

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF MICHIGAN
30th JUDICIAL CIRCUIT FOR THE COUNTY OF INGHAM
CRIMINAL DIVISION

THE PEOPLE OF THE
STATE OF MICHIGAN

v

Case No. 14-1380-FH
Hon. James S. Jamo

JOHN C. KELSEY II,

Defendant.
_____ /

JURY TRIAL - VOLUME 5

BEFORE THE HON. JAMES S. JAMO, CIRCUIT JUDGE

Ingham County, Michigan - Tuesday, June 2, 2015

APPEARANCES:

For the People:	JONATHAN C. ROTH (P72030) Assistant Prosecuting Attorney Ingham County Prosecutor's Office 303 W. Kalamazoo Street, 4th Fl. Lansing, MI 48933
For the Defendant:	BRIAN P. MORLEY (P58346) Fraser Trebilcock Davis & Dunlap, PC 124 W. Allegan Street Suite 1000 Lansing, MI 48933
ALSO PRESENT:	John C. Kelsey II, Defendant Detective Sergeant Kyle McPhee Detective Trooper Troy Johnston
REPORTED BY:	Melinda I. Dexter, RMR, CSR-4629 NCRA Realtime Systems Administrator Official Court Reporter 313 W. Kalamazoo P.O. Box 40771 Lansing, MI 48901-7971

1	T A B L E O F C O N T E N T S		
2			PAGE
3	<u>WITNESSES: PEOPLE</u>		
4	SCOTT SINGLETON		
	Direct Examination by Mr. Roth	5	
5	Cross-Examination by Mr. Morley	25	
	Voir Dire Examination by Mr. Roth	31	
6			
	Beginning of Separate Record	35	
7			
	End of Separate Record	42	
8			
	Cross-Examination (Cont'g) by Mr. Morley	43	
9	Redirect Examination by Mr. Roth	50	
10	BRIAN A. HILDABRIDGE		
	Direct Examination by Mr. Roth	61	
11	Cross-Examination by Mr. Morley	105	
	Redirect Examination by Mr. Roth	110	
12			
	BRIAN E. THOMPSON		
13	Direct Examination by Mr. Roth	114	
	Cross-Examination by Mr. Morley	121	
14			
	KATHRYN E. STEIN		
15	Direct Examination by Mr. Roth	127	
	Cross-Examination by Mr. Morley	138	
16			
	BRUCE M. STEIN		
17	Direct Examination by Mr. Roth	140	
	Cross-Examination by Mr. Morley	148	
18	Redirect Examination by Mr. Roth	150	
19			
20	<u>EXHIBITS:</u>		<u>RECEIVED</u>
	PX#88-A 12-06-14 DVD	10	
21	PX#88-B 12-07-14 DVD	10	
	PX#89 Photograph	12	
22	PX#90 Photograph	12	
	PX#91 Photograph	12	
23	PX#92 Photograph	12	
	PX#93 Photograph	12	
24	PX#94 Photograph	12	
	PX#95 Photograph	12	
25	PX#96 Photograph	12	

1	PX#97	Photograph	12
	PX#98	Photograph	12
2	PX#99	Photograph	12
	PX#100	Photograph	12
3	PX#101	Photograph	12
	PX#102	Photograph	12
4	PX#103	Photograph	12
	PX#104	Photograph	12
5	PX#105	Photograph	12
	PX#106	Photograph	12
6	PX#107	Photograph	12
	PX#108	Photograph	12
7	PX#109	Photograph	12
	PX#110	Photograph	12
8	PX#111	Photograph	12
	PX#112	Photograph	12
9	PX#113	Photograph	12
	PX#114	Photograph	12
10	PX#115	Photograph	12
	PX#116	Photograph	12
11	DXB	Photograph	48
	PX#189	Photograph	97
12	PX#117	Map	136
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

<p>1 Ingham County, Michigan</p> <p>2 Tuesday, June 2, 2015 - At 9:07 a.m.</p> <p>3 THE COURT: You can be seated, please. We are</p> <p>4 back on the record in the matter of People versus</p> <p>5 John Kelsey -- it's File 14-1380-FH -- for continuation</p> <p>6 of the jury trial in this matter.</p> <p>7 Mr. Roth, are you ready to proceed?</p> <p>8 MR. ROTH: Yes, Your Honor.</p> <p>9 THE COURT: Mr. Morley, are you ready, sir?</p> <p>10 MR. MORLEY: Yes, sir.</p> <p>11 THE COURT: Okay. Let's bring the jurors in.</p> <p>12 As a reminder to everyone in the audience, no cell phones</p> <p>13 or any kind of electronic device. If you're found to</p> <p>14 have them on, you'll be removed from the courtroom and</p> <p>15 not be allowed in for the rest of the proceedings today.</p> <p>16 (At 9:09 a.m., the jury entered</p> <p>17 the courtroom.)</p> <p>18 THE COURT: Please be seated. Good morning,</p> <p>19 Ladies and Gentlemen of the Jury.</p> <p>20 VARIOUS JURORS: Good morning.</p> <p>21 THE COURT: Mr. Roth, you may call your next</p> <p>22 witness, sir.</p> <p>23 MR. ROTH: Thank you, Your Honor. The People</p> <p>24 call Detective Sergeant Scott Singleton.</p> <p>25 THE COURT: Right here, sir. Please raise your</p> <p style="text-align: center;">4</p>	<p>1 Deputy Grant Whitaker?</p> <p>2 A. Yes, I was.</p> <p>3 Q. Specifically, were you asked to follow up on some bars in</p> <p>4 the Livingston County area?</p> <p>5 A. Yes, I was.</p> <p>6 Q. Does that include making contact with the Alley Bar?</p> <p>7 A. Yes.</p> <p>8 Q. Showing you Exhibit 78 on the screen. Is that the Alley</p> <p>9 Bar?</p> <p>10 A. Yes, it is.</p> <p>11 Q. Were you able to obtain any documentation from the Alley</p> <p>12 Bar?</p> <p>13 A. Yes.</p> <p>14 Q. And what was that?</p> <p>15 A. I obtained several receipts from the night of</p> <p>16 December 6th, 2014.</p> <p>17 Q. Showing you on the screen People's Exhibit 86. Are those</p> <p>18 the receipts or bar tabs that you got?</p> <p>19 A. Yes.</p> <p>20 Q. And there was several more underneath it, right?</p> <p>21 A. Yes.</p> <p>22 Q. Do you recall who you got those from?</p> <p>23 A. I received them from the day manager, Jessica.</p> <p>24 Q. Thank you. And why did you ask for these?</p> <p>25 A. I was attempting to identify who was at the bar that</p> <p style="text-align: center;">6</p>
<p>1 right hand.</p> <p>2 Do you swear or affirm to tell the truth, the</p> <p>3 whole truth, and nothing but the truth?</p> <p>4 DETECTIVE SERGEANT SINGLETON: I do.</p> <p>5 THE COURT: Please be seated. State your full</p> <p>6 name for us, and spell your last name, please.</p> <p>7 THE WITNESS: Detective Sergeant Scott</p> <p>8 Singleton, S-I-N-G-L-E-T-O-N.</p> <p>9 MR. ROTH: Thank you, Your Honor.</p> <p>10 SCOTT SINGLETON</p> <p>11 called by the People at 9:09 a.m., sworn by the Court,</p> <p>12 testified:</p> <p>13 DIRECT EXAMINATION</p> <p>14 BY MR. ROTH:</p> <p>15 Q. Good morning.</p> <p>16 A. Good morning.</p> <p>17 Q. Where are you employed?</p> <p>18 A. With the Michigan State Police.</p> <p>19 Q. In what capacity?</p> <p>20 A. I'm a detective sergeant at the Brighton Post.</p> <p>21 Q. How long have you been with the Michigan State Police?</p> <p>22 A. Seventeen years.</p> <p>23 Q. You indicated that you're normally assigned to the</p> <p>24 Brighton Post. Were you asked to assist in the</p> <p>25 investigation in the police pursuit that killed</p> <p style="text-align: center;">5</p>	<p>1 night, how they paid, how much they had to drink; things</p> <p>2 of that nature.</p> <p>3 Q. Did the Alley Bar have any working surveillance cameras</p> <p>4 at the time?</p> <p>5 A. No, they did not.</p> <p>6 Q. Did you check the surrounding area for surveillance</p> <p>7 cameras?</p> <p>8 A. Yes.</p> <p>9 Q. Where?</p> <p>10 A. I checked all businesses in the surrounding area only</p> <p>11 locating surveillance cameras at the Dexter Pharmacy,</p> <p>12 which is right next door to the Alley Bar. But upon</p> <p>13 further checking, their DVR system was not working. So</p> <p>14 there was no surveillance obtained from that.</p> <p>15 Q. Thank you. Through your investigation, did you identify</p> <p>16 and interview a number of the people that were present at</p> <p>17 the Alley Bar on December 6th and 7th, 2014?</p> <p>18 A. Yes, I did.</p> <p>19 Q. Did that include Sandie Hale?</p> <p>20 A. Yes.</p> <p>21 Q. When did you speak to Ms. Hale?</p> <p>22 A. I spoke to Ms. Hale on December 12th, 2014.</p> <p>23 Q. Where?</p> <p>24 A. In the evening at the Dexter Pub, which is where she</p> <p>25 worked.</p> <p style="text-align: center;">7</p>

1 Q. Was she cooperative?

2 A. **I wouldn't call it cooperative, no. She was very**

3 **reluctant to speak with me.**

4 Q. Did you also interview Tony Hildabridle?

5 A. **Yes, I did.**

6 Q. When was that?

7 A. **That was the same night. Directly before I talked to**

8 **Sandie Hale, talked to Tony.**

9 Q. Where was that?

10 A. **That was at his mother's residence at the time in**

11 **Pinckney.**

12 Q. And where specifically did you speak to him?

13 A. **I spoke to him -- we started in the house, but it was too**

14 **loud. So we asked if he would come to our vehicle, so we**

15 **sat in our vehicle and interviewed him there in the**

16 **driveway of his mother's residence.**

17 Q. Did you record that conversation?

18 A. **Yes, I did.**

19 Q. How?

20 A. **With an audio recorder issued by the State Police.**

21 Q. And did you inform Tony Hildabridle that you were

22 recording it?

23 A. **No, I did not.**

24 Q. Why is that?

25 A. **He -- it felt that he would be more reluctant to talk to**

8

1 **us if he knew he was being recorded. So, therefore, I**

2 **did not let him know that he was being recorded at the**

3 **time.**

4 Q. Is that consistent with your department protocols and

5 procedures?

6 A. **Yes.**

7 Q. And what was his demeanor during that interview?

8 A. **He was very reluctant to speak with us as well.**

9 Q. Thank you.

10 A. **He, you know, tried to let us -- he wanted Mr. Kelsey to**

11 **come forward and talk to us so he didn't have to be drug**

12 **into it. So he was very reluctant.**

13 Q. Did you also follow up with another bar in the Livingston

14 area?

15 A. **Yes, I did.**

16 Q. Where was that?

17 A. **The Dam Site Inn in Pinckney.**

18 Q. Did the Dam Site Inn have surveillance video?

19 A. **Yes, they did.**

20 Q. That worked?

21 A. **Yes.**

22 MR. ROTH: May I approach the witness,

23 Your Honor?

24 THE COURT: You may.

25 BY MR. ROTH:

9

1 Q. (Approaching the witness.)

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

3 88-A and 88-B proposed exhibits. Have you reviewed these

4 items?

5 A. **Yes, I have.**

6 Q. And what are they?

7 A. **They are video recordings of the Dam Site Inn**

8 **surveillance on December 6th and December 7th.**

9 Q. So 88-A is the sixth? 88-B is the seventh?

10 A. **That's correct.**

11 Q. So 88-A, just to be clear, late night hours of the sixth.

12 88-B, early morning hours of the seventh?

13 A. **Yes.**

14 MR. ROTH: Your Honor, I would move for the

15 admission of Proposed 88-A and 88-B.

16 MR. MORLEY: Without objection, Your Honor.

17 THE COURT: People's Exhibits 88-A and B are

18 admitted and received.

19 MR. ROTH: Thank you, Your Honor.

20 (At 9:15 a.m., PX#88-A and

21 PX#88-B are received.)

22 BY MR. ROTH:

23 Q. Very briefly just by way of summary, what do we see on

24 those videos?

25 A. **You can see on the videos initially a white SUV pulls**

10

1 **into the parking lot and circles around the back and**

2 **parks. Two gentlemen get out, who are later identified**

3 **as Mr. --**

4 MR. MORLEY: Objection, Your Honor. Same

5 objection we've had previously related to the *Fomby*

6 decision.

7 MR. ROTH: Your Honor, I think with the number

8 of witnesses that have testified to it, it is appropriate

9 at this time for the officer to refer to him by name.

10 THE COURT: All right. I'll overrule.

11 MR. ROTH: Thank you.

12 BY MR. ROTH:

13 Q. Go ahead, Sergeant.

14 A. **It shows Mr. Kelsey and another subject later identified**

15 **as Brian Hildabridle exiting the vehicle and entering the**

16 **Dam Site Inn and sitting at the bar where he's later**

17 **joined by several other friends where they're drinking**

18 **throughout the night. And after closing time, Mr. Kelsey**

19 **gets in his white SUV and leaves the bar westbound on**

20 **Patterson Lake Road.**

21 Q. Are there a number of different angles that the Dam Site

22 Inn had that evening on surveillance?

23 A. **Yes, sir. There is a number of different cameras showing**

24 **the parking lot and the inside of the bar.**

25 Q. Between all the angles and the hours that the relevant

11

<p>1 subjects were there, fair to say that there are hours and</p> <p>2 hours of video?</p> <p>3 A. Yes.</p> <p>4 Q. Is it easier to illustrate the relevant parts with some</p> <p>5 still frames?</p> <p>6 A. Yes, it would.</p> <p>7 MR. ROTH: May I approach the witness,</p> <p>8 Your Honor?</p> <p>9 THE COURT: You may.</p> <p>10 BY MR. ROTH:</p> <p>11 Q. (Approaching the witness.)</p> <p>12 I'm going to hand you what's marked as 89</p> <p>13 through 116. If you could take a moment and review</p> <p>14 those.</p> <p>15 Very good. Are these each fair and accurate</p> <p>16 still frames from the video we just discussed?</p> <p>17 A. Yes, they are.</p> <p>18 MR. ROTH: Your Honor, I would move for the</p> <p>19 admission of Proposed Exhibits 89 through 116.</p> <p>20 MR. MORLEY: Without objection, Your Honor.</p> <p>21 THE COURT: People's Exhibits 89 through 116</p> <p>22 are admitted and received.</p> <p>23 MR. ROTH: Thank you, Your Honor.</p> <p>24 (At 9:18 a.m., PX#89 through</p> <p>25 PX#116 are received.)</p> <p style="text-align: right;">12</p>	<p>1 second later.</p> <p>2 Q. So it's continuing to move in this --</p> <p>3 A. In an easterly direction, yes --</p> <p>4 Q. -- series?</p> <p>5 A. -- through the back of the parking lot.</p> <p>6 Q. Where does that vehicle park? It might it be easier on</p> <p>7 the one before.</p> <p>8 A. Yeah. It ends up parking right -- a little bit south of</p> <p>9 that, but right on the side of the bar there.</p> <p>10 Q. Thank you. How many subjects get out of that white SUV?</p> <p>11 A. Two.</p> <p>12 Q. Showing you Exhibit 91. Are these the two subjects?</p> <p>13 A. Yes, they are.</p> <p>14 Q. Which person, if you could circle on the screen, gets out</p> <p>15 of the driver's seat?</p> <p>16 A. (Illustrating.)</p> <p>17 Q. You're circling for the record the man with the hat on?</p> <p>18 A. That's correct.</p> <p>19 Q. And which person gets out of the passenger's side?</p> <p>20 A. (Illustrating.)</p> <p>21 Q. For the record, that's the person with the hooded</p> <p>22 sweatshirt up?</p> <p>23 A. That's correct.</p> <p>24 Q. Did you anybody -- excuse me, did you see anybody in this</p> <p>25 frame that you interviewed as a part of this case?</p> <p style="text-align: right;">14</p>
<p>1 BY MR. ROTH:</p> <p>2 Q. When we have this discussion, I'm going to ask you to</p> <p>3 refer to the time stamps that are shown on the video.</p> <p>4 Another witness is going to address the accuracy of the</p> <p>5 time stamp, okay?</p> <p>6 A. Okay.</p> <p>7 Q. Showing you People's Exhibit 89. What time is displayed?</p> <p>8 A. It's 23:46 hours, which is 11:46 p.m.</p> <p>9 Q. Thank you. And what do we see in this picture?</p> <p>10 A. This is the white SUV that Mr. Kelsey arrives in.</p> <p>11 Q. And what color does it appear to be?</p> <p>12 A. White.</p> <p>13 Q. What part of the Dam Site Inn are we looking at?</p> <p>14 A. This is the area. Patterson Lake Road runs east/west on</p> <p>15 the other side of the bar, and this is the rear of the</p> <p>16 bar.</p> <p>17 Q. Showing you Exhibit 64, an overhead shot of the Dam Site</p> <p>18 Inn. Could you circle on the screen in front of you</p> <p>19 which part of the Dam Site Inn we're looking at?</p> <p>20 A. Yes, right here.</p> <p>21 Q. I think you've got to press harder.</p> <p>22 A. Oh, okay.</p> <p>23 (Illustrating.)</p> <p>24 Q. Thank you. Moving next to Exhibit 90. What do we see?</p> <p>25 A. It's the same vehicle just a second or fraction of a</p> <p style="text-align: right;">13</p>	<p>1 A. Yes, I do.</p> <p>2 Q. Who?</p> <p>3 A. The gentleman in the hoodie is Brian Hildabridle.</p> <p>4 Q. Thank you. And the person that you referred to as</p> <p>5 John Kelsey during your initial summary, do you see him</p> <p>6 in this picture as well?</p> <p>7 A. Yes, I do.</p> <p>8 Q. Could you please circle him?</p> <p>9 A. (Illustrating.)</p> <p>10 Q. And do you see him in the courtroom today?</p> <p>11 A. Yes, I do.</p> <p>12 Q. Has his appearance changed?</p> <p>13 A. Yes.</p> <p>14 Q. In what way?</p> <p>15 A. He's grown some hair, and he's shaved his beard.</p> <p>16 Q. Thank you. So the time stamp on 91 is 23:48:01. Where</p> <p>17 do these two subjects, Brian Hildabridle and the</p> <p>18 Defendant, go once they enter the bar?</p> <p>19 A. They go up to the bar on the east end of the bar.</p> <p>20 Q. Showing you Exhibit 92. Is that what we see, the east</p> <p>21 end of the bar?</p> <p>22 A. That's correct, yes.</p> <p>23 Q. And who do we see in that picture?</p> <p>24 A. John Kelsey.</p> <p>25 Q. And what is in front of him?</p> <p style="text-align: right;">15</p>

<p>1 A. A beer, a can of beer.</p> <p>2 Q. What time is shown there?</p> <p>3 A. 23:49, 11:49 p.m.</p> <p>4 Q. Thank you. And just for perspective showing you</p> <p>5 Exhibit 74. Where on the bar is this that we're looking</p> <p>6 at?</p> <p>7 A. The seat that he would be seated in is right here.</p> <p>8 (Illustrating.)</p> <p>9 Q. Thank you. Moving on to 93. Again, it's the Defendant</p> <p>10 at the bar at 23:49:52. Is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And can you still see the beer can?</p> <p>13 A. Yes.</p> <p>14 Q. Can you tell what kind of beer it is?</p> <p>15 A. It's a little difficult to tell. Looks like a Budweiser,</p> <p>16 though, from the --</p> <p>17 Q. Thank you.</p> <p>18 A. -- from the markings on it.</p> <p>19 Q. We see that again in 94. Is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. Moving to 95. What time is shown?</p> <p>22 A. 23:55 or 11:55 p.m.</p> <p>23 Q. Can you see the beer can anymore in this frame?</p> <p>24 A. No, I cannot.</p> <p>25 Q. So you testified earlier that there is hours of video.</p> <p style="text-align: right;">16</p>	<p>1 there is a can of beer, and it appears that</p> <p>2 Mr. Hildabridle has a can of beer as well.</p> <p>3 Q. Thank you. In this frame, are we able to see the</p> <p>4 Defendant's hairstyle now?</p> <p>5 A. Yes.</p> <p>6 Q. What was he wearing on his head previously?</p> <p>7 A. He was wearing a hat.</p> <p>8 Q. Like a beanie?</p> <p>9 A. Yeah.</p> <p>10 Q. And what is the Defendant's hairstyle on this particular</p> <p>11 night?</p> <p>12 A. Shaved head.</p> <p>13 Q. Who else do we see in this frame that you're able to</p> <p>14 identify?</p> <p>15 A. Mr. Hildabridle, Brian Hildabridle, is speaking with him.</p> <p>16 The gentleman in the white hat behind him is later</p> <p>17 identified as Justin Montgomery. Behind him is -- he's</p> <p>18 peeking out right there -- is identified as A. J. Wynn or</p> <p>19 Anthony Wynn. And the female right here; Sabrina Ware.</p> <p>20 Q. Thank you. What time do we see in Exhibit 8?</p> <p>21 A. 00:22 or 12:22 a.m.</p> <p>22 Q. Who do we see here?</p> <p>23 A. See Mr. Kelsey and Mr. Hildabridle talking and see</p> <p>24 Justin Montgomery with his back to us.</p> <p>25 Q. Again, we're still at the east end of the bar?</p> <p style="text-align: right;">18</p>
<p>1 Are you able to count the number of beers that the</p> <p>2 Defendant ordered or drank throughout the night?</p> <p>3 A. No. It's difficult to tell.</p> <p>4 Q. Why is that?</p> <p>5 A. He changes position throughout the -- throughout the</p> <p>6 night. At one point he's off camera, and it's hard --</p> <p>7 it's impossible to see him. His back is to the camera.</p> <p>8 Q. Thank you. What do we see in 96?</p> <p>9 A. That is Mr. Kelsey walking from the back room area.</p> <p>10 Q. The bathroom area?</p> <p>11 A. It's the back room, but there is -- the bathroom is just</p> <p>12 to his left. It's -- the doorway is right -- right</p> <p>13 there.</p> <p>14 (Illustrating.)</p> <p>15 Q. Thank you. What time did he first go to the bathroom at</p> <p>16 the Dam Site?</p> <p>17 A. It's 23:56 or 11:56 p.m.</p> <p>18 Q. And I guess I should ask: Before this frame does he come</p> <p>19 out of the men's room?</p> <p>20 A. Yes.</p> <p>21 Q. What time do we see in 97?</p> <p>22 A. Now it is December 7th, 2014, and it is 00:02 hours,</p> <p>23 which is 12:02, two minutes after midnight.</p> <p>24 Q. Do we see a can of beer in front of the Defendant again?</p> <p>25 A. Yes. There is -- there appears to be two. Actually,</p> <p style="text-align: right;">17</p>	<p>1 A. Yes.</p> <p>2 Q. And there is a still a beer in front of the area where</p> <p>3 the Defendant is?</p> <p>4 A. Yes.</p> <p>5 Q. What do we see in Exhibit 99?</p> <p>6 A. It is 00:40 hours or 12:40 a.m., and we see him again</p> <p>7 coming from the bathroom.</p> <p>8 Q. The Defendant?</p> <p>9 A. Yes.</p> <p>10 Q. What time did the Defendant go to the bathroom the second</p> <p>11 time at the Dam Site Inn?</p> <p>12 A. It was 00:40 hours, just 12:40 a.m.</p> <p>13 Q. Thank you. And once he exits the bathroom, where does he</p> <p>14 go?</p> <p>15 A. He goes back to the east end of the bar.</p> <p>16 Q. What do we see in Exhibit 100?</p> <p>17 A. He has joined up with the rest of his friends, and there</p> <p>18 is another person there now.</p> <p>19 Q. You mentioned earlier that you're not able to count the</p> <p>20 number of beers that he drinks throughout the night</p> <p>21 because his back is turned to the camera for a while. Is</p> <p>22 that what we see here?</p> <p>23 A. Yes. He sits in a seat directly in front of him, and</p> <p>24 then you cannot see anymore. You can catch parts of him</p> <p>25 at times when he's sitting, but you cannot see in front</p> <p style="text-align: right;">19</p>

1 of him.

2 Q. Thank you. Is there anybody shown in this frame that you

3 haven't already identified in earlier pictures?

4 A. Yes.

5 Q. Who is that?

6 A. **This female right here who shows up is -- we were told it**

7 **was Shannon Hildabridle, also known as Shannon Gauthier.**

8 Q. Thank you. What time do we see in Exhibit 101?

9 A. **00:41 hours or 12:41 a.m.**

10 Q. Same parties still at the east end of the bar?

11 A. Yes.

12 Q. What do we see in 102?

13 A. **It's Mr. Kelsey again coming from the bathroom area.**

14 Q. What time did he go to the bathroom the third time at the

15 Dam Site Inn?

16 A. **01:38 hours or 1:38 a.m.**

17 Q. So that's three trips to the men's room in under two

18 hours?

19 A. **That's correct.**

20 Q. What time do we see in Exhibit 103?

21 A. **01:44 hours or 1:44 a.m.**

22 Q. Now, we see that the picture looks different. There is

23 color showing up now. Do you know why that is?

24 A. **Yeah. I presume the lights came up, and it kicked out of**

25 **the night vision and more towards the general camera.**

20

1 Q. Thank you. Has the Defendant's appearance changed at all

2 here?

3 A. **He's put his hat back on and put his hood back up.**

4 Q. Thank you. Again, around the same time, what do we see,

5 what time, in Exhibit 104?

6 A. **01:45 hours, 1:45 a.m.**

7 Q. What time do we see in 105?

8 A. **01:45 hours, 1:45 a.m.**

9 Q. Thank you. What do we see in Exhibit 106?

10 A. **We see Mr. Kelsey and Mr. Hildabridle standing up.**

11 Q. Both hoods are up. Could you identify which party is the

12 Defendant and which party is Mr. Hildabridle?

13 A. **Yes. (Illustrating.)**

14 **This is Mr. Hildabridle, and this is**

15 **Mr. Kelsey.**

16 Q. Thank you. And what is in the Defendant's hand?

17 A. **A beer. Beer can.**

18 Q. We see a couple seconds later in 107, where is he

19 traveling at that time?

20 A. **That's the door leading out of the bar; the parking lot.**

21 Q. What is in his hand when he leaves the bar?

22 A. **A beer can.**

23 Q. What time does he leave?

24 A. **01:48 hours or 1:48 a.m.**

25 Q. 108. Is that still the Defendant at the door?

21

1 A. **Yes.**

2 Q. How did he open the door?

3 A. **It appears he kicked the door open.**

4 Q. Where did he go after exiting the Dam Site Inn?

5 A. **He went to his vehicle.**

6 Q. Do you see that in 109?

7 A. **Yes.**

8 Q. Could you identify for the jury the people that we see

9 near the Defendant's white SUV?

10 A. **Yes. (Illustrating.)**

11 **This right here is Justin Montgomery, and**

12 **that's Brian Hildabridle, and then in the doorway is**

13 **Mr. Kelsey.**

14 Q. Thank you. What seat did he get into?

15 A. **The drivers's seat.**

16 Q. What do we see on the front grill of the SUV?

17 A. **It says GMC.**

18 Q. Thank you. Where is the Defendant in Exhibit 110?

19 A. **He is inside the vehicle, the driver's seat.**

20 Q. And in 111, where are his friends?

21 A. **His friends are out in front of the bar.**

22 Q. Does anybody, other than the Defendant, get into that

23 white SUV?

24 A. **No.**

25 Q. And at this point, it's driving?

22

1 A. **Yes.**

2 Q. Moving to 113. What is in the front passenger's seat of

3 the Defendant's white SUV?

4 A. **It's a dog.**

5 Q. Had you seen this dog before?

6 A. **Yes.**

7 Q. Where?

8 A. **I saw pictures of this dog on Mr. Kelsey's Facebook page.**

9 Q. Thank you. What time do we see in Exhibit 115?

10 A. **01:53 hours or 1:53 a.m.**

11 Q. And what's shown in this frame?

12 A. **It shows Mr. Kelsey's white SUV traveling west through**

13 **the parking lot.**

14 Q. What part of the Dam Site Inn are we looking at here?

15 A. **That is the front of the bar.**

16 Q. Going back to 64, could you please mark for the jury what

17 direction the Defendant is traveling out of the Dam Site

18 Inn?

19 A. **Yeah. (Illustrating.)**

20 **His vehicle is just about right there in the**

21 **picture, and he's traveling west through the parking lot.**

22 Q. And then what time do we see on 116?

23 A. **01:53 hours, or 1:53 a.m.**

24 Q. And is the white SUV still visible?

25 A. **Yes.**

23

<p>1 Q. Where is it?</p> <p>2 A. (Illustrating.)</p> <p>3 It's right there, the taillights are.</p> <p>4 Q. What road is he on?</p> <p>5 A. He's on Patterson Lake Road.</p> <p>6 Q. And going back to that map, what direction on Patterson</p> <p>7 Lake Road is he heading?</p> <p>8 A. He's heading west.</p> <p>9 Q. Thank you.</p> <p>10 A. He's pulling out here heading west.</p> <p>11 MR. ROTH: May I approach the witness,</p> <p>12 Your Honor?</p> <p>13 THE COURT: You may.</p> <p>14 BY MR. ROTH:</p> <p>15 Q. (Approaching the witness.)</p> <p>16 Did you also take some pictures of some</p> <p>17 personal property that the Defendant had on his person</p> <p>18 when he was on -- excuse me, he had it on his person on</p> <p>19 December 12th. You took pictures later?</p> <p>20 A. Yes.</p> <p>21 Q. All right. I'm going to ask you to review Proposed</p> <p>22 Exhibits 167, 168, 169, 174, 175, 176, 177, 178, 179,</p> <p>23 180, 181, 182. Take a moment. Are each of those fair</p> <p>24 and accurate pictures of that property that you</p> <p>25 photographed?</p> <p style="text-align: right;">24</p>	<p>1 A. No. Other than the number of beers that I saw in front</p> <p>2 of him, I did no further investigation.</p> <p>3 Q. Well, all you saw in front of him was one beer, right?</p> <p>4 A. I saw multiple photos with a can of beer in front of him.</p> <p>5 Q. Right. But you can't sit here today and say whether</p> <p>6 that's the same beer or whether there was more than one</p> <p>7 beer in Mr. Kelsey's purview, can you?</p> <p>8 A. I'm not -- I don't know the number of beers that he had,</p> <p>9 no.</p> <p>10 MR. MORLEY: Okay.</p> <p>11 Where did those pictures go, Counsel?</p> <p>12 MR. ROTH: All over there.</p> <p>13 MR. MORLEY: My fault.</p> <p>14 Approach the witness, Your Honor?</p> <p>15 THE COURT: You may.</p> <p>16 BY MR. MORLEY:</p> <p>17 Q. (Approaching the witness.)</p> <p>18 I'm going to show you what was admitted as</p> <p>19 People's Exhibit 89 and ask if you recognize that.</p> <p>20 A. Yes.</p> <p>21 Q. Is that the vehicle that Deputy Whitaker and</p> <p>22 Deputy Hoeksema were trying to catch?</p> <p>23 A. After our investigation, yes. I believe so.</p> <p>24 Q. As you sit here today, do you know that's the same</p> <p>25 vehicle?</p> <p style="text-align: right;">26</p>
<p>1 A. Yes.</p> <p>2 MR. ROTH: Your Honor, I'm not going to move</p> <p>3 for admission of these photos at this time but will with</p> <p>4 a further witness later.</p> <p>5 THE COURT: All right.</p> <p>6 MR. ROTH: At this point I have no further</p> <p>7 questions of this witness.</p> <p>8 THE COURT: Thank you, Mr. Roth.</p> <p>9 Mr. Morley, do you wish to question the</p> <p>10 witness?</p> <p>11 MR. MORLEY: Yes, sir. Thank you, Judge.</p> <p>12 CROSS-EXAMINATION</p> <p>13 BY MR. MORLEY:</p> <p>14 Q. Sergeant, in all of these photographs that we're looking</p> <p>15 at that you looked at, not the property items that you</p> <p>16 just looked at but the photos primarily, see if I can ask</p> <p>17 this the right way. There is no evidence of anything</p> <p>18 illegal or improper going on, is it? It's just people at</p> <p>19 a bar, right?</p> <p>20 A. Yes. Just people hanging out at the bar, yes.</p> <p>21 Q. Right. Is there any indication that anybody in any of</p> <p>22 those photos is intoxicated?</p> <p>23 A. I would have to have done further investigation to</p> <p>24 determine that, but...</p> <p>25 Q. Did you?</p> <p style="text-align: right;">25</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. And you know how?</p> <p>3 A. Based on our investigation.</p> <p>4 Q. Okay. But your investigation, you also found another</p> <p>5 white vehicle, didn't you?</p> <p>6 A. There were several white vehicles that came up that were</p> <p>7 eliminated.</p> <p>8 Q. Well, but you found another white vehicle that you and</p> <p>9 somebody else -- let me step back a little bit. You're</p> <p>10 aware that on the early morning hours -- late evening of</p> <p>11 December 6th and early morning hours of December 7th,</p> <p>12 there was a fight at a bar in Stockbridge, right?</p> <p>13 A. That's correct.</p> <p>14 Q. And you and your partner --</p> <p>15 Detective Bundshuh?</p> <p>16 A. Bundshuh.</p> <p>17 Q. Thank you. Sorry about that. Received information that</p> <p>18 there was a Billy Porter involved driving a white SUV,</p> <p>19 right?</p> <p>20 A. Yes. We did receive information.</p> <p>21 Q. And, in fact, you interviewed another defendant -- er,</p> <p>22 excuse me, another person in that fight, the victim in</p> <p>23 that fight.</p> <p>24 MR. ROTH: Your Honor, I'll object to the</p> <p>25 hearsay.</p> <p style="text-align: right;">27</p>

1 MR. MORLEY: I don't think it's -- I'm asking
2 if he investigated it. There is no hearsay. I haven't
3 asked a statement. I'm asking if he did an
4 investigation.

5 MR. ROTH: All that's happened thus far is
6 asking "Did you hear this?" There's been no question
7 about investigation.

8 MR. MORLEY: I think my question was an
9 investigation.

10 THE COURT: All right. Let's have you -- I'll
11 overrule the objection, but restate the question, please.

12 BY MR. MORLEY:

13 Q. Did you interview the victim in that bar fight?

14 A. **Yes. I interviewed one of the participants.**

15 Q. That was Davy Bettelon, right, B-E-T-T-E-L-O-N?

16 A. **That's correct.**

17 Q. And, in fact, you and your partner got the white vehicle
18 that might have been involved in that bar fight, right,
19 the white SUV?

20 A. **No. There was no white SUV involved in the bar fight.**
21 **The tips that came in stated that --**

22 MR. ROTH: Your Honor, I'm going to object to
23 the content of the tips. Those would obviously be
24 hearsay.

25 BY MR. MORLEY:

28

1 Q. Did you receive a tip that --

2 THE COURT: Sustained.

3 Go ahead, Mr. Morley.

4 BY MR. MORLEY:

5 Q. -- that Billy Porter was driving a white SUV, and
6 Davy Bettelon was a passenger in the chase that
7 Officer Whitaker lost his life?

8 MR. ROTH: Your Honor, again, I'm going to
9 object to the hearsay. He can talk about the
10 investigation but not the content of the tip.

11 MR. MORLEY: The tip, Your Honor, we've
12 addressed this. I'm looking at Tip 89. And I just read
13 from 89. In fact, if you want, I can try to move for its
14 admission as a business record, but this is what we've
15 dealt with.

16 THE COURT: Well, the issue is what effect it
17 had and whether he conducted an investigation from it.
18 So if that's where you're going with it, then it would be
19 admissible.

20 BY MR. MORLEY:

21 Q. Detective --

22 THE COURT: Assuming you're going to ask those
23 questions. That's the -- that's the foundation for it.

24 MR. ROTH: That being said, actual piece of
25 paper, the tip, would not be admissible. That is a

29

1 police report. Those are per se inadmissible.

2 Mr. Morley is marking them right now.

3 MR. MORLEY: I don't think it's a police
4 report, Your Honor. I'd move for its admission. I can
5 lay a foundation through the detective. But these are
6 tips from people in the community. These are not police
7 reports, and I think they can be admitted as business
8 record exceptions.

9 THE COURT: Well, I'll have you go ahead and
10 try to lay the foundation and we'll see where it goes.

11 MR. MORLEY: Approach the witness, Your Honor?

12 THE COURT: You may.

13 BY MR. MORLEY:

14 Q. (Approaching the witness.)

15 Sergeant, I'm going to show you what's been
16 marked as Defendant's Proposed F and ask you to review
17 that, please.

18 And can you tell me what that is, please?

19 A. **It's one of the tips received in this investigation.**

20 Q. All right. And there were a number of tips received,
21 right?

22 A. **Yes.**

23 Q. That's not your handwriting at the top part of this, is
24 it?

25 A. **No.**

30

1 Q. This is just conveying the tip that came in?

2 A. **That's correct.**

3 Q. And these were kept, I believe, under the guidance of
4 either Sergeant McPhee or Lieutenant Gee-Cram, right?

5 A. **Yes. I'm not sure who was in charge.**

6 Q. Is any of this your writing or your police report?

7 A. **None of that is my writing, no.**

8 Q. Okay. And these were kept all as part of the
9 investigation and as part of the business, the Michigan
10 State Police, in this matter?

11 A. **I wasn't kept by me. That wasn't my part of the
12 investigation.**

13 MR. MORLEY: Your Honor, I move for the
14 admission of Defendant's F.

15 MR. ROTH: May I voir dire, Your Honor?

16 THE COURT: You may.

17 VOIR DIRE EXAMINATION

18 BY MR. ROTH:

19 Q. Are these part of the police report?

20 A. **No.**

21 Q. Are these kept as -- are police the ones that draft
22 these, I guess I should say?

23 A. **Sometimes. Sometimes they come in through tips from
24 witnesses themselves. Sometimes civilians answering the
25 phone or police officers, whoever is answering the phone**

31

<p>1 taking the tip fills them out with --</p> <p>2 Q. So --</p> <p>3 A. -- the information that is received.</p> <p>4 Q. Civilians that answer the phone are working for the</p> <p>5 police at that point, though, as an agent of the police?</p> <p>6 A. Yes.</p> <p>7 Q. So the actual writing on here is not done by tipsters.</p> <p>8 It's done by people on the police end of it?</p> <p>9 A. Yeah. It's -- and in this case I believe who's answering</p> <p>10 the phone were police officers. I don't know that there</p> <p>11 were any civilians taking tips. But, yes, they are</p> <p>12 written by whoever takes the tips.</p> <p>13 Q. And what does say it in the corner there?</p> <p>14 A. DD-27, Michigan State Police Field Services Bureau.</p> <p>15 Q. Is DD-027, is that a Michigan State Police form?</p> <p>16 A. Yes, it is.</p> <p>17 Q. Because this is a Michigan State Police form used for</p> <p>18 investigations?</p> <p>19 A. Yes.</p> <p>20 MR. ROTH: Your Honor, I'm going to object to</p> <p>21 the admission. This is clearly a part of the definition</p> <p>22 of police report as precluded by the rules of evidence.</p> <p>23 THE COURT: Mr. Morley?</p> <p>24 MR. MORLEY: We're working pretty hard to say</p> <p>25 this is a police report. This isn't a police report,</p> <p style="text-align: right;">32</p>	<p>1 stand.)</p> <p>2 ***</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">34</p>
<p>1 Judge. It's a tip sheet.</p> <p>2 THE COURT: Can I see counsel at the bench?</p> <p>3 (At 9:43 a.m., an at-the-bench</p> <p>4 discussion is held off the</p> <p>5 record.)</p> <p>6 THE COURT: Ladies and Gentlemen, I'm going to</p> <p>7 have you go back to the jury room with Mr. Adkins,</p> <p>8 please.</p> <p>9 (At 9:47 a.m., the jury left the</p> <p>10 courtroom.)</p> <p>11 THE COURT: You may be seated.</p> <p>12 All right. Go ahead with your objection,</p> <p>13 Mr. Roth.</p> <p>14 MR. ROTH: Your Honor, to further the record, I</p> <p>15 would like to call Detective Trooper Johnston to explain</p> <p>16 the tip sheets. He was one of the two officers in</p> <p>17 charge. I think he's far more capable of explaining the</p> <p>18 purpose in this case.</p> <p>19 THE COURT: All right. As a matter -- as an</p> <p>20 offer of proof as a separate record?</p> <p>21 MR. ROTH: Yes, Your Honor.</p> <p>22 THE COURT: Okay. Let's do that then.</p> <p>23 We'll have you step down, sir.</p> <p>24 (At 9:48 a.m., the witness</p> <p>25 stepped down from the witness</p> <p style="text-align: right;">33</p>	<p>1 (At 9:49 a.m., Beginning of</p> <p>2 Separate Record.)</p> <p>3 THE COURT: Do you swear or affirm to tell the</p> <p>4 truth, the whole truth, and nothing but the truth?</p> <p>5 DETECTIVE TROOPER JOHNSTON: Yes, I do.</p> <p>6 THE COURT: Please be seated. State your full</p> <p>7 name for us.</p> <p>8 THE WITNESS: Detective Trooper Troy Johnston,</p> <p>9 J-O-H-N-S-T-O-N.</p> <p>10 MR. ROTH: Thank you, Your Honor.</p> <p>11 TROY JOHNSTON</p> <p>12 called by the People for a special record at 9:49 a.m.,</p> <p>13 sworn by the Court, testified:</p> <p>14 DIRECT EXAMINATION</p> <p>15 BY MR. ROTH:</p> <p>16 Q. Specifically and limitedly, what is your responsibility</p> <p>17 as to this case?</p> <p>18 A. I was overseeing the investigation, the entire</p> <p>19 investigation, along with Detective Sergeant McPhee.</p> <p>20 Q. You two worked in tandem as the officers in charge?</p> <p>21 A. Yes.</p> <p>22 Q. And you've heard the discussion in the courtroom this</p> <p>23 morning about the tip sheets?</p> <p>24 A. Yes.</p> <p>25 Q. What are tip sheets?</p> <p style="text-align: right;">35</p>

<p>1 A. Tip sheets, it's information brought in from the public 2 or generated by investigators, detectives on this case. 3 They're simply a way to track information that we needed 4 to follow up on. The tip form itself is a form that's 5 specific to the Michigan State Police, as are several of 6 these forms or several forms like this.</p> <p>7 Q. Is it part of the police report?</p> <p>8 A. Yes, it is.</p> <p>9 Q. Could you explain that for the judge?</p> <p>10 A. We have several forms in our -- when I say several, 11 that's an understatement. We have hundreds of forms in 12 our department like this. They have DD numbers, or 13 they'll have different characters. But we use these 14 forms to track information for -- for the report. An 15 example would be a statement form that's similar to this 16 that has another DD number. These forms are tracked and 17 they're filed in our master file system, and they are 18 part of the report.</p> <p>19 Q. The way that they are filed, is that the same way that 20 the actual police report narratives are filed?</p> <p>21 A. Well, it's similar because there is not -- there is not 22 an online portion of this form. It's a hard copy. 23 They're filed in an actual file cabinet as opposed to the 24 narrative that's all online now.</p> <p>25 Q. When they were all hard copies, they would be stored in</p> <p style="text-align: right;">36</p>	<p>1 BY MR. MORLEY:</p> <p>2 Q. The top part of these isn't an officer's observations or 3 anything like that, right?</p> <p>4 A. No, sir.</p> <p>5 Q. It's just garbage in, garbage out. "Here's what came on 6 the phone. Here's what I'm writing down," right?</p> <p>7 A. I'm not sure I like the analogy that you're using, but, 8 yeah, it's information that came from a tipster or, you 9 know, on the phone, or maybe an investigator that put 10 that information. The person following up on it is not 11 always the same person that wrote the information on the 12 top part.</p> <p>13 MR. MORLEY: That's all I have.</p> <p>14 Thank you.</p> <p>15 THE COURT: Anything further from this witness, 16 Mr. Roth?</p> <p style="text-align: center;">REDIRECT EXAMINATION</p> <p>18 BY MR. ROTH:</p> <p>19 Q. Is the form complete without the information on the 20 bottom?</p> <p>21 A. No, it's not.</p> <p>22 MR. ROTH: Nothing further, Your Honor.</p> <p>23 THE COURT: All right. You may step down, sir. 24 (At 9:53 a.m., the witness 25 stepped down from the witness</p> <p style="text-align: right;">38</p>
<p>1 the same way, though?</p> <p>2 A. Yes.</p> <p>3 Q. You talked about statement forms having their own 4 separate form. Are those also part of the police report?</p> <p>5 A. Yes, they are.</p> <p>6 Q. Even though they're not kept in the same way as the 7 narratives?</p> <p>8 A. Yes.</p> <p>9 Q. On the tip forms to finish what's just on the top, then 10 the officers will complete it with their observations 11 following up?</p> <p>12 A. Yes. So the tip form is a carbon charged form. The top 13 form is kept by the officers in charge of the 14 investigation. The bottom form, which was yellow, is 15 given to the investigator, whoever is following up on the 16 tip, and they write their notes in the action part that 17 you see on the bottom of the screen there.</p> <p>18 Q. To completely understand the top, would we need as well 19 the bottom which has the officer's observations following 20 up on it?</p> <p>21 A. Absolutely.</p> <p>22 MR. ROTH: I have nothing further, Your Honor.</p> <p>23 THE COURT: All right. Thank you, Mr. Roth.</p> <p>24 Mr. Morley, do you wish to question?</p> <p>25 CROSS-EXAMINATION</p> <p style="text-align: right;">37</p>	<p>1 stand.)</p> <p>2 THE COURT: Mr. Roth?</p> <p>3 MR. ROTH: Thank you, Your Honor. Myself and 4 Mr. Morley and the Court may all have opinions about 5 whether this is a police report or not, but in deference 6 to the officer in charge, they're absolutely part of the 7 police report. That they are recorded on separate forms 8 does not alleviate that problem. They are incorporated 9 in that way into the police report.</p> <p>10 As the officer also indicated, the one that 11 we're showing up there is missing the information on the 12 bottom. Those forms are not complete without the 13 information on the bottom, which includes the officer's 14 observations.</p> <p>15 These are clearly, absolutely, and 16 unequivocally part of the police report and not 17 admissible under the rules of evidence.</p> <p>18 THE COURT: Mr. Morley?</p> <p>19 MR. MORLEY: I disagree, Your Honor. And I 20 don't think there is any deference to an investigating 21 officer within the rules of evidence. And, in fact, the 22 way the tip sheet was offered today is exactly how it 23 should be done. Here's what came in. And, Judge, I'll 24 show you. It has information that says, quote: 25 I have heard that Billy Porter</p> <p style="text-align: right;">39</p>

<p>1 was driving the white SUV and</p> <p>2 Davy Bettelon was a passenger in</p> <p>3 the chase that Officer Whitaker</p> <p>4 --</p> <p>5 It says "his life." It should say "lost his</p> <p>6 life." Close quote.</p> <p>7 There is no other information. I'll show you</p> <p>8 what becomes a police report on the bottom half of there</p> <p>9 on what the detective testified to is the carbon charged</p> <p>10 copy, but...</p> <p>11 And we're blurring the lines by calling this a</p> <p>12 police report. Police report is under 803(8), the public</p> <p>13 record's exception. This is a business record's</p> <p>14 exception. This simply is somebody had a duty to write</p> <p>15 this down. They did. And it's -- in fact, it's properly</p> <p>16 redacted as it is.</p> <p>17 So I move for its admission pursuant to --</p> <p>18 primarily pursuant to the business record's exception,</p> <p>19 which does not delineate whether or not it's a police</p> <p>20 report. And if not, to the public record's exception,</p> <p>21 which does address the police report exception. However,</p> <p>22 as I said, I don't believe this is a police report in the</p> <p>23 first part that I showed you.</p> <p>24 THE COURT: Could I see the form, Mr. Morley?</p> <p>25 MR. MORLEY: Yes, sir.</p> <p style="text-align: right;">40</p>	<p>1 case. It is simply inadmissible.</p> <p>2 THE COURT: Mr. Morley, further argument?</p> <p>3 MR. MORLEY: I don't think so, Judge.</p> <p>4 THE COURT: All right. I'm going to deny the</p> <p>5 request to admit them. They do not fall within the</p> <p>6 exceptions in particular because it is -- in its entire</p> <p>7 form, it is a police report. This would be no different</p> <p>8 than redacting part of the police report by eliminating</p> <p>9 the bottom portion of the form.</p> <p>10 So it does not fall within an exception. So</p> <p>11 I'm going to deny it. It does not preclude what I had</p> <p>12 already previously ruled upon, and that is the use of the</p> <p>13 tip information for the effect on the listener</p> <p>14 particularly with respect to conducting an investigation</p> <p>15 in response to that.</p> <p>16 MR. MORLEY: Thank you, Your Honor.</p> <p>17 MR. ROTH: Thank you, Your Honor.</p> <p>18 THE COURT: Mr. Morley, I'll return your</p> <p>19 documents to you, sir.</p> <p>20 MR. MORLEY: Thank you.</p> <p>21 ***</p> <p>22 (At 9:59 a.m., End of Separate</p> <p>23 Record.)</p> <p>24</p> <p>25</p> <p style="text-align: right;">42</p>
<p>1 (Approaching the bench.)</p> <p>2 THE COURT: Thank you.</p> <p>3 MR. MORLEY: Here's both of them. I move for</p> <p>4 -- I move for F. It's my understanding that that is what</p> <p>5 would be the carbon behind F.</p> <p>6 THE COURT: Mr. Roth, further argument?</p> <p>7 MR. ROTH: Your Honor, to say that it's kept in</p> <p>8 the normal course of business is incorrect. They are</p> <p>9 kept in the normal course of business with the bottom</p> <p>10 part. They're not kept one by one. They're kept with</p> <p>11 the bottom part on there.</p> <p>12 And Mr. Morley agrees the bottom part is</p> <p>13 officer observations. To say that he's moving for</p> <p>14 admission under 803 --</p> <p>15 THE COURT: (6).</p> <p>16 MR. ROTH: (6), as opposed to (8), I could call</p> <p>17 Trooper Johnston up there and authenticate the 200-page</p> <p>18 police report and just say, "Are these kept in the normal</p> <p>19 course of business with the Michigan State Police?"</p> <p>20 In every case I could do that with the officer,</p> <p>21 and I could say, "Your Honor, I'm moving for the</p> <p>22 admission pursuant to the business record's exception,</p> <p>23 not as to public record's exception." The same argument</p> <p>24 would apply, but we all know that that is wrong.</p> <p>25 Otherwise, police reports would be admitted in every</p> <p style="text-align: right;">41</p>	<p>1 THE COURT: Can we bring the jury back in?</p> <p>2 MR. ROTH: Yes, Your Honor.</p> <p>3 THE COURT: You can take the stand again, sir.</p> <p>4 (At 10:01 a.m., Witness Singleton</p> <p>5 retakes the stand.)</p> <p>6 (At 10:01 a.m., the jury entered</p> <p>7 the courtroom.)</p> <p>8 THE COURT: Please be seated.</p> <p>9 Mr. Morley, when you're ready, you may proceed,</p> <p>10 sir.</p> <p>11 MR. MORLEY: Thank you.</p> <p>12 CROSS-EXAMINATION (CONT'G)</p> <p>13 BY MR. MORLEY:</p> <p>14 Q. Sergeant, you were shown bar tabs from the Alley Bar. Do</p> <p>15 you recall that?</p> <p>16 A. Yes.</p> <p>17 Q. You don't have those in front of you, do you?</p> <p>18 A. No.</p> <p>19 Q. I don't know where they're at. You conducted follow-up</p> <p>20 investigation on those bar tabs, right? You conducted</p> <p>21 follow-up investigation on those, right?</p> <p>22 A. Yeah. I received the bar tabs, yes.</p> <p>23 Q. As you sit here today, you can't say who the person is in</p> <p>24 any of those bar tabs, can you?</p> <p>25 A. There are names on some of them.</p> <p style="text-align: right;">43</p>

<p>1 Q. But, I mean, you can't identify who those people are.</p> <p>2 There's either first names or where they were sitting or</p> <p>3 a description, right?</p> <p>4 A. Yes. Some were identified by first name. Some first</p> <p>5 name and --</p> <p>6 Q. Thank you.</p> <p>7 A. -- last initial. Some were by clothing description.</p> <p>8 Q. But as you sit here today, you don't know, definitely,</p> <p>9 who the person is in any of these bar tabs, right?</p> <p>10 A. No.</p> <p>11 Q. No, I'm not right, or, no, you can't identify them?</p> <p>12 A. No, I cannot identify specifically.</p> <p>13 Q. Let's go back to this bar fight in Stockbridge on late</p> <p>14 hours of December 6th or the early morning hours of</p> <p>15 December 7th. You received information through the</p> <p>16 Michigan State Police tip line that was set up in this</p> <p>17 matter, right?</p> <p>18 A. I received the tip, multiple information from different</p> <p>19 sources from the person who was managing the information.</p> <p>20 Q. One of those tips, and specifically Tip 89 dated</p> <p>21 December 11th at 9:48 in the morning said, quote:</p> <p>22 I have heard that Billy Porter</p> <p>23 was driving the white SUV and</p> <p>24 Davy Bettelon was a passenger in</p> <p>25 the chase that Officer Whitaker</p> <p style="text-align: right;">44</p>	<p>1 MR. MORLEY: I apologize.</p> <p>2 THE COURT: And, Mr. Morley, you can clean up</p> <p>3 the question.</p> <p>4 BY MR. MORLEY:</p> <p>5 Q. You told Mr. Bettelon that you knew that there was a</p> <p>6 white SUV involved in the bar fight, right?</p> <p>7 A. Not in the bar fight, no. I don't believe that there was</p> <p>8 a white SUV involved in the bar fight.</p> <p>9 Q. Did you ask Mr. Bettelon whether he knew somebody that</p> <p>10 had a white SUV?</p> <p>11 A. Yes.</p> <p>12 Q. And did you say to him words to the effect of, "I'm going</p> <p>13 to tell you something first. I already know this answer</p> <p>14 to the question, so tell me the truth"?</p> <p>15 A. I'm not sure exactly what -- the content of that</p> <p>16 interview at this point, but I -- I -- I asked him</p> <p>17 questions in relation to the bar fight and his actions</p> <p>18 that night and any vehicles that he may be associated</p> <p>19 with.</p> <p>20 Q. And, in fact, you went and found a white SUV belonging to</p> <p>21 Billy Porter relating to that bar fight, right?</p> <p>22 A. Again, I don't believe that the white SUV was related to</p> <p>23 the bar fight.</p> <p>24 Q. Well, you found Billy Porter because Davy Bettelon is the</p> <p>25 victim in the bar fight that night, right?</p> <p style="text-align: right;">46</p>
<p>1 lost (verbatim) his life.</p> <p>2 Close quote. Did you conduct an investigation</p> <p>3 into that tip?</p> <p>4 A. I conducted an investigation into all tips related to the</p> <p>5 bar fight that night.</p> <p>6 Q. Well, I understand --</p> <p>7 A. All tips.</p> <p>8 Q. -- but I'm asking about this tip.</p> <p>9 A. But specifically Billy Porter's vehicle and Davy</p> <p>10 Bettelon, I investigated all of those tips.</p> <p>11 Q. You interviewed Davy Bettelon, right?</p> <p>12 A. That's correct.</p> <p>13 Q. And you told him you knew there was a white SUV involved,</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. And he told you, "No, there wasn't," right?</p> <p>17 MR. ROTH: Your Honor, I guess I'm going to</p> <p>18 object as to the vagueness of the question. A white SUV</p> <p>19 involved in the pursuit? A white SUV involved in the bar</p> <p>20 fight?</p> <p>21 MR. MORLEY: Bar fight.</p> <p>22 MR. ROTH: It's extremely unclear from the</p> <p>23 questions.</p> <p>24 MR. MORLEY: Bar fight.</p> <p>25 THE COURT: Sustained.</p> <p style="text-align: right;">45</p>	<p>1 A. Yeah. He was one of the combatants in the bar fight,</p> <p>2 yes.</p> <p>3 Q. And during that investigation, you find his -- actually,</p> <p>4 it's his half-brother, I think, Billy Porter, right?</p> <p>5 A. Yes.</p> <p>6 Q. And you and your partner go find Billy Porter, and you</p> <p>7 get into a white SUV that he owned, and you drove it by</p> <p>8 one of the surveillance cameras, right?</p> <p>9 A. That's correct.</p> <p>10 Q. (Approaching the witness.)</p> <p>11 I'm going to show you what's been marked as</p> <p>12 Defendant's Proposed G. Ask if you recognize those</p> <p>13 photos.</p> <p>14 A. Yes.</p> <p>15 Q. What are those?</p> <p>16 A. Those appear to be the -- this is the surveillance camera</p> <p>17 from L & B Outlet.</p> <p>18 Q. In Stockbridge?</p> <p>19 A. In Stockbridge, which shows a white SUV traveling past</p> <p>20 the camera on December 9th, 2014, at 10:33 p.m.</p> <p>21 Q. And these were just photos gleaned from a DVD or a CD</p> <p>22 that I think you obtained from the L & B Outlet, right?</p> <p>23 A. That's correct.</p> <p>24 Q. These appear to be a fair and accurate representation?</p> <p>25 In other words, there is no playing around with the</p> <p style="text-align: right;">47</p>

<p>1 photograph or anything?</p> <p>2 A. Yes. They appear to be fair and -- fair and accurate.</p> <p>3 MR. MORLEY: Move for admission of Defendant's</p> <p>4 B, Your Honor.</p> <p>5 MR. ROTH: Without objection, Your Honor.</p> <p>6 THE COURT: Defendant's Exhibit B is admitted</p> <p>7 and received.</p> <p>8 (At 10:06 a.m., DXB is received.)</p> <p>9 BY MR. MORLEY:</p> <p>10 Q. And this -- we can't really call it a white SUV because</p> <p>11 it's a black and white photo, right?</p> <p>12 A. It appears to be white in the photo, but it is --</p> <p>13 Q. It's a black and white photo.</p> <p>14 A. It is a black and white photo.</p> <p>15 Q. Is this Billy Porter's vehicle?</p> <p>16 A. Yes, it is.</p> <p>17 Q. Who's driving it?</p> <p>18 A. Billy Porter.</p> <p>19 Q. And it's going by the L & B Outlet?</p> <p>20 A. Yes.</p> <p>21 Q. The photograph that you saw earlier -- I think you still</p> <p>22 have 89 in front of you, I believe, from the Dam Site</p> <p>23 that show a white SUV. Do they have any distinguishing</p> <p>24 characteristics, or did that vehicle have any</p> <p>25 distinguishing characteristics to it?</p> <p style="text-align: right;">48</p>	<p>1 familiar with what's standard on this, but there doesn't</p> <p>2 appear to be anything unusual about this one, as opposed</p> <p>3 to one that sticks out to me other than the window.</p> <p>4 MR. MORLEY: That's all I have. Thank you.</p> <p>5 THE COURT: Thank you, Mr. Morley.</p> <p>6 Mr. Roth, you may redirect.</p> <p>7 MR. ROTH: Thank you, Your Honor.</p> <p>8 REDIRECT EXAMINATION</p> <p>9 BY MR. ROTH:</p> <p>10 Q. May I retrieve that from you real quick?</p> <p>11 (Approaching the witness.)</p> <p>12 Thank you. I'll take the pile.</p> <p>13 A. Okay.</p> <p>14 Q. Thank you. Sorry about that. At the beginning of your</p> <p>15 cross-examination, you told Mr. Morley that to determine</p> <p>16 if anybody in the bar was intoxicated that night, you</p> <p>17 would have to do further investigation. Do you remember</p> <p>18 that?</p> <p>19 A. Yes.</p> <p>20 Q. What did you mean by that?</p> <p>21 A. Um --</p> <p>22 Q. Do you mean further investigation based on the video or</p> <p>23 further investigation live with the people?</p> <p>24 A. Yeah. I would -- to view the video, you can see that he</p> <p>25 had been drinking but to determine if someone was, say,</p> <p style="text-align: right;">50</p>
<p>1 THE COURT: Mr. Morley, I don't think the --</p> <p>2 MR. MORLEY: Did I take it back?</p> <p>3 THE COURT: -- witness has any exhibits in</p> <p>4 front of him.</p> <p>5 MR. MORLEY: That's my fault. I apologize.</p> <p>6 You're right. 89 is right here.</p> <p>7 Approach the witness, Your Honor? Sorry.</p> <p>8 BY MR. MORLEY:</p> <p>9 Q. (Approaching the witness.)</p> <p>10 A. Could you repeat the question, I'm sorry?</p> <p>11 Q. Any identifying characteristics of that SUV? Unique</p> <p>12 characteristics, I mean.</p> <p>13 A. I'm not sure what you mean by unique characteristics as</p> <p>14 far as --</p> <p>15 Q. Anything stand out between that white SUV and any other</p> <p>16 white SUV out there?</p> <p>17 A. It's -- there is nothing that's specifically in this</p> <p>18 photo that stands out.</p> <p>19 Q. What about the rest of these photos? Is there anything</p> <p>20 unique or specific to this white SUV, as opposed to the,</p> <p>21 presumably, hundreds of thousands out there?</p> <p>22 A. Specifically, I know that No. 90 specifically appears</p> <p>23 that the back window is -- got some layer of film on it.</p> <p>24 Q. Okay.</p> <p>25 A. But other than that, this particular type of SUV, I'm not</p> <p style="text-align: right;">49</p>	<p>1 driving under the influence, you would have to do further</p> <p>2 investigation such as a field investigation.</p> <p>3 Q. Is that something that you're trained to do as a police</p> <p>4 officer?</p> <p>5 A. Yes.</p> <p>6 Q. Is frequent urination an indicator of intoxication?</p> <p>7 MR. MORLEY: Objection, Your Honor. This</p> <p>8 witness doesn't -- he's not an expert.</p> <p>9 If frequent urination is -- well, I won't say</p> <p>10 it.</p> <p>11 THE COURT: Mr. Roth?</p> <p>12 MR. MORLEY: I object.</p> <p>13 MR. ROTH: Your Honor, I think it's -- he said</p> <p>14 he's trained in doing that. It's a lay ability as a lay</p> <p>15 opinion.</p> <p>16 THE COURT: I'll sustain the objection.</p> <p>17 MR. ROTH: Thank you, Your Honor.</p> <p>18 BY MR. ROTH:</p> <p>19 Q. Mr. Morley asked if you're able to determine if it was</p> <p>20 just a single beer the Defendant had or more, and you</p> <p>21 said you could not tell, correct?</p> <p>22 A. Based on the video alone, no.</p> <p>23 Q. Is it fair to say that throughout that Dam Site video</p> <p>24 that the Defendant has a beer in or around his possession</p> <p>25 throughout?</p> <p style="text-align: right;">51</p>

1 **A. Yes.**
2 Q. Mr. Morley asked about the bar tabs, and you indicated
3 some were by name, some were by description, correct?
4 **A. That's correct.**
5 Q. Showing you the last page, page 4, of Exhibit 86, what is
6 the name on that tab?
7 **A. The name is John.**
8 Q. How is it spelled?
9 **A. J-O-H-N.**
10 Q. What's the Defendant's name?
11 **A. John.**
12 Q. Were there any other Johns in the group that you
13 identified that evening?
14 **A. No.**
15 Q. Mr. Morley also asked about a vehicle, let's call it,
16 related to Billy Porter and/or Davy Bettelon. Were you
17 and your partner, Detective Sergeant Bundshuh, able to
18 eliminate that as a possible -- excuse me, as a
19 possibility for the vehicle that the deputies were
20 chasing that night?
21 **A. Yes.**
22 Q. Could you explain that for the jury?
23 **A. We interviewed Billy Porter, determined his whereabouts**
24 **on that night with his vehicle. Interviewed neighbors**
25 **that indicated that he didn't go anywhere. But**

52

1 specifically driving it past the -- the camera, I was in
2 the passenger's seat with Mr. Porter as we drove by. The
3 bottom half of that vehicle is -- there is a black stripe
4 on it. There is a black stripe all along the side.
5 So clearly the vehicle that was involved in the
6 pursuit from that same L & B camera could not have been
7 Billy Porter's vehicle because it had the large black
8 stripe and molding on the side of it.
9 Q. All right. You gave us a lot of information there. I
10 want to go through it in a few pieces. First, you
11 interviewed Billy Porter?
12 **A. Yes.**
13 Q. And there was no indication that Billy Porter or his
14 white SUV were ever at the bar fight, correct?
15 **A. Yes. There was no indication that there was a white SUV**
16 **involved at all in the bar fight.**
17 Q. And Billy Porter indicated that he was not in that
18 location with his SUV during the time of the pursuit?
19 **A. That's correct.**
20 Q. Other people corroborated that he was at home during that
21 time?
22 **A. Yes.**
23 Q. What about his half-brother, I think it was, Davy
24 Bettelon? Was he able to identify where he was at the
25 time as well?

53

1 **A. Yes. He was at home with several other people after the**
2 **bar fight.**
3 Q. And did those other people corroborate that he was at
4 home, not in a white SUV? I'm sorry, I asked that
5 poorly.
6 Did other people corroborate that Davy Bettelon
7 could not have been involved in this pursuit because he
8 was at home?
9 **A. I don't recall that I interviewed any of the people that**
10 **were directly involved.**
11 Q. Is that also your partner?
12 **A. I believe so.**
13 Q. Detective Sergeant Bundshuh?
14 **A. Yes.**
15 Q. We can ask him about that further as well?
16 **A. I believe so, yes.**
17 Q. Now, one of the things that you talked about looking at
18 Defendant's Exhibit B, the third picture, could you
19 explain for the jury what it is you're referring to this
20 stripe on the bottom?
21 **A. Yes. The bottom half of this vehicle, the one of the**
22 **suspect vehicle is all white. About mid-door here is a**
23 **molding on Billy Porter's vehicle, and then there is**
24 **different color coloring down here (illustrating).**
25 **So, I mean, that's a little bit further down.**

54

1 But clearly based on the two -- the two videos of the
2 suspect vehicle and this vehicle with that black stripe
3 down the side and the absence of it on the suspect
4 vehicle, this is clearly not the vehicle.
5 Q. Thank you. Now, when you say there is that stripe on
6 Billy Porter's vehicle, are you talking about the top of
7 the running board or all the way up onto the side of the
8 vehicle?
9 **A. There is -- it's all the way up the side of the vehicle.**
10 **There is a different coloring all up the side of the**
11 **vehicle and the molding.**
12 Q. When we look at the white SUV that the Defendant got into
13 at the Dam Site Inn, does he have dark stripe on the side
14 of his white SUV?
15 **A. No.**
16 Q. Just on the top of the running board?
17 **A. That's correct.**
18 Q. Which would not be visible from the side?
19 **A. That's correct.**
20 Q. And, therefore, consistent with what we see in the
21 suspect vehicle?
22 **A. Correct.**
23 MR. ROTH: I have nothing further, Your Honor.
24 Thank you.
25 THE COURT: Thank you, Mr. Roth.

55

1 You may step down, sir. Thank you.
2 (At 10:15 a.m., the witness
3 stepped down from the witness
4 stand.)
5 THE COURT: Ladies and Gentlemen of the Jury, I
6 need to have Mr. Adkins take you back to the jury room
7 right now for a brief break.
8 (At 10:15 a.m., the jury left the
9 courtroom.)
10 THE COURT: You may be seated.
11 Mr. Banks, can you come forward, please?
12 MR. ROTH: On the record, Your Honor?
13 THE COURT: Let's start off the record, and
14 then we'll put whatever we need to on the record.
15 (At 10:16 a.m., an at-the-bench
16 discussion is held off the
17 record.)
18 THE COURT: All right. We're going to take a
19 break while you work out the logistics, Mr. Roth, and
20 we'll take about --
21 We'll take about 15 minutes to coordinate that,
22 Deputy.
23 MR. ROTH: Thank you, Your Honor.
24 THE COURT: So we'll take about 15 minutes.
25 (At 10:24 a.m., recessed;

56

1 reconvened at 10:46 a.m.)
2 THE COURT: All right. Back on the record.
3 The record should reflect that Mr. Brian Hildabridle is
4 here in the courtroom, along with his attorney, Darryl
5 Banks. And it's my understanding from discussions off
6 the record that the prosecutor and Mr. Banks, on behalf
7 of Mr. Brian Hildabridle, have reached an agreement.
8 So, Mr. Roth, do you want to place that on the
9 record, or who's going to do that?
10 MR. ROTH: I can, Your Honor. And I guess it
11 should also be noted it's not really an agreement; in
12 that, immunity is given unilaterally. That being said,
13 it is my understanding that counsel for Mr. Hildabridle
14 does agree, and the terms of that are as follows:
15 The People will grant transactional immunity
16 for the events that Brian Hildabridle described at the
17 preliminary examination on December 23rd, 2014, before
18 Judge Donald L. Allen Jr. of the 55th District Court.
19 MR. BANKS: That's correct, Your Honor.
20 THE COURT: All right. Anything else you want
21 to put on the record about that, Mr. Banks?
22 MR. BANKS: Nothing, Your Honor, other than the
23 fact that I'm going to remain in the courtroom and advise
24 my client that if he does need some time for conferring
25 with me for any reason, I will be here in the courtroom

57

1 for him.
2 THE COURT: All right. And you're going to sit
3 in the front row. Is that correct, Mr. Banks?
4 MR. BANKS: Yes, Your Honor.
5 THE COURT: And Mr. Hildabridle is going to
6 signal or let me know in some way if he wishes to speak
7 with you?
8 MR. BANKS: He'll raise his hand.
9 THE COURT: You can indicate that you'd like to
10 confer with your attorney, Mr. Hildabridle. Do you
11 understand that?
12 MR. BRIAN HILDABRIDLE: Okay. Yep.
13 THE COURT: Because you have the right to do
14 that if you wish.
15 We are also -- as I understand it based on the
16 discussions we had, we are also going to remove the
17 shackles from Mr. Hildabridle, have him take a seat in
18 the witness stand. We'll bring the jurors in, and then
19 Mr. Roth will be able to proceed with calling him as a
20 witness and with the examination -- of course
21 Mr. Morley's examination as well.
22 And then when the examination is completed, we
23 will have the jury removed from the courtroom, and then
24 the deputies will be instructed to then at that point
25 take custody again of Mr. Hildabridle. And assuming this

58

1 goes as I think everybody is anticipating, then I will,
2 after the jury's out, address the capias warrant at that
3 point.
4 MR. ROTH: Thank you, Your Honor.
5 THE COURT: Okay.
6 Is that in agreement, Mr. Banks?
7 MR. BANKS: Yes, Your Honor.
8 THE COURT: Mr. Morley, is there anything that
9 you wish to add to any of this discussion, sir?
10 MR. MORLEY: No. Thank you, Judge.
11 THE COURT: All right. All right. So let's do
12 that then.
13 MR. ROTH: I apologize. One other thing we
14 should put on the record.
15 THE COURT: All right.
16 MR. ROTH: Mr. Morley and I discussed whether
17 or not to disclose to the jury that Mr. Hildabridle
18 received this grant of transactional immunity.
19 Mr. Morley would like the jury to know that, and I have
20 no problem with that.
21 MR. MORLEY: Presumably that transactional
22 immunity is premised on him testifying truthfully.
23 THE COURT: And somebody is going to put -- put
24 that on the record in the way of questions to
25 Mr. Hildabridle, or is there going to be just a statement

59

<p>1 made to the jury? I don't care how you do it, but I</p> <p>2 suppose you ought to think about that.</p> <p>3 MR. ROTH: I think probably the easiest is by</p> <p>4 way of statement --</p> <p>5 THE COURT: Okay.</p> <p>6 MR. ROTH: -- and then an affirmation.</p> <p>7 THE COURT: All right.</p> <p>8 So with that, are we ready, Mr. Roth?</p> <p>9 MR. ROTH: Yes, Your Honor.</p> <p>10 THE COURT: Mr. Morley?</p> <p>11 MR. MORLEY: Yes, sir.</p> <p>12 THE COURT: Mr. Banks, you're all set, sir?</p> <p>13 MR. BANKS: We are, sir.</p> <p>14 THE COURT: Okay. All right.</p> <p>15 So, Deputy, if you'll please --</p> <p>16 We'll have Mr. Hildabridle -- we'll have you</p> <p>17 come up to the witness stand, and we'll have the deputy</p> <p>18 then remove your shackles.</p> <p>19 MR. BANKS: Can I have two seconds with him</p> <p>20 while he sits there?</p> <p>21 THE COURT: Absolutely.</p> <p>22 Have a seat, sir. Thank you, Deputy.</p> <p>23 Are you all set, Mr. Banks?</p> <p>24 MR. BANKS: Yes, Your Honor. Thank you.</p> <p>25 THE COURT: All right. Let's bring the jurors</p> <p style="text-align: right;">60</p>	<p>1 under oath at preliminary examination in this matter</p> <p>2 before Judge Allen of the 55th District Court on</p> <p>3 December 23rd, 2014. Do you understand that?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Very good. How old are you, sir?</p> <p>6 A. Twenty-nine.</p> <p>7 Q. Do you know John Kelsey?</p> <p>8 A. I do.</p> <p>9 Q. How do you know him?</p> <p>10 A. Friend.</p> <p>11 Q. How long has he been your friend?</p> <p>12 A. Ten years.</p> <p>13 Q. Do you see him in the courtroom today?</p> <p>14 A. Yes.</p> <p>15 Q. Could you please point him out and identify him for the</p> <p>16 record?</p> <p>17 A. Sitting over there on the right.</p> <p>18 MR. ROTH: Your Honor, I would ask that the</p> <p>19 record reflect that the witness has identified the</p> <p>20 Defendant.</p> <p>21 THE COURT: Any objection, Mr. Morley?</p> <p>22 MR. MORLEY: I'll defer to the Court, Judge.</p> <p>23 THE COURT: The record will reflect that the</p> <p>24 witness has identified Mr. Kelsey.</p> <p>25 MR. ROTH: Thank you, Your Honor.</p> <p style="text-align: right;">62</p>
<p>1 in.</p> <p>2 (At 10:53 a.m., the jury entered</p> <p>3 the courtroom.)</p> <p>4 THE COURT: Please be seated.</p> <p>5 Mr. Roth, your next witness, please.</p> <p>6 MR. ROTH: Thank you, Your Honor. The People</p> <p>7 call Brian Hildabridle.</p> <p>8 THE COURT: Sir, will you please raise your</p> <p>9 right hand.</p> <p>10 Do you swear or affirm to tell the truth, the</p> <p>11 whole truth, and nothing but the truth?</p> <p>12 MR. BRIAN HILDABRIDLE: I do.</p> <p>13 THE COURT: Would you please state your full</p> <p>14 name for us, and spell your last name, please.</p> <p>15 THE WITNESS: Brian Allen Hildabridle,</p> <p>16 H-I-L-D-A-B-R-I-D-L-E.</p> <p>17 MR. ROTH: Thank you, Your Honor.</p> <p>18 BRIAN A. HILDABRIDLE</p> <p>19 called by the People at 10:54 a.m., sworn by the Court,</p> <p>20 testified:</p> <p>21 DIRECT EXAMINATION</p> <p>22 BY MR. ROTH:</p> <p>23 Q. Sir, you're testifying here today. The Ingham County</p> <p>24 Prosecutor's Office has given you what is called</p> <p>25 transactional immunity for the events that you discussed</p> <p style="text-align: right;">61</p>	<p>1 BY MR. ROTH:</p> <p>2 Q. Sir, you don't want to be here to testify today, correct?</p> <p>3 A. That's correct.</p> <p>4 Q. You don't want to testify against your friend John</p> <p>5 Kelsey, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. In fact, you attempted to avoid service of the subpoena</p> <p>8 to testify in this case, correct?</p> <p>9 A. I -- I don't think I was avoiding. You guys say I was</p> <p>10 avoiding, but I never talked to no police or anything.</p> <p>11 Q. But you knew police were looking for you, and you didn't</p> <p>12 want them to find you to give you the subpoena, correct?</p> <p>13 A. No, I didn't.</p> <p>14 Q. And, in fact, a warrant was issued for you based on that,</p> <p>15 and you were arrested last Wednesday to hold you to</p> <p>16 testify in this case, correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Do you know Tony Hildabridle?</p> <p>19 A. Yes, I do.</p> <p>20 Q. How do you know Tony Hildabridle?</p> <p>21 A. That's my brother. Brother.</p> <p>22 Q. How old is Tony Hildabridle?</p> <p>23 A. I believe he's thirty-two.</p> <p>24 Q. Do you know Sandie Hale?</p> <p>25 A. I do.</p> <p style="text-align: right;">63</p>

<p>1 Q. How do you know Sandie Hale?</p> <p>2 A. Tony's ex-girlfriend.</p> <p>3 Q. Do you know about when Sandie and Tony were dating?</p> <p>4 A. No, I do not.</p> <p>5 Q. Was it in the fall of last year?</p> <p>6 A. I'm not exactly sure when they were.</p> <p>7 Q. During the relevant time here, December 6th and 7th,</p> <p>8 2014, were they dating?</p> <p>9 A. What date?</p> <p>10 Q. December 6th -- I'm sorry, December 6th and 7th, 2014.</p> <p>11 A. I believe so, yes.</p> <p>12 Q. Do you know Shannon Hildabridle or Gauthier?</p> <p>13 A. Yes, I do.</p> <p>14 Q. Is that your sister?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know Sabrina Ware?</p> <p>17 A. Yes, I do.</p> <p>18 Q. How do you know Sabrina Ware?</p> <p>19 A. Through A. J. Wynn.</p> <p>20 Q. Are they dating?</p> <p>21 A. I believe so.</p> <p>22 Q. And A. J. Wynn, is his real name Anthony?</p> <p>23 A. I don't know.</p> <p>24 Q. You know him by A. J.?</p> <p>25 A. Yes.</p> <p style="text-align: right;">64</p>	<p>1 Q. How did you get to the Alley Bar?</p> <p>2 A. I was with John and Tony and -- John, Tony, me, and</p> <p>3 Justin.</p> <p>4 Q. When you say John, you mean the Defendant?</p> <p>5 A. Yes.</p> <p>6 Q. Where did you meet up with all of these people?</p> <p>7 A. My dad's house. Well, I met up with my brother, Tony,</p> <p>8 and -- I met up with my brother, Tony, and my -- and</p> <p>9 Justin at Justin's house, and then we went to my dad's</p> <p>10 house.</p> <p>11 Q. And that's where you met up with the Defendant?</p> <p>12 A. Yes.</p> <p>13 Q. From your dad's house, the Defendant drove you and Tony</p> <p>14 and Justin, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Showing you the exhibit in the screen in front of you,</p> <p>17 89. And then 113, this is the vehicle that the Defendant</p> <p>18 was driving that night?</p> <p>19 A. I didn't believe that that's it. I thought we was in a</p> <p>20 Blazer, tan Blazer.</p> <p>21 Q. Showing you 91. That's you and the Defendant walking</p> <p>22 into the bar, right?</p> <p>23 A. That is correct.</p> <p>24 Q. And this is the vehicle that you arrived in that night,</p> <p>25 right?</p> <p style="text-align: right;">66</p>
<p>1 Q. How do you know A. J.?</p> <p>2 A. Mud bogging.</p> <p>3 Q. I'm sorry?</p> <p>4 A. Mud bogging.</p> <p>5 Q. Mud bogging?</p> <p>6 A. Yep.</p> <p>7 Q. What is mud bogging?</p> <p>8 A. Where we go and take trucks and drive them through fields</p> <p>9 and have fun.</p> <p>10 Q. Are these trucks that you guys work on, soup up; things</p> <p>11 like that?</p> <p>12 A. Yes.</p> <p>13 Q. That's a common event for you and your friends?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know a Justin Montgomery?</p> <p>16 A. Yes, I do.</p> <p>17 Q. How do you know Justin Montgomery?</p> <p>18 A. I met him through Shannon as a friend.</p> <p>19 Q. On the evening of December 6th, 2014, did you go out with</p> <p>20 those friends we just discussed?</p> <p>21 A. Yes.</p> <p>22 Q. Where was the first place that you went out that night?</p> <p>23 A. Katie's.</p> <p>24 Q. Is that also known as the Alley Bar?</p> <p>25 A. Yes, I believe so.</p> <p style="text-align: right;">65</p>	<p>1 A. I don't think that was the vehicle we were in. I thought</p> <p>2 we was in a GMC Blazer is the only vehicle that I thought</p> <p>3 John owned.</p> <p>4 Q. Sir, let me ask you this: A Blazer would say Chevy on</p> <p>5 it, right?</p> <p>6 A. I don't -- I don't recall.</p> <p>7 Q. A Trail Blazer is a Chevrolet vehicle, right?</p> <p>8 A. GMC Blazer, I thought. Chevy Blazer. I don't know.</p> <p>9 Yeah.</p> <p>10 Q. But it was an SUV that you arrived in?</p> <p>11 A. Blazer-style, yeah, yes.</p> <p>12 Q. Large?</p> <p>13 A. I don't recall.</p> <p>14 Q. And what color was the vehicle that the Defendant drove</p> <p>15 you in that night, that SUV?</p> <p>16 A. I thought it was tan Blazer. That's the only vehicle I</p> <p>17 thought he owned.</p> <p>18 Q. Would your initial statement to police refresh your</p> <p>19 memory?</p> <p>20 A. Yep.</p> <p>21 MR. ROTH: May I approach the witness,</p> <p>22 Your Honor?</p> <p>23 THE COURT: You may.</p> <p>24 BY MR. ROTH:</p> <p>25 Q. (Approaching the witness.)</p> <p style="text-align: right;">67</p>

<p>1 I'm going to show you page 81 of the initial</p> <p>2 transcript of your interview. If you could read that</p> <p>3 silently to yourself. Does that refresh your memory?</p> <p>4 A. I didn't think I said that.</p> <p>5 Q. Would you like to listen to the audio of yourself saying</p> <p>6 that?</p> <p>7 A. If you have it, please.</p> <p>8 Q. Are you saying, sir, that this does not then refresh your</p> <p>9 memory?</p> <p>10 A. I didn't think I said white vehicle.</p> <p>11 MR. ROTH: Your Honor, at this time I'm going</p> <p>12 to move to admit that portion under 803(5), a recorded</p> <p>13 recollection.</p> <p>14 MR. MORLEY: I don't think it gets admitted,</p> <p>15 Judge.</p> <p>16 MR. ROTH: Well, I say admit. Play in the</p> <p>17 manner in which we did yesterday.</p> <p>18 MR. MORLEY: To that extent, I don't have any</p> <p>19 objection.</p> <p>20 THE COURT: Same process. It can be introduced</p> <p>21 into evidence under 803(5), but it will be a separate</p> <p>22 exhibit.</p> <p>23 MR. ROTH: Thank you, Your Honor.</p> <p>24 THE COURT: Mr. Morley and Mr. Roth, can you</p> <p>25 approach, please?</p> <p style="text-align: right;">68</p>	<p>1 audio, and then if it is still not refreshed, then we</p> <p>2 have the 803(5) issue of admitting it into evidence,</p> <p>3 which technically would be done under the rule by -- as</p> <p>4 the rule says:</p> <p>5 If admitted, the record may be</p> <p>6 read into evidence but may not</p> <p>7 itself be received as an exhibit</p> <p>8 unless offered by the adverse</p> <p>9 party.</p> <p>10 So at that point we would mark it as a separate</p> <p>11 exhibit not to go back with the jurors but just to</p> <p>12 preserve the record.</p> <p>13 MR. ROTH: Thank you, Your Honor.</p> <p>14 THE COURT: Is that correct, Mr. Roth, as to</p> <p>15 what's going on?</p> <p>16 MR. ROTH: Yes, Your Honor. The other thing</p> <p>17 I'm going to add into that is since we have the jury out</p> <p>18 of the room, there's five specific clips that I'm going</p> <p>19 to ask about. I'll play them all. That way we don't</p> <p>20 have to go in and out each time.</p> <p>21 THE COURT: Mr. Morley?</p> <p>22 MR. MORLEY: Then the foundational question is</p> <p>23 "Does listening to that refresh your memory?"</p> <p>24 If it's yes, then he tells us -- he answers</p> <p>25 Mr. Roth's question. If it's no, then we read into the</p> <p style="text-align: right;">70</p>
<p>1 MR. MORLEY: Yes, sir.</p> <p>2 (At 11:03 a.m., an at-the-bench</p> <p>3 discussion is held off the</p> <p>4 record.)</p> <p>5 THE COURT: Can I see both of you one more</p> <p>6 time, please?</p> <p>7 (At 11:04 a.m., an at-the-bench</p> <p>8 discussion is held off the</p> <p>9 record.)</p> <p>10 THE COURT: Ladies and Gentlemen, I'm going to</p> <p>11 have you go back to the jury room with Mr. Adkins.</p> <p>12 (At 11:05 a.m., the jury left the</p> <p>13 courtroom.)</p> <p>14 THE COURT: All right. You may be seated.</p> <p>15 Just so we can clean this up on the record, it</p> <p>16 is my understanding that what occurred was that Mr. Roth</p> <p>17 showed Mr. Hildabridle the written portion -- the written</p> <p>18 transcript of the audio to ask whether that would refresh</p> <p>19 his recollection. He essentially said he didn't by his</p> <p>20 answers. That's the essence of what his answer was.</p> <p>21 And then he was asked whether listening to the</p> <p>22 audio might help, and he said "If you have it." And so I</p> <p>23 think what is happening at this point, and the reason for</p> <p>24 excusing the jury, is that you are going to continue to</p> <p>25 attempt to refresh his recollection based on playing the</p> <p style="text-align: right;">69</p>	<p>1 record -- create a separate record --</p> <p>2 THE COURT: We would --</p> <p>3 MR. MORLEY: -- of the -- of the transcript of</p> <p>4 that actual -- of those actual audios.</p> <p>5 THE COURT: Correct. We would bring the jurors</p> <p>6 back in, have Mr. Roth put on the record that he was not</p> <p>7 refreshed --</p> <p>8 MR. MORLEY: True.</p> <p>9 THE COURT: -- by the presentation, and,</p> <p>10 therefore, he would read in, unless you had an objection</p> <p>11 to it.</p> <p>12 MR. MORLEY: I agree with the Court at this</p> <p>13 point, Your Honor.</p> <p>14 THE COURT: All right.</p> <p>15 So, Mr. Roth?</p> <p>16 MR. ROTH: Thank you, Your Honor.</p> <p>17 BY MR. ROTH:</p> <p>18 Q. Sir, I put a binder in front of you. In it are some</p> <p>19 transcripts. Starting on the top right, it says 01. I'm</p> <p>20 going to play five clips for you. You can follow along,</p> <p>21 all right?</p> <p>22 A. Can I put this here?</p> <p>23 Q. You can move it wherever you want.</p> <p>24 (Playing audio.)</p> <p>25 Flip the page. It should say 02 on the top</p> <p style="text-align: right;">71</p>

1 right?

2 **A. Mm-hmm.**

3 **Q.** Is that a yes?

4 **A. Yes.**

5 **Q.** (Playing audio.)

6 Next page, it should say 03.

7 **A. Yes.**

8 **Q.** (Playing audio.)

9 Next one 04.

10 **A. Yes.**

11 **Q.** (Playing audio.)

12 05.

13 (Playing audio.)

14 Did all of those refresh your memory, sir?

15 **A. Yes, sir.**

16 **MR. ROTH:** Very good.

17 I think we are ready for the jury then.

18 **THE COURT:** All right. We'll bring the jury

19 back in.

20 (At 11:15 a.m., the jury entered

21 the courtroom.)

22 **THE COURT:** Please be seated.

23 **Mr. Roth,** you may proceed.

24 **MR. ROTH:** Thank you, Your Honor.

25 **BY MR. ROTH:**

72

1 **Q.** Sir, during that break, did you have opportunity to

2 listen to some specific portions of your initial

3 interviews with the officers?

4 **A. Yes, I did.**

5 **Q.** And that was your voice on the tape, correct?

6 **A. That is correct.**

7 **Q.** And did that refresh your memory?

8 **A. Yes.**

9 **Q.** So let me ask again: What color did you indicate was the

10 SUV that the Defendant drove you to the Dam Site Inn and

11 Kelly's that night -- excuse me, Katie's?

12 **A. I said white.**

13 **Q.** Thank you. Were there any animals in the Defendant's

14 white SUV on the way to the Alley Bar?

15 **A. Yes.**

16 **Q.** What kind?

17 **A. A dog.**

18 **Q.** Do you know what kind of dog?

19 **A. A pit bull.**

20 **Q.** Who did it belong to?

21 **A. John Kelsey.**

22 **Q.** The Defendant?

23 **A. Yes.**

24 **Q.** Did that dog stay in the vehicle while you were in the

25 Alley Bar?

73

1 **A. Yes.**

2 **Q.** Did it stay in the vehicle while you were in the Dam Site

3 Inn?

4 **A. Yes.**

5 **Q.** Showing you Exhibit 78. Is that what you referred to as

6 Katie's --

7 **A. Yes.**

8 **Q.** -- also known as the Alley?

9 **A. Yes.**

10 **Q.** As best as you recall, around what time did you arrive

11 there?

12 **A. I don't even recall. It was still daylight out.**

13 **Q.** And when you go into the Alley Bar, where did you guys

14 sit?

15 **A. Well, if you walk into that door right there, it would be**

16 **all the way in the back just past the pool tables.**

17 **Q.** Showing you People's Exhibit 81. Does that show the area

18 where you guys sat? It may have looked different at the

19 time.

20 **A. Yeah. It would have been over here on the right-hand**

21 **side.**

22 **Q.** If you touch the screen, it will make a mark. Could you

23 show us roughly where you guys were sitting?

24 **A. (Illustrating.)**

25 **Around here.**

74

1 **Q.** Thank you. Who did you, the Defendant, Tony, and Justin

2 meet up with at the Alley?

3 **A. I believe A. J. showed up there, Sabrina, Sandie, and I**

4 **think that's it.**

5 **Q.** What did you guys do while you were there?

6 **A. Ate some food and drank some beers and played pool.**

7 **Q.** I'm sorry, I missed the beginning of that?

8 **A. Ate food.**

9 **Q.** Ate food. Thank you. Drank some beers?

10 **A. Yep.**

11 **Q.** Played pool?

12 **A. Yep.**

13 **Q.** Were you drinking alcohol?

14 **A. I was after I ate, yes.**

15 **Q.** What did you eat?

16 **A. Burger, onion rings, and stuff like that.**

17 **Q.** Thank you. And then you said after you finished eating,

18 you drank some alcohol. What kind?

19 **A. I was drinking beer.**

20 **Q.** What brand?

21 **A. Budweiser.**

22 **Q.** Bottles? Cans? Draft?

23 **A. Bottles there.**

24 **Q.** About how many?

25 **A. I -- quite a few. I don't --**

75

1 Q. What does quite a few mean?

2 A. **Six.**

3 Q. Thank you.

4 A. **Ten.**

5 Q. Had you smoked any marijuana that day?

6 A. **Yes.**

7 Q. When?

8 A. **All day.**

9 Q. How much?

10 A. **Eight joints total, ten joints; somewhere, I don't know.**

11 Q. Thank you.

12 A. **A lot.**

13 Q. Did the Defendant sit at your table for most of the time

14 at the Alley Bar?

15 A. **Yeah. We all sat together.**

16 Q. Was he drinking alcohol as well?

17 A. **I don't recall. Like I said before, I don't -- I wasn't**

18 **paying attention to how much he was drinking, what he was**

19 **doing.**

20 MR. ROTH: May I approach the witness?

21 THE COURT: You may.

22 BY MR. ROTH:

23 Q. (Approaching the witness.)

24 I'm going to ask you to read this silently to

25 yourself and look up when you're done. This is your

76

1 testimony under oath at the preliminary examination,

2 correct?

3 A. **Correct.**

4 Q. Did that refresh your memory, sir?

5 A. **Yes.**

6 Q. Was the Defendant drinking alcohol at the Alley beer --

7 Ally Bar?

8 A. **Yes.**

9 Q. What was he drinking?

10 A. **Budweiser beer.**

11 Q. Cans or bottles?

12 A. **Bottles.**

13 Q. Thank you. Are you able to say about how many he had?

14 A. **No. I don't know how many he had.**

15 Q. How long were you and the Defendant at the Alley Bar that

16 night about?

17 A. **I don't know. We played quite a few games of pool.**

18 Q. Does three hours sound right?

19 A. **Somewhere probably around there.**

20 Q. Where did you go after you left the Alley Bar?

21 A. **To Dam Site.**

22 Q. Dam Site is another bar?

23 A. **Yes, sir.**

24 Q. Showing you Exhibit 62 on the screen in front of you. Is

25 that the Dam Site Inn?

77

1 A. **That is correct.**

2 Q. How did you get there?

3 A. **I rode with John.**

4 Q. The Defendant?

5 A. **Yes, sir.**

6 Q. Did anybody else ride with you in his vehicle to the Dam

7 Site?

8 A. **No. The dog.**

9 Q. The dog, but no other people?

10 A. **No.**

11 Q. And this is the same SUV that we already talked about,

12 correct?

13 A. **Correct.**

14 Q. Showing you 91. That's you and the Defendant entering

15 the bar after you arrived, correct?

16 A. **Yes.**

17 Q. Once you guys enter the bar, where did you go?

18 A. **I believe we went to the bar area, I believe.**

19 Q. So you sat at the bar?

20 A. **I don't think we sat down. We might have sat down for a**

21 **minute and then walked around.**

22 Q. Showing you People's Exhibit 74. If you could make a

23 mark on the screen, please, roughly where you guys were

24 sitting at the bar when you sat down.

25 A. **I think I was sitting over here, maybe. (Illustrating.)**

78

1 Q. Where was the Defendant sitting?

2 A. **(Illustrating.)**

3 **In this area, I believe, general area.**

4 Q. So to your right?

5 A. **Yep.**

6 Q. Thank you. And what did you guys do when you sat at the

7 bar?

8 A. **I ordered a beer.**

9 Q. Did the Defendant order a beer?

10 A. **I wasn't paying attention. I was too busy trying to**

11 **chase girls.**

12 Q. Showing you 92. Is that the Defendant sitting in that

13 seat right next to you?

14 A. **Yep. Yes.**

15 Q. What's in front of him?

16 A. **Looks like a can of beer.**

17 Q. Do you remember what brand?

18 A. **From the looks of the picture, it looks like Budweiser.**

19 Q. Thank you. Who did you and the Defendant meet up with at

20 the Dam Site Inn?

21 A. **There was quite a few people there.**

22 Q. Did Tony and Sandie go to the Dam Site Inn?

23 A. **No.**

24 Q. Did you meet up with anybody that wasn't at the Alley?

25 A. **My sister.**

79

1 Q. What's your sister's name?
2 A. **Shannon Gauthier.**
3 Q. Thank you. So you said you wanted to chase girls at the
4 Dam Site Inn. What did the Defendant do?
5 A. **I'm sure he was probably chasing women too.**
6 Q. Was there a band playing there that night?
7 A. **I believe so, yes.**
8 Q. Who do we see in 93?
9 A. **John Kelsey.**
10 Q. Still with a beer?
11 A. **Looks that way, yes.**
12 Q. 94, the Defendant with a beer?
13 A. **Yes.**
14 Q. 95, is that the Defendant?
15 A. **Yes.**
16 Q. Who is to his side here?
17 A. **Me.**
18 Q. 96, the Defendant?
19 A. **Yes.**
20 Q. And that's where the men's rooms are at Dam Site?
21 A. **I don't know. I've never seen it that way before, but**
22 **must be.**
23 Q. All right.
24 A. **The hallway, yeah.**
25 Q. 97. Who is this person?

80

1 A. **Looks like me.**
2 Q. And then who you are talking to?
3 A. **John.**
4 Q. The Defendant?
5 A. **Yep.**
6 Q. Has his appearance changed since that night as you see
7 him in court today?
8 A. **He don't have a beard.**
9 Q. All right. What about his head?
10 A. **Looks the same.**
11 Q. Does he have hair growing out on the sides today?
12 A. **Oh, yeah. Well, I can't really see it from here but now**
13 **that I look over, yes.**
14 Q. All right. And it used to be shaved?
15 A. **Mm-hmm.**
16 Q. Is that a yes?
17 A. **Yes.**
18 Q. And that's how he normally kept it?
19 A. **Yes.**
20 Q. Showing you 98. Is that you and the Defendant again?
21 A. **Yes.**
22 Q. And what do you have in your hand?
23 A. **Budweiser.**
24 Q. What's in front of the Defendant?
25 A. **Looks like the same beer he had.**

81

1 Q. And we see that he's wearing a hat in this picture,
2 right?
3 A. **Yep.**
4 Q. Did the Defendant usually wear a hat like that?
5 A. **Yeah.**
6 Q. Is that a beanie?
7 A. **No. It's -- I don't think it's called a beanie, just a**
8 **warm wool hat. It was December out.**
9 Q. What color?
10 A. **Brown.**
11 Q. Dark?
12 A. **Light brown.**
13 Q. Light brown is what you believe he normally wore?
14 A. **Light, dark. I don't --**
15 Q. So not looking at the picture but just your personal
16 memory of the Defendant, what color winter hat did he
17 usually wear?
18 A. **Brown.**
19 Q. Dark? If you don't know, you don't know.
20 A. **I don't know.**
21 Q. That's okay. 99, the Defendant?
22 A. **Yes.**
23 Q. 100. Who is this person?
24 A. **That's John.**
25 Q. The Defendant?

82

1 A. **Yes.**
2 Q. Who does he have his arm around?
3 A. **Me.**
4 Q. Do you know who this person is directly in front of you?
5 A. **My sister.**
6 Q. To the right?
7 A. **Not sure.**
8 Q. The man to her side?
9 A. **Justin.**
10 Q. And next to him?
11 A. **Can't really tell in the picture. Oh, A. J.**
12 Q. Wynn?
13 A. **Yes.**
14 Q. Thank you. 101. Starting at the same point, who do we
15 see?
16 A. **Yeah. That is John. Me. I can't really tell who that**
17 **is. Justin. A. J.**
18 Q. Thank you. 102 again?
19 A. **John.**
20 Q. 103, starting at the left.
21 A. **My sister. John.**
22 Q. And the gentleman behind him, if you can tell?
23 A. **I can't tell.**
24 Q. That's fair. And then next to him?
25 A. **Me.**

83

<p>1 Q. And who are you talking to?</p> <p>2 A. Sabrina.</p> <p>3 Q. That's -- is that A. J.'s girlfriend?</p> <p>4 A. Yes.</p> <p>5 Q. Same people in 104?</p> <p>6 A. Yes, and A. J. behind.</p> <p>7 Q. And you walked away by this point?</p> <p>8 A. Looks that way, yes.</p> <p>9 Q. And then in 105, what do we see; same group?</p> <p>10 A. That is correct.</p> <p>11 Q. Thank you. We see through most of those pictures the</p> <p>12 Defendant has a Budweiser can right in front of him,</p> <p>13 right?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know about how many Budweisers -- excuse me,</p> <p>16 Budweiser cans he drank throughout the night at the Dam</p> <p>17 Site?</p> <p>18 A. No, I do not.</p> <p>19 Q. What time did you leave the Dam Site Inn, approximately?</p> <p>20 A. I don't know.</p> <p>21 Q. Was it close to closing?</p> <p>22 A. I would imagine so, yes.</p> <p>23 Q. Did the Defendant leave with you?</p> <p>24 A. No.</p> <p>25 Q. You rode together. Why did you ride home separately?</p> <p style="text-align: right;">84</p>	<p>1 Q. What's in the Defendant's hand?</p> <p>2 A. A beer. Is that his hand or my hand? Can't tell.</p> <p>3 Q. Well, this is your left arm here, right?</p> <p>4 A. Yep.</p> <p>5 Q. And your right arm is going down here, right?</p> <p>6 A. Maybe -- yeah, I guess. Yeah. Looks that way, yes,</p> <p>7 actually.</p> <p>8 Q. All right. So the Defendant has a beer in that picture?</p> <p>9 A. Yes.</p> <p>10 Q. And you're saying goodbye to him there?</p> <p>11 A. Yeah, looks like it.</p> <p>12 Q. Are you offering him a ride home?</p> <p>13 A. I don't -- I don't -- no.</p> <p>14 Q. Did you try and discourage him from driving home?</p> <p>15 A. Um, I don't recall. I don't remember.</p> <p>16 Q. But you think you might have?</p> <p>17 A. Could have been a possibility.</p> <p>18 Q. A few minutes -- let's say this: After you said goodbye</p> <p>19 to him, showing you Exhibit 107 and then 108, with that</p> <p>20 beer still in hand he kicks the door open, and he leaves,</p> <p>21 right?</p> <p>22 A. In the picture it looks that way, yes, sir.</p> <p>23 Q. You remained in the bar at that time for a few minutes?</p> <p>24 A. I believe so.</p> <p>25 Q. Did you then go outside in the parking lot and meet up</p> <p style="text-align: right;">86</p>
<p>1 A. Because I called my roommate to get a ride home because I</p> <p>2 wanted to go home and sleep in my bed.</p> <p>3 Q. Well, the Defendant drove you there. Why couldn't he</p> <p>4 drive you home?</p> <p>5 A. Because he didn't live by me.</p> <p>6 Q. Where do you live?</p> <p>7 A. I lived uptown Pinckney at the time.</p> <p>8 Q. And where did the Defendant live?</p> <p>9 A. Stockbridge.</p> <p>10 Q. Thank you. Given the Defendant's drinking that night,</p> <p>11 did you want him driving you?</p> <p>12 A. No.</p> <p>13 Q. Justin -- I'm sorry, what was your roommate's name that</p> <p>14 you called?</p> <p>15 A. Jason Stahl.</p> <p>16 Q. Jason Stahl. And he was sober?</p> <p>17 A. Yes.</p> <p>18 Q. You felt more comfortable with him driving you?</p> <p>19 A. Yes.</p> <p>20 Q. Did you say goodbye to the Defendant at the end of the</p> <p>21 night?</p> <p>22 A. I believe so.</p> <p>23 Q. Showing you 106. Is that you saying goodbye to the</p> <p>24 Defendant?</p> <p>25 A. It looks that way, yes.</p> <p style="text-align: right;">85</p>	<p>1 with him?</p> <p>2 A. Maybe.</p> <p>3 Q. Showing you 109. Is that a picture of you, Justin, and</p> <p>4 the Defendant near the GMC white SUV?</p> <p>5 A. That is correct.</p> <p>6 Q. So let's go through the list again. Who is getting into</p> <p>7 the driver's side door?</p> <p>8 A. Looks like John.</p> <p>9 Q. Who is --</p> <p>10 A. Me.</p> <p>11 Q. Thank you. That's just outside of the driver's side</p> <p>12 door?</p> <p>13 A. Yep.</p> <p>14 Q. And who is at the front of that white GMC SUV?</p> <p>15 A. Justin.</p> <p>16 Q. Thank you. Does it look like you and the Defendant are</p> <p>17 smoking?</p> <p>18 A. We probably were, yes.</p> <p>19 Q. What were you smoking?</p> <p>20 A. Marijuana.</p> <p>21 Q. What was the Defendant smoking?</p> <p>22 A. Probably marijuana with me.</p> <p>23 Q. We see that closer in 110. He's now in the vehicle?</p> <p>24 A. Looks that way.</p> <p>25 Q. After that we see in 111 he pulls out, and you remain</p> <p style="text-align: right;">87</p>

1 talking to Justin?

2 **A. Yep.**

3 Q. Going to 113. Looking over the front of that vehicle, is

4 that the Defendant's pit bull in the front passenger seat

5 of his SUV? I can zoom in, if you like.

6 **A. Please. Yes.**

7 Q. Thank you. And you have gone back in the bar at that

8 time?

9 **A. Yes. Maybe.**

10 Q. After the Defendant left, was there an incident where you

11 throw some ice?

12 **A. Yes.**

13 Q. Tell me about that.

14 **A. I was just fooling around with my sister, and the**

15 **bartender asked me to -- no, it was a waitress -- asked**

16 **me to take the ice cooler, go throw it out. And I said,**

17 **"Okay."**

18 **My sister was standing there at the door, so I**

19 **threw it on her, and she got all pissed off and left.**

20 Q. All right. Joking around with your sister, right?

21 **A. Right.**

22 Q. About how much after the Defendant did you leave with

23 your roommate?

24 **A. Whenever he got there.**

25 Q. Was it long?

88

1 **A. I would say at least a half hour.**

2 Q. Had the Defendant left the bar by the time your roommate

3 got there?

4 **A. Oh, yeah.**

5 Q. Did anybody ride home with you and your roommate?

6 **A. Justin Montgomery.**

7 Q. Did your roommate drop Justin off first?

8 **A. Yes.**

9 Q. And then you two go back to the home that you shared with

10 your roommate?

11 **A. Yes.**

12 Q. Where was that?

13 **A. 211 Dexter Street, Pinckney, Michigan.**

14 Q. Apartment? House?

15 **A. Apartment.**

16 Q. Thank you. After you left the bar that night, did you

17 speak to the Defendant at all?

18 **A. Yes.**

19 Q. In person or on the phone?

20 **A. On the phone.**

21 Q. What was your cell phone number at the time?

22 **A. I don't know.**

23 Q. Would you recognize it if you saw it again?

24 **A. Yes.**

25 MR. ROTH: May I approach the witness,

89

1 Your Honor?

2 THE COURT: You may.

3 BY MR. ROTH:

4 Q. (Approaching the witness.)

5 Does that refresh your memory?

6 **A. Yep.**

7 Q. What was your phone number at the time?

8 **A. 734 205-8918.**

9 Q. Thank you, sir. Around what time did you speak to the

10 Defendant on the phone?

11 **A. I don't know what time it was.**

12 Q. Would that same record refresh your memory?

13 **A. Yes.**

14 Q. (Approaching the witness.)

15 Does that refresh your memory, sir?

16 **A. I guess if that's what it says; 2:18.**

17 Q. And that sounds about right to you?

18 **A. I was sleeping. I don't know.**

19 Q. Well, you were sleeping but you pick up the phone,

20 correct?

21 **A. Yes.**

22 Q. And you talk with the Defendant?

23 **A. Yes.**

24 Q. For about four minutes, right?

25 **A. Yes.**

90

1 Q. A little more than four minutes?

2 **A. Yes.**

3 Q. How did he sound during that call?

4 **A. Scared.**

5 Q. What did he say?

6 **A. He said that -- I don't -- I forget.**

7 Q. Would you like to review your statement again?

8 **A. Yes.**

9 Q. (Approaching the witness.)

10 MR. MORLEY: Prelim or interview?

11 MR. ROTH: Interview.

12 MR. MORLEY: Okay.

13 BY MR. ROTH:

14 Q. Please read those lines silently to yourself and look up

15 when you're done.

16 Did that refresh your memory, sir?

17 **A. That is correct.**

18 Q. What did the Defendant tell you when he calls you scared

19 at 2:18 that morning?

20 **A. He said that he didn't know what to do.**

21 Q. Did he say anything had just happened?

22 **A. He said that he didn't know if he was or if he wasn't in**

23 **a police chase.**

24 Q. He thought he might have been in a police chase?

25 **A. He thought he might have been. He didn't know.**

91

1 Q. Where did he say this maybe police chase happened?
2 A. **In the back roads of Stockbridge.**
3 Q. In the back roads of Stockbridge?
4 A. **Mm-hmm.**
5 Q. Is that a yes?
6 A. **Yes.**
7 Q. Is that, to the best of your knowledge, where he lived?
8 A. **Yes.**
9 Q. And he also said, "I don't know what to do"?
10 A. **Yes.**
11 Q. He said that several times, correct?
12 A. **Yep.**
13 Q. What else did he say during that phone call?
14 A. **I don't know.**
15 Q. Sir, that phone call was almost four and a half minutes.
16 Do you remember anything else that he said to you during
17 that phone call?
18 A. **He said he was headed home, I believe.**
19 Q. What did you say to him?
20 A. **I -- I don't recall.**
21 Q. You don't remember anything you said to the Defendant
22 when he told you that he may have just been in a police
23 chase in the back roads of Stockbridge?
24 A. **No.**
25 Q. He calls you scared and says, "I don't know what to do,"

92

1 and you don't remember what you said back?
2 A. **I -- I thought I said I hope it wasn't him or something,**
3 **right?**
4 Q. Sir, it's your memory.
5 A. **It's been so long I don't remember.**
6 Q. All right. What did you do after you hung up the phone
7 with the Defendant?
8 A. **I went to bed.**
9 Q. After you woke up the next morning, did you speak to him
10 on the phone again?
11 A. **Yes.**
12 Q. Around what time?
13 A. **I don't know what time it was; whenever I got up.**
14 Q. Would you like to look at that phone record again?
15 A. **Sure.**
16 Q. Would that refresh your memory?
17 A. **Yes.**
18 MR. ROTH: May I approach the witness,
19 Your Honor?
20 THE COURT: You may.
21 BY MR. ROTH:
22 Q. (Approaching the witness.)
23 What time did you speak to him the next
24 morning?
25 A. **10:20.**

93

1 Q. Was that again by telephone?
2 A. **Yes.**
3 Q. And that phone call was a little over a minute, correct?
4 A. **That's correct.**
5 Q. By that point, had you seen in the news what had
6 happened?
7 A. **I seen on Facebook, yes.**
8 Q. And when I say what had happened, that a deputy was
9 killed in a police pursuit in the back roads of
10 Stockbridge, correct?
11 A. **That is correct.**
12 Q. And when you say that, what did you associate that with?
13 A. **I asked John, and I hope it wasn't him.**
14 Q. Well, before you're on the phone with him, when you see
15 that on Facebook, did you associate it with what the
16 Defendant told you the night before? Did you connect
17 those two?
18 A. **Yes.**
19 Q. So when you talked to the Defendant on the phone that
20 next morning, how did he sound?
21 A. **Said he didn't know what to do, he didn't know what to**
22 **do, and we hung up.**
23 Q. What was his tone of voice?
24 A. **Normal, I believe.**
25 Q. Sir, isn't it true that you described him as freaking

94

1 out?
2 A. **Yeah. Frantic, yes. Freaking out, yes.**
3 Q. I'm sorry, did you use the word frantic as well?
4 A. **No, I don't think so.**
5 Q. Okay.
6 A. **Freaking out.**
7 Q. And what did he say during this phone call?
8 A. **He just said he had to go. He had to let me go.**
9 Q. Did he mention anything else about this police pursuit?
10 A. **No.**
11 Q. Did he talk about what you saw on Facebook?
12 A. **No.**
13 Q. Did you see the Defendant that day?
14 A. **No.**
15 MR. ROTH: May I approach the witness
16 Your Honor?
17 THE COURT: You may.
18 BY MR. ROTH:
19 Q. (Approaching the witness.)
20 If you can read this silently to yourself, look
21 up when you're done.
22 Did that refresh your memory, sir?
23 A. **Yes.**
24 Q. Did you see the Defendant that day?
25 A. **Sunday, yes.**

95

1 Q. Where?

2 A. **At my buddy Jerry's house.**

3 Q. What is Jerry's name?

4 A. **Jerry Strunk.**

5 Q. Around what time did you see him at Jerry Strunk's place?

6 A. **I don't know what time it was, sir.**

7 Q. Afternoon? Morning?

8 A. **I think it was afternoon.**

9 Q. Did he tell you where he had spent the night?

10 A. **No.**

11 Q. Where does Jerry live?

12 A. **In Pinckney.**

13 Q. Do you know what road he lives on?

14 A. **Dexter Pinckney Road.**

15 Q. You don't know the number, do you?

16 A. **No.**

17 MR. ROTH: May I approach the witness,

18 Your Honor?

19 THE COURT: Yes.

20 BY MR. ROTH:

21 Q. (Approaching the witness.)

22 Showing you Proposed Exhibit 189. Is that a

23 fair and accurate picture of Jerry Strunk's house?

24 A. **Yes.**

25 MR. ROTH: Your Honor, I move for admission of

96

1 189.

2 MR. MORLEY: Without objection, Your Honor.

3 THE COURT: People's Exhibit 189 is admitted

4 and received.

5 (At 11:41 a.m., PX#189 is

6 received.)

7 MR. ROTH: Thank you, Your Honor.

8 BY MR. ROTH:

9 Q. Is Jerry Strunk a scrapper?

10 A. **He scraps, yes.**

11 Q. What is scrapping?

12 A. **Just he picks up metal out of the trash and saves it, and**

13 **then when he's down and needs some rent money because**

14 **he's not a very wealthy person.**

15 Q. That includes breaking down vehicles as well, correct?

16 A. **Sure.**

17 Q. And there is a ton of vehicles all over Jerry Strunk's

18 property in various states of disassembly?

19 A. **No.**

20 Q. All right. And what did the Defendant do when he showed

21 up at Jerry's that day?

22 A. **I don't recall.**

23 MR. ROTH: May I approach the witness,

24 Your Honor?

25 THE COURT: Yes.

97

1 BY MR. ROTH:

2 Q. (Approaching the witness.)

3 Read this silently to yourself. Look up when

4 you're done.

5 Does that refresh your memory, sir?

6 A. **Yes.**

7 Q. And what is it that the Defendant did at Jerry's house

8 that day?

9 A. **Swapping out vehicles.**

10 Q. Swapping out vehicles. What does that mean?

11 A. **He was swapping out his Blazer.**

12 Q. So when you say Blazer, this is what you thought the

13 vehicle that he drove to the Dam Site Inn is, right?

14 A. **No. It was his Blazer, a tan Blazer.**

15 Q. Sir, about a half hour ago when we started, you thought

16 it was the Blazer that was at the Dam Site Inn.

17 A. **Right.**

18 Q. You said that was the only vehicle he ever drove. Is

19 that correct?

20 A. **That's correct.**

21 Q. So the vehicle that he drove to the Dam Site Inn was the

22 one that he was swapping out at Jerry's?

23 A. **Yes. No. The Blazer -- yes. As in the Blazer, the tan**

24 **Blazer.**

25 Q. Sir, a half hour ago, you told me when we looked at your

98

1 statement that it was a white vehicle. Do you want to

2 look at that statement again?

3 A. **I'm --**

4 MR. ROTH: May I approach the witness,

5 Your Honor?

6 THE COURT: Yes.

7 BY MR. ROTH:

8 Q. (Approaching the witness.)

9 Read this silently to yourself. Look up when

10 you're done.

11 A. **Okay.**

12 Q. Sir, when you were describing the vehicle that the

13 Defendant drove to the Dam Site Inn and to Alley Bar the

14 night before, what color did you say it was?

15 A. **I said it was white.**

16 Q. And earlier in your testimony today you said that the

17 vehicle he drove that night was the only one you knew him

18 to own, right?

19 A. **That's correct.**

20 Q. So that must be the vehicle that he was swapping out at

21 Jerry's, right?

22 A. **The vehicle that was at Jerry's house was definitely tan**

23 **and was a Chevy Blazer.**

24 Q. So now the Defendant has two vehicles?

25 A. **I guess.**

99

1 Q. So your earlier testimony that he only had the one, which
2 you initially thought might be tan, was wrong?

3 A. **I only thought he had a tan Blazer.**

4 Q. But you described a white car to the police, correct?

5 A. **That is correct.**

6 Q. So he shows up at Jerry Strunk's place, and he swaps out
7 his car, correct?

8 A. **Yes.**

9 Q. He swaps out a SUV. Is that correct?

10 A. **Yes.**

11 Q. How long was he at Jerry Strunk's?

12 A. **I don't -- I don't recall. I don't know how long he was
13 there.**

14 Q. Did the police contact you about this the next week? Not
15 Jerry's place by itself but about this entire
16 transaction.

17 A. **Yes.**

18 Q. And did you meet with the police on December 11th, 2014?
19 This is the first meeting.

20 A. **Perhaps.**

21 Q. Do you remember where the first time you met with police
22 was?

23 A. **At the Pinckney Police Department.**

24 Q. How did you feel about talking to the police?

25 A. **I didn't want to talk to them.**

100

1 Q. Initially, did you lie to them?

2 A. **Maybe.**

3 Q. Initially, did you tell them you didn't even know anybody
4 by the name of John?

5 A. **Yes.**

6 Q. They asked if you knew anybody with a shaved or bald head
7 that had a beard and was at the bar, and you said, "I
8 don't know who you're talking about."

9 A. **Yes.**

10 Q. They asked you if you knew anybody with a white SUV, and
11 you said you don't.

12 A. **That's correct.**

13 Q. Are any of those things true?

14 A. **What do you mean? I --**

15 Q. Were you lying to police at that time?

16 A. **Yes.**

17 Q. And you were lying because you didn't want to be
18 involved, correct?

19 A. **That's correct.**

20 Q. And you didn't want to point the finger at your friend of
21 ten years, the Defendant, correct?

22 A. **That's correct.**

23 Q. And after you told these lies, did the officers tell you
24 that they already had video from the bar?

25 A. **Mm-hmm.**

101

1 Q. Is that a yes?

2 A. **Yes, yes.**

3 Q. And did you realize you had been caught in your lies?

4 A. **Yes.**

5 Q. And at that point, did you tell them something closer
6 approaching the truth?

7 A. **Yes.**

8 Q. When they asked you who you went to the bar with that
9 night, who did you say afterwards?

10 A. **I don't remember what I told them.**

11 Q. Did you tell them you went to the bar with John Kelsey
12 that night?

13 A. **Afterwards.**

14 Q. So after they tell you that they've caught you in this
15 lie, this lie that you don't know anybody named John and
16 now you start telling some truth, did you admit to them
17 that you went to the bar with the Defendant, John Kelsey?

18 A. **I don't know if I told them that or not.**

19 MR. ROTH: May I approach the witness,
20 Your Honor?

21 THE COURT: Yes.

22 BY MR. ROTH:

23 Q. (Approaching the witness.)
24 If you can read this silently to yourself, look
25 up when you're done. Does that refresh your memory?

102

1 A. **Yes.**

2 Q. So after they catch you in a lie, you start telling some
3 truth. They ask you who you went to the bar with. What
4 did you say?

5 A. **John Kelsey. I said, "John."
6 They said "John who?"
7 I said, "John Kelsey."**

8 Q. Thank you. And during that interview when they asked you
9 what the Defendant was driving that night, what color car
10 did you say?

11 A. **White.**

12 Q. And did they come back and interview you again on
13 December 16th, 2014?

14 A. **Yes.**

15 Q. And during this interview, they focused on that four and
16 a half minute phone call between you and the Defendant
17 right after the crash, right?

18 A. **That is correct.**

19 Q. And that's when you told them that the Defendant sounded
20 scared?

21 A. **Yes.**

22 Q. And you told them the Defendant said he thought the
23 police were chasing him?

24 A. **He thought he -- they were, but he didn't know if they
25 was or not.**

103

1 Q. And you told the police that at that time?
2 A. **I believe so, yes.**
3 Q. And you told them that this had occurred in the back
4 roads of Stockbridge?
5 A. **Yes.**
6 Q. Did the police ask you for your phone that day?
7 A. **Yes.**
8 Q. Was there any information on your phone at that time?
9 A. **No.**
10 Q. Call logs?
11 A. **No.**
12 Q. Text logs?
13 A. **No.**
14 Q. Why weren't those things on your phone anymore, sir?
15 A. **Because I was up north, and I was bored, and I deleted**
16 **it.**
17 Q. When were you up north?
18 A. **The weekend of the -- before the police came to my**
19 **apartment.**
20 Q. Sir, it's your testimony that it is a pure coincidence
21 that immediately after this, after talking to the
22 Defendant several times immediately after this accident,
23 seeing the news report and associating with the Defendant
24 that you deleted all information from your phone?
25 A. **No. It wasn't all information.**

104

1 Q. You deleted the call logs?
2 A. **Yes.**
3 Q. You deleted the text logs?
4 A. **Yes.**
5 Q. And it is a coincidence that this happened that week?
6 A. **It was -- I was bored up north.**
7 Q. You were bored, and so you decided to delete the evidence
8 of your conversation with the Defendant.
9 A. **No.**
10 MR. ROTH: Nothing further, Your Honor.
11 THE COURT: Thank you, Mr. Roth.
12 Mr. Morley, you may question the witness.
13 MR. MORLEY: Thank you, Judge.
14 CROSS-EXAMINATION
15 BY MR. MORLEY:
16 Q. Mr. Hildabridle, you're testifying today pursuant to a
17 grant of immunity from the Ingham County Prosecuting
18 Attorney's Office, right?
19 A. **That is correct.**
20 Q. I want to show you -- I'm not sure if you looked at this
21 one specifically, but --
22 MR. MORLEY: Approach the witness, Your Honor?
23 THE COURT: Yes.
24 BY MR. MORLEY:
25 Q. (Approaching the witness.)

105

1 I'll show you what's been previously admitted
2 as People's 89. Ask you to take a look at that real
3 quick.
4 A. **Yes.**
5 Q. Do you recognize that? That's the vehicle that we've
6 identified that you probably showed up to at the Dam
7 Site?
8 A. **I guess. That's what they're saying it was.**
9 Q. Here's my question: Is this the car that Mr. Kelsey
10 brought with him to swap out? You've said it was a tan
11 Blazer.
12 A. **No, that is not the car.**
13 Q. All right. So when he showed up at, I believe,
14 Mr. Strunk's house --
15 A. **Yes.**
16 Q. -- it was in some type of tan Blazer?
17 A. **Yes.**
18 Q. You got a little confused. I think Chevy makes a Blazer,
19 and GMC makes the sister to it, a Jimmy, or something
20 like that.
21 A. **Okay.**
22 Q. Do you know if it was a Jimmy or a Blazer?
23 A. **I think it's actually a Jimmy.**
24 Q. But as you sit here today, confusion or no confusion,
25 that's not the car that was brought over to Strunk's

106

1 house?
2 A. **No, that's not the car.**
3 Q. No disrespect by this question, and you testified to it,
4 but you were extremely intoxicated and extremely high
5 that entire evening, weren't you?
6 A. **That is correct.**
7 Q. In fact, you had about or a minimum of about 15 beers,
8 right?
9 A. **That is correct.**
10 Q. Over the span of probably four or five hours?
11 A. **Somewhere probably around there.**
12 Q. And you smoked approximately eight joints of marijuana?
13 A. **If not more.**
14 Q. Okay. You've talked to the police twice. You were
15 interviewed shortly after this incident and then about a
16 week later, and you testified at a preliminary exam. Is
17 that right?
18 A. **That is correct.**
19 Q. You lied to the police in your interview. You lied to
20 police in both interviews, didn't you?
21 A. **I believe so.**
22 Q. All right. And in your testimony to -- er, at the
23 preliminary examination, you've never testified nor told
24 anybody that John Kelsey told you he was the driver of
25 the vehicle, right?

107

1 **A. That is correct.**
2 Q. In fact, the best you said is, "He thinks he might have
3 had something happen, but he don't know," is your words
4 to that effect, right?
5 **A. That is correct.**
6 Q. And, in fact, you saw Mr. Kelsey the next day. You guys
7 worked a little bit for a few hours, didn't you?
8 **A. I don't recall if it was the next day or not.**
9 Q. Do you recall the next day Mr. Kelsey telling you
10 specifically "I wasn't the driver"?
11 MR. ROTH: Your Honor, I'm going to object to
12 the hearsay.
13 MR. MORLEY: I'll withdraw it.
14 THE COURT: All right.
15 BY MR. MORLEY:
16 Q. Did Mr. Kelsey tell you whether he was the driver of the
17 vehicle?
18 MR. ROTH: Your Honor, I'm going to object to
19 the hearsay.
20 MR. MORLEY: I don't think it's hearsay,
21 Your Honor. It's a yes-or-no question.
22 MR. ROTH: Statement by Defendant.
23 THE COURT: What was your response, Mr. Morley?
24 MR. MORLEY: I don't think it's hearsay. I
25 didn't ask for what he said. I'm asking whether he

108

1 responded or whether he was told.
2 MR. ROTH: You tell people by saying something.
3 THE COURT: Whether he's told. Are you going
4 to include the content?
5 MR. MORLEY: Say again, I'm sorry?
6 THE COURT: You were going to include the
7 content?
8 MR. MORLEY: Yes. I asked "whether he told you
9 he was the driver."
10 MR. ROTH: That would obviously be hearsay.
11 THE COURT: Mr. Morley, it appears --
12 MR. MORLEY: Okay.
13 THE COURT: Sustained.
14 MR. MORLEY: I didn't hear you.
15 THE COURT: Sustained.
16 MR. MORLEY: Thank you, Judge.
17 BY MR. MORLEY:
18 Q. Were you offered a reward when you talked to the police
19 in this matter?
20 **A. Yes.**
21 Q. Were you given a reward?
22 **A. No.**
23 Q. Do you know whether Mr. Kelsey stayed with his family in
24 Brighton or stayed in Stockbridge that evening?
25 **A. I don't know.**

109

1 Q. Do you know him to stay in multiple locations?
2 **A. Sometimes.**
3 MR. MORLEY: That's all I have. Thank you.
4 THE COURT: Thank you, Mr. Morley.
5 Mr. Roth, do you have redirect examination?
6 MR. ROTH: Yes, Your Honor.
7 REDIRECT EXAMINATION
8 BY MR. ROTH:
9 Q. Mr. Morley asked you about 15 beers, some marijuana.
10 **A. Yes.**
11 Q. Despite that you're able to answer all of the detective's
12 questions when they asked you, correct?
13 **A. Yes.**
14 Q. In fact, that information was then corroborated by the
15 police reports. It was confirmed, right?
16 **A. Yes.**
17 Q. That there were those phone calls at those times that you
18 described?
19 **A. Yes.**
20 Q. And Mr. Morley asked you if the Defendant sometimes lives
21 with his parents or stays with his parents. Where is his
22 primary residence that you know of?
23 **A. I know he has a house in Stockbridge. I've only been**
24 **there once. I've been to his parents' house more than**
25 **once.**

110

1 MR. ROTH: May I approach the witness,
2 Your Honor?
3 THE COURT: Yes.
4 BY MR. ROTH:
5 Q. (Approaching the witness.)
6 Read this silently to yourself.
7 **A. Right.**
8 Q. Did the Defendant say that somebody was chasing the
9 vehicle he was in?
10 **A. Say again?**
11 Q. Was your statement to the police that the Defendant told
12 you that the police were chasing a vehicle that he was
13 in?
14 **A. He didn't know.**
15 Q. Sir, isn't it true that you told the police, quote:
16 He just told me that he thinks
17 that the police were chasing him.
18 He don't know.
19 **A. Correct.**
20 Q. Chasing him. Not a vehicle he's a passenger in. Chasing
21 him, correct?
22 **A. Well, they were talking about John Kelsey, so that's why**
23 **I said him.**
24 MR. ROTH: I have nothing further, Your Honor.
25 Thank you.

111

1 THE COURT: Thank you, Mr. Roth.
2 Ladies and Gentlemen of the Jury, I'll have you
3 go back to the jury room with Mr. Adkins.
4 (At 11:55 a.m., the jury left the
5 courtroom.)
6 THE COURT: Please be seated.
7 Mr. Banks, if you could come forward, please.
8 Mr. Roth, any reason not to release
9 Mr. Hildabridle at this time?
10 MR. ROTH: No, Your Honor.
11 THE COURT: Mr. Morley?
12 MR. MORLEY: No, sir.
13 THE COURT: All right.
14 Mr. Banks, anything you want to add?
15 MR. BANKS: Nothing, Your Honor. I just would
16 hope that he would be processed quickly, as opposed to
17 sitting around here. But if that's not in your control,
18 I understand.
19 THE COURT: I will -- well, first of all, the
20 May 29, 2015, capias warrant that I entered is set aside
21 and the bond requirements discontinued, and he is to be
22 released at this point. We'll have the deputy, though,
23 obviously, take him into custody for purposes of
24 processing further.
25 Anything else, Mr. Banks?

112

1 MR. BANKS: Nothing, Your Honor.
2 THE COURT: All right.
3 MR. BANKS: Thank you.
4 THE COURT: Okay. Mr. Banks, thanks for your
5 assistance, sir.
6 MR. BANKS: Thank you, Your Honor.
7 (At 11:56 a.m., the witness
8 stepped down from the witness
9 stand.)
10 THE COURT: Mr. Roth, are you ready to proceed,
11 or do you need a minute?
12 MR. ROTH: We are ready. We have three
13 witnesses to go today. None are very long, I don't
14 think.
15 THE COURT: Mr. Morley, are you ready to
16 proceed, or do you need any kind of a break or anything?
17 MR. MORLEY: Whatever you want to do, Judge.
18 THE COURT: Let's proceed then. Let's bring
19 the jurors back in.
20 (At 12:00 p.m., the jury entered
21 the courtroom.)
22 THE COURT: Please be seated.
23 Mr. Roth, you may call your next witness.
24 MR. ROTH: Thank you, Your Honor. The People
25 call Brian Thompson.

113

1 THE COURT: Sir, if you would please raise your
2 right hand.
3 Do you swear or affirm to tell the truth, the
4 whole truth, and nothing but the truth?
5 MR. THOMPSON: I do.
6 THE COURT: Please be seated. State your full
7 name for us witness, and spell your last name, please.
8 THE WITNESS: Brian Everett Thompson,
9 T-H-O-M-P-S-O-N.
10 MR. ROTH: Thank you, Your Honor.
11 BRIAN E. THOMPSON
12 called by the People at 12:01 p.m., sworn by the Court,
13 testified:
14 DIRECT EXAMINATION
15 BY MR. ROTH:
16 Q. Good afternoon, sir.
17 A. **Good afternoon.**
18 Q. Where are you employed?
19 A. **General Motors.**
20 Q. In what capacity?
21 A. **I'm a staff engineer in the engineering analysis**
22 **department.**
23 Q. How long have you worked at GM?
24 A. **Fifteen years.**
25 Q. Could you describe some of the responsibilities for the

114

1 jury that you've had as an engineer for GM over the
2 years?
3 A. **Sure. I started my career in a general kind of college**
4 **graduate program, a rotational program. From there I**
5 **joined chassis CEA group. So doing structural analysis**
6 **and development for General Motors products.**
7 **From that group, I went and joined, basically,**
8 **our high performance vehicle operations working on**
9 **various assignments, including race vehicles and**
10 **production vehicles.**
11 **From that, I went to a group that released**
12 **suspension components. And then 2012 I joined the**
13 **engineering analysis department.**
14 Q. Thank you, sir. Were you contacted by the Michigan State
15 Police about providing some assistance in identifying a
16 specific vehicle?
17 A. **Yes.**
18 Q. And, generally, what materials were you provided in
19 making your analysis?
20 A. **I was provided three photographs that were screen**
21 **captures from a video.**
22 Q. And a VIN number?
23 A. **Yes.**
24 Q. Did you prepare a report describing your analysis?
25 A. **I did.**

115

<p>1 MR. ROTH: May I approach the witness,</p> <p>2 Your Honor?</p> <p>3 THE COURT: You may.</p> <p>4 MR. ROTH: I've already shown defense counsel</p> <p>5 Proposed 118.</p> <p>6 BY MR. ROTH:</p> <p>7 Q. (Approaching the witness.)</p> <p>8 Is this the report that you prepared?</p> <p>9 A. Yes. This appears to be it.</p> <p>10 Q. And it fairly and accurately captures your analysis?</p> <p>11 A. Yes.</p> <p>12 MR. ROTH: I'd move for the admission of</p> <p>13 Proposed Exhibit 118.</p> <p>14 THE COURT: Are there any objections, or do you</p> <p>15 wish to voir dire, Mr. Morley?</p> <p>16 MR. MORLEY: I don't think he's being offered</p> <p>17 as an expert, is he?</p> <p>18 MR. ROTH: He's not.</p> <p>19 MR. MORLEY: Object on hearsay.</p> <p>20 THE COURT: Mr. Roth?</p> <p>21 MR. ROTH: It's his own findings. He's going</p> <p>22 to testify to them in court. He's subject to</p> <p>23 cross-examination about them, and I guess I can lay a</p> <p>24 business record foundation in terms of these are the</p> <p>25 things that he -- that he observed; his present</p> <p style="text-align: right;">116</p>	<p>1 Q. So we're not going to admit your report, sir. Do you</p> <p>2 have a copy of it with you if you need to refer?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Thank you. So I want to start by talking about the VIN</p> <p>5 number.</p> <p>6 A. Okay.</p> <p>7 Q. What is a VIN number?</p> <p>8 A. A VIN, V-I-N, stands for vehicle identification number.</p> <p>9 It's a unique 17 digit number assigned to each vehicle.</p> <p>10 Q. Does a VIN number contain information about that vehicle?</p> <p>11 A. Yes, it does.</p> <p>12 Q. How so?</p> <p>13 A. Each digit is significant. Each digit contains different</p> <p>14 information about the vehicle. The maker, the plant that</p> <p>15 it was built at. One of the digits is the engine RPO</p> <p>16 that is in that vehicle. And the last six digits are</p> <p>17 basically a sequence number for that vehicle.</p> <p>18 Q. Putting on the screen in front of you Exhibit 46. Is the</p> <p>19 VIN number on the cover sheet here the same VIN number</p> <p>20 that you were provided?</p> <p>21 A. Yes, it is.</p> <p>22 Q. And what did that VIN number indicate about the vehicle</p> <p>23 that it's associated with?</p> <p>24 A. That it was a 2003 GMC Yukon Denali XL.</p> <p>25 Q. Anything further?</p> <p style="text-align: right;">118</p>
<p>1 impressions.</p> <p>2 THE COURT: Mr. Morley, any further comment on</p> <p>3 that?</p> <p>4 MR. MORLEY: I guess it's akin to the argument</p> <p>5 from earlier, Judge. This is -- I don't think it's a</p> <p>6 business record. This was obviously created for this</p> <p>7 proceeding. It's a report, but he's not testifying as an</p> <p>8 expert. It's hearsay.</p> <p>9 THE COURT: Mr. Roth, anything further?</p> <p>10 MR. ROTH: If -- Your Honor, I can tender him</p> <p>11 as an expert.</p> <p>12 THE COURT: Whatever you wish to do. It's the</p> <p>13 People's response.</p> <p>14 MR. ROTH: I don't think expert or not affects</p> <p>15 whether it's hearsay.</p> <p>16 THE COURT: I'm not sure it does either, but, I</p> <p>17 mean, his report -- it's a report -- let me have you</p> <p>18 approach with the report.</p> <p>19 (At 12:03 p.m., an at-the-bench</p> <p>20 discussion is held off the</p> <p>21 record.)</p> <p>22 THE COURT: I'll sustain the objection as to</p> <p>23 the exhibit.</p> <p>24 MR. ROTH: Thank you, Your Honor.</p> <p>25 BY MR. ROTH:</p> <p style="text-align: right;">117</p>	<p>1 A. Not that I investigated.</p> <p>2 Q. Thank you. Separately, you said you were provided with</p> <p>3 some pictures. Did that include what we see on the</p> <p>4 screen as 112 and 113?</p> <p>5 A. Yes.</p> <p>6 Q. Very good. And were you asked to identify the make and</p> <p>7 model to the extent possible of this vehicle?</p> <p>8 A. Yes, I was.</p> <p>9 Q. Could you tell us generally how you went about doing</p> <p>10 that?</p> <p>11 A. Sure. I started actually with this picture right here</p> <p>12 looking at the front of the vehicle. In the grill area,</p> <p>13 you can see the GMC logo. So I was able to state that</p> <p>14 the vehicle was a GMC vehicle, not any other General</p> <p>15 Motors product, and not any other competitor product.</p> <p>16 Q. Let me ask you real quick: A Blazer, a Trail Blazer</p> <p>17 would not have GMC in the grill, correct?</p> <p>18 A. A Chevrolet Trail Blazer would not, no.</p> <p>19 Q. It would have the Chevy logo?</p> <p>20 A. Yes. It would have a bow tie.</p> <p>21 Q. Go ahead.</p> <p>22 A. I went from there. I actually looked at, I believe, one</p> <p>23 of the pictures of the side of the vehicle. Yep. I</p> <p>24 believe that's the one.</p> <p>25 Q. That's 112.</p> <p style="text-align: right;">119</p>

1 **A. From here able to tell that it's a four-door vehicle.**
2 **There were GMC Yukon that was manufactured as two-door**
3 **vehicles in the '90s. This vehicle is a four-door. The**
4 **other thing I looked at is the cut line of the rear door.**
5 Q. What does the cut line mean?
6 **A. The line where the door lines up with the body as it**
7 **closes.**
8 Q. If you touch the screen, it will make a mark. Could you
9 show the jury what you mean?
10 **A. Yeah.**
11 **(Illustrating.)**
12 Q. Thank you.
13 **A. So right in that area. The long wheelbase variant, so**
14 **the XL variant of the GMC Yukon, that cut line is**
15 **straight up and down. I compared that to the short**
16 **wheelbase where the cut line goes around the rear wheel**
17 **because the wheelbase, the length between the front**
18 **wheels and the rear wheels is shorter. So there is a**
19 **difference there.**
20 **Also the length of -- if I can touch this**
21 **again, this rear back glass is longer on the long**
22 **wheelbase versions.**
23 **So from that, I was able to determine that it**
24 **was a GMC Yukon XL, or in the early '90s, they were --**
25 **the long wheelbase version was the GMC Suburban, the same**

120

1 **model name as the Chevrolet version.**
2 **From there, I compared the photographs of the**
3 **vehicle to the GMC Suburban and GMC Yukon XL vehicles**
4 **manufactured from the mid '90s through 2014, looking**
5 **primarily at things like the door handles and the**
6 **headlights and the body cladding and the front grill.**
7 **And from that I was able to determine that this**
8 **vehicle was a 2001 to 2006 GMC Yukon Denali XL.**
9 Q. Was that consistent with the information associated with
10 that VIN number that we talked about earlier in 46?
11 **A. Yes. The VIN number was a 2003 Yukon -- GMC Yukon Denali**
12 **XL.**
13 MR. ROTH: Thank you.
14 I have nothing further of this witness.
15 THE COURT: Thank you, Mr. Roth.
16 Mr. Morley, do you wish to question the
17 witness?
18 MR. MORLEY: I do, Judge, but I need just a
19 minute. I didn't want to interrupt counsel.
20 THE COURT: No problem.
21 MR. MORLEY: Approach the witness, Your Honor?
22 THE COURT: Yes.
23 **CROSS-EXAMINATION**
24 **BY MR. MORLEY:**
25 Q. (Approaching the witness.)

121

1 Sir, I'm going to show you what's been marked
2 -- excuse me, admitted as People's 18 and ask if you
3 recognize that.
4 **A. Looks like a blurred vehicle.**
5 Q. Okay. This is -- People's 18 is what was admitted as a
6 screen shot from a police cruiser video of an underlying
7 incident. Are you able to tell us what type of vehicle
8 that is?
9 **A. I am not.**
10 Q. And then the report that you're referencing, I believe
11 you have it in front of you up there, right?
12 **A. Yes, sir.**
13 Q. You have indicated that somewhat briefly, but -- well,
14 let me step back a little bit. Who gave you the VIN
15 number? VIN number is duplicative. Who gave you the VIN
16 to this vehicle?
17 **A. Detective Sergeant Tom McPhee from the Michigan State --**
18 Q. Where you --
19 **A. -- Police.**
20 Q. I stepped on you. I apologize. Were you given any other
21 VINs?
22 **A. No. Just that VIN number.**
23 Q. So you didn't know anything about the vehicle?
24 **A. I did not.**
25 Q. And a VIN -- I don't know if it's established or needs to

122

1 be, but it's a 17- or 18-digit number. It's on the front
2 of every vehicle?
3 **A. Yes.**
4 Q. It's throughout every vehicle?
5 **A. 17 digits, yes. The --**
6 Q. That's all right. I'm just making sure.
7 **A. Yep.**
8 Q. But you were given a VIN number. Any other directives or
9 marching orders with that VIN?
10 **A. No.**
11 Q. And you were given the three screen shots that we just
12 saw?
13 **A. Yes, sir.**
14 Q. And in your report, you indicate that the VIN matches an
15 '03 Denali, right?
16 **A. An '03 Denali XL, GMC Yukon Denali XL.**
17 Q. But as you're reviewing all the photographs and
18 everything, the best you can say is that's a Yukon Denali
19 from between 2001 and 2006 model years, right?
20 **A. That's correct.**
21 Q. And how many Yukon Denali's were produced by General
22 Motors?
23 MR. ROTH: Your Honor, I guess I'm going to
24 object as to relevance. The testimony was that it was an
25 XL. So the question should be about XL's.

123

<p>1 MR. MORLEY: That's fair.</p> <p>2 THE COURT: I'll sustain that.</p> <p>3 You can rephrase it, Mr. Morley.</p> <p>4 BY MR. MORLEY:</p> <p>5 Q. And to the extent I screw that up again, if I don't say</p> <p>6 XL, I'm only referring to the Yukon Denali XL. Do you</p> <p>7 know how many Yukon Denali XLs were produced in the state</p> <p>8 of Michigan in that time frame?</p> <p>9 A. I do not.</p> <p>10 Q. If I told you there was in excess of approximately --</p> <p>11 MR. ROTH: Your Honor, I'm going to object. If</p> <p>12 he doesn't know, then Mr. Morley saying an answer would</p> <p>13 only be speculation.</p> <p>14 MR. MORLEY: I'm going to ask if he has any</p> <p>15 reason to disagree with me, Your Honor.</p> <p>16 THE COURT: I'll overrule the objection.</p> <p>17 BY MR. MORLEY:</p> <p>18 Q. If I told you that it was at least 70,000 in 2001, would</p> <p>19 you have any reason to disagree with me?</p> <p>20 A. I have no idea how many there were.</p> <p>21 Q. And this is in the state of Michigan GMC Yukons.</p> <p>22 A. Yukon Denali XL.</p> <p>23 Q. Right.</p> <p>24 A. I do not know.</p> <p>25 Q. So you're simply telling us that the photos you saw are</p> <p style="text-align: right;">124</p>	<p>1 Q. Do you know what the most popular color of car is right</p> <p>2 now?</p> <p>3 A. I do not.</p> <p>4 Q. Do you have any reason to disagree with me if I told you</p> <p>5 it was white?</p> <p>6 MR. ROTH: Your Honor, I'm going to object. It</p> <p>7 calls for speculation. He says he has no idea.</p> <p>8 MR. MORLEY: Same as I just asked earlier,</p> <p>9 Judge.</p> <p>10 THE COURT: I'm going to sustain it. It seems</p> <p>11 that he's ruled out the possibility of giving you that</p> <p>12 information.</p> <p>13 MR. MORLEY: Thank you, Judge. That's all I</p> <p>14 have.</p> <p>15 THE COURT: Thank you, Mr. Morley.</p> <p>16 Mr. Roth, redirect?</p> <p>17 MR. ROTH: None. Thank you, Your Honor.</p> <p>18 THE COURT: You may step down, sir. Thank you,</p> <p>19 very much.</p> <p>20 THE WITNESS: You're welcome.</p> <p>21 (At 12:16 p.m., the witness</p> <p>22 stepped down from the witness</p> <p>23 stand.)</p> <p>24 THE COURT: Mr. Roth, you may call your next</p> <p>25 witness.</p> <p style="text-align: right;">126</p>
<p>1 -- and let's make sure we separate and distinguish the</p> <p>2 two. The VIN is as simple as plugging it in. If you</p> <p>3 were the police, you just put it into LEIN, and it would</p> <p>4 tell you it's registered to an '03 Denali XL, right?</p> <p>5 A. Correct.</p> <p>6 Q. But what you testify to here, what you're reading, what</p> <p>7 your report says is, "The pictures you showed me from the</p> <p>8 Dam Site Inn, sir, I can --" or the three that you saw,</p> <p>9 "I can tell you that that's somewhere between model years</p> <p>10 2001 and 2006 of a GMC Yukon Denali XL," right?</p> <p>11 A. That's correct.</p> <p>12 Q. You can't narrow it down anymore than that?</p> <p>13 A. I cannot.</p> <p>14 Q. Are you aware that at least currently white is the most</p> <p>15 popular color of any car?</p> <p>16 MR. ROTH: Your Honor, object.</p> <p>17 MR. MORLEY: I can ask whether he knows.</p> <p>18 MR. ROTH: Well, this is assuming facts not in</p> <p>19 evidence.</p> <p>20 MR. MORLEY: That's fair.</p> <p>21 THE COURT: You have to first ask -- I'll</p> <p>22 sustain the objection.</p> <p>23 Let's lay the foundation as to whether he would</p> <p>24 know.</p> <p>25 BY MR. MORLEY:</p> <p style="text-align: right;">125</p>	<p>1 MR. ROTH: Thank you, Your Honor. The People</p> <p>2 call Kathryn Stein.</p> <p>3 THE COURT: Right up here, ma'am. Please raise</p> <p>4 your right hand.</p> <p>5 Do you swear or affirm to tell the truth, the</p> <p>6 whole truth, and nothing but the truth?</p> <p>7 MS. STEIN: I do.</p> <p>8 THE COURT: Please be seated. State your full</p> <p>9 name for us, and spell your first and last name.</p> <p>10 THE WITNESS: Kathryn Elaine Stein. It's</p> <p>11 K-A-T-H-R-Y-N S-T-E-I-N.</p> <p>12 MR. ROTH: Thank you.</p> <p>13 KATHRYN E. STEIN</p> <p>14 called by the People at 12:17 p.m., sworn by the Court,</p> <p>15 testified:</p> <p>16 DIRECT EXAMINATION</p> <p>17 BY MR. ROTH:</p> <p>18 Q. I apologize. I'm going to make you wait for just a</p> <p>19 moment while I clean up, ma'am. I'm sorry about that.</p> <p>20 Do you recall the evening of December 6, 2014,</p> <p>21 into the early morning hours of December 7th, 2014?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Where were you around that time?</p> <p>24 A. At the Dam Site Inn.</p> <p>25 Q. Why were you at the Dam Site Inn that evening?</p> <p style="text-align: right;">127</p>

<p>1 A. My husband was in the band playing that night.</p> <p>2 Q. What's your husband's name?</p> <p>3 A. Bruce Stein.</p> <p>4 Q. And what's his band's name?</p> <p>5 A. Renegades.</p> <p>6 Q. Thank you. Were you drinking alcohol that evening?</p> <p>7 A. I sure was.</p> <p>8 Q. What kind?</p> <p>9 A. Bud Light.</p> <p>10 Q. Bottles? Cans? Draft?</p> <p>11 A. I had it out of a pitcher.</p> <p>12 Q. So poured into cups?</p> <p>13 A. Mm-hmm.</p> <p>14 Q. Is that a yes?</p> <p>15 A. Yes, yes.</p> <p>16 Q. About how many cups of beer?</p> <p>17 A. I was there from 6:30 to 1 and basically drinking the whole time.</p> <p>18</p> <p>19 Q. Do you remember about how many cups?</p> <p>20 A. No.</p> <p>21 Q. All right. Did you testify at the preliminary hearing shortly after that back in December?</p> <p>22</p> <p>23 A. Yes, I did.</p> <p>24 Q. Was this fresher in your memory then?</p> <p>25 A. I said I was drinking pitchers.</p> <p style="text-align: right;">128</p>	<p>1 A. (Illustrating.)</p> <p>2 Q. So the back corner?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. Is that a yes?</p> <p>5 A. Yes, yes.</p> <p>6 Q. Okay. And where were you seated while your husband was playing?</p> <p>7</p> <p>8 A. I believe we were there.</p> <p>9 (Illustrating.)</p> <p>10 Q. All right. So this table near the bar?</p> <p>11 A. Mm-hmm.</p> <p>12 Q. Is that a yes?</p> <p>13 A. Yes.</p> <p>14 Q. That's okay. It's a hard habit. Do you know about what time his band stopped playing?</p> <p>15</p> <p>16 A. About 1 o'clock.</p> <p>17 Q. What happens then?</p> <p>18 A. They have to tear down.</p> <p>19 Q. What does that mean?</p> <p>20 A. Take down all of the equipment. Bruce plays drums. And so that's quite a lot to tear down.</p> <p>21</p> <p>22 Q. Where do they take it when they tear it down?</p> <p>23 A. We put it in the vehicle to take home.</p> <p>24 Q. What were you doing while he was tearing it down and loading it?</p> <p>25</p> <p style="text-align: right;">130</p>
<p>1 MR. ROTH: Okay.</p> <p>2 May I approach the witness, Your Honor?</p> <p>3 THE COURT: Yes.</p> <p>4 BY MR. ROTH:</p> <p>5 Q. (Approaching the witness.)</p> <p>6 I seem to have misplaced my highlighter, so I'm</p> <p>7 just going to circle it for you.</p> <p>8 A. Maybe six, yeah.</p> <p>9 Q. Does that sound right?</p> <p>10 A. Yeah. I suppose.</p> <p>11 Q. So about six beers over that time?</p> <p>12 A. Yeah. That sounds probably about right.</p> <p>13 Q. But enough that you didn't feel comfortable driving at the end of the night?</p> <p>14</p> <p>15 A. I definitely did not plan to drive, yes.</p> <p>16 Q. Did the beer or the alcohol affect your memory of that night?</p> <p>17</p> <p>18 A. No, absolutely not.</p> <p>19 Q. I'm going to show you on the screen in front of you People's Exhibit 76. Is that the inside of the Dam Site Inn?</p> <p>20</p> <p>21</p> <p>22 A. Yes.</p> <p>23 Q. If you touch the screen, it will make a mark. Could you show the jury about where your husband's band was playing?</p> <p>24</p> <p>25</p> <p style="text-align: right;">129</p>	<p>1 A. Kind of standing guard at the vehicle outside.</p> <p>2 Q. Is the parking lot lit?</p> <p>3 A. Yes.</p> <p>4 Q. Is it lit well? Poorly?</p> <p>5 A. I believe it's lit well.</p> <p>6 Q. And while you were there, did you notice anything in the parking lot?</p> <p>7</p> <p>8 A. The only thing I really noticed was a vehicle to my right parked next to the stream that runs there. So it's on the edge of the parking lot. And it was running, and, you know, I'm bored, so I'm looking around. And it just -- I noticed there was a bunch of salt spray on it. It looked like salt spray. But I was thinking that we didn't really have a lot of snow up to that point where it would need so much salt. So I -- I thought that was strange.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 Q. And that salt spray is what stood out to you?</p> <p>18 A. Yes.</p> <p>19 Q. And I can't remember if you mentioned it, but where on the vehicle was the salt spray?</p> <p>20</p> <p>21 A. It was all over. Up through the windows and everything. It was -- yeah.</p> <p>22</p> <p>23 Q. Including the back window?</p> <p>24 A. I didn't see the back window at that time.</p> <p>25 Q. Very good. What kind of vehicle was it?</p> <p style="text-align: right;">131</p>

1 **A. Like, a white Suburban type of vehicle.**
2 Q. An SUV?
3 **A. Yes.**
4 Q. And do you remember at the prelim you described it as
5 being a GM?
6 **A. I would definitely call it a GM.**
7 Q. What color was it?
8 **A. White.**
9 MR. ROTH: Thank you.
10 May I approach the witness, Your Honor?
11 THE COURT: You may.
12 BY MR. ROTH:
13 Q. (Approaching the witness.)
14 I'm going to hand you three exhibits: 90, 114,
15 and 115. Could you tell me if you see the vehicle in any
16 of these three exhibits?
17 **A. Yes.**
18 Q. 90?
19 **A. Yes.**
20 Q. All right. Try the next one.
21 **A. Yes.**
22 Q. All right. And the next one?
23 **A. I can't really tell that far away.**
24 Q. Harder to see in 115. I understand. All right. So
25 let's look at 90 and 114 on the screen.

132

1 Starting with 114. This is the vehicle that
2 drew your attention?
3 **A. Yes. I would say so because it looks like the salt spray**
4 **on that back window there.**
5 Q. Could you circle it on the screen?
6 **A. It's not working.**
7 THE COURT: Push it a little harder.
8 THE WITNESS: Oh.
9 (Illustrating.)
10 BY MR. ROTH:
11 Q. There you go. Very good. So in that picture, it's on
12 the side window?
13 **A. That would be the side that I was seeing when it was**
14 **parked.**
15 Q. And initially when you saw the vehicle, it was empty but
16 running?
17 **A. I couldn't see inside anybody, and I wouldn't expect so.**
18 Q. Very good. And then in 90 you said you could also see
19 it. Is that correct?
20 **A. Yes. I would say so.**
21 Q. Could you circle the salt spray on there?
22 **A. (Illustrating.)**
23 Q. Thank you. And you couldn't tell if anybody was inside
24 of it?
25 **A. No.**

133

1 Q. Who drove home that night?
2 **A. My husband.**
3 Q. Was anybody else in the car?
4 **A. My son.**
5 Q. How old is your son?
6 **A. He's twenty-nine now.**
7 Q. Where in the vehicle was he seated?
8 **A. Behind the passenger -- passenger's side.**
9 Q. Where were you seated?
10 **A. In the passenger's side --**
11 Q. And --
12 **A. -- in the front.**
13 Q. -- I assume your husband then was driving?
14 **A. Yes.**
15 Q. Very good. What kind of car were you in?
16 **A. SUV, GMC. It starts with an A.**
17 Q. Acadia?
18 **A. Acadia, yeah.**
19 Q. Thank you. What color is it?
20 **A. It's, like, a champagne; beige.**
21 Q. Is it bigger or smaller than that vehicle that you saw
22 with the salt spray or about the same?
23 **A. I'd call it either smaller or the same.**
24 MR. ROTH: May I approach the witness,
25 Your Honor?

134

1 THE COURT: Yes.
2 BY MR. ROTH:
3 Q. (Approaching the witness.)
4 In 109 and 111, is your vehicle visible?
5 **A. I'm sorry, I can't tell --**
6 Q. Okay.
7 **A. -- if it's ours or not.**
8 Q. You're not sure if that's your car?
9 **A. No. I can't tell.**
10 Q. Okay. Is that your car or your husband's car?
11 **A. It's my husband's.**
12 MR. ROTH: May I approach the witness,
13 Your Honor?
14 THE COURT: Yes.
15 BY MR. ROTH:
16 Q. (Approaching the witness.)
17 I'm going to show you what's been marked as
18 Proposed 117. Is this a fair and accurate map of that
19 area around the Dam Site Inn?
20 **A. Yes.**
21 MR. ROTH: Move for the admission of Proposed
22 Exhibit 117.
23 MR. MORLEY: No objection, Your Honor.
24 THE COURT: People's Exhibit 117 is admitted
25 and received.

135

1 (At 12:26 p.m., PX#117 is
2 received.)
3 MR. ROTH: Thank you, Your Honor.
4 BY MR. ROTH:
5 Q. So you're not driving. So if you don't recall or you
6 don't know, just let me know. But I want to talk to you
7 a little bit about the path that you took leaving the Dam
8 Site that night. Starting with Exhibit 63 and the Dam
9 Site down here, what route did you take going home?
10 A. **We would have turned left out of the parking lot and gone**
11 **on Patterson Lake Road.**
12 Q. In what direction?
13 A. **West.**
14 Q. Very good. And you followed Patterson Lake west. Where
15 do you go next?
16 A. **I'm not 100 percent sure, but we might be turning onto**
17 **Doyle.**
18 Q. Okay. So continuing west, though?
19 A. **Yes.**
20 Q. Thank you. Does something happen when you're on that
21 second road or near the second road, I should say?
22 A. **I thought it was still on Patterson Lake.**
23 Q. What happens?
24 A. **We were driving in the dark. And all the sudden that**
25 **same vehicle, the white with the salt spray, passed us at**

136

1 **a high rate of speed. And I had noticed that it was a**
2 **double line. And that person should not have been**
3 **passing us, and it was very fast, and it was kind of**
4 **scary.**
5 Q. So you're still traveling west?
6 A. **Mm-hmm.**
7 Q. Is that a yes?
8 A. **Yes.**
9 Q. And the salt spray white SUV is going west as well?
10 A. **Correct.**
11 Q. So what initially drew your attention to it the second
12 time when you're on the road?
13 A. **Well, just all of a sudden -- I didn't notice anything**
14 **coming up behind us, but all of a sudden I just saw it**
15 **speed by. And it's dark, and there is deer that go out**
16 **there all the time. And it was just really startling for**
17 **that to happen.**
18 Q. When it passes you, do you notice the salt spray again?
19 A. **Yes, absolutely.**
20 Q. And it's against that double yellow, no passing line?
21 A. **Yeah. It was in -- in a stretch that had the double**
22 **yellow.**
23 Q. Did you mention to your husband that you had seen this
24 car before?
25 A. **I don't remember.**

137

1 Q. You couldn't see inside of the white SUV, correct?
2 A. **No, I could not.**
3 Q. And you think you go up on Doyle then. Do you know how
4 far you guys go on Doyle before you turn off to go home?
5 A. **We turn on that Williamsville Road there. That's the**
6 **sharp left. Yeah. Right in there.**
7 **(Illustrating.)**
8 MR. ROTH: Very good.
9 I have nothing further of this witness,
10 Your Honor.
11 THE COURT: Thank you, Mr. Roth.
12 Mr. Morley, you may question.
13 MR. MORLEY: Thank you, Judge.
14 **CROSS-EXAMINATION**
15 **BY MR. MORLEY:**
16 Q. Ma'am, you don't know who was driving that vehicle,
17 right?
18 A. **No, I do not.**
19 Q. Do you know how many people were inside of it?
20 A. **No, I couldn't see inside.**
21 Q. Other than the salt spray, were there any other
22 identifying or unique characteristics about it?
23 A. **Not that I noticed.**
24 Q. Did you get a license plate or anything like that?
25 A. **No, I didn't.**

138

1 Q. Did you see -- you said it passed you on, you believe,
2 Patterson Lake not Doyle, right?
3 A. **I believe so.**
4 Q. Then did it turn right or left onto Doyle?
5 A. **I didn't -- that car, I didn't see it after it passed us.**
6 MR. MORLEY: Okay. That's all I have.
7 Thank you.
8 THE COURT: Thank you, Mr. Morley.
9 Mr. Roth, any redirect?
10 MR. ROTH: None, Your Honor. Thank you.
11 THE COURT: You may step down, ma'am.
12 (At 12:29 p.m., the witness
13 stepped down from the witness
14 stand.)
15 THE COURT: Mr. Roth, you -- you may call your
16 next witness.
17 MR. ROTH: People call Bruce Stein.
18 THE COURT: Right up here, sir. Please raise
19 your right hand.
20 Do you swear or affirm to tell the truth, the
21 whole truth, and nothing but the truth?
22 MR. STEIN: I do.
23 THE COURT: Please be seated. State your full
24 name, and spell your last name for us.
25 THE WITNESS: Bruce Michael Stein, S-T-E-I-N.

139

1 MR. ROTH: Thank you, Your Honor.
2 BRUCE M. STEIN
3 called by the People at 12:30 p.m., sworn by the Court,
4 testified:
5 DIRECT EXAMINATION
6 BY MR. ROTH:
7 Q. Good afternoon, sir.
8 A. **Good afternoon.**
9 Q. Do you recall the evening of December 6th, 2014, into the
10 early morning hours of December 7th?
11 A. **Yes, I do.**
12 Q. Where were you during that time?
13 A. **I was at the Dam Site Inn in Hell, Michigan.**
14 Q. Why were you there?
15 A. **I was hired as part of the band called the Renegades. We**
16 **were hired to perform from 9 o'clock p.m. to 1 o'clock**
17 **a.m.**
18 Q. 9 to 1?
19 A. **Yep.**
20 Q. Very good. And your wife told us, you can remind us,
21 what is your role in the band?
22 A. **I'm the drummer.**
23 Q. Thank you, sir. Were you drinking alcohol that evening?
24 A. **Yes, I was.**
25 Q. What kind?

140

1 A. **Bud Light.**
2 Q. Bottles? Draft? Cans?
3 A. **Draft.**
4 Q. About how many did you have throughout the night?
5 A. **I had, like, one 12-ounce glass every set. So every hour**
6 **I had one.**
7 Q. So that works out to about four for the night?
8 A. **That's correct.**
9 Q. Over that period of time, did you feel drunk?
10 A. **Not at all.**
11 Q. Did it affect your memory of the night at all?
12 A. **Not at all.**
13 Q. Showing you Exhibit 75 on the screen in front of you, if
14 you touch the screen, it will make a mark. Could you
15 show the jury approximately where your band was playing.
16 A. **Right back here.**
17 **(Illustrating.)**
18 Q. Thank you, sir. You indicated that you play until about
19 1 o'clock. What happens then?
20 A. **Right at 1 o'clock, we start tearing down immediately and**
21 **to pack all of the equipment in the cars.**
22 Q. Where is your wife during that teardown time?
23 A. **She was right by the exit door, entrance door kind of**
24 **opening the door whenever I came through with some of my**
25 **equipment.**

141

1 Q. And what were you doing?
2 A. **Breaking down equipment and packing it in our truck.**
3 Q. Is that your focus during that time, the equipment
4 getting it out, packing it in?
5 A. **Yes.**
6 Q. Did you pay attention to any of the other vehicles in the
7 parking lot at that time?
8 A. **I did not.**
9 Q. Around how long did it take you to load up all of that
10 equipment?
11 A. **Approximately 40 minutes.**
12 Q. About 40 minutes. Is that correct?
13 A. **Yep.**
14 Q. And who drove home that night?
15 A. **I did.**
16 Q. Your wife and her son were in the vehicle as well?
17 A. **That's correct.**
18 Q. What kind of car was it?
19 A. **My car is a GMC Acadia.**
20 Q. Thank you. What color is it?
21 A. **It's, like, a champagne.**
22 MR. ROTH: May I approach the witness,
23 Your Honor?
24 THE COURT: You may.
25 BY MR. ROTH:

142

1 Q. (Approaching the witness.)
2 I'm going to show you 109 and 111. Is this
3 your car?
4 A. **That is --**
5 Q. We have it again here if that helps.
6 A. **Yep. That's my car.**
7 Q. All right. Let's look at that on the screen.
8 So starting with 109, could you circle for the
9 jury where your vehicle is?
10 A. **This is my vehicle. Oh, that's not my vehicle. I don't**
11 **see it in the frame here.**
12 Q. Is this in the background, your vehicle?
13 A. **That -- that looks like my vehicle.**
14 Q. All right. And then showing you again 111. We have you
15 closer to the exit?
16 A. **Yep. I was parked right outside, right as closest as you**
17 **can get to the door.**
18 Q. Very good. And we see that time stamp on the picture
19 when you're going toward the exit is 1:52, correct?
20 A. **That's correct.**
21 Q. When you leave the Dam Site Inn, what route do you take?
22 A. **So I would take a left out onto Patterson Lake Road. So**
23 **I am thinking this is the Dam Site. Oh, it's right there**
24 **okay. So I'm taking a left out here and follow Patterson**
25 **Lake Road.**

143

1 Q. So where does that take you?

2 A. **That will take me all the way down to here**

3 **(illustrating), and then eventually it stays paved the**

4 **entire way, but the road changes names. I believe it**

5 **becomes Doyle at the major left-hand turn there.**

6 Q. So at this strong left it becomes Doyle Road?

7 A. **Yes.**

8 Q. Very good. While on the road home, at some point did

9 something happen?

10 A. **Yes.**

11 Q. Could you please tell the jury what happened on your

12 drive home?

13 A. **So on the way home, first of all, I was following a**

14 **couple people, fans of mine, that attended the concert --**

15 **not the concert but our band. And I wanted to make sure**

16 **that they got out okay. So they pulled off onto that**

17 **first road here. And then I immediately went straight**

18 **beyond there.**

19 **(Illustrating.) And it was approximately here**

20 **where I had a big white SUV come up on my rear end.**

21 Q. So let me stop you for just a second.

22 A. **Yep.**

23 Q. You stopped your mark at the last bend on Patterson Lake

24 Road before it becomes Doyle. Does that sound right?

25 A. **Well, I think it becomes Doyle up here. So I was right**

144

1 **here when I -- the SUV came up behind me originally.**

2 Q. Okay. So it looks like that's Hepner Drive. There is an

3 intersection there?

4 A. **What I meant was the curve.**

5 Q. There is a curve there. That's good enough. So you're

6 coming up on the curve. What happens?

7 A. **Well, immediately on my tail, tailgating me, and then**

8 **proceeded to tailgate me right through that sharp turn**

9 **that becomes Doyle.**

10 Q. What did you think when you have this car tailgating you?

11 A. **I was worried it was a couple guys from the bar that was**

12 **hassling the girls that we were with.**

13 Q. All right. When he's first approached you, the vehicle,

14 did you notice anything about it?

15 A. **Big, white, very close on my bumper.**

16 Q. All right. What happened next?

17 A. **Made the turn, and just past the turn there is a place to**

18 **pass, and I thought this vehicle would have passed me**

19 **there, but it didn't.**

20 Q. What did it do instead?

21 A. **Continued right on my bumper.**

22 Q. Very good. Go ahead.

23 A. **And then continued down the road. And then just before**

24 **Livermore Creek, probably a couple hundred yards before**

25 **that is where the vehicle passed me.**

145

1 Q. All right. So we're going to go to the bigger map, 117.

2 About how fast were you going when the white SUV was

3 tailgating you?

4 A. **So I was going 55 miles an hour.**

5 Q. What is the speed limit?

6 A. **50 miles.**

7 Q. Thank you. Road gets to the point near, I think you

8 said, it was Livermore where the vehicle passes you?

9 A. **That's correct.**

10 Q. Could you tell the jury about how it passes you?

11 A. **Say again?**

12 Q. Go on the right? Left?

13 A. **It passed me on the left. It was a no-passing area.**

14 Q. And it's a no-passing area, you said?

15 A. **Yes.**

16 Q. Double yellow line?

17 A. **Yes.**

18 Q. And when it passes you, again you see it's a big white

19 SUV?

20 A. **Yes.**

21 Q. Could you see inside of the SUV at all?

22 A. **I didn't look into the SUV because I didn't want to make**

23 **eye contact with the person at all.**

24 Q. And when they pass you, how quickly are they going?

25 A. **I would estimate it was 80 miles an hour.**

146

1 Q. Where did you turn off of Doyle?

2 A. **So I continued on Doyle, and I turn onto Unadilla, which**

3 **is right here.**

4 Q. So you're going west on Doyle?

5 A. **That's -- yes, that's correct.**

6 Q. And the white SUV when it over takes you at about

7 80 miles per hour in the no-passing zone is going west as

8 well?

9 A. **No, it did not. It continued straight on. I could see**

10 **its taillights before I turned onto Unadilla.**

11 Q. If this is north going up, it continues going west on

12 Doyle, though?

13 A. **That's correct.**

14 Q. Very good. And you turn off and go south on Unadilla?

15 A. **That's correct.**

16 Q. When you turn off, do you see it continuing in that

17 direction for a bit?

18 A. **I did not see it as I turned off. Before I turned off,**

19 **just before I made the turn I could see the taillights up**

20 **ahead.**

21 Q. Very good. So on the screen, could you tell the jury

22 about where it was that you lost sight of it making your

23 turn?

24 A. **Okay. Right about in here (illustrating).**

25 Q. So it looks like there is a Unadilla Road that you turned

147

1 south down?
2 **A. That's correct.**
3 Q. And then a Unadilla Drive that's a little bit further to
4 the north -- further west, and then it goes north, I
5 should say?
6 **A. That's correct.**
7 Q. When you lose sight of it, it's still west towards
8 Stockbridge near -- excuse me, on Doyle Road near
9 Unadilla Drive?
10 **A. That's correct.**
11 Q. And you don't ever see it turn, and it continues that
12 direction?
13 **A. That's correct.**
14 Q. If you keep going in that direction, pretty soon you get
15 to Stockbridge?
16 **A. That's correct.**
17 MR. ROTH: I have nothing further, Your Honor.
18 THE COURT: Thank you, Mr. Roth.
19 Mr. Morley?
20 MR. MORLEY: Thank you, Judge.
21 CROSS-EXAMINATION
22 BY MR. MORLEY:
23 Q. Mr. Stein, first and foremost, you never saw Mr. Kelsey
24 in the bar that evening, right?
25 **A. That's correct.**

148

1 Q. And he wasn't the guy that was hassling girls in there
2 that night, right?
3 **A. That's correct.**
4 Q. Okay. You didn't notice a white SUV in the parking lot
5 when you were leaving, right?
6 **A. That's correct.**
7 Q. And you can't give -- well, the only identifying
8 characteristics that you know of is it had some type of
9 unique taillights. Is that right?
10 **A. I seen chrome around the bezels of the taillights.**
11 Q. Would it appear aftermarket or as if somebody had done
12 something to them?
13 **A. It looked like -- to me it was, like, a very high end**
14 **SUV. Like, it had all the possible equipment on it that**
15 **you could possibly get, kind of thing.**
16 Q. But you can't tell who was driving; white, black, male,
17 female?
18 **A. I could not.**
19 Q. How many occupants?
20 **A. I could not.**
21 Q. License plate?
22 **A. I did not.**
23 Q. Were you able to identify what type of vehicle it was
24 other than an SUV?
25 **A. It looked like a very large GM Suburban-type vehicle.**

149

1 Q. The last you saw it was when you turned on Unadilla,
2 right?
3 **A. That's correct.**
4 Q. And the prosecutor had the map up here. That's a little
5 less than halfway between the Dam Site and Village of
6 Stockbridge?
7 **A. Yeah, I would say so.**
8 MR. MORLEY: All right.
9 That's all I have. Thank you.
10 THE COURT: Thank you, Mr. Morley.
11 Mr. Roth, do you have any redirect examination?
12 REDIRECT EXAMINATION
13 BY MR. ROTH:
14 Q. Just to clarify, sir, when Mr. Morley says you didn't
15 notice a white SUV in the Dam Site parking lot and you
16 say "No," is it that there wasn't one there, or are you
17 just not looking around?
18 **A. I was not looking around.**
19 MR. ROTH: Nothing further.
20 THE COURT: Okay. Thank you, Mr. Roth.
21 You may step down, sir. Thank you.
22 (At 12:41 p.m., the witness
23 stepped down from the witness
24 stand.)
25 MR. ROTH: That's our day, Your Honor.

150

1 THE COURT: All right. Ladies and Gentlemen of
2 the Jury, we will recess for the day. And to remind you
3 that tomorrow is Wednesday.
4 It is Wednesday tomorrow, isn't it? And so you
5 will not need to report tomorrow. Instead, we'll have
6 you report on Thursday morning. The same program you
7 have been following so far. Meet downstairs. Mr. Adkins
8 will come down and get you about 8:15.
9 Again, in the interim, do not read, watch,
10 listen to any news reports at all about this case. Do
11 not do any research about it, any -- look anything up on
12 the Internet. Do not discuss it among yourselves or with
13 anyone else.
14 And have a good day off. We'll see you
15 Thursday.
16 THE BAILIFF: All rise.
17 (At 12:42 p.m., the jury left the
18 courtroom.)
19 THE COURT: Mr. Roth, anything we need to put
20 on the record before we adjourn for the day?
21 MR. ROTH: I spoke to Your Honor and Mr. Morley
22 about our schedule going forward. Initially I thought we
23 would rest somewhere in the middle of Thursday. I think
24 we ran a little behind today.
25 There is some debate. I think we'll probably

151

1 end either last thing Thursday or pretty early on Friday.
2 Mr. Morley is going to get me a list of the witnesses
3 that we subpoenaed that he would like tomorrow, and I
4 will have them put on the hotline to come in on Friday.
5 THE COURT: All right.
6 Mr. Morley?
7 MR. MORLEY: I don't think it's going to be an
8 issue.
9 Mr. Roth and I exchanged e-mails this morning.
10 I have an expert whose availability stops after Monday.
11 I don't think it will be an issue. My thought was
12 absolute worst case if something happened and somehow
13 we're still taking the case in chief on Monday, and I
14 doubt it, but, perhaps, the jury could be asked to stay
15 for more of the day that day because, otherwise, my
16 expert, unbeknownst to me -- I just found this out last
17 night. He was unavailable. Monday is the eighth. He's
18 unavailable on the ninth through the twelfth. Again, I
19 don't think it's an issue, but I'm just putting it out
20 there.
21 THE COURT: All right. I appreciate that,
22 Mr. Morley. Let's make some assessment on Thursday.
23 We'll see where we stand at that point. It would be
24 appropriate at that time, in any event, to give the jury
25 some idea how much longer we anticipate. And so we can

152

1 make some assessments. And if need be, if that issue
2 arises as to Monday, we'll need to talk about that
3 because that will require some adjustments in my Monday
4 afternoon hearing schedule, but we'll take it as it
5 comes.
6 Anything else then for the record, Mr. Morley?
7 MR. MORLEY: No, sir.
8 THE COURT: Okay. See you all back here on
9 Thursday morning.
10 MR. ROTH: Thank you, Your Honor.
11 MR. MORLEY: Thank you, Judge.
12 (At 12:45 p.m., the matter was
13 concluded for the day.)
14
15
16
17
18
19
20
21
22
23
24
25

153

1 STATE OF MICHIGAN)
) SS.
2 COUNTY OF INGHAM)
3

4 CERTIFICATE OF REPORTER
5

6 I, Melinda I. Dexter, Certified Shorthand
7 Reporter, do hereby certify that the foregoing
8 **153 pages** comprise an accurate, true, and complete
9 (Volume 5 of 9) transcript of the proceedings and
10 testimony taken in the case of the **People of the**
11 **State of Michigan** versus **John C. Kelsey II,**
12 **Case No. 14-1380-FH, on Tuesday, June 2, 2015.**

13 I further certify that this transcript of the
14 record of the proceedings and testimony truly and
15 correctly reflects the exhibits, if any, offered by the
16 respective parties. WITNESS my hand this the
17 twenty-ninth day of November 2015.
18
19
20

21 
22 Melinda I. Dexter, RMR, CSR-4629
23 NCRA Realtime Systems Administrator
24 Official Court Reporter
25 313 West Kalamazoo
P.O. Box 40771
Lansing, Michigan 48901-7971