems with that, the
11 two of you can approach me off calendar, and I'll
12 provide a written order that hones it and assists
13 both of you.

14 I miss that show. I have not heard that show,
15 that has been years.

16 MR. SARABIA: Grade two.

17 THE COURT: That took me back.

18 MR. SARABIA: That's when I was growing up.

19 THE COURT: I understand. We've all been
20 there.

21 All right. So that being said, and
22 bifurcating this hearing, can we still get this
23 motion to preclude death penalty done tonight?
24 State, do you have any objection hearing it?

25 MR. SARABIA: No, Judge, I do not. In fact,

1 if it was the Court's desire, we can even argue
2 points one and two of the other one, the excited
3 utterance and Crawford issues. I don't think
4 Detective Cougill's testimony will relate to those
5 two issues.

6 THE COURT: Well, do you want to argue the
7 Crawford aspect of it or do you want to hear it all
8 together for purposes of the hearsay motion as it
9 relates to it being an excited utterance?

10 Why don't we keep all that together. It's a
11 separate issue. Let's keep all that together. It
12 will still be fresh enough in my mind, based on my
13 notes.

14 MR. SARABIA: Okay.

15 THE COURT: And if I have to, I'll listen to
16 the tape again. It's in evidence.

17 Let's do the motion to preclude death penalty
18 ex post facto.

19 Your motion, Mr. Livermore.

20 MR. LIVERMORE: Yes, sir.

21 THE COURT: You're welcome to argue from there
22 you're welcome to argue from the podium. Wherever
23 you feel more comfortable.

24 MR. LIVERMORE: This is a result of the *Hurst*
25 decision. I'm sure the Court's aware of the

1 issues.

2 THE COURT: I've have read it.

3 MR. LIVERMORE: In fact, this issue is now
4 pending before the Florida Supreme Court. I had
5 thought about maybe just waiting to see if they're
6 going to do anything.

7 THE COURT: Yes.

8 MR. LIVERMORE: But I don't know whether they
9 are or not. But as the State is aware, and has
10 given me the *Perry* and I think it's the *White* case,
11 have been argued at the end of March in front of
12 the Florida Supreme Court.

13 THE COURT: Your reference to *Perry*, is *Perry*
14 from the Fifth District Court of Appeals?

15 MR. LIVERMORE: Yes.

16 THE COURT: 5-D16-516?

17 MR. LIVERMORE: Yes.

18 THE COURT: All right.

19 MR. LIVERMORE: That has recently been argued
20 and briefed, including a whole bunch of amicus
21 briefs, before the Florida Supreme Court. Frankly,
22 we could just postpone this and see what they say.

23 THE COURT: I was going to ask if you want to
24 do that. I don't have a problem with it, since the
25 trial is not set until February.

1 MR. LIVERMORE: Right. I filed this, I think,
2 before I really knew about what Perry and White
3 were doing. But it is there, and hopefully between
4 that and the jury instructions, we'll actually know
5 what they want us to do. So I'm willing to wait
6 and see what the Supremes do.

7 THE COURT: If you want me to hold this motion
8 in abeyance, I will do that.

9 MR. LIVERMORE: I think so.

10 THE COURT: I will show that you're not
11 waiving your right to challenge it. But until the
12 Supreme Court decides it, I don't think they're
13 holding their breath waiting for my informed
14 opinion on how it comes out.

15 MR. LIVERMORE: Nor mine.

16 THE COURT: Although, in reading your motion,
17 I saw that for some reason you cited a case that
18 lifted it from Samuel Clemens but didn't credit
19 him. That's a Mark Twain quote and they stole it.

20 MR. LIVERMORE: But this is before Mark Twain.

21 THE COURT: 1835. Your case was 1866.

22 MR. LIVERMORE: When I Googled it, it gave
23 them credit for it instead of Mark Twain, so that's
24 why I cited it that way.

25 THE COURT: That's a Twain quote. I've used

1 it many, many times.

2 MR. LIVERMORE: I know.

3 THE COURT: And when I saw it, I knew the
4 court had lifted it. He was already well read
5 around the country. So I'm sure it was just a
6 learned jurist that lifted that quote.

7 MR. LIVERMORE: Probably.

8 THE COURT: But okay.

9 MR. LIVERMORE: Like the rest of us do.

10 THE COURT: Either way.

11 MR. LIVERMORE: That's fine.

12 THE COURT: I'll show that motion in abeyance.
13 The Supreme Court is going to rule on it. There's
14 no point me doing it individually. I'll show that
15 you're reserving on it.

16 Mr. Matos, so that you understand what just
17 happened -- I know your attorney is going to
18 explain it to you again after we're all gone, but
19 in simplest terms, the Supreme Court has the issue
20 on the death penalty and whether it can be applied
21 ex post facto as the new statute has been set up.
22 So to that end, there's no point in the State and
23 Defense arguing it and me ruling on it when the
24 Supreme Court will have the ultimate decision, and
25 we expect that ruling well before your trial occurs

1 next February.

2 So I expect it will be the fall session that
3 we'll see it. So I'll hold it in abeyance until
4 then. If a ruling comes out and it's consistent
5 with your position, you can send me an order, and
6 if the State has no objection, I'll sign it. And
7 if it rules against you, it will be preserved for
8 appeal, if it's overturned, at a later time; but
9 you know how my ruling will go in that instance.

10 All right. State, is there anything else we
11 can do to advance this case before we break today?

12 MR. SARABIA: I don't believe so, Judge.

13 THE COURT: Is this set for pretrial today?

14 MR. SARABIA: Yes.

15 THE COURT: There were other things that were
16 supposed to be accomplished. My recollection is
17 there was a motion to perpetuate testimony. Did
18 that get accomplished today?

19 MR. SARABIA: That was accomplished earlier
20 today, Judge.

21 THE COURT: Good. And, Defense, you're
22 proceeding with discovery, and you're indicating
23 you still have a number of depositions to do, but
24 you're going to be scheduling them soon, and you
25 will have most of them accomplished before we come

1 back for the bifurcation or second half of this
2 hearing. We hadn't scheduled another pretrial. I
3 want to schedule another pretrial so that I can
4 keep my eyes on where this case is progressing.

5 I know that a lot of the family shows up. I
6 forget, was there a better day of the week? Did we
7 select a Thursday for a specific reason or does it
8 matter whether it's Monday through Friday? I'm
9 always here, so it doesn't matter to me; but if
10 there's a better day of the week for you all. The
11 rest of us work in this building, so we'll be here.

12 UNIDENTIFIED SPEAKER: Monday.

13 THE COURT: Mondays are better?

14 UNIDENTIFIED SPEAKER: Three o'clock'ish is
15 better.

16 THE COURT: Three o'clock'ish is better?
17 Three o'clock'ish I can do. But is there a better
18 day of the week or does it matter?

19 UNIDENTIFIED SPEAKER: Thursdays and Fridays.

20 THE COURT: Thursdays and Fridays are good?
21 Okay. I'm going to take it all the way out to -- I
22 forget, are we on the trial calendar already for
23 February or I just asked you to coordinate your
24 experts?

25 MR. SARABIA: We are set for February 20th for

1 jury selection and beginning the trial
2 February 27th.

3 THE COURT: All right. I'm going to set the
4 next pretrial, then, for August 25th at 3:00. My
5 preference would be if we can do the bifurcation or
6 the remainder of the hearing August 25th, then, at
7 3:00.

8 You know, the family said 3:00. Is 2:00 okay
9 with you just so that we have more time or is 2:00
10 too early? It gives us three hours rather than two
11 hours to make sure that we get it done.

12 MR. SARABIA: Yes.

13 THE COURT: Let's do it for 2:00, then. So it
14 will be August 5th [sic] at 2:00 for a pretrial.
15 And try to get my JA to give you that time for the
16 remainder of the bifurcated motion, if possible.
17 All right?

18 MR. SARABIA: I'm sorry, Judge. Did you say
19 5th or 25th.

20 THE COURT: 25th. August 25th. It's a
21 Thursday, isn't it?

22 MR. SARABIA: No. That's fine.

23 THE COURT: Yeah. August 25th at 3:00 -- or
24 2:00. Excuse me. I keep saying that. All right.
25 So August 25th at 2:00.

1 And, Mr. Matos, do you have any questions
2 before we break today?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: And Mr. Michailos or Mr. Vizcarra,
5 is there anything else we can do to advance the
6 case today?

7 MR. VIZCARRA: No, sir.

8 MR. MICHAIILOS: No, Your Honor.

9 THE COURT: No? All right. We'll be in
10 recess, then, until tomorrow morning at 8:30. Good
11 luck to everybody.

12 (HEARING CONCLUDED.)

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1 CERTIFICATE OF REPORTER

2
3 STATE OF FLORIDA)

4 COUNTY OF PASCO)

5
6
7 I, MARIA FORTNER, Registered Professional's
8 Reporter for the Sixth Judicial Circuit, do certify that
9 I was authorized to and did stenographically report the
10 foregoing proceedings and that the transcript is a true
11 record.

12 DATED this 10th day of May, 2018.

13
14 /S MARIA A. FORTNER
15 MARIA A. FORTNER
16 Registered Professional Reporter
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