GA v. Lacy Boles - Day 5

(15:33 - 15:38)

Mr. Steele, this is yours. This is an exhibit. Thank you, sir.

(15:38 - 15:51)

Yes, sir. All right. Anything before we call in the jury? Now, let's see.

May I call in the jury? Yes, sir. Good morning, Your Honor. Good morning, everyone.

(15:51 - 15:58)

And I told the Honorable Mr. Koldis last night. Okay. Or when we—I know it wasn't last night, but when we were leaving.

(16:01 - 16:45)

Here's the way I understand it, but I don't have a copy of the transcript. But I need Your Honorable Court to please permit me— please permit me to inquire of the witness the following. Shocking to me.

Shocking to me. This Honorable Court made a ruling that everybody follows. This Honorable Court's been nothing but giving of itself and energized to try to do the law and fairness.

(16:45 - 16:59)

And I wanted to get in the fact that there is a conviction in 2009, arrest, in Douglas County, 15-year sentence. There was a prison part of the sentence. It continues until 2024.

(17:00 - 17:09)

In the interim, Mr. Akers gets arrested in Cobb County for drugs and to the guilty plea. There's a revocation. He's back on probation.

(17:09 - 17:54)

He spends time in jail, back on probation. It corroborates his belief, his state of mind that came in through a text message that he's looking at the relevant period of time around the date of his suicide at going to prison, on top of losing his wife, on top of losing his kids, on top of losing his job, on top of the failures that he wrote in October, on Halloween, November, and December, saying how he is depressed, how he has inner demons. That's not the word, though.

(17:54 - 18:19)

And how he will bury Lacey and himself. That's a murder-suicide and leave the kids to go to foster care. The prosecutor on redirect, shockingly, the court kept me away from introducing the fact that there is a live probation case.

(18:19 - 18:58)

Knows there's a live probation case. Knows that Mr. Akers did not fulfill his requirements of the court of his sentence. And has the nerve, the audacity, as a lawyer, to say to the witness, you don't know, and then I'd like it to be whatever the record is because my memory may not be perfect, but it was something to the effect of, you don't know whether Mr. Akers really didn't care and wasn't concerned about going to prison because he fulfilled his community service.

(18:58 - 19:03)

I have the exchange right here. Can I look at it? Yes. Thank you.

(19:03 - 19:36)

May I approach? Yes. Thank you, Your Honor. I'd like to mark this for the record, but it states, and I'm reading it accurately, there's no page number on it.

(19:38 - 19:49)

It's the second question on the page. Do you know the status of Mr. Akers having caught up on his probation, all of his probation requirements, in the next month of his life? Answer. I don't know.

(19:50 - 20:13)

So you don't know if he was caught up with his community service? I do not. Question. Do you know if he was caught up with any kind of evaluations or testings or anything else he had to do? His fine payments? Do you know anything about whether or not he was caught up in that next 20 or 32 or 33 days? Answer.

(20:13 - 20:15)

No, sir. It doesn't end there. Question.

(20:15 - 20:22)

No idea? Answer. No idea. Outrageous.

(20:23 - 20:29)

I would never do that. That's a lie. I have been called hyperbole.

(20:29 - 20:33)

I have been called. Well, y'all both stop. Y'all both stop.

(20:33 - 20:36)

I have been called. Both stop. Please.

(20:36 - 20:39)

Please. All right. Please have a seat.

(20:44 - 20:49)

I don't know what to say. Let's continue. I'm going to give you a chance to respond, okay? I know what to say.

(20:50 - 20:58)

I sat here during an opening statement. Ms. Bowles was compared to Bonnie and Clyde and the Sex Pistols. This is not a murder-suicide.

(20:59 - 21:08)

This is not a traveling murderer. No place in this trial. I have sat here and listened to wrong information.

(21:08 - 21:11)

Ms. Bowles is laughing. I asked Mr. Lyle. He's right here.

(21:11 - 21:16)

Raymond Lyle said, I'm sitting right next to her. That never happened. Ever.

(21:17 - 21:23)

The witness said, no, I didn't notice that. I just saw her put her head down. This is over.

(21:25 - 21:27)

I've been called. I'm using hyperbole. I never.

(21:28 - 21:33)

I love this. I love doing it. I'm honored to do this.

(21:34 - 21:41)

I respect this. This is outrageous conduct. It's misconduct.

(21:42 - 21:48)

I know judges who would have said, approach the bench. I'm not criticizing. I know judges who would have said, approach the bench.

(21:49 - 22:02)

Not only did you just open the door, I'm admonishing you in front of the jury. You had no good faith belief to ask any of these questions because you know he's on open probation. You know there's a warrant for him.

(22:02 - 22:20)

You know Mr. Steele was just trying to keep it in. You objected, and I kept it out. And now you are misinforming, misleading, and obstructing justice to this jury by giving them the impression that really maybe he wasn't worried about prison.

(22:22 - 22:26)

We don't know. That's going to be the closing argument. We don't know.

(22:26 - 22:35)

The detective said he doesn't know if he was on probation. He doesn't know all the requirements. So Mr. Steele shows you a text message, but that may not have been his state of mind.

(22:36 - 22:45)

It has to be corrected. The ballgame has changed. I accepted the court's ruling.

(22:45 - 23:11)

The court said it's really his state of mind. Who cares? Who cares if it's really a probation revocation case? Why ask these questions knowing that it's untrue? What lawyer does that? So I'm asking the court, I'm going to – it's certified copies. They come right in.

(23:11 - 23:24)

I'm going to put it into evidence, and I'm going to clear it up with this witness. I'm going to argue in closing argument that that was a sham, just like this whole trial. And I don't know how the trial's even going forward.

(23:24 - 23:36)

I know it's not directed verdict time, but every – there's two lead detectives. They both said they have no idea if Lacey Bowles introduced the gun. I asked both of them open-ended questions.

(23:36 - 23:48)

I don't lead them. I sat here all day as his patient, as to be – I was naked. I let the guy – I asked him about every single issue in this case that he touched.

(23:48 - 24:03)

I played the 9-1-1 recording. There's no evidence here to go to a jury, and the prosecutors know it. This is wrong, and this is an example.

(24:04 - 24:19)

I asked the court to permit the truth to come out. Or if you don't want me to do it, then the court should do it and admonish the prosecutor in front of the jury and say, These questions, ladies and gentlemen, I'm going to read them to you. The prosecutor knew.

(24:20 - 24:37)

He knew when he was asking those questions that his community service was not caught up. That there wasn't caught up on any evaluations or testing or anything else he had to do. His fines were paid.

(24:38 - 24:48)

Anything, whether or not he was caught up the next 30, 20, 32, or 33 days. Where does this come from? So that's my point. I understand.

(24:48 - 25:10)

And I'd like the court to allow me to do it, but if you don't want me to do it, then I'll ask the court to do it in front of the jury because this has to be corrected. This is a misstatement, knowing misstatement of fact. Do me a favor and pass that transcript over to them.

(25:19 - 25:35)

Yes, sir, whenever you're ready. May it please the court, Your Honor, I'm not going to dignify this man or his statements by defending my ethical integrity in this process or this courtroom. If he wants to question that, let's settle it outside by the Christmas tree in front of the courthouse.

(25:36 - 25:54)

That's out of line. Inviting opposing counsel to a fistfight in front of the courthouse is out of line,

and you know that. So is it out of line for him to call me a liar, stating that I have introduced this evidence purposely and willfully to mislead a jury that I'm a liar? Call me a liar in open court.

(25:54 - 25:59)

I don't think you're a liar at all. You've practiced in front of me for a long time. I don't think you're a liar.

(25:59 - 26:06)

But you can't call opposing counsel out to fight in front of the courthouse. I say we settle it on our own. You know what that means.

(26:07 - 26:35)

You know what that means. Judge, how many times have you presided over a probation revocation where every allegation against the person is alleged in the petition, and they come to court on the probation revocation date, and they've caught up? They've done things to improve their position by the time they come to court. Where is there any evidence at all that this man hasn't done that? There's evidence that a probation revocation warrant was issued for this man.

(26:35 - 27:00)

I asked what—oh, and one thing I will point out, isn't it interesting how Mr. Steele paraphrased what was said and got caught flat-footed when your honor actually had a transcript prepared, and it's not at all what Mr. Steele paraphrased it as? Did he fear going back to jail? I didn't ask anything like that. It's not here. It mischaracterizes entirely what I asked, which, thank God, we have a record.

(27:01 - 27:28)

All I said to the detective was, do you know if he did any of his community service, if he tried to become compliant? How is that a lie? How is that something that I know not to be true? I don't know Daniel Akers. I don't know what community service he performed after getting the warrant. Now, this very communication that the defense highlighted says he's talking about taking off work from his job to do the community service, and that was a month before he died.

(27:29 - 27:37)

They want me to do community service, but it's always during the daytime. I'm worried I'll lose my job. Well, I guess I'd rather lose my job than spend four years in jail.

(27:37 - 27:46)

How do we know he wasn't working toward it? That's all I'm asking. And the detective said, I don't

know. But to this opposing counsel, that's a lie.

(27:51 - 28:27)

And how does this lie of questioning, do you know if he ever completed any community service, do you know if he became compliant before he was to go to court, which he would have done and had to do before he was executed? Do you know if he did anything to improve his position before he went to court? No, I don't. How does that open the door to an allegation coming in, which the defense sought to bring in, that he was facing an accusation in cop superior court that was ultimately dismissed completely because he died? That doesn't prove anything. It's just that there was no reverse 404B filed.

(28:27 - 28:47)

This is just a thinly veiled attempt to drag his name through the mud, to impugn the character of a victim who is no longer able to defend himself or his character. That's what this whole package is meant to do. But that's an absolutely permissible question.

(28:47 - 29:03)

Do you know if he did any – what was it? Do you know if he was caught up with his community service? There were other violations on that revocation petition. There were fines, fees that he allegedly didn't do. I'll ask him, do you know if he did any of his community services? Was he caught up? I don't know.

(29:04 - 29:16)

Answer, I don't know. I do not know. Do you know if he was caught up on any kind of evaluations or testing or anything else he had to do? Do you know anything about whether or not he was caught up in the next 20, 30, 32, 33 days? No, sir.

(29:16 - 29:33)

No, I don't know. And that is what I am supposed to do on redirect. He makes a big point, the defense makes a big point, that this man was in the state of mind that he was worried about being revoked on probation.

(29:33 - 29:43)

So I ask the witness, do you know if he got caught up at all? No. How is that a lie? This man, had he lived, could have come in the day of his probation revocation, hey, I've done everything. We don't know.

(29:43 - 29:53)

We don't know what he did after he sent that email to Mr. Sosebee. I'm worried about community service, I procrastinated. We don't know what he did after that.

(29:54 - 30:13)

So it's not a proper, and it certainly shouldn't rise to the level of impugning the dignity and ethical values of another member of the bar. It shouldn't rise to that level, but that seems to be far from the course. May I return this transfer? Yes, sir.

(30:14 - 30:18)

Thank you. All right. Anything else, Mr. Trelawney? No, Your Honor.

(30:18 - 30:22)

Thank you. Okay. And please, Your Honor, yes, there is one other thing.

(30:22 - 30:53)

As you know, I wear my emotions on my sleeve. I take my job and my responsibility seriously, just like this learned counsel and learned colleague, and I apologize for my comment to this attorney and mostly to this honorable court. I do not mean to impugn the dignity of this honorable court, but hopefully the court appreciates the seriousness with which I take this as well as Mr. Steele, and if someone just calls me a liar in open court on the record, it rubs me the wrong way, but I apologize to this court.

(30:54 - 31:06)

Thank you. All right. Well, I don't think any of these lawyers are liars, but I do think the door has been opened, and let me explain to you why I think that.

(31:07 - 31:40)

So the questions were, we've seen them, we've read them. I think what the questions elicit is kind of this impression that maybe during the time period between when whatever those text messages were and the date of death, maybe he was caught up. And so since that possibility has been raised, I think now the defense should be allowed to present evidence that, no, he was not caught up.

(31:44 - 32:02)

So that's number one. The next question is, the door has been opened, so what does that allow the defense to bring in? If the defense wanted to, for example, call in a probation officer, I think that would probably be appropriate. But does that mean that all of those documents, and I haven't even seen them.

(32:02 - 32:09)

You've referenced them a couple times. Does that mean that all comes in now? I'm not so sure. Yes, they all come in.

(32:09 - 32:16)

The detective ran the criminal history. He said he didn't know. That's what his answer is.

(32:16 - 32:22)

He did know. The criminal history does not show that probation was completed at all. It's still an open case.

(32:23 - 32:32)

So I get to use all, they're all certified copies. I get to use the conviction, what he pled to, his drug offenses. I get to use the sentence.

(32:32 - 32:41)

It goes up to 2024, just like the text message said. He then gets arrested in Cobb County. He pleads guilty in Cobb County to new drug felony offenses.

(32:42 - 32:50)

He's then placed on another sentence. He gets revoked in Douglas County. That's why, if you remember the text message, it's my second time.

(32:50 - 33:04)

I'm going to get revoked on the bigger one, the bigger sentence. And then it shows that there's a probation warrant for his arrest for violating probation. So they all come in, and that's what the package is, and every one of them is a certified copy.

(33:05 - 33:11)

All right. Well, let's see your exhibits, and let's let the state see the exhibits, and I guess we'll have to go through them one by one. Okay.

(33:12 - 33:22)

I think it's up at the court floor. And I gave it to the state already. Can I approach? Yes, sir.

(33:22 - 33:45)

Can I approach you? It's Miss Fultz, number 116. Do you not have a copy? No, sir. I'm sorry.

(33:47 - 33:56)

Can I approach? Sure. Okay. This is everything? It should be.

(33:57 - 34:01)

Well, that is everything. Yes, I'm working off a copy now. All right.

(34:03 - 34:15)

So the first document should be State of Georgia versus Mr. Akers. It's the same person. It's an accusation from Douglas County.

(34:15 - 34:37)

The Honorable Judge Emerson, E-M-E-R-S-O-N. Certified on June 11, 2026. The second page of the document should be a felony accusation to sale of marijuana on three different dates, two different dates, and then sale of oxycodone on another date.

(34:37 - 34:46)

These are undercover sales on different dates. Mr. Akers is selling drugs. And there's a witness list on the fourth page.

(34:49 - 35:04)

And then on the fifth page should be his plea. Mr. Akers' plea. If you have the sentence, why do you need the charging documents? It shows what he's talking.

(35:06 - 35:32)

And then, of course, the sentence, as the court just said. And that's also certified at the top center, July 11, 2010 plea, and that's where you get the sentence of total of 15 years to serve three years in prison. Excuse me, five years in prison.

(35:33 - 35:42)

It's a 15 to do five sentence. And that's on July 12, 2010. And he gets credit for the time that he previously served.

(35:42 - 36:02)

The next document should be, that's a two-page document. The next document should be the warrant for arrest of probationer, December 22, 2019, is the notary date. It is dated April 11,

2016.

(36:04 - 36:19)

And this is the arrest warrant for Mr. Akers. It's the same person. It's the same, it's a different case number, I believe.

(36:19 - 36:35)

So let me just make, yeah, it's a different case number. It's a 08CR01049, case number signed by the Honorable Judge Emerson, April 11, 2016, for violating criminal laws. It's general condition one.

(36:35 - 36:44)

He gets arrested in another case. Special conditions is violated. Defendant shall report all arrests for any reason to community service.

(36:44 - 37:05)

Within 48 hours, he did not. He concealed the arrest, and he was arrested for acquiring a license plate for the purpose of concealing, driving without a valid license plate on 3-29-16. That case, then, on the next one is a probation revocation order, also from Douglas County.

(37:05 - 37:29)

It's certified, again, June 11, 2026. And it says in paragraph one that he was sentenced to 15 years to serve five years balanced on probation, and his sentence ends on September 13, 2024, coincides with his text message. And the ex is under committed an offense of, and it's the same offense I just said, in Hiram, Georgia, on March 29, 2016.

(37:30 - 37:48)

In fact, by shoplifting in Hiram, Georgia, on June 16, 2016. He admitted the allegations in the petition. He'd been given credit for the time served that he was in custody, and then there he shall complete a drug and alcohol program on page two, and he's reinstated on probation.

(37:50 - 38:18)

The next document is the pretrial court services. This is now from Cobb County, and this is also certified copy on April 29, April 22, 2026, from Mr. Akers, and it's a petition for bond revocation hearing because he fails to report to his pretrial services officer by phone. We do not need this, so I will remove that one document from the court's consideration.

(38:19 - 38:33)

There's an order to modify his bond, and it requires him a bond modification. I'm not looking to add that either. That's also from Cobb County Superior Court.

(38:34 - 38:49)

The next one is the warrant from Cobb County Superior Court. He is arrested, he being Mr. Akers, is arrested for possession of methamphetamine. This date is the 29th day of August, 2016.

(38:49 - 39:03)

It is signed by the magistrate judge, and he's administered his transfer without waiving any rights. He did not get bond at his initial appearance, and that is a four-page document. I don't need that document.

(39:05 - 39:14)

The next one is an arrest for Mr. Akers. It's a warrant for an arrest for Mr. Akers. It is sworn to on September 28th, 2016.

(39:14 - 39:46)

And this, again, we're back in Douglas County before the Honorable Judge Emerson, and it's going to be the same probation. And he's charged, it alleges that he's charged with violations of the conditions that he violated, which is number one, do not violate criminal laws, and general condition two, avoid all injurious and vicious habits, especially alcohol, intoxication, narcotics, and other dangerous drugs unless prescribed lawfully. It is a certified copy, Your Honor.

(39:46 - 39:59)

The next document is the probation revocation order. And here, it is August 6th, 2018. Also, Douglas County, same case number as we saw earlier.

(39:59 - 40:12)

And this one finds the same sentence, 15 years to serve five years. It goes up to September 13th, 2024. And failure to pay as directed, whereas the defendant has failed to make payments as directed, he owes $863.

(40:12 - 40:22)

His last payment was on 8-19-16. Also committed the offense on 8-29-16. Committed the offense of possession of methamphetamine, a felony in Cobb County.

(40:22 - 40:45)

The next check is he, Mr. Akers, admitted the allegations in the petition to revoke his bond. And there is sufficient evidence his failure and needs to be revoked. And subject, however, to further provisions, he shall serve the remainder of his or her sentence under probation until released from confinement.

(40:45 - 40:57)

So he gets no short time. He's going to do every day of that sentence. And in the second page, what is checked is, in addition, the defendant shall report to Douglas County Probation Supervision in person and it gives a date.

(40:57 - 41:04)

That's signed by the Honorable Judge Emerson. It's also signed by Mr. Akers and his counsel. We move for the admission of that.

(41:05 - 41:20)

The next one is the accusation that he admitted in Douglas County. It's in Cobb County before the Honorable Judge Hill, H-I-L-L. And it charges Mr. Akers with possession of methamphetamine and operating an unregistered vehicle.

(41:20 - 41:39)

And this was while he's on probation on August 29, 2016. It's a two count and it's verified and certified on April 21, 2026. We move for the admission of that because it brings us to another warrant on the 7th day of January, 2020.

(41:40 - 41:56)

Again, before the Honorable Judge Emerson in Douglas County. And this is for Mr. Akers' arrest because he violated general condition number four. He failed to report to the probation officer as directed and permit the probation officer to visit his home or elsewhere.

(41:56 - 42:07)

And he failed to pay monies. That's the allegations. And he talks about he's outstanding more than $1,300 in probation fees.

(42:07 - 42:34)

The next one is Superior Court of Douglas County. And this is administrative closure order whereby on the 12th day, excuse me, 3rd day of February, 2020, Judge Emerson with defense of marijuana, two counts and controlled substance felonies, selling controlled substance. He's deceased December 22, 2019.

(42:35 - 42:42)

That's how the case got closed. That's on February 5, 2020. We would like that to be going in.

(42:43 - 42:56)

And then the next one in Douglas County, which is also January 30, 2020. That's the order dismissing his warrant. And the warrant was taken out on January 7, 2020.

(42:56 - 43:05)

And it was dismissed because he is deceased. And that is asserted by copy as well. That's why.

(43:05 - 43:14)

That's how his probation ended. And then the next one is the no process of the county case. And it's for the same reason, Your Honor.

(43:16 - 43:26)

If you look at it, it states that somewhere on here, it's no process. He passed away. This is going to be on January 23, 2020.

(43:27 - 43:31)

And I'm looking for the reason. And I know I've seen it before, but I don't see it. Oh, yeah, there it is.

(43:31 - 43:39)

It's checkmarked. Under paragraph one, it says other, and it says defendant deceased. And that's what happened in the Cobb County case.

(43:39 - 44:03)

So I would like those documents, except for the documents I mentioned, which is pretrial court services document, criminal arrest warrant in Cobb County, and the warrant for arrest in Douglas County dated October 3, 2016. I would like the other ones to be admitted. All right.

(44:03 - 44:07)

Anything else, Mr. Steele? No. They're all certified copies. And I have them.

(44:07 - 44:21)

I think yours copy may be a continuous copy, but these are all the – they're all certified, but these

are the original certifications that were also taken. So either one is two original copies. I understand.

(44:21 - 44:42)

All right. Mr. Cole, Mr. Treadway? Your Honor, may it please the court? This goes back to my line of questioning with Detective Harvey because the documents sought to be admitted specifically toward the end. The probation revocation petition that was taken out was taken out 7th of January, 2020.

(44:44 - 45:03)

So it appears from the documents that Mr. Steele has produced that there was no active probation revocation warrant at all at the time that the text messages were going back and forth about the lack of community service. It doesn't even appear there was an active warrant at all, if I'm reading it properly. The warrant wasn't even taken out until, unfortunately, after this man had died.

(45:04 - 45:30)

But, again, the fact that the warrant, probation – there was no looming probation revocation warrant over this man. Obviously, he was worried about completing community service end times, and according to this allegation contained in the petition to revoke, he did not complete the community service end time. Or if he did, he wasn't able to show it before his death at the probation office because on January 7th they took a warrant for him.

(45:30 - 45:49)

But this actually supports my line of questioning with Detective Harvey. I know you've ruled on it, but again, giving the court an idea of why I ask those questions, we don't know what he did – or Detective Harvey didn't know by his own testimony. He didn't know what he had done to try to be compliant with probation, and we still don't know.

(45:49 - 46:27)

We know that a warrant was taken on January 7th for his probation revocation, but putting that aside, this type of information just opens up an incredible Pandora's box. For one thing, speaking of people who could be called, let's just say, less than truthful, I see that the arrest out of Cobb County was the principal, in fact, the only witness named on the accusation, Accusation 19-2937, was Colin Robles. Colin Robles was fired in complete disgrace from the Cobb County Police Department for lying under oath about probable cause during his drug searches and drug stops.

(46:28 - 46:49)

He was an undercover special narcotics officer. I've dealt with him in my career many times as an defense attorney, and he was ultimately fired for lying under oath. They had caught him on some kind of audio recording that did not support why he said he had probable cause to search.

(46:49 - 47:08)

I believe he lost his post-certification and has never, to my knowledge, been employed in law enforcement again. So you get into stuff like this when you just carte blanche and let stuff like this come in. I don't have any problem with this warrant for his arrest being entered in for probation violation.

(47:08 - 47:23)

It was taken out after he died. I still think the line of questioning is appropriate, and I don't see if this probation warrant comes in. I still don't see how it's inappropriate to follow up with the detective party if this comes in.

(47:23 - 47:42)

Do you know what he did up to January 7th or December 27th, 2019? Do you know what he did to catch up? How is that improper? I just can't wrap my mind around it. There was not even a revo warrant for it at all. But certainly, you asked it.

(47:42 - 47:50)

The court asked a good question. Why do we need this felony accusation if you have the sentence and the defense responsible? It shows what the charges are. The charges are on the sentence.

(47:50 - 47:57)

They're right there. Count one, count two, count three. Again, it's just surplusage, the pylon.

(48:00 - 48:31)

And then you have a series of revocations that had been alleged and then adjudicated that he did violate probation, and there was an order issue that he violated, and there was sentencing imposed. How is that relevant to what he was facing in the state of mind in December of 2019, revocations that had been adjudicated and disposed of? How is that relevant? Those were matters that occurred in some cases years before his death. I don't see how that's relevant at all to his state of mind in 2019.

(48:35 - 48:42)

But as the court said, I guess the defense can call. They're free to call whatever witnesses they

want. They can get probation officers from Douglas.

(48:43 - 49:20)

Hey, did you supervise this guy? Had he been revoked before? What for? They can call this officer who issued the warrant in 2020 on January 7. A, what had he done by then? And then maybe by then we'll find out that he had made an attempt to catch up with his probation, that he had been sending this lady proof of community service, this Wahita Hill, W-A-U-K-E-T-A Hill, his probation officer at the time of Douglas' crime. Maybe we'll find out that he had caught up, at least some partial compliance. We don't know if he was compliant, hence the question.

(49:20 - 49:34)

But a lot of this is not necessary at all to get to the heart of the matter, which I believe is for the defense. He was concerned about being revoked again. He had been revoked, and he was concerned he could be revoked again.

(49:35 - 49:56)

I think a lot of it can be confusing to the jury. I think it can cause jury confusion when you – probation revocations that Mr. Steele engages in or works in. I work on it twice a month.

(49:57 - 50:16)

Obviously, I think to suggest to the jury that just because you have a probation warrant out for you – actually, he didn't, but one ultimately came on January 7 – to suggest that someone's going to be revoked for the entirety of their probation and do every day of it, that's not reality. That rarely happens. That would rarely occur.

(50:16 - 50:31)

Sometimes it happens, but it would be rare. But to suggest with the exaggeration, he's facing four years, and he knows that he's going to be four years in prison to the day. Look at the other Douglas County order, which is why Mr. Steele brought that up to the court.

(50:31 - 50:48)

He did every day of it. He was told to go back and do every day of it. To suggest things like that to this jury, that Mr. Akers was going to be four years to the day, and that's why he committed suicide, that's just not – that's realistic or reasonable.

(50:48 - 51:03)

But the jury's not going to know that because they're late people, and that's why something like this coming into evidence is really – it can be misleading for late people. Thank you. All right.

(51:03 - 51:12)

Well, I'll try to go through them one by one, so I don't think you need the accusation. I'm sorry. Did I say something else? Go ahead.

(51:12 - 51:22)

Yeah. Okay. I thought you were going to argue further.

(51:22 - 51:25)

No, I was listening to you. Oh, okay. All right.

(51:25 - 51:38)

I have the documents in front of me. All right, so I don't think we need the accusation, so that would be 1, 2, 3, 4, I think the first five pages if I'm keeping up with that right. Then we have a felony sentence.

(51:38 - 51:48)

Is that the sentence for which he is on probation or was on probation? Okay. Okay, so I'm going to admit the sentence. So that comes in.

(51:48 - 51:57)

Then we have a warrant from 2016. I don't really see the relevance of that. That was – he wasn't worried about a past warrant.

(51:57 - 52:12)

He was worried about what's going to happen in the future. Then we have a probation revocation order, which is next, and so he was revoked previously in 2016. I don't see how that goes to the state of mind.

(52:12 - 52:24)

Doesn't it go to the state of – may I speak? Sure. Doesn't it go to the state of mind because he knows in the text message, he knows I'm going to look at going to prison for 2024. He's been before the court before.

(52:26 - 52:53)

That's a pretty good argument, I'll admit it. Then we have a warrant from 2016 and another revocation order. I'll admit – this is the same case? Yeah.

(52:53 - 53:03)

I'll admit the order but not the warrant. Order? I'm sorry, you're on order. I've got two revocation orders that I'm admitting but not the warrant.

(53:05 - 53:32)

I'll hand you my stack of what's being admitted. Then I've got something from Cobb, an accusation from Cobb from April. New criminal charges, right? Yes.

(53:32 - 53:50)

How does that go to his state of mind? I mean, this is why he got revoked. This was the basis of the revocation? This is one of them, yes. He admitted the charges of methamphetamine to the Douglas County Court and got revoked.

(53:50 - 54:05)

Your Honor, he admitted to violating his probation. He didn't admit to the charges. Well, that's – may I address that, Your Honor? I'm going to admit the rest of them.

(54:06 - 54:09)

Okay. So, here's what I'm admitting. It might be easier.

(54:09 - 54:16)

May I press it? Yes, sir. It might be easier to do it that way. If you could please share that with the state.

(54:25 - 54:33)

Mr. Spiel, I'll hand you back. This has an original label on it. These are not being admitted.

(54:33 - 55:30)

So, with the court report, what was not admitted in this poll is number 116, and then what – Yes. – was admitted in this poll is 116, and it was admitted to Lisa? We're just going to have to keep up with all that, so later we don't send something back that shouldn't go back. Your Honor, can I use the transcript, that one page? May I press it? Yes.

(55:31 - 1:01:24)

Thank you. Diane, why don't you tell the jury that we have some unexpected things we have to deal with, and we're starting in five minutes, and then I'll give the lawyers five minutes, and then we'll start, okay? Thank you. Thank you.

(1:03:08 - 1:03:22)

All right, gentlemen, I'll call the jury back in. I think we're all very aware of the time this case has taken. I think we've had a witness on the stand for like a day and a half, and the holidays are coming up, so just do your best.

(1:03:24 - 1:03:31)

All right. Where is the – Is that the one we're using? It is. Certified.

(1:03:32 - 1:03:39)

Certified. That's what the judge said, okay? Whatever the judge said. That's what you got in your hands, the judge said.

(1:03:57 - 1:04:02)

Thank you. Hey, good morning. Good morning.

(1:04:33 - 1:04:40)

Good morning, ladies and gentlemen. So good to see you all this morning. Thank you for waiting while we work through some things we just had to work through.

(1:04:41 - 1:05:10)

Let's resume examination of the witness who is still under oath. Do you remember yesterday the prosecutor asking you questions about Mr. Aker's current sentence that he was on at the time of his death? Yes. And you knew that sentence because you ran his criminal history, his being Mr. Akers, right? Yes.

(1:05:10 - 1:05:22)

You knew he was under sentence from Douglas County? True. I believe so, yes. And it was a 15-year to serve, five years in prison sentence in 2010? I would need to look back at the criminal history.

(1:05:22 - 1:05:42)

Your Honor, I'm going to ask you to make Ms. Bowles exhibit number 116A as an ELISA. May I approach you? Yes, sir. You can look at this document if you need to.

(1:05:43 - 1:06:01)

It's in evidence. And it's several pages. But you will note, do you not, that the sentence imposed by Douglas County is 15 years to serve, five years in prison.

(1:06:01 - 1:06:22)

You see that? I do see that, sir. And that ran from the arrest date of 2009. Do you notice that? I can show it to you.

(1:06:22 - 1:06:24)

Yeah, if you would point it out. I don't see it on here, sir. Okay.

(1:06:25 - 1:06:28)

I'm just going to use this screen. That's okay. May I approach you, Your Honor? Yes, sir.

(1:06:37 - 1:06:54)

Your Honor, can you display Ms. Bowles number 116A as an ELISA? And if you could just, this is Superior Court of Douglas County. It's a neighboring county. Fair? Yes, sir.

(1:06:55 - 1:06:59)

All right. This is a certified document. You recognize that from the courts? Yes.

(1:06:59 - 1:07:17)

And then you see here, which is felony sentence. Can you blow that up, please? Can you blow that up? And it's three counts. You see them here.

(1:07:18 - 1:07:30)

Sale of marijuana, sale of marijuana, sale of controlled substance drugs. You see that? I see it. And that's the sentence.

(1:07:30 - 1:07:42)

It was a guilty plea by Mr. Akers, right? Yes. His name is up here. Can you just pull it down a little bit, please, sir? You see that? Daniel Leage, the same person we're talking about, right? Yes, sir.

(1:07:42 - 1:08:03)

All right. And then in felony sentence, the Honorable Court in Douglas County gave a sentence of 10 years on each, on count 1 and 2, and 15 years on count 3. All counts run concurrently. Credit for the time served from December 6, 2009 to July 12, 2010.

(1:08:04 - 1:08:11)

You got that? That's what the paper says, sir. All right. And then it gets, upon the service of 5

years in prison, the remainder on probation.

(1:08:11 - 1:08:31)

That's where you get the 15 to do 5, right? That's what it says. And the 5 years in prison, the 10 years in follows probation. And if you use the 15 years from the date of 12-6-2009 and add 15 years to it, you get 12-5-2024, right? Yes, sir.

(1:08:31 - 1:08:46)

All right. And then if you go to the next page, 116A is an ELISA. This is the special conditions of probation.

(1:08:46 - 1:08:56)

The jurors will have this out with them. I'm not going to go over it, but it's signed by the Honorable Judge Emerson. If you just pull it up, July 12, 2010, and that shows the credit for time served.

(1:08:56 - 1:09:05)

Mr. Akers was in custody until July 12, 2010, and then he has to serve the 5-year sentence, right? Correct. All right. Next number, please.

(1:09:10 - 1:09:28)

This shows that on or about September 20, 2016, so it's a couple years later, Mr. Akers is again before the Douglas County Superior Court, and he gets revoked on probation. You know what that term means, right? Yes, sir. So probation is like a privilege of the court in serving a sentence out of the penitentiary.

(1:09:28 - 1:09:37)

I'm familiar with what probation is. And probation is like a tether around a person's neck. If they don't do what they're supposed to do as ordered by the court, they could be revoked and go to prison.

(1:09:37 - 1:09:49)

True. That is correct. And here is a probation revocation, and it's the same sentence, 15 years to serve five bouts of probation, which ends, and this has it ending September 13, 2024, right? That's what the paper says.

(1:09:50 - 1:09:58)

Just like Mr. Akers' text message the jurors saw, he was concerned about going to prison until 2024. Remember that? I do. All right.

(1:09:59 - 1:10:25)

And he gets revoked on probation. We can go to – if you just scroll up a little bit, if you don't mind. He committed other offenses, including driving while license suspended in Hyrum, Georgia, concealing identification, and theft by shoplifting on two different days, March of 2016 and June 2016, and he admits to the allegations.

(1:10:25 - 1:10:35)

Mr. Akers admitted to committing these crimes, right? That is what it reads. All right. And he gets revoked, and that's the bottom of the – he gets revoked, and he's back on probation.

(1:10:37 - 1:10:39)

True. That's what the paperwork says. All right.

(1:10:40 - 1:10:54)

Next. This is just the second page of that order revoking probation, and it's signed here, Judge Emerson, September 26, 2016. And he is – he has to complete a drug and alcohol evaluation.

(1:10:55 - 1:11:09)

Any treatment is necessary, and he's reinstated on probation with all the original concerns and effects and conditions, and he has to report to the probation officer. Fair? Yes. All right.

(1:11:09 - 1:11:24)

Next page. This is a different – this is August 6, 2018. This is also from Douglas County, also against Mr. Akers, another probation revocation order.

(1:11:24 - 1:11:39)

It's the same sentence we're talking about, the 15 years since her five years in prison from September 13, 2024. And if you scroll up a little bit. And here Mr. Akers failed to pay his directive.

(1:11:39 - 1:11:48)

He owes about $863. Do you see that? I see that, sir. And he committed the offense on – I think that's August 29, 2016.

(1:11:48 - 1:12:03)

He possessed methamphetamine in Cobb County. Do you see that? I see that. And he – Mr. Akers admitted the allegations contained in the petition, meaning he admitted that he didn't pay

the money, and he admitted that he was possessing methamphetamine.

(1:12:03 - 1:12:07)

True. That's what it reads, sir. And then the judge revoked it.

(1:12:07 - 1:12:10)

Judge Emerson again. Yes. Okay.

(1:12:10 - 1:12:23)

If you could just scroll up. And it gives you all the dates. And then after serving time in prison, he could serve the remainder of time on probation, and his probation is going to go the whole way, it says.

(1:12:24 - 1:12:26)

True. That's what it says, sir. All right.

(1:12:26 - 1:12:54)

Next page. And here's just more conditions, and the judge put on an addition – another condition report to Douglas County Probation Office in person on August 13, 2018. It gives the time, and that's the 6th day of August 2018 revocation order.

(1:12:54 - 1:12:56)

Fair. That's what it reads, sir. All right.

(1:12:56 - 1:13:01)

Next. And you showed Mr. Akers' signature at the bottom of that. I did.

(1:13:01 - 1:13:08)

Okay. This is the accusation. It's a charging document.

(1:13:08 - 1:13:26)

You're familiar with that, I'm assuming? Yes. And this is by the district attorney's office in Cobb County, so another neighborhood county, right? Yes. And this is possession of methamphetamine and operating an unregistered vehicle, and it's the state of Georgia.

(1:13:26 - 1:13:33)

If you just pull down a little bit. And it's state of Georgia. Down a – yeah.

(1:13:35 - 1:13:41)

This is the accusation. This is the warrant, and it's state of Georgia v. Mr. Akers, same person you're dealing with. Fair? Yes.

(1:13:42 - 1:13:52)

And it's charged by then-district attorney, the Honorable District Attorney Holmes. She was the former Cobb County elected district attorney or appointed district attorney. I'm familiar, yes.

(1:13:52 - 1:14:12)

Okay. Next. And here are the two counts that the district attorney charged, and it's Mr. Akers charging again with possession of methamphetamine, and it's now the 29th day of August, 2016, and then the second count of operating an unregistered vehicle.

(1:14:13 - 1:14:15)

Right? Yes, sir. Okay. Next page.

(1:14:18 - 1:14:36)

Please. And this is, again, Douglas County, and it's another arrest for Mr. Akers, an arrest warrant for Mr. Akers, and it shows his address, and it's the same address that you came out to in March 5th, 2020. Right.

(1:14:37 - 1:15:12)

That's correct. And it gives his weight and height here, and that he has to answer to the following violations of his probation again, which is a report to the probation officer is directed and permit the probation officer to visit him as a home, pay monies, and he's charged with new offenses and willful disregard of the court order. Charged with, excuse me, violation of these conditions, willful disregard of the court order, and then at the bottom of it, if you go, that again is by the probation officer, Probation Officer Hill.

(1:15:12 - 1:15:22)

It's now the 7th day of January, 2020. He's already deceased, right? Yes. And it's signed by the Honorable Judge Emerson, right? Yes.

(1:15:22 - 1:15:39)

Okay. Next. And because Mr. Akers is deceased, this is February 5th, 2020, Douglas County gets wind of it, and they dismiss his revocation here, his revocation petition.

(1:15:39 - 1:15:47)

You see that? I see it. And that's the 3rd day of February, 2020. Obviously, Mr. Akers is deceased, tragically, on December 22, 2019.

(1:15:48 - 1:15:53)

That is correct. So the case vanishes. It's moot, M-O-O-T, right? Correct.

(1:15:53 - 1:16:17)

And then the same thing with Kaufkang. Do you have any more? Next page. And this is Douglas County, and then they're dismissing the probation warrant, meaning they're not going to go after Mr. Akers for violating his probation for a 3rd time, right? That's what agrees he's deceased.

(1:16:18 - 1:16:30)

And it says here, if you go down, due to the fact the defendant, that's Mr. Akers, being deceased as of December 22, 2019. That's what the jurors are trying, right? Yes. All right.

(1:16:32 - 1:16:47)

Next. This is Cobb County, and they're dismissing their case also because Mr. Akers, it's called the defendant, says deceased. Do you see that? I see that, sir.

(1:16:47 - 1:16:58)

Okay. And this case goes away, too, because he's not here to be prosecuted, right? That's correct. And that's the last page from Cobb County.

(1:16:58 - 1:17:21)

It just shows January 23, 2020. So that's about a month and a day after Mr. Akers is no longer with us, right? Correct. So when the prosecutor asked you yesterday whether you knew if Mr. Akers was caught up with his probation requirements, do you remember that, those questions? Yes, sir.

(1:17:22 - 1:17:42)

And it included community service, any evaluations, any testing, any fines. Do you know whether Mr. Akers caught up in the next 20 or 32 or 33 days? Your answer was you have no idea, right? That's correct. We have these documents showing that he was on active probation at the time of his death.

(1:17:42 - 1:17:46)

True. Yes. No doubt about it, right? I'm seeing those documents for the first time today.

(1:17:47 - 1:17:55)

That's fine. They're available to you, though, if you wanted to see them in March 5, 2020, right? Yes. They're all in the clerk's office.

(1:17:55 - 1:18:01)

Correct. Two different counties you'd have to go to, right? Correct. And you had his criminal history run, right? I did.

(1:18:01 - 1:18:10)

You knew his date of birth, and you knew he was on probation and arrested for the meth infatuation, right? Yes. Yeah. But you didn't do that, did you? I didn't go and get those paperwork, no.

(1:18:11 - 1:18:32)

But when the prosecutor asked you, do you have any evidence that he fulfilled his requirements of probation, actually, the text message that Mr. Akers wrote said he was concerned about going to prison for four years. I say four years because 2024 is the very end of 2019, right? Yes, sir. Yeah.

(1:18:32 - 1:18:43)

That's a heavy weight on somebody, right? That's an opinion. Prison for four days is a disaster. Would you agree with that? I've never had to serve prison time, so I don't know.

(1:18:44 - 1:19:06)

Is it a prison? Yes. Do you think it's a comfortable place? No. When the prosecutor asked you yesterday on redirect examination, did you ever hear Ms. Bowles say on the 9-1-1 recording, help Dan, help Dan? Remember those questions? Yes.

(1:19:07 - 1:19:16)

And it was always help me, help me, right? Correct. The 9-1-1 recording was played for the jury a couple of times with you. I did.

(1:19:16 - 1:19:31)

Right? Yes, sir. And it starts out with the 9-1-1 operator, if you don't remember, just say you've heard it, saying at 35 seconds, what are you calling to report to Ms. Bowles? And she's saying, help me, please, help me, please. Do you remember that? I do.

(1:19:32 - 1:19:41)

And then the 9-1-1 operator at 39 seconds said, what are you calling to report? And Ms. Bowles said, my husband just shot himself. Oh, my God. Oh, my God.

(1:19:41 - 1:19:45)

My husband just shot himself. Oh, my God. Remember that? I do.

(1:19:46 - 1:20:08)

She makes it clear to everybody she's calling on behalf of her husband to get help, right? Correct. Okay. I want to talk to you about Lacey Bowles not having tattoos on her right arm.

(1:20:09 - 1:20:18)

To your knowledge, she doesn't have tattoos on her right arm, right? I don't know for sure, sir. Well, okay. She has tattoos on one of her hands, right? Yes.

(1:20:18 - 1:20:43)

Okay. And regardless of the tattoo or the timing, you know that photograph we put up that you did not recognize when you were in her home on March 5, 2020, right? That's correct. But when I saw it or somebody saw it, but when I was asking you questions, I specifically wanted you to see if you, you know, give you an opportunity to correct because you don't want to mislead the jury, right? Yes, and I believe I answered that.

(1:20:43 - 1:20:50)

You said you missed it, right? You made a mistake. Yes, I have answered that several times. But am I correct? Yes.

(1:20:50 - 1:20:58)

And you missed the photograph not because they're young. You just, it wasn't intentional. You just missed it.

(1:20:58 - 1:21:04)

You could have asked somebody, is this Dan Akers, right? I mean, you could have said, I'm not sure. They look young. Yes, sir.

(1:21:04 - 1:21:12)

I missed it. Right. But then you tell the jurors with the prosecutor that there are no other

photographs of Daniel Akers displayed.

(1:21:12 - 1:21:28)

Not that I can recall, sir. That, again, is on your word, right? Yes. Where are the other pictures that are up in the house so the jurors can see whether Daniel Akers photographs are there? The other pictures of the residents? There should be in the case file.

(1:21:28 - 1:21:39)

Well, you bring them to us and show us the pictures of the family and whether Dan Akers in other photographs, okay? There should be in evidence, sir. Okay. Well, if you find any, bring them up.

(1:21:39 - 1:21:56)

I will. Okay. And then how many photographs of Dan Akers was there in the family home on December 22, 2019? Was that a question, sir? Yeah.

(1:21:57 - 1:22:03)

The only one I know of is the one you pointed out. On December 20— Oh, I'm sorry, sir. I didn't hear the date.

(1:22:03 - 1:22:22)

On December 22, 2019, the date that this man, God forbid, either took his life or was shot by Lacey Bowles, how many photographs of him were up in the house? I never responded to the scene, sir, so I can't answer that. Yeah, and we have no photographs of that dude. No.

(1:22:24 - 1:22:51)

Why does it matter that you see photographs of Dan Akers anyway, even though you missed it? Why does it matter to what happened in that room on December 22, 2019, whether he was taking his own life? Are you asking my opinion? I'm just asking you what evidentiary value does that have to December 22, 2019 in that room? I think it's more of an opinion question, sir. Well, I don't want your opinion. I want evidence.

(1:22:51 - 1:23:09)

I don't have any evidence. The clothing the prosecutor asked you about on redirect that was thrown into a corner, he made it sound like. I don't know if it was thrown in place there.

(1:23:10 - 1:23:25)

You already said you have no—you know what clothing I'm talking about, the war clothing? Yes, the safety vest, the construction vest, and the jacket. You already made it clear you have no idea

who put those items there or when they even got there. Yes, I believe I answered you on that yesterday.

(1:23:25 - 1:23:37)

But am I correct? I've already answered that to you yesterday. Okay, I'm asking you today after redirect. It was asked on redirect I'd like to go to.

(1:23:45 - 1:24:15)

How is those clothing—does it have any blood on it, those clothing? I don't see any in the photographs, sir. What evidence—not a key—what evidence is there that that clothing was involved in any way on December 22, 2019? There is none either way. The keys the prosecutor held up is an Ingalls card, right? Do you remember that? I do remember that.

(1:24:16 - 1:24:42)

What's behind the Ingalls card? It doesn't appear to be anything. I can't see it. This is Miss Fulton's number 88.

(1:24:43 - 1:25:22)

It should be an evidence that it's not. Or I'll move this in evidence, okay? I think it's in there, right? Yes, we're going to approach you. May I approach you? Yes, sir, go ahead.

(1:25:22 - 1:25:39)

I just marked it, Miss Fulton's 88. It might be it, but it's the same photograph you just talked about, right? Yes. And look, what is behind the Ingalls card, or is there something behind the Ingalls card? Sir, I don't believe there's anything behind the Ingalls card.

(1:25:39 - 1:25:57)

If you notice, and I'm sure you have these keych—thob things or these little key tags, sometimes the edges get messed up. It looks like it's the same card, and then the edge may be kind of frayed. Does it have a green and red color to it? All I see is an Ingalls card, sir.

(1:25:58 - 1:26:11)

Okay. All right. If we had the keys, though, we wouldn't be guessing which keys were on them.

Is that true? That's correct, sir. And you didn't collect the keys, or your co-workers, right? I did not. Or your co-workers.

(1:26:11 - 1:26:25)

I was not there. Am I correct? Yes, the keys were not collected. Also, on December 22, 2019, the keys of Mr. Akers that are laying in the room—I really don't know whose keys they are, but they're laying near his head.

(1:26:25 - 1:26:42)

You remember those keys? I do. Again, not collected, right? Correct. Who put the safe key on those keys that were in Ms. Bowles' purse on May 5, 2020? I have no idea, sir.

(1:26:42 - 1:26:58)

How many times did Ms. Bowles ever touch that key to the safe? I have no clue, sir. As of March 5, 2020? I have no idea, sir. Okay.

(1:27:01 - 1:27:26)

You said, with the District Attorney on redirect examination, that you were told by the GBI that they could not do DNA—the GBI scientists. I'm not talking about the investigative agents of law enforcement, but the GBI scientists—that they could not test the gun for DNA. Do you remember saying that? Yes.

(1:27:26 - 1:27:55)

Where in your report—anywhere, in any report—does it say that the GBI contacted anyone and said they could not do that test? I believe it's in the—not in a written report, but it's in a GBI submission report where they replied back— Stating? That they would not be testing it. Not be testing it does not mean they can't test it. Where is it that you got a call? You got—whatever you said on— I don't recall, sir.

(1:27:55 - 1:29:11)

Do you know it's not in your report? Yes, it's not in my report. Okay. You said to the prosecutor on redirect examination that you testified, pursuant to his question, that there are no other text messages written by Mr. Akers showing that things like what I introduced— He's going to bury himself in Lacey and make the kids go to foster care.

He was depressed and lonely. He had inner turmoil. He was upset that people would look at him because he can't support the family.

(1:29:11 - 1:29:45)

Remember I showed you something from Halloween and then November and December of 2019? Remember those? Yes, sir, and I answered you yesterday. Well, I didn't ask you. It was the prosecutor who said, are there any others? That was the prosecutor, and you said there are

no others.

Remember? No, you did put it up on the screen, and you asked me, and I said—it was right before the end of the day, and I said I missed that text. Well, in order to miss it means you had to read all the texts. I was asking you yesterday about text messages.

I was just asking every question. I was open to you. Yes, sir.

(1:29:45 - 1:29:51)

I didn't leave you. I just asked you, what about this? What about this? I did it all day long. Yes, sir.

(1:29:51 - 1:30:20)

Because I was showing the jurors. However long it took, I'm naked. I'm here to answer and learn everything just like they are.

Right? Yes, sir. How do you know that there are not other text messages if you didn't read all these text messages? I don't believe there's any. Just because you don't believe it? Yes, sir.

(1:30:25 - 1:31:08)

Have you ever written a text like any of the three that we just discussed? You're going to bury somebody and make the kid's boss sicker? Have you ever written that? Is there any objection or relevance to what this witness has written in this text? Is that relevant? I think so. Well, did you read the text message that Mr. Aker sent about being concerned with being drug tested to go to the airport jail? Yes, we read it in court, too. Not this one.

(1:31:11 - 1:31:49)

May I have one moment, Your Honor? Yes, sir. May I have just one moment, Your Honor? One second, Your Honor. I will get a hard copy, Your Honor, but I'm just going to use an electronic copy just for the time, if that's okay.

(1:31:50 - 1:32:41)

I'm going to show you an electronic version, and we'll print it out later when the court's finished. Your Honor, I'm approaching, and it will be Ms. Foles' number 142. May I have the press, Your Honor? Yes, sir.

(1:32:45 - 1:33:44)

All right, so 142 will be the number. Thank you so much. Can you dim the lights, Your Honor? Sure.

(1:33:45 - 1:35:05)

Thank you. This will be printed out, but just for timing, can you make it bigger, Ms. Foles? Thank you. I'm just going to read it.

Can you see it on your screen, too? I can see it, sir. This is from Mr. Akers to Chris, correct? Yes. And it's dated about nine days before Mr. Akers has gotten to go to dine.

Is that true? That's correct. December 13, 2019 at 639 in the morning. And Mr. Akers wrote to Chris, have you been badged for the airport before? True? Yes.

(1:35:06 - 1:35:17)

And we know it because it said Dan Akers, but it's a 5462 number in the front, right? Yes. And the response is in blue. True? That's correct.

(1:35:18 - 1:35:46)

And this is now from Chris, the 1301 number to Mr. Akers, a 5462 number. You see that? I do. And it's about a minute later.

It's at 640 a.m. on the same day. And it says, no problem. Where? With the Papiardi family.

And no, I and H never would let me come out there. Why? True. True.

(1:35:47 - 1:36:03)

All right. Mr. Akers responded, we know that because it's the 5462 number to Chris 85. And this is about two minutes later.

(1:36:03 - 1:36:15)

It's at 642 a.m. on the same day, December 13, 2019. Right? That's correct. And Mr. Akers wrote, just wondering about the process because I smoked a little while ago.

(1:36:15 - 1:36:25)

And if I may need to worry about a test, I should be good, but you never know. Excuse me. You never can tell.

(1:36:25 - 1:37:12)

That's what Mr. Akers wrote, right? That's correct. And then Chris responded in blue. Chris is the 1301 to Mr. Akers, a 5462 number.

Fair? Yes. And it's about a minute later. It's at 643 a.m. on the same day, December 13, 2019.

Right? Yes. And now Chris is writing, strap up. IDK.

Do you know what IDK stands for? If you would explain it, sir. You ever hear, I don't know? Yes, that sounds right. So it says, strap up.

I don't know if they watch you. Right? Correct. Talking about a drug test in this, at the airport? That's what it sounds like.

(1:37:13 - 1:37:38)

And you already testified yesterday that when you have to take drug tests, there's no faucet in the bathroom, nobody watching you. Right? Correct. And here, Chris tells Mr. Akers, I don't know if they watch you.

Right? That's correct. Meaning the employer watching Mr. Akers, whether he's coming out of his body or not. That's what it reads.

(1:37:38 - 1:38:06)

And then on the bottom, Mr. Akers responds, again, 11 days, 9 days before his death. And it's a minute later, 644 a.m., December 13, 2019. And Mr. Akers writes to Chris, this is 5462, the 1301 number, I hear you.

Fair? It's fair. And that's the entirety of this text conversation that we have. Right.

(1:38:07 - 1:38:28)

That's what you provided, yes. And you never came across that when you were telling Dr. – I mean, Lacey Bowles, on March 5, 2020, that Mr. Akers has passed all of his drug tests for work. Can you repeat that question? Yeah.

(1:38:28 - 1:38:50)

March 5, 2020, interrogation of Lacey Bowles. Do you remember her saying he was concerned about a drug test, and you say, oh, no. He passed all his drug tests at work.

Do you remember that, Collin? I do. And this is from Mr. Akers' phone, which was not broken into or unlocked at that time. So, no, I did not see that text message when I told her that.

(1:38:50 - 1:39:10)

Okay. Thank you. So this corrects your understanding of the facts of the case.

Fair? I'm seeing this for the first time, so I did not see that text message when I interviewed Ms. Bowles on March 5. Thank you, Your Honor. Mr. Shady. Thank you, Your Honor.

(1:39:10 - 1:39:26)

Please record. This line of text messages here, can you read it up? I'm sorry. What's the date on that? Detective? I believe it's December 13, 2019.

(1:39:28 - 1:39:51)

So about a week or so before Mr. Akers' death, would you agree to that? I would. Does this possibly indicate to you that Mr. Akers had another job at the airport that he might have been transitioning on to? It does. So he asked, and Chris, he said, he's got Chris that says, hey, we're family.

(1:39:52 - 1:40:03)

Do you know Daniel had a brother-in-law named Chris? Yes. Daniel got there in the sheet metal area in the construction area? Yes, I believe. I can't remember his last name, but I believe I did an interview with him.

(1:40:04 - 1:40:19)

Possibly Chris Berg? Yes. Okay. Do you see anything in these text messages with Chris Berg about it? Do you see Mr. Akers talking about the photo of him losing his job? Do you see anything there? No.

(1:40:21 - 1:40:39)

I'm worried I'm not going to have a job. Do you see anything in this text chain on that? No. Do you have any indication that, did you have it on March 5th, or do you have it now? Do you have any evidence that Mr. Akers failed drug tests in his work? No.

(1:40:43 - 1:41:05)

I want to just go to one more quick area if I can have the probation revocation warrants for me. Let me know which exhibit is this. Please put this exhibit up, please.

(1:41:11 - 1:41:29)

This will be one of the pages. Let me just point it out specifically. 1, 2, 3, 4, 5, 6, 7, 8. The pages of defendants 116A is in alpha are not marked.

(1:41:29 - 1:41:35)

This should be page 10 of 116A, like alpha. Approach the present counsel, please. Yes, sir.

(1:41:37 - 1:41:54)

Thank you. Can you just put that up here real quick, sir? So I'm going to put this up there. You said you recognize this as being a petition or warrant to revoke somebody's probation, right? Yes, it says warrant for arrest of probationary.

(1:41:54 - 1:42:17)

Can you go to the top, Mr. Investigator Burke? Just put it up that way. I can see the bottom. So you do see, what is the date where Douglas County Probation sought to, when did they file this warrant to try to revoke his probation? There's two different dates.

(1:42:17 - 1:42:24)

One says it's issued on January 7th, 2020. The other one was it's notarized January 6th. Okay.

(1:42:25 - 1:42:45)

Go up to the top, if you will, Investigator Burke. All right. So do you have any indication that Mr. Akers knew? How could he have known that this revocation was going to be entered on January 7th when it wasn't a lot? Do you have any indication he knew this? No.

(1:42:45 - 1:43:17)

Do you have any indication that he may have some other probation revocation warrant that was floating out there over his head on December 22nd, 2019? No. And if you go down to the allegations of the violation of probation, go up just a little bit here. It says that it's alleged that he violated the following conditions of probation, failure to pay monies, failure to allow the probation officer to visit your home, and then it goes in to say, you know, I tried to reach him a letter and all this stuff.

(1:43:17 - 1:43:22)

I did a field visit. He wasn't there. Right? Correct.

(1:43:23 - 1:43:41)

Do you see anything about on this document where they're trying to revoke his probation starting January 7th? Do you see anything about him not doing community service? No. Okay. So do you know between that email we saw yesterday, that text yesterday, I'm worried about doing my community service.

(1:43:42 - 1:44:00)

I'm worried about getting revoked. Do you know if he had done any community service between that text and when this petition was taken out? I do not. Do you know any of the other efforts he may have taken to catch up on this stuff he was supposed to do from that text to that? And I'm

talking about the text with Mr. Eason at RF Knox.

(1:44:00 - 1:44:14)

Remember that? I do remember that. So that was, what, 22 days or so before his death? Correct. Do you have any idea what measures he may have taken to satisfy some of these terms and conditions of probation? I do not.

(1:44:15 - 1:44:45)

Okay. I wanted to just cover one more thing that was asked yesterday toward the end of the day, sir, and this will be my last question to you. Do you remember me asking you if you heard on the 911 tape, I just asked you if you possibly heard the defendant say, I took it down there now.

(1:44:45 - 1:44:58)

Do you remember that? I do remember that. And then on recross examination, Mr. Steele showed you a synopsis of what you had written as far as what you heard originally when you wrote your report. Do you remember that? I do.

(1:44:58 - 1:45:15)

And you wrote, I took it down there. Is that right? Yes. And then Mr. Steele, do you remember him asking you or trying to get you to agree that that was nothing like what I asked you if you heard? I do.

(1:45:15 - 1:45:30)

Nothing like what I asked you if you heard? Yes, sir. Did you write in your report when you were listening to it, I took it down there? Yes. Spoken by this, was that spoken by this defendant before you in your report? That's what it sounded to me on the 911.

(1:45:31 - 1:45:33)

Okay. I don't have anything further. Thank you, sir.

(1:45:34 - 1:45:40)

Any messages? Just briefly. May I approach? Yes, sir. Showing you your report, may I approach you? Yes, sir.

(1:45:55 - 1:46:04)

Thankfully, this evidence is memorialized and captured, the 911 recording, right? Yes. So the jurors can determine. They don't need you to interpret, right? Correct.

(1:46:04 - 1:46:21)

But it doesn't say in your report the word there, does it? No, it doesn't. So the three questions you just asked, I took it down there, that's just not there, is it? No. It just says, I took it down, the next line is, I tried to get it out of his hand or whatever was said, right? Correct.

(1:46:22 - 1:46:29)

Thank you, Your Honor. I do apologize, Detective. I misspoke.

(1:46:29 - 1:46:39)

Does it say, I took it down? Yes. And then I ask you, I'm just clarifying, did I ask you if it sounded like possibly I took it down there, ma'am? Yes. Do you remember me asking that? I did ask, yes.

(1:46:39 - 1:46:47)

So I added those two words. Yes. What you wrote, am I right, is that I took it down, and that's all you heard when you listened to it when you wrote the report? Yes.

(1:46:47 - 1:46:53)

If the jury will be able to listen to it in that realm, would you agree with that? I agree. Okay, thank you. That's all I had to say.

(1:46:54 - 1:47:02)

All right, sir, you can be excused. Ladies and gentlemen, before we call another witness, would anybody like to work? Yes. All right.

(1:47:02 - 2:00:33)

Thank you. Good morning, sir. Welcome.

(2:00:33 - 2:00:37)

How are you, sir? I'm very good. Thank you for asking. I'm going to swear you in, okay? Yes.

(2:00:37 - 2:00:48)

Will you please raise your hand? Do you swear or affirm the testimony you're about to give in the matter before the court will be the truth, the whole truth, nothing but the truth, so help me God? I do, sir. Thank you so much. Have a seat and use the microphone, please.

(2:00:52 - 2:01:00)

Good morning, sir. Can you tell us your name, please? Mark Parker. Mark with a K? Yes.

(2:01:00 - 2:01:09)

And Parker with a regular spell? Correct. All right, sir. Tell the jury please how you were employed in December of 2019, please.

(2:01:11 - 2:01:21)

Well, I worked for the Baldwin County Sheriff's Office. I've been working there, I don't know, 20 years. I was in the crime scene unit, ran the crime scene unit.

(2:01:22 - 2:01:30)

When did you start with Baldwin County? In July of 1995. 1995. Did you start as a patrol? Yes, sir.

(2:01:30 - 2:01:45)

Five years in patrol. In January of 2000, I started the crime scene unit and stayed in that position for the next 20 years until I retired. Were you a post-certified law enforcement officer during your time at Baldwin County? Yes, sir.

(2:01:45 - 2:02:05)

Do you have any prior law enforcement experience before Baldwin County? Yes, sir. 1978 to 1989, I lived in Birmingham, Alabama, and I was employed by the Birmingham Police Department as a patrolman for 11 years. Were you a sworn law enforcement officer in Birmingham having arrest powers at that time? Yes, sir.

(2:02:05 - 2:02:26)

So if I can take you then to, you say you started the crime scene unit or the crime scene division in Baldwin County. Tell the jury why you phrased it like that. What do you mean by, what do you mean by you started? Well, in patrol, the Sheriff's Office itself didn't have a person that handled the crime scene.

(2:02:27 - 2:02:53)

Obviously, over time, things were busy. I had already had experience in Birmingham, not necessarily in crime scene, but I just knew how things were. And so I answered a call one night with the sheriff, Bruce Harris, and after we got done with the call, I asked him, I said, Sheriff, I would like to start a crime scene unit, and he was all for it.

(2:02:53 - 2:03:11)

He said, you do what you need to do. You get the training you need to do, and I'll sign off on anything. And so they brought in, eventually brought in, well, I got the training, but about the time that everything was getting ready to start up, they brought in a trailer, which I created in my office.

(2:03:12 - 2:03:20)

I did test out there. It was just my boat, my office. It was out back of the former Sheriff's Office.

(2:03:21 - 2:03:32)

Not here, but... Oh, Ron, for real? Yes, sir. Okay. Did you have assistance, or were you... For the first seven years, I was by myself, very busy.

(2:03:36 - 2:03:49)

After seven years, they let me, well, they hired, got someone else to help me, and he eventually, well, I don't remember how long he stayed. I would say probably seven or eight years. I'm going to object to relevance.

(2:03:51 - 2:04:00)

I think his background in law enforcement is knowledge about the subject matter, which is just not a terrible point to testify in this room. You can go a little bit. Let's go a little bit.

(2:04:00 - 2:04:04)

I'm going to go a little bit. Okay. So, yeah, they eventually got some help out there.

(2:04:04 - 2:04:09)

Yes, sir. Did you stay with crime scene unit until your retirement, or did you... Yes, sir. Yes, sir.

(2:04:09 - 2:04:13)

I was promoted to lieutenant. That's just what I did. Okay.

(2:04:14 - 2:04:36)

And when did you leave the Sheriff's Office retirement service? Retired on paper in the last, let's see, May of 2020, and I continued working for six to seven months until January of 21. And the first week of January, I hung it up. I was done.

(2:04:37 - 2:04:44)

And is it fair to say you're out of law enforcement now? Yes, sir. Okay. So let me take you, sir, to March 5th of 2020.

(2:04:45 - 2:04:59)

Yes, sir. You talked about continuing your retirement or your plans to retire, but were you still employed as a crime scene analyst, crime scene technician on March 5th, 2012? Yes, sir. With Paulding County? Yes.

(2:05:00 - 2:05:23)

Did you have an opportunity at all to accompany a detective named Nick Hart in the execution of a search warrant in Paulding County on that day? Yes, sir. And do you remember the address being 83 Gray Mill Court? Yes, sir. Do you know how many people, if any, went out there with you to do the search warrant execution? I believe there were two deputies, one or two deputies, patrol deputies.

(2:05:25 - 2:05:33)

Let's see, it was me. I want to say five other people. Okay.

(2:05:35 - 2:05:39)

Is Detective Hart included in that? Yes. Is he there? Yes. All right, sir.

(2:05:39 - 2:06:06)

Did you get the sense, sir, that he's kind of the lead detective on the case? Well, I had already been, although I don't remember it, I had already, I had been briefed, we had been briefed that morning. I didn't know the day before that I was going to go on a search, or that I was needed on a search warrant. So, in my mind, sometime that morning, before we went, he briefed me and or us, or the other detectives.

(2:06:06 - 2:06:26)

Detective Hart briefed you? Yes. All right, sir. And can you tell the jury just, if you went out there to that residence, what was your role? He's the lead detective, and what was your role? My role, from what I gather, my role was, and again, I go back to, I don't remember the conversation.

(2:06:26 - 2:06:36)

In other words, I'm meeting you to do this. But, based on what I did, he wanted me to look for blood. He being Detective Hart? Yes.

(2:06:36 - 2:06:55)

Did you have an idea, and I mean, I'm not asking you what Detective Hart told you seven years ago, but did you remember any specific item you were actually looking for? Any items or items

that you were looking for? Well, I remember about a safe and a holster. Okay. May I approach the witness, please? Yes, sir.

(2:06:55 - 2:07:05)

Thank you, Your Honor. May I assure you, sir, it was a marked and interdicted evidence, it's defense 197. Do you remember this from out there at all? Do you recognize this? Yes, sir.

(2:07:05 - 2:07:26)

And I don't want to block you from the jury, but do you remember coming across this item at that residence during your search? At the time, yes. Okay. Do you remember, I'll try not to, let's see, there's a glove there, I'll just grab it with that.

(2:07:26 - 2:07:41)

Do you remember coming across state's exhibit number 198 around, during your search, sir? Remember that? Yes, sir. Okay. So 197, is that the safe that you encountered? Is that the safe? Yes, sir.

(2:07:42 - 2:07:50)

Yes. And is that 198, what is that? It's a holster. Does that look like the one that you encountered at the scene that day? That I remember, yes.

(2:07:50 - 2:08:07)

All right. Do you remember where you encountered the safe, sir? Well, it was brought down to me in a basement bedroom. That's where I was.

(2:08:07 - 2:08:20)

Oh, you were setting up in the basement? Yes. Okay. Was it open or closed when it was brought down to you? It would have been open.

(2:08:21 - 2:08:33)

Open? All right. And tell the jury, please, do you know what a substance called Blue Star is? Yes. Can you tell the jury? It is a – it's basically a presumptive blood test.

(2:08:34 - 2:09:12)

It doesn't – it doesn't – it isn't specific to tell you whether blood is human or animal, but when – well, with Blue Star, you spray Blue Star on something that you suspect blood to be on. And I'll go back to people cleaning up crime scenes to hide blood, but there's always going to be blood left over no matter if they washed something that had blood on it or if they cleaned it up. Chances are

there's still going to be parts of blood there or a part of blood.

(2:09:12 - 2:09:22)

All right. Now, I watch – sometimes these crime shows, Forensic Files is the one I watch, and they talk about something called Luminol. Are you familiar with that? Luminol is pre-Blue Star.

(2:09:22 - 2:09:29)

Okay, so Blue Star is more modern? Yes. Yeah, because I think all the Forensic Files were back in the 90s. Yes.

(2:09:29 - 2:09:35)

Did you used to use Luminol? I have. I've seen it used, yes. I may have used it one or two times.

(2:09:36 - 2:09:49)

When you say you spray Blue Star, is it basically the same as Luminol, but it has a few different – Yes. It has a few different things. It's – it reacts different – well, when I say differently, it reacts more intense.

(2:09:49 - 2:10:20)

You see a bluish glow. You spray the Blue Star on something you suspect blood to be on, and if blood's there, you will see on – within one to two seconds, a flash of blue, and it's real intense, real bright. And then over a period of seconds or 30 seconds or so, it's starting to dissipate, and obviously the intensity of the glow eventually goes away.

(2:10:21 - 2:10:27)

Totally away? Yes. All right. Now, you say you spray it, so I want to make an assumption.

(2:10:27 - 2:10:45)

Is it in some kind of a little bottle? Yes. Yes, it's – of course, it's – you – the sprayer – it's more – it's a mist. It's not – it doesn't shoot – well, it does shoot straight out, but it's not like a stream.

(2:10:45 - 2:10:54)

It's a mist. In other words, you – yes, you don't want to saturate what you're spraying with the chemical. You just spray it.

(2:10:54 - 2:11:02)

It's kind of like a spritz. Every time I see my wife spritzing something on her, you know, that's

what I think of. Go back to Blue Star.

(2:11:03 - 2:11:22)

In a sense, yes. Have you been trained how to use Blue Star and how to recognize blood evidence on it when you're using Blue Star? Yes. Have you used it before March 5th of 2021? Any times? I've used it some.

(2:11:22 - 2:11:31)

I won't say a lot. I've been around the GBI some, not a lot. There's times that they were called out to pauling.

(2:11:33 - 2:11:49)

Whenever the GBI was called out for a crime scene or to work or a homicide or whatever, me or one of the other people would be with their technician. And so I accompanied Augie Murphy, who always came. That was his name.

(2:11:50 - 2:12:03)

He was a GBI crime scene tech. Every time he came out and he was using Blue Star and or Illuminol, you know, I or somebody was with him. So you've seen it.

(2:12:04 - 2:12:07)

Have you seen it applied before? Yes, many times. Yes. Yes.

(2:12:08 - 2:12:31)

And just tell the jury if you spray something, if you spray Blue Star on something that's been had contact with blood, what exactly happens? Do you have to dim the lights or use a black light? Well, with Blue Star, you don't have to dim the lights. You can use it in a room that has partial sunshine coming in. Obviously, the darker the room, the better.

(2:12:31 - 2:12:47)

With Illuminol, you have to have a totally dark scene. Any time GBI came out and used Illuminol, we would always have to wait until nighttime. I can remember several instances where we had to do that.

(2:12:48 - 2:13:12)

With Blue Star, you don't have to have a totally dark room, and that's one of its benefits, why it was developed, because you didn't have to use it in total darkness. Did you apply, sir, Blue Star to this safe? Yes, I did. Do you know where? All exterior sides.

(2:13:13 - 2:13:25)

All sides? Yes, sir. Can you tell the jury what your findings were or what the reaction was of the chemical when you applied Blue Star? I didn't have a reaction. There was no reaction when I sprayed that safe.

(2:13:27 - 2:13:39)

Did you spray the keypad, the little punch number area of the keypad? I'm sure I would have. And what was the reaction? The same. None? Correct, none.

(2:13:45 - 2:13:56)

Did you spray State's Exhibit 198, this holster, did you spray this? I did. In the basement there where it was brought to you? Yes. Okay.

(2:13:56 - 2:14:22)

Do you know where you sprayed it? I sprayed it all, but it would be like two times because I had it sitting down and I spritzed it, and then I would have to turn it over and spritz it again. Of course, obviously, one time I had a reaction, but it wasn't a very intense reaction. It was a dim.

(2:14:25 - 2:14:41)

The color was, I would say, whitish green. It was more of a dim reaction, and it flashed, and then it went away. Is that a positive blood reaction based on your knowledge of the product? Well, I waited one or two minutes.

(2:14:42 - 2:14:50)

I did it again, and I got no reaction. So to me, that tells me that it wasn't blood. It was reacting.

(2:14:50 - 2:14:54)

It was a false positive. It was reacting to something else. It was just there.

(2:14:55 - 2:15:17)

Such as? What could have caused it to react to something else? Cleaning fluid. How large was the little part that reacted on that hole? Well, it was just a flash. I mean, I can't say it was a small part or the whole vein.

(2:15:17 - 2:15:28)

I don't remember that. I just remember seeing it started glowing. Of course, it kind of caught me

off guard, and then it went away.

(2:15:29 - 2:15:43)

Could you say it glowed white or green? Well, whitish green. I mean, that was just what I remember. And what is the color for a presumptive positive blood? Well, a blue star, it turns blue.

(2:15:43 - 2:15:48)

The reaction is blue. It just kind of blooms. It's a fluoresce.

(2:15:49 - 2:16:16)

It fluoresces, and it's just a bloom. You know, it really catches your attention, and then over a period of 30 to 45 seconds or whatever, it's dissipating and going away. Did you see that same type of reaction with this top of white, green, that it stayed and dissipated? Well, it didn't stay, but it dissipated over probably five to ten seconds, I would say.

(2:16:17 - 2:16:35)

Do you have any reason to believe, based on your training knowledge and experience, that that was any kind of blood, the blue-greenish spot? In my mind, it was not. Did you say you sprayed it again after the blue-greenish spot came up? Well, the greenish-white. I'm sorry, the greenish-white spot.

(2:16:35 - 2:16:43)

Yes, sir. And what did you find on your second spray? Well, nothing. There was no reaction whatsoever.

(2:16:44 - 2:16:55)

Okay. Was there a greenish-white this time? Objection, answer not answered. I'm sorry.

If I did, I'm sorry. I'll move on. Yes, sir.

(2:16:56 - 2:17:27)

So, do you have an opinion, based on your training knowledge and experience, about whether there was blood on the holster? In my opinion, there was not blood on the holster. What about the second? No. Good morning, sir.

(2:17:27 - 2:17:33)

How are you, sir? I'll let you know. I have a couple of questions for you, if I can. Yes, sir.

(2:17:34 - 2:17:50)

Now, when you concentrated yourself in the lower basement bedroom, that's what you called it, correct? Yes, sir. And have you seen photographs, by any chance? I have. Okay.

So, you're a memory eye. I know it was known seven years ago, almost. Yes, sir.

(2:17:50 - 2:17:54)

You try to refresh your memory as best you can. Yes, sir. Fair to say? Fair to say.

(2:17:54 - 2:18:06)

If you need to see anything, just let us know. Yes, sir. Was your work being video recorded? As far as the spraying or what? Yeah.

(2:18:06 - 2:18:19)

Is that what you're referring to? Yeah, your work. At that time, no. Well, at any time? Well, when I originally arrived on the scene, the first thing that I did was did a walk-through video.

(2:18:19 - 2:18:37)

In other words, I had a camcorder, and I started on the outside and walked in, walked through the house, video recording. Perfect. And did you continue, or one of your teammates, continue that video recording while you were doing the Blue Star testing? No, sir.

(2:18:38 - 2:18:45)

So the jurors could actually see what you saw? No, sir. You didn't do that? No, sir. Photographs at the time of you spraying? No, sir.

(2:18:46 - 2:18:52)

So we have your work? Yes, sir. Seven years ago? Seven years ago. But you wrote a report? I did.

(2:18:52 - 2:18:57)

Okay. And that report is really the only memorialization. God bless you.

(2:18:57 - 2:19:12)

That report is really the only memorialization of what you did that day. Fair to say? That's correct, sir. And you did the report on the same day, I believe, as you were at the house? No, I believe I wrote the report.

(2:19:13 - 2:19:19)

That was on a Thursday. I believe it was Monday that I wrote the report. Okay.

(2:19:20 - 2:19:25)

All right, so not the same day. To the best of my knowledge, yes. Okay.

(2:19:26 - 2:19:49)

I want to ask you some questions. You mentioned somebody who's trying to obstruct. So if I get killed and somebody unjustifiably kills me and they want to clean up my blood that's coming out of my body, they may rip off the carpeting, they may use cleaner or whatever to get out the stains.

(2:19:50 - 2:20:02)

Yes, sir. You've seen that before, right? I have. But the blue star may be used and its reagent may form the blue color or some color.

(2:20:02 - 2:20:11)

There may be some reaction if you go to that area, even though people try to use chlorox or whatever to clean it up. I would say so. Even in bleach, right? I would believe so, yes.

(2:20:11 - 2:20:36)

All right. And in this case, when you came onto the house in what we call the basement bedroom area when you were working, do you have any windows in there? Windows in that room? Yes. And did you have a lighting? There was a lighting.

(2:20:37 - 2:20:43)

It was raining outside. I know it was overcast raining. There was light coming through the window.

(2:20:43 - 2:21:05)

I want to say a sheet or a curtain or something over the window. If it had been open, if the sheet or curtain had been open, I would have closed it because obviously I wanted it to be darker in there if possible. If not, I could still continue if that answers your question.

(2:21:06 - 2:21:17)

I think, sir, but also electrical lighting, like the sound recorder has in here. Well, I don't remember, to be perfectly honest with you. We believe you're perfectly honest around here, so you don't have to say that.

(2:21:17 - 2:21:21)

Yes. We got you. All right, so the lighting in the room, you just don't remember.

(2:21:21 - 2:21:25)

Whether I cut the light off, I don't. Yes, I don't. I don't remember.

(2:21:25 - 2:21:27)

Right. It could have been on, it could have been off. You don't remember.

(2:21:28 - 2:21:40)

Correct. Okay. Now, did you see the photographs from the tragedy that occurred December 22, 2019? So about 60 days before this.

(2:21:41 - 2:21:50)

No. You weren't putting into photos where there was blood or... I could have if I wanted to, but I didn't. Okay.

(2:21:51 - 2:22:01)

I'm not saying for any specific reason I didn't, I just... That's fine. But you did test other areas, not just the safe and the holster that we're talking about. We'll come back to that.

(2:22:01 - 2:22:06)

But you tested other areas in that room. I tested one other area. Tell the jurors.

(2:22:06 - 2:22:26)

It was a approximately five-foot wall to the left of the door that you walk in the bedroom. When I first went down into the bedroom, I noticed some stains on the wall. Not necessarily that they look like blood, but it just kind of caught my attention.

(2:22:26 - 2:22:43)

So when I started spraying with the Blue Star, that was the very first thing that I sprayed. And there was no reaction whatsoever. I'm going to, just in the interest of time, with the court's permission, give Mr. Lal some exhibits, and then you can show the jurors the wall, if that's okay.

(2:22:43 - 2:22:48)

Yes, sir. You remember the wall? I do. Then I'll give you the exhibit.

(2:22:52 - 2:23:44)

May I have one moment in front of the door? Sir, I'll give you one moment. Yes, sir. I'm going to ask Mr. Lal just to look through these for us.

(2:23:44 - 2:23:48)

And then, of course, you will look through these. Yes, sir. And I will continue to ask you some questions.

(2:23:48 - 2:24:23)

Is it okay if I just look through them? Your Honor, can I just take the exhibits and Mr. Lal? Yes. Okay. Did anybody tell you, besides your observation that, hey, there's a stain on the wall and I'm going to spray it, did anyone tell you where there was blood, potential blood, on December 22, 2019? No.

(2:24:23 - 2:24:35)

No one bothered to do that? Okay. And when you did spray that wall, and we'll just show it to you, and then you'll, with the Court's permission, show it to the jurors just so they know where you sprayed, obviously you said no reaction. Correct.

(2:24:36 - 2:24:59)

And I know that you said earlier, and I appreciate it, that even if somebody, if I got murdered and somebody tried to clean up, it may not be enough, but sometimes the blood does just go away. Well, I would assume, yes, you wash something enough times, it's eventually going to be gone. Or scrubbed or whatever.

(2:24:59 - 2:25:14)

Right, correct. Okay. With regards to the safe, it is obvious to me you did not see that safe in the upstairs master's bedroom.

(2:25:14 - 2:25:28)

I did not. And somebody brought it to you in the same room you're talking about with the cloudy day, rainy day, with the sheet, with the sun coming in, possibly lights, possibly no lights. Correct, correct.

(2:25:28 - 2:25:39)

And when you sprayed the safe, clearly you did not get a reaction, right? That's correct. And that could mean that there was never any blood on the safe. I would assume that, yes.

(2:25:39 - 2:25:47)

Or it could mean that there was blood at some time, but it wore off, it got rubbed off, it's not there anymore. True. True.

(2:25:48 - 2:26:07)

Okay. Now I want to go to the camouflage holster, which I think is, you saw it. With that holster, the fact that you're spraying the Blue Star, now that's a presumptive test, right? Correct.

(2:26:07 - 2:26:28)

And presumptive means it's not something that we should rely upon in a courtroom, but it gives us a clue whether we should go further with the testing. Is that true? That's correct. And I heard you say that Blue Star is different from Luminol, and I'm just asking you.

(2:26:28 - 2:26:31)

Yes, sir. I respect you and I'm not trying to challenge you. Sure.

(2:26:32 - 2:26:50)

But did you know that Blue Star is simply a trademarked name of a Luminol same reaction agent? Were you aware of that? No, I can't say specifically that I was. They have the same exact ingredients or compounds. Okay.

(2:26:50 - 2:26:54)

Do you know that? No. And it's fine. One's called Luminol, one's called Blue Star.

(2:26:54 - 2:27:29)

Okay. But whatever you call it, the bottom line is if you observe blood or suspected blood, I don't want to make a mistake, suspected blood with your eye, that's called visible blood or patent blood, right? Yes. And if it's not visible to the eye, that's what the Luminol, or I'm going to use Blue Star, that's what it can help our eyes to see, and then we can test it further potentially, and that's called invisible blood or latent blood, right? Latent blood, yes.

(2:27:29 - 2:27:40)

L-A-T-E-N-T. Yes, sir. Versus patent, which means it's visible to the eye, P-A-T-E-N-T, right? Invisible to the naked eye.

(2:27:40 - 2:27:45)

That would be, but patent is visible and latent is invisible. Correct. All right.

(2:27:45 - 2:28:14)

Now, when you're using the Blue Star, did it have any requirement? There's different kits. If you're familiar and if you're not familiar, just say, you know, I'm wrong or it's not your experience. Was it the liquid Blue Star, no sprays and mists, or did you have to mix the two tablets? Do you remember? I think I had to mix the two tablets.

(2:28:15 - 2:28:30)

Okay. And you already discussed the lighting conditions, and bottom line is you don't want to mistake it. You know how important a courtroom is to get accurate information, right? Can you repeat? I don't understand.

(2:28:30 - 2:28:35)

You know how important it is to try to get the accurate information in a courtroom. Well, certainly, yes. Because we don't guess.

(2:28:36 - 2:28:42)

So you don't want to talk about the lighting. You're just not sure. We already covered that, right? Yes, that's fair to say.

(2:28:42 - 2:29:00)

All right. Now, when you said that you sprayed the item one time and it came up with the white and green color? Yeah, it was a – that's what I saw, different than the blue. All right.

(2:29:01 - 2:29:11)

And then you said you waited about a minute or two. Were you timing it? Do you have anything in your notes to say how long you really waited? No, no. It was just best guesstimate.

(2:29:12 - 2:29:33)

I remember not doing it right away again because I didn't want to saturate it with the liquid. What happens then? Well, I don't specifically know what happens, but it's in the directions. It's in the manual not to saturate.

(2:29:38 - 2:29:53)

In other words, you don't want to continue to spray. Spray one time, let it kind of in the mist in there, and let it fall down on the – or the wall. To me, that's what I get from the directions.

(2:29:53 - 2:30:06)

If that makes sense. I think so. Can you just – let's just focus on the – we can come to the wall if you want, but let's just go with the holster, the camouflage item.

(2:30:07 - 2:30:13)

How many times – just explain how much mist you put on, how many pumps. Was it a pump? I assume it's a pump. Yes, sir.

(2:30:13 - 2:30:29)

Well, with the holster, I would have held it up one time, and it would have spritzed out and fallen down onto the – One time? Yes, sir. Yeah, that first time, yes. And then, of course, I'd do the other side.

(2:30:30 - 2:30:41)

I mean, I can't tell you which side had the low-intensity glow to it because I don't remember. I just know there was one side that did. It wasn't the whole thing.

(2:30:41 - 2:30:50)

It was just like – let's just say this side. Or I could have spritzed this side, and there was no reaction. Turn it over because I want to spritz the other side.

(2:30:50 - 2:31:03)

Do that, and then I got the reaction. Wait one or two minutes later, best guesstimate in my head, and spritz it again and didn't get a reaction the second time. And – go ahead.

(2:31:03 - 2:31:12)

No, that's – I just want to make sure I explain myself. And you're spritzing this in the same area because it's a small item. You're just flipping it over with your hand? Pretty much, yes, yes.

(2:31:13 - 2:31:25)

And the spritz would be whatever the hole allows the mist to come out. You're talking about one or two sprays? Yeah, just because it's not like a large area that I have to do. It's just – you know, it's a small oyster.

(2:31:26 - 2:31:33)

How many pumps did we talk about? One or two? Three? I don't know. I'm asking. And if you don't remember, just say it.

(2:31:33 - 2:31:35)

I don't remember. All right. All right.

(2:31:37 - 2:31:40)

But clearly, you got a reaction. I understand. Yes.

(2:31:40 - 2:31:47)

It was not the spray Blue Star. No, it's not what you say with Blue Star. It's not what I noticed.

(2:31:47 - 2:31:52)

Something reacted. Yes. Did you ever have that – when I say you, I'm not referring to you.

(2:31:52 - 2:32:01)

I'm referring to the team. Did you ever have that holster then taken to, let's say, the GBI crime lab for an official blood test? Well, I didn't. Okay.

(2:32:01 - 2:32:06)

I don't know if it was. That was my next question. All right.

(2:32:08 - 2:32:19)

Based upon that limited reaction, if there was blood there, it was not a lot of blood. Is that fair to say? It was not a lot of blood. Is that what you said? Yeah, I'm asking if there was blood there.

(2:32:19 - 2:32:25)

That would be fair to say, yes. Because it doesn't get that huge impact of the bright blue. Correct.

(2:32:26 - 2:32:39)

Okay. With regards to the lighting condition on the second spring, I'm assuming it's just the same lighting. Just the same, yes.

(2:32:39 - 2:32:42)

Nothing changed? Nothing changed. You didn't go out of the room? Yes. All right.

(2:32:43 - 2:32:56)

Okay. Have you ever taught anything with Luminol or Blue Star? No. Okay.

(2:32:56 - 2:33:02)

You just learned. It sounds like you're self-motivating. You really picked this up yourself.

(2:33:03 - 2:33:36)

Well, sometime between, I'll say, 2003 and 2005, I believe the company or someone, it could have been through the GBI for all I know, but there was a class held in Kennesaw, Marietta area. And to me, it was more of a, this is new, this is what we have, this is a new thing that you need to come see sort of thing. And so I signed up and went to it.

(2:33:36 - 2:33:54)

And it was like a half-day session of get to know Blue Star, that sort of thing. And that was in 1991? Just, I'm going to say between 2002, 2003 up to, let's just say 2005. Okay.

(2:33:54 - 2:34:02)

Because it was a new product. All right. Mr. Lau pulled out some photographs.

(2:34:09 - 2:34:39)

And may I give back all these? May I approach you, sir? Yes, sir. I don't know if these are helpful, and that's not a comment on this lab, but just tell me if these are helpful where you sprayed the wall. If that orients you at all.

(2:34:46 - 2:34:59)

And you can just pull out the ones that helpful, or if they're not helpful, just put them to the other side. And all I want to show is your best memory of where you sprayed the mist. On the wall.

(2:34:59 - 2:35:52)

If that's something you could help us with. Any of them are what I remember. Nothing? No.

(2:35:53 - 2:36:09)

All right. Let me just go back to then the Blue Star and just ask a few questions. Are you aware that the chemical, the Blue Star chemical reacts with iron, iron, iron? Yes, sir.

(2:36:09 - 2:36:20)

I've read that. Okay. And do you know what the, you know, it's Fe2? You know what I'm talking about? No, not really.

(2:36:20 - 2:36:22)

Okay. That's fine. That's fine.

(2:36:22 - 2:36:24)

In the blood. That's fine. I'm going to move on.

(2:36:26 - 2:36:52)

Anyway, when this mist hits it, it interacts with, are you aware of any red blood cells that may be there? Is that true? And if it's not, just add it. Well, I've also read that red blood cells being hemoglobin, if that's the same thing. I've read an article that says it reacted with the iron and read another article that said it reacted with the hemoglobin.

(2:36:53 - 2:37:13)

Okay. And can you tell the jurors if there's very thin blood, what happens when there's retesting of the same area? Do you know? Well, if you apply it too much, it would dilute, dilute whatever blood specimen was there. It eats it up.

(2:37:14 - 2:37:19)

The chemical eats up the blood. If there was blood there. If you say eat up, I don't know that word.

(2:37:19 - 2:37:22)

It eats it up. To me, it's just saturated. It just saturates it.

(2:37:23 - 2:37:33)

And it doesn't react. Yes. Now, you told, everything you just told the jurors, you told that to, do you remember who Detective Hardy is? Yes.

(2:37:33 - 2:37:42)

You told him about your work on this case for the Illuminol. Sure. I mean, the blue star, right? I told him about my work.

(2:37:42 - 2:37:49)

Yeah, you gave him a report. You did something somehow to communicate to him. You didn't keep this a secret.

(2:37:49 - 2:38:14)

I'm sure I would have. I mean, it's not, yes, no, I didn't keep it a secret. And you would have made sure, just like you put in your report, that there was at first a, and I'm just going to refer to your report, the camera cloth you would have reported to him, the gun case? Yes.

(2:38:15 - 2:38:19)

Initially showed a very faint reaction. Correct. You would have told him that, right? I did.

(2:38:20 - 2:38:25)

Or I would have, yes. I mean, you're not going to hide it from anybody. You would never hide it from anybody.

(2:38:26 - 2:38:28)

No. It's important. Nothing to hide.

(2:38:28 - 2:38:31)

That's my job. Exactly. Thank you.

(2:38:31 - 2:38:33)

Thank you, sir. No, thank you. Thank you, Your Honor.

(2:38:34 - 2:38:58)

If there is a positive reaction to a report, is that hard to see using a blue star? Is that hard to see? No, you get that intense bloom of fluorescence. I mean, you can't not see it. Did you see it here at that house? No, I did not.

(2:39:00 - 2:39:27)

You said, I think, did you say earlier that sometimes a cleaning agent can give a false positive or greenish-white alert or whatever you want to call it? Yes. Do you remember, you said, do you remember going through the house, kind of videotaping everything? Yes. Did you videotape a bathroom off of the primary bedroom, master bedroom? I'm sure I did.

(2:39:28 - 2:39:39)

Do you remember seeing a bottle of cleaner right there? No, I can't specifically say I did. Or I don't remember, let's put it that way. Nothing further.

(2:39:39 - 2:39:41)

Thank you. Nothing, Your Honor. All right.

(2:39:41 - 2:43:24)

Thank you, sir. Thanks. Appreciate it, Mike.

(2:43:24 - 2:43:52)

inside of the home before searching for items listed within the search warrant. As a part of the search warrant, I was able to locate a gun safe, as well as a key which opens it. Now how did you locate the gun safe? How did you go about finding where the gun safe was? Through just a search of the home, sir.

(2:43:53 - 2:44:09)

Going through the home. I'm sure you would have preached in Denmark where the name of the place was stated, number 197. Is this the gun safe that you found, sir? Looks like it.

(2:44:12 - 2:44:35)

And then, you said you found the key to the gun safe. How did you go about finding the key to the gun safe? It was located on a key chain. And do you recall where that key chain had been located? I don't recall where the key chain itself was located, sir.

(2:44:35 - 2:44:57)

Do you know whose key chain it was? It was identified as Ms. Lacey Bowles' key chain. Did you attempt to open the gun safe at that point? Yes, sir. The key seemed consistent with that of a gun safe.

(2:44:57 - 2:45:08)

It was tried on the safe, and it did open the safe. And did you watch that key open the safe? Yes, sir. And this was the key that was on the key chain of Ms. Bowles? Yes, sir.

(2:45:09 - 2:45:25)

Okay. Did you see Ms. Bowles there that day? Yes, sir. And do you see her in this courtroom today? Sir, I don't recognize her if she is in here.

(2:45:25 - 2:45:57)

All right, sir. And then when you opened the safe, what, if anything, did you observe in the safe of interest to you? In the safe was a holster that was listed in the search warrant. And what, if anything, did you do with that holster? It was photographed in place and then subsequently tested by the crime scene unit.

(2:45:59 - 2:46:08)

And, Officer, I assume you would have previously been marked for identification as State's Exhibit Number 198A. And I ask you if you recognize this. Yes, that looks like the holster.

(2:46:10 - 2:46:46)

And is that the holster that was at least taken into evidence, sir? I'm sorry, you trailed off, sir. Was that the holster that was eventually taken into evidence? Yes, sir. Detective, good morning.

(2:46:46 - 2:46:49)

Good morning, sir. How are you? I'm well, thank you. How are you doing? I'm well.

(2:46:49 - 2:46:55)

Good. Detective, my name is Raymond Lael. Along with Mr. Steele, I'm representing Ms. Bowles in this case.

(2:46:55 - 2:47:06)

Just a few questions for you. You made a report with regard to this case, a written report. Am I correct? Yes, sir.

(2:47:06 - 2:47:22)

Did you just make the one report with regard to this case? I have a few supplementals in regards to this case, sir. Okay. But with regard to what you're testifying to about going to the residence and filming and everything, there's just one report with regard to that, correct? Correct.

(2:47:23 - 2:47:27)

Okay. And it's a typewritten report. Are you reading from that report? Yes, sir.

(2:47:27 - 2:47:30)

Let's make sure we have the same report, if I may. Sure. Absolutely.

(2:47:34 - 2:47:53)

Is this the report? Looks like it. Okay. Very good.

Thank you. Yes, sir. I want to make sure there's not another report, so there's no other handwritten report or anything else.

(2:47:53 - 2:48:05)

This is the report. That's the report. Very good.

Thank you. And, of course, you do your report close in time to when you do an investigation because you need to have it to be accurate, correct? Correct. Because you might be testifying

years later, like in this case.

(2:48:06 - 2:48:07)

Correct. Okay. All right.

(2:48:11 - 2:48:38)

So with regard to the key that you testified to earlier, you don't know how long that key had been on the key chain that it was found on, correct? No, sir. I wouldn't know that. And you also don't know how – if that key chain was joined with another key chain at some point.

(2:48:39 - 2:48:58)

You wouldn't know that, would you? I wouldn't know that. So did you actually video the residence when you got there, or did you assist with the video of the residence? No, sir. I did not video, nor did I assist with the video.

(2:48:58 - 2:49:08)

I was there during the walkthrough when the crime scene unit was doing their video and photography. Okay. And so somebody else was videoing the scene, correct? Correct.

(2:49:08 - 2:49:24)

But there was a video camera there, correct? Correct. Okay. So were you present in the basement when the other detective was doing the test, the luminal test, on the safe? Yes, sir.

(2:49:25 - 2:49:31)

And the gun holster? Yes, sir. Okay. So that was done in the basement of the house, if you recall.

(2:49:31 - 2:49:35)

I really don't. I do apologize of the location where it was tested. I don't recall.

(2:49:35 - 2:49:55)

Okay. And so nobody asked you to video that test, did they? Not that I recall, no, sir. Okay.

If they had asked you to video the test and they had the camera, you would have done it, right? It would have been notated in my report had I made any kind of video myself. That wasn't generally my job. That's what the crime scene was for.

(2:49:56 - 2:50:01)

Of course. But if you're there and someone had asked you to do it, you would have done it, right?

No, sir. Not generally.

(2:50:01 - 2:50:11)

Okay. I can't say that I did. No, I'm not saying that you did.

I'm just asking you. If someone had asked you, hey, do you mind videoing while we do this, you would have done that, right? Sure. Okay.

(2:50:23 - 2:50:46)

Let me just have a moment, Judge. Thank you. That was seven years ago.

Do you remember that it was actually Ms. Bowles that walked y'all upstairs and actually showed you where the safe was in the closet up there? Do you remember that? I don't. I'm sorry. Okay.

She could have done that. You just don't remember. Correct.

(2:50:46 - 2:50:56)

Okay. Thank you, sir. Thank you, sir.

(2:51:02 - 2:51:20)

Officer Dixon, were you present when Lieutenant Parker actually sprayed the safe to try to determine if there was a reaction with the blue star? I was there, yes, sir. Did you watch him spray the whole safe at the time? I don't remember. I do apologize.

(2:51:20 - 2:51:31)

Okay. What about the holster? Were you present when he sprayed this holster? I was on scene. I don't know if I was in that room when he sprayed the holster.

(2:51:31 - 2:51:33)

All right. So that's all the questions I have. Thank you.

(2:51:35 - 2:51:37)

Sir, you can be excused. Thank you very much. Thank you, sir.

(2:51:41 - 2:51:46)

How are y'all holding up? Good. All right. Do you have another witness? Yes, sir.

(2:51:47 - 2:53:11)

State calls. Good morning, sir. Good morning.

(2:53:11 - 2:53:20)

Let me swear you in. Please raise your right hand and receive the note. Do you swear or affirm the testimony you're about to give in the matter pertaining before the court to be the truth, the whole truth, nothing but the truth, so help you God? Yes.

(2:53:21 - 2:53:28)

Please have a seat. Good morning, sir. If you could state your name for the jury, please.

(2:53:29 - 2:53:40)

Aristides Passas, A-R-I-S-T-I-D-E-S. Last name Passas, P-A-S-S-A-S. How are you employed now, sir? I'm an attorney.

(2:53:41 - 2:54:04)

With? One Trust. Private company? Private company. Okay.

At some point in your career, sir, did you work with the Georgia Bureau of Investigations? I did. I was with the GBI for about ten years, five of those years as a forensic toxicologist, and then five of those years as an attorney. You sought your law degree while still employed at the GBI? Yes, sir.

(2:54:04 - 2:54:19)

Okay. Can you tell the jury, please, the nature of your education that prepared you to be a forensic toxicologist at the GBI? So I have an undergraduate degree in chemistry. That's about four years.

(2:54:19 - 2:55:09)

I have a master's degree in forensic toxicology, and once I have completed all my educational training at the GBI, they give you about a six-month to one-year training there, which includes reviewing peer-reviewed journal articles, hands-on testing, instruction from other lead analysts there so that you can get a great foundation as you move forward towards your independent casework in forensic toxicology, and they kind of split it into two. The first half of the training is blood alcohol, so you're learning everything about the blood alcohol side, and the second half is the rest of the typical drugs that we see at the GBI. Have you had your work peer-reviewed at the GBI? Yes.

(2:55:09 - 2:55:45)

Can you tell the jury briefly what that means? So just to kind of explain what the peer-review process is, typically, as in the scientific field, peer-review is when you're going to produce or publish a journal article. Other scientists will review that journal article for accuracy or any issues that they might see prior to it being published. So we review those articles, but at the GBI, what we're kind of referring to when we say peer-review is that any report that's put out by a toxicologist, in this case or by myself, will also be reviewed by another scientist.

(2:55:46 - 2:56:01)

They'll review all the raw data, all the images, and come to their own independent conclusion as to what they believe the results should be. Then they'll compare it back to what I've written on my report to ensure that everything lines up. So there's kind of two ways to define peer-review, but at the GBI, that's how we define it.

(2:56:01 - 2:56:20)

Have you prepared toxicology reports as a forensic toxicologist at the GBI before, in your career? Approximately how many? Over 500. And how long – I know you were – you took kind of a dual role at the GBI. At some point, you were an attorney there, right? Yes.

(2:56:20 - 2:56:34)

Okay, but while you were a scientist there, not saying you stopped being a scientist, but when you were doing the active evaluations, what period – how many years was that? That was about five years. Five years. Is that fair to say you're in a laboratory every day, basically? Yeah.

(2:56:35 - 2:56:48)

So the way it works is about half the time, you'll be in the lab performing what we call extractions, which is the process of pulling drugs out of the samples that we get. Most of the time, it's blood. So you'll be in the lab performing those extractions.

(2:56:48 - 2:57:07)

Then the other half of the time, you'll be working on paperwork, producing your reports, reviewing data, those kinds of things. Did you ever publish any articles on the subject matter of forensic toxicology? Yes, I did publish one article during my undergrad. It was my thesis.

(2:57:09 - 2:57:38)

I don't recall the specific title, but it had to deal with desorption, electrospray, ionization, mass spectrometry. It's a long word, but it was – it dealed to do with forensics. Is it required in your field at the time you were a scientist, or not that you're not a scientist anymore, but are you still a scientist, but when you're working in the laboratory of the GBI at that time, is it required for you to

continue annual education, right? Continuing education every year.

(2:57:39 - 2:57:50)

Yes, yeah. At the GBI, you had to complete continuing education or training annually, and that was given through the GBI, done by trained scientists and those kinds of things. Yes.

(2:57:50 - 2:58:01)

Did you ever attend conferences in the area of forensic toxicology? I did not. Did you serve as a peer reviewer? You said you were more of a peer reviewer. Did you ever peer review? I did.

(2:58:04 - 2:58:10)

Many times, a few times? Yeah, I mean, over 200. Over 200 times. You were the peer reviewer.

(2:58:10 - 2:58:24)

Is that right? Yes. I respectfully tender the witness as an expert in the area of forensic toxicology. Any objection to that? No, sir.

(2:58:25 - 2:58:49)

All right, granted. Sir, were you involved in a case in which you had to perform or produce a forensic toxicology report for a subject, you know, to be Daniel A. Akers, at some point with your time with the GBI? Yes. Do you know if it's around April of 2020? That sounds accurate.

(2:58:50 - 2:59:04)

Was it a time when you were working as a forensic toxicologist in the setting that you just described, here in the lab doing extractions and you were preparing to prepare a report? Was it during that time? Yes. Prior to becoming an attorney for the GBI? Yes. Okay.

(2:59:04 - 2:59:28)

Tell the jury, if you remember, sir, what you analyzed, what you said you could analyze, blood for alcohol content. What was your goal in a forensic examination of toxicology in that case? In that case, it was the other drugs. So we do, we have like a screening process that screens over, I believe at the time, 150 different drugs.

(2:59:29 - 2:59:46)

And so at the time, my goal was to determine whether or not there were any of those drugs that we test for. And if we could see that, how much was there? Do you remember the source of blood that you tested? I do not. All right, sir.

(2:59:46 - 3:00:31)

Sir? Please put your present couch on the chair where I'll mark for identification purposes only as States Exhibit 217. Sir? May I put it to the desk, please? Yes, sir. Sir, let me show you what I'll mark for identification purposes only as States Exhibit 217.

(3:00:32 - 3:01:03)

I'll ask you to look at that when you're finished giving this out. Sorry, do you recognize States Exhibit 217? I do. Just generally, not with any detail or specifics containing the contents, but generally, what is States Exhibit 217? This is a copy of my forensic toxicology report, and I can tell it's a copy of my report because it has the case number.

(3:01:04 - 3:01:24)

It also has my signature and name at the end of it. Other than possibly being a facsimile or a photocopy, is it fairly accurate when you're taking the report as you produced it in April of 2020? Yes. Take a look at 217 and tell if there's been any changes, alterations, or deletions that make it somehow not accurate as to your report, sir.

(3:01:26 - 3:01:38)

No. Respectfully, we need the Court to admit to evidence what's been previously marked for identification purposes only as States Exhibit 217. I don't object to the record, Your Honor, but I'd like to discuss whether it goes out with the jurors if you appropriate it.

(3:01:40 - 3:01:47)

Say that. Say again. I do not object to the entity, to the record, and to the agency court.

(3:01:48 - 3:01:51)

I understand. But I do want to observe whether it goes out with the jurors. It's admitted.

(3:01:52 - 3:01:56)

Permission to publish, please. Yes, sir. Thank you.

(3:01:56 - 3:02:03)

I'll take it from me, sir. Thank you. You should have a viewpoint on your monitor, but I'm going to be referring to it on here.

(3:02:05 - 3:02:27)

So, for the record, on a published 217, if you look at that, sir, and specifically, let's talk a little bit

about this. So, can you see it, sir, either on the monitor or on the giant screen? Yes. Do you see a barcode over to the top right? Yes.

(3:02:27 - 3:02:42)

Why is it there? The barcode identifies the case that we're working on. These barcodes are applied to all the evidence in that case. It helps us track the case as it moves throughout the lab.

(3:02:42 - 3:02:55)

For example, the blood will arrive in, like, plastic bags. On the surface of that plastic bag, there will be a printed barcode. We scan that to allow for tracking throughout the GPI, so that barcode is just tied to that case.

(3:02:55 - 3:03:22)

Does the case number of the GBI DOFS, Department of Forensic Science, does the case number remain the same throughout, as you said, travels through the GBI? Yes. And is case number 419, ending in 419, are you familiar with that name, the case number for the Daniel Akers examination? Yes. In fact, do you see some information here from agency? What does it say to say agency? Yes.

(3:03:22 - 3:03:39)

So the agency is just telling us who requested the service in this case. So it came from the Paulding County Coroner, and the person who requested it was L. Eberhardt. You may not know, but do you know the Paulding County Coroner's name at that time, L. Eberhardt? I do not know.

(3:03:40 - 3:03:43)

Okay. But it was requested from the coroner's office. That's correct.

(3:03:43 - 3:04:03)

And what specific service or scientific testing was requested by the Paulding County Coroner's office? Based on the testing that we did here, we can see that it was requested to have a full screen, a full analysis. Okay. Requested service, it says post-mortem toxicology.

(3:04:04 - 3:04:14)

Yes. So what bodily fluid, bodily evidence did you subject to your testing in this case? Yes. So if you can aim down just a little bit.

(3:04:15 - 3:04:19)

Mr. Investigator, can you pull it up a little bit in the middle area? Yes. That's perfect. Yes.

(3:04:19 - 3:04:41)

So you see all of these different numbers, and then you see corresponding exclamations. Can you go through that? Yes. So all of the different items that you see there, 2A, 2B, 2C, and 2D, and 2E, are different biological specimens that were taken from the victim in this case.

(3:04:42 - 3:04:51)

2A shows that it is femoral blood. 2B is urine. And as you move down the list, you can see different types of blood.

(3:04:51 - 3:05:03)

Vitreous fluid is the fluid behind the eye. Urine is urine. And then subclavian blood and iliac blood are just different parts of the body where the blood is taken from.

(3:05:03 - 3:05:32)

The reason that we have different parts of the body that blood is taken from has to do with something called postmortem redistribution. So what we see sometimes is that drugs may move around in different concentrations once the person has died. Femoral blood, for our purposes here, was the best specimen for us to test because it is the least likely to go through this postmortem redistribution that I was explaining.

(3:05:32 - 3:05:41)

So it is going to give you the most accurate result when it comes to the testing. Ma'am, just turn down the lights a little bit. Sure.

(3:05:45 - 3:05:57)

And Mr. Investigator, can you move this up a little bit past that section that Mr. Costas just talked about? The next section. Yeah. So if you see here, go down a little bit, please.

(3:05:59 - 3:06:14)

So was femoral blood what you tested in this case? Yes. And is that—did you say that's most accurate? Does that mimic most accurately the condition of the blood during life? Yes. Because it hasn't been subjected to redistribution.

(3:06:14 - 3:06:18)

Right. All right. Did you test femoral blood in this case? Yes.

(3:06:19 - 3:06:41)

Did you test it for common drugs of abuse right here on the number one? Yes. Did you test it for cocaine? I did. Did you test it for albituates, cannabinoids, benzodiazepines, other common opioids? Was that test undertaken by you, sir? And the results were what in the femoral blood, sir? Negative.

(3:06:41 - 3:06:55)

And then do you see subsection two, you had a positive for amphetamine. Do you see that? Yes. So was there traces of amphetamine in the femoral blood? Yes.

(3:06:56 - 3:07:14)

But then you put here, what is your finding? What are your findings immediately below the positive finding on your report, sir? What does it say? Lower than the lowest calibrator of 50 micrograms per liter. So micrograms per liter, that's a unit I guess you work with in your field? Yes. Okay.

(3:07:15 - 3:07:37)

And what do you mean lowest—lower than the lowest calibrator? What does that mean? Okay. So in order to explain what that means, I have to take you back to what a calibrator is and what a calibration is. So prior to us testing blood, what we have to do is we have to teach the instruments what response they would get, what that correlates to in terms of a concentration.

(3:07:37 - 3:07:54)

So we use between 50 micrograms per liter all the way up to 800. And those numbers are based on what we've seen in prior cases, what other labs are doing, peer-reviewed published articles, all of those values and ranges. That's how we decide on the 50 to 800.

(3:07:55 - 3:08:27)

So that range that our instruments are able to detect and quantify of blood for, in this case, amphetamines, has been established prior to. In this case, the amount was less than our lowest amount that we can accurately detect and quantify. So what that means is we can say, look, it's positive because the lowest detectable amount for us is around 12.5. So between 12.5 and 50, we can say, there's amphetamine here.

(3:08:27 - 3:08:34)

We just can't give you a number. It can be as low as 12.6 and as high as 49. We don't know.

(3:08:35 - 3:08:58)

But what we do know is that there is amphetamine. It's just a very small amount. The finding of

the quantity of amphetamine that you noted during the report of service, is it consistent with someone who had recently, and I mean recently from when the blood was drawn, recently ingested or subjected the blood to a large quantity of amphetamines? No.

(3:08:58 - 3:09:45)

Is it consistent with, based on your findings as an expert in training and knowledge and experience, is it consistent with somebody who would have recently abused methamphetamine as a recreational drug? No. And did the other drugs of abuse, cocaine, marijuana, is marijuana cannabinoid? Yes. Benzodiazepines is commonly found in pills.

(3:09:46 - 3:09:54)

Commonly found in pills, yes. The other common opiates you put are just kind of like drugs of abuse, pills, opiates in the form of pills. Yes.

(3:09:54 - 3:10:15)

Is that common? That's common. So on those particular drugs, was it even at the lowest possible quantifiable number as the amphetamine was, or was it non-existent? So on those, we didn't even get to the point to try to quantify it. Our screen normally picks up a, you know, we might see this drug here.

(3:10:16 - 3:10:22)

It didn't even reach that point. We didn't even get to the point of trying to quantify those because it just wasn't there. So they're all negative.

(3:10:22 - 3:11:02)

Do you have an opinion, sir, as to when someone could have recreationally abused methamphetamine or amphetamine as far as compared to when the blood was harvested or taken with the normal blood? How often, how, in what proximity would somebody have had to abuse methamphetamine to end up then with such a almost, just as lower than the lowest number? Do you have an opinion on that? It depends. It depends how much they took, when they took it. The thing with amphetamine and methamphetamine is it's not similar to, for example, ethyl alcohol.

(3:11:02 - 3:11:14)

Alcohol, you can say it has a linear distribution to how it's going to exit your body. If you took it at this time, at this amount, around this time, this is how much you're going to have. With amphetamine and methamphetamine, it's not like that.

(3:11:14 - 3:11:29)

So it's very difficult to say, this person took a lot here and this is what you're looking at versus something else. Would this finding be consistent with someone who recently abused? It would not be. Thank you.

(3:11:29 - 3:11:34)

That's all. Cross-examination. Hello.

(3:11:35 - 3:11:38)

Hello. Counselor. Thank you for what you do for people.

(3:11:39 - 3:11:48)

What does the word recent mean? Recent, to me, would mean within an hour. Okay. Thank you.

(3:11:48 - 3:11:52)

I didn't know the question. Thank you. And this is the course.

(3:11:53 - 3:12:15)

An hour of when, when the femoral blood was harvested? An hour of use. So use, within an hour of use. And then if someone used an hour before the femoral blood was harvested, or just a couple hours before the femoral blood was harvested, would you expect to see such a level? So it depends.

(3:12:15 - 3:12:41)

If we're saying that they're abusing it, if they are like an addict, you would typically see larger amounts, at least larger than our lowest calibrator, which would be 50. This, lower than the lowest calibrator value, is synonymous, I would say, or you can see it as somebody who might be using this. If they are typically using amphetamine, it would just be therapeutic level, is what we would call it.

(3:12:41 - 3:12:53)

Like a prescription drug? Like a prescription drug. For example, Adderall. You haven't done this in years.

(3:12:54 - 3:13:01)

People smoke, some people smoke methamphetamine. That's correct. Some people inject methamphetamine.

(3:13:02 - 3:13:13)

That's correct. And some people snort methamphetamine, right? That's correct. And all you're doing is, I'm not saying all, but you're just testing what's in the blood, right? That's correct.

(3:13:13 - 3:13:20)

Okay. Thank you. Sir, thank you for your experience.

(3:13:20 - 3:13:35)

Thank you. Ladies and gentlemen, it's 11.30. We can keep going until noon, or we can break now for 10 minutes, and then resume at 12.30 or something. Anybody want to break now? No? Okay.

(3:13:35 - 3:13:41)

Thank you very much. Thank you all for being with us. And your Honor, can I just put this back? Sure.

(3:13:42 - 3:14:24)

May I put it back? Yes. Thank you. Thank you.

(3:14:24 - 3:14:27)

Good morning. Good morning. I'll swear to your Honor, and I'm going to have a seat in that.

(3:14:27 - 3:14:33)

Okay. You would swear upon a testimony that I did not do anything bad. There is a truth, a whole truth, and nothing but the truth, so help me God.

(3:14:33 - 3:14:34)

I do. Thank you. Thank you.

(3:14:40 - 3:14:50)

Could you state your name, please, ma'am? Linda Wicks. And how are you employed? Paulding County Sheriff's Office. And how long have you been so employed? Twenty years.

(3:14:51 - 3:15:14)

And what is your current job assignment with the Paulding County Sheriff's Office? I'm a sergeant in criminal investigations. And how long have you been a sergeant in criminal investigations? Currently three years. Are you a certified police officer here in the state of Georgia? Yes.

(3:15:14 - 3:15:46)

Are you post-certified? Yes. Did you have occasion to become involved in the case concerning Lacey Bowles? Yes. How did you become involved in this case? I was notified, I believe it was December 30th, 2019, by Thomas Ogden that he was responding to a call.

(3:15:49 - 3:16:07)

And did you become involved recently as the lead detective in this case? Yes. And when did that occur? I don't recall the exact date. When I became sergeant again.

(3:16:14 - 3:16:30)

Are you a detective right now, officer? Sergeant. You're a sergeant. And as a sergeant, what are your duties? To oversee the detectives, assign reports to them, support.

(3:16:33 - 3:17:02)

I show you what has previously been marked for identification, the state's exhibit number 180, and ask if you are familiar with that item. I am. And how are you familiar with that item? I believe this is the item that I got a search warrant for in 2025.

(3:17:04 - 3:17:43)

And how did you go about getting a search warrant for that item? I filled out paperwork, an affidavit, and went to a judge to get a search warrant to get back in this phone. And so when you say to get back in this phone, what year was that you were trying to get back into this phone? I believe it was April 1st, 2025. And then what, if anything, did you do once you acquired this search warrant? So I came to the district attorney's office, took it out of evidence, and then took it to Sarah Wicks.

(3:17:43 - 3:18:45)

She's our technical person, and she put it on a program to download it. And once you gave this item to Sarah Wicks, was that the last time you saw it until I handed it to you today? I believe so. And you said you had taken it out of evidence and you put it on some kind of system that could take information from it.

Is that what you said? Or you gave it to Sarah? I gave it to Sarah. That's her job to do that. Okay.

Did you watch her do anything with this phone once you gave it to her? No. Excuse me. Thank you so much, ma'am.

(3:18:46 - 3:19:53)

Thank you. Do you have another one? Do you want the back? Thank you. Good morning.

Where do you live? Do you live in North Hampton? Please, do you swear or affirm the testimony you're about to give in the matter before the court will be the truth, the whole truth, nothing but the truth, said by the judge. I do. Thank you.

(3:19:56 - 3:20:14)

Good morning. If you could please introduce yourself. My name is Sarah Wicks.

I work with the Paulding County Sheriff's Office in the Technical Services Unit. Can you spell your first name? Is that an H on it? S-A-R-A-H. And Wicks is a W-I-X? W-I-X.

(3:20:14 - 3:22:01)

How long have you been employed with the Paulding County Sheriff's Office? I started in January of 2019. Can you tell the jury what area of law enforcement you started when you went there? And did you change at some point and work your way up to where you are now? What are your duties in the Technical Services Unit? We work with products like computers, gaming devices, tablets, cell phones, and we are responsible for extracting data off of those devices for evidentiary purposes. Can you give the jury an idea of your training that's allowed you to be able to do that? And when you say Cellebrite, what is that just for people who don't know? How many phones have you extracted, just cellular phones, have you extracted in your career? We average about 75-150 cellular devices a year, so in 5 years approximately 4-500 devices.

(3:22:02 - 3:22:35)

Does anybody work with you to help you in that task, or are you just the only analyst in the unit? Have you ever testified in court before? I have. Have you ever been tendered as an expert in the area of cellular phone extraction in the state of Georgia? I have. I tendered this witness as an expert in the area of forensic cell phone extraction, data extraction.

(3:22:36 - 3:22:55)

I don't have an opposition. Alright, Grant. State's exhibit 180.

(3:22:57 - 3:23:25)

I do. This is an iPhone that was belonging to Dan Akers. It was in the office in 2021 when I started in the technical services unit.

(3:23:26 - 3:23:52)

Do you know anything about your former colleague, at one point Tyler Brown, attempting to extract data from that device? I do. Can you tell the jury efforts that detective made to extract the

device from the Dan Akers cell? I'll stipulate that he couldn't get into it, but it's here somewhere. But I'll stipulate that that's what the prosecution wants to do, just to move her along.

(3:23:53 - 3:24:40)

If she watched him do it or participated in it, it's not consistent with what the testimony listed before the jury. Alright, you can ask her what she observed. What was done to the phone prior to your coming in to take possession of the phone to try to get data on it? It does create a screen where you can see passcode attempts, things like that.

(3:24:41 - 3:25:09)

So, whenever I came into the technical services unit in 2021, the screen was visible that there were multiple passcode attempts initiated on the device. At some point, did you become aware that there were going to be no more attempts by the Palm Beach County Sheriff's Office or a brute force into the phone? I was made aware that the phone was being placed back into evidence. Is it fair to say that back into evidence, it's not being brute forced? Correct.

(3:25:09 - 3:25:35)

Taken off the machine? Correct. And then at some point, did you try to take a fresh look at it and see if you could open the phone? Yes, Sergeant Linda Wicks did get a new search warrant for the device. I suggested, since we had already given Greg Key a go, we had the capability to try Celebrite Premium at that point and just plug it up to Celebrite Premium and see if we could have success there.

(3:25:36 - 3:26:15)

Does Celebrite Premium use that same brute force type of technology to try to get evidence? It does. Did you undertake that testing, that extraction attempt, 2035? When did you do that? Can I look at my notes? Has your memory of the recollection been refreshed as to the date that you first tried to put it on Celebrite Premium? Yes. And now what day was that? It was April 2025.

(3:26:16 - 3:26:43)

Do you know how long it took the machine, the Celebrite Premium, to successfully brute force into the phone? It took approximately 20 minutes. Do you know how long Greg Key was trying to get in there? Greg Key was attempting from 2019 to approximately 2023. So Greg Key is attempting for almost four years.

(3:26:44 - 3:27:01)

Were you able then to get in with Celebrite Premium in 20 minutes? Correct. And these are two competitors, I guess, Greg Key and then Celebrite, just two software competitors? Yes, sir. Is it

fair to say at all that the technology may have improved in those four years? Yes, sir.

(3:27:03 - 3:27:27)

So you were able to get in, ultimately? Correct. Were you able to view text data on the extraction? I was. Were you able to view email data? Yes, sir.

(3:27:28 - 3:27:49)

What about internet site visit data? Yes, sir. Were you able to access geolocation data? Yes, sir. What about if somebody went on the internet, Safari or something like that, tried to execute a search for a term, does the phone save those terms? It does, yes, sir.

(3:27:49 - 3:28:19)

Save some of them or all of them, or how does that work with the archival of search terms? So that really depends on the device and the settings of the phone. It generally saves multiple versions of a search in browser history. When you did a, explain to the jury please, it seems like these phones are really following us all the time.

(3:28:19 - 3:28:48)

How does the phone record geolocation data? It will connect off of cell towers and if you're using MapQuest, it can connect through various different ways. If the phone has a GPS, did this phone have a GPS built into it? Was it GPS capable? Yes. This phone, the Banacres Exhibit 180? Yes.

(3:28:48 - 3:29:19)

If a person were, if a user were accessing a GPS type of app, for example a program like Waze or Google Maps, does that help you document GPS location? It does. Did you have an opportunity to come into, to come into the knowledge of an address called 83 Grayville before, as we mentioned regarding your investigation of this case? I did. And did you have an opportunity to learn about a McDonald's near Hiawassee Road in this case? I did.

(3:29:20 - 3:29:35)

Did you find geolocation evidence on the phone or device about that McDonald's? I did. And the cell tower location placed him at McDonald's. Placed him being the decedent in this case, Daniel Akers? Correct.

(3:29:35 - 3:29:50)

So did you look at, I'm guessing you were made aware at some point of his date of death? Correct. Right, 12-22-19, did you get that information? I did. And then did you seek to find out where he had been on that day? I did.

(3:29:50 - 3:29:58)

Were you successful in doing that? Yes. Did you find multiple locations that you depended upon on that day? Correct. In fact, was, not either, but was.

(3:29:58 - 3:30:07)

Yes, sir. Was McDonald's one of those locations? Yes, sir. And then was Grayville, 83 Grayville Court, was that one of the locations? Yes, sir.

(3:30:08 - 3:30:24)

Assuming, did you see 83 Grayville Court many times? Because that's where he lived. Correct. Was it consistent? When you see, when you see that many hits on a specific residence, is that, would that be consistent with where somebody lives? Yes, where they spend quite a bit of time.

(3:30:25 - 3:30:36)

Okay. I'm going to approach your closing counsel and show what I'll mark as Stacy's exhibit. For identification purposes only, Stacy's exhibit 218, please.

(3:31:01 - 3:31:25)

Did you have an opportunity to, you or your team, to map the distance between the McDonald's, near Highland City Road, near the Chevron, to 83 Grayville Court? We did. Do you have an idea of what the distance was between those two locations? It was approximately 1.5 miles. Let me approach the witness, please.

(3:31:27 - 3:31:37)

And let me show you, please, what I'll mark for identification purposes only as Stacy's exhibit 218. See if you can just recognize that. Just, you can just tell me what it is as briefly as you can.

(3:31:37 - 3:31:43)

You don't have to go into detail. Yes. Do you recognize that? I do.

(3:31:44 - 3:31:55)

Is it a map? Yes. How do you recognize it? This was the route from McDonald's to 83 Grayville Court. Okay.

(3:31:55 - 3:32:24)

Was it created as part of your investigation after taking data points or geolocation points on the car? It was. Does it appear to be a fair and accurate depiction of the map coordinates of those

two locations if you consider McDonald's near Highland City Road and then the 83 Grayville Court location? Yes, sir, it does. Do you think there's elements of that map that make it somehow not accurate as far as the depiction of that area and that distance? It looks accurate.

(3:32:25 - 3:32:39)

And please move the court respectfully to admit it as what's been previously marked for identification purposes only as states exhibit 218. No opposition. Just permission to publish two documents, please.

(3:32:39 - 3:32:51)

Thank you. So, when you got data points or geolocation data points off the phone, were you able to make, to create states 218? Yes. Okay.

(3:32:53 - 3:33:05)

I'll just show it. So, can you tell the jury, obviously you have the golden arches here. Is that Georgia 61? It is.

(3:33:05 - 3:33:14)

The intersection of 61 and Scoggins Road. Scoggins Road. And what is the horizontal blue line there? Do you know what road that is? Hiram City Road.

(3:33:15 - 3:33:23)

Hiram City Road. And then come over here and you would take a right without what road is this? The vertical line. Davis Mill Road.

(3:33:23 - 3:33:50)

And then the end or the beginning, either way, the end or the beginning there of 83 Graynell Court. Is that the defendant's, the decedent's residence? It is. How is it that you were able to say, if you can, how can you say to the jury, hey, I know somebody, let's just put it this way, I know this bunk was at McDonald's on a certain day.

(3:33:50 - 3:34:17)

How do you know that? So the cell phone connected to a wireless network, which would have been McDonald's. Whenever we have our devices on us, we can have them scan for wireless networks and that is how it came up with the McDonald's location. Because it scanned that network.

(3:34:17 - 3:34:51)

Let me make sure I understand because I'm not really a tech guy. So if someone came within the confines of the wireless network that McDonald's was putting out, does your phone constantly seek to, does somebody have to try to get on that network, like access it, or does it happen automatically? Generally it happens automatically. You can remove that from your settings, but your device will try to seek other networks in case you need to connect to a Wi-Fi or things like that.

(3:34:52 - 3:35:13)

Okay. Do you have any idea whether or not the user of the phone at McDonald's on 12-22-2019 made a purposeful attempt to connect to the Wi-Fi or was it automatic or can you tell? The Celebrate report said that it was harvested, which means that it was just searching for networks. Automatic.

(3:35:13 - 3:35:29)

Correct. In the background running. Do you know what time that harvest occurred with that McDonald's Wi-Fi network? I believe it was approximately about 12-20.

(3:35:29 - 3:35:37)

12-20 PM? Correct. On what day? December 22nd, if I recall correctly. Okay.

(3:35:37 - 3:35:52)

2019? Correct. Alright, so you have, is it fair then from what you found, do you have that phone accessing the McDonald's Wi-Fi, you said 12-20 on 12-22-2019? Correct. Okay.

(3:35:53 - 3:36:29)

And then, are you able to look at that harvest, I guess, or when it's trying to get on the McDonald's Wi-Fi and find out where the phone goes from that point forward? Yes. Can you plot in those geolocation and courses, is that just what's on the screen here, states 218, is it accurate to where that phone went at that time? The next connection was 83 Brady Mill Court that the phone connected to. So, you have a connection to Wi-Fi at McDonald's and the next one was the Desenix residence? Correct.

(3:36:29 - 3:36:43)

How do you know that? It connected to the network at the residence. Do you know when that was? May I look at my notes? We'll refresh your recollection in just a second. Just look up what you just said.

(3:36:44 - 3:37:12)

Don't say it again. Excuse me, has your recollection been refreshed on when that phone or device may have attached to the 83 Brady Mill Court network? I don't have the specific time in my notes. Okay.

(3:37:16 - 3:37:55)

Do you remember it being shortly after the McDonald's Wi-Fi, do you remember, was it a long time later the next day, do you remember? It was, I believe it was approximately 1240 when it connected to the network at 83 Brady Mill Court. 1240 AM? Correct. Okay, do you have specific, I'm sorry, do you have specific information as far as when the, I don't know how it works, like when you get too far away from McDonald's, does it show, okay, you're no longer on this network or not? It generally just records the time that it was harvested trying to connect.

(3:37:56 - 3:38:05)

So, we don't know when that connection was broken. Correct. All right, is that fair? But you do know approximately when the next connection was made? Correct.

(3:38:05 - 3:38:26)

Okay. I want to ask you, did you have an opportunity, please to, I think I asked you, did you look at some emails that were found on the phone? I did. Show opposing counsel what are marked for identification purposes only in the state's exhibit 219.

(3:38:58 - 3:39:11)

May I approach the witness, please? Yes, sir. I'm going to show you this, this week's state's exhibit 219, it's been marked for identification purposes only. See if you recognize that.

(3:39:11 - 3:39:25)

Yes, sir. Can you just tell what that is briefly without going into too much detail? This is an email. Okay.

(3:39:25 - 3:39:33)

Is it an email from the striker's phone? It is, correct. Based on your knowledge or your understanding? Correct. Have you seen it before? Yes.

(3:39:34 - 3:39:42)

How do you recognize it? Through looking, examining the emails. A free data extraction? Correct. Okay.

(3:39:43 - 3:40:02)

Does it appear to be accurate to what you found as an extracted part of the email search on the demonstrator's phone? It does. Do you think there's been any changes, material alterations or deletions that make state 219 not representative and accurate to what you found on the client? Doesn't appear so. Other than maybe being a copy or something? Correct.

(3:40:02 - 3:40:14)

And I'm guessing, I don't know, but are you looking at this extraction on your computer when you do it or is it papers? On the computer. Okay. So obviously 219's been reduced to a paper, but other than that, is it accurate? Yes.

(3:40:15 - 3:40:22)

Respectfully move the court to admit into evidence what's been previously marked for identification purposes only, state's 219. No objection, Your Honor. Okay.

(3:40:23 - 3:40:48)

Let me show that to you a little bit on the data screen so we can tell the jury what this is. So first of all, how would an email be preserved on a cell phone? Does it have to be, like I'm using the phone to send the email or receive the email? How does that work? I mean, once the email has been sent, then it is preserved on the device. Okay.

(3:40:48 - 3:41:05)

So any email, are all emails saved or archived that come through or leave the device? Correct. Unless they're erased off, deleted off the device. And even then, is it possible sometimes for you to somehow, you can just recover deleted stuff? Correct.

(3:41:05 - 3:41:21)

Let me show you this. State's 219. Let me just show you this, this email that you can ask if you recognize it and saw it in your extraction.

(3:41:34 - 3:41:50)

Did you see this email as coming from Mr. Aker's phone? I did, correct. And over here you have a, it says timestamp. 12-20-2019, 4 o'clock and 10 seconds, p.m. eastern.

(3:41:50 - 3:41:59)

Did you see that? I did. What does that mean? That would be when the email was received. Email received, okay.

(3:41:59 - 3:42:02)

On the device. On the device, you said? Correct. And then this underneath.

(3:42:03 - 3:42:34)

Akers.Dan83, numbers 83, at gmail.com. What would that be? That would be the receiving email. And if you would just read the subject line of that email you found. Vision Center Eye Exam confirmation for Daniel Akers, Monday, December 23, 2019, 5.30 p.m. And then it goes on to say, thank you for booking an eye exam at the Vision Center by Walmart? Correct.

(3:42:34 - 3:42:43)

Do you see that? Yes, sir. So this email seems to show an eye exam appointment at 12-23, Monday. Correct.

(3:42:44 - 3:42:53)

And you know Mr. Akers, he didn't make that appointment. You know that? Correct. So it's noon now, and this driveway is now a good time to call? Yes, sir.

(3:42:54 - 3:42:58)

I'd rather make the apartment on the second floor. Okay. All right.

(3:42:58 - 4:59:45)

So why don't we break like we did yesterday and come back at 1-15. Thank you. Yes? All right.

(4:59:46 - 5:02:15)

Can we get them, please? Triple L. I'm waiting for one, sir. Okay. Welcome back, everybody.

(5:02:15 - 5:03:28)

We're going to pick up where we left off. This is the phone we extracted, excuse me, from Mr. Akers. Correct.

(5:03:28 - 5:03:49)

Correct. Yes, sir. It is.

(5:03:49 - 5:04:10)

Yes, sir. I will not have an objection to some, but I was just told that it's not the entire report. It's certainly excised, so as we go along, I'll do it quick, and I'll let the court know if I have an objection to some.

(5:04:10 - 5:04:16)

Right now, though, I don't have any objection to any foundation. It's just going to be content. All right.

(5:04:16 - 5:04:26)

So what's been tendered? At this point, we don't have an objection to, but do you think more is coming? No. There may be some that's been tendered. I haven't seen it because it's not published.

(5:04:27 - 5:04:36)

Okay. Okay. Correct.

(5:04:47 - 5:05:41)

All right, let's let Mr. Steele see it and make sure he's in a position where he can pose an objection. Yes, sir. Your Honor, may I just have one moment? Sure.

(5:07:13 - 5:07:26)

Thank you. So what's been, do you still have 220? May I put a survey of 220 while you're looking at that? May I take 220? Sure. Thank you.

(5:07:26 - 5:07:54)

So 220, would you say, is the entire report that you got contains everything? Page 220. This contains web history. Search history.

(5:07:55 - 5:08:07)

Correct. Is that the entire search history? It is. What does it say? How many pages is it? 280 pages.

(5:08:07 - 5:08:28)

So did you recover or identify or extract or isolate 280-some-odd pages of search history from the Daniels? I did, correct. All right. Let me show you what I'll mark for identification purposes only.

(5:08:28 - 5:08:39)

It's 220A. I'll show it, put it in the counsel bag. Okay.

(5:08:40 - 5:08:52)

Thank you. Your Honor, I have no objection. All right, and that's the 220? 220, and then I'll make sure you 220A.

(5:08:53 - 5:09:02)

Okay, so 220 is admitted. And if it helps, I'm not going to object to anything. So if you want to put it all in at one time, whatever you want, there'll be no objection.

(5:09:02 - 5:09:18)

All right, so I've got 220, that's admitted. All right. Just for the record, I'll call, since this is 220A, but I'm going to approach the witnesses to show 220A, for example.

(5:09:19 - 5:09:24)

That's just one paper. Let me show you that and see if you recognize that. I do.

(5:09:24 - 5:09:31)

Is that part of what's contained in 220? It is. Is it just something in 220? It is, that's correct. 220 has been admitted in that.

(5:09:31 - 5:09:46)

So do you recognize 220A? I do. Is it a search term that you, or a search, I guess, a search input that you recovered? It is. All right, we can publish that.

(5:09:47 - 5:10:00)

Can you just read the highlighted portion, please? And these are my highlights, not yours. Is that fair? Correct. All right, you didn't highlight stuff.

(5:10:00 - 5:10:14)

Correct. And it says it's a Safari search for Paulding County football registration. Can you give a date on this one? I do not see a date.

(5:10:15 - 5:10:39)

Sometimes do you see a date on a search and sometimes do you not see a date? Correct. Can you tell the jury why you might not see a date? So when a device does have a passcode on it, there is a lot of data that is encrypted. And sometimes, especially with the phone sitting for so long, some of that data was not able to decrypt so we could view it.

(5:10:39 - 5:11:04)

Okay, so it says, can we have a little bit less light, Deputy? Can we have a little bit less light? This is Paulding County football registration? Correct. Okay, and when it says Safari, is that the app or item that was used to access or do the web search? Correct. And I'll go to what I'll mark as 220B, like Bravo, please.

(5:11:05 - 5:11:31)

And it's in evidence, so I'll just see if you recognize it when I publish it, okay? Do you see this as a... I'm sorry. Do you recognize what I'll highlight? These are my highlights, but do you recognize what I'll highlight on 220B, like Bravo? I do. Can you read that? How to handle your wife's mental health.

(5:11:32 - 5:11:48)

And this is from Straker's phone? Correct. Again, do you see a date associated with this one specifically? I do not. But over here, what does this column mean, all these numbers? Is that sequential search numbers? They're actually leading.

(5:11:51 - 5:12:15)

Does Cellebrite add these numbers or do you do the original? That would be numbers associated with what Cellebrite added, just sequential. So is there any... These are from Cellebrite alone? Correct. And 220C... Let me show you this, please.

(5:12:17 - 5:12:27)

This is two pages. I'll ask you to just take a look at page one of 220C. Do you recognize this search that was conducted? I do.

(5:12:28 - 5:12:51)

Does it have a date associated with it? It does. Okay, so on this one... I know you said something about encryption or something, but were you able to isolate or was the program able to actually tell you as the examiner when this search was conducted? It was. When was that conducted, this first search here? November 24, 2019.

(5:12:52 - 5:13:09)

So, is it accurate that a user may have conducted a search on Highland Wrestling Association on that date or about that date? It is. On that device? Correct. Let me show you 220D, like Delta.

(5:13:15 - 5:13:30)

There's two highlights here, and again, did you highlight any of this? I didn't highlight it. You didn't highlight it. Correct.

(5:13:30 - 5:14:26)

The first one in yellow, what date was that? December 6, 2019. And you can read that. Why is my wife tricking me to look bad? And December 5, you said 226.

I can't read 6. Okay. And go up, please, Investigator Bertrand in green. This is a different topic.

What date do you see there? December 5, 2019. Can you please read that to the jury? When to leave a marriage with kids. And then there's several that go on from there.

Message 1056, 1057, et cetera, all the way down to the end of the page. Are those independent different searches? Do you know? So, there's hundreds of thousands of different databases in a device. And a lot of those, like the Knowledge C, that is the browser saving to a database.

(5:14:26 - 5:14:40)

So, it's not necessarily multiple searches on the device. Okay. But was that search included, though, at least once on 12-5-2019? It was.

(5:14:41 - 5:14:47)

Okay. Thank you. We're going to move on to 220E, like Echo.

(5:14:57 - 5:15:53)

I'll show you this, please. So, on the yellow here, the first one, what date is that? Do you see the date there? December 7, 2019. And what was searched there on that device? Dear God, I need your help.

I need strength. Okay. We see that some more times.

But did you say that's not necessarily multiple searches? Correct. Okay. You can go on to the lower part.

So, do you see some green there? Yes. On 12-7-2019, what does that say? What's a cypress tree look like? Okay. And let's see if I can... What was that, on 12-7 also? Correct.

(5:15:53 - 5:16:22)

Is there a number on page 2? If I can go to page 3 of 220E, like Echo, please, and continue asking about the search here. See if you can't bring your extraction. Do you see a search here, 12-7-2019? I do.

(5:16:22 - 5:16:54)

What does that say? What should I do if my wife keeps lying to me? All right. And I'll go to states

220F, like Foxtrot. Do you see some searches there? Have you discovered your extraction? I do.

(5:16:54 - 5:17:01)

I see a lot of searches here. If you can go up a little, Investigator. You see a lot of searches here about a Cadillac.

(5:17:02 - 5:17:18)

Yes. Error code on a Cadillac and a Dallas tag on 12-7-2019? Yes. Were you made aware at any time in the investigation that Mr. Sedan just saw a car? I did not.

(5:17:18 - 5:18:00)

Okay. And if I could show you what's been marked for the identification purposes, something already admitted in that is 220G, like George. You see a search there, 12-8-2019? Do you see that? Yes, sir.

(5:18:00 - 5:18:24)

What's that say there? 12-8-2019, what's that say? Gift ideas for wife. And on down 12-8-2019, was it low or there, or subsequent search, what's that say, that line there? Christmas trees for sale near me. And 20, excuse me, December 8th of 2019, what does that say there? Blue Nailer Christmas tree.

(5:18:26 - 5:18:58)

And are you confident these searches were done from that device at that time, those dates? Yes, sir. You see here on this one, a little bit lower on the search list, Christmas tree farm? Yes. On 12-8-2019, and local Christmas tree sales, do you see that? Yes, sir.

(5:18:59 - 5:19:16)

Is it accurate that these types of searches were being done around those times on this device? Yes, sir. Were you ever advised that the date of death of the deceased in this investigation would be 12-22-19? Yes. Right around Christmas? Correct.

(5:19:18 - 5:19:45)

If I could go to page 3 of 220G like George, see if I can ask you about another search here. And this date is also still on 12-8-2019, user searching local Christmas tree farms and stands. Do you see that for sales? Yes, sir.

(5:19:45 - 5:20:12)

All right. I can show you, if I can draw your attention please to 220H like Hotel. These are some

searches that you may be familiar with from December 12th of 2019.

(5:20:12 - 5:20:24)

December 12th, a few days later. Can your car pass admissions? Do you see that, December 12th? Yes, sir. Is there anything else on there toward the bottom of the investigator? Yeah.

(5:20:25 - 5:20:35)

So, can your car pass admissions with a trouble code but no check engine light, things like that. Do you see that? Yes, sir. Is that accurate to what you found on December 12th? It is.

(5:20:35 - 5:20:41)

As far as a user search using Safari? Yes. I'm sorry, go ahead. Yes, sir.

(5:20:41 - 5:21:02)

And then here's another little device that may have been used, Knowledge C. What is that? Do you know? That is one of the databases inside the home where data is stored. And it stores things like web history and when you lock or unlock your device, things like that. Okay.

(5:21:08 - 5:21:43)

And 220I like India, a search of 12-12-19. If you'll take a look at that, 12-12-19, do you see those searches here? Yes, sir. You see where it says, if you are a construction worker and have to work for the airport, do you get a badge? Do you see that? Yes, sir.

(5:21:44 - 5:21:59)

12-12-19, working at the airport. Yes. Did it ever get brought to your attention as part of your investigation when you're involved in the case that this decision may have been transitioned to a new job at the airport? No, sir.

(5:21:59 - 5:22:34)

Beyond your involvement? Correct. And 220J like Juliet, also 12-12. If you'll look at those, do you believe these are accurate searches to what you found on the device for the NPR 12-12-19? In Georgia, how many days do you have to register a car? Do you see that? Yes, sir.

(5:22:35 - 5:22:48)

How many days? I'm sorry. At the Pauline County TAG office, do you remember some other searches I asked you about that might be consistent with buying a new car or having to install a new car? Yes, sir. Is that accurate to what was found on the device? It is.

(5:23:00 - 5:23:22)

220K like Kilo. Definitely draw your attention to these and see if you remember these searches being discovered as part of your extraction on about – searches being made on about December 13th, 2019. I see some messages.

(5:23:23 - 5:23:37)

Can I get a Social Security card on the same day? And then if you can show, the cedar burr kind of goes along those lines all through that time period. Do you see that? Yes, sir. Is that accurate to what the user was searching on that day? It does.

(5:23:38 - 5:23:54)

And that next page search, continuing on to page 2 of 220Kilo. I see things like another search 12-13-19 baby woke up with swollen eye. Do you see that? Yes, sir.

(5:23:54 - 5:24:19)

That was again with that Knowledge C database, not Knowledge C database? Correct. And is there anything on page 3, investigator? No page 3. So I'll move on to 220L like Lima. I'll show you this.

(5:24:21 - 5:24:39)

This is a one-page exhibit to 220L like Lima from 12-14-2019. Do you see that? Yes, sir. Do you think that's accurate for what you discovered for your extraction? Yes, sir.

(5:24:39 - 5:24:53)

And what was the user searching here 12-14-2019? Lights of life. Were you provided any information that this was a person who had children, young kids? Yes, sir. Okay.

(5:24:54 - 5:25:11)

Lights of life, like a Christmas thing or something like that? I believe so. And 220L like Mary. Is it fair? While I prepare this, I'll ask you this.

(5:25:11 - 5:25:42)

Is it important to you? Or I'll ask it like this. Is it possible to kind of get a glimpse into a person's life habits or lifestyle, what they were doing on specific days? Is it helpful to you to look at these searches? It can be. Is it helpful to you to see people staying alive using searches? Is that sometimes helpful to you or investigators? It can give indication of their habits and things like that.

(5:25:44 - 5:26:07)

Okay. And I'll show you 220. Finally, I'll show you 220L.

(5:26:07 - 5:26:23)

I believe I'm at 220 like Mary. 12-20-2019. You can show me.

(5:26:24 - 5:26:34)

You can tell the jury if you think this is representative and accurate of what you found on the data extraction. 12-20-2019, it looks like about 5 p.m. or so. It is.

(5:26:34 - 5:26:49)

4-59 p.m. And what was the user searching there? Like either maybe several searches or maybe several returns on a search. What was that search? Walmart Eye Center, Highland, Georgia. On 12-20? Correct.

(5:26:50 - 5:27:10)

Okay. I'm going to go back to Exhibit 220 itself. First of all, do you agree that 220A, Alpha, Fruity Honey, Mary is all from 220? Correct.

(5:27:11 - 5:27:22)

And you said 220 is how many pages of search terms? 280. Okay. 280 pages.

(5:27:22 - 5:27:35)

Correct. Do you remember that before the trial began, I asked you to isolate certain search terms that may have been conducted? I did. Did you do that? I did.

(5:27:35 - 5:28:03)

With your software, your training, your knowledge, your experience, do you have the ability to take something like 280 and pinpoint him on certain phrases or terms that were searched? Yes, there is a search bar within each location that we're looking where we can search specific terms. Did you search for the term suicide? I did. How many times did you find it? Zero.

(5:28:05 - 5:28:17)

Did you search for the term life insurance? I did. Did you find that term in all those searches? I did not. Did you search for the term gunshot? I did.

(5:28:18 - 5:28:38)

Did you find search terms for that? No. And I think you told me prior to the trial that you had even gone a little bit far outside of those core terms and tried to find anything kind of similar to that. Can you explain to the jury what you did there? Correct.

(5:28:38 - 5:28:54)

So just any terms that would indicate suicidal thoughts or methods were searched with certain terms. And what were the results? Zero. All right.

(5:28:54 - 5:29:03)

Did you have an opportunity? We've gone through email. We've gone through analysis search terms. We've gone through GPS data points.

(5:29:03 - 5:30:04)

Did you have an opportunity to search for any type of audio recordings? Yes. Were you able to find any kind of audio recordings from, like, a voice memo recorder or any device that would be on that phone? There was a voice memo on the phone. May I approach the closing counsel, please? I'm sorry? The witness said before.

(5:30:05 - 5:30:18)

May I please show you what's been marked for identification purposes only as states? Is it 221? Yes. Do you recognize that? I do. Can you tell just briefly? Obviously, it's a little U.S.D. Correct.

(5:30:19 - 5:30:41)

Briefly, what is that? It is a voice memo from Mr. Aker's device. Did you have an opportunity to listen to it prior to today as you sit here on the witness stand? I did. Did you, having heard the recording on the little device, the phone drive, do you believe it's fair and accurate to what you extracted and removed from the manual Aker's device? Yes.

(5:30:41 - 5:30:59)

The case 180, I think it is? Yes. Do you believe there's been any changes, alterations, duplications, modifications, anything to make that states 221 not accurate to what you actually extracted as a voice memo? Yes, it should be accurate. It was recorded statically.

(5:30:59 - 5:31:15)

It's what's been previously marked for identification purposes only as states. Is it 221? Same objection, 403. Was this, let me ask, this was a pretrial ruling? Yes, Your Honor.

(5:31:15 - 5:31:22)

Okay. And the state followed Your Honor's pretrial ruling to make appropriate deductions. All right.

(5:31:22 - 5:31:26)

It's admitted. Thank you. Permission to publish? Yes.

(5:31:27 - 5:31:46)

Let me just ask you, Ms. Wiggs, so I just know of a little thing that says voice memo. I'm not too tech savvy. Where did you find this from the phone? What was this recording on there? It was in the audio portion of Celebrite labeled as a voice memo.

(5:31:47 - 5:32:08)

Voice memo is an app on your phone that you can click and record voice memos. Do you know if this is something that was saved by the user? I'm sorry? I'm sorry. Do you know if this is something that was saved by the user? Somebody saved this memo? This little voice recording? It was recorded on the device.

(5:32:09 - 5:32:17)

Okay. Did you have any indication that it had been deleted, but you were able to find it through deletion, or was it still just there? It was just there. Okay.

(5:32:18 - 5:32:40)

Do you have a date when the recording would have been created, please? May I refer to my notes? If you would have to refresh your recollection, please. And I'm asking specifically, did you get information from the software when the recording on Stage 221 was created? Yes. As your recollection had been refreshed and when it was created? Yes.

(5:32:40 - 5:32:48)

And when was that, please? December 14, 2019. Permission to publish, please? Yes, sir. Thank you.

(5:32:51 - 5:33:47)

Are you recording on your phone? Monster? You didn't get the recording, Monster? Monster? I just have the record reflected. It looks like Stage 221. The audio stopped at about maybe 12 seconds or something.

(5:33:47 - 5:35:23)

I have to stop. I can't hear you. I'm watching a scenario similar to the one earlier.

(5:35:25 - 5:36:22)

It should be good. It should work. Are you recording on your phone? Monster? You should record Monster.

(5:36:24 - 5:36:30)

Monster? I'm a monster. Yes. Maybe you should have taken everything into court.

(5:36:30 - 5:36:34)

I don't care about the recording. I just want to take everything. I probably should have.

(5:36:35 - 5:36:37)

No, it's not possible. It is. Watch me.

(5:36:39 - 5:37:09)

Are you that capable? How am I a monster, Lacey? No. Uh-huh. Very close.

(5:37:16 - 5:38:07)

Lacey, you got it. You got it. Who the hell's been up all night? Who's been up all night? Who's been up all night, liar? Stage, was I up when you got up? Did it wake me up? Yes, I did wake you up.

(5:38:09 - 5:38:28)

Gee, Monster, you're a liar. I'm not acting like a nut job. Yeah, you are.

(5:38:28 - 5:38:39)

Oh, you're lying, Ollie. I didn't do nothing to you. I'm not gonna play with my kids when they're interrupting you.

(5:38:41 - 5:40:38)

Bye, Felicia. Oh, I made it work. You're hiding behind that thing.

(5:40:39 - 5:41:36)

I'm sorry. Huh? That's not lava. That's not lava.

(5:41:41 - 5:41:52)

No, that is not lava. That's not lava. That's... There's lava.

(5:41:55 - 5:42:03)

There's lava. You don't do that, Ollie. Try to walk on those legs.

(5:42:06 - 5:42:13)

Close your eyes. She's being countered by lava. She's on the floor.

(5:42:16 - 5:42:33)

I'm happy to simply hand her out to bubble move because we can attack this door without this huge monster. Oh, there's a little one. No, not all of them.

(5:42:36 - 5:42:56)

No, not all of them. Not all of them. Not all of them.

(5:42:58 - 5:43:12)

All of them. I saw one there. I saw one.

(5:43:12 - 5:43:15)

I saw one. Your son? Yeah. Oh, you got it by yourself? Yeah, I did.

(5:43:16 - 5:43:18)

You didn't have to get it yourself. I didn't have to get it myself. I'm not sure.

(5:43:19 - 5:43:26)

Yeah, you're good. Yeah. I'm not sure.

(5:43:27 - 5:43:30)

We don't know if we'll be able to film that, but we've got a picture. Yeah. I'm not sure if we'll be able to.

(5:43:30 - 5:43:38)

Well, now you can see it. It's better. Oh, it's a baby.

(5:43:38 - 5:43:40)

There's a baby in there. It's right behind you. Found one little one.

(5:43:40 - 5:44:03)

Found one. You're going to be able to get it by yourself. Yeah, there's one.

(5:44:03 - 5:44:06)

Yeah. You're going to be able to get it by yourself. I don't know how to say it, I don't know how to say it.

(5:45:53 - 5:46:15)

... ... Do you have an opportunity to listen to it? I do. I will put it on your teapot. Thanks.

(5:46:16 - 5:46:32)

Thanks. Bye-bye You are free to leave now. Do you remember your at your office working from the source? I have listened to it from my laptop.

(5:46:32 - 5:46:47)

Yes. Did you hear the name Gage mentioned? It's related to a child that's actually bleeding. Did you hear the name Gage mentioned on that quote? I'm sorry.

(5:46:47 - 5:46:55)

I'm sorry. I didn't wait for you to move your mouse. Did you hear the name Gage mentioned above the nerve? I don't recall the name Gage.

(5:46:55 - 5:47:09)

Did you hear a child's voice? Yes. Did you hear the defendant say, he's never going to be remembered? Yes. He'll never remember himself? In all of his lines, yes.

(5:47:15 - 5:47:26)

All right. Good questions of the source. Thank you.

(5:47:26 - 5:47:27)

All right. I'll see you again. Sure.

(5:47:30 - 5:47:42)

What was the message? I can try it again. No, no, no. Wait.

(5:47:43 - 5:47:47)

You can stay. Yeah, it's fine. We can play here if you want.

(5:47:47 - 5:47:49)

All right. Let me just ask a couple of questions. Yes.

(5:47:58 - 5:48:14)

Thank you. Yes, sir. Remember.

(5:48:14 - 5:49:16)

Thank you, Your Honor. Do you remember seeing at 11-11 at night on Saturday, December 21, 2019, the cash file for this extraction of Ms. Dacres' father? Not specifically. Let me show you something, OK? And you have the, I'm assuming.

(5:49:16 - 5:49:38)

You have something here I'll show. You're supposed to show that. I'm going to show the prosecution of that.

(5:49:47 - 5:49:50)

All right. Sorry, Your Honor. Thank you, Your Honor.

(5:50:17 - 5:53:53)

Your Honor, can we take a brief break just to discuss the note? Sure. We'll take a quick break. Thank you.

(5:54:19 - 5:54:30)

OK, whenever you're ready. Good afternoon again. You said that it connected to the McDonald's.

(5:54:30 - 5:54:42)

And when I say it, the device. I'm talking about the cell phone of Mr. Acres. So the cell phone was scanning networks, trying to find networks to connect to.

(5:54:42 - 5:55:02)

Right. And just for basic background, if I have a cell phone, it's pinging off of a tower in the area. And pinging just means connected to that tower.

(5:55:02 - 5:55:18)

So if somebody's trying to reach me, or if I'm searching something, I could go out into the internet

and it comes back to my phone because there's a connection. The device is speaking. The actual cell phone is a device, and that's speaking to towers.

(5:55:19 - 5:55:46)

It's speaking to internet connections and the like. Fair? And when you explain that you can tell where the phone is and you gave that diagram, it's really like GPS, which is global positioning. Like if I'm jogging, let's say, and I could show my route afterwards, that's really tracking me from a satellite, right? If you're jogging? Yeah, and if I have my watch on or my cell phone is connected.

(5:55:47 - 5:55:56)

Yeah, health data can be tracked and it would be from GPS. But what we have here are points. We have data points.

(5:55:56 - 5:56:16)

That's what you were explaining to the ladies and gentlemen of the jury. Fair? There were data points and a connection where it was harvested from trying to connect to a Wi-Fi. So if the device, and a device let's assume is with a person, because devices don't travel by themselves, fair to say? Correct.

(5:56:16 - 5:56:33)

But they could be thrown in the back of a truck or something. But the device, when it comes up to a location, it may touch something, a network, let's say a Wi-Fi network, and then it will record the latitude and longitude of that connection. Is that true? Correct.

(5:56:33 - 5:57:08)

And then if any of us could put into Google Earth longitude or latitude or another search platform, then it would tell exactly what it is and then you could see that there's a McDonald's nearby or a Checkers or a Lake, whatever. True? Correct. And that's what you did, and you said that there was a McDonald's, and you said it's about 1220 a.m. Does it sound more like 1220, I don't know if it matters to the jury, but 1228 a.m. it was connected, that device was connected at that location where it comes back near a McDonald's? It could be.

(5:57:09 - 5:57:20)

I could look at my notes. Yeah, go ahead. And also a connection can stay.

(5:57:20 - 5:57:27)

Fair to say? Correct. And I could be connected here. I've been here all day, let's say in the courthouse.

(5:57:27 - 5:57:32)

It showed my phone potentially in the courthouse multiple times. Correct. Did you check it? I did.

(5:57:32 - 5:57:35)

All right. It was 1228. Okay.

(5:57:36 - 5:58:01)

And if you say 1220, it doesn't matter, 1228, but that's when we have a data point that that device is near a McDonald's. Fair to say? It was trying to connect to the network, yes. And you were kind enough to show us a rudimentary, but map, and you put the symbol for McDonald's just showing near location.

(5:58:01 - 5:58:21)

This is approximately where the device is connecting, right? Correct. And then you said it goes to what I'll just call the house of Ms. Bowles and Mr. Akers, but the jurors have the address. And they also have a Wi-Fi connection, and you were kind enough to look at that and determine, okay, the device is at that Wi-Fi connection.

(5:58:21 - 5:58:32)

Remember that? Yes. And you said approximately, you were very clear, you said approximately 1240, but would it be more 1242 AM? It could be. Okay.

(5:58:35 - 5:58:59)

And that device just means that it connects to the Wi-Fi. So to be fair, if I pulled into my house and if there's Wi-Fi, or even a courthouse, I guess, or a McDonald's, it doesn't mean that I get into the house or the McDonald's or the courthouse. It just means that, for whatever reason, that signal is strong enough to make the connection, my phone recognizes it or my device recognizes it, right? Correct.

(5:58:59 - 5:59:22)

So if the phone pulled up, left the McDonald's, went to the house that we're talking about, then at some point it recorded that at 1242 AM that device was connected to that Wi-Fi in that house. Correct. Under longitude latitude, right? Correct.

(5:59:23 - 5:59:39)

But the device could still be outside for another minute if the person is collecting their belongings, taking out of a car, and then walk until they enter the house, or even two minutes, true? It could,

depending on the strength of the connection. I mean, I could sit in my car for an hour if I wanted to, right? Correct. All right.

(5:59:39 - 5:59:58)

But what we have is, so not to guess, we have 1242, that device is at the longitude latitude of the address that you previously gave. Fair? Yes, sir. And the way that route from the McDonald's to that address, it doesn't really mean we took that route.

(5:59:58 - 6:00:09)

All you're saying is these two points and this is a route. If people know back roads, they can go back roads, whatever. You're just saying this is one way to get from A to B. It's 1.5 miles, right? Correct.

(6:00:10 - 6:00:34)

But we have the time, so it doesn't really matter the miles. We know at some point, McDonald's at the time, you said 1228. At some point, if the house is 1242, and all this is in the early morning hours of December 22, 2019, right? Correct.

Yes, sir. I want to go back about an hour and a half. So I'm now at 1111, you know, the make-a-wish time at night.

(6:00:35 - 6:00:46)

Of Saturday, December 21 of 2019. Okay? And if you need to see anything or check it later and come back, it's no problem. Obviously, with me, we have to ask now and record.

(6:00:47 - 6:00:57)

But do you remember checking the cash file? I checked it. I don't recall any specifics. That's fine.

(6:00:57 - 6:01:10)

And a cash file, well, why don't you tell the jurors, if you don't mind, what the cash file is? The cash file is basically in reference to locations? No. Anything. Anything? Okay.

(6:01:10 - 6:01:27)

So the cash file is basically your phone. It's a quick reference for your phone. So if it is, you know, a website or something that you may visit frequently, it'll save to your cash file.

(6:01:27 - 6:01:42)

That way, your phone will remember it and populate it a little more quickly. I mean, these devices

are really intelligent, right? Correct. I want to show you, and then you can check it if I'm not here to take three hours now, if you have to go back to your office.

(6:01:43 - 6:01:51)

But I'm going to show you our vote, show it to the prosecutor, and the court's permission to approach you, Ms. Bowles, number 82. May I approach? Yes. May I approach you? Yes.

(6:01:52 - 6:02:30)

I tried to give you all the metadata that it would allow. But this is something, if it is, and you'll tell us if it's not, that was on the device at 11.11 p.m., approximately an hour and a half before 12.44 a.m. number one call. Can you verify that? I don't see a time stamp.

(6:02:32 - 6:02:40)

You got cut off at the bottom. Do you see everything else to verify it, if you need to go back and look at the device, the extraction? Yes, sir. All right.

(6:02:40 - 6:02:52)

Can you do that really fast? You need me to go back and review the device? Do you mind if you could do that really fast for the jurors? Sure. I would have to go back to the sheriff's office. Okay, no, no, no.

(6:02:53 - 6:03:02)

Perfect. All right. With the court's permission, I'm going to hold this, but I'm going to ask you, unless the judge tells you don't do it, to please do that.

(6:03:03 - 6:03:09)

Okay. Okay? And it's marked as Ms. Bowles, number 82. True? Yes, sir.

(6:03:09 - 6:03:24)

With that, I'm going to move to tentatively, conditionally admit it. But if I'm wrong, you're going to tell the jurors I totally misrepresented and it is wrong, Your Honor, if I can move it. In the interest of time, I'm even-tender it.

(6:03:37 - 6:03:42)

All right. Is it tender? Yes. Okay.

(6:03:42 - 6:03:48)

It's tender, but I'll come down and call it a condition. All right. All right.

(6:03:48 - 6:03:57)

I'm going to show on the screen, but I think you have the original copy. Your Honor, may I use the duplicate? Sure. May I approach you? May I approach you? Sure.

(6:04:10 - 6:04:15)

And you will remember, you'll take a note or something, you will remember to check this. Yes, sir. Okay.

(6:04:16 - 6:04:20)

Because if I'm wrong, I want you to tell everybody I was wrong. Yes, sir. All right.

(6:04:21 - 6:04:35)

It's cut off at the very top the way it's printed, but can you read that, tell someone you love them today because tomorrow is not promised to my family and friends, I love you, and then there's hearts and a smiley face. You see that? Yes, sir. All right.

(6:04:35 - 6:04:55)

And then what we were talking about earlier before it was displayed, you can use all that information to pretty easily find it and it's the day before, so we're talking about Saturday evening, December 21st, 2019, at 11, 11 at night. Okay? Okay. All right.

(6:04:55 - 6:05:18)

Thank you very much. I want to go back to some of the searches that we just saw that you, you know, you printed out and you showed with the district attorney's office. Do you mind using that? I think it's state number 220, but I may be wrong.

(6:05:18 - 6:05:26)

Thank you. You may need the, actually the entire, do you have the entire printout? Yes. Okay.

(6:05:27 - 6:06:01)

Thank you. Do you have, can you look, if you don't mind, officer, otherwise I'm coming to you, December 12th, 2019. So this is Friday, December 12th, I mean, December 20th, 2019, 3 0 2 0 7 a.m. Do you see that in your stack? And if not, 0 2 0 7 a.m. 3 0 2 0 7. Yes.

(6:06:15 - 6:06:45)

You don't see it? No. December 20th. I'm looking at your honor.

(6:06:45 - 6:07:03)

Well, can we just approach for a minute while you're working? Cause I may just want to speed this up. Okay. Reference we, and then in the next break, we put it on the record.

(6:07:03 - 6:08:16)

Would that be okay? The investigator just handed me the honor. Thank you. States number two, two, zero.

(6:08:17 - 6:08:25)

Page. It's a bunch of, but oh, seven. This is already in evidence.

(6:08:25 - 6:08:28)

Ready to display your honor. Yes. Okay.

(6:08:29 - 6:08:49)

Here. Did you not? That's December 20th, 2019 in line 84. Is that fair to say? Yes, sir.

(6:08:49 - 6:08:53)

And it's in the morning hours. Oh, excuse me. I am sorry.

(6:08:53 - 6:09:02)

It looks like a PM. 3 0 2 0 8. Here's 3 0 2 7. You see that? Yes, sir. So it's the afternoon.

(6:09:02 - 6:09:08)

Yes, sir. And that would be Friday. If you don't know the date, just say, I don't know the day of the week, but it's December 20th, 2019.

(6:09:09 - 6:09:16)

Yes, sir. And the search was on safari. That's a known site, right? That's a known search engine.

(6:09:17 - 6:09:21)

Yes, sir. And it says California meth cities, right? Correct. All right.

(6:09:22 - 6:09:41)

And then in addition to that, you can remove that from number 1602. If you could just look at the number on the side, it'll be a different one. And it should be the reference number.

(6:09:41 - 6:09:50)

How they sequentially, you know, on the phone too. So it should be 1602. If you could look at this one, if you don't mind, and just announce what you put on the screen.

(6:09:50 - 6:09:58)

If you don't mind, Mr. Investigator, it's on the back. Just announce what you're considering. 220.

(6:10:00 - 6:10:08)

220 D as in Barry. And it's line 1602. The prosecutor showed you this one, I believe.

(6:10:09 - 6:10:15)

How to handle your wife's mental health. Remember that? Yes, sir. I think that's health.

(6:10:15 - 6:10:24)

If I'm wrong, I'm not trying to be wrong. And then I'm going to 1602. Do you see this? And it says crackhead Dan.

(6:10:24 - 6:10:36)

Yes, sir. Okay. And that's just two searches down from what you were asked to read with the prosecutor, right? Correct.

(6:10:36 - 6:10:43)

All right. And then we have number. It's sequential.

(6:10:43 - 6:11:01)

Number four to five. Prosecutor showed you number 14 for if you can help us, Mr. Investigator. And with the exhibit number as well.

(6:11:06 - 6:11:11)

229. Thank you. And remember reading with the prosecutor.

(6:11:12 - 6:11:34)

You go up four to four, I believe. If you are a construction worker and have to work for the for the airport, do you get badge? Do you see that? Yes, sir. You remember talking with us about that

and explain that was on December 12th, 2019 at nine oh nine p.m. Yes, sir.

(6:11:34 - 6:11:41)

Okay. And I'd like you to look at the next one right after it. Four to five.

(6:11:41 - 6:11:52)

You see that? Yes, sir. And the search here is also in December 12th, 2019 at nine oh nine. 22 seconds.

(6:11:52 - 6:12:03)

It's a second. It's basically a similar search. But this went to a different search engine, right? It wasn't through a different search engine.

(6:12:03 - 6:12:08)

It just said to a different database, the Knowledge C database. Thank you. Yes, sir.

(6:12:08 - 6:12:18)

And this one reads. When getting badge at the airport, do you get and it's together but drug tested. You see that? Yes, sir.

(6:12:18 - 6:12:34)

Okay. You announced and it's number nine, six, seven with the prosecutor. And if you remember it, we don't need to see it.

(6:12:34 - 6:12:44)

But if you need to see it, it's fine. If it's okay with the court and the investigator members, something I may not be quoting. So maybe better show up with dear God.

(6:12:44 - 6:12:51)

I need your help. Remember that one? Yes, sir. And do you know if I said it wrong? I may not be quoting it perfectly.

(6:12:52 - 6:12:56)

I don't remember it verbatim. Okay. Okay.

(6:12:56 - 6:13:29)

Do you have number nine, six, seven? And while that's being looked for, do you remember

listening to audio message recordings? So if I were to call you and I left you a voice message, do you remember listening to those on the same device? I don't recall any voice messages, voicemails. Okay. I'm going to, I have some to play.

(6:13:29 - 6:13:36)

Okay. How do we verify that this came from this device? Same thing? You can go back and check. Yeah.

(6:13:39 - 6:13:51)

What number is it? 220E? Is it Edward? 220E isn't Aaron. And we're talking about number nine, six, seven, just so. My memory's not good.

(6:13:52 - 6:13:57)

Or it's better now. It's 12, seven. That's December 7, 2019.

(6:13:57 - 6:14:07)

It looks like 803 in the morning. Does that look like it to you? Yes, sir. And it says your database knowledge C is incorrect? Yes, sir.

(6:14:07 - 6:14:11)

And it said, dear God, I need your help. I need your strength. Yes, sir.

(6:14:11 - 6:14:18)

Okay. All right. Your Honor, may I have one second? Yes, sir.

(6:14:28 - 6:14:46)

This is going to be 93-108. You don't remember listening to voice messages from this device? The only audio was the voice memo that I reviewed. Okay.

(6:14:49 - 6:15:03)

So how do we determine that this came off this device? So it's the same thing as the cache. I'm just asking you, do you go back to your office? I'm not. I'm sure Mr. Steele's not trying to mislead the jury and out stipulate it came from this device, even though she may not have listened to it herself.

(6:15:04 - 6:15:10)

That's fine. All right. I move for the admission of 93-108.

(6:15:10 - 6:15:16)

There's multiple exhibits on here, Your Honor, but 93-108. Thank you, Jeff. No, Your Honor.

(6:15:16 - 6:15:21)

All right. Don't play anything else. He's a very short, Your Honor.

(6:15:22 - 6:15:28)

That's fine. Thank you. Thank you.

(6:15:45 - 6:16:08)

This will be 93. Mr. Abrams, this is Roger Teitelberg. If you'd get in contact with me according to your account, your account is in serious delinquent status and is not in your collection.

(6:16:16 - 6:16:22)

94. This is Daniel Akers. This is Brandon Ewing.

(6:16:22 - 6:16:35)

If you'd get in contact with me, I'm going to make a deposit for the 5218. Ball is 95. Good evening.

(6:16:35 - 6:16:45)

This is Daniel Akers. This is Pat O'Reilly giving you a call about your account. Give us a call as soon as possible at 688-567-5231.

(6:16:51 - 6:16:59)

Ball is 96. This is Mr. Daniel Akers. This is Brandon Ewing giving you a call, sir.

(6:16:59 - 6:17:17)

If you'd give me a call back at 688-567-5231. Ball is 97. Mr. Akers, this is Brandon Ewing giving you a call, sir.

(6:17:18 - 6:17:46)

If you'd just get back in touch with us at 688-567-5231. Ball is 98. Ball is 99.

(6:17:50 - 6:17:58)

This is a call about your account. Give us a call as soon as possible at 688-567-5231. Thank you.

(6:18:03 - 6:18:10)

Ball is 100. Hi, Daniel. This is a call about your account.

(6:18:10 - 6:18:18)

Give me a message at 678-567-5231. Thank you. Ball is 101.

(6:18:21 - 6:18:32)

Mr. Akers, this is Pat O'Reilly giving you a call about your account. Give us a call back at 678-567-5231. Thank you so much.

(6:18:34 - 6:18:41)

Ball is 102. Mr. Daniels, this is Roger Titomare. If you'd give me a call, mate.

(6:18:42 - 6:18:54)

If your card now is out of commission, give me a call. Ball is 103. Mr. Daniel Akers, sir.

(6:18:54 - 6:19:09)

It is very important to speak to you about your account. Please call back at 688-577-5231. He goes up to 108.

(6:19:12 - 6:19:18)

Ball is 104. Thank you, Mr. Clerk. Mr. Daniel Akers, this is Brandon.

(6:19:19 - 6:19:29)

Sir, I'd like to speak to you about your account. Please call back at 678-567-5231. Ball is 105.

(6:19:32 - 6:19:40)

This message is from Mr. Danny Akers. This is Brandon over at Telemex, sir. Please give me a call back at 678-567-5231.

(6:19:44 - 6:19:58)

Ball is 106. You have a call about your account, sir. Please give us a call back at 678-567-5231.

(6:20:03 - 6:20:17)

Ball is 107. Mr. Danny Akers, this is Brandon over at Telemex, sir. I'm looking forward to seeing you around 6 p.m. It's a quarter after 6. Please give us a call back at 678-567-5231.

(6:20:21 - 6:20:27)

Ball is 108. Hey, this is Mr. Danny Akers. This is Brandon at Kingman College.

(6:20:27 - 6:20:47)

If you don't mind, we have a payment for the day. If you have any questions about your payment, give me a call back at 678-567-5231. Your Honor, these are from, you can check it, September 30th, 2019 to December 5th, 2019, in a consecutive order.

(6:20:49 - 6:20:57)

And that just sounds to you like people inquiring about a loan, maybe, bills. Yes, sir. Okay.

(6:20:58 - 6:21:06)

I also was handed this. If I may approach going back to that exhibit, it may save you some time. Your Honor, may I approach? Yes, sir.

(6:21:06 - 6:21:25)

May I approach you? Yes, sir. Can you tell me what the exhibit number is right in front of you? 82. And I'm going to mark this with the court's permission.

(6:21:25 - 6:21:32)

This bowl is number 82A. Thank you, Lisa. And just tell me if this helps orient better.

(6:21:33 - 6:21:36)

May I approach you? Yes. May I approach you again? Yes, sir. Okay.

(6:21:37 - 6:21:52)

I know you said it was cut off. Does that look similar? I know it's not a color copy, but that looks similar to what was in this bowl, number 82? Yes, sir. And 82A, is that fair to say it's not cut off? You have now the data.

(6:21:53 - 6:22:15)

It's called metadata, right? Yes, sir. Can you just explain what metadata means to the jurors? Metadata would be the information collected from the phone and the image and that such thing. So we know it comes from the phone.

(6:22:15 - 6:22:19)

Nobody changed it. That's an imprint on the phone. Is that fair to say? Yes, sir.

(6:22:19 - 6:22:34)

It just means that if I wanted to change it, it would say it was changed or altered in some way. And that's what Cellebrite does, right? Yes, sir. Cellebrite does the extraction, forensic extraction, meaning you can't go in afterwards and say, well, I'm going to delete this message.

(6:22:34 - 6:22:40)

Yeah, we can't make any changes in a Cellebrite extraction. Right, and that's what you did here. You preserved the device.

(6:22:41 - 6:22:48)

Yes, sir. Do you see the date? Can you tell the jury? Your Honor, I'll move for Ms. Bowles, number 82A. No objection.

(6:22:50 - 6:22:58)

Can you just tell the ladies and gentlemen the jury when that was on the phone? December 21st. I'm sorry. In the cache.

(6:23:00 - 6:23:10)

December 21st, 2019. At time? 11, 11 p.m. Okay. All right.

(6:23:12 - 6:23:35)

Let's see. Did you look at photographs by any chance on this phone? No, sir. Okay.

(6:23:45 - 6:24:44)

Your Honor, may I have one moment? Of course. Your Honor, I've marked Ms. Bowles, number 80, and Ms. Bowles, number 81, and I believe there is going to be a stipulation to the parties if that's agreeable to the court to embrace. I think we need a really formal stipulation.

(6:24:44 - 6:24:48)

I will agree to the missing there. All right. Thank you.

(6:24:48 - 6:25:03)

And, Your Honor, just for clarity, these are in the photo section of the phone that was extracted of Mr. Dan Akers. If I'm wrong, you come back, okay? May I approach you, Your Honor? Yes. I'm just showing it to you just to see it, and then I'm going to ask you to put it on the screen.

(6:25:13 - 6:25:34)

One second. Your Honor, may I ask an investigation? Of course. May I display it? Do you need paper? That's going to be Bowles 82A, is it not? And I know we did this.

(6:25:34 - 6:25:51)

I'm not trying to make time, but the only addition is down here it gives the date, December 21, 2019, at 11-11-43 seconds p.m., right? Yes, sir. Okay. If you could give it to me.

(6:25:54 - 6:26:02)

Bowles 80. Okay, now I'm going to try to orient you. I know it's in evidence.

(6:26:03 - 6:26:19)

You don't know what Dan Akers looks like, do you? I'm not real familiar seeing... Do you recognize this gentleman as Mr. Dan Akers? It appears that it could be. Okay, okay. And this is taken, if you can tell, in a mirror.

(6:26:20 - 6:26:45)

Is that true? It appears to be, yes, sir. And when you take a photograph in a mirror, is it fair to say everything's reverse? Yes, sir. So if I were to hold this pointer, whatever, the blue light in my hand, and I took a picture, it would appear, I'm not saying it's true, but it would appear everything's inverse, that if someone didn't know it's in a mirror, it would look like it's in my left hand.

(6:26:45 - 6:26:59)

Is that true? Yes, sir. So this photograph... You've taken a selfie before? Yes, sir. This is actually Mr. Akers.

(6:26:59 - 6:27:10)

He's using his left hand, even though it appears to be his right hand to take that selfie. Is that true? It would appear so, yes, sir. And then, to be fair, if you don't mind showing the next one, this falls number 81, I think it is.

(6:27:14 - 6:27:29)

Falls 81. And this is also... Do you recognize potentially Mr. Akers in the photograph? Yes, sir. And this is a different day, it appears, because different outfit.

(6:27:29 - 6:27:37)

I know he's not wearing a shirt in either one, but different outfit. Yes, sir. And this is also in a mirror, and a selfie, correct? It appears so, yes, sir.

(6:27:37 - 6:27:48)

So this looks like it's a left hand holding the camera to take a selfie, but the truth is it would be right. Everything's inverse. It's the same as the other picture, true? It is, yes, sir.

(6:27:48 - 6:27:58)

So we have one photograph, this falls number 80, and one photograph, this falls number 81. And it's just using either hand to take a selfie. That's all the differences, right? Yes, sir.

(6:27:59 - 6:28:14)

Okay. Thank you, sir. Your Honor, may I just have one second? You're welcome.

(6:28:42 - 6:28:54)

If I may, Mr. Would you go, if you can find December 19th, 2019, it would be States Exhibit No. Yes, sir. Yeah, but it would be December.

(6:28:54 - 6:30:43)

You should have December 19th, 2019, I believe. Okay. Were you able to find it? We don't have the 19th.

(6:30:43 - 6:31:05)

All right, I'll do it a different way. Thank you. Thank you.

(6:31:06 - 6:31:31)

May I approach you, Your Honor? Yes. May I approach you? Yes. I'm going to show you Ms. Hull's Exhibit No.

146. Let's take a peek at that, tell me if that has the metadata from this device, understanding that, you know, you could go back to your office and, if I'm wrong, say that that doesn't exist. Yes, sir.

(6:31:32 - 6:31:46)

All right. Does it look like you have all the metadata there that would come off this device? Yes, sir. Your Honor, I move for Ms. Hull's No.

146. May I approach? Yes. May I approach you? Yes, sir.

(6:31:53 - 6:32:21)

Early, if you remember, on or around December 20th, 2019, there was a search on California meth cities. Do you remember that? Yes, sir. And this one is the day before December 19th, 2019, 4.27 in the afternoon, and it's a safari, and it says meth, it's searching meth city.

(6:32:21 - 6:33:19)

True? Yes, sir. Okay. With regards to... Do you know how to do CTRL-F search? Yes, sir.

(6:33:20 - 6:33:25)

Okay. Your Honor, may I approach with a computer? Yes. Do you mind using it if you're comfortable using a computer? Sure.

(6:33:25 - 6:33:30)

Okay. This is... Just look at it. You can move it around.

(6:33:32 - 6:33:51)

It should be your cell-brite extraction that was given to us in discovery. Yes, sir. And can you search the term reasons why Dan a fail? And tell us if you find anything.

(6:33:55 - 6:34:01)

Dan's a fail? Yeah. Okay. Reasons why Dan a fail, F-A-I-L.

(6:34:12 - 6:35:00)

Do you get a hit on that? If you just look at fail, it should kind of... It may come up. Okay. Did you find it? Yes, sir.

(6:35:00 - 6:35:14)

Can you see it in the light that you're under? Yes, sir. Can you just read it to the jury with as much information as it gives you from your extraction? You know, explain what you're looking at. It's not on the screen.

(6:35:14 - 6:35:21)

It's my phone. Yes, sir. So this pulled up a Safari Google search.

(6:35:21 - 6:35:30)

Or a Safari search, I'm sorry. Reasons why Dan a fail. Okay.

(6:35:30 - 6:37:06)

And can you also look at Control-F if you don't mind? Why are you so mad, Dan? Or maybe mad, M&D? And tell us if you find that. I'm unable to pull up mad. You don't see mad, M&D? No, sir.

(6:37:15 - 6:38:36)

That's fine. That's fine. How about high on ice? Does that come up? I'm so sorry.

(6:38:36 - 6:38:45)

It's not wanting to... It's just searching. It's not doing anything. That's all right.

(6:38:47 - 6:39:06)

That's all right. I want to thank you. But if those recordings, the audio recordings that we heard, if the 11-11, December 21, if any of that's wrong, just please get the court's attention, the prosecutor's attention, the court's permission.

(6:39:06 - 6:39:12)

Yes, sir. Or my attention. And I would like you to correct it.

(6:39:13 - 6:39:14)

Yes, sir. All right. I have no other questions.

(6:39:14 - 6:39:24)

Thank you, Your Honor. Can you please explain? I'm upset at this with you. I don't know these terms very well.

(6:39:24 - 6:39:52)

What is a cache? A cache. So anytime you are ever online, your device is on your device, your device wants to be able to pop things back up quickly onto your device. So the cache is a recording of, you know, places that you have been on your device so it can populate quickly so it doesn't have to re-download everything.

(6:39:54 - 6:39:55)

Okay. It's a convenience. Correct.

(6:39:56 - 6:40:14)

Yes. In this, in this exhibit 82, you were asking about the fact that that screen is, was that found in the cache? It is in a cache folder, sir. Excuse me.

(6:40:14 - 6:40:35)

Do you have any indication based on your training knowledge and experience and your personal data extraction that this was saved in any way by a user? I would have to go back and look to be 100% accurate on that. But the file path is, does state it's in a cache folder. Okay.

(6:40:35 - 6:41:07)

Is that right here? See where it says caches, library caches? Yes. So if this were saved for use later or access later, is it possible that it would be under some type of other folder than where it would say cache? It could be. Do you have any indication that this, based on your data extraction, that this, what's been marked and admitted now that that was sent out to anybody? Just looking at this, no.

(6:41:08 - 6:41:35)

But I would have to go back into the database and review further. Is this, when something gets saved into a cache, is it possible that that was sent from someone else to the device? It could be, yes. And then, like if I get a name or a joke or somebody gets a name or a joke, and you look at it and just swipe away, could it go to a cache? It could, yes.

(6:41:35 - 6:41:37)

Okay. All right. Okay.

(6:41:42 - 6:42:04)

Yorai, can I just get that computer while they transition? Thank you. May I get the computer? Yes, sir. You were asked some questions about Defense Exhibit 81.

(6:42:04 - 6:42:19)

I'm going to continue up on that a little bit. So if you look at Defense Exhibit 81, you were asked about reverse imagery in a mirror. Do you remember that? Yes, sir.

(6:42:20 - 6:42:39)

So if I understand it, on the computer image, it looks like Mr. Akers was holding his phone in his left hand. That's really his right hand. Is that right? The reverse image? If it's in a mirror, then it would be inverted, yes.

(6:42:40 - 6:42:50)

You see where he's got this New York Giants tattoo here, and you can't read it because it's

backwards, right? Yes. So you would agree then that everything's backwards. Yes.

(6:42:51 - 6:43:00)

On Defense Exhibit 81. Yes. So the phone, is it there that the phone would really be in his right hand in this photo? Yes.

(6:43:01 - 6:43:13)

Can you see where he has his clip, where he would go and access his phone there? His phone clip? Yes. And that's on his, what side is that on his body? Right. Right in reality, right? Yes.

(6:43:14 - 6:43:19)

Even though it may look like left on this photo. So he has this little clip on his right side. Yes, sir.

(6:43:19 - 6:43:41)

All right. Do you remember, because I asked you about some specific searches, there was a search called crackhead. Do you remember that? Yes, sir.

(6:43:42 - 6:43:51)

Do you remember saying crackhead meme was one of the searches? Yes, sir. I believe so. Do you know what a meme is? Yes.

(6:43:51 - 6:44:15)

Okay, tell the jury if they don't know. A meme would be like a funny little picture online that is shared, usually with some type of joke. And then you were asked about a search that said meth city.

(6:44:15 - 6:44:28)

Do you remember that? Yes, sir. You know of a podcast called Meth in the City, a popular podcast about meth and the way it affects, negative effects on people and families. Do you know that podcast? I'm not familiar with it.

(6:44:28 - 6:44:39)

No, sir. You don't know anything about it, other than the fact that it said meth city. Do you know anything in the mind of the user of what was being searched for other than those two words? No, sir.

(6:44:50 - 6:45:31)

All the phone calls, is it fair to say that, I know you're not super familiar with the voicemail messages that were left from Title Max, but did you hear the date range given by the defense as ending on 12-5? Did you hear that? Yes, sir. So, do you have any reason to believe that the date range on the stipulated voicemails did not end on 12-5, the collections notices, or the calls from Title Max? No, sir. Based on your extraction, do you have any reason to believe that that's not accurate, that the last one was 12-5? I could go back and review, but I don't know if they go beyond 12-5 or not.

(6:45:31 - 6:45:42)

Or did you find anything that sticks in your mind, oh, I remember there was one on 12-7 or 12-8? No, sir. You have no reason to believe this was inaccurate when he says 12-5, the last date range? No, sir. Okay.

(6:45:48 - 6:46:02)

I'm going to ask about one more thing. If you could, Investigator Burke, if you could please go to message 967. Message 967.

(6:46:20 - 6:46:39)

Here you are. Can you put that 967 right here? Can you put that on the screen? The agreement's actually about message 967. Can you blow that up, please, sir? I appreciate it.

(6:46:45 - 6:46:55)

So, that's good, that's good. And let's wait for it to get out of focus then. So, do you see this Dear God? I mean, you're kind of finding this strange.

(6:46:56 - 6:47:23)

Yes, sir. Do you see what day that was? 12-7-19? Yes, sir. Would you, do you know that, and what time was that? 9-35? The line item 9-6-7 would be 8-0-3-A-M.

(6:47:23 - 6:47:31)

I'm sorry, I couldn't read it. 8-0-3-A-M on 9-7. Do you know what day of the week 9-7 was? 12-7.

(6:47:31 - 6:47:44)

No, sir. 12-7. So, if 12, did you know, were you advised that Mr. Acres lost his life on 12-22? Yes, sir.

(6:47:44 - 6:47:59)

So, Saturday would have been 12-21, you think? Yes. 12-21-19. So, would you know that 9-12-7 would have been exactly two weeks prior to that Saturday, right? Yes, sir.

(6:47:59 - 6:48:09)

Okay, so this would have been on a Saturday before this following day, Sunday, 12-8. Yes, sir. Okay.

(6:48:13 - 6:48:34)

Do you remember seeing or listening to, I think his name was Brandon from TitleMax. Do you remember hearing those messages coming from Brandon at TitleMax? Yes, sir. Do you remember one? I think, did you hear it say, hey, look forward to meeting you at 6 p.m. tonight? Did you hear that? I don't recall.

(6:48:35 - 6:48:52)

I'm sorry. That's all I have. Thank you.

(6:48:53 - 6:49:17)

Anything else? All right, ma'am. Thank you. Before we take a break, before you leave, I want to let you know that if there's something that's presented in the courtroom, like a video or audio or you've got evidence, once you start deliberating, if you want to come back out here again, all you have to do is let us know, okay? If you missed anything and that's your request, we'll bring you back out and let you hear it again, okay? Just want to make sure you know that.

(6:49:17 - 7:04:39)

Let's take ten minutes. I can't even believe it. It's really awesome.

(7:04:40 - 7:04:44)

Thank you. I think food is going to arrive by the time we finish. As well.

(7:04:45 - 7:05:59)

I'll see you later. Wait, we're going to leave before you finish. Yes, thank you.

(7:06:54 - 7:08:16)

Welcome back, does the state have another witness? State calls Duriel McKenzie. Good afternoon, sir. My name is Duriel McKenzie and I'm currently employed at the Georgia Bureau of Investigation with the Division of Forensic Sciences in the Toxicology Department.

(7:08:17 - 7:08:38)

And how long have you been self-employed? Almost 13 years. What is your educational background? I have a Bachelor of Science degree from the University of Mississippi in Forensic Chemistry. I have a Master of Science degree with a concentration in Forensic Toxicology from the University of Florida.

(7:08:40 - 7:09:23)

And what has been your job assignment during your time with the GBI? I analyze biological specimens for the presence or absence of alcohol, drugs of abuse, and I also perform carbon monoxide testing. What is Forensic Toxicology? Forensic Toxicology is the study of poisons and impairing substance applied to the legal field. And how long have you been involved in that type of endeavor and studies? 19 years.

(7:09:23 - 7:10:07)

I used to work at the Mississippi Crime Laboratory before I came employed at the Georgia Bureau of Investigation for a little over 16 years. Your Honor, at this time I would tender Duriel McKenzie as an expert in the area of Forensic Toxicology. Mr. McKenzie, I show you what is previously marked for identification as State's Exhibit Number 222, and I ask if you are familiar with that document.

(7:10:09 - 7:10:31)

Yes, I am. And what is that document? It is a copy of the report for the blood alcohol post-mortem analysis that I generated. And was that for a particular individual you had done that for? Yes, the victim is Daniel Akers.

(7:10:32 - 7:11:00)

Have there been any additions or deletions or anything to make you think that is not an exact copy of the document you produced in the evaluation of the item evaluated in this case? No. Your Honor, at this time the State would tender the evidence State's Exhibit Number 222. No objections or judgments, Your Honor, with regard to whether it goes back to the jury.

(7:11:08 - 7:12:05)

Mr. McKenzie, I believe this will appear on your monitor in front of you, and I would ask you to look at the State's Exhibit Number 222, and can you explain to the jury what this in fact is? So, this is, as I mentioned before, a copy of the report that I generated for the blood alcohol post-mortem request that was asked. In the top right-hand corner, the 2019-1035419 is the case number that was generated at the Georgia Bureau of Investigation when the evidence was submitted by the Georgia Bureau of Investigation Medical Examiner's Office. And what was submitted was a sealed package containing the following items identified as collected from Daniel

Akers.

(7:12:05 - 7:12:47)

There were two tubes containing femoral blood, two tubes containing urine, two tubes containing vitreous fluid, that's a fluid taken from the eye, two tubes containing seclavian blood, and one tube containing iliac blood. And did you have occasion to analyze any particular item from those you just described? Yes, I analyzed 2A, one of the tubes of femoral blood that was submitted. And why did you pick the femoral blood? I picked the femoral blood because that is the best specimen to test in post-mortem or dead cases.

(7:12:48 - 7:13:21)

It has less chances of being contaminated or giving results that aren't valid. What exactly do you do to analyze the blood to come up with a finding? So I take some of the blood from the tube and I place it into a vial and it also contains another chemical called an internal standard that helps find the concentration of the alcohol. I also sample several other controls.

(7:13:21 - 7:13:34)

These are known concentrations of alcohols along with the cases. They go in their own individual vials. And then I place them onto an instrument called a headspace gas chromatograph with flame ionization detector.

(7:13:35 - 7:14:11)

I also sample the cases twice and report the average of the two. So I sample the cases twice, sample the series of controls twice, place them on the instrument, the instrument has the ability to detect alcohols such as methanol, which is wood grain or wood alcohol, ethanol, which is drinking alcohol, isopropanol, which is found in rubbing alcohol, and acetone, which is found in fingernail polish remover. So it can detect those and tell the difference between them and then we can also see the amount of alcohol that is present.

(7:14:12 - 7:14:49)

And what did your analysis of the substance collected from Mr. Aker's body reveal when you analyzed it? Submission to A, ethanol alcohol result by gas chromatography is 0.068 grams of ethanol alcohol per 100 milliliters of blood with an uncertainty of 0.003 grams of ethanol alcohol per 100 milliliters of blood. And there's a statement saying these results may be affected by the cloudy nature of the specimen. All right, sir.

(7:14:50 - 7:15:01)

He's waking. Good afternoon, Mr. McKenzie. Good afternoon.

(7:15:02 - 7:15:06)

My name is Raymond Lail. I, along with Brian Steele, represent Ms. Bowles. Just have a couple of questions.

(7:15:07 - 7:15:19)

Okay. Mr. Cole covered most of the things I would have asked you. So, of course, you have to follow protocol in order for the results to be correct.

(7:15:20 - 7:15:25)

Right? That's correct. And that's how you're trained, right? That is correct. Okay.

(7:15:25 - 7:15:34)

And you did follow protocol in this case? Yes. There was nothing remarkable about this case. Otherwise, it would have been denoted in your report, correct? That is correct.

(7:15:34 - 7:15:51)

Okay. Very good. Just going back to what you testified to earlier at number one, the results are 0.068 plus or minus 0.003, correct? Correct.

(7:15:51 - 7:16:23)

So, what you're saying is in your report, the result could be a 0.071 or it could be a 0.065. So, the result that I reported is what we found, 0.068 grams of ethanol, alcohol per 100 milliliters of blood. But the true value of the ethanol that may be in the tube could be between what you said, between 0.065 to 0.071 grams of alcohol per 100 milliliters of blood. Very good.

(7:16:24 - 7:16:30)

Good question. Okay. That's all I have.

(7:16:31 - 7:16:36)

All right. Did you have something to say? No, Your Honor. I'd ask that this witness be released.

(7:16:36 - 7:16:38)

All right. Thank you very much, sir. You did a good job.

(7:16:39 - 7:17:41)

Any other witnesses? I'm going to call Sarah Van Holm. I'm going to swear you in. All right.

(7:17:41 - 7:17:48)

Raise your hand if you swear. I swear that the first testimony that you're about to give will matter before the court will be the truth, the whole truth, nothing but the truth. So, help me God.

(7:17:48 - 7:17:58)

I do. Could you state your name, please? Yes. My name is Sarah Van Holm.

(7:17:58 - 7:18:14)

That's Sarah with an H. Last name is Van Holm. That's two words, V-A-N-H-O-L-M. And how are you employed? I am currently employed with the Georgia Bureau of Investigation in the Division of Forensic Science as a senior firearms examiner.

(7:18:15 - 7:18:48)

And how long have you been so employed? Since July of 2017, so about nine and a half years. Now, what type of education have you had to be able to be hired by the GBI as a forensic firearms examiner? So, I have a bachelor's degree in biology from the University of North Georgia. Prior to being employed with the GBI, I was an operations manager for a small firearms manufacturing company.

(7:18:48 - 7:19:09)

I was a certified firearms instructor, and I was also a sponsored competitive shooter. Upon being employed with the GBI, I completed a two-year training program to become a firearms examiner, and that was followed by seven months of supervised casework. I've been certified as an armorer for multiple firearms manufacturers.

(7:19:09 - 7:19:33)

I've attended multiple conferences and conventions that are firearms and firearms examiner related. I'm also a member of the Association of Firearm and Toolmark Examiners, and I'm also independently certified through that association as well. Have you ever been declared an expert in the area of firearms examination? Yes.

(7:19:34 - 7:19:50)

Approximately how many times? It's around 95 times. And have you testified as an expert in court before? Yes. About how many times? Again, about 95 times.

(7:19:52 - 7:20:21)

Now, well, at this time I would tender Ms. Van Holm as an expert in the area of firearms

examinations and analysis. Now, can you tell us, what exactly is a firearms examiner? What does that person do? Yes. So, I have a demonstrative as well, if I can use it.

(7:20:21 - 7:20:23)

That would be excellent. Perfect. Okay.

(7:20:24 - 7:20:52)

So, as a firearms examiner, primarily what we do is we determine if a bullet or a cartridge case was fired from a particular firearm or not. Now, what we're looking at are the repeating patterns of markings that are imparted from a firearm onto those different ammunition components, so cartridge cases and projectiles, that together is called a cartridge. So, that's going to be a single unit of unfired ammunition.

(7:20:53 - 7:21:07)

So, for example, this is a cartridge. It's made up of four main parts. Your main housing being your cartridge case, your projectile sitting in the mouth of that cartridge case, also known as your bullet.

(7:21:08 - 7:21:24)

Inside of that cartridge case is going to be your gunpowder or your smokeless powder. And then on the base of that cartridge case is going to be your primer, kind of looks like a button. When a trigger is pulled on a firearm, it releases what's called a firing pin.

(7:21:25 - 7:21:50)

That firing pin actually dimples that button or that primer on the back of that cartridge and it creates a spark inside of this cartridge case. That spark ignites that gunpowder and creates a combustion or a rapid gas expansion. And what that does is it actually dislodges this bullet from the mouth of the cartridge case and sends it traveling down the barrel of the firearm.

(7:21:51 - 7:22:10)

That's where that projectile is actually going to pick up the rifling from the barrel of that firearm. Well, because of equal and opposite reactions, as this is being pushed down the barrel of the firearm, this cartridge case is actually being slammed into the breech space of the firearm. It's also expanding slightly inside the chamber of the firearm.

(7:22:11 - 7:22:57)

So those interactions with the firearm are creating markings that we as firearms examiners are actually able to look at and look at the repetition of those markings and be able to compare them.

I'm just saying at home, I'll show you what's previously been marked for identification in the state's exhibit number 223 and ask you if you can identify that document. Yes, I do.

(7:22:58 - 7:23:10)

And what is that document? This is the report created from this examination. Now you say the report. Who prepared that report? So I prepared this report.

(7:23:12 - 7:23:35)

And what type of examination did you do? So for this case, I received a firearm, so a .22 revolver. I also received several cartridges and a cartridge case. And then I also received a .22 bullet from autopsy.

(7:23:35 - 7:24:05)

So because the .22 bullet from autopsy was the same caliber as the revolver that I received, I will test fire that revolver and compare it to the projectile that I received. I'm not comparing the cartridge case that I received because it was recovered from the actual cylinder of the firearm. So then I performed an examination on that projectile compared to test fires from that firearm and then came to my conclusions.

(7:24:11 - 7:24:57)

Ms. Blaine, how much of what's previously been marked for identification in the state's exhibit number 173 and ask you if you are familiar with that? Yes, I am. And how are you familiar with that? And first of all, what is that? This is the high standard .22 revolver that I received. Okay, I think there's a sticker on the other side of that.

(7:24:57 - 7:25:08)

It should be 173A, I believe. Is that correct? Yes, that's correct. Okay, so you were holding 173A, which is in fact the .22 caliber pistol? Correct.

(7:25:08 - 7:25:26)

And what kind of pistol is that? It's a .22 revolver. Now, what's the difference between a revolver and an automatic? So a revolver is a type of handgun. Typically you see it in like an old western movie.

(7:25:27 - 7:25:53)

They still make revolvers today, but they were a little bit more popular back in the day, if you will. But essentially, the difference between a revolver and a semi-automatic is that a revolver typically has a cylinder that swings out from the frame of the firearm. And it contains multiple areas to put

cartridges, multiple cylinders, or if you will, chambers to put cartridges.

(7:25:53 - 7:26:20)

So those cartridges, the unfired ammunition, are loaded in one by one into that cylinder. That cylinder then swings into the frame of the firearm, and those cartridges are lined up with the barrel ready to be fired. So on a revolver, you can either, especially this type of revolver, you can either pull the trigger and it will rotate that cylinder so it brings the cartridge in line, and then it will fire that cartridge.

(7:26:21 - 7:27:00)

Or you can pull the hammer back and then pull the trigger and it will fire a cartridge as well. The important thing to remember about revolvers is that those cartridge cases are retained inside of that cylinder until they are actually manually ejected from the firearm. Now, did you make any kind of comparison with this specific .153A with any kind of test fire bullets? So I created test fire bullets with this firearm, and then I compared it to a projectile I received from the medical examiner.

(7:28:12 - 7:28:38)

I'll show you where the street should be marked for identification of State's Exhibit Number 225 and ask if you can identify that. Yes, I can. And what is State's Exhibit Number 225? These are the test fires that I created with the revolver.

(7:28:39 - 7:29:06)

When you say test fires, what is a test fire? So when we receive evidence, we sort it based on class characteristics initially. It's kind of like kids sorting, sorting blocks. Those class characteristics are going to tell us how that firearm was designed.

(7:29:06 - 7:29:36)

So whether we receive cartridge cases or, in this case, a bullet, we're going to look at that bullet, and if the class characteristics agree with the firearm that we have received, then we will test fire that firearm to look a little further at the next category of markings that we're looking at to make our determinations. So our broadest category of markings we're looking at are those class characteristics. Then we will test fire the firearm, and then we're looking a little bit closer at what we call subclass characteristics.

(7:29:37 - 7:30:08)

So we're going to compare those bullets from the firearm that we test fired to our evidence, and we're going to be looking at this on what we call a comparison microscope. So essentially that's

two compound microscopes that are joined together by an optical bridge so that we can look at two objects, two cartridge cases or two bullets, at the same time and be able to compare those patterns. So once we've established that the class characteristics are agreeing, we've test fired the firearm, we're then going to look a little closer.

(7:30:08 - 7:30:42)

So those subclass characteristics are microscopic characteristics that are incidental to the manufacture of that firearm, so how that barrel was made. And those characteristics can carry over from one firearm to another that were manufactured around the same time period, but it still lets us narrow down on those markings. So broadest class, if subclass is agreeing, then we'll move on to what we call individual characteristics, and that's the bread and butter of what we do as firearms examiners.

(7:30:42 - 7:30:59)

Those are the characteristics that are incidental to the manufacture of the firearm, but also the wear and tear of that firearm, so they are unique to that particular firearm. So those are the markings that we are looking at to make our determinations. Do you have your employee card in your hand? I do.

(7:31:00 - 7:31:25)

I may see that in just a moment. And I'm going to, this is going to be published and you will have a copy on the screen there. It should be a 233 on it, and I'm going to ask you to pull out an item in that bag if you've ever seen that.

(7:31:25 - 7:31:52)

It's got a mark, I think it's already been marked as State's Exhibit Number 224. Can you tell me if you recognize State's Exhibit 224? Yes, I do recognize it. And how do you recognize that? I recognize it by the GBI case number and the item's numbers on the packaging and my initials on the seal.

(7:31:55 - 7:32:02)

Now I want you to look at your report. This is one of the first pages of your report. State's Exhibit 223? Correct.

(7:32:05 - 7:32:34)

Can you make it just a little bit bigger? Can you see it on the big screen here better? No, that's fine. Okay. Now, looking at your report, you've got a number here.

(7:32:34 - 7:33:00)

What is this number right there for? That's going to be the agency reference number, so that's going to be Paulding County Sheriff's Office reference number. Okay, and then you have a request and you're looking at the victim right here, is that correct? Yes, that's correct. Okay, now moving down to evidence, and this is the sealed package that you had received for our firearms analysis.

(7:33:01 - 7:33:26)

Is that correct? Yes, so that is the evidence I received. Okay, now the item 11A, what is that that you received? So when we receive a large package, we will itemize what's inside of the package, so that's going to be itemized into 11A, 11B, and 11C. 11A is the firearm itself, the .22 revolver.

(7:33:28 - 7:34:09)

Okay, and then you have a .22, what is that right there, where is that from? So that's the .22 long slash long rifle cartridge case. So .22 long and .22 long rifle have the same size cartridge case, so without a projectile, I cannot tell if it's a long or a long rifle, so I won't put both on there. And then after that on 11C, you have, what is that right there, what does that refer to? So 11C were seven .22 long rifle cartridges that were recovered from the cylinder of the firearm.

(7:34:10 - 7:34:55)

And then you were able to have test fires, where did you get the ammunition for the test fires that you used for the pistol that you were evaluating? So I actually used three of item 11C for those test fires. And how do you conduct a test fire, what do you do? So the reason I use the ammunition that came in as evidence is because we want to get the closest to the ammunition that we've received from in these office or as evidence. Because it can mark a little differently, different metals mark a little differently, so we want to get the closest representation of what we have.

(7:34:57 - 7:35:25)

So in order to create test fires, we're going to select three of those cartridges that I received. I will actually take the firearm and we will fire it into what we call a bullet retention system. So this was fired into a water tank, and what that does is it reduces the amount of damage that the bullets have when fired, so that I'm able to actually examine them.

(7:35:26 - 7:35:48)

And then I recover them from the water tank. And to what did you compare these test fire bullets? So I looked at the test fires to each other, because I'm trying to determine those individual characteristics that they share. And then I will compare those test fires to the evidence that I have received, so to the medical examiner's bullet in this case.

(7:35:49 - 7:36:25)

And did you receive the medical examiner's bullet? I did. And do you recognize that it's part of the exhibit? Yes, it is part of States Exhibit 224, and it is my GBI item number four. So what exactly did you do with the bullet that you examined for comparison with the test fire bullets? How did you go about that? So we will document the class characteristics of that bullet that we've received, again, to ensure that it has the same class characteristics as the firearm.

(7:36:25 - 7:36:40)

It did, so I test fired the firearm. And then I compared those test fires to look at those individual characteristics. And then I looked at those test fires compared to the projectile that I received on our comparison microscope.

(7:36:41 - 7:37:07)

So I'm looking for those repeating patterns from the rifling of the barrel. And did you do that in this case? I did. And what were you able to determine by using the bullet recovered from the medical examiner's office along with the test fires? What was your analysis? So the result of comparing the projectile from the medical examiner's office to the test fires was an inconclusive result.

(7:37:08 - 7:37:27)

And the reason for that is that there was a lot of damage to that projectile from the medical examiner's office. So there was not enough information for me to be able to make a determination whether it was fired from this firearm or not. Well, you fired this actual firearm, is that correct? Yes, I have.

(7:37:28 - 7:37:53)

And did you determine in your evaluation if this firearm operated as it was designed to operate? Yes, I did a check function on the firearm and it operates as it's designed. A check function. What is a check function? So when we receive a firearm and it has, again, the same class characteristics and we're going to test fire it, we perform a check function of that firearm.

(7:37:54 - 7:38:16)

So we're basically determining if that firearm's safeties are working, if the firearm itself is operational, if any changes have been made to the firearm. And then we're also going to denote all the information about that firearm as well. Were there any indications that this weapon would malfunction at all? No.

(7:38:17 - 7:38:35)

Did you determine the trigger pull on that weapon? I did. And what is it? Well, first of all, what is a trigger pull? So trigger pull is the amount of force it takes to pull the trigger and for it to release the firing pin. I did perform trigger pulls on this firearm.

(7:38:36 - 7:38:49)

This firearm is a single action and double action. So essentially that means single action is it performs one action when you pull the trigger. So you have to cock the hammer first.

(7:38:49 - 7:39:00)

And then when you pull the trigger, it just releases the hammer. And then it also has a double action feature to it where you don't actually have to cock the hammer every time. You can just pull the trigger.

(7:39:00 - 7:40:04)

And pulling the trigger actually causes the hammer to fly back and then to fall. So I took trigger pulls of both the single action and double action for this pistol. And the pistol functioned as it was designed to function.

Is that correct? Yes, it did. Ms. Van Holm, is there any way that by looking at the discharged bullet that you recovered from the medical examiner's office, is there any way to tell whether it was single action or double action that caused that bullet to be fired? No, I can't tell that from a projectile. That's my last question, Your Honor.

(7:40:04 - 7:40:06)

He's with the defense counsel. She's with the defense counsel. All right.

(7:40:06 - 7:40:24)

Good afternoon. My name is Raymond Lail. I, along with Brian Steele, represent Lacey Bowles.

(7:40:24 - 7:40:36)

Just a couple of questions. Mr. Cole asked you most of the questions I was going to ask anyway. And, of course, you don't receive any outside information with regard to the test that you did.

(7:40:36 - 7:40:57)

When I say outside information, you didn't receive any photographs from the crime scene or anything like that. You're just looking at the gun and whether or not the bullet that you received, you could conclusively say that that was fired from that gun. Yes, I just have the physical evidence of the firearm and the evidence I received from the medical examiner's office.

(7:40:58 - 7:41:19)

Fair enough. And there's a few dates on your report here. And just to clarify, you did this report, nobody else.

This is your report, correct? I was the primary examiner on this report, yes. Okay. And so when you received it, the date that you did the firing was when? That I test fired the firearm? Uh-huh.

(7:41:19 - 7:41:38)

The date I test fired the firearm was on October 5th, 2022. Okay. And by the time you receive a firearm, any other testing on that firearm by the GBI has already been done because you're fixing to fire a firearm.

(7:41:38 - 7:41:49)

You're going to touch it. You're going to pull the trigger. So when you receive a firearm, all the other tests have been done to that firearm if there's going to be other tests done, correct? Yes, typically we are at the last stop.

(7:41:49 - 7:41:51)

Very good. Okay. Thank you.

(7:41:54 - 7:43:31)

No, Your Honor, I'd ask that one man only to excuse himself. State calls, Your Honor, that they support Alexander Cobin. Good afternoon, sir.

I'm going to square you in, if you don't mind. Please raise your right hand and receive an oath, be sworn, affirm, and testify that you have been given the matter before the court, with the truth, the whole truth, and nothing but the truth, set up by God. Yes, sir.

(7:43:31 - 7:43:41)

You may be seated. Congratulations, Your Honor. Yes, sir.

(7:43:44 - 7:44:32)

Thank you, Your Honor. My name is Alexander Cobin, A-L-E-X-A-N-D-E-R, C-O-V as in Victor, I-N. Thank you, sir.

How are you employed? I am the assistant manager of the trace evidence section at the Georgia Bureau of Investigation, Division of Forensic Sciences, commonly known as the State Crime Lab. Yes, in March of 2020, I was a scientist in the trace evidence section. November of 2025.

(7:44:33 - 7:45:04)

Congratulations on that, sir. Can you tell the jury a little bit about your education experience, what it allows you to hold a job as? First, let's talk about just your assignment as a scientist in the laboratory in the trace evidence. I received a Bachelor of Science in Chemistry from Albany State University, and upon being hired at the GBI, in the crime laboratory, I started off as a lab technician for nine to ten months or so, and was then promoted to the scientist position.

(7:45:05 - 7:45:58)

And at that time, I began a training program in the first area of analysis that I was trained in, which was Gunshot Primary Residue, or GSR for short, and that was similar to going back to school again, about six to eight months of lots of readings, tests, oral examinations, written exams, a competency exam that I had to get the correct answer to, a mock trial phase, and then about a three-month supervised casework phase where I was performing real casework, but my trainer was going through the technical processes with me. And for every area of analysis that I'm trained in, it was a similar process. Have your work subjected to peer review, sir? Yes, they are.

(7:45:58 - 7:46:29)

Every case that I release a report for is peer reviewed by another scientist that is trained in that same area of analysis. And then, sir, in contrast, have you also served as a peer reviewer for some of your colleagues at the lab? Yes, I have. Do you attend the continuing education programs or conferences in your field of study annually to stay on top of developments, new discoveries in the area, and just kind of get that expertise? Yes, we do.

(7:46:30 - 7:46:52)

Have you ever led any of those conferences yourself? Leading conferences myself, no. I have presented at some discipline meetings, some of the new findings and trace evidence, but led the conferences or anything of that matter, not necessarily. You're a presenter in colleague meetings in your field.

(7:46:53 - 7:47:55)

Can you tell the jury just briefly what is trace evidence as far as the trace evidence section? Trace evidence refers to evidence that is either microscopic in nature, invisible to the naked eye, or evidence that has characteristics that we're looking at that are invisible to the naked eye or require microscopy in order to characterize them or do comparisons of them. So for us, we handle GSR, paints and coatings, plastics and polymers, glass, hair, fiber, fractured materials, general unknowns, et cetera. Has your expertise been generally in the area of gunshot residues while you were at CSI, sir? For the last 10 or 11 years or so, it has been GSR in addition to other areas of analysis.

(7:47:56 - 7:48:20)

Your Honor, at this time, you respectfully tender this witness, Mr. Coben, as an expert in the area of trace evidence, analysis and detection, specifically gunshot residue analysis. I leave no opposition. Thank you, Your Honor.

I should have asked you, I forgot. Sir, have you been tendered as an expert before in the Court of Georgia? Yes, I have. How many times? Approximately 120 times.

(7:48:20 - 7:49:01)

And does that roughly correspond with the number of times you testified in Georgia? Yes, it does. I want you to please, sir, if you would explain to the jury, just kind of in a layperson type of discussion, what is gunshot residue, sir? Gunshot residue, gunshot primer residue specifically in this instance, is a collection of microscopic particles that are formed when a firearm is discharged. These particles are invisible to the naked eye, form a cloud or a plume of gaseous vapors around that discharging firearm and also traveling some with the bullet as well.

(7:49:02 - 7:49:52)

They contain all three of the elements lead, barium and antimony within singular discrete molten particles and have the ability to then settle or rain down on any surfaces that are in close proximity to that firearm when it's discharged. Do you frequently have an opportunity to recall or to test for GSR in the modern era, in the modern time, as far as in conjunction with a crime scene investigation? Yes, I do. May I please show you, sir, what's been marked, I'll show it to the counsel first, what's been marked for identification purposes in the United States in 226? Okay.

226, sir. Thank you, sir. May I approach the witness, please? You may.

(7:49:53 - 7:50:01)

Sir, let me show you what's been marked for identification purposes in the United States in 226. We just haven't looked at that. Let's see if you recognize that, sir.

(7:50:05 - 7:50:27)

Yes, I do. How do you recognize us, what's been marked as States 226? This is the report that I released for this particular case. I recognize it by the GBI DOS specific seal at the top, our case number, as well as my signature on the last page of the report.

(7:50:28 - 7:50:38)

When you said GBI DOS, I said DOFS, Division of Forensic Sciences. That's correct. Just your abbreviation of DOFS or DOFS.

(7:50:38 - 7:51:06)

Does it appear, sir, in the States Exhibit 226 to be a fair and accurate representation of a report that you generated in conjunction with this case, Daniel Hankers' Lacey Holtz case? Yes, it does. Sir, do there appear to be any changes or material alterations or deletions that have been made to 226 that make it somehow not accurate to the report you generated, sir? No, there did not. Respectfully move the court to admit and evidence what's been marked previously for verification purposes only States Exhibit 226.

(7:51:07 - 7:51:15)

I don't object to it being used in the courtroom, but I do object at the proper time to going out with the jury. Good. Thank you, Your Honor.

(7:51:15 - 7:51:51)

So what were you called on to do in this case with respect to your specific specialties? In this particular case, I was asked to examine a GSR collection kit for the presence or absence of GSR. Okay. And when you receive a kit at the laboratory, sir, in what form is that kit? Typically, the kits that we're using are envelopes, if you will, with three vials inside.

(7:51:52 - 7:52:27)

These vials typically contain labels on them that say left hand, right hand, and then control. The left hand and right hand vials contain adhesive samplers that will then be used to apply to the left and right hands of whoever you are sampling for GSR. And that control vial also has an adhesive sampler, but it is just exposed to the collection environment, showing that there is no extraneous GSR in that environment.

(7:52:28 - 7:52:50)

That is also carried along with the entire examination process with the other two vials, the other two adhesive samplers, showing that I'm not introducing GSR to these samples at the laboratory, that there is no extraneous GSR inside of our instrument that we use, etc. All right. Sir, I'm going to show you part of what's been already admitted into evidence.

(7:52:51 - 7:53:07)

This is stage exhibit 181 and ask if you recognize the contents of 181. Is that similar to those little vials you were talking about? Yes, they are. Let me give you 181 itself in case you need that, sir.

(7:53:08 - 7:53:29)

Does that look like the vials? Yes, they are. All right, sir. Is there anything about the stage in which the vials were received by the unit causing you concern about the accuracy of your

testing? No, I did not have any concerns.

(7:53:29 - 7:53:38)

All right, sir. So let me show you then what's been marked and admitted into evidence in stage 326, sir. Thank you.

(7:53:40 - 7:54:00)

You can just look at the screen or the monitor in front, sir. So is this the report you generated then? Yes, it is. And what agency or who requested that you perform testing? The Paulding County Sheriff's Office.

(7:54:01 - 7:54:36)

And do you see the DOPS case ending in 419? Yes, I do. Is that the case number that would track this particular case throughout this journey? Throughout this journey through the Department of Division of Forensic Sciences? That's correct. Do you have a barcode here to be able to quickly also track evidence? Is that right? For that specific barcode, I'm not sure what that one's for, but there are barcodes on all the items of evidence that are received and then can be tracked throughout the laboratory.

(7:54:36 - 7:54:41)

There's a barcode on 181? Yes, sir. I'm sorry. I'm just showing it to the jury.

(7:54:42 - 7:55:00)

Do you sometimes barcode the evidence as it travels along through the laboratory? That's correct. Did you see in 181 the control bottle? Yes, I did. Tell me.

(7:55:00 - 7:55:07)

I'm sorry. I'm really trying to do a lot at once. Here you say the control bottle.

(7:55:07 - 7:55:27)

Is that bottle opened and tested at the scene of the GSR collection or alleged GSR collection, or did you open it and test your environment? The collection environment at the scene is sampled. The air is sampled for GSR using that file. What sample? I'm sorry, sir.

(7:55:27 - 7:55:58)

What did I hear you say about taking steps to make sure that your environment doesn't have GSR just floating around for maybe a test before lunch or something like that? Correct. The

laboratory environment that we're using to test these samples for GSR, we do make sure that we're wiping down the surfaces that we're placing the evidence on. I am going to wear gloves when I am handling the samplers and putting them into the instrument.

(7:55:59 - 7:56:25)

So exposing all of these samplers to our laboratory environment, to the inside of the instrument that we're using. Having that control along with that, along with this process, shows that we're not introducing any GSR to these samples. Are you familiar with the term cross-contamination? Yes, sir.

(7:56:25 - 7:56:42)

So is that what that is? You don't want cross-contaminated, you want a subject sample with environmental factors from where you are. Correct. We do not want any extraneous GSR contamination to come into contact with these samplers.

(7:56:43 - 7:57:15)

In our laboratory, we don't necessarily have individuals who are regularly exposed to GSR particles that will have GSR particles on them in the first place, but we do take additional measures to make sure that we're not contaminating these samples. Anything about your testing in this case that causes you concern about cross-contamination or something that would attack the integrity of your findings based on environmental factors in your lab? I do not have any concerns about contamination. All right, sir.

(7:57:15 - 7:58:06)

Can I have the lights down just a little, Deputy? Thank you, sir. So you receive a kit that was, I guess, performed or the kit was put into use before you got it, and what do you do when you get the kit, those files, for example? Once I receive the kit from our evidence locker to begin my examination? Yes, sir. At that point, I will inventory everything that is inside of the kit, take down any notations on my worksheet, and then input these samplers into our scanning electron microscope equipped with an energy dispersive X-ray spectrometer, or SEMES for short.

(7:58:07 - 7:58:53)

And all that is is just a very high-powered microscope that uses a strong beam of electrons instead of light like you usually see in a high school biology class laboratory microscope. This instrument is what allows me to see what got picked up on those adhesive samplers, any microscopic particulate matter that is there, and then also get an elemental profile of what all that particulate matter is made of. But, again, I am specifically looking for particles that have all three of the elements, lead, barium, and antimony in them, in order to characterize them as gunshot-prone residue particles.

(7:58:54 - 7:59:09)

Let's say you find a sample on your adhesive strip and it just has lead. What would your finding be then? Is that enough? As far as a GSR examination, I would report out that no GSR was found. All right.

(7:59:09 - 7:59:31)

And what kinds of surfaces can GSR, that's a bad question, from which kinds of surfaces can GSR be detected? Can it be detected on skin, for example? Yes, it can. Can it be detected on clothing, sir? Yes, it can. Can it be detected on hard surface like this table, sir? Yes, it can.

(7:59:31 - 8:00:20)

And, sir, is there any relation to the time period that GSR might be on a surface until you test it? Does it degrade over time? GSR particles can persist indefinitely unless they are forcibly removed. So either wiped away, washed away, rinsed, et cetera. Can you please tell me, did you undertake this testing on the same day as the report date, March 9th, 2020? My examination was actually performed on March 3rd, 2020.

(8:00:20 - 8:00:43)

Okay. Did you make a report on March 9th, 2020? Yes, I did. Can you tell the jury what you found regarding, if any, conclusions about the presence of GSR from the kit that was provided to you, sir? The GSR collection kit from Mr. Daniel Akers revealed more than five particles characteristic of GSR.

(8:00:44 - 8:01:14)

So you'll see up here, is it, where were the GSR adhesives taken, in this case, from the body of Daniel Akers? From the hands of Mr. Akers. You saw more than five particles, did you say? That's correct. What does that mean for the jury? The more than five category or level of GSR that we report out is the highest amount that we report out.

(8:01:14 - 8:01:28)

Typically for us, zero particles is no GSR was found, obviously. One in two particles are a small category, three, four, five. You're getting a little bit more significant.

(8:01:29 - 8:02:11)

This is a medium category for us. And then more than five, once I get to six particles of GSR, I can stop counting because finding any more particles of GSR beyond that point will not change my conclusions that this individual either discharged a firearm, was in close proximity to a firearm

when it was discharged, or they touched a surface that had a lot of GSR on it to transfer to their hands. When you found the five particles, sir, you noted the five particles of GSR from hands, is that consistent with someone who may have been shot? Yes.

(8:02:12 - 8:02:56)

For a person that is the victim of a gunshot wound, we do expect to find GSR on their person as well, because GSR can travel with a bullet as well, in addition to the simple fact that that person could have been within range of that initial plume or cloud of GSR particles to begin with. So it is reasonable for us to expect that we'll find GSR on the victim of a gunshot wound. Do you frequently find GSR on the body, clothing, skin, et cetera, people who are in any kind of close proximity to the discharged firearm? Yes, that is correct.

(8:02:56 - 8:04:27)

In a room where a firearm was discharged, like a residential bedroom or a room where a firearm was discharged, would you be surprised to find GSR on anybody that was in that room when it was discharged? No, I would not. Can you tell from the presence of GSR on a hand whether a firearm was purposely discharged by the person holding up the firearm, say a victim who is a suicide victim, or can you differentiate if the victim was shot, just from the GSR being constant? Unfortunately, one of the limitations with a GSR examination is that we cannot tell the difference between the shooter or simply being a victim. If a person's skin comes into contact with another person's skin that has GSR on, so you have two people, one is that person with no GSR on them, but then there's a discharge of a firearm, the person who discharged it, assuming they would have GSR on their hand, if that person touches the skin of that first person, would you be surprised to see a positive finding of GSR on that first person? No, I would not.

(8:04:27 - 8:04:54)

So GSR is easy to transfer? That's the word I was about to use, Mr. Cota, thank you. So is there sometimes such a thing as GSR to transfer? Yes, sir. And what does that mean, sir? That just means that if you have GSR on your hands and you touch your hand to any surface, be it a person or just an inanimate object, some of those GSR particles will then transfer to that surface.

(8:05:09 - 8:05:12)

Thank you, sir, that's all I have. Thank you. All right.

(8:05:13 - 8:05:24)

Cross to the next. Good to see you, sir. Good afternoon.

(8:05:37 - 8:06:05)

Your Honor, may I use a replica weapon, a replica toy revolver? No, I don't. May I approach? Yes, sir. This has the, do you see the tip, the orange tip? Yes, sir.

(8:06:06 - 8:06:11)

Okay. And do you want to look at it? It's a replica. Do you want to look at it? All right.

(8:06:12 - 8:06:33)

You're okay? I'm fine. Good. So just to make sure that we are explaining this properly, not only does the projectile come from the muzzle of the gun, but gases come out of the gun as well.

(8:06:33 - 8:06:41)

Fair to say? That is correct. And three of the elements are the elements you've been talking about to the jury. True.

(8:06:41 - 8:06:51)

That is correct. And I know there's barium and iron and iodine. Lead, barium, and ammonium.

(8:06:52 - 8:07:07)

And they're invisible to the human eye typically. That is correct. But they can get embedded and last forever really in a location unless somehow they are jarred away, washed away, cleaned away, something like that, right? That is correct.

(8:07:08 - 8:07:23)

So when the gun is fired, these elements typically are found on the person who fires the weapon. Is that fair to say? That is correct. That is fair to say.

(8:07:24 - 8:07:35)

And if I am -- I'm pointing at myself, of course. If I'm holding a gun, a revolver or not, it is not on the trigger. Like this.

(8:07:36 - 8:07:55)

And somebody comes at me to try to stop me from hurting myself if it was a real gun and grabs me, I pull back and it goes right here and fires. My hands could be in distance to get close proximity to get the gunshot. Is that fair to say? Absolutely.

(8:07:56 - 8:08:16)

Anything that's within several feet of that distracting firearm can get GSR deposited on them. And

when you say several feet, is it different for the gun? Is it different for the environment? I mean, how do we range? Several feet sounds subjective. Yes.

(8:08:17 - 8:09:02)

And when it comes to the plume or cloud of GSR particles that are -- that is formed when a gun is fired, that plume is never going to be the same shape or same size every time. The environment that you're in is going to make a difference as to where that plume moves and deposits. Is it static? Is it staying in the same area? Are we outdoors? Is it windy? Is it raining? Are you indoors? Is the AC blowing too hard? So it's really difficult to pinpoint and pin down just how far these particles are going to get in every single scenario.

(8:09:03 - 8:09:34)

But we do know that up to 10 feet, even further than that, depending on your conditions, those GSR particles can be deposited at that distance away from the discharging firearm. Now, in this case, Mr. Akers had the maximum -- you just stopped counting -- the maximum amount of gunshot residue on his hands. That's all that was checked.

(8:09:34 - 8:09:44)

True? That is correct. The highest amount that we report out. And that's consistent.

(8:09:44 - 8:10:21)

I think your report states it supports the possibility that the individual, in this case Mr. Akers, discharged the firearm, meaning he was holding the gun and pulled the trigger. That is one possibility, or was in close proximity to a firearm when it was discharged, or touched something that had a lot of GSR on it already to transfer to both of his hands. But one possibility in your report is that Mr. Akers fired the weapon.

(8:10:22 - 8:10:50)

That is one possibility, yes. Do you remember being part of an email on February 28, 2020, at 3.13 in the afternoon? No, I do not. I do have email correspondence with me.

(8:10:51 - 8:11:04)

That you reviewed to prepare for testimony today? Yes. I'd like to, with the Court's permission, exchange emails, and I'd like you to look at this one. Tell me if this looks familiar.

(8:11:04 - 8:11:35)

And I'd like to see yours, if that's with the Court's permission. I'm going to mark this Ms. Foles' number. Do you know the next one, 243? I meant 143.

(8:12:04 - 8:12:12)

May I approach you? Yes. Sir, may I approach you? Yes. I'm looking at Ms. Foles' number.

(8:12:12 - 8:12:20)

243, just tell me, to refresh your memory, and I'd like to see yours with the Court's permission. The email's in here. Thank you, sir.

(8:12:21 - 8:12:31)

I'm going to show it to the prosecutor as well. Tell me when you are ready. I'm ready.

(8:12:32 - 8:12:40)

Do you remember that email at all? Yes, I do. All right. And you were a participant, a recipient of that email, true? Yes, I was.

(8:12:41 - 8:13:00)

All right. And who wrote that email that we're talking about? At the time, it was my manager, Michael McCarrick. And who is that person today? Today, he is now an assistant deputy director of the laboratory.

(8:13:01 - 8:13:14)

All right. Okay. And actually, you have the same email here.

(8:13:14 - 8:13:20)

Did you not realize that? Yes, I did. I just was unsure of what date. Okay.

(8:13:20 - 8:13:22)

That's fine. All right. I want to ask something, though.

(8:13:23 - 8:13:27)

You're a scientist. True. Yes, I am.

(8:13:27 - 8:14:04)

You didn't go to school in order to be a rubber stamp for the prosecution, did you? No, I did not. And even though you work for the GBI Crime Lab, which is a prosecutorial agency, it's a law enforcement agency, right? It's a law enforcement agency, although we release reports and give out opinions and conclusions, regardless of who is asking for it. But the only people who can ask

for the GBI Crime Lab to assist is law enforcement, right? That is correct.

(8:14:04 - 8:14:26)

I mean, if I asked you about a case for Ms. Bowles, you would say you have to get permission from the prosecutor or some sheriff or something, right? That's correct. It has to go through the proper channels for that. I mean, you're on the team of the prosecution, but you yourself and the other scientists should be independent and neutral, right? We are independent and neutral when it comes to our findings and our reports.

(8:14:27 - 8:14:50)

Have you ever told someone that, you know, give me the evidence because it could be beneficial to our side or anything like that? Do you do that? No. Beneficial to whose side? The prosecutor's side, we'll say, law enforcement. Do you ever think like that? Like, oh, let me test it because this could be great for the case.

(8:14:50 - 8:15:00)

No, that's not how we go about doing our examinations. We are impartial in our examinations. You're just looking for truth.

(8:15:00 - 8:15:08)

That's correct. And that's really your charge, right? That's correct. Because this is people's lives.

(8:15:08 - 8:15:13)

No matter which side you're on, your work affects people. True. Very true.

(8:15:14 - 8:15:49)

And when you got that email and you saw what was written, did you say to your then boss, why would you write such a thing? No. No, at the time, by that point, I had been doing GSR examinations going on for years, and I understood exactly why my manager said what he said in the email pertaining to assigning this examination to me. So that's why it wasn't a question for me.

(8:15:49 - 8:16:35)

Did you see that, you know, it could be a good thing if there's no gunshot residue on Mr. Akers? Did you see? I'm not quoting it, but did you see something? That's what you understood, right? Right. So for us, when it comes to examining victim's kits for GSR, that is not something that we routinely do at the GBI. In 2008, we released an operations bulletin saying that we're not going to routinely examine kits from victims of gunshot wounds just due to the fact that we would expect

them to have GSR on them, and our examination will not add any information of value to the case.

(8:16:36 - 8:17:41)

And so every victim's kit that comes through the GBI, either we will send them back, we will release a report saying we're not going to examine this kit and here's why, or if we're asked to still do the kit, we will go ahead and examine the kit with the caveat that, hey, this is a victim, and if we find GSR, it's not really going to give us any additional information in this case because we know this individual was already in close proximity to a firearm when it was discharged. But if there was no GSR on the hands that you tested or the swipes that you tested, swabs that you tested from Mr. Akers, then that would have been almost conclusive he didn't pull that trigger. If there was no GSR on his hands, that would have been a much better indicator that he was potentially not the shooter in this particular incident.

(8:17:41 - 8:17:47)

We went the other side. He has the most amount of GSR in his hands that you calculated. That is correct.

(8:17:48 - 8:18:01)

Which is consistent with what you said earlier, right? That is correct. That he's possibly the shooter. Possibly a shooter or possibly just in close proximity when it went off or he touched something that had a lot of GSR on it.

(8:18:03 - 8:18:37)

If the shooter is in a doorway and the gun is discharged, and that's what law enforcement – I'm just asking hypothetically. You're an expert, right? And that's what law enforcement believed, that the shooting comes from a doorway. Could that doorway, the frame, that area be padded down – there's a word for it – in the tabs, the stickers? Can it be captured for potential GSR? The doorway could be sampled for GSR.

(8:18:37 - 8:18:52)

That's not something we normally see, but that is a surface that could be sampled for GSR. It's wherever the supposed gun was fired from. You can look for evidence of GSR, right? Correct.

(8:18:52 - 8:19:07)

And GSR is simply gunshot residue. Correct. And it's really not perfect because, like you said, if I get shot, I may have some gunshot residue on me depending upon the environment, the conditions, how close I was to the plume.

(8:19:07 - 8:19:30)

But if I fired myself, if I committed suicide, you would expect to find more than five elements on my hand if I committed suicide. Finding more than five particles of GSR is a reasonable expectation if you indeed committed suicide. Yes.

(8:19:31 - 8:19:37)

Thank you, sir. Can I approach? Yes. Do you want this one back or are you okay? Yes, please.

(8:19:38 - 8:19:51)

May I exchange? Mm-hmm. I'm going to exchange this. All right.

(8:19:51 - 8:20:32)

Anybody have a question? Is it also a reasonable expectation when you find five particles on somebody's hand that they may have been shot as close to this as mine does? That is also reasonable to expect. Did I hear you right on cross-examination? Did you say that if I shot somebody from a distance of 10 feet, would you say that there still could be particles on their body? Yes, there could, yes. Up to 10 feet out? Up to 10 feet, maybe even more depending on what conditions we're in, what kind of firearm was used, your positioning in relation to that firearm.

(8:20:37 - 8:20:54)

Sometimes a bystander, somebody who had nothing to do with the shooting incident, can actually have more GSR on them than even the shooter. Okay. You said one thing I wanted to touch on again, asking the same question.

(8:20:54 - 8:21:08)

I just want to go back to something you said on cross-examination. You said that GSR particles buried in antimony or lead can remain on the surface or skin even indefinitely until it's acted upon by some other force. Do you understand that? That's correct.

(8:21:09 - 8:21:37)

Can it be washed off? Yes. If you have GSR particles on your hands, washing your hands will cause you to lose most, if not all, of those particles right at that moment. So, in a scenario where someone discharged a firearm, for example, and then immediately went upstairs and they washed their hands in an upstairs sink, would that get rid of most or all of the GSR? Possibly.

(8:21:38 - 8:21:40)

Yes, that would. All right. Thank you, sir.

(8:21:41 - 8:21:44)

Any questions? No, sir. All right, sir. Thanks very much.

(8:21:45 - 8:21:50)

You can go. Thank you. Ladies and gentlemen, we're going to have dinner for you.

(8:21:50 - 8:22:51)

It's going to get here shortly after 5 o'clock, so you can plan on a break about that time. In the meantime, do you have another witness? Yes, Your Honor. May I please call Audie Murphy? Good afternoon, sir.

(8:22:51 - 8:23:03)

Your Honor, I'll swear you in, if you could please raise your right hand and receive an oath. Do you swear or affirm the testimony you're about to give in the matter pending before the court will be the truth, the whole truth, nothing but the truth, so help you God? I do. Please have a seat.

(8:23:08 - 8:23:10)

Yes, sir. Go ahead. Good afternoon, sir.

(8:23:10 - 8:23:19)

Can you tell the jury your name, sir? Audie Murphy. Can you spell it for the record? A-U-D-E-Y. A-U-D-E-Y.

(8:23:20 - 8:23:34)

All right, sir. Can you please tell the jury members how you were employed? Basically, just track your employment and your experience through law enforcement, if you will. Well, I'm Charlie Allen with the Department of Forensic Science.

(8:23:34 - 8:23:44)

I work in part-time. I would really pick up the bodies at the crime scene and take them to autopsy where I'd help with the autopsies. And then I became a police officer in Gadsden, Alabama, for almost five years.

(8:23:44 - 8:24:06)

And I worked as a GBI agent for about 25 years. The last 21 of those years, I was a crime scene

specialist. Can you tell the jury, please, your training, your experience in the area of firearms examinations, excuse me, firearms examinations, ballistics, and crime scene reconstruction? Well, my bachelor's degree is in forensic investigations.

(8:24:06 - 8:24:25)

I'm also a graduate of the National Forensic Academy, which is in Knoxville, Tennessee. It's basically a 10-week academy just for crime scene investigators. It goes into blood pattern analysis, shooting reconstructions, claim-destined bodies, pretty much every aspect of crime scene investigation.

(8:24:26 - 8:24:58)

Over 30 years of experience in the process of crime scenes, I've been doing only job training from fingerprints, photography, crime scene sketches, again, the shooting reconstructions, death investigation, just various aspects of it. For the crime scene process in the area, is it 21 years? I did 21 years as a crime scene specialist, but I've been doing crime scene work for almost 30 years. Was the majority of the crime scene specialty work done with GBI? Yes.

(8:24:59 - 8:25:11)

Did you ever work for the Paulding County Sheriff's Office? No. All right. Have you processed scenes first as a law enforcement officer before you work as a crime scene specialist with GBI? Yes.

(8:25:11 - 8:25:36)

When I was a patrol officer with the Gadsden Police Department, I started doing crime scene work with them for about my last two years with them. In transitioning to GBI, 21 years as crime scene specialist, have you had an opportunity to go into various crime scenes, process the scene, and do anything related to the processing or the investigation of the scene itself? Yes. Over the course of my career, I've probably worked between 400 to 500 death investigation cases.

(8:25:37 - 8:26:06)

All right. Was your experience limited to death investigations, or would you go and say shootings where people did not—they were not mortal shootings, but did you go to shootings and other violent crimes, armed robberies, violent kidnappings, burglaries that did not involve death? Most of my cases were death investigations. However, occasionally I would be called to an armed robbery, an invaded assault, an officer-involved shooting, things like that as well.

(8:26:06 - 8:26:25)

But the vast majority of them were death investigations. Have you testified as an expert at the State of Georgia previously? Yes, I have. Do you know how many times? No, but I know it's been at least 12 different judicial circuits, including two federal circuits.

(8:26:26 - 8:26:59)

In what area of expertise were you tendered in those circuits? Crime scene reconstruction, blood pattern analysis, firearms, and shooting reconstructions. Did you have to attend, or did you in fact attend, an annual training or annual recertification in this continuing education for people working in the GBI? Yes, we had yearly training as crime scene investigators, as well as with the GBI. We also had our regular agent trainings every year with the GBI.

(8:26:59 - 8:27:25)

I've also been certified by the National Forensic Association as a crime scene analyst. Tendered witness, Your Honor, respectfully, as an expert in the area of crime scene analysis, forensic examination, blood pattern analysis, ballistics, and firearms examination. Hello, I'm Jack.

I have zero CV, notice. I'm up there. Report.

(8:27:27 - 8:27:31)

Your response is true. No, Your Honor. No.

(8:27:31 - 8:28:15)

I like to take it outside the presence of the jury. All right, let's get out of here. All right, go ahead, sir.

(8:28:16 - 8:28:21)

Okay, please record, Your Honor. I don't have a CV before. Let's, uh, excuse me.

(8:28:21 - 8:28:51)

Sir, can you step out while we have a discussion, and then we'll come back in, okay? All right, so whenever you're ready. Your Honor, respectfully, I've put an inmate's on notice for over a year now, that this witness is going to be called. I have all this contact information.

(8:28:51 - 8:28:53)

I don't have a CV before. I'm up here. I've never seen it.

(8:28:55 - 8:29:21)

But the defense has been properly placed on notice of this witness, with his prior experiences

and work with the GBI. They're free to contact me if they wanted to. And I don't have a CV for him.

I don't have a report. He's never generated any written report involved in this case, to my knowledge. And he certainly passed the standards for being qualified and tendered as an expert in the areas for which he was offered.

(8:29:21 - 8:29:25)

Thank you. All right. Anything else, Mr. Stewart? Yes.

(8:29:27 - 8:29:50)

I have a witness list served upon us in the state of Georgia. I have number 17 on the witness list that is dated 7th of May, 2025. It says the gentleman's name, Audrey Murphy.

(8:29:50 - 8:30:09)

A-U-D-E-Y-M-U-R-P-H-Y. It has nothing else except his phone number that ends in 6474. I have nothing to suggest that he is going to be a crime scene reconstructionist at all.

(8:30:09 - 8:30:36)

I have one, a three-paragraph, maybe 17-line report that is a combination report of his and Nick, Detective Hardy. And it says he just inspected the gun. That's all it says.

(8:30:36 - 8:30:52)

I have had no notice that he was coming in to do anything except say I inspected that gun for impact spout. That's it. So I would have, because knowing me, I just know me, I would have interviewed him.

(8:30:52 - 8:30:59)

I would have checked his CV. I would have checked the cases he would have done. I would have called experts to determine what he is.

(8:30:59 - 8:31:39)

I would have asked the tribunal court to hold a doubtful hearing so I could get a report and an understanding of exactly what he's going to testify to. So if Ms. Foles needed an expert on that topic, I would get a crime scene investigator expert. Alright, anything else from the state? I can limit his testimony.

I don't expect to foray off into crime scene reconstruction or blood spatter analysis other than blood spatters possibly on the firearm itself. His testimony would be limited to what he saw on the

firearm itself. I have coincidentally also received a witness list from the defense that had a Dr. Eric Warren on it.

(8:31:39 - 8:31:47)

I did receive a CV but no written report. I have no idea what he's going to testify to. I tried to call him actually and he wouldn't return my call, wouldn't answer my call.

(8:31:48 - 8:32:07)

So I've been provided the bare minimum by the defense and I've provided what I have to the defense. I've provided the man's name, his contact information, and there is a report obviously showing what he did. And I think the defense has probably been placed on notice as to the nature of his testimony because they read a report that he made.

(8:32:07 - 8:32:19)

And I'm not going to go away from that report. But he certainly qualifies as an expert, certainly can be subject to cross-examination. Thoroughly accepting cross-examination by the defense.

(8:32:19 - 8:32:46)

And if the defense chooses, based on whatever he testifies to, to refute his testimony or rebut it with their own expert. They do have fire. They do have, by the way, I think it's notable to point out that they have at least served, I'm not saying they're under any obligation to present any evidence or call any witnesses, but they have served us with an abundant notice of and a written report of somebody named Ross Gardner who is a ballistics expert, who is a spatter expert, who is a reconstruction expert.

(8:32:46 - 8:33:00)

So let's not act like there's going to have to be a search for someone to rebut this evidence. They've already found someone to rebut this evidence and retained them. So that certainly can be done through their own witness and rebuttal if they choose to do it.

(8:33:00 - 8:33:13)

So it's not like we're swinging a witness at the last minute in the area of, you know, the outer limits of satire. I mean, this is expected testimony. There's a report within the state to what he's going to say.

(8:33:13 - 8:33:20)

It was provided years ago. Years. So I think we've met the minimal requirements of putting the defense on notice.

(8:33:20 - 8:33:31)

Thank you. So the report is something different than practicing analyst. It's about a firearm, a firearm examination and analysis in this case.

(8:33:31 - 8:33:45)

Specifically, the defense, the state's evidence of the firearm. This defendant, I expect, anticipated what he would say. He didn't look at the firearm, did not see this or didn't see that, regarding back spatter or blood spatter on the firearm itself.

(8:33:47 - 8:33:59)

Again, possibly, you know, admittedly, Your Honor, I admit I may have tendered in for things that he's certainly qualified in. I do believe he's qualified in everything he's been tendered in. He's already been tendered in the state courts and federal courts in all those aspects.

(8:33:59 - 8:34:15)

But my testimony that I'll try to elicit from him and my reason for tendering will probably be limited only to firearms analysis and blood spatter analysis as it pertains to that firearm. All right. It sounds like the objection is the notice was limited.

(8:34:16 - 8:34:21)

I haven't even been told he's an expert. I have a phone number. Doesn't even say GBI.

(8:34:21 - 8:34:26)

But I do have a report. I'm just going to read it with the court's permission. It will not take long, if that's okay.

(8:34:26 - 8:34:33)

This is the sum and substance. There's more to the report, but after you introduce the parties. It's in paragraph two.

(8:34:34 - 8:34:58)

Upon opening the box, Agent Murphy found a high standard Sentinel, S-E-N-T-I-N-E-L, .22 caliber revolver bearing serial number that ends in 661. Agent Murphy noted transfer stains near the grip of the weapon. No impact spatter, S-P-A-T-T-E-R, was found on any part of the weapon, including the barrel opening.

(8:34:59 - 8:35:06)

Photographs taken of the weapon by Agent Murphy are attached to the sum. That's it. If he testifies to that, I've got no problem.

(8:35:06 - 8:35:24)

But if he starts going into what should have been found, what does cause, what is impact spatter, what happens when a bullet enters the nostril, the head has a lot of blood in it, I'm objective. I had no notice of that. I had nothing.

(8:35:24 - 8:35:48)

And what I did, by the way, if the state wants to somehow, I don't know why it even matters, I had a report for everyone but a firearms expert, because there really isn't that much to say for him. But on Ross Gardner, who we just spoke about, I had him write a report. It wasn't needed for Dr. Terry, she didn't have time to write a report.

(8:35:48 - 8:36:10)

I took the oral statements she made to me and I put that in writing and I gave it to the state. Dr. Downs, I have a report from Dr. Downs with photographs. This is the new Daubert life and we're supposed to all allow the gatekeeper to determine what comes in or not comes in.

(8:36:10 - 8:36:16)

I had zero notice. So yes, I'm objective to the expertise. He could say I examined the weapon.

(8:36:17 - 8:36:25)

I have no problem with him saying that. I could examine a weapon. And he didn't see any blood on it that he considers to be impact spatter.

(8:36:25 - 8:36:48)

And that I would expect to be no more expertise. That's my, I am blindsided. I think it begs the question, how would he know that there was no impact spatter if he doesn't know what it is? So I think to limit it by not being able to say what impact spatter or blowback spatter is, that's not going to be reasonable because he's going to say I do not know any back spatter or impact spatter of the weapon.

(8:36:49 - 8:37:00)

And I'm supposed to be limited to not even be able to ask him what that is? Clearly he knows what that is. He wouldn't put that in his report. But with Dr. Eric Warren again, like I say, I don't have a report on that expert either.

(8:37:00 - 8:37:08)

I just have to come in and listen to what he has to say. The defense has every report ever made by Audie Murphy in this case. So they have plenty of notices to what's to be said.

(8:37:08 - 8:37:18)

I had no idea what Dr. Eric Warren was going to say because I wasn't given a report at all. And I did reach out to that expert to try to contact him. He won't talk to me.

(8:37:18 - 8:37:47)

So having defense contacted Mr. Murphy, I'm sure he would have been, or I hope he would have been, I hope he would have been readily agreed to talk to the defense, unlike the witness I was able to reach and speak to. So I think the notice element has been satisfied, Your Honor. Whatever way the jury gives to this witness, that's up to the jury.

(8:37:47 - 8:37:55)

I'm not going to be getting into is the head full of blood or the nose full of blood. I'm not going to be getting into that type of thing. The jury's a limited witness.

(8:37:56 - 8:38:05)

What is back spatter, impact spatter? Did you see any on the weapon? That's it. This is what's limited and confined to his report. And I apologize.

(8:38:06 - 8:38:30)

I probably was misleading perhaps in trying to tinder him in all these different areas. He said he's an expert in all these different areas, but my focus and what I'm seeking to tinder him as is really just an expert in blood spatter to a degree that would be on the weapon or not. And obviously, he has a vast knowledge of firearms, so he knows what to look for with a firearm.

(8:38:31 - 8:38:35)

He knows what he's looking at. He did not see any smatter or back spatter. So it's really it.

(8:38:36 - 8:39:11)

All right. But to be clear, you're not just going to say, did you see any spatter or what it is? You're going to ask for expert opinions. No, I'm going to ask him what is back spatter, what is impact spatter? Did you see any on this weapon? What is that? Did you see any? How did you look for it? How did you look for it? Did you use a naked eye? Did you use a microscope? Did you do a swab with some kind of blue star? How did you seek to find this back spatter or blood spatter on

the weapon itself? How did you seek to find it? Naked eye? I don't remember what he said in his report.

(8:39:12 - 8:39:32)

But the point is, he didn't know that it has been present. And if he stays away from opinions, you still have an objection? I'll object along the way, but I have no objection to the gentleman saying, I did not see impact spatter on the weapon that I threw. And what that is.

(8:39:33 - 8:39:49)

And if that's what we're here for in three minutes, I have no questions. Is it that simple? Yes, sir, but I didn't hear, I misunderstood what Mr. Steele said. I do plan to ask him what is back spatter, what is back spatter, and did you see any if you're on the spot? That's it.

(8:39:50 - 8:39:54)

If it's that simple, then we don't have an issue. Okay. So why don't we get them back in here.

(8:39:56 - 8:40:33)

That eliminates the need for me to take a break and re-read 1716.4, and we'll have a short witness, it sounds like, and then we'll have dinner. And I'll tell you, 1716.4, also it's Dewey Green, D-E-W-E-Y-G-R-E-E-D-N, I don't believe there's a D at the end, and it comes from the Georgia Supreme Court, and I didn't have to give any report, but you have to give notice, and a CV, and the expertise, and the feel. I did that with Dr. Warren and everyone else, I had the report.

(8:40:34 - 8:40:41)

The state gave nothing. I'm not going to rehash it. But it sounds like, at this point, we can get beyond that.

(8:40:41 - 8:40:42)

I understand. Okay. All right.

(8:40:42 - 8:40:53)

Let's get them back, and let's get the jury back. I will be objecting to keeping this, because I said I expected to find something. That would be expertise, but I didn't hear that question, so I assume that won't go.

(8:40:54 - 8:41:02)

I want to take a moment here, out of respect, to go out and explain to the witness. Sure, that'd be great. Don't just blur something out.

(8:41:02 - 8:41:07)

All right, I think that'd be smart. Thank you. Just hold on one second, we're going to have it back in here.

(8:42:44 - 8:43:44)

All right, let's have it back down here. Okay, let's resume. Now, the last thing I'll notice, Henry, as a witness, has a question for you.

(8:43:45 - 8:43:56)

I'll limit those areas to firearms analysis, and I object. All right. I thought that it was going to be more limited than that, based on what we just discussed.

(8:43:56 - 8:43:59)

That's fine. I won't tend to him as an expert. Okay.

(8:44:00 - 8:44:16)

You have an opportunity to review a firearm, in this case, an investigation of Daniel Peterson. Let me show you this firearm that's included in the state's exhibit. 4173.

(8:44:21 - 8:44:25)

This one's right here, if you prefer. That's not to use, sir. Okay.

(8:44:27 - 8:44:36)

Okay. If you have an opportunity to look at that firearm, examine it, any connection with your work on this case. Yes, sir.

(8:44:36 - 8:44:55)

Do you know when you did that? May 20th, 2020. All right, sir. Do you know where you completed your analysis of it, on May, in May of 2020, sir? Yes, I was involved in the evidence room processing area, and I did the work there.

(8:44:58 - 8:45:13)

Can you tell the jury, do you know what back spatter is? Yes. Back spatter is the blood that is projected back towards the weapon. As the bullet travels into the body, it strikes the body, and it carries a lot of energy with it.

(8:45:13 - 8:45:26)

That energy projects the blood back towards the weapon, and that's called back spatter. Okay. Did you conduct, as part of your analysis in this case, an examination looking for that type of back spatter? Yes, I did.

(8:45:26 - 8:45:46)

Can you tell the jury, please, how you undertook that analysis? So, you're looking for small drops of blood, and we're using a magnifying glass, a bright flashlight, and that's really all you need. Okay. Is that the way you've done it before and after, well, this is your last case, and you've done it like that before? Yes.

(8:45:46 - 8:45:55)

Is that a method that's common to you? Yes, it is. Did you find the presence of back spatter on this firearm anywhere? No, I did not. Okay.

(8:45:59 - 8:46:14)

Is it also called impact spatter? Is that different? No, impact spatter is just a general term that has several different things under it. It could be impact from a gun, impact from a blunt object. There's different types of impact spatter.

(8:46:15 - 8:46:30)

Back spatter is a type of impact spatter. Okay, I understand, sir. I believe that's all the questions I have.

(8:46:30 - 8:46:33)

Thank you. I'm sorry, just a moment. Just one second.

(8:46:33 - 8:47:00)

Yes, sir. Did you look, can you tell the jury just, I'm sorry, can you tell the jury the areas of the weapon where you passed the magnifying glass and the bright light and looked for it? What areas, if any, did you look at? We're checking the entire gun, the barrel, inside the barrel as best you can, the tip of the barrel, where is the revolver, back of the wheel of the revolver, all the areas of it. Okay.

(8:47:00 - 8:47:14)

Did you look for it in the, did you look for it inside the cylinder, the bore, the cylinder bores? Yes, as best I can. I'm checking the entire weapon. I'm not finding any.

(8:47:15 - 8:47:30)

Did you look for it on the ejection rod here? Yes. Did you see any there? No. What about the muzzle tip? Did you see any, I'm sorry, was there a back spatter on that part of the weapon? There was no back spatter on any part of the weapon.

(8:47:30 - 8:47:34)

All right, thank you. That's all. Any props? No, sir.

(8:47:34 - 8:47:37)

Okay. Any excuses? No objections. Thank you.

(8:47:37 - 8:47:42)

All right. Thank you so much, sir. All right, we will take a break.

(8:47:42 - 8:47:52)

Why don't we say about half an hour, and Diane will take us now to the break room. They can get whatever they want. I don't think there's a lot of seating in there.

(8:47:57 - 8:48:52)

Okay. And I'll check in about half an hour and see if you all need more time, okay? All right, gentlemen, do you need to discuss anything before the break? The only issue I may have, Your Honor, depending upon, I'll talk with the state about their progress on the case. There's Dr. Warren, who you were just speaking of, he cannot testify next week, and he can only testify tomorrow.

(8:48:52 - 8:49:00)

So I'll speak with the state first, but that may be an issue. Okay. Do you all have food? Have dinner? We didn't even see that.

(8:49:01 - 8:49:05)

Well, we may have pizza if you need it. Thank you. Shout if you do.

(8:49:06 - 9:21:56)

All right, see you in half an hour. Can you guys tell us what you're looking for? Okay. 30 minutes? I think it's been about 40.

(9:21:57 - 9:22:18)

So you want to round them up? Oh, is that right? So 35 and not 40? Okay. All right. Okay.

(9:22:31 - 9:23:02)

Do you want to check in with them and see if they're ready to come in? They are ready? Okay, y'all ready? Can I just need something brief? So the next witness was announced. I don't know who the witnesses are thereafter, but according to what we have on an interview, he talks about smoking marijuana with Lacey Bowles. He talks about that he doesn't believe that Mr. Akers would kill himself or commit harm himself.

(9:23:02 - 9:23:22)

Who's this? This is the next witness? You're going to say this? Well, he said it in the interview. He said it in the interview, but my objection, our objection, is it's going to be a colossal waste of time because we're going to object to character. We're going to object to, you can't talk about someone else's state of mind.

(9:23:23 - 9:23:43)

And he talks about that Lacey Bowles struck, I'm not saying it's true, but struck Mr. Akers' mother with her hands, fists or open hand. None of that has any relevance in our case. We have not put Lacey Bowles' character in issue at all.

(9:23:44 - 9:24:01)

The court has already excluded any drug use of Ms. Bowles. So I really don't know if there's any more import to this person, but I'm objecting. And I think we should do it here rather than... And this was not something we discussed in any pretrial motion.

(9:24:01 - 9:24:16)

I think you did. You ruled Ms. Bowles' drug use cannot come in. You ruled nothing of violence on her except what you admitted over objection, that she, I'm not so sure it's violent.

(9:24:16 - 9:24:31)

You said it's not violent, that she got a gun. I just, I remember with respect to a recording, ordering that some of that kind of thing came out, I just don't recall. And that's why I'm asking you that with respect to a particular witness' testimony.

(9:24:31 - 9:24:45)

It's a series of witnesses. There's a lot of people, a lot of family members, and then victim impact I'm objecting to, that oh, I miss Mr. Akers, he was great. He's a great father and a great member of the community.

(9:24:45 - 9:25:01)

None of that under Walker, W-A-L-K-E-R, Waller, W-A-L-L-E-R rather, versus State. I'll give you, it's Sanchez, Waller. But you can't give him victim impact either, that I'm so hurt, I miss him so much.

(9:25:01 - 9:25:07)

I'm just objecting now. I hope it doesn't come out, but if it does, it shouldn't come out. None of that should come out.

(9:25:08 - 9:26:02)

All right, so y'all are about to call a witness and you hear the concern and you care to address that? Okay. You don't expect that to come out, no victim impact or anything like that? You heard those types of arguments on the phone, statements made about this and that on the phone, that his co-worker, Mr. Akers, would put the speaker on the speakerphone while they were at lunch at the construction site. And it's just this very tumultuous relationship that he heard.

(9:26:03 - 9:26:15)

And I think that's already been brought before the jury on both sides, obviously. I'm still, some of my other questions that might possibly draw objection. I hope they don't.

(9:26:16 - 9:26:48)

How did he hear about Dan's death? What was your reaction when he was alleged to have killed himself? I think that's useful evidence. How did you find out about the memorial service? I think that's important. What was your impression of that event? Did you interact with his family at that event? Did you meet him? Did you witness? I think that's... Those are all admissible questions.

(9:26:49 - 9:27:00)

There are a few others that I think are missing. So that's kind of the general nature of a lot of these witnesses. I think that to Mr. Steele's right, we will be transitioning to a lot of laypeople now.

(9:27:01 - 9:27:11)

And that's kind of the gist of a lot of these laywitnesses. We'd mostly like that and those types of questions. I'm not planning on playing this recording that Mr. Steele mentioned.

(9:27:12 - 9:27:26)

Certainly go out and counsel the gentleman about drug use or extramarital affairs or anything like that that was ruled inadmissible. But it ain't those areas that I just brought to the court to teach

him on. Let's try to do as much as we can before we get the mayor.

(9:27:26 - 9:27:49)

Do you have any of those? Yes. Do you want to take them all at once? Sure. What his reaction was when he heard his death? Why does that matter? What's the relevance of that? The idea of suicide is contrary to what he personally observed with this defendant.

(9:27:49 - 9:28:05)

And I expect the witness to say that he never had a concern about his mental health to the point where he ever had to seek health or health or treatment from the gentleman. He never reported to anybody else where he was concerned about this gentleman's mental health. His state of mind at all.

(9:28:06 - 9:28:11)

And therefore, I expect to say he was surprised when he heard that. That's what I anticipate he said. I think it's a very relevant.

(9:28:12 - 9:28:30)

Because it goes to talk a lot about state of mind as text messages can to say state of mind of the victim at the time. And I think state of mind of the victim at the time based on those who knew him well, knew him for over 20 years is wrong. I object to all of that.

(9:28:31 - 9:28:42)

I can't even grasp why it matters what his thought process was on Mr. Aker's state of mind. He can't comment on his state of mind. No one can.

(9:28:43 - 9:28:56)

And his reaction, meaning Mr. P-O-A-G reaction, is irrelevant. He might have been surprised or he may have said, oh yeah, that's sure he killed himself. I couldn't put that up either.

(9:28:56 - 9:29:08)

You have to prove it by evidence, not by somebody else's opinion of what a person would do. A lot of people commit suicide, God forbid. It's surprising to people.

(9:29:10 - 9:29:26)

And that's not for Cross. Also, the district attorney said they've known each other for 20 years. The way I understand their relationship is they were co-conspirators and co-indictees and co-defendants and pled guilty to a burglary in 2002.

(9:29:26 - 9:29:39)

And they were both sentenced. Then Mr. Pogue stayed away from Mr. Akers because Mr. Akers was abusing drugs. Methamphetamine, they had smoked together.

(9:29:39 - 9:29:48)

I mean, this is not what the trial's about. He said he's not getting into that. It was Mr. Akers and Mr. Pogue smoking the methamphetamine together.

(9:29:48 - 9:29:57)

I mean, we are so far afield. So, yes, I'm objecting to it. The memorial service, his reaction to it, okay, he loved it or hated it.

(9:29:57 - 9:30:16)

What difference does it make? Now, if Ms. Bowles is at the memorial service and she's handing out her number saying, I'm single now, I think that that may be something that the court thinks is interesting. But I don't think that that's what happened. Okay, so no argument about her demeanor at the service.

(9:30:17 - 9:30:31)

But the witness's impression of the event, how is that relevant? I think Mr. Stills has a good perspective. It's not that he just conceded that bizarre behavior at a memorial service would be relevant. He just conceded that and said that.

(9:30:32 - 9:30:49)

If she were there handing out her number, she's not single now. That's not the only bizarre activity or bizarre behavior that one could exhibit at a funeral. And I think the jury has a right to form whatever opinion they will to this defendant's bizarre behavior at a memorial.

(9:30:49 - 9:31:05)

I tend to agree with you that the defendant's behavior may be relevant at the service. But I think one of the questions you said you were planning on asking is what was the witness's impression of the service? What did he think about it? I can change it. Okay.

(9:31:05 - 9:31:39)

How did you interact with this defendant at the memorial service? What was her behavior at the memorial service? Okay, how this person found out about the service I don't really see any

relevance to that. This is a gentleman who knew Mr. Akers for over 20 years. He found out about this service by sitting on the internet pointing at this defendant and anybody else in the defendant's family widely broadcast the fact that this guy had died and there's a funeral.

(9:31:40 - 9:31:53)

This is a 20-year acquaintance of the decedent and saw it on the internet by chance to come to the funeral. This is a bizarre postmortem behavior. I think the jury can put whatever weight that they choose to do.

(9:31:54 - 9:32:04)

I think they should be allowed to hear odd behavior on the part of this defendant after this man supposedly committed suicide. Thank you. I'm objective to that.

(9:32:04 - 9:32:21)

I didn't realize that that's the demeanor. Under 401, 402, and 24-48, 403, there's no placing here. The fact that the person wasn't notified of the memorial service, that now is going to fall in a murder trial of Lacey Bowles.

(9:32:23 - 9:32:57)

I don't see any relevance, and if it is at all relevant, I think it's too prejudicial. The only relevance that I've seen so far, respectfully, is possibly her demeanor at the service. One of the things we talked about was we want to stay away from if the decedent was the type of person who would do this, would kill himself.

(9:32:58 - 9:33:17)

So when you're asking were you surprised, then I wonder if we're getting close to that. Why would he be surprised? Because he's not the type of person that would kill himself. Just that having known him up until right at that point, having interacted with him repeatedly, he never showed any signs of being overly depressed.

(9:33:17 - 9:33:20)

That's the thing. I see no problem with that. Okay.

(9:33:21 - 9:33:38)

Well, then I want to ask what was your reaction? I didn't plan on asking those types of questions. Was he depressed? Did he have any time in there for death? Did he have concerns to the point where he contacted mental health professionals, anything like that? I think that's fair to say. You may disagree with me, Mr. Shearer.

(9:33:38 - 9:33:47)

Do you want to argue? It's over objection, Your Honor. It would be over objection, but if we could just make our objection now and it's continuous. All right.

(9:33:47 - 9:34:08)

So you're permitted to ask questions such as, did you see any signs, overt signs, or however you want to phrase that, of depression, or like you put it, Mr. Treadway, to the point where you felt like you had to do something. I'm going to admit that. And then the defendant's demeanor.

(9:34:09 - 9:34:21)

And you've already said you're staying away from drug use, except for marital affairs. And then I gave you a couple rulings to stay away from. How did you find out? Were you surprised? Is there anything else we can take up now? Yes, sir.

(9:34:22 - 9:34:31)

There was the bulk of the direct examination. I don't believe the court really touched on it. It was about the nature of the relationship between the parties.

(9:34:32 - 9:34:41)

I think this witness had direct knowledge and exposure to the relationship between the parties. I think he testified that it was extremely volatile. I don't think that's a surprise.

(9:34:42 - 9:34:58)

I think that's out there in front of the jury already, but I do think he did testify. Any objections to that? Volatile in what? Did Lacey Bowles pick up a hammer and strike Mr. Akers? I should have had 404B evidence on this. So I don't know what it is.

(9:34:58 - 9:35:05)

That they didn't get along at times? I'll concede that. All right. I'm kind of inclined to allow that.

(9:35:07 - 9:35:40)

What else? I had, I'm just going to be, I hate to tip my hand on my entire examination, but I am going to be asking him about, did this witness ever see this decedent carrying a gun? Okay. Was he frequently a gun person? Go shooting, carry a gun on a holster in his pocket, on his person. Did you see that? And I believe this witness has the ability, firsthand personal knowledge to testify to that.

(9:35:41 - 9:35:47)

I see some evidence. All right. What else? Okay.

(9:35:48 - 9:36:01)

I believe that this witness would be able to testify based on his having worked with the decedent on a construction type of job. Was he right-handed or left-handed? Left-handed. What hand dominant? I have no problem with that.

(9:36:03 - 9:36:13)

No objection to that. Those are really the only areas. It would be similar with all of these witnesses.

(9:36:13 - 9:36:19)

All right. Can the witness be told? I don't know. I would like some time.

(9:36:19 - 9:36:22)

Sure. Why don't you do that? All right. Just a couple more minutes.

(9:36:22 - 9:36:32)

Can they possibly huddle with all the witnesses since we don't have to do this every single time? Do what you can, Mr. Trejo. I'm obviously going to tell them, Hey, this is not in. Don't flirt it out.

(9:36:32 - 9:38:42)

That'd be great. Thank you. Okay.

(9:38:42 - 9:39:49)

Thank you for that, and we'll have the jury. I don't know if Diane is still there. Welcome back, ladies and gentlemen.

(9:39:49 - 9:40:37)

I hope dinner was satisfactory, and I can't tell you how much we appreciate you all going the extra mile and staying late today and tomorrow. Let's continue. Welcome.

(9:40:37 - 9:40:50)

Let me swear you in, please. Will you raise your right hand to receive the note? Excuse me. Do you swear or affirm that the testimony that you give in the matter before the court will be the truth,

the whole truth, and nothing but the truth, so help you God? Yes.

(9:40:50 - 9:40:52)

All right. Please have a seat. Please use the microphone.

(9:40:55 - 9:41:02)

I'll be here to kind of just make sure that I'm live at this point, too, sir. Tell the jury member your name, please. James Hope.

(9:41:02 - 9:41:22)

How do you spell your last name? P-O-A-G. How are you employed today, sir? I'm sorry? How are you employed nowadays? How am I employed? Where do you work? Peterson Aluminum. Construction? Metal roofing panels.

(9:41:23 - 9:41:38)

More of a fabrication type job? Correct. What's your age, please? I'm sorry? How old are you, sir? I know Mr. Bogan, I should say to the court and explain to the jury, Mr. Bogan has a little bit of a hearing disorder or a normal disorder. May I prove that? Let me just close the door.

(9:41:38 - 9:41:43)

I'm sorry, Mr. Bogan. I remember now you have a little bit of a hearing disability. I'm sorry.

(9:41:43 - 9:41:48)

Do you live in this area? I do. Okay. Pauline County? Yes, sir.

(9:41:48 - 9:42:03)

How long have you worked in construction or fabrication? I've been at my current job since 2009. How old are you? 43. Did you know Dan Akers, the decedent or deceased in this case? I did.

(9:42:03 - 9:42:16)

How did you know him? We met at an old neighborhood. My parents lived in the same neighborhood as his sister. We met probably in 95, 96.

(9:42:17 - 9:42:28)

So you would have been, I guess, were you in high school around that time? No, I would have been 12, 11 or 12. Elementary school? Middle school, yeah. All right.

(9:42:28 - 9:42:36)

Did you go to the same school with Dan growing up? I did. Did you guys consider yourselves friends together? Yes. All right.

(9:42:37 - 9:42:44)

Go off and do things together? Yes. I mean, there's friends and there's friends. So were you close friends? Yes.

(9:42:45 - 9:42:55)

Okay. So did you ever work with him? No, not professionally, no. Okay, but you worked in construction.

(9:42:55 - 9:43:01)

Did you know what kind of work he did? I did. What kind of work was he in? Sheet metal. Okay.

(9:43:01 - 9:43:23)

All right, sir. Did you maintain a relationship or friendship with him right up until he died, sir? I did. You know, can you give the jury an idea of how frequently you guys would talk every now and then right up until he died? Well, obviously, when we were younger, we spent a lot more time together than towards the end.

(9:43:24 - 9:43:42)

He had his family, I had mine. We weren't hanging out every day or anything like that, but we kept in frequent contact via messaging, Instagram, stuff like that. Okay, and you messaged back with him, text messages? Yes.

(9:43:42 - 9:43:48)

Okay. Did you ever call him or go over and visit with him or anything? From time to time, yes. Okay, sir.

(9:43:49 - 9:44:04)

Can you describe right up until, say, 2019-ish, what kind of person was Dan? Jackson. The victim impacts. I thought we talked about this in the pre-trial.

(9:44:04 - 9:44:09)

That's an admissible question. That's a specific answer to that question. Yes.

(9:44:11 - 9:44:15)

You can ask that question. I guess it depends on how far you go. No.

(9:44:16 - 9:44:39)

Can you just describe what kind of person he was? Very caring person, always looking out for his friends, definitely cared about his family, his kids. Let's do this. I'm going to instruct the jury to disregard that last question and answer, okay? That's not wrong.

(9:44:41 - 9:44:57)

All right. Was Dan somebody that you felt like you could count on? I'm sorry, could you repeat that? Did you feel like you could count on him? Absolutely. Were you there for him to support him also? Yes.

(9:44:57 - 9:45:26)

All right. Did you see Dan active in the lives of his kids? Yes. How so? I'm sorry, could you repeat the question? Did you ever see him coaching his kids and being involved in sports with his kids? I never went to actually... Hold on a second, I think there's an objection.

(9:45:26 - 9:45:46)

The same objection is relevant to victim impact. Just a second. Can you personally observe the defendant? Do you know this person, the defendant Lacey Bowles in the courtroom? I do.

(9:45:46 - 9:46:09)

Did you know Lacey Bowles or the totality of your friendship with Dan ever since they met Dan and the defendant? I met her once he was involved with her. Okay, and did you maintain a relationship with both of them up until his death? Yes. Did you have an opportunity to see them interact together? I have.

(9:46:10 - 9:46:29)

How would you describe that? Not good. All right. At some point, did you become aware of Mr. Akerson dying? Yes.

(9:46:30 - 9:46:43)

Did you attend any kind of memorial for him after you found out? I did. Was this defendant present? She was. Did you have an opportunity to speak to her, interact with her in any way? I did not.

(9:46:43 - 9:47:08)

Okay. Did you have an opportunity to observe her behavior at the memorial service? Very briefly, yes. Anything notable of her that stands out to you about her behavior? It was odd, but she was unavailable for anyone to talk to or interact with.

(9:47:08 - 9:47:50)

We only saw her when the actual memorial was taking place, and then she was gone before it was over. Was there ever a point when you knew Dan that you became concerned about his mental health or his mental state to the point where you felt like you needed to reach out to somebody to get help for him? No, sir. Was there any time that you saw him in a state that you felt like he was so depressed that you wanted to call mental health services or social services or anything like that? No, sir.

(9:47:53 - 9:48:10)

In the years that you knew Dan, I guess 20-some odd years, right? Correct. Did you ever see him carrying a gun around? No. Did you ever see him carrying a holster on his hip or anything like that with a gun? No.

(9:48:11 - 9:48:24)

Did you ever see him carrying a pistol in his pocket? No. Did you ever see him carrying a gun in his hoodie? You know what a hoodie is. The little part where you put your hand in his hoodie pocket.

(9:48:24 - 9:48:35)

No. A knife or anything? No, sir. Did you ever go with Dan to go to a shooting range? I have not.

(9:48:35 - 9:49:13)

Did he ever ask you to go to a shooting range or anything like that? Not that I can recall. Do you remember if he was right-handed or left-handed? If my memory serves me correct, I'm pretty sure he was right-handed. May I approach you with this, please? Of course.

(9:49:13 - 9:49:20)

Thank you, sir. Let me just get a door up here, sir. I'm going to show you something that's been admitted and see if you've ever seen it before.

(9:49:34 - 9:49:44)

This states 173A as an alibi. Can you see what I'm holding up? I can. Have you ever seen that before? I have not.

(9:49:44 - 9:50:18)

Have you ever seen Dan shooting that? No, sir. Carrying it around? No, sir. Have you ever gone to McDonald's with Dan? Have I ever gone to McDonald's? I'm sure a few times over the years.

(9:50:19 - 9:50:26)

Does it seem like you like McDonald's? I mean, not any more or less than anybody else. All right, sir. That's all I have, sir.

(9:50:26 - 9:51:11)

Thank you. No problem. Sir, did you just testify you never saw and interacted with Mr. Akers with a gun? He asked if I had ever seen him, like, carrying a gun, like, I'm assuming, while out and about.

(9:51:13 - 9:51:46)

What's the answer? No, I never saw him carrying a gun while out doing other stuff. Do you remember being with Mr. Akers and pleading guilty to crimes with him? Yes. Do you remember some of those crimes included stolen firearms? Yes, but he didn't ask.

(9:51:46 - 9:51:52)

He didn't ask yet to this line of questioning. He asked to take a step outside the presence of the jury, Your Honor. Okay, well, have a break.

(9:52:19 - 9:53:08)

While we discuss this, can you wait outside? Yes, sir. Thank you very much. Your Honor, we had a protracted legal argument earlier in this trial about the defense of meeting and introducing evidence and testimony, ad nauseam about all those documents, prior convictions, being on probation, facing probation revocation, probation revocation orders by Judge Emerson, new allegations in Cobb County before Judge Kelly Hill.

(9:53:08 - 9:53:39)

We had a protracted legal argument about that. What allowed him to insult me because I admittedly opened the door to that, and I accept that. But also, I think the court, unless I'm missing the court's understanding, unless I'm missing the court's ruling, the court ruled that was relevant because of the state of mind of the decedent was strongly relevant regarding some text messages that said he was afraid he was going to be revoked on probation, just fearing that, and that's part of the conspiracy there.

(9:53:39 - 9:54:01)

So the court, it seemed to me, assigned some relevance to that, and based on my opening the door, the court reversed its pretrial ruling and let some of that in. What relevance on earth would a 2002 conviction for some kind of firearms offense have by asking this witness? That has no relevance. That doesn't involve the state of mind of the defendant at the time of his death.

(9:54:04 - 9:54:14)

That is merely a low-hanging opportunity to drag the guy through the mud again. He's not here. He can't defend himself.

(9:54:14 - 9:54:25)

He can't explain it. I asked him, was he ever the type of person to carry a gun around? And I said, on a holster, in his pocket, in a hoodie pocket, on his hip. This guy said no.

(9:54:26 - 9:54:43)

And then when asked to clarify that question with Mr. Steele, the guy said, I assume you meant out and about in the community. Then we go into this, was he convicted, and you with him, of some crime, bailing in possession of a firearm, or transporting an illegal firearm, or whatever it was that the defense asked. That's just improper.

(9:54:43 - 9:54:56)

You can't tie that to any rational purpose like you could that state of mind argument. This stands alone as completely improper. It meant nearly to me the character of this statement.

(9:54:57 - 9:55:31)

Any response? Yes, sir. The way I understand the testimony, I'm impeaching his testimony. On or about June 11, 2002, both of these gentlemen, and that would be Mr. Poag, P-O-A-G, testifying, and Mr. Akers, plead guilty, and here are certified copies, to the following two counts.

(9:55:33 - 9:56:12)

And this is from Cobb County Superior Court, case number 021480. The grand jurors of force said, in the name of behalf of the citizens of Georgia, charge and accuse James Harper Poag and Daniel Lee Akers with the offense of criminal damage to property in the second degree. For that said, accused in the county of Cobb, state of Georgia, 26th day of February, 2002, did intentionally damage the property of Mr. Davis to it, a window, wall, door, and furniture, without the owner's consent, by breaking said window and firing a gun, said damage exceeding $500, count three.

(9:56:13 - 9:56:56)

Grand jurors also charged the same two people with theft by receiving stolen property in the same county, in the same day, did receive and dispose of stolen property, two 9mm handguns and four .40 caliber handguns, the property of Thomas Davis, the accused knew and should have known, said property was stolen, property having not been received and disposed of with intent to restore. And I don't know why, but the prosecutor asked this witness, do you ever know him, to carry a gun, be involved in a gun? Whatever the transcript says, I'm sitting here shocked at this testimony. I have guilty pleas, they're first offenders, I'm not using for impeachment, except for his testimony of what he saw.

(9:56:56 - 9:57:08)

He was clearly with him, and that's what they both pled guilty to. So, this has nothing to do with state of mind, this has to do with straight impeachment. I don't know why the prosecutor would ask that type of question.

(9:57:08 - 9:58:12)

Also, on the phone of Mr. Akers, I didn't go into it, but I guess I could now, there's machine guns, there's assault rifles on his searches that he's selling. So, all of this really is shocking to me, but I'm going to impeach his sworn testimony because I believe he just either forgot to mention the truth or intentionally did not mention the truth. Well, if the question was, has the victim, Mr. Akers, ever had a gun, or possessed a gun, or been around a gun, or damaged property with a gun, and he said no, then I could see how that contradicts under Rule 621, you could impeach it, but unless I missed it, I think the questions were, have you seen him carrying a gun or wearing a holster, or seen that gun, so I'm not sure how that would impeach that.

(9:58:12 - 9:58:19)

Well, my memory is it was not just that gun. Well, we can fix that. Let's take a look.

(9:58:25 - 9:59:09)

I need your help, Ken. I don't know if you want to bring it up, or we'll do that. Yeah, thank you.

(9:59:12 - 9:59:58)

Is it tight? That's okay. Let's go back to the beginning of the gun questions. Is that good? All right, so there's a question, did you ever see him carrying a gun around? No.