

1 IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF
2 THE STATE OF FLORIDA, IN AND FOR PASCO COUNTY
3 CASE NUMBER CRC2014CF005586CFAXWS

4 STATE OF FLORIDA,

5 Plaintiff,

6 vs.

VOLUME X

7 ADAM MATOS,

8 Defendant.

9 _____ /
10 PROCEEDINGS: JURY TRIAL

11 BEFORE: THE HONORABLE MARY M. HANDSEL
12 Circuit Court Judge

13 DATE: November 9, 2017

14 PLACE: Courtroom 3-A
15 West Pasco Judicial Center
16 7530 Little Road
17 New Port Richey, Florida 3465

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3 * * * * *

4 THE COURT: All right. State, call your next
5 witness.

6 MR. LAWHORNE: Billie Earls.

7 THE COURT: Good afternoon, Ms. Earls. If you
8 want to step up to the podium here for me. Raise
9 your right hand and be sworn by my clerk.

10 THEREUPON,

11 BILLIE EARLS,

12 the witness, was sworn and testified as follows:

13 THE WITNESS: Yes.

14 THE COURT: All right. Ma'am, if you can step
15 around and have a seat in the witness stand.

16 I just need to make sure you speak in a loud
17 and clear voice so we all hear you. Okay?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Thank you, ma'am.

20 State, are you ready to proceed?

21 MR. LAWHORNE: Yes, Judge. Thank you.

22 Counsel.

23 DIRECT EXAMINATION

24 BY MR. LAWHORNE:

25 Q Good afternoon. Would you please introduce

1 yourself to the jury.

2 A My name is Billie Earls.

3 Q And will you spell your first name for the
4 court reporter just to make sure we get it right.

5 A Yes. It's B-i-l-l-i-e.

6 Q Now, Ms. Earls, do you live here in Pasco
7 County?

8 A Yes, I do.

9 Q Let's go back to August of 2014. And on that
10 month and that year did you live at 15817 Kemper Drive?

11 A Yes, I did.

12 Q And is that in Hudson?

13 A Yes, it is.

14 Q Now, if I showed you a map of the area, could
15 you kind of roughly point out where that would be?

16 A Yes, sir.

17 MR. LAWHORNE: Now, I'm showing her what's in
18 evidence as State's 257.

19 THE COURT: Okay.

20 THE WITNESS: Okay. Let me find my house
21 first.

22 Q (By Mr. Lawhorne) We have Old Dixie Highway
23 right here (indicating), to give you some orientation.

24 A I'm trying to find my house in this. I don't
25 see it.

1 Q Would it be over in this direction
2 (indicating)?

3 A Yes. Yes. This would be Gulf Drive coming
4 out this way (indicating). And the apartment complex
5 that I lived in was back this way on the right
6 (indicating). So you go out this way here and you make
7 a left (indicating), which is this Old Dixie Highway, as
8 he said, and the house is right here where the gentleman
9 lived (indicating).

10 Q Now, about how far from Old Dixie Highway was
11 your residence in 2014, roughly?

12 A Oh, my goodness. I'd say less than a mile.

13 Q Now, the residence that you had there, was it
14 a house? An apartment complex?

15 A Apartment complex, sir.

16 Q And what was the layout of it? Are these
17 large buildings or small buildings?

18 A They're fairly large buildings, but there's
19 like four units in each building.

20 Q And does each unit have assigned parking
21 spaces?

22 A Yes, sir. They do.

23 Q And are those indicated with the apartment
24 number spray painted on the ground?

25 A Yes, sir. It does.

1 MR. LAWHORNE: Your Honor, may I approach with
2 some photos --

3 THE COURT: You may.

4 MR. LAWHORNE: -- that I've already shown
5 defense?

6 And for the record, these are -- I'm sorry --
7 585, 584, 587, 588, 589, and 586.

8 Q (By Mr. Lawhorne) Now, Ms. Earls, could you
9 flip through these and tell us if you recognize these
10 photos.

11 A Yes, I will. Okay. The first picture is the
12 entrance inside of Chelsea.

13 Q I need you to not show the jury just yet.

14 A Oh, okay.

15 Q We'll do that in a second.

16 A The second one is the parking space on the
17 house, the address that I lived.

18 THE COURT: Ms. Earls, can you just flip
19 through them to yourself see if you recognize them.

20 THE WITNESS: Oh, I'm sorry.

21 THE COURT: We'll get to you telling us what
22 they are after you see them.

23 MR. LAWHORNE: Correct.

24 THE WITNESS: I'm sorry. Shame on me.

25 THE COURT: We got these rules. You've got to

1 follow them. Sorry.

2 THE WITNESS: That's okay.

3 Q (By Mr. Lawhorne) And do you recognize all of
4 these photos?

5 A Yes, sir. I do.

6 Q And are these photos that are taken of your
7 apartment complex back in 2014?

8 A Yes, sir.

9 Q And are these all true and accurate
10 representations of how it appeared at that time?

11 A Yes, sir.

12 MR. LAWHORNE: Your Honor, at this time we
13 would like to move these into evidence.

14 THE COURT: All right. Any objection?

15 MR. VIZCARRA: No objection, Your Honor.

16 THE COURT: All right. So 584 through 589
17 will come into evidence.

18 Q (By Mr. Lawhorne) Now, Ms. Earls, I'm going
19 to approach and ask you about each one of these one at a
20 time.

21 A Okay.

22 Q And I'm just going to ask you from here. And
23 I may walk over to the table.

24 So this photo right here (indicating), what is this
25 one?

1 A That is the entrance inside of the apartment
2 complex in which I lived.

3 MR. LAWHORNE: And this is State's 585.

4 (Thereupon, State's 585 is published.)

5 Q (By Mr. Lawhorne) And the next photo I'm
6 going to ask you about is State's 587.

7 Would you tell us what this one is?

8 A Yes. That's the apartment building in which I
9 reside and the parking place where we're assigned to
10 park the vehicles, our vehicles.

11 Q Now, there's covered parking here. It looks
12 like there's another truck over here off on the side?

13 A Yes, sir.

14 Q The covered parking spots, are these the
15 assigned spots?

16 A Yes, sir. It is.

17 Q Now, do you recognize the vehicles in this
18 photo?

19 A Yes, I do.

20 Q Could you tell us whose vehicles these are?

21 A On the far right end is a lady by the name of
22 Joan. She lives in the lower end apartment. Then you
23 have Rich, which was next door to where I lived. That
24 is his vehicle. And the next one from his was my
25 vehicle. And the next one to that one on the end

1 apartment was another attendants which was -- her name
2 was Candy. And that was her parking spot.

3 Q And that truck back there?

4 A That truck belonged to my son. He was living
5 with me at the time.

6 Q Now, this photo right here (indicating), is
7 this a zoomed in shot of that same parking area?

8 A Yes, it is.

9 Q And do you see your car in that photo?

10 A Yes, I do.

11 Q And which one is it?

12 A It's the black Ford Focus.

13 MR. LAWHORNE: And, I'm sorry. For the
14 record, that's 588.

15 Q (By Mr. Lawhorne) And 589, could you tell us
16 what this is?

17 A Yes. That is the address that's written on
18 the concrete in which has your apartment number to where
19 you are supposed to park.

20 Q And that just indicates who owns essentially
21 which parking spot?

22 A Right.

23 (Thereupon, State's Exhibits 588 and 589 are
24 published.)

25 MR. LAWHORNE: I need one more hand.

1 Q (By Mr. Lawhorne) And State's 586, is that
2 just a picture of the entry to the apartment complex
3 from the other side?

4 A Yes, sir.

5 Q Okay. Now, let's go back to August 28, 2014.
6 That particular evening, was your car parked in your
7 parking space?

8 A No, sir.

9 Q Where was your car that night?

10 A My granddaughter came over Thursday evening
11 around 6:00, 6:30 to pick my vehicle up. I let her
12 borrow it for a school function. So she drove my car to
13 school that Friday morning for the school function she
14 had.

15 Q So she borrowed it Thursday night so she would
16 have it on Friday morning?

17 A Yes, sir.

18 Q Now, when you went outside or looked outside
19 on Friday morning, did you see a vehicle parked in your
20 parking space?

21 A Yes, sir.

22 Q And that would be -- Friday would be August
23 29th of 2017 (sic)?

24 A Yes, sir.

25 Q And I'm showing you now what's been introduced

1 as State's 584. Is that the vehicle you observed?

2 A Yes, sir.

3 Q And is that license plate 244JUN?

4 A Yes, sir.

5 Q And is that a blue pickup truck?

6 A Yes, sir.

7 Q Now, do you know who owned this pickup? Did
8 you know at the time who owned this pickup truck?

9 A No, sir. I did not.

10 (Thereupon, State's Exhibit 584 is published.)

11 Q Did you give anybody permission to park in
12 your parking spot?

13 A No, sir. I did not.

14 Q So when you saw a vehicle parked in your spot
15 without permission, what did you do?

16 A I called the office and reported that there
17 was a vehicle that had parked in my space. So when my
18 granddaughter brought my car back on Saturday, I could
19 not park my car there because that vehicle had my spot.

20 When I called the office they said that I had to
21 give them 24 hours. And I went neighbor to neighbor to
22 see if any of those people might be having company and
23 maybe someone had, you know, pulled up into my parking
24 spot, and no one had company. So I didn't know who the
25 truck belonged to.

1 Q So was the truck still there a few days later?

2 A Yes, sir. It was.

3 Q So what did you do after the 24-hour window
4 had passed?

5 A On Monday I called the office back and I
6 reported the truck was still there. So they made
7 another issue about, you know, that they would call
8 someone. And on Wednesday, around 11:00 to 11:30 that
9 morning, Tatum's Towing came and towed the truck out so
10 I could get my car put back in there.

11 MR. LAWHORNE: Just one moment, Judge?

12 Q (By Mr. Lawhorne) And did you ever see
13 anybody associated with the truck, anybody who appeared
14 to be the owner of it or anybody pull it in and park it
15 or move it at any time?

16 A No, sir.

17 MR. LAWHORNE: Okay. Thank you, ma'am.

18 And, Judge, we have no further questions right
19 now. We have no further questions.

20 THE COURT: I understand. I'll wait until you
21 move.

22 Defense, cross?

23 CROSS-EXAMINATION

24 BY MR. VIZCARRA:

25 Q Ma'am, Ms. Earls, you said that the corner of

1 Dixie and Hatteras --

2 A Yes.

3 Q -- was less than a mile --

4 A Yes.

5 Q -- away?

6 MR. VIZCARRA: That's all I have.

7 THE COURT: All right. Any redirect?

8 MR. LAWHORNE: No, Your Honor.

9 THE COURT: Ma'am, you are all done. Thank
10 you very much. You may step down.

11 Is she released from her subpoena?

12 MR. LAWHORNE: She is released.

13 THE COURT: All right.

14 MR. VIZCARRA: No objection.

15 THE COURT: State, call your next witness.

16 MR. SARABIA: The State would call Richard
17 Cox.

18 THE COURT: Richard Cox.

19 Good afternoon, Mr. Cox. If you could step up
20 to the podium for me. Stop right there. Raise
21 your right hand and be sworn by my clerk.

22 THEREUPON,

23 RICHARD COX,

24 the witness, was sworn and testified as follows:

25 THE WITNESS: I do.

1 THE COURT: All right. Please have a seat in
2 the witness stand. Speak in a loud and clear voice
3 for me.

4 THE WITNESS: Okay.

5 THE COURT: State, you may proceed.

6 MR. SARABIA: Thank you, Judge. Defense.

7 DIRECT EXAMINATION

8 BY MR. SARABIA:

9 Q Could you please turn and introduce yourself
10 to the jury.

11 A I am Richard Siegfried Cox.

12 Q And, Mr. Cox, I want to take you back to
13 August and September 2014?

14 A Okay.

15 Q Where were you living at that time?

16 A I was living in the townhomes of -- it's been
17 a little while.

18 Q Chelsea Place?

19 A Chelsea Place.

20 Q All right.

21 A Yeah. It's been a little while. I haven't
22 been living there.

23 Q Did you have a neighbor named Billie Earls?

24 A Yes, I did.

25 Q In that apartment complex, did you all have

1 assigned parking?

2 A Yes.

3 Q And I'm showing you some of the photographs
4 that have already been entered into evidence.

5 Is this the front entrance of that apartment
6 complex (indicating)?

7 A Yes. Yes, it is.

8 Q Now, I notice there's a gate there. Was that
9 gate ever closed?

10 A No. It was always open.

11 Q It was always open. So even if somebody
12 wanted to come at 2:00 or 3:00 at night or in the middle
13 of the night, drive in, they wouldn't have any problem
14 doing so?

15 A No. They wouldn't of any problem.

16 Q And your particular parking lot within that
17 apartment complex, was it the first parking lot you come
18 to as you drive in?

19 A Correct.

20 Q And I'm holding up State's 588. Is your car
21 pictured in this photograph?

22 A Yes, it is.

23 Q Which one is yours?

24 A It's the Mitsubishi Montero Sport SUV right
25 there (indicating).

1 Q Do you know which spot would have been Billie
2 Earls?

3 A Yes. The one right next to it. The black car
4 right there (indicating).

5 Q And the one closer to you from there, do you
6 know whose that spot would have been?

7 A This one here (indicating)?

8 Q Yes.

9 A That would have been Candy.

10 Q Candance Palcovic?

11 A Yes. Candance Palcovic.

12 Q Are you familiar with William Schubert?

13 A William Schubert? Bill? Yes.

14 Q And is he Candance Palcovic's boyfriend or
15 fiance?

16 A Yes. Yeah.

17 Q Okay. Now, I want to turn your attention back
18 to the Thursday or Friday before Labor Day. What kind
19 of job were you doing during that period of time?

20 A Working at Cracker Barrel.

21 Q And what time would you get up to go to work
22 on those particular days?

23 A I get up about quarter to 4:00, leave about
24 4:30, quarter to 5:00.

25 Q And that's 4:30, quarter to 5:00 in the

1 morning?

2 A Yes. In the morning.

3 Q A.M.

4 Now, at that particular time period, either the
5 Thursday morning or the Friday morning, when you woke
6 up, did you notice something between 4:30 and 4:45 in
7 the morning that was unusual?

8 A Yes.

9 Q What did you notice?

10 A I noticed a blue pickup truck.

11 Q And did you know who that belonged to?

12 A No.

13 Q As far as you knew, was it associated with
14 Billie Earls at all?

15 A No.

16 Q Was it associated with any of the other
17 neighbors that you knew?

18 A No.

19 Q Whose spot was it in?

20 A It was in Billie's. Billie's spot.

21 Q And as you sit here today, do you remember
22 whether it was Thursday or Friday?

23 A I can't say. It was either Thursday or
24 Friday. But it was definitely Thursday or Friday. It
25 was the 28th, Thursday the 28th, or Friday the 29th.

1 But I can't be exactly sure which day it was, but it was
2 definitely one of those two days.

3 Q And it was 4:30 to 4:45 in the morning when
4 you first saw it out there?

5 A Yes. Correct.

6 Q Now, the day before that, about 9:00 in the
7 evening, was that vehicle there?

8 A No.

9 Q And so whatever the day, whether it was
10 Thursday or Friday that you first saw it, the night
11 before it wasn't present?

12 A Correct.

13 MR. SARABIA: Okay. I don't have any more
14 questions, Judge.

15 THE COURT: Cross?

16 CROSS-EXAMINATION

17 BY MR. VIZCARRA:

18 Q Good afternoon.

19 A Good afternoon.

20 Q Mr. Cox, you said that, I think, between 4:00
21 and 4:30?

22 A No. I wake up about quarter to 4:00, and I
23 leave about 4:30, quarter to 5:00 to go to work.

24 Q Okay. 4:30, quarter to 5:00.

25 A I had to be to work at 5:00.

1 Q You said that was when you saw the truck?

2 A Yes. That's correct.

3 Q Okay. Have you ever testified differently
4 than that?

5 A No. I think I said it was -- no, it was at
6 4:30.

7 Q Okay.

8 A That's what I put in my police report was
9 4:30.

10 Q All right. Do you remember talking to a
11 gentleman back on June 27, 2016, I think Mr. Michailos,
12 the gentleman right there (indicating)?

13 A I'm not sure.

14 Q All right. Do you remember being put under
15 oath and having a deposition taken?

16 A Yes.

17 Q Okay.

18 THE COURT: Counsel, line and page, please.

19 MR. VIZCARRA: Yes, Judge. On Page 8.

20 THE COURT: Counsel. Line?

21 MR. VIZCARRA: Line 14.

22 THE COURT: Okay.

23 MR. VIZCARRA: All right.

24 THE COURT: Give the State a moment.

25 MR. SARABIA: I'm good, Judge.

1 THE COURT: You're good?

2 MR. SARABIA: Yes. I know what he's talking
3 about.

4 THE COURT: Okay. You may proceed.

5 Q (By Mr. Vizcarra) And you remember being
6 asked the question:

7 "Sounds good? And you said you leave for work at
8 5:00 in the morning. So it would have been 5:00 that
9 you saw --"

10 And then:

11 "Answer: Yeah. A little after 5:00. I have to be
12 at work at 5:30. So it would be somewhere between 5:00
13 and 20 after 5:00, somewhere in between that range."

14 A I don't remember that.

15 Q I'm sorry?

16 A I don't remember that. Usually I go to work
17 at 5:00 in the morning. But some days they have you
18 come in at 5:30, some days at 5:00. But those days, I
19 remember what I put in the police report, it said -- I
20 was there or up at 4:30 and out there quarter to 5:00.
21 And I had to be at work at 5:00 those days.

22 Q You don't remember that, but you do remember
23 talking --

24 A Yes.

25 Q -- and having a deposition taken?

1 A Yes. Yes.

2 MR. VIZCARRA: All right. Thank you.

3 THE COURT: State, any redirect?

4 MR. SARABIA: Yes, Judge.

5 REDIRECT EXAMINATION

6 BY MR. SARABIA:

7 Q Now, Mr. Cox, Mr. Vizcarra just asked you
8 about a deposition that happened within the last year,
9 year-and-a-half; is that right?

10 A Yeah. It's been a while.

11 Q Which was still two years after this initially
12 happened; is that fair?

13 A Yeah.

14 Q Now, back when it first happened, back on
15 September 10th of 2014, did the detectives come out and
16 talk to you?

17 A Yes, they did.

18 MR. SARABIA: And, Judge, I'm going to show
19 the witness what's been now marked as State's 591.

20 Q (By Mr. Sarabia) And, Mr. Cox, do you
21 recognize that?

22 A Yes, I do.

23 Q Is that your handwriting?

24 A Yes, it is.

25 Q Is that a statement that you filled out for

1 law enforcement?

2 A Yes, it is.

3 Q And did you write down the time that you
4 observed this vehicle was present?

5 A Yes, I did.

6 Q And what did you write down?

7 A 4:30 A.M.

8 MR. SARABIA: Judge, at this time the State
9 would like to admit State's 591 into evidence.

10 THE COURT: Any objection?

11 MR. VIZCARRA: No.

12 THE COURT: 591 will be in evidence.

13 Q (By Mr. Sarabia) And back then it would have
14 been within a week or two weeks of when this had
15 happened, is that --

16 MR. VIZCARRA: Objection. Leading.

17 THE COURT: Overruled. Go ahead.

18 Q (By Mr. Sarabia) Would it have been a week or
19 two weeks within having witnessed the truck being there
20 that you filled out that statement?

21 A Yes. Correct.

22 Q Would your memory have been clearer at that
23 time than it is now?

24 MR. VIZCARRA: Objection. Leading.

25 THE COURT: Overruled. You may proceed.

1 Q (By Mr. Sarabia) Or even a year and a half
2 ago?

3 A Excuse me? One more time.

4 Q Would your memory have been better two weeks
5 after this happened than it was back in June of last
6 year?

7 A Correct. Yes.

8 Q Okay. And since you mention it in your
9 statement, was there anything unusual about the vehicle
10 that kind of also drew your attention to it?

11 A Yeah. The windows were down and it was
12 missing a passenger seat and there was tools in it.

13 Q Okay. Windows being down kind of exposed to
14 the elements?

15 A Yeah. Yeah. Exposed to the elements. It was
16 just a little out of place. That's why I put it was out
17 of place.

18 MR. SARABIA: No more questions, Judge.

19 THE COURT: All right. Mr. Cox, thank you
20 very much. You may step down.

21 THE WITNESS: Thank you.

22 THE COURT: Is he released from his subpoena,
23 State?

24 MR. SARABIA: Yes, Judge.

25 THE COURT: All right. Defense, any

1 objection?

2 MR. MICHAÏLOS: No, Your Honor.

3 THE COURT: All right. You're released.

4 Thank you.

5 THE WITNESS: Thank you.

6 THE COURT: State, call your next witness.

7 MR. SARABIA: The State would call William
8 Schubert.

9 THE COURT: You still don't have a 590, by the
10 way.

11 MR. LABRUZZO: Say that again.

12 MR. SARABIA: I'm sorry?

13 THE COURT: You do not have a 590.

14 MR. LABRUZZO: Is that right?

15 THE COURT: Mr. Schubert, how are you?

16 THE WITNESS: Good, Your Honor.

17 THE COURT: You want to stop right there.

18 Raise your right hand and be sworn by my clerk.

19 THEREUPON,

20 WILLIAM SCHUBERT,

21 the witness, was sworn and testified as follows:

22 THE WITNESS: Yes, I do.

23 THE COURT: All right. Sir, if you want to
24 step to the witness stand. Speak in a loud and
25 clear voice for me. Okay?

1 THE WITNESS: All right.

2 THE COURT: Thank you, sir.

3 State, you may proceed.

4 MR. SARABIA: Thank you, Judge.

5 DIRECT EXAMINATION

6 BY MR. SARABIA:

7 Q Could you please turn and introduce yourself
8 to the jury.

9 A Hi. My name is William Schubert.

10 Q And, Mr. Schubert, I want to bring you back to
11 August of 2014.

12 Did you have any connection to 15815 Kemper Drive?

13 A Yes. We lived in the first apartment right
14 alongside the edge of the parking area.

15 Q And who's we?

16 A Me and my girlfriend at the time, Candy
17 Palcovic.

18 Q And is there assigned parking in that area?

19 A Yes. There's a carport there which has
20 assigned parking for each apartment. And then there was
21 a couple of spaces just outside there for visitors.

22 Q I'm going to hold up State's 585. Is that the
23 front of that condominium area (indicating)?

24 A Yep. And that would be our apartment, that
25 first one right there (indicating).

1 Q Okay. And do you see the parking area in this
2 photograph?

3 A Yep. That's the carport there on the side
4 (indicating).

5 Q Is that the first parking area that you come
6 to if you come in that front entrance?

7 A Yes. Yes.

8 THE COURT: Mr. Schubert, I know you've
9 probably never done this before. But you've got to
10 wait until he finishes the question and then
11 answer. Okay? Go ahead.

12 Q (By Mr. Sarabia) Poor lady here is trying to
13 type down everything we say. So if we talk at the same
14 time she gets angry and I'm closer to her.

15 Now, in terms of that parking area -- or I'm sorry.
16 You see there's a gate there (indicating). Was that
17 gate ever closed back in August and September of 2014?

18 A No. As long as I was there, it never worked.
19 So it was always open.

20 Q So it was never going to prevent anybody from
21 coming in or going out?

22 A No.

23 Q And when you were staying there, did you know
24 your neighbors and the different vehicles that they
25 drove?

1 A Oh, most definitely. We were close knit in
2 that whole building.

3 Q I'm holding up 588. Do you recognize the
4 vehicles in that photograph?

5 A Yes, I do.

6 Q Could you please point them out and tell me
7 whose vehicles were there?

8 A This was mine right here (indicating). This
9 was my girlfriend Candy's (indicating). That was
10 Billie's (indicating). That was Rich's (indicating).
11 And that was (indicating) -- she lived on the end. Oh,
12 I can't remember what her name was. But she lived on
13 the far side.

14 Q Joan?

15 A Joan. Joan. That's right. Yeah. Uh-huh.

16 Q Now, specifically what kind of a job did you
17 do on August 28th and August 29th of 2014?

18 A I was working for Nestle Waters in
19 Zephyrhills. I worked the line there. So I was the
20 manufacturer. And I worked 12 hours overnight.

21 Q Now, a long commute?

22 A Yeah. It was about a long commute. Probably
23 about 45 minutes to an hour, depending on traffic.

24 Q Now, on August 28th, Thursday, of 2014, when
25 you left, was there a blue truck in Billie Earls's

1 parking spot on the 28th, a Thursday?

2 A On the -- I saw a truck, I believe, on
3 Thursday morning, because I worked -- I had the weekend
4 off. The way Nestle was set up, you had every other
5 weekend off. And it was religiously kept right across
6 the board. So I would have had -- I would have been off
7 from Thursday morning, Friday, Saturday, and going back
8 to work on Sunday night.

9 So when I came back Thursday morning, which was
10 around 6:00, I remember the truck that was there,
11 because I remember that pretty well because Friday
12 morning we were getting ready to go kayaking on the
13 Weeki Wachee.

14 Q And I'd like to show you your written
15 statement real quick. If you could look over that.

16 MR. MICHAÏLOS: Objection, Your Honor.

17 THE COURT: Approach.

18 Hold on, sir. We're going to have a little
19 pow-wow up here.

20 (BENCH CONFERENCE.)

21 MR. VIZCARRA: Judge, I don't know why he's
22 showing him that.

23 THE COURT: Refreshing recollection.

24 MR. VIZCARRA: He didn't say he needed it
25 refreshed.

1 THE COURT: He can refresh his recollection if
2 he wants. He said, "I'm not really sure. I'm
3 pretty sure."

4 So I assume you're showing it to refresh his
5 recollection?

6 MR. SARABIA: Yes.

7 THE COURT: You want to say those words on the
8 record when we step back. All right.

9 (OPEN COURT.)

10 Q. (By Mr. Sarabia) Is it fair to say this was --

11 THE COURT: Hold on.

12 THE WITNESS: I mean, the best way, I guess,
13 is to call Nestle to make sure what the schedule
14 was because that the way it was.

15 But I know I had that weekend off. Because I
16 was racking my brain last night trying to remember
17 how that worked with the schedule. But I remember
18 we had -- I was trying to remember how it worked on
19 and off weekends. But I know I had that weekend
20 off because that was --

21 Q (By Mr. Sarabia) Okay. But would it refresh
22 your recollection to review the written statement that
23 you made back on September 10th, 2014?

24 A Uh-huh.

25 Q Does that help you out?

1 A Yeah. I mean, that would be pretty close to
2 exactly what it was. Because it was 6:00 A.M. that I
3 came back and that's when I noticed the truck first
4 there.

5 Q And that would have been 6:00 A.M. on Friday?

6 A Yeah, I guess. Friday morning, yes.

7 Q Okay. And were you guys going kayaking on
8 Saturday?

9 A Yeah. I must, because I know I wasn't going
10 after a 12-hour shift. So I know it was the next day.

11 Q Okay. And I want to show you what's been
12 marked as State's 592.

13 Do you recognize State's 592?

14 A Right. We took that picture because we had
15 just got -- it was her new kayak and we put it on top of
16 the car the day before getting ready to go. And, right,
17 the truck is parked next door and it was still sitting
18 there even later on from when we were going to go
19 kayaking the next day. And then that's Billie's son's
20 truck right parked there and my car was sitting right
21 next to it (indicating).

22 Q So this picture, you and Candance would have
23 taken --

24 A Yeah. We took this, uh-huh, yeah.

25 Q -- before you went kayaking?

1 A Before you went kayaking, yeah, uh-huh.

2 Q And so the day after --

3 THE COURT: You two have to slow down and stop
4 talking over each other. Okay? You two are not
5 having a personal conversation. Okay? So we'll
6 start with Mr. Sarabia is going to ask you a
7 question and then you're going to answer it. Okay?

8 Go ahead.

9 Q (By Mr. Sarabia) So this photograph right
10 here (indicating), you would have taken this before you
11 went kayaking?

12 A Correct.

13 Q Okay. And then the next day after this
14 photograph was taken is the day you would have gone
15 kayaking?

16 A Yes.

17 Q All right. And is this a fair and accurate
18 representation of what you observed?

19 A Oh, most definitely.

20 MR. SARABIA: And, Judge, at this time the
21 State would like to move State's Exhibit 592 into
22 evidence.

23 THE COURT: Any objection?

24 MR. MICHAÏLOS: No objection, Your Honor.

25 THE COURT: All right. 592 is in evidence.

1 Q (By Mr. Sarabia) And, Mr. Schubert, can you
2 tell me what is pictured right on the far left side of
3 this photograph (indicating)?

4 A That was the truck that wasn't supposed to be
5 there, because it was parked in Billie's spot.

6 Q And this photograph would have been taken on
7 the first day that you noticed it there?

8 A Yes.

9 (Thereupon, State's Exhibit 592 is published.)

10 Q Now, I'm showing you what's been entered into
11 evidence as State's 584 already.

12 Is that a fair and accurate depiction of the way
13 the truck appeared in the parking spot between August
14 29th, 2014, and when it got towed away?

15 A Right. It didn't move. It was there. Just
16 parked right like that, straight in.

17 Q Was there anything unusual about the truck?

18 A It was left wide open, unlocked.

19 Q Were the windows open?

20 A Windows, I believe, were open, yes.

21 Q Exposed to the elements?

22 A Yes.

23 Q And in terms of this photograph, you guys take
24 this with like an electronic device?

25 A Yeah. I think she had a little digital

1 camera.

2 Q Nobody uses the old film Kodak's anymore,
3 right?

4 A No. No.

5 Q And did you and Candance provide the actual
6 digital copy of this photograph to law enforcement?

7 A I believe we did.

8 Q So they have a file which sometimes that
9 includes when the date it was taken?

10 A Yes. Uh-huh.

11 MR. SARABIA: Okay. I don't have any more
12 questions, Judge.

13 THE COURT: Okay.

14 MR. MICHAIILOS: No questions, Your Honor.

15 THE COURT: All right. Mr. Schubert, you may
16 step down, sir.

17 Is he released from his subpoena?

18 MR. SARABIA: Yes, Judge.

19 THE COURT: Defense, any objection?

20 MR. MICHAIILOS: No, Your Honor.

21 THE COURT: All right. You're free to go,
22 sir. Thank you very much.

23 State, call your next witness.

24 MR. LAWHORNE: Kelly Walker.

25 THE COURT: Mr. Walker, how are you, sir?

1 We're going to have you come up to the podium
2 and when you get there I'll have you stop.

3 Yes, sir.

4 Raise your right hand and be sworn by my
5 clerk.

6 THEREUPON,

7 KELLY WALKER,

8 the witness, was sworn and testified as follows:

9 THE WITNESS: I do.

10 THE COURT: All right. Sir, we're going to
11 have you sit in the witness stand right here. And
12 speak in a loud an clear voice for me. Okay?

13 THE WITNESS: Sure.

14 THE COURT: I've got a feeling I'm not going
15 to have a problem with you.

16 THE WITNESS: No.

17 THE COURT: You got one of those boom voices.

18 THE WITNESS: Yes.

19 THE COURT: All right. State, you're ready to
20 proceed?

21 MR. LAWHORNE: I am.

22 DIRECT EXAMINATION

23 BY MR. LAWHORNE:

24 Q Good afternoon.

25 A Good afternoon.

1 Q Would you please introduce yourself to the
2 jury.

3 A Kelly Walker.

4 Q And, Mr. Walker, where are you employed?

5 A Sprint Corporation.

6 Q How long have you worked for Sprint?

7 A Going on eight and a half years now.

8 Q And what is your job title?

9 A Records custodian.

10 Q And let me back up one second. I just assumed
11 everybody would be familiar with the Sprint Company
12 since it's such a large company, but let me ask you just
13 to make sure.

14 What is Sprint?

15 A Sprint is a telecommunications company cell
16 phone carrier.

17 Q Okay. A cell phone provider. It provides the
18 services?

19 A Yes.

20 Q And you said your job is a records custodian?

21 A Yes.

22 Q Could you please tell the jury what that
23 means?

24 A What we do is we respond to your legal
25 demands, your subpoena, court order search warrant. We

1 provide the information that it requests, as well as
2 today we show up to answer any questions regarding that
3 information, as well as authenticate that information.

4 Q And do you travel around the country doing
5 this?

6 A Yes. Weekly.

7 Q And every week?

8 A Yes.

9 Q Where do you actually reside? Where is your
10 home?

11 A Kansas City, Missouri.

12 Q And you flew in for this?

13 A Yes.

14 Q And then you've got to fly back out this
15 evening, right?

16 A Yes.

17 Q Okay. And we'll get you out of here on time.

18 A Okay.

19 MR. LAWHORNE: May I approach the witness,

20 Your Honor?

21 THE COURT: You may.

22 Q (By Mr. Lawhorne) I'm showing you what's been
23 marked for identification purposes as State's 590.

24 Could you look at this document and tell us what
25 that is?

1 A This is what we call our general letter with
2 subscriber information.

3 Q And when you say "subscriber information" and
4 "general letter," would you give us an idea what you're
5 talking about?

6 A Subscriber information is the information that
7 is provided. It is the person that gives their name,
8 date of birth, Social Security number, address, when it
9 is -- when their account is opened up.

10 Q And when the account is opened up, does Sprint
11 require any sort of verification of identity?

12 A Yes. Like I stated, their Social Security
13 number, date of birth, address. They provide like a
14 photo ID, something of that nature.

15 Q And what is the phone number that this
16 particular document is for?

17 A It is for the number 484-951-2687.

18 Q And this is a true and accurate copy of the
19 document that your office provided to the Pasco
20 Sheriff's Office in response to a subpoena?

21 A Yes.

22 MR. LAWHORNE: Your Honor, at this time we
23 would like to introduce 590 into evidence as 590?

24 THE COURT: Any objection?

25 MR. MICHALLOS: No, Your Honor.

1 THE COURT: All right. 590 will be in
2 evidence.

3 Q (By Mr. Lawhorne) And what can you tell us
4 about who owned that particular phone number -- or who
5 was it assigned to is probably the better wording?

6 A The name provided, if I'm pronouncing it
7 correctly, is Adam Matos.

8 Q And was that account verified in the manner
9 that you mentioned earlier where a Social Security
10 number had to be given to authenticate it?

11 A Yes.

12 Q Now, I'm going to show you another document.

13 MR. LAWHORNE: Thank you.

14 Q (By Mr. Lawhorne) This one is marked for
15 identification purposes as State's 593.

16 Could you tell us what this document is?

17 A This is what we call our call detail records
18 with a cell site.

19 Q And what does that mean, just to general?
20 We'll put it up on the screen and talk about the columns
21 in a second, but can you just tell the jury basically
22 what that document is?

23 A It's going to be a list of all of the incoming
24 and outgoing calls and text messages with cell tower
25 information.

1 Q And, now, does this contain content of those
2 messages or just simply a record of calls made and text
3 messages sent without any sort of content?

4 A Yes. With no content. Just the phone
5 numbers.

6 Q And this document that I showed you, was this
7 sent to the Pasco Sheriff's Office in response to a
8 subpoena for the call record for 484-951-2687 for August
9 6th, 2014 through September 4th of 2014?

10 A Yes.

11 Q And is this document a true and accurate copy
12 of what Sprint provided to the Sheriff's Office in
13 response to that subpoena?

14 A Yes.

15 MR. LAWHORNE: Your Honor, at this time we
16 would like to introduce this into evidence as 593.

17 THE COURT: Any objection?

18 MR. MICHAÏLOS: No, Your Honor.

19 THE COURT: All right. It will be in as 593.

20 Q (By Mr. Lawhorne) Mr. Walker, I'm going to
21 put it up here on this screen (indicating).

22 Can you see that screen from where you're sitting?

23 A Yes.

24 Q Okay. Mr. Walker, give me just one minute.
25 We're having technical difficulties.

1 Well, I'm just going to get you to explain this to
2 us without putting it up there.

3 So we've got a spread sheet essentially with a
4 series of columns on it. And I'll let you hold it so
5 you can look at it while we're talking. And each column
6 appears to have a heading at the top of it and then
7 information below that. The first three columns appear
8 to have a phone number. Is that generally accurate?

9 A Yes.

10 Q Okay. And then it has other stuff, cell
11 information. But would you mind walking us through each
12 column. And we aren't going to go through all 36 pages
13 of this, but what does each column mean and what type of
14 information is obtained?

15 A Sure. And if it's okay I'll just go ahead and
16 start from left and just go all the way to the right and
17 I'll just give the column headers.

18 Q Perfect.

19 A Okay. And I can just kind of hold it up so at
20 least you'll be able to kind of see and know at least
21 what I'm talking about when I go through.

22 So we'll just start here. So the first column is
23 called calling number. So that's going to be your
24 column -- so that's the number that's actually making or
25 placing the call.

1 The second column is called called number. So
2 that's the number that is actually receiving the call.

3 Third column is dialed digits. So that's the
4 numbers that is actually being pressed on the keypad of
5 the phone.

6 Q Let me interrupt you real quick just because I
7 got a little confused about that. So let me make sure
8 that the jury follows it.

9 So the called number and the dialed number are two
10 different columns because they're not necessarily the
11 same numbers, right?

12 A Correct.

13 Q So if I were to call your telephone, but you
14 had your phone forwarded to the different number, the
15 called number would be the number the call actually
16 ended up at and the dialed number would be the number
17 that I punched into the telephone?

18 A Correct. So if it's called forward, then it
19 is subject to show a different number on dialed digits.

20 Q So that's the reason for the two columns?

21 A Yes.

22 Q Okay.

23 A The fourth column is called M and R, which
24 means mobile role. So that's going to give you the
25 description of the call, going to let you know whether

1 it's inbound, outbound or -- incoming, outgoing. Sorry.
2 It will actually say incoming, outgoing, routed or
3 undetermined.

4 Q And can you tell us what those terms mean?

5 A Sure. "Undetermined" just means that the
6 network was either busy at that time so it just wasn't
7 able to just give it an actual label of incoming or
8 outgoing at that time.

9 "Routed" just means that, one, the call just had to
10 get routed through the network, which just means that
11 the closest tower was busy, so it went to the next
12 available to tower to reach the phone; or, two, the call
13 just routed to voice mail of the phone.

14 And then the fifth column, start date. Pretty much
15 self explanatory. It just gives you the date and time
16 in military time, so 24 hours, that the call started on
17 the network.

18 End date, same thing. Just the date and time that
19 the call ended on the network.

20 Then the next column is duration. That's just
21 going to give you the length of the call in seconds.

22 Then the next column is NEID, which means just
23 Network Element Identifier. That just gives you the
24 area of the cell towers that are being used for the
25 call.

1 Repole, just our old way of saying NEID.

2 And then our last two columns. First cell just
3 means that that's the call that the -- or that's the
4 cell tower that the call started on. Last cell is the
5 cell tower that the call ended on.

6 Q Now, this document, it contains telephone
7 calls as well as text messages you mentioned?

8 A Correct.

9 Q Now, how can you tell from this document which
10 is a phone call and which is a text message?

11 A The easiest way is when you get to the column
12 that is marked "duration," it's going to have a zero in
13 there. That's the easiest way to tell what a text
14 message is. Anything with a duration of zero, that will
15 let you know it's a text message.

16 MR. LAWHORNE: I'm going to show this to the
17 jury so you all can see this. This is that column.

18 Q (By Mr. Lawhorne) Now, the text messages,
19 what time zone are those in on this document?

20 A The text message is going to be in Central
21 Standard Time.

22 Q Now, the telephone calls, what time zone are
23 they in?

24 A Calls is going to be wherever the phone is
25 located. Here, since this is Eastern, the calls are

1 going to be in Eastern Time Zone.

2 Q And did you also check to see where the calls
3 were originated to make sure that was accurate on this
4 particular case?

5 A Yes, I did. And those are in Eastern.

6 Q On one document, phone calls and text
7 messages. Text messages, the time is in Central; phone
8 calls, the time are in Eastern?

9 A Correct.

10 Q Okay. Making sure we're on the same page.

11 Now, one other thing I wanted to ask you about.
12 The duration column, the same one we just talked about
13 where if it's a zero it means it's a text message, the
14 others have numbers in them, 35, 3, 27, 28. Could you
15 tell us what those numbers mean.

16 A Just the length of the call. So if it was 3
17 seconds, that just means that that call lasted 3 seconds
18 on the network. If it's 135 seconds, it just means that
19 the call lasted 135 seconds on the network. So it just
20 gives you the length of the call.

21 MR. LAWHORNE: Your Honor, may I have just one
22 moment?

23 THE COURT: You may.

24 Q (By Mr. Lawhorne) Going back to the duration
25 column we just talked about. Let's say that it says

1 "101." You said that's the length of the time on the
2 network, but I notice you didn't say that's the length
3 of the connected phone call.

4 Is it fair to say that this number indicates how
5 long the call is on the network, not that it was
6 connected? So it could be that it was they spoke and
7 there was 101 seconds, part of that was speaking; it
8 could be 101 seconds of a phone ringing, but it's your
9 network time; is that accurate?

10 A I mean the reason why I can't say that it was
11 connected because that's saying like I would have to be
12 there and I would have to know that that person is
13 actually talking to someone. The only thing I can tell
14 you is that that's our phone records. I just know what
15 our network provided us the information and that's the
16 reason why I'm just saying that that's what our network
17 provided.

18 Q So you can't look at that and tell how long an
19 actual phone call was, just how long the network was in
20 use for that particular transaction?

21 A Correct.

22 Q Okay. Now, let me ask you about a few other
23 numbers on here just so they'll make sense to the jury
24 when they see this.

25 The first one is an example on the first page here.

1 This 624-5000 in parentheses underneath the called
2 number, what does that indicate to you?

3 A Voice mail. Because just like even when you
4 look at 6245 on your dial pad, it spells out the word
5 "mail," so that's the code for voice mail.

6 Q So that's just the indication that that phone
7 call went to voice mail?

8 A Correct.

9 (Thereupon, State's Exhibit 593 is published.)

10 Q (By Mr. Lawhorne) And then we've got a few
11 other numbers I want to ask you about so they'll make
12 sense to everybody, once I find my spot. Here you go.

13 And you already touched on this, but let me get you
14 to explain it explicitly about this particular area
15 here.

16 MR. LAWHORNE: And for the record,
17 specifically I'm looking at Page 28 of 36, in
18 State's 593.

19 Q (By Mr. Lawhorne) In the dialed digits column
20 you've got B3, B2, B4, B3, B2. Can you tell us what
21 that means?

22 A That just means that the user would have used
23 a short code to dial a number.

24 Q And, again, that dialed digits, that's going
25 to be literally what was typed into the keypad?

1 A Yeah. They used some type of star something.
2 (Thereupon, State's Exhibit 593 is published.)

3 Q (By Mr. Lawhorne) So that just indicates some
4 sort of shortcut was typed into the phone to initiate
5 that transaction?

6 A Yes.

7 MR. LAWHORNE: And, Your Honor, may I have one
8 more second?

9 We have no further questions, Judge.

10 THE COURT: All right. All right. Cross?

11 MR. MICHAIILOS: I don't have anything, Your
12 Honor.

13 THE COURT: All right. Sir, thank you very
14 much. You may step down and catch your plane back
15 to Kansas City.

16 THE WITNESS: Thank you.

17 THE COURT: That's where you said?

18 THE WITNESS: Yes.

19 THE COURT: He's released from his subpoena,
20 State? Yes?

21 MR. LAWHORNE: He is.

22 THE COURT: Defense, no objection?

23 MR. MICHAIILOS: No objection, Your Honor.

24 THE COURT: Thank you, sir, very much.

25 State, call your next witness.

1 MR. LAWHORNE: William Powell.

2 THE COURT: William Powell.

3 MR. LAWHORNE: Actually, before that, Judge,
4 can we have a minute to get the screen working, if
5 we can get it working?

6 THE COURT: We'll have Mr. Powell come in
7 while you work on that.

8 MR. LAWHORNE: Okay.

9 THE COURT: Good afternoon, Mr. Powell.

10 Sir, if I can have you step up to the podium
11 for me.

12 Stop right there. Raise your right hand and
13 be sworn by my clerk.

14 THEREUPON,

15 WILLIAM POWELL,
16 the witness, was placed under oath.

17 THE COURT: All right. Sir, we're going to
18 have you have a seat in the witness stand. And
19 speak in a loud and clear voice for me. Okay?

20 THE WITNESS: Okay.

21 THE COURT: Thank you, sir.

22 State, you may proceed.

23 MR. LAWHORNE: Thank you, Judge. Counsel.
24
25

1 DIRECT EXAMINATION

2 BY MR. LAWHORNE:

3 Q Good afternoon.

4 A Good afternoon.

5 Q Would you please introduce yourself to the
6 jury.7 A My name is William Powell. I work for
8 Craigslist in San Francisco as the Director of Law
9 Enforcement and Government Relations.10 Q And would you tell everybody just what
11 Craigslist list is in general?12 A Craigslist is a local classified ads and
13 discussion forums service. It's largely community
14 moderated. It's largely free.15 Q And is it frequently used as an online
16 classified of sort, buying and selling items?

17 A Yes.

18 Q Now, with your job, tell me the title again
19 one more time.20 A The title is Director of Law Enforcement and
21 Government Relations.22 Q And as part of your job duties, do you serve
23 as the custodian of records for Craigslist?

24 A Yes.

25 Q And does that entail you traveling around the

1 country like you are today and testifying about records
2 from Craigslist?

3 A On occasion, yes.

4 Q Now, you're not having to do this every week,
5 are you?

6 A No.

7 Q Now, part of your job, does it include
8 receiving subpoenas from law enforcement agencies and
9 responding to those subpoenas?

10 A Yes.

11 Q And that would also mean if documents,
12 business records are requested from Craigslist, you
13 would gather those and send them out in response?

14 A Yes. That's correct.

15 Q Now, did you do that for the Pasco County
16 Sheriff's Office back in 2014, for the Craigslist
17 postings associated with the phone number 484-951-2687?

18 A Yes.

19 Q And was that for the date range ending on
20 September 4th and originating in May of 2014?

21 A I don't recall the specific date range, but
22 that sounds approximately correct.

23 Q If I show you the subpoena and the files
24 request, would that refresh your memory?

25 A Yes.

1 MR. LAWHORNE: Your Honor, may I approach?

2 THE COURT: You may.

3 MR. LAWHORNE: Thanks.

4 A Okay.

5 Q (By Mr. Lawhorne) Have you refreshed your
6 memory?

7 A Yes.

8 Q And is that accurate?

9 A Yes. I don't see the specific date range
10 listed in there, but we would typically have a date
11 range assigned for the search that we do.

12 Q And the documents that I just showed you
13 marked for identification purposes as State's 565, is
14 this part of your subpoena response?

15 A Yes.

16 Q And is that a true and accurate copy of what
17 your company supplied to the Sheriff's Office?

18 A Yes.

19 MR. LAWHORNE: Your Honor, at this time we'd
20 like to move this into evidence as State's 565?

21 THE COURT: Any objection?

22 MR. MICHAÏLOS: No objection, Your Honor.

23 THE COURT: All right. It will come in as
24 565.

25 Q (By Mr. Lawhorne) Now, to put everyone's mind

1 at ease, we're not going through all of these. So I'm
2 going to ask you about some starting on Page 33. I just
3 need to give you a copy.

4 MR. LAWHORNE: Mr. Michailos, do you have an
5 objection? I'm going to put the color up on the
6 posting and give him a black and white copy. So
7 I'm looking at Page 33 and I'm going to put it on
8 the overhead as well.

9 Q (By Mr. Lawhorne) Now, at the top of that
10 document there's some texts. Could you kind of walk us
11 through what each one of those lines mean, Mr. Powell?

12 A The first entry in this particular record
13 posting ID Number 4642768554 represents the ID number
14 for this particular ad. Each ad that's created on
15 Craigslist is assigned a unique number. The poster
16 e-mail listed here as matosadam6@gmail.com is the e-mail
17 address provided by the individual who placed this
18 listing. The user ID is associated with that e-mail
19 address. The poster IP address represents the IP
20 address that was captured from the device that created
21 this listing at the time that the listing was created.

22 Q Mr. Powell, may I interrupt you right there?
23 Can you just give us a brief explanation of what an IP
24 address is.

25 A My understanding is that an IP address is a

1 unique number that is assigned to a device that in order
2 for it to be able to connect to the Internet has to be
3 given that number. Typically it would be assigned by
4 the entity that provides the Internet service. So a
5 company such as Comcast or Cox or a workplace would
6 assign that ID number.

7 Q And that is not assigned by Craigslist?

8 A That's correct.

9 Q Thank you. If you wouldn't mind just
10 continuing down that list?

11 A The off user phone field listed here with the
12 information 484-951-2687 represents the phone number
13 that was used at some point to authenticate the user
14 account associated with this particular post.

15 Q And could you give us an explanation of what
16 you mean by authenticate the user account?

17 A In most cases users can simply go onto
18 Craigslist and post a listing, but in some circumstances
19 they may receive a prompt that indicates that they need
20 to take a further step in order to continue, and that
21 step involves authenticating their account with a
22 telephone number.

23 In a nutshell, you're prompted for this scenario.
24 You are asked to enter a phone number, you do that,
25 within a matter of seconds, perhaps a little longer,

1 you'll receive a phone call or a text message with a
2 code that you then enter back onto the screen and that
3 verifies that you're essentially a human being. So you
4 have to have access to that phone number in order to
5 complete this process.

6 Q Thank you. Would you mind continuing down the
7 list?

8 A The next field, record created, represents the
9 date and time listed in Pacific time that this
10 particular post was created and a record was created on
11 our servers.

12 The posted date reflects the date and time, again
13 in Pacific, that this ad was posted or published or made
14 available to the public.

15 And the record modified field contains the date and
16 time, again in Pacific, at which the last change was
17 made to this listing.

18 Q And may I jump in one more time? Would you
19 mind telling us the difference between Pacific time and
20 our current timezone of Eastern?

21 A The difference would be three hours.

22 Q Okay. Three hours behind us?

23 A That's correct.

24 Q If it's 9:00 A.M. here, it's 6:00 A.M.
25 Pacific.

1 A That's correct.

2 Q Thank you.

3 A The next field area description represents the
4 Craigslis~~t~~ site or location in which the listing was
5 placed. So Seattle, Washington D.C., in this case Tampa
6 Bay area.

7 The subarea description, some Craigslis~~t~~ sites are
8 broken down into a small number of subareas. That is
9 the case with the Tampa Bay area. I believe Pasco
10 County, Pinellas County, Hillsborough and Hernando are
11 the four, if I recall correctly. In this case, Pasco
12 County is the subarea chosen by the poster.

13 The neighborhood field, again, in some Craigslis~~t~~
14 sites, a small number, we've broken down the listings
15 into smaller neighborhoods for people. So in New York
16 City and San Francisco, for instance, there are specific
17 neighborhoods listed. That does not apply for the Tampa
18 Bay area site. So you see NA listed there.

19 The geographic area is a field presented in the
20 posting process that's blank that allows the person
21 posting the ad to enter some information that gives the
22 people who are looking at the ad an idea of where the
23 listing is, in this case the individual entered Hudson.

24 Category description is the specific category that
25 this listing was placed in. In this case, general, for

1 sale by owner.

2 Category type represents the broader category that
3 this listing was in. So examples might be housing,
4 jobs. In this case, for sale/wanted.

5 The price age field is representative of the number
6 that the individual entered intending to represent the
7 price of the item that was being sold.

8 The invoice item ID field is valid for paid
9 listings. This particular listing is a free listing, so
10 you see NA listed there.

11 Privacy represents the choice that the poster made
12 as far as how his or her e-mail address would be
13 displayed when the listing was visible to the public.
14 Your choices would be no e-mail address showing. The
15 assumption is usually that there's information in the ad
16 that would allow people to contact you.

17 You can have your actual e-mail address visible.
18 And perhaps one of the more popular choices is the
19 default anonymized e-mail address, which you see here,
20 which means that when the listing is publicly visible,
21 people will not see the matosadam6@gmail.com, but
22 instead would see a Craigslist based e-mail address that
23 allows people to send an e-mail and then have that
24 message forwarded directly to this user's e-mail
25 address.

1 The posted state represents the state of this ad
2 when the records were pulled. In this case it is marked
3 "staff deleted."

4 Posting title, a blank field in the posting process
5 that the user can enter information that would appear in
6 the table of contents listings.

7 And then posting body represents the information
8 that the user entered in the body of their ad.

9 Q And would you tell us what the posting body is
10 in this particular ad?

11 A The posting body in this ad reads, "Puppies
12 for sale. They have their shots. Text or call
13 484-951-2687."

14 Q And then at the bottom of the page there are
15 two pictures of puppies, and then the particular record
16 continues to the next page with two more pictures. Are
17 these uploaded by the person who created the
18 advertisement?

19 A Yes.

20 Q And then I just wanted to clarify one thing.
21 The posting state is "staff deleted," is that just
22 because Craigslist has very particular rules about pets
23 that are being sold?

24 A I don't have any way of determining why this
25 particular listing was removed. It could have been

1 removed by an individual staff person or by an automated
2 system. But, in fact, the sale of pets is prohibited on
3 Craigslist.

4 Q And then if you wouldn't mind flipping over to
5 Page 35 of that same document. Now, we won't go through
6 every field on this one now that we've got a basic idea
7 what they mean, but we will go through a few of them.

8 So this particular one, would you mind just telling
9 us the posting body first?

10 A The posting body reads, "In perfect condition.
11 Works and sounds excellent. Only used for two months a
12 few times. Comes with mount charger. 484-951-2687."

13 Q And it contains a photograph of what appears
14 to be a small speaker; is that fair?

15 A Yes.

16 Q Now, what is the created and posted date of
17 this particular advertisement?

18 A The creation date for this listing is Friday,
19 August 29th, 2014 at 9:27:59 Pacific time or 6:27:59
20 Eastern time. And the posted date was Monday, September
21 1st, 2014 at -- I'm translating here -- 2:46 P.M.
22 Pacific time, which is 5:46 P.M. Pacific time.

23 And just to correct, the creation time was actually
24 12:27:59 P.M. Eastern time.

25 Q And the poster e-mail on this one?

1 A The poster e-mail address is
2 matosadam6@gmail.com.

3 Q And the IP address again is?

4 A The IP address is 68.200.111.86.

5 Q And the price on this particular speaker was
6 listed for \$75; is that correct?

7 A Yes.

8 Q Now, if you mind flipping to the next ad. And
9 this is on Page 36 of 46. And would you read us the
10 posting body?

11 A The posting body reads, "In great condition.
12 Just a couple years old. The hinges on the windows
13 turns on the lights with a tap of the finger.
14 484-951-2687."

15 Q And the photo attached to this appears to be a
16 dark brown large entertainment center with a television
17 in the center of it; is that right?

18 A Yes.

19 Q And would you mind going through some of this
20 info at the top? This one was created on what date?

21 A This post was created on Friday, August 29th,
22 2014.

23 Q And what is the e-mail address associated with
24 that?

25 A The e-mail address is matosadam6@gmail.com.

1 Q And the IP address?

2 A The IP address is 68.200.111.86.

3 Q And is this one for sale for \$250?

4 A Yes.

5 Q Would you mind flipping to the next page, Page
6 37. Again, if you wouldn't mind reading us the posting
7 body.

8 A The posting body for this ad reads, "TV works
9 great. There is two small black circle on the TV but
10 works still. Comes with remote and power cable.
11 484-951-2687."

12 Q And the photo appears to be the same or a very
13 similar photo to the previous one with the entertainment
14 center and television; is that accurate?

15 A Yes.

16 Q And what is the posting date or the creation
17 date of this particular ad?

18 A The creation date for this ad is Friday,
19 August 29th, 2014.

20 Q And the e-mail that goes with this one?

21 A The e-mail for this post is
22 matosadam6@gmail.com.

23 Q And if you wouldn't mind telling us the IP
24 address one more time?

25 A The IP address 68.200.111.86.

1 Q And is this being sold for \$100?

2 A Yes.

3 Q If you wouldn't mind going to the next page,
4 which is Page 38. And if you wouldn't mind reading the
5 posting body.

6 A The posting body for this ad reads, "Dogs for
7 sale. They had their shots and dewormed.
8 484-951-2687."

9 Q And when was this record created?

10 A This record was created on Friday, August
11 29th, 2014.

12 Q And the e-mail address associated with this
13 record?

14 A The e-mail address is matosadam6@gmail.com.

15 Q And the IP address?

16 A The IP address is 68.200.111.86.

17 Q And these puppies -- or these dogs, I'm
18 sorry -- are being sold for \$50?

19 A That's correct.

20 Q And there are two pictures associated with
21 this ad; is that correct?

22 No. I'm sorry. There are ten pictures associated
23 with this ad; is that correct?

24 A That's correct.

25 Q Two on the first page, eight on the second

1 page -- or six on the second page, and two on the third
2 page?

3 A That's correct.

4 Q And if you'd not mind going to the next one,
5 Page 41. And would you read us the posting body on this
6 one?

7 A The posting body for this ad reads, "Puppies
8 and adult dogs. They have their shots and dewormed.
9 484-951-2687."

10 Q And when was this advertisement created?

11 A This ad was created on Monday, September 1st,
12 2014.

13 Q And what is the e-mail address associated with
14 this ad?

15 A The e-mail address is matosadam6@gmail.com.

16 Q And the IP address?

17 A The IP address is 68.200.111.86.

18 Q And these puppies and adult dogs are being
19 sold for \$50 each?

20 A Yes.

21 Q And on this one there are again eight pictures
22 associated with the ad -- two on the first page, six on
23 the second page, and two on the third page again?

24 A So a total of ten pictures?

25 Q Ten. I keep getting the counting wrong, I

1 think.

2 A Ten pictures, yes.

3 Q And if you'll go to Page 44. Would you read
4 us the posting body?

5 A The posting body reads, "Samsung tablet,
6 Verizon 4G LTE and Wi-Fi, in perfect shape and works
7 great. Has screen protector and charger.
8 484-951-2687."

9 Q And there is a single picture attached to this
10 ad of a tablet; is that accurate?

11 A Yes.

12 Q And what is the posting date or the creation
13 date for this ad?

14 A The creation date for this ad is Tuesday,
15 September 2, 2014.

16 Q And what is the e-mail address associated with
17 this ad?

18 A The e-mail address for this ad is
19 smithryan964@gmail.com.

20 Q And what is the IP address associate with this
21 particular ad?

22 A The IP address is 68.200.111.86.

23 Q And the price for this ad, is it \$80?

24 A Yes.

25 Q And that IP address, is that the same IP

1 address that we had associated with the other ads that
2 you've read out loud to us?

3 A Yes.

4 Q Go now to the next page, which is Page 45.
5 And again if you wouldn't mind reading the posting body.

6 A The posting body for this ad reads, "Asus
7 laptop in great condition and works great. Comes with
8 charger. 484-951-2687."

9 Q And there is a single photo of what appears to
10 be a laptop computer; is that correct?

11 A Yes.

12 Q And what is the creation date of this one?

13 A The creation date is Tuesday, September 2,
14 2014.

15 Q And what is the e-mail address associated with
16 it?

17 A The e-mail address is smithryan964@gmail.com.

18 Q And what is the IP address?

19 A The IP address is 68.200.111.86.

20 Q And again that's the same IP address we've had
21 you read out loud for everything?

22 A Yes.

23 Q And this one, the smithryan964 ads that we've
24 looked at, they have off user phone as NA. Could you
25 tell the jury what that means and how that's different

1 from the other one that we had a minute ago with the
2 phone number listed there?

3 A That means that this particular user was not
4 requested to go through the phone authentication
5 processes as the previous user was that we looked at.

6 Q And we'll go to the next page. And again if
7 you wouldn't mind reading us the posting body.

8 A The posting body reads, "Bose SoundLink Mini
9 in perfect shape and works perfect. The sound is
10 amazing. Comes with charging dock and cable. Only
11 owned for two months and used a few times. Original
12 price is \$200. Call 484-951-2687."

13 Q And there is only one photo associated with
14 this ad; is that correct?

15 A Yes.

16 Q And does this particular photo appear to be
17 identical to the other Bose speaker ad that we've
18 previously looked at, which is on Page 35 of the
19 document?

20 A Yes.

21 Q And Page 46, the new one we're looking at,
22 would you tell us the creation date?

23 A The creation date for this listing is Tuesday,
24 September 2, 2014.

25 Q And the e-mail address?

1 A The e-mail address is listed as
2 smithryan964@gmail.com.

3 Q And the IP address?

4 A The IP address is 68.200.111.86.

5 Q And then the price listed in the upper portion
6 is \$100; is that correct?

7 A Yes.

8 Q And then the ad says \$200.

9 Now, the next page of this document is 1 of 12, and
10 it appears to be some of the same ads we've already
11 looked at. Would you mind explaining to the jury why
12 there's going to be a duplication of these ads?

13 A When we run a search for a phone number, we
14 essentially run two different searches. One is for a
15 user account that has that phone number associated with
16 it through the phone authentication system, which we've
17 talked about; and the other is whether that phone number
18 appeared in the text of the listings.

19 So the batch shown here, records 1 through 12, are
20 associated with an account that had the phone number
21 identified in the subpoena as part of the phone
22 authentication record.

23 And the batch that consists of 46 pages represents
24 posts that contain that phone number in the body of the
25 ad. And so there may be some duplication where the user

1 who used that phone number for phone authentication also
2 put that phone number in the body of the ad.

3 Q And then at the very last page in this packet
4 is Page 1 of 1. Would you just tell us again why this
5 particular ad would be separate and repeated?

6 A The subpoena that we received identified one
7 specific post and the phone number that you mentioned
8 earlier. This is the record for that one specific post.

9 MR. LAWHORNE: Thank you, sir. I don't have
10 any other further questions.

11 THE COURT: All right. Cross?

12 MR. MICHAÏLOS: No questions, Your Honor.

13 THE COURT: All right, sir. Thank you very
14 much. You may step down.

15 Is he released from his subpoena?

16 MR. LAWHORNE: He is. He has a flight to
17 catch.

18 THE COURT: Defense, any objection?

19 MR. MICHAÏLOS: No, Your Honor.

20 THE COURT: All right. Good luck, sir. Thank
21 you. I hope you make your flight.

22 All right. Ladies and gentlemen, we're going
23 to take our afternoon break. We've been going
24 about an hour and a half now. So if can put your
25 stuff away, and we'll give you your phones back,

1 let you stretch your legs. We'll have you back at
2 3:50.

3 No tweeting, texting, or blogging. And we're
4 moving right along.

5 MR. SARABIA: Judge, may we approach?

6 THE COURT: You may.

7 MR. SARABIA: This can be off the record.

8 (Thereupon, an off-the-record discussion
9 ensued.)

10 (Jury Absent.)

11 THE BAILIFF: The jury's out of the hearing of
12 the Court.

13 THE COURT: We'll be in recess.

14 (RECESS.)

15 (OPEN COURT.)

16 (Defendant Present.)

17 (Jury Absent.)

18 THE COURT: For the record, the defendant is
19 back and the defense attorney. Everybody is
20 present, and the jury is on their way up.

21 MR. MICHAÏLOS: Judge, when you get a chance,
22 we'd like to approach on one issue.

23 THE COURT: All right. Approach.

24 (BENCH CONFERENCE.)

25 THE COURT: Do you need it on it record?

1 MR. MICHAIILOS: Yes, please.

2 THE COURT: Oh, okay. We're on, then.

3 MR. MICHAIILOS: The State's -- one of their
4 next witnesses is going to be a Lori McCann.

5 THE COURT: Okay.

6 MR. MICHAELLOS: And I've prepared. I don't
7 think she's going to testify to too many things.
8 There's not much preparation. The only thing I'm
9 concerned about, and I told the State already, in
10 her deposition she references her intuitions. So
11 when she met Mr. Matos, it's almost like she
12 psychically thought he was bad and then had panics
13 attacks, something to that effect.

14 Now, she never disclosed this, as far as I can
15 tell, to law enforcement; but during her depo, long
16 after the fact, that's what she's saying. I think
17 it's irrelevant. I think the testimony should be
18 limited to her observations, not to intuitive
19 instincts, which I have none of.

20 THE COURT: Go over one more time slower what
21 you think she's going to say that you're asking me
22 to tell the State not to have her say. I'm a
23 little confused.

24 MR. MICHAIILOS: I'd have to get the depo to
25 tell you specifically, but it's more or less that

1 he gave her a bad vibe every time he came over and
2 she got panic attacks because of his presence.

3 THE COURT: This is the neighbor who lived
4 next door?

5 MR. MICHAIILOS: This is his sister who was
6 visiting.

7 MR. SARABIA: His sister-in-law.

8 THE COURT: Okay. Who showed up on a certain
9 day in the car and then they were there and he
10 visited while they were there, and this is
11 allegedly during the time frame that the victims
12 were dead, correct?

13 MR. MICHAIILOS: Correct.

14 THE COURT: So we're not going to go into how
15 she felt about him, like the hair on her head stood
16 up and she got bad vibes.

17 MR. SARABIA: No. Nothing like that. The
18 only thing I'm going to bring out through her even
19 close to that area is that she would purposely
20 absence herself whenever he was around because she
21 didn't want to be around where he was.

22 THE COURT: (Indicating.) Do we really have
23 to go into that?

24 MR. SARABIA: Well, it explains why she wasn't
25 hanging out with him and she specifically did it.

1 THE COURT: Just say, you know, it's a bunch
2 of guys, didn't want to hang out with them.

3 MR. SARABIA: But that's not true.

4 THE COURT: Welcome to the world of trials.
5 Sometimes we fix things so that they don't -- I
6 mean, you can either say she wasn't interested in
7 hanging out with the guys for whatever reason. She
8 doesn't have to go into why. Or you just need to
9 skip over that part, because it's not relevant that
10 she needed to absence herself from them when he was
11 around, because it's got nothing to do with
12 anything at this point.

13 MR. SARABIA: Okay.

14 THE COURT: I mean, she can testify to what
15 she can testify to. And there's no reason that we
16 need to go into -- you know, she can't testify to
17 anything else because she wasn't there. She can
18 just say, "There was a lot of times that he was out
19 there, I just didn't go out there."

20 MR. SARABIA: Okay. I'll lead her away from
21 that area.

22 THE COURT: Yeah. Okay. All right.

23 MR. MICHAELOS: Thank you.

24 THE COURT: Anything else?

25 MR. MICHAÏLOS: No, Your Honor.

1 THE COURT: Okay.

2 (OPEN COURT.)

3 THE COURT: Other than that, are we ready for
4 the jury?

5 MR. SARABIA: Yes, Judge.

6 MR. MICHAELOS: Yes, Judge.

7 THE COURT: All right. Bring the jury in.

8 THE BAILIFF: Yes, Your Honor.

9 THE COURT: And, State, we are on 594.

10 Madam Clerk, 594, are we all in agreement will
11 be our next in line?

12 THE BAILIFF: Jury entering the hearing of the
13 Court, Your Honor.

14 THE CLERK: Yes. Sorry. I had to get to the
15 end of my list.

16 (Jury Present.)

17 THE BAILIFF: All jurors present and seated,
18 Your Honor.

19 THE COURT: All right. Everybody able to
20 stretch their legs and go onto the end?

21 THE JURY PANEL: (Responding.)

22 THE COURT: All right. State, are you ready
23 to call your next witness?

24 MR. SARABIA: Yes, Judge. The State would
25 call Allen McCann.

1 THE COURT: Okay. Allen McCann.

2 Good afternoon, Mr. McCann. We're going to
3 have you step right up to the podium for me. Give
4 me a moment, my clerk needs to swear you.

5 Can we swear the witness?

6 THE CLERK: Yes, Judge.

7 THE COURT: All right. Sir, raise your right
8 hand to be sworn by my clerk.

9 THEREUPON,

10 ALLEN MCCANN,

11 the witness, was sworn and testified as follows:

12 THE WITNESS: I do.

13 THE COURT: All right. Sir, we're going to
14 have you sit in the witness stand right here
15 (indicating). And speak in a loud and clear voice.
16 Give the State a moment. They have to get some
17 stuff together.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: State, you may proceed.

20 MR. SARABIA: Thank you, Judge.

21 DIRECT EXAMINATION

22 BY MR. SARABIA:

23 Q Could you please turn and introduce yourself
24 to the jury.

25 A My name is Allen McCann.

1 Q And, Mr. McCann, do you know Ryan McCann?

2 A I do.

3 Q How do you know him?

4 A He's my brother.

5 Q And older or younger?

6 A Baby brother.

7 Q How much younger?

8 A Ten years.

9 Q Are you married?

10 A Yes, I am.

11 Q What's your wife's name?

12 A Lori McCann.

13 Q And where do you and Lori approximately live?

14 A North Georgia.

15 Q A rural area?

16 A Yes.

17 Q And where does Ryan live?

18 A Here in Florida.

19 Q I'm going to show you what's been marked as

20 254. Do you recognize that?

21 A Yes, sir.

22 Q Do you see Ryan's house on there?

23 A Yes, I do.

24 Q Would you please point it out for us?

25 A (Indicating.)

1 Q Do you see Ryan's vehicle on there?

2 A I do.

3 Q Where is that?

4 A The white Ford.

5 Q There's another vehicle right next to the
6 white truck. Whose vehicle is that?

7 A That's my mother's vehicle.

8 Q And jumping ahead a little bit. After you
9 visited, it was your understanding she came to visit
10 Ryan?

11 A She came the weekend after I came, yes, sir.

12 Q And do you see Ryan's boat on this photograph?

13 A I sure do. Right there (indicating).

14 Q Okay. Now, taking you back to August of 2014,
15 going into September 2014, the Labor Day weekend. Did
16 you have plans to come and visit your brother Ryan here
17 in Hudson?

18 A Yes, sir.

19 Q And was it the first time you had ever been
20 down here to his residence?

21 A Yes, sir.

22 Q Was it your understanding that he'd been living
23 there for a long time or a short time?

24 A No. A short time.

25 Q And did you leave north Georgia on Thursday,

1 August 28, 2014, to travel down here?

2 A I did.

3 Q What kind of time does it take you to get down
4 here normally?

5 A Approximately eight to nine hours.

6 Q Now, on August 28, 2014, did it take you a
7 little longer than you expected?

8 A Yes, it did.

9 Q What happened?

10 A I had a flat tire.

11 Q Approximately where did you have the flat
12 tire?

13 A Probably about an hour and a half away from
14 our designation, my little brother's house.

15 Q All right. Sir. The boonies up on 75 or 19,
16 something like that?

17 A Yeah. Somewhere on 75. It was on I-75.

18 Q That delay you for a while?

19 A Probably a good hour, an hour and a half.

20 Q And you had to change the tire?

21 A Yes, sir.

22 Q Did you have a full-size spare?

23 A No.

24 Q You had to use a doughnut?

25 A Yes.

1 Q Did it slow you down a little bit after the
2 rest of the hour and a half?

3 A Yes, sir. It didn't have enough air in it,
4 had to go find a gas station and get air.

5 Q Okay. And do you remember when did you arrive
6 at Ryan McCann's house?

7 A We arrived at my little brother's house at
8 12:30.

9 Q And is that 12:30 going into August 29, 2014?

10 A Yes, sir. 12:30 A.M.

11 Q And what did you do when you arrived at your
12 little brother's house?

13 A I knocked on the door. Couldn't get no answer
14 from my little brother, so I called him on his cell
15 phone. He was in the back. He came to the front and
16 greeted us.

17 Q Okay. And that time, 12:30, you're certain
18 about that time?

19 A Positive.

20 Q Now, when Ryan came around to greet you, had
21 anyone else kind of come up?

22 A Yes.

23 Q And could you describe that for the jury?

24 A Adam came across from the house next door and
25 came to the driveway to us.

1 Q And the house next door, would that have
2 been -- I'm holding up State's 33. Would that have been
3 that residence (indicating)?

4 A Yes, sir.

5 Q And you indicated "Adam." Do you see Adam in
6 the courtroom here today?

7 A I do.

8 Q Can you please point him out and identify
9 something he's wearing?

10 A He's wearing the black suit over there at the
11 end of the table (indicating).

12 MR. SARABIA: Judge, may the record reflect
13 that the witness has indicated the defendant?

14 THE COURT: It will so reflect.

15 Q (By Mr. Sarabia) Now, when you arrive, your
16 little brother's out there and then the defendant's out
17 there. What's going on? Are you guys unloading?

18 A Yes, sir. Greeting each other. I haven't
19 seen my little brother in about a year, a year and a
20 half. He has a job that he stays gone a lot. I was
21 greeting him, getting reacquainted with him, hugging
22 him, saying our hellos, and seeing his house for the
23 first time.

24 Q Okay. And did he escort you and Lori into his
25 house?

1 A Yes, he did.

2 Q And what did this defendant do?

3 A He came in the house with us.

4 Q Okay. Was he specifically invited? Did he
5 say, "Hey. Come on back" or anything of that nature?

6 A We all just kind of all walked in the house
7 together.

8 Q And he followed you?

9 A Uh-huh.

10 Q Now, was he fully clothed at that time?

11 A Yes.

12 Q He had a shirt on?

13 A Yes.

14 Q And what did you do once you guys entered the
15 house? Did you go to the back?

16 A I brought my bags into the spare bedroom, came
17 and sat at the kitchen table for a minute, and we
18 proceeded to go outside to the back boat dock that you
19 seen on the picture there (indicating).

20 Q And did you hang out with Ryan for a little
21 while?

22 A Yes, we did.

23 Q And did this defendant hang out with you at
24 that point as well?

25 A Yes, he did.

1 Q Approximately how long, if you remember?

2 A Hour and a half, two hours, maybe.

3 Q And then at some point you guys turn in?

4 A Yes.

5 Q And did the defendant go back towards that
6 residence next door?

7 A Yes.

8 Q And you guys went to sleep?

9 A Yes.

10 Q Now, the next day, Friday, August 29th -- or I
11 guess it would be the same date, right?

12 A Yes, sir.

13 Q I guess it was your first full day present at
14 Ryan's. What did you guys do? What did you and Ryan
15 do?

16 A We got up, took my car somewhere to get a tire
17 put on it and dropped it off. Went to a bait shop and
18 got some bait to go fishing. Got some lunch. Came back
19 to the house to go out and go fishing.

20 Q Okay. And did you and Ryan and Lori all do
21 that, go out on the boat fishing?

22 A Yes, sir.

23 Q Now, do you recall approximately what time you
24 guys got back?

25 A Maybe 1:30. 1:00, 1:30, 2:00, somewhere in

1 that area.

2 Q Okay. Is that back from fishing?

3 A No. That was back from going to get bait,
4 dropping off the car, going to get lunch, and getting
5 ready to go fishing.

6 Q Okay. So sometime after 1:30, you guys are
7 going out fishing?

8 A Yes, sir.

9 Q So you go out fishing. How long do you think
10 you were out fishing for?

11 A I don't know. Until about 6:00, probably.
12 6:30, something like that, 7:00.

13 Q When you came back, what did you guys do? Did
14 you go out to eat somewhere?

15 A Yeah. We went to -- I don't know the name of
16 the place. It's right down the road, a little hole in
17 the wall bar.

18 Q Okay.

19 A Had a couple of beers and ate some food there
20 and listened to somebody play some music there.

21 Q Okay. And when you got back Friday night, did
22 you see this defendant at all?

23 A Yes.

24 Q And what were the circumstances of that?

25 A He came over and we drank some beers together

1 on the back porch.

2 Q Okay.

3 A On the back dock there.

4 Q Would that have been late, late at night?

5 A Yeah. Probably about 12:30, 1:00, something
6 in that area.

7 Q Okay. So going into what would have been
8 Saturday?

9 A Saturday morning, yes, sir.

10 Q Now, during this time, the first time you met
11 this defendant and then when you're seeing him the next
12 day -- or I guess same day into the next day, Friday and
13 Saturday, did he seem upset at all?

14 A No, sir.

15 Q Was he crying?

16 A No.

17 Q Did he seemed depressed?

18 A No.

19 Q Was there anything unusual about the way he
20 was interacting?

21 A Nothing whatsoever.

22 Q Did he give you any indication there was
23 anything wrong?

24 A No.

25 Q So end of Friday night, you guys turn in for

1 the night. Does he go back towards the residence next
2 door again?

3 A Yes.

4 Q Saturday, August -- it would have been
5 August 30th, you guys get up again. Where do you go
6 that day, you and Ryan?

7 A We went back out on the boat and went and
8 played around on the ocean a little bit. Went to some
9 island out there on the ocean, docked and played around
10 on the island. Just regular stuff.

11 Q Okay. And when you came back, do you know
12 approximately what time it was? Dinnertime-ish?

13 A We took the boat and went somewhere on the
14 water to get something to eat. My little brother wanted
15 to dock somewhere and get something to eat. So we went
16 to this little club/bar restaurant kind of deal, got
17 something to eat. And the storm was fixing to come up,
18 so we brought the boat back home and went back because
19 there was a band there that was going to play that night
20 and we wanted to see them play.

21 Q Now, when you say you went back, did you go
22 back by vehicle instead of by boat?

23 A No. We took the boat home. Got the boat
24 home, got in the vehicle, and went back to the bar to
25 watch the band.

1 Q And I forgot to ask you. So now we're into
2 Saturday. Had you noticed any odd smells?

3 A Yes, I did.

4 Q Now, sir, do you ever do any hunting?

5 A Yes.

6 Q Do you do a lot of hunting?

7 A Very much so.

8 Q And you live in a rural area, I think you
9 already said, of Georgia?

10 A Yes, sir.

11 Q Do you ever come across dead animals?

12 A Yes, I do.

13 Q Do you know what that smells like?

14 A Yes.

15 Q Now, when did you first notice the bad smell?

16 A Friday morning.

17 Q And did you say something about it?

18 A Yes, I did.

19 Q Who did you say something to?

20 A To my little brother.

21 Q Now, did the smell get worse on Saturday?

22 A Yes.

23 Q A lot worse?

24 A Yes.

25 Q And how about Sunday?

1 A Even worse.

2 Q Did it get to the point where you decided to
3 say something else to your little brother?

4 A Yes, I did. On Sunday I told my little
5 brother we need to get a shovel and go down the dirt
6 road. He told me that the dirt road beside his road,
7 there was animals that lived out there, some deer and a
8 family of bear. And I said, "Well, one must have got
9 run over because that stench is terrible. We need to go
10 grab some shovels and try to find it and put some dirt
11 on it and get the smell to go away."

12 Q And did you ever end up actually going out and
13 trying to do that?

14 A No.

15 Q All right. Now, you distracted me. I'm going
16 to go back to Saturday evening. So Saturday evening,
17 you got back to the boat, went someplace to eat on the
18 boat, came back, got in your car, went back out to that
19 place to see the band. You remember the band?

20 A Gypsy Rain.

21 Q And were you there for a long time?

22 A Yes.

23 Q Late into the evening?

24 A Yes.

25 Q Approximately what time would that be?

1 A I think we closed the place down. Maybe 1:30,
2 2:00.

3 Q Okay. And that would be early morning hours,
4 so actually going into Sunday?

5 A Sunday, Sunday A.M., yes.

6 Q So after that, you go back to Ryan's house?

7 A Yes.

8 Q Go to sleep?

9 A Yes.

10 Q Wake up the next day?

11 A Yes.

12 Q What did you guys do on Sunday?

13 A Went fishing again.

14 Q And your brother kept you out on the boat all
15 weekend, right?

16 A Well, we like fishing.

17 Q All right. I hope you caught some stuff.

18 A We did.

19 Q All right. So Sunday you go out on the boat
20 again. How long do you think you were out on the boat
21 for?

22 A Probably six, seven hours, eight hours.

23 Q And about what time do you get home you think?

24 A Around dinnertime.

25 Q And dinnertime, did you go somewhere for

1 dinner?

2 A Yes, we did.

3 Q Did you go somewhere different?

4 A Yes.

5 Q Do you happen to know where?

6 A It was down on Hudson Beach. I think it was a
7 place called Sam's or something of this nature.

8 Q Okay. And what happened towards the end of
9 that? Were you going to stay or were you going to go
10 out to see another band? What were you going to do?

11 A Well, we got done eating, it was probably
12 around 10:00, 9:30.

13 Q Did you have to use the facility, sir?

14 A Yes. I had to use the facilities. We went
15 into the -- I went to the bathroom at the restaurant and
16 it was just nasty.

17 Q Now, did you say that wasn't going to happen?

18 A That wasn't going to happen. So I said,
19 "Ryan, bring me back to the house, I got to use the
20 restroom, then we'll decide what we're going to do from
21 there."

22 Q So did you go back to Ryan's house?

23 A Yes, we did.

24 Q All right. Once you got there, did
25 anybody else -- was there anybody else who was in that

1 area?

2 A Yes.

3 Q And who was that?

4 A I seen Adam again that night.

5 Q And he came from that residence next door?

6 A Yes.

7 Q And so did you guys end up going back out?

8 A No. We were going to, but by the time I got
9 done using the restroom, it was 10:00, 10:30. I had to
10 drive the next day to go back to Atlanta, to north
11 Georgia, and I didn't really want to go out and close
12 another bar down and have to drive the next day.

13 Q All right. So did you guys hang out at Ryan's
14 instead?

15 A Yes, we did.

16 Q Did this defendant hang out there with you?

17 A Yes, he did.

18 Q Did he appear upset? Depressed?

19 A No.

20 Q Did you get any indication from him there was
21 anything wrong?

22 A Never. He just seemed like the boy next door.
23 You know, just somebody hanging out.

24 Q Now, did he participate a lot in the
25 conversation?

1 A I don't really recall that. We all were
2 making smalltalk.

3 Q Okay.

4 A I know we had established once upon a time
5 during our conversations that me and my little brother
6 were from New York, he was from Pennsylvania, just
7 things of small nature like that. Just smalltalk,
8 sitting out drinking, and having a good time hanging
9 out.

10 Q Did there ever come a point where the
11 defendant said something or brought something up that
12 you found to be unusual?

13 A Yes, there was.

14 Q Could you describe to the jury the
15 circumstances of that?

16 A On Sunday night, the last night we were there,
17 we were hanging out and we were out there drinking. Me
18 and my little brother were in a conversation, and just
19 out of the blue came Adam asked, "Do you have security
20 here?" And I kind of was taken back by that and looked
21 at my little brother. I didn't know if he did or not,
22 because this is a new house that he has. And he said,
23 "Yeah. I have security here. I can look at everything
24 in my house from my boat. You know, I work all the
25 time, I'm not at home. I can look at anything I want in

1 my house."

2 Q Had you guys been talking about security
3 systems?

4 A No.

5 Q Talking about break-ins or talking about
6 anything that might lead to that type of topic?

7 A Nothing of that nature.

8 Q How long do you think you guys were out
9 together that night or out on the back dock together
10 that night?

11 A Probably an hour and a half, two hours again.

12 Q Okay. And that smell was still pretty bad?

13 A Real bad.

14 Q Now, the evening breaks up, does Adam go back
15 to that residence --

16 A Yes, sir.

17 Q -- right next door, 7719 Hatteras Drive?

18 A Yes, sir.

19 Q And you and Ryan and Lori all go to sleep?

20 A Yes.

21 Q Now, next day, Monday, September 1st, what
22 were you doing?

23 A Got up, said my goodbyes, and we took off to
24 go home.

25 Q And that's back to north Georgia?

1 A Yes.

2 Q All right. And when you were down here with
3 Lori, was it just the two of you who came?

4 A Yes.

5 Q You didn't bring any kids or other brothers or
6 sisters, nothing like that?

7 A No. No. Just me and my wife.

8 Q Now, Ryan, does he live at that residence by
9 himself or did he at that time?

10 A He did at that time, yes.

11 Q Now, Monday when you left, did you still
12 notice that smell?

13 A Yes.

14 Q Was it the same? Worse? Better?

15 A Bad.

16 Q In fact, how did your car smell?

17 A It was so bad, it lingered in the car.

18 Q For how long up the road?

19 A It seemed like forever.

20 MR. SARABIA: Judge, may I have a moment?

21 THE COURT: You may.

22 MR. SARABIA: No more questions.

23 THE COURT: Cross?

24 MR. MICHAÏLOS: I have no questions for this
25 gentleman, Your Honor.

1 THE COURT: All right. Sir, you may step
2 down.

3 Is he excused from his subpoena?

4 MR. SARABIA: Yes, Judge.

5 THE COURT: Defense, any objection?

6 MR. MICHAÏLOS: No, Your Honor.

7 THE COURT: Mr. McCann, you're excused from
8 your subpoena.

9 THE WITNESS: Thank you, ma'am.

10 THE COURT: State, call your next witness.

11 MR. SARABIA: Next call Lori McCann.

12 THE COURT: Good afternoon, Ms. McCann. If
13 you can step up to the podium for me.

14 THE WITNESS: Right here (indicating)?

15 THE COURT: Yes, ma'am. If you can stop.
16 Raise your right hand and be sworn by my clerk.

17 THEREUPON,

18 LORI MCCANN,
19 the witness, was placed under oath.

20 THE WITNESS: Yes, ma'am.

21 THE COURT: All right. If you can come
22 around, have a seat in the witness stand. And
23 speak in a loud and clear voice for me. Okay?

24 THE WITNESS: Okay.

25 THE COURT: All right. State, you may

1 proceed.

2 DIRECT EXAMINATION

3 BY MR. SARABIA:

4 Q Could you please introduce yourself to the
5 jury.

6 A I'm Lori McCann.

7 Q Are you married to Allen McCann?

8 A Yes, sir.

9 Q Are you any relation to Ryan McCann?

10 A Yes, sir.

11 Q And what's your relationship to Ryan McCann?

12 A He's my brother-in-law.

13 Q Okay. And since I think we may be having a
14 Bill McCann testify later, you're no relation to Bill
15 McCann, are you?

16 A Not as far as I know.

17 Q Okay. Now, Mrs. McCann, back on August 28,
18 2014, which would have been getting towards Labor Day
19 weekend, did you travel down with your husband, Allen,
20 to visit Ryan?

21 A Yes, sir.

22 Q And you guys live in what general area?

23 A North Georgia.

24 Q A long drive?

25 A Yes, sir.

1 Q Any issues on your way down?

2 A Yes, sir.

3 Q What happened?

4 A We had a flat tire.

5 Q It delayed you a bit?

6 A Yes.

7 Q Do you remember what time did you finally get
8 to Ryan's house?

9 A Around 12:30.

10 Q And that would have been 12:30 going into
11 actually August 29?

12 A Yes, sir.

13 Q So just past midnight?

14 A Yes, sir.

15 Q When you got there, did Allen call Ryan to let
16 Ryan know you guys were there?

17 A Yes, sir.

18 Q And did Ryan come out?

19 A Yes.

20 Q And when Ryan came out and was greeting you
21 guys, did anybody come from the house next door?

22 A Yes, sir.

23 Q Who was that?

24 A Adam.

25 Q Now, do you see Adam in the courtroom?

1 A Yes, sir.

2 Q Can you please point him out and identify
3 something he's wearing?

4 A The black -- the blackish suit.

5 MR. SARABIA: Judge, may the record reflect
6 the witness has indicated the defendant?

7 THE COURT: It will so reflect.

8 Q (By Mr. Sarabia) And I'm going to display
9 State's 254. If you could, do you recognize Ryan's
10 house on there?

11 A Yes.

12 Q Where is it?

13 A Right here (indicating).

14 Q And do you see Ryan's boat?

15 A Yes. It's back here (indicating).

16 Q And do you know which car is Ryan's?

17 A The -- I'm thinking the white one, the white
18 truck at the end.

19 Q Okay. And did Adam come from the other
20 residence that's pictured in that?

21 A Yes. He came from this residence
22 (indicating).

23 Q And when he came over, did he say anything in
24 particular?

25 A I wasn't there every time he came over. I

1 was --

2 Q And I'm just talking about the first time.

3 Did he come over and did he introduce himself?

4 A Ryan introduced him to us.

5 Q Okay. Was he saying, "Help. Help," anything
6 like that?

7 A No.

8 Q Did he seem upset or crying or anything of
9 that nature?

10 A No, sir.

11 Q Was he fully clothed?

12 A Yes.

13 Q He had a shirt on?

14 A Yes.

15 Q Did you notice anything else about his person?

16 A He was sweaty. He was either sweaty or just
17 gotten out of the shower. His hair was wet like he was
18 perspiring.

19 Q Perspiring?

20 A Like he was sweaty, yeah.

21 Q So he looked to be all wet to you?

22 A Yes.

23 Q Now, did Adam hang out with Allen and Ryan for
24 a little while that night?

25 A Yes.

1 Q And so you guys go to sleep. Next day, do you
2 spend a good part of the day out on the boat with Ryan
3 and Allen?

4 A Uh-huh. Yes, sir.

5 Q And the defendant is not involved in that,
6 right?

7 A No.

8 Q He never went out on the boat with you?

9 A He never went out on the boat with us.

10 Q Did you guys go out to eat that night? August
11 29th, would be Friday. First night?

12 A I believe so, yes.

13 Q Okay. And the defendant kept coming by and
14 talking with the boys?

15 A Yes. He came several times.

16 Q And I want to -- well, then the next day,
17 Saturday, you guys go out on the boat again?

18 A Yes.

19 Q You go out to an island?

20 A Yes.

21 Q I think we call that Anclote Island around
22 here. Did you know that?

23 A No. I didn't know.

24 Q Okay. And that night, did you get to see a
25 band play?

1 A I think it was Gypsy Rain.

2 Q You and Allen enjoyed the band a lot?

3 A Yes.

4 Q Did you stay out really late that night?

5 A Yes, we did.

6 Q And Ryan was with you?

7 A Yes.

8 Q And then you go home and go to sleep?

9 A Yeah.

10 Q And the next day would be the last day you
11 were going to be there. Did you guys go out on the boat
12 again?

13 A I'm trying to remember. I'm thinking we did.

14 Q Do you like boating as much as they do?

15 A I liked it besides the storm when we came
16 through. I can't remember what night it was on, but
17 after that I was, like, "I don't want to go no more."

18 Q All right. Well, one of those days boating,
19 was there a big storm that you guys hit?

20 A Yes.

21 Q Lots of rain?

22 A Yeah.

23 Q So during that time, late August of 2014, it
24 was raining in that area?

25 A Uh-huh.

1 Q It's no surprise to any of us in Florida. I
2 don't know how it is in Georgia in August. But that
3 night, Sunday night, did this defendant come over and
4 hang out with the boys again for a period of time?

5 A Yes, sir.

6 Q Was there a point during that that you came
7 and heard some of the conversation?

8 A Yes, there was.

9 Q And did you hear the defendant ask or bring up
10 anything unusual?

11 A Yes.

12 Q And could you tell the jury what that was?

13 A He asked Ryan, my brother-in-law, if he had
14 surveillance video cameras. And my brother-in-law Ryan
15 said, "Yes, I do. I'm gone 28 days out of the month. I
16 got it everywhere."

17 Q Okay. And you heard that brought up. Did
18 that follow naturally from any of the conversation they
19 were having or was that out of the blue?

20 A No. The boys were talking about when they
21 were younger. It just come up. It just got asked.

22 Q Fair to say that during this time period you
23 weren't really around much when Adam was there with the
24 boys?

25 A No, I wasn't.

1 Q Just a couple of times here and there?

2 A Yes.

3 Q And then the next day, Monday, did you and
4 Allen take off, go back home to Georgia?

5 A Yeah.

6 Q And to be clear, you and Allen, you're the
7 only two who came down, right? You didn't bring any
8 kids or nephews?

9 A No. We didn't bring no kids or nothing with
10 us.

11 Q Okay. And Ryan at the time lived there by
12 himself?

13 A Yes.

14 MR. SARABIA: May I have just a moment, Judge?

15 THE COURT: All right.

16 MR. SARABIA: No more questions, Judge.

17 THE COURT: Cross?

18 MR. MICHAÏLOS: I have nothing, Your Honor.

19 THE COURT: All right. Mrs. McCann, thank you
20 very much, ma'am. You may step down.

21 State, is she released from her subpoena?

22 MR. SARABIA: Yes, Judge.

23 THE COURT: That's okay. Defense, she's good
24 to go?

25 MR. MICHAÏLOS: Yes, Your Honor.

1 THE COURT: Thank you, ma'am.

2 THE WITNESS: Thank you.

3 THE COURT: State, call your next witness.

4 MR. SARABIA: The State would call James
5 Smith.

6 THE COURT: Good afternoon, sir. If you want
7 to step up to the podium for me.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Stop right there. Raise your
10 right hand to be sworn by my clerk.

11 THEREUPON,

12 JAMES SMITH,

13 the witness, was sworn and testified as follows:

14 THE WITNESS: Yes, I do.

15 THE COURT: All right. Please have a seat in
16 the witness stand. And speak in a loud and clear
17 voice for me.

18 State, you may proceed.

19 MR. SARABIA: Thank you, Judge. Defense.

20 DIRECT EXAMINATION

21 BY MR. SARABIA:

22 Q Can you please turn and introduce yourself to
23 the jury.

24 A Hi. My name is James Smith.

25 Q Now, Mr. Smith, are you related to Deputy

1 Thomas Smith? Just because we already heard from him.

2 A No.

3 Q I know "Smith" is a common name, but I figured
4 I'd bring it up.

5 A Pretty common.

6 Q Now, Mr. Smith, I want to bring you back to
7 August 29th of 2014. Do you ever use Craigslist?

8 A Yes.

9 Q At the time were you using it on a fairly
10 regular basis?

11 A Yes.

12 Q And what did you do with Craigslist?

13 A Well, back then I was in the business of
14 buying and reselling electronics, whatever I could do to
15 make a few dollars. Televisions. PlayStations.
16 Anything, if it needs to be fixed, I'd fix it and resell
17 it. Just something to earn some money for a living.

18 Q Now, on August 29th, 2014, did you see an ad
19 on Craigslist for a TV that sparked your interest?

20 A Yes. I was on I think it was like 1:00,
21 something like that, and I came across a
22 50-something-inch TV for a hundred bucks. Anybody knows
23 about TVs knows that that's a good deal. You know, so,
24 of course, I respond to it.

25 Q Now, I'm going to show you an ad, if I can

1 find it.

2 THE COURT: Is that from State's 565?

3 MR. SARABIA: This is State's -- yes, 565,
4 Page 37.

5 Q (By Mr. Sarabia) Does that look like the ad
6 that you saw on Craigslist? I know it would be
7 formatted differently.

8 A Yes. I can tell by the entertainment center
9 that was there, with the TV as well. Yes, that was the
10 one.

11 Q Okay. And was there a number on there to call
12 or text in order to investigate about that?

13 A Yes, there was. Yes, there was.

14 Q And did you want to act on that pretty quick
15 because of the price?

16 A Oh, yeah. When you see prices like that for
17 TVs for a hundred bucks, you jump on it as quick as you
18 can.

19 Q And what was your phone number at the time?

20 A My phone number is the same number I have
21 currently is 727-484-8984.

22 Q I'm going to display State's 593, Page 28.
23 I'm sorry. You said 727-484-8984?

24 A That's correct.

25 Q All right. And you would agree with me that

1 your phone number does appear on the records I'm
2 displaying around -- on August 29, 2014, around 1:30?

3 A That's correct.

4 Q And A couple times surrounding that.

5 So did you communicate with the person on the other
6 end of the ad?

7 A Yes.

8 Q And did you get an address to go to check it?

9 A Yep. He give me an address. And, of course,
10 I called up one of my friends and we went straight
11 there. It was my roommate at the time and I woke him up
12 and said, "Hey. Let's check out this TV."

13 Q Okay. And who was that? Who was your
14 roommate?

15 A Brandon Derry.

16 Q And about what time did you end up going to
17 the residence?

18 A I think we got there roughly right around
19 2:00.

20 Q Now, do you remember what the residence looks
21 like?

22 A Yes, I do.

23 Q Could you please describe it for the jury.

24 A Well, I remember the stairway. I remember --
25 I don't remember exactly what the house entailed. But I

1 remember walking up steps, maybe 20 steps or whatever it
2 was. I seen the RV parked outside. It looked like an
3 older RV type of style. I walked up and knocked on the
4 door.

5 Q I'm going to display State's 33 for
6 identification. Is that the residence you went to
7 (indicating)?

8 A Yes, it is. Except the other garage door was
9 closed, obviously.

10 Q Okay. Can you describe -- when you went up to
11 the door, did Brandon come with you?

12 A Yes.

13 Q Did you guys knock on the door?

14 A Yes, sir.

15 Q Can you describe what happened next?

16 A After we knocked on the door, a gentleman came
17 out. I said, "I'm here to look at the TV." He says,
18 "Okay. Can I bring it out to you on the front porch?"
19 However, I can't see something on the front porch if
20 there's no plug outlet, and I wanted to be able to see
21 this thing turn on. I wanted to make sure it is as
22 described as it is on the ad.

23 He returned back with, "Can I bring it on the front
24 porch?" You know, I'm, like, "Well, why can't I just
25 come in and see it working?" You know. And he said,

1 "The house is a mess." He doesn't want nobody inside.

2 And so, okay, so I told him to give me a minute,
3 and walked back down the steps. I think I was parked --
4 I think I was in the driveway at that time. So I walked
5 downstairs, talked to my buddy Brandon, we got in the
6 car, and I said, "Look, something ain't right." I said,
7 "I don't want this thing. If I can't see it running, I
8 don't want this TV."

9 Q Okay. And did you actually leave before
10 telling him you were leaving?

11 A No. He called me back on the phone and texted
12 me as well saying, "You want the TV?" And I said, "No."

13 Q Okay.

14 A And he even tried lowering the price down as
15 well.

16 Q To what?

17 A I think it was seventy bucks or something like
18 that, I believe.

19 Q Okay.

20 A Just anything to try to get me back there to
21 buy it. He seemed really desperate for money.

22 Q Well, without going into too much of that.
23 Now, the person that answered the door, did you see
24 anybody else other than the person that answered the
25 door in the residence?

1 A No.

2 Q Did you see any movement at all from any
3 people?

4 A No people. Just some little dogs.

5 Q So no indication that there was anybody else
6 present?

7 A No.

8 Q Now, at some point did you contact law
9 enforcement when you saw the news about this place?

10 A Yeah. It was about a week later. I'm sitting
11 at the house laying in bed. My friend Brandon --

12 Q And I don't want to go into to many details.

13 A Okay.

14 Q But you called law enforcement?

15 A Yes. I called law enforcement, correct.

16 Q Okay. And did they come out and talk to you?

17 A Yes.

18 Q And did they present you with a group of
19 photographs?

20 A Correct.

21 MR. SARABIA: And, Judge, what's the next
22 number?

23 THE COURT: I have it --

24 MR. SARABIA: 594?

25 THE COURT: Yes. 594.

1 MR. SARABIA: I'm showing State's 594 to
2 Defense.

3 Q (By Mr. Sarabia) Mr. Smith, I'm showing you
4 what's been marked as State's 594. Have you seen this
5 before?

6 A Yes, I have.

7 Q And was that presented to you back on
8 September 12th of 2014?

9 A Yes, sir. It was.

10 Q And was it a group of photographs?

11 A Yes, it was.

12 Q And out of those photographs, were you able to
13 recognize the individual who answered the door and was
14 selling the TV?

15 A Yes, I was.

16 Q And did you pick that person out of the
17 photograph?

18 A Yes, I did.

19 Q And did you circle that person? And was it
20 numbered Page Number 2 on there, the person that you
21 selected?

22 A Yes, sir.

23 Q Now, that person that answered the door, do
24 you see that person in the courtroom here today?

25 A Yes, I do.

1 Q Could you please point him out and identify
2 something he's wearing?

3 A The black jacket. And he's writing on a
4 notepad.

5 MR. SARABIA: Judge, may the record reflect
6 the witness has indicated the defendant?

7 THE COURT: It will so reflect.

8 MR. SARABIA: And, Judge, I would like to
9 admit State's 594 into evidence.

10 THE COURT: Any objection?

11 MR. MICHAÏLOS: No, Your Honor.

12 THE COURT: All right. 594 will come in.

13 Q (By Mr. Sarabia) Now, back when you saw the
14 defendant on August 29th of 2014, at about 2:00 in the
15 afternoon, was he clean-shaven like he is today?

16 A No. His beard was a lot more fuller than it
17 even was in the picture.

18 Q Okay.

19 MR. SARABIA: Judge, may I have a moment?

20 THE COURT: You may.

21 MR. SARABIA: I don't have any further
22 questions, Judge.

23 Well, I'm sorry. One more question.

24 Q (By Mr. Sarabia) Was there any other day or
25 any other time or any other reason that you came to this

1 house, 7719 Hatteras Drive?

2 A No.

3 Q Or interacted with Adam Matos?

4 A No, sir.

5 MR. SARABIA: I don't have any more questions
6 now, Judge.

7 MR. MICHALOS: Nothing, Your Honor.

8 THE COURT: Defense, no questions?

9 MR. MICHALOS: No questions.

10 THE COURT: All right. Mr. Smith, you may
11 step down. Thank you, sir.

12 Is he released from his subpoena, State?

13 MR. SARABIA: He is, Judge.

14 THE COURT: Defense, you're okay?

15 MR. MICHALOS: Yes, Your Honor.

16 THE COURT: Mr. Smith, thank you very much.
17 You're released from your subpoena.

18 THE WITNESS: Thank you.

19 THE COURT: State, call your next witness.

20 MR. SARABIA: The State would call Brandon
21 Derry.

22 THE COURT: Derrick?

23 MR. SARABIA: Derry.

24 THE COURT: Derry.

25 MR. SARABIA: D-e-r-r-y.

1 THE COURT: Okay. Brandon Derry.

2 Good afternoon, Mr. Derry. If I could have
3 you step up to the podium right here. Stop right
4 there. Raise your right hand and be sworn by my
5 clerk.

6 THEREUPON,

7 BRANDON DERRY,
8 the witness, was placed under oath.

9 THE WITNESS: I do.

10 THE COURT: All right. Sir, we're going to
11 have you have a seat in the witness stand. And
12 speak in a loud and clear voice for me.

13 State, you may proceed.

14 MR. SARABIA: Thank you, Judge. Defense.

15 DIRECT EXAMINATION

16 BY MR. SARABIA:

17 Q Could you please introduce yourself to the
18 jury.

19 A My name is Brandon Derry.

20 Q And I want to take you back to August 29th of
21 two 2014. What was your living situation back then?
22 Who were you living with?

23 A I lived with my fiancée, my two children, and
24 my roommate James.

25 Q And that's James Smith?

1 A Yeah. James Smith.

2 Q You just passed him on his way out of the
3 courtroom?

4 A Yeah.

5 Q Back on August 29, 2014, was James doing a lot
6 of buying and selling on Craigslist?

7 A Yeah. Because he was also doing some storage
8 lockers, stuff like that. So...

9 Q And on August 29, 2014, in particular, about
10 2:00 in the afternoon, did he ask you to go with him to
11 go look at a TV?

12 A Yeah. Somewhere around like 1:30, 2:00.

13 Q Okay. That time period, though, did you have
14 to be back somewhere by 2:30?

15 A Yeah. I pick up my kids.

16 Q At 2:30?

17 A No. Like right at 3:30, when they got out.

18 Q Okay. And was it up in Hudson that you guys
19 went?

20 A Yeah.

21 Q And did you go to a residence?

22 A Yeah.

23 Q Do you remember what the residence looks like?

24 A Yeah. They were nicer houses. You know, it
25 was set up, you had to walk up 15 -- I don't know, like

1 15 stairs or something, all the way up. Two-car garage.
2 A nice house.

3 Q I'm displaying State's 33 for identification.
4 Do you recognize that?

5 A Yeah.

6 Q Is that the house you went to with James,
7 August 29, 2014?

8 A Yeah. That's the house.

9 Q And can you describe for the jury, when you
10 went to the door and knocked or rang, anybody answer?

11 A Yeah. A man. And there was some dogs running
12 around, some puppies.

13 Q Okay. And can you describe for the jury what
14 happened once the man answered?

15 A He answered. James said, you know, "I'm here
16 to buy the TV." And James said, "Can I come in and look
17 at it?" And he was pretty adamant about carrying it to
18 the door for him.

19 Q Is that kind of unusual because you wanted to
20 see what the TV looks like when it turns out?

21 A Yeah. I mean, you know, I'd wanted -- if I
22 was buying it, I'd have to see it work.

23 Q Okay. And he did not want to let you inside?
24 He wanted to bring it out onto the porch?

25 A Yeah. We didn't get to go in. He didn't want

1 us in and we didn't go in.

2 Q Okay. Now, in terms of that person, other
3 than that person, was there anybody else people-wise
4 that you saw at any point?

5 A No. It was just dogs.

6 Q Was it small dogs?

7 A Yes.

8 Q And based on the way that was going with him,
9 not wanting you to come in to see the TV, did James
10 decide to buy the TV or not?

11 A Yeah. We went down to his car to talk about
12 it and -- because he told the guy we wanted to think
13 about it for a second. We went down to the car and I
14 told him, "I wouldn't. I wouldn't. You can't look at
15 it. You can't see it. Why would you buy it?"

16 Q So did you leave without getting the TV?

17 A Yeah, we left. We didn't even -- we didn't
18 say we were leaving or anything. We just left.

19 Q Okay. Now, a week, a week and a half after
20 that, did law enforcement officers contact you about
21 this?

22 A First off, I don't know if it was quite a
23 week, a week and a half. It was right around there. A
24 week later we came home from bowling on a Thursday
25 night, and I happened to be -- I seen an Amber alert and

1 then --

2 Q Did you see it on the news?

3 A Yeah. And I looked it up and then I seen the
4 address and then --

5 Q Yes. I don't want to go into too many details
6 about that, but you saw stuff on the news about this
7 residence?

8 A Yeah. I seen stuff on the news.

9 Q And you guys contacted law enforcement?

10 A Yeah. James did then from that point.

11 Q And eventually a detective came out and spoke
12 with you guys?

13 A Yes.

14 MR. SARABIA: And I've already shown Defense
15 Counsel. I think I'm on 596, Judge.

16 THE COURT: 595. 595.

17 MR. SARABIA: I've already shown Defense
18 Counsel State's Exhibit 595 for identification.

19 Q (By Mr. Sarabia) Now, Mr. Derry, on September
20 16, 2014, did law enforcement come and talk to you and
21 ask you to look through a group of photos?

22 A Yes.

23 Q And have you seen this particular document
24 before, State's 595?

25 A Yeah. Yes.

1 Q And is that your signature down there
2 (indicating)?

3 A Yes.

4 Q Now, is that your signature there on Page 2?

5 A Yes.

6 Q And did you look through these photos?

7 A Yes.

8 Q And were you asked to pick out the person that
9 answered the door who was selling the TV?

10 A Yeah.

11 Q And did you do that?

12 A Yes.

13 Q And you circle it and you put your initials
14 and sign that page as well?

15 A Yes.

16 Q And the person that you picked out, was that
17 on Page 3 of this document or the page that's labeled
18 Page Number 3?

19 A Yes. This is it (indicating).

20 Q Okay. And that person, the person that you
21 bought -- or that James went to possibly buy a TV from
22 and who answered the door at that residence, do you see
23 that person in the courtroom here today?

24 A Yeah.

25 Q Could you please point him out and identify

1 something he's wearing?

2 A A black jacket.

3 MR. SARABIA: Judge, may the record reflect
4 the witness has indicated the defendant?

5 THE COURT: It will so reflect.

6 MR. SARABIA: And, Judge, I'd ask to move
7 State's 595 into evidence.

8 THE COURT: Any objection.

9 MR. VIZCARRA: Yes, Judge. If I could
10 approach?

11 THE COURT: Sure.

12 (BENCH CONFERENCE.)

13 MR. VIZCARRA: Briefly, Judge. It's
14 cumulative. He was doing an in-court
15 identification. I think it's cumulative to do a
16 photo pack identification. I mean he identified
17 him. Why put that cumulative evidence on? So
18 that's my objection.

19 THE COURT: I don't believe you can have
20 cumulative when it comes to identification. So
21 even if you could, I'm going to overrule it, since
22 the ID was made a week after the TV incident. And
23 I believe that he looks significantly different in
24 those photo packs than he does here, because
25 everybody's talked about his beard or something.

1 So overruled.

2 (OPEN COURT.)

3 THE COURT: The objection will be overruled.
4 State's 595 will come into evidence.

5 MR. SARABIA: Permission to publish, Judge?

6 THE COURT: You may.

7 (Thereupon, State's Exhibit 595 is published.)

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

10 THE COURT: All right. Cross?

11 CROSS-EXAMINATION

12 BY MR. VIZCARRA:

13 Q You made the ID from the car or did you -- you
14 were in the car the whole time, right?

15 A No. I went up to the door with him. I was
16 going to help him carry the TV.

17 MR. VIZCARRA: Okay. No questions. No more
18 questions.

19 THE COURT: Anything further, State?

20 MR. SARABIA: No, Judge.

21 THE COURT: All right. Sir, you may step
22 down.

23 State, is he released from his subpoena?

24 MR. SARABIA: Yes, Judge.

25 THE COURT: All right. Defense, any

1 objection?

2 MR. MICHAÏLOS: No, Your Honor.

3 THE COURT: All right. Sir, you're free to
4 go. Thank you very much.

5 THE WITNESS: No problem.

6 THE COURT: State, call your next witness.

7 MR. LABRUZZO: Yes, Your Honor. The State
8 would call Patrick Duarte.

9 THE COURT: You'll have to have him spell that
10 last name.

11 MR. LABRUZZO: I will, Judge. I can tell it
12 for the Court. It's D-u-a-r-t-e.

13 THE COURT: D-u-r- --

14 MR. LABRUZZO: D-u-a-r-t-e.

15 THE COURT: Got it. I was making it way more
16 complicated than it was.

17 Good afternoon, Mr. Duarte. I'll have you
18 step right up here to the podium for me. Please
19 stop right there. Raise your right hand and be
20 sworn by my clerk.

21 THEREUPON,

22 PATRICK DUARTE,
23 the witness, was placed under oath.

24 THE WITNESS: I do.

25 THE COURT: All right. Please have a seat in

1 the witness stand. And speak in a loud and clear
2 voice for me.

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Thank you.

5 State, you may proceed.

6 MR. LABRUZZO: Thank you.

7 DIRECT EXAMINATION

8 BY MR. LABRUZZO:

9 Q Good afternoon, sir. Could you please turn to
10 the ladies and gentlemen of the jury and introduce
11 yourself by stating your name.

12 A Patrick Duarte.

13 Q Mr. Duarte, how do you spell your last name?

14 A D-u-a-r-t-e.

15 Q And, Mr. Duarte, where do you live?

16 A I live in Mount Dora, Florida.

17 Q All right. And just for those that may not
18 know, where is that in relation to Pasco County?

19 A About two hours away.

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

21 A Now I own a pet shop.

22 Q A pet shop?

23 A Yes, sir.

24 Q Back in 2014, what did you do?

25 A I wholesaled cars.

1 Q All right. I'd like to focus your attention
2 to the end of August, beginning of September 2014. Were
3 you living in Mount Dora during that timeframe?

4 A No. I was living in Altamonte Springs.

5 Q All right. And that's a suburb of Orlando?

6 A It's about 30 minutes from Mount Dora.

7 Q Okay. Are you familiar with Pasco County?

8 A Yes.

9 Q And how so?

10 A Well, my ex-wife's family used to live in New
11 Port Richey.

12 Q All right. So you've been here before.
13 You're somewhat familiar with the area?

14 A Yes, sir.

15 Q During this timeframe of 2014, did you search
16 or look at Craigslist?

17 A Yes, sir.

18 Q And specifically back in August of 2014, were
19 you surfing Craigslist for dogs?

20 A Yes, sir.

21 Q Did you come across an ad that piqued your
22 interest?

23 A Yes, I did.

24 Q Can you tell the jury about that?

25 A I saw an ad for some puppies and I contacted

1 him and proceeded to go and pick up the puppies.

2 Q All right. This ad, did it have photographs
3 associated with it?

4 A No.

5 Q Okay. Do you recall whether or not about the
6 price of the dogs in the ad?

7 A I'm not sure about the price in the ad. I
8 know we negotiated a price. I'm not sure about the
9 price in the ad.

10 Q Okay. The price that you guys discussed and
11 negotiated, based on your experience, was that a fair
12 price?

13 A Yes, sir.

14 Q Was it a low price for the dogs that you were
15 looking at?

16 A I felt it was, yes.

17 Q Okay. In fact, your intention was to buy more
18 than one dog?

19 A Yes, sir.

20 Q Tell the jury how many dogs you were looking
21 at?

22 A Anywhere from two to four. He said he had ten
23 puppies.

24 Q Okay. And do you recall when you would have
25 initiated this discussion with the individual through

1 Craigslist? As to what day? Do you recall the day?

2 A Yeah. It was a Friday, August 29th.

3 Q Okay. Of 2014?

4 A Yes, sir.

5 Q The Craigslist ad, it had a phone number
6 associated with it?

7 A Yes. I believe so.

8 Q And ultimately through the communication you
9 have with this Craigslist ad, you used your cell phone
10 to contact that person's cell phone?

11 A Yes, I did.

12 Q All right. And let me just kind of
13 fast-forward a minute in time. Sometime after this, you
14 get involved with law enforcement as far as the things
15 we're about to discuss, correct?

16 A Yes, sir.

17 Q And in doing so, you explained to them that
18 you used your cell phone to contact this individual?

19 A Yes, sir.

20 Q Did you provide your cell phone to law
21 enforcement?

22 A Yes, I did.

23 Q And to your knowledge did law enforcement
24 access your cell phone to retrieve the text messages
25 that you may have shared with this individual?

1 A Yes, they did.

2 Q In fact, have you an opportunity to kind of
3 review some of those?

4 A Yeah.

5 Q Today?

6 A Yes. Yes, sir.

7 Q All right. Were those accurate as to the cell
8 phone communications that you remember?

9 A Yes, they were.

10 Q All right. And back in 2014, what was your
11 cell phone number?

12 A 407-280-8785.

13 Q And as you sit here today, that's not your
14 number; is that correct?

15 A No, sir.

16 Q All right. And you used your cell phone to
17 communicate with this individual?

18 A Yes, I did.

19 Q And based on the communications, did you
20 decide to get up and drive over to Pasco County?

21 A Yeah. Yes, sir.

22 Q All right. And how many dogs were you
23 planning on purchasing in that initial trip?

24 A Initially three. It ended up being four.

25 Q All right. So your plan was three, but

1 ultimately you end up purchasing four?

2 A Yes, sir.

3 Q All right. And you indicated you negotiated a
4 price?

5 A Yep.

6 Q Do you remember what price you negotiated?

7 A Yeah. Originally I believe it was supposed to
8 be \$50 a dog. And then I was told to pick up some
9 cigarettes, so we negotiate it down for 160 for four.

10 Q All right. Let's talk about that. During
11 your trip -- I guess, how long of a drive is it from
12 Altamonte to Pasco?

13 A A little over two hours.

14 Q All right. In that drive time, are you
15 communicating back and forth with the individual?

16 A Yes, I was.

17 Q All right. And just so we're clear, you
18 didn't know this person, right?

19 A No, sir.

20 Q Did your communications with him include text
21 and voice conversations?

22 A Yes, they did. Yes, sir.

23 Q All right. You mentioned some cigarettes.
24 How did cigarettes become involved in this conversation?

25 A He called me and said he didn't have a

1 vehicle, if I can stop and pick him up some Camel
2 cigarettes on the way.

3 Q All right. He was specific as to the pack
4 that he wanted?

5 A Yeah. Camel menthol.

6 Q Camel menthol?

7 A Yes, sir.

8 Q All right. And did you do that?

9 A Yes, I did.

10 Q In fact, did you use that as part of your, I
11 guess, negotiation as it relates to the price?

12 A Yeah. I told him we'll deduct it off the
13 dogs.

14 Q Okay. Do you remember, did he give you an
15 address?

16 A Yes, sir.

17 Q Do you guys discuss that in the text messages?

18 A Yes, sir.

19 Q All right.

20 MR. LABRUZZO: For the record, I'm going to
21 show Defense Counsel what's been marked as State's
22 Exhibit 596.

23 THE COURT: Do you need to approach?

24 MR. LABRUZZO: No. We got it, Judge.

25 THE COURT: Okay.

1 MR. LABRUZZO: I appreciate it.

2 THE COURT: 596. Any objection?

3 MR. LABRUZZO: Well, let me just show it to
4 the witness.

5 Q (By Mr. Labruzzo) Mr. Duarte, I'm going to
6 take a second. And it starts -- it's multiple pages.
7 It starts in the back.

8 This is a document we reviewed today, correct
9 (indicating)?

10 A Yes, sir.

11 Q This shows the back and forth text messages
12 between you and the individual you found on Craigslist,
13 correct?

14 A Yes, sir.

15 Q And at the top of the page, is there a phone
16 number associated with the text messages that you
17 received?

18 A Yes, sir.

19 Q Could you read that for us?

20 A 484-951-2687.

21 Q Okay. And this chain indicates the
22 negotiation for price, dogs, and location, correct?

23 A Yes, sir.

24 MR. LABRUZZO: All right. Your Honor, at this
25 time the State would seek to admit 596 as the next

1 item of evidence.

2 THE COURT: Any objection?

3 MR. MICHAÏLOS: No objection.

4 THE COURT: All right. 596 is in as 596.

5 Q (By Mr. Labruzzo) All right. Let's just kind
6 of move through it.

7 I'd like to -- the very first conversation is the
8 last one on the page. What date and time was that
9 conversation at?

10 A August 29th, 2014, at 2:40 -- 12:40. I'm
11 sorry.

12 Q Okay. And that would have been the initial
13 reach out. And between then you negotiated a price,
14 cigarettes, and ultimately you go to a location,
15 correct?

16 A Yeah. Over the course of the conversation,
17 yes, sir.

18 Q Do you remember arriving at a home in Pasco
19 County?

20 A Yes, sir.

21 Q Could you just give us a description of the
22 home to the best of your memory?

23 A I remember it being a large home. I remember
24 there being an RV out front.

25 Q All right. Did you text that individual to

1 let him know that you were there?

2 A Yes, sir.

3 Q All right. Let's refer to -- this is the
4 second page, and this is a text message sent from you
5 that says, "Hi. I'm here."

6 A Yes, sir.

7 Q Do you see that?

8 A Yes, I do.

9 Q When was that text message sent?

10 A At 4:11, August 29.

11 Q Okay. And when you arrived, tell this jury
12 what happened when you arrived.

13 A He came outside and met me outside. I gave
14 him the cigarettes and he showed me the puppies. I
15 asked if there was any other ones I can see. I went to
16 follow him inside. He said, "Wait outside." So I
17 waited outside. He came out. We talked for a while. I
18 asked why he was selling them so inexpensive. And he
19 kind of laughed and said him and his girlfriend were
20 having problems and they needed the money.

21 Q Okay.

22 A And we just talked about the puppies. I
23 picked the puppies that I wanted. We talked for a
24 little bit. And I said, "If you're ever in Orlando,
25 come by," and that was it.

1 Q Okay. And did you leave the residence not too
2 long after that?

3 A Yes, sir.

4 Q All right. And was that the last text
5 conversation you had with that individual?

6 A No, sir.

7 Q Okay. Tell the jury about some of the later
8 conversations that you may have had.

9 A I'm not sure if it was that night or the next
10 night, we talked about some other dogs he had, and he
11 wanted me to come that night. He said it had to be that
12 night if I wanted the dogs, and ultimately I decided not
13 to go.

14 Q Here, let me show you again this exhibit,
15 State's 596 (indicating).

16 A 8/31, it started.

17 Q All right. You were there on that day?

18 A 8/29.

19 Q Okay. And then there was some text messages
20 you exchanged on 8/31. It looks like you asked if there
21 were more puppies?

22 A Yeah. He said a couple, yes, sir.

23 Q Okay. Then, now, on 9/1, 2014, you're
24 indicating you're talking about pictures and still
25 negotiating on dogs?

1 A Yes, sir.

2 Q This conversation, you said that there was one
3 where you were interested in dogs, but he indicated it
4 had to be that night, correct?

5 A Yes, sir.

6 Q I want to reference you to, I guess, this
7 message right here (indicating). Can you read the date
8 and time?

9 A It was September 1st, 2014, at 6:07.

10 Q Okay. And what did the text say?

11 A It says, "It has to be tonight because I have
12 other buyers."

13 Q Okay. And after that, did you intend on
14 buying more puppies?

15 A After that I ultimately decided not to go.

16 Q Okay. You did not buy any more puppies?

17 A No, sir.

18 Q Okay. After a few days passed after you had
19 the dogs, did you -- well, I don't believe that's a
20 question for you.

21 MR. LABRUZZO: So allow me to have one minute,
22 Your Honor?

23 THE COURT: You may.

24 MR. LABRUZZO: All right. Judge, thank you.

25 No further questions.

1 THE COURT: Cross?

2 MR. VIZCARRA: Very briefly.

3 CROSS-EXAMINATION

4 BY MR. VIZCARRA:

5 Q You were outside smoking a cigarette for a few
6 minutes out on the front porch?

7 A Yeah. I was outside with him. I handed him
8 his cigarettes, sir.

9 Q Okay. And you were out there for a number of
10 minutes and you said something about, "If you ever have
11 come to Orlando, stop by" or something?

12 A Yeah. Just normal conversation.

13 MR. VIZCARRA: Okay. No more questions.

14 THE COURT: Any redirect?

15 MR. LABRUZZO: No, Your Honor.

16 THE COURT: All right. Sir, you may step
17 down.

18 THE WITNESS: Thank you.

19 THE COURT: State, is he released from his
20 subpoena?

21 MR. LABRUZZO: Yes, Your Honor.

22 THE COURT: Defense, is he released?

23 MR. MICHALOS: Yes, sir.

24 THE COURT: All right. Sir, you're free to go
25 back to Mount Dora.

1 THE WITNESS: Thank you.

2 THE COURT: Thank you very much.

3 State, call your next witness.

4 MR. SARABIA: The State would call Paige
5 Steele.

6 THE COURT: All right. Paige Steele, please.

7 Good afternoon, Ms. Steele. If you want to
8 step up to the podium for me.

9 Stop right there. Raise your right hand and
10 be sworn by my clerk.

11 THEREUPON,

12 PAIGE STEELE,
13 the witness, was placed under oath.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: All right. Please step around to
16 the witness stand. And speak in a loud and clear
17 voice for me. Okay?

18 State, you may proceed.

19 MR. SARABIA: Thank you, Judge.

20 DIRECT EXAMINATION

21 BY MR. SARABIA:

22 Q Could you please turn and introduce yourself
23 to the jury.

24 A I'm Paige Steele.

25 Q And, Ms. Steele, I want to take you back to

1 August of 2014. Where were you living at that time?

2 A Hernando Beach.

3 Q A county north of here?

4 A Yes.

5 Q And had you recently moved to that area?

6 A Yeah. Like --

7 Q Or moved back to that area?

8 A Yeah. Just around 2000, the beginning.

9 THE COURT: Ms. Steele, you might have to
10 speak up or move the microphone a little closer,
11 because your voice is trailing off.

12 State, you may proceed.

13 MR. SARABIA: Thank you, Judge.

14 Q (By Mr. Sarabia) Specifically August 29,
15 2014, were you looking on Craigslist for a dog?

16 A Yes, sir.

17 Q And why in particular? Any reason?

18 A Because I moved and I needed a friend.

19 Q And your dad has certain rules on what kind of
20 dog you could get?

21 A Only a small one.

22 Q Okay. Not a lot of hair?

23 A Only real hair. Like not dog hair, but --

24 Q Okay. And did you go on Craigslist and see
25 any ads?

1 A Yes.

2 Q And I'm going to display State's 565 for you.

3 Did you see an ad similar to this (indicating)?

4 A Yes, sir.

5 Q Does this look familiar, these pictures

6 (indicating)?

7 A Yes, sir.

8 Q And did you respond to that ad?

9 A Yes, sir.

10 Q Did you call the number or text the number on

11 that ad?

12 A I texted the number.

13 Q And did you set up a time or did you set up a

14 point where you were going to meet up at a certain

15 address in order to buy a dog?

16 A Yes, sir.

17 Q And approximately what time of the day were

18 you communicating with the other person at the end of

19 that ad?

20 A Between noon and 3:00 P.M.

21 Q Now, do you remember, what was your phone

22 number at that time?

23 A 734-217-7125.

24 Q I'm going to display State's 593, Page 26 of

25 36. And I believe you said 734-217-7125?

1 A Yes, sir.

2 Q Would you agree with me, looking -- and can
3 you see to your right that your number appears --

4 A Yes, sir.

5 Q -- in this record?

6 A Yes.

7 Q About 11:30 on this particular document?

8 A Yes.

9 Q All right. And did you have multiple back and
10 forth phone contact with the number at the other end of
11 this ad?

12 A Yes, sir.

13 Q And ultimately you decide to go to that
14 residence that they were selling it at?

15 A Yes.

16 Q Approximately what time do you think that was?

17 A Between 4:00 and 4:30 P.M.

18 Q Okay. Did you take anybody with you when you
19 went?

20 A My father.

21 Q I'm showing you State's Exhibit 33 for
22 identification. Do you recognize that?

23 A Yes, sir.

24 Q What is that?

25 A That is the house I picked my dog up from.

1 Q Do you still have that dog?

2 A I do.

3 Q And can you describe when you got there what
4 did you do?

5 A I texted him that I was there, walked up to
6 the house, and he came out with the dogs.

7 Q Okay. And the person that came out, was it
8 one male who came out?

9 A Yes, sir.

10 Q Did you see any other people there?

11 A No, sir.

12 Q Were there a lot of dogs?

13 A Very much so.

14 Q And can you describe -- when the person
15 answered the door, can you describe the manner in which
16 the person interacted with you?

17 A He just kind of slid out the door, like
18 cracked it and slid out with the box of dogs.

19 Q Okay. He didn't invite you guys to go inside
20 and look at them?

21 A No, sir.

22 Q And did you select a dog?

23 A I did, yes.

24 Q Was there much conversation?

25 A Not very much.

1 Q How much did you pay for the dog?

2 A \$50.

3 Q Was that a good price for that type of dog?

4 A Very much.

5 Q At that price you drive a distance away from
6 in order to get?

7 A Yes. They usually are \$200 dogs.

8 Q Now, subsequent to that, did law enforcement
9 come to see you about a week, week and a half later --

10 A Yes, sir.

11 Q -- regarding your purchase of that dog?

12 A Yes.

13 MR. SARABIA: And, Judge, at this time I'd
14 like to -- I'm showing the Defense what's been
15 premarked as State's Exhibit 597 for
16 identification.

17 THE COURT: You may approach.

18 MR. SARABIA: Thank you, Judge.

19 Q (By Mr. Sarabia) Ms. Steele, I'm showing you
20 State's 597 for identification.

21 Have you seen this before (indicating)?

22 A Yes, sir.

23 Q Is that your signature there on the first
24 page -- or I'm sorry. On the second page?

25 A Yes.

1 Q And it's dated September -- sorry. September
2 8, 2014?

3 A Yes.

4 Q And did you look through these photographs?

5 A Yes, I did.

6 Q And were you able to select a person that sold
7 you the dogs?

8 A Yes, I was.

9 Q And did you circle the photograph of that
10 person and sign the page and put your initials on it?

11 A Yes, I did.

12 Q And the page that you picked, is it numbered
13 or labeled Page Number 4?

14 A Yes, sir.

15 Q Now, that person that sold you your dog, do
16 you see that person in the courtroom here today?

17 A Yes, sir.

18 Q Could you please point him out and identify
19 something he's wearing?

20 A A black suit and a tie.

21 Q And could you please point to him?

22 A Right there (indicating).

23 MR. SARABIA: And, Judge, may the record
24 reflect the witness has indicated the defendant?

25 THE COURT: It will so reflect.

1 MR. SARABIA: And, Judge, I'd like to move
2 State's Exhibit 597 into evidence.

3 THE COURT: Defense, any objection?

4 MR. MICHAÏLOS: No, Your Honor.

5 THE COURT: 597 will come in.

6 (Thereupon, State's Exhibit 597 is published.)

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

9 THE COURT: Defense, any questions?

10 MR. MICHAÏLOS: No questions, Your Honor.

11 THE COURT: All right. Ms. Steele, you may
12 step down. Thank you, ma'am, for coming.

13 Is she released from her subpoena?

14 MR. SARABIA: She is, Judge.

15 THE COURT: Defense, are you okay with that?

16 MR. MICHAÏLOS: Yes, Your Honor.

17 THE COURT: All right. Ma'am, you are
18 released.

19 THE WITNESS: Thank you.

20 THE COURT: State, call your next witness.

21 MR. SARABIA: The State would call Brett
22 Steele.

23 THE COURT: Good afternoon, Mr. Steele. If
24 you could step to the podium for me.

25 If you'll stop right there. Raise your right

1 hand and be sworn by my clerk.

2 THEREUPON,

3 BRETT STEELE,
4 the witness, was placed under oath.

5 THE WITNESS: I do.

6 THE COURT: All right. Sir, I'll have you
7 step into the witness stand. And speak in a loud
8 and clear voice for me.

9 State, you may proceed.

10 MR. SARABIA: Thank you, Judge. Defense.

11 DIRECT EXAMINATION

12 BY MR. SARABIA:

13 Q Could you please introduce yourself to the
14 jury.

15 A Hi. Brett Steele.

16 Q Are you related to Paige Steele?

17 A I'm her father.

18 Q Now, back on August 29th, 2014, was Paige
19 living up in Hernando Beach with you?

20 A Yes.

21 Q And was she looking for a dog?

22 A We were.

23 Q And did you have rules about what kind of dog
24 she could get?

25 A It had to be small and didn't have -- no

1 shedding. So it had to have hair.

2 Q And on August 29th, 2014, a Friday, did you go
3 with her in response to a Craigslist ad she found?

4 A I did.

5 Q And you go over? You drove with her?

6 A Oh, yeah. I drove her, yes.

7 Q You're her father. You weren't going to let
8 her go off someplace by herself?

9 A No. Not at 17.

10 Q Okay. And did you come to the residence in
11 response to the ad?

12 A Yes.

13 Q In Hudson?

14 A Yes.

15 Q And I'm displaying State's 33. Do you
16 recognize that (indicating)?

17 A That's the home.

18 Q That's the place that you went with your
19 daughter?

20 A We did, yes.

21 Q And can you describe -- did you go up to the
22 front door?

23 A We did.

24 Q Can you describe what happened when you went
25 up to the front door?

1 A Knocked on the front door and the gentleman
2 came to the front door. And we said we were here to
3 buy -- check out the dogs. And he said, "Okay. Let me
4 bring them out. The house is a mess." So he brought
5 them out in like a box, like a plastic box.

6 Q So he didn't invite you to come in?

7 A No. He said the house was a mess.

8 Q Okay. And did your daughter purchase a dog?

9 A We did.

10 Q And did you ever go back there or deal with
11 that person ever again?

12 A No.

13 MR. SARABIA: All right. I don't have any
14 more questions, Judge.

15 THE COURT: Any questions?

16 MR. MICHAÏLOS: Nothing, Your Honor.

17 THE COURT: All right. Mr. Steele, you may
18 step down.

19 Is he released from his subpoena?

20 MR. SARABIA: He is.

21 THE COURT: Defense, are you okay with that?

22 MR. MICHAÏLOS: Yes, Your Honor.

23 THE COURT: Sir, you're free to go. Thank
24 you.

25 I've already released your daughter. You guys

1 came together, so you're good to go.

2 THE WITNESS: I appreciate it.

3 THE COURT: State, call your next witness.

4 MR. SARABIA: The State would call Michael
5 Hall.

6 THE COURT: Good afternoon, Mr. Hall.

7 THE WITNESS: Yes.

8 THE COURT: If you want to step to the podium
9 for me.

10 If you'll stop right there. Raise your right
11 hand and be sworn by the clerk.

12 THEREUPON,

13 MICHAEL HALL,
14 the witness, was placed under oath.

15 THE WITNESS: I do.

16 THE COURT: All right. Please take the
17 witness stand. Speak in a loud and clear voice for
18 me.

19 THE WITNESS: Okay.

20 MR. SARABIA: If it please the Court?

21 THE COURT: You may proceed.

22 MR. SARABIA: Thank you, Judge. Defense
23 Counsel.

24

25

1 DIRECT EXAMINATION

2 BY MR. SARABIA:

3 Q Could you please turn and introduce yourself
4 to the jury.

5 A Michael Hall.

6 Q And, Mr. Hall, I want to take you back to
7 August of 2014. What were you doing for work at that
8 time?

9 A Delivering pizza.

10 Q For who?

11 A Pizza Hut.

12 Q And where was the Pizza Hut located?

13 A At the Little and 52 in Hudson.

14 Q And I want to talk to you in particular about
15 one order that you went out to deliver.16 On August 29th, Friday, at about 6:30, 6:45 in the
17 afternoon, did you deliver a pizza to 7719 Hatteras
18 Drive?

19 A I did.

20 Q Is that an area that you've been to very
21 frequently?

22 A Yes.

23 Q An area that usually you interact with what
24 type of age group?

25 A Mostly I would say about 40.

1 Q Okay. And this particular pizza delivery, was
2 it a younger person that you dealt with?

3 A Yes, sir.

4 Q And I'm going to show you State's 33. Do you
5 recognize that (indicating)?

6 A Yes, sir.

7 Q Is that the residence that you delivered pizza
8 to on August 29th, 2014, at about 6:30, 6:45 in the
9 afternoon?

10 A It is, sir.

11 Q And when you went to deliver pizza, did you
12 knock on the door or ring the bell?

13 A Yes, sir.

14 Q And did somebody answer?

15 A Yes, sir.

16 Q Could you describe basically who answered?
17 Was it a male? Female? Child? Adult?

18 A A younger male.

19 Q And that person that answered the door, aside
20 from him, did you see anybody else in the residence?

21 A No, sir.

22 Q Did you see anybody else moving? Anything
23 else moving?

24 A A couple various dogs.

25 Q Small dogs?

1 A Yes, sir.

2 Q Now, you gave him the pizza and he gave you
3 whatever payment or the transaction concluded?

4 A Yes, sir.

5 Q Anything unusual about it?

6 A It didn't seem to be too out of the ordinary.
7 A little on the empty side.

8 Q Now, about a week, week and a half later, did
9 law enforcement come to talk to you about that
10 particular pizza delivery?

11 A They did.

12 MR. SARABIA: And I'm going to show State's
13 Exhibit 598 to Defense Counsel.

14 THE COURT: Okay.

15 Q (By Mr. Sarabia) Mr. Hall, I'm going to show
16 you State's 598. I'm going to flip it to Page 2.

17 Have you seen this before?

18 A Yes, sir.

19 Q Is that your signature on Page 2?

20 A It is.

21 Q And is that your writing above your signature
22 indicating that you've selected a person?

23 A Yes.

24 Q And the reason that you selected the person?

25 A That's the person that I recognized from the

1 delivery that evening.

2 Q Okay. And you looked through this group of
3 photographs?

4 A Yes, sir.

5 Q And were you able to identify within these
6 photographs the individual that you had delivered pizza
7 to on August 29, 2014, around 6:30 in the afternoon?

8 A Yes, sir. I did.

9 Q And did you circle that photograph and put
10 your initials on it and sign underneath it?

11 A Yes, sir.

12 Q And the person that you identified, is that
13 labeled Page Number 5 in this particular package?

14 A Yes, sir. It is.

15 MR. SARABIA: Judge, at this time the State
16 would like to move State's Exhibit 598 into
17 evidence.

18 THE COURT: Any objection?

19 MR. MICHAÏLOS: No, Your Honor.

20 THE COURT: 598 will come in.

21 Q (By Mr. Sarabia) And that person that you
22 delivered pizza to on August 29, 2014, at about 6:30,
23 6:45 in the afternoon, do you see that person in the
24 courtroom here today?

25 A I do, sir.

1 Q Could you please point him out and identify
2 something he's wearing?

3 A It appears to be a black suit to the left side
4 of the defense table.

5 MR. SARABIA: Judge, may the record reflect
6 the witness has indicated the defendant?

7 THE COURT: It will so reflect.

8 (Thereupon, State's Exhibit 598 is published.)

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

11 THE COURT: Cross?

12 MR. VIZCARRA: No. No questions, Judge.

13 THE COURT: All right. Mr. Hall, you may step
14 down.

15 Is he released from his subpoena?

16 MR. SARABIA: He is, Judge.

17 THE COURT: Defense?

18 MR. VIZCARRA: That's fine.

19 THE COURT: All right. Mr. Hall, you're free
20 to go. Thank you, sir.

21 THE WITNESS: Thank you, ma'am.

22 THE COURT: State, call your next witness.

23 MR. LABRUZZO: Yes, Your Honor.

24 The State would call Yariel Carmenate.

25 THE COURT: Good afternoon, Mr. Carmenate.

1 If you want to step up to the podium for me.
2 Stop right there. Raise your right hand and be
3 sworn by my clerk.

4 THEREUPON,

5 YARIEL CARMENATE,
6 the witness, was placed under oath.

7 THE WITNESS: I do.

8 THE COURT: All right. Sir, can you have a
9 seat in the witness stand. Speak in a loud and
10 clear voice for me.

11 State, you may proceed.

12 MR. LABRUZZO: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. LABRUZZO:

15 Q Good afternoon, sir.

16 Could you please turn to the ladies and gentlemen
17 of the jury and introduce yourself by stating your name.

18 A Hello. My name is Yariel Carmenate.

19 Q And, Mr. Carmenate, could you spell your first
20 name for the court reporter.

21 A Y-a-r-i-e-l.

22 Q Thank you. And could you spell your last
23 name, sir.

24 A C-a-r-m-e-n-a-t-e.

25 Q Mr. Carmenate, where do you live?

1 A Spring Hill, Florida.

2 Q And what do you do for a living?

3 A X-ray tech.

4 Q All right. I'd like to focus your attention
5 back to August of 2014. Were you still living in Spring
6 Hill at that time?

7 A Yes.

8 Q And do you recall having a conversation with
9 your mother -- I'm not going to get into details of the
10 conversation, but it was a conversation involving dogs?

11 A Yes.

12 Q All right. At the time did you live with your
13 mother?

14 A Yes.

15 Q All right. Your mother, what's her name?

16 A Ivon.

17 Q Ivon?

18 A Yes.

19 Q Carmenate?

20 A Yes.

21 Q Does she speak English or Spanish?

22 A Understands English, but speaks Spanish
23 primarily.

24 Q All right. Based on a conversation about dogs
25 and Craigslist, did your mom indicate to you that she

1 was receiving a phone call from an unknown number?

2 A Yes.

3 Q All right. And do you recall the date of that
4 conversation or that phone call came in?

5 A August 31st.

6 Q Of 2014?

7 A Correct.

8 Q Do you happen to remember the phone number of
9 that unknown call?

10 A No.

11 Q All right. Did you prepare a written
12 statement close in time to August the 31st of 2014,
13 where you made a specific note about that?

14 A Yes.

15 Q All right. Would it refresh your memory to
16 see that?

17 A Yes, it would.

18 MR. LABRUZZO: May I approach the witness,
19 Your Honor?

20 THE COURT: You may.

21 MR. LABRUZZO: May I approach the witness?

22 THE COURT: Yes, you may.

23 Q (By Mr. Labruzzo) Mr. Carmenate, I'm going to
24 ask you to look at this piece of paper. Is that your
25 handwriting?

1 A Yes, it is.

2 Q Is that your signature at the bottom?

3 A It is.

4 Q All right. Did you make a particular note
5 about the phone call -- the phone number, forgive me,
6 related to this phone call?

7 A Yes.

8 Q All right. And did you, in fact, speak with
9 the person on the other end of the line?

10 A I did.

11 Q Could you tell us the phone number that you
12 noted?

13 A 848-951-2687.

14 Q All right. And did you have a conversation
15 with the person, you personally, on the other end of
16 that line?

17 A Yes.

18 Q And based on that conversation, did you guys
19 agree to go and purchase dogs?

20 A Correct.

21 Q And I say "you," it would be you and your mom,
22 correct?

23 A Yes, we did.

24 Q All right. And as part of that conversation,
25 was there a discussion about an address?

1 A Yes, there was.

2 Q And what was the address that you guys were to
3 go to?

4 A 7719 Hatteras Drive in Hudson near Old Dixie
5 Highway.

6 Q Are you familiar with that area?

7 A Yes.

8 Q So you knew how to get there?

9 A Yeah.

10 Q And did you and your mom, in fact, go to that
11 address?

12 A We did.

13 Q All right. This is a residential street?

14 A Yes.

15 Q And when you arrived, did you and your mom get
16 out of your car to approach the house?

17 A Yes, we did.

18 Q When you got out of your car, was there
19 something of particular note that you may have smelled
20 when you got out of the car?

21 A Yeah. A very foul smell.

22 Q All right. At that time back August the 31st
23 of 2014, were you familiar with that smell?

24 A No.

25 Q Had you ever smelled anything like that

1 before?

2 A Nothing like that.

3 Q Would you agree with me that it was a unique
4 smell?

5 A Yes, sir.

6 Q All right. How would you describe the smell?

7 A Just rotten and foul.

8 Q All right. Do you approach the front door of
9 the house?

10 A Yes, we did.

11 Q All right. And when you get to the front
12 door, do you guys knock or ring the doorbell to let them
13 know you're there?

14 A We knocked.

15 Q All right. And did someone come to the door?

16 A Yes.

17 Q Can you give me a description? Was this a man
18 or a woman?

19 A A male.

20 Q All right. And was he holding anything?

21 A A puppy and a towel.

22 Q All right. The puppy and a towel, did it
23 appear to have been recently bathed?

24 A Yes.

25 Q All right. And was that kind of the

1 conversation as to why he was wrapped in a towel?

2 A Yes.

3 Q Can you give me just the best description you
4 can of this individual?

5 A Dark-skinned. Kind of maybe Latino looking.

6 Q Okay.

7 A I believe he had a beard at the time.

8 Q All right. Besides this individual, was there
9 any other person that you had contact with from the
10 residence?

11 A Yes. A little boy.

12 Q All right. Tell us about the interaction with
13 the little boy.

14 A We were at the front door of the house and it
15 had clear windows to look through, and the little boy
16 steps behind the man and then waves. He was wearing
17 Spiderman underwear and then kind of just stood off in
18 the back of the hallway.

19 Q All right. Did you and your mother ever go
20 into the residence?

21 A No.

22 Q All right. And you guys were there to
23 purchase a dog. Did you, in fact, purchase a dog?

24 A Yes, we did.

25 Q When you took, I guess, possession of the dog,

1 how did the dog smell?

2 A Terrible.

3 Q All right. And what did you do with that dog
4 after you had it?

5 A We went home and gave it like two or three
6 more baths.

7 Q Okay. The smell from the dogs, is it similar
8 to the smell that was coming from the house when you
9 were out there?

10 A Very bad, but not the same smell.

11 Q All right. And you guys took the dog home,
12 correct?

13 A Uh-huh.

14 Q A few days after that, all right, do you
15 recall seeing, I guess, a news report about events that
16 may have happened at that house?

17 A Yes.

18 Q All right. And did you see them on TV?

19 A Yes.

20 Q As part of the news -- it was a news
21 broadcast, correct?

22 A Uh-huh.

23 Q As part of that news broadcast, did they show
24 pictures of people associated with that residence?

25 A Yes.

1 Q And was one of the photographs that you saw
2 the same person that you dealt with when you purchased
3 the dog?

4 A Yes.

5 Q Okay. Let me take your statement, sir. Okay.

6 MR. LABRUZZO: One moment, Your Honor?

7 THE COURT: Certainly.

8 MR. LABRUZZO: Thank you, Your Honor. No
9 further questions of this witness.

10 THE COURT: All right. Cross?

11 MS. GARRETT: No questions, Your Honor.

12 THE COURT: All right. Sir, you may step
13 down. Thank you very much.

14 Is he released from his subpoena?

15 MR. LABRUZZO: Yes, Your Honor.

16 THE COURT: Defense, yes?

17 MR. MICHAÏLOS: No objection.

18 THE COURT: All right. Sir, you're free to
19 go.

20 THE WITNESS: Thank you.

21 THE COURT: State, can you and the Defense
22 approach.

23 (BENCH CONFERENCE.)

24 THE COURT: How many more witnesses have you
25 got?

1 MR. SARABIA: We have two more out there. One
2 is as short as Mr. Hall.

3 THE COURT: Okay.

4 MR. SARABIA: And the other one is
5 Mr. Burnham, who's not lengthy, but we have a
6 Wal-Mart surveillance video that we'll introduce
7 through him.

8 THE COURT: And how long is the Wal-Mart
9 video?

10 MR. SARABIA: Altogether maybe 15 minutes. We
11 don't have to publish it all at this time. In
12 fact, we're probably going to publish a section.

13 THE COURT: Okay. So you're not going to play
14 all 15 minutes?

15 MR. SARABIA: No. Just the three or four
16 minutes where Mr. Burnham is ringing up the
17 defendant.

18 THE COURT: Yeah. There's a single photograph
19 that you guys have. Yeah, I know, there's still
20 photographs.

21 MR. SARABIA: That's coming in through the
22 next witness.

23 THE COURT: Yes. Is it coming in with this
24 guy? You already premarked them.

25 MR. SARABIA: It's coming in through

1 Mr. Spratling, and we already released for the
2 evening, and he's going to be back on Monday
3 morning and we're going to do all that.

4 THE COURT: Okay. So altogether do you think
5 we can get it in less than half an hour?

6 MR. SARABIA: Yes.

7 THE COURT: All right. I'm just going to ask
8 to see if they need to use the restroom.

9 (OPEN COURT.)

10 THE COURT: Ladies and gentlemen, I just want
11 to check. We have two more witnesses. We can get
12 it in before 6:00. But if somebody needs to use
13 the restroom, I need the hand raise. They made fun
14 of me. I said "potty" last night. So I'm trying
15 not to say that.

16 But we're good to go?

17 THE JURY PANEL: (Indicating.)

18 THE COURT: Okay. If anybody does, just raise
19 your hand. We can take a break and go in there.
20 But I figured to get us out by 6:00, we'll just
21 keep moving on, if no one has to use the restroom.
22 So the State's ready to call their next witness.
23 They have him ready to go.

24 State, next witness.

25 MR. SARABIA: The state would call Erin

1 All right. State, are you ready to proceed?

2 MR. SARABIA: Yes, Judge.

3 THE COURT: All right.

4 DIRECT EXAMINATION

5 BY MR. SARABIA:

6 Q Can you please turn and introduce yourself to
7 the jury.

8 A I'm Erin Jacobs.

9 Q And, Ms. Jacobs, I want to take you back to
10 August and September of 2014.

11 What county were you living in at that time?

12 A Pasco.

13 Q And what were you doing for work?

14 A I was working as a delivery driver at Papa
15 John's.

16 Q And what Papa John's were you based out of?

17 A The one on 52 and Little.

18 Q And that's in Hudson?

19 A Yes.

20 Q Now, on September 1st, Labor Day, of 2014, did
21 you have occasion to deliver a pizza to 7719 Hatteras
22 Drive in Hudson?

23 A Yes.

24 Q And I want to show you or display a
25 photograph, State's 33. Do you recognize that?

1 A Yes.

2 Q Is that the house that you delivered a Papa
3 John's pizza to?

4 A Yes.

5 Q And when you went up to the door, did you
6 knock or ring the bell or somehow let whoever's inside
7 know you're there?

8 A Yes.

9 Q And when you did that, did somebody answer the
10 door?

11 A Yes.

12 Q And who answered the door?

13 A I believe it was a child.

14 Q A child consistent with a four-year-old?

15 A Yes.

16 Q A small child?

17 A (Indicating).

18 Q And once the child answered the door, did
19 somebody else come to the door?

20 A Yes.

21 Q Adult male?

22 A Yep.

23 Q And did you deliver the pizza?

24 A Yes.

25 Q And when you delivered the pizza, did you have

1 any kind of interaction?

2 A Yes.

3 Q And what kind of interaction is that? Do you
4 have to have them sign something?

5 A Yeah. You have to have them sign the receipt.

6 Q Okay.

7 A You write the total on it.

8 MR. SARABIA: Okay. And I'm showing Defense
9 Counsel what's been marked as State's 599.

10 Q (By Mr. Sarabia) Ms. Jacobs, I'm going to
11 approach you with what's been marked as State's 599 for
12 identification.

13 Does that look familiar?

14 A Yes.

15 Q And does that have your name as the delivery
16 driver on it?

17 A I don't know.

18 Q Does that have the delivery address on there?

19 A Yes.

20 Q And does it have the total?

21 A Yes.

22 Q And in particular, was there a tip amount
23 given?

24 A Yes, there is.

25 Q And is this something that you remember

1 distinctly?

2 A I do.

3 Q Was it unusual?

4 A It was.

5 Q And can you describe what the tip amount was
6 and how that was unusual?

7 A It was \$15. He wrote the dollar sign at the
8 end of the number, which I thought was odd.

9 Q Okay. So that's not something that you see
10 regularly as a delivery driver?

11 A No. I remembered it. So ...

12 Q And \$15, is that a high tip?

13 A Very high.

14 Q Is that a tip that you were used to getting on
15 a regular basis?

16 A No.

17 Q Is that something that stuck out a little bit?

18 A Yes.

19 Q And this particular document is actually a
20 copy of the person's writing, the person having signed
21 the receipt that you were there with, right?

22 A Yes.

23 MR. SARABIA: Judge, at this time the State
24 would like to move State's Exhibit 599 into
25 evidence.

1 THE COURT: Any objection?

2 MR. MICHAÏLOS: No, Your Honor.

3 THE COURT: 599 will come in.

4 Q (By Mr. Sarabia) And on this particular
5 document it indicates the date and approximate time the
6 delivery would have occurred?

7 A Yes.

8 Q And you agree with me, it's September 1, 2014,
9 which would have been Labor Day, about 4:30 in the
10 afternoon?

11 A Yes.

12 MR. SARABIA: And, Judge, I'd like to display
13 State's 599 on the overhead, if I might?

14 THE COURT: You may.

15 Q (By Mr. Sarabia) And, Ms. Jacobs, from where
16 you're sitting, can you see that screen?

17 THE COURT: If you need to step down so you
18 can get a better view, you may do that.

19 THE WITNESS: I can see it.

20 THE COURT: Okay.

21 Q (By Mr. Sarabia) Do you agree with me that
22 the name on the order is Adam?

23 A Yes.

24 Q And do you agree with me that the last four
25 digits of the Visa card used are 2113?

1 A Yes.

2 Q And would you agree with me that the signature
3 that the male that you indicated answered the door
4 appears to be Margaret Brown?

5 A Yes.

6 Q Now, Ms. Jacobs, on September 4th, going into
7 September 5th of 2014, did law enforcement come into
8 contact with you?

9 A Yes.

10 Q About this pizza delivery in particular?

11 A Yes.

12 Q And while they were chatting with you, did
13 they show you a group of photographs?

14 A Yes, they did.

15 Q Ms. Jacobs, I'm showing you State's Exhibit
16 600 for identification. Did you see this back on
17 September 5th, 2014?

18 A Yes.

19 Q And you agree that's your signature on the
20 first page?

21 A Yes.

22 Q And you initialed each of these photographs
23 that you looked through?

24 A Yes.

25 Q Now, were you able to make an identification

1 of one particular photograph here?

2 A I chose two.

3 Q And do you remember which two you chose?

4 A Number 7 and Number 2, I believe.

5 Q You indicated both Number 7 and Number 2 could
6 have been the person?

7 A Yes.

8 Q And certainly that general description that
9 you see both in Number 7 and 2, that would be consistent
10 with the person that you delivered pizza to?

11 A Yes.

12 MR. SARABIA: Judge, at this time the State
13 would like to move State's Exhibit 600 into
14 evidence.

15 THE COURT: Any objection?

16 MR. MICHAÏLOS: No, Your Honor.

17 THE COURT: All right. 600 is in.

18 Q (By Mr. Sarabia) Do you agree with me that's
19 Number 7 (indicating)?

20 A Yes.

21 Q And Number 2 looks pretty similar
22 (indicating)?

23 A Yes.

24 Q But a different guy?

25 A (Indicating).

1 MR. SARABIA: I don't have any more questions,
2 Judge.

3 THE COURT: Cross?

4 MR. MICHAÏLOS: Just a couple questions, Your
5 Honor.

6 CROSS-EXAMINATION

7 BY MR. MICHAÏLOS:

8 Q Ms. Jacobs, you said you saw a little boy
9 first?

10 A Yes. I believe so.

11 Q He was excited to see the pizza, right?

12 A Yes.

13 Q Did he seem like a healthy little boy?

14 A Yes.

15 Q Happy?

16 A He appeared to be, yeah.

17 Q Thank you.

18 THE COURT: Any further questions?

19 MR. SARABIA: No, Judge.

20 THE COURT: Defense, any further questions?

21 MR. MICHAÏLOS: No, Your Honor.

22 THE COURT: All right. Ma'am, you may step
23 down.

24 Is she released from her subpoena, State?

25 MR. SARABIA: I'm sorry, Judge?

1 THE COURT: Is she released?

2 MR. SARABIA: Yes, Judge.

3 THE COURT: All right. Defense, any
4 objection?

5 MR. MICHAÏLOS: No, Your Honor.

6 THE COURT: All right. Ms. Jacobs, thank you
7 very much. You're released. You're free to go.

8 THE WITNESS: Thank you.

9 THE COURT: State, call your next witness.

10 MR. SARABIA: The State would call James
11 Branham.

12 THE COURT: Mr. Branham, if you want to step
13 up to the podium for me, sir.

14 If you can stop right there. Raise your right
15 hand and be sworn by my clerk.

16 THEREUPON,

17 JAMES BRANHAM,

18 the witness, being sworn, was examined and testified as
19 follows:

20 THE WITNESS: I do.

21 THE COURT: All right. Sir, if you want to
22 step around to the witness stand and then speak in
23 a loud and clear voice for me. Okay?

24 Sir, there's a microphone right in front of
25 you. So if you can just speak into that, we'll be

1 good. Okay?

2 THE WITNESS: Yes, ma'am.

3 THE COURT: State, you may proceed.

4 MR. SARABIA: Thank you, Judge.

5 Defense.

6 DIRECT EXAMINATION

7 BY MR. SARABIA:

8 Q Could you please turn and introduce yourself
9 to the jury.

10 A James Branham.

11 Q Can you please spell your last name for the
12 court reporter.

13 A B-r-a-n-h-a-m.

14 Q Now, Mr. Branham, I want to take you back to
15 August 29th of 2014. What were you doing for work at
16 that time?

17 A I was working for Wal-Mart on the overnight
18 shift.

19 Q And how long did you work for Wal-Mart?

20 A I worked for them for 14 years.

21 Q Are you retired now?

22 A Yes.

23 Q And how long were you in the overnight shift?

24 A I was on the overnight shift the entire time
25 that I worked for them.

1 Q So for 14 years?

2 A Yeah.

3 Q Now, I want to talk to you about a particular
4 transaction on August 29th of 2014, between 11:30 and
5 midnight of that day.

6 Do you know the transaction I'm talking about?

7 A Yes, sir.

8 Q Was there anything about it that kind of stuck
9 out in your mind?

10 A Yes.

11 Q And what was that?

12 A The gentleman was in the electronics
13 department and he had a shovel.

14 Q Okay. And you worked the overnight section
15 for a long time?

16 A Yes.

17 Q Was it common for people to buy shovels at
18 11:30 at night? Midnight?

19 A Not too often. Not in the electronics
20 department.

21 Q So it was a rare circumstance?

22 A Yes.

23 Q Now, Wal-Mart is set up with surveillance
24 cameras everywhere; is that fair?

25 A Yes.

1 Q Now, I'm going to show you State's Exhibit 601
2 for identification.

3 Have you seen this before (indicating)?

4 A Yes, sir.

5 Q And did you date it and put your initials on
6 it when you reviewed it previously?

7 A Yes, sir.

8 Q And what is this?

9 A That's the surveillance of that night of that
10 transaction.

11 MR. SARABIA: Okay. Judge, at this time I'd
12 like to admit State's 601 into evidence.

13 THE COURT: Defense, any objection?

14 MR. MICHAÏLOS: No, Your Honor.

15 THE COURT: All right. 601 will be admitted.

16 MR. SARABIA: And permission to publish,
17 Judge?

18 THE COURT: You may.

19 Q (By Mr. Sarabia) And, Mr. Branham, as we're
20 setting this up, can you tell us how the transaction
21 occurred?

22 A I was working freight and I was called over
23 the intercom to go to the video cases for customer
24 assistance. I went to the video cases and there was a
25 young man waiting at the video cases with a shovel. I

1 gave him a greeting, "How are you doing?" something to
2 that effect, and asked him what he wanted. He told me
3 he wanted a PS4 video console and a game. I got them
4 out of the case for him.

5 And we made a little small talk, as was usual, and
6 then I carried them over to the register, rang him up.
7 He ran his credit card through from his side of the
8 register. The sale was declined and I told him so. And
9 he decided to take the PS4 and the video game off of the
10 sale and just buy the shovel.

11 Q He really wanted that shovel, huh?

12 A He wanted the shovel.

13 Q Now, when you're doing the transaction, he
14 runs the credit card?

15 A He runs the card, yeah.

16 Q So you never actually have any involvement
17 with the card itself?

18 A We don't even see it, no.

19 Q And when the card is declined, you're not
20 given any particular reason why?

21 A No.

22 Q Okay.

23 A No.

24 Q Now, I'm displaying State's 601 on the big
25 screen there (indicating), one of the particular views.

1 You would agree with me at the bottom here it reads
2 8/29, 2014, 11:42:33 P.M.?

3 Is that too far away for you?

4 A No.

5 THE COURT: If you need to stand up and get
6 closer, please feel free.

7 Q (By Mr. Sarabia) You can look at it.

8 Do you see where I'm looking?

9 A Yeah.

10 Q Do you agree that says 8/29, 2014,
11 11:42:33 P.M.?

12 A Oh, yeah.

13 Q Right down there (indicating)?

14 A Yeah.

15 Q I wasn't talking about over here (indicating).

16 A Okay.

17 Q Sorry about that.

18 And what view is this (indicating)? What are we
19 looking at at this camera angle before I start it?

20 A That is a -- it looks like a downward view of
21 the register area in the electronics department.

22 Q Okay. And we're about to watch the
23 transaction, but the transaction was, in fact, completed
24 for the shovel?

25 A Yes.

1 Q Meaning the shovel was purchased and he could
2 leave with it?

3 A Yes.

4 Q And you can take your seat, sir, if you want.

5 (Thereupon, State's Exhibit 601 is published.)

6 Q (By Mr. Sarabia) Now, is that you that just
7 entered the frame there?

8 A Yes. I'm setting the game system and the game
9 up on the register there. I'm preparing to ring it up.
10 I believe at that point I had to pause and answer the
11 telephone. It was also my duties to answer the
12 telephone whenever I am on overnights in the electronics
13 department.

14 That is my assistant manager coming into the
15 picture there to answer the phone. The call was for
16 him.

17 And I told him that his sale was declined and we're
18 going to void the game system and the video game. And I
19 told him I'd rerun the sale and give him his receipt.

20 Q And he's good to go with the shovel?

21 A (Indicating).

22 Q Now, as you're sitting here today, are you
23 able to recognize that individual?

24 A Yes, sir.

25 Q Please point him out and identify something

1 he's wearing?

2 A It's the young man with the black suit on the
3 end there (indicating).

4 MR. SARABIA: Judge, may the record reflect
5 that the witness has indicated the defendant?

6 THE COURT: It will so reflect.

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

9 THE COURT: Cross?

10 MR. MICHAÏLOS: Nothing, Your Honor.

11 THE COURT: All right. Sir, you may step
12 down.

13 Is he released from his subpoena?

14 MR. SARABIA: Yes, Judge.

15 THE COURT: Defense, yes?

16 MR. MICHAÏLOS: Yes.

17 THE COURT: All right. Sir, you're free to
18 go. Thank you.

19 If I can have the lawyers at the bench.

20 (BENCH CONFERENCE.)

21 THE COURT: Are we good for tonight?

22 MR. SARABIA: (Indicating.)

23 THE COURT: All right. And 20 and 21, you're
24 going to introduce with the detective tomorrow,
25 right, the still film from that video?

1 MR. SARABIA: Yes. The loss prevention
2 officer, yes.

3 THE COURT: Okay. Yeah.

4 MR. MICHAÏLOS: Did you say tomorrow?

5 THE COURT: Monday. The next day we're back.

6 MR. MICHAÏLOS: Okay.

7 THE COURT: It's been a long week.

8 MR. MICHAÏLOS: Just making sure.

9 THE COURT: It's been a long time.

10 All right. So we're good to go. I'll tell
11 them that they'll be back Monday. I have to have
12 them meet in the -- they're going to meet in a
13 different place. They're going to be in the law
14 library because there's actually jury trials on
15 Monday. So -- okay. I'm going to give them a few
16 directions.

17 (OPEN COURT.)

18 THE COURT: All right. Ladies and gentlemen,
19 I know you all can count and that was two. So we
20 are done for the evening. I have a few things to
21 talk to you about before you go. I promise it
22 won't be more than a few minutes.

23 Monday morning, because you're off tomorrow
24 and a long weekend, but Monday morning we still
25 need you here at 9:30, just like we did all this

1 week. But instead of going to the jury pool room,
2 we're going to have you meet at the legal center or
3 the law library. It's just on the same wall. It's
4 at the end of the wall.

5 So as you come in from the front door from the
6 metal detectors, you'll pass through or pass on
7 that same hallway. Instead of going in to where
8 you've been going, just go to the end of the hall.
9 You'll see it. It's a law library. It will be set
10 up. They'll have clerks there to show you.

11 We have jury trials starting Monday. So we're
12 going to have that big pool like when you came the
13 first day in the big room. So we don't won't
14 bother you. We don't want anybody talking to you
15 or saying anything that you don't need to hear
16 about. Okay?

17 So we're just going to keep you -- it's a
18 really nice little room. It's got chairs and
19 tables and comfy chairs just like, you know, the
20 regular room does, but we're just going to keep you
21 separate. You won't be down there that long. I've
22 been bringing you up within, you know, ten minutes
23 of knowing that you're here.

24 Again, no talking, tweeting, texting or
25 blogging. You have three long days of people, "Hey

1 what are you doing? What's going on?" You might
2 go to, you know, a party or a cookout or you might
3 go on a boat like everybody today. Please just
4 remind them you can't talk about the case, you
5 can't discuss it. And if they persist, you need to
6 remove yourself from that situation. Okay?

7 But we'll see you on Monday. We moved very
8 fast this afternoon. We got through -- I think
9 we're back up to right where we're supposed to be.
10 So we're exactly where we're supposed to be. And
11 we'll see you on Monday at 9:30 in the legal law
12 library. Okay?

13 If you get lost, just ask them for the law
14 library. They'll show you where it is. If you
15 have your badge, your jury badge on, they'll be
16 kind of sending you that way anyway. Okay?

17 Thank you.

18 (Jury Absent.)

19 THE BAILIFF: The jurors out of the hearing of
20 the Court, Your Honor.

21 THE COURT: All right. Anything from either
22 side? No? Yes?

23 All right. I have calendars at 8:30 on Monday
24 morning, very short calendars. So we will be here
25 promptly at 9:30. We're a little behind today, but

1 the jurors were stuck in the traffic jam. So we're
2 good to go.

3 But I have a short calendar Monday. So we'll
4 be on time. If there's any issues to address
5 before the jury comes up, I'd ask you to come
6 between 8:30 and 9:30, so we can address them.
7 Okay? Everybody is doing well?

8 All right. We'll see you on Monday. Have a
9 nice long weekend.

10 (RECESS.)

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25 (Continued in Volume XI.)

1 CERTIFICATE OF REPORTER

2
3 STATE OF FLORIDA)4 COUNTY OF PASCO)
56
7 I, Victoria L. Campbell, Registered
8 Professional Reporter, certify that I was authorized
9 to and did stenographically report the foregoing
10 proceedings and that the transcript is a true
11 record.12 DATED this 21st day of June, 2018.
1314 /S VICTORIA CAMPBELL
15 Victoria Campbell
16 Registered Professional Reporter
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