

STATE OF UTAH,
Plaintiff,
vs.
MEAGAN DAKOTA GRUNWALD,
Defendant.

VOLUME VIII
Case No. 141400517 FS

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P R O C E E D I N G S

(Electronically recorded on May 7, 2015)

THE COURT: Thank you. Please be seated. Good morning everyone. We'll go on the record. Today is Thursday, May 7th, 2015. This is Fourth District Court, Division 10. We're in the matter of State of Utah vs. Meagan Grunwald, case 141400517. We're in the eighth day of trial. Parties are present including Ms. Grunwald, the defendant, all members of the jury as well.

Counsel, are we ready to proceed?

MR. ZABRISKIE: We are, your Honor.

THE COURT: Mr. Zabriskie, your case.

MR. ZABRISKIE: Thank you. Your Honor, defense would recall Meagan Grunwald.

THE COURT: Thank you, Ms. Grunwald. Come forward.

MEAGAN GRUNWALD,

having been previously sworn,
retakes the witness stand,
and testified as follows:

DIRECT EXAMINATION

BY MR. ZABRISKIE:

Q. Meagan, I have just a few more questions that I'd like to ask you. You offered some testimony yesterday about the car that you ultimately ended up in. If I told you the owner of that car and the driver was Chetney Williams, would you agree with that?

1 A. Yes, I would.

2 Q. Did you have the opportunity during this trial of
3 hearing her testimony offered some -- some few days ago?

4 A. Yes, I did.

5 Q. Do you recall that her testimony was that her
6 recollection was that you got into the car before -- before
7 Angel? Do you recall hearing that?

8 A. Yes, I do.

9 Q. Now, your testimony was somewhat contrary to that,
10 according to your memory. Have you had a chance to review
11 her testimony, or have you taken the opportunity to review
12 her testimony and yours as was given yesterday?

13 A. Yes, I did.

14 Q. Were you mistaken when you said you got into the car
15 after -- after Angel did?

16 A. Can you re-ask that, please.

17 Q. Sure. As you've reviewed your testimony and the
18 testimony of Ms. Williams and your own memory, is there the
19 possibility that he -- that you got into the car first?

20 A. Sorry, now that I look back, there is that possibility.

21 Q. You've also seen the videos of -- that have been shown
22 and admitted into evidence, haven't you?

23 A. Yes, I have.

24 Q. In some of those videos, if not -- wherein you are in
25 the video, there are times where it shows you running behind

1 Angel; do you recall that?

2 A. Yes, I do.

3 Q. Did you -- why -- excuse me, strike that. Why didn't
4 you -- or did you have the opportunity to just turn and run the
5 other way?

6 A. When I was running behind him, I was scared that he
7 was going to look back and see me gone, and he was going to
8 come find me and shoot me.

9 Q. I noticed, at least based on our perspective, that
10 there were times, especially at mile marker 222, where your
11 pace slowed almost --

12 A. Uh-huh.

13 Q. -- perceptively slow.

14 A. Uh-huh.

15 Q. Were you thinking, or was that a purposeful act on
16 your part?

17 A. (No verbal response).

18 Q. Just take a deep breath.

19 A. I don't really know how to describe it --

20 Q. Do your best.

21 A. -- but you just to have been there.

22 Q. Did you -- what did you think he would do if he saw
23 you running the other way; what was your state of mind?

24 A. That he was basically going to run after me and shoot
25 me.

1 Q. Well, let's move on. What -- I notice that in some of
2 the materials that you -- or during some of the testimony, and
3 I'll ask you if you've heard the same thing, you were asked on
4 more than one occasion whether in fact you were being intimate,
5 by that having sex with Angel; and your response was no. Was
6 that the truth?

7 A. No, it wasn't. I was just --

8 Q. Why didn't you tell them the truth?

9 A. Because I was scared and I was really embarrassed
10 about it.

11 Q. About having sex with him?

12 A. Uh-huh.

13 Q. Is it still embarrassing for you?

14 A. Yes, it is.

15 Q. Now, on the date in question, which is January 30th of
16 2014, did you tell anyone else that Angel had threatened you?

17 A. Just Sergeant Patty Johnston.

18 Q. You also testified that there was a time during -- on
19 I-15 when you indicated that you would drive back to your home
20 in Draper --

21 A. Uh-huh.

22 Q. -- to -- for the purpose of getting ammo. Did you
23 think you had a choice in that matter?

24 A. No, I didn't.

25 Q. What were you thinking?

1 A. I was thinking that driving on the way back to my
2 house it would give me more -- I don't know if "opportunities"
3 is the right word.

4 Q. That's good enough.

5 MR. ZABRISKIE: Your Honor, thank you. Defense has no
6 more questions.

7 THE COURT: Thank you. Ready for cross, Mr. Pead?

8 CROSS EXAMINATION

9 BY MR. PEAD:

10 Q. Ms. Grunwald, I'm sure you've seen me in the Court.
11 You know what my role in this case is?

12 A. Yes, I do.

13 Q. Okay, I'm going to be asking you a number of questions
14 about things, and my questions are going to be what are called
15 "leading questions." That means unless I ask you to expound on
16 them, they're going to be "yes" or "no" questions, okay?

17 A. Yes, sir.

18 Q. If you don't understand a question I ask, you can tell
19 me, "I don't understand" or something like that, okay?

20 A. Okay.

21 Q. Ms. Grunwald, you have a lot on the line, don't you?

22 A. Can you rephrase that, please.

23 Q. You're facing serious charges?

24 A. Yes, sir.

25 Q. Obviously you want things to come out as well as

1 possible for yourself?

2 A. Yes, sir.

3 Q. So you would want to present things in the best
4 possible light?

5 A. No, sir.

6 Q. You wouldn't?

7 A. I just say things that I remember.

8 Q. You heard your attorney in opening say that this has
9 been the first time you've been meaningfully able to tell your
10 story?

11 A. Yes, sir.

12 Q. That's come after you've seen all of the evidence
13 you're facing?

14 A. Yes, sir.

15 Q. And that evidence has been revealed to you very
16 specifically?

17 A. Yes, sir.

18 Q. You've prepared a lot for your testimony, haven't you?

19 A. Yes.

20 Q. You've reviewed the evidence, as you've just told your
21 attorney?

22 A. Yes, sir.

23 Q. You've gone through your testimony?

24 A. Yes, sir.

25 Q. You're in a bit of a conundrum, aren't you?

1 A. What does that mean?

2 Q. Well, your testimony about what happened in the Tundra
3 cannot be directly contradicted by anybody else, because Jose
4 Angel Garcia's dead?

5 A. Yes, sir.

6 Q. But this cuts both ways, correct, because no one can
7 corroborate anything that you are saying happened in the
8 Tundra?

9 A. Yes, sir.

10 Q. No one saw Jose Angel Garcia threaten you?

11 A. No, sir.

12 Q. No one heard Jose Angel Garcia threaten you?

13 A. Correct.

14 Q. No one ever saw Jose Angel Garcia point a gun at you?

15 A. Yes.

16 Q. No one can corroborate your claim that you were
17 breaking up with Jose Angel Garcia?

18 A. Yes, sir.

19 Q. You told no one about this?

20 A. No, sir.

21 Q. Your Uncle Buck took the stand, didn't he?

22 A. Yes, sir.

23 Q. He never testified about a discussion between he and
24 you about Jose Angel Garcia, did he?

25 A. Not that I can remember.

1 Q. Okay, isn't all the testified to was that you and Jose
2 Angel Garcia said, "We're going to go get some friends to help
3 us move," and he said, "Well, isn't that what a phone is for?"
4 Do you remember that?

5 A. Yes, sir.

6 Q. Now, you're saying that story about going to get
7 friends to help you move was a falsehood?

8 A. Yes, sir.

9 Q. So isn't your general explanation, "The dead guy who
10 can't contradict anything I say made me do it all"?

11 A. Can you rephrase that, please. I'm sorry I don't
12 understand what you're asking.

13 Q. Okay, most -- much of your testimony has been that
14 anything that makes it look bad for you was Jose Angel Garcia's
15 fault; isn't that true?

16 A. No.

17 Q. We've talk --

18 MR. PEAD: May I have just a second.

19 THE COURT: Yes.

20 Q. BY MR. PEAD: We've said Jose, and we've had a number
21 of people say Jose. I just want to make sure we're talking
22 about the same person.

23 MR. PEAD: Could I approach the witness, your Honor.

24 THE COURT: Yes.

25 Q. BY MR. PEAD: State's Exhibit 120, who is this?

1 A. Angel.

2 Q. So this is Jose Angel Garcia?

3 A. Yes, sir.

4 Q. Other than you, we only have two statements from Jose
5 Angel Garcia on January 30th of 2014, correct?

6 A. Correct, sir.

7 Q. The first is that he told his Uncle Jose that his
8 girlfriend's family was protecting him. Correct; you heard
9 that testimony?

10 A. Yes.

11 Q. You remember him having a phone call in Spanish with
12 someone?

13 A. Yes, sir.

14 Q. The second was Deputy Al Taylor's testimony when he
15 said, "Aren't you going to let me kiss my girlfriend with my
16 last dying breath?" Is that -- do you remember that testimony?

17 A. Yes, I do.

18 Q. Okay, and so objectively we have to test all of your
19 statements against the things that you said and the things that
20 you did; is that correct?

21 A. Yes, sir.

22 Q. Now, when did you and Jose Angel Garcia start having
23 sex?

24 A. I believe it was late October, early November.

25 Q. Okay, and you've kind of understandably brushed over

1 this subject in your testimony.

2 A. Yes, sir.

3 Q. It's embarrassing?

4 A. Yes, sir.

5 Q. I don't bring this up to embarrass you, okay?

6 A. Okay.

7 Q. But you and Angel would talk about sex in text
8 messages, correct?

9 A. A little.

10 Q. Okay, and you would have sex together?

11 A. Yes.

12 Q. And you told him in text messages that sex made you
13 feel really close to him?

14 A. I don't recall saying that.

15 Q. If I were to show you that text message, would that
16 refresh your recollection?

17 A. Yeah.

18 Q. I'll find that in a minute. In January of 2014 you --
19 you basically dropped out of school, correct, or you checked
20 out?

21 A. Yes.

22 Q. Your plan was to finish by some other means?

23 A. Yes, sir.

24 THE COURT: I need you to speak louder, if you would,
25 Ms. Grunwald.

1 THE WITNESS: Sorry.

2 THE COURT: So we can pick you up.

3 Q. BY MR. PEAD: Riverton High School figured out a way to
4 graduate you based on what you'd already done with other stuff,
5 correct?

6 A. Correct.

7 Q. You were supposed to go back on the 31st to fill out
8 paperwork in order for that to be accomplished; is that
9 correct?

10 A. Yes, sir.

11 Q. You weren't able to do that, but the graduated you
12 anyway?

13 A. Yes, sir.

14 Q. All of these accolades, your GPA, your diploma, your
15 student of the month, which are commendable, did you ever hang
16 any of those on the wall of your bedroom?

17 A. They were in the front room.

18 Q. Okay, and in your bedroom you in fact displayed tokens
19 of your mutual affection between you and Jose Angel Garcia?

20 A. No, I actually had a lot of those before he even moved
21 in the house.

22 MR. PEAD: Can I have just a second.

23 THE COURT: Okay.

24 (Counsel conferring off the record)

25 Q. BY MR. PEAD: I'm going to show you what's been marked

1 Plaintiff's Exhibit 178. Do you recognize that?

2 A. Yes.

3 Q. What is that?

4 A. That is a drawing Angel did.

5 Q. Who is it about?

6 A. Me and him.

7 Q. Okay, you had that displayed in your room, correct?

8 A. Yes, sir.

9 Q. There's a picture with some children above your closet
10 door. Who were those children?

11 A. Most -- pretty much all of them was my pictures and
12 they were of my cousins and stuff.

13 Q. Okay, so 159, these pictures above your closet door?

14 A. Yes, that is my little cousin.

15 Q. Now, you've given many different and contradictory
16 characterizations of your relationship with Jose Angel Garcia
17 in the past, haven't you?

18 A. Yes, I have.

19 Q. You told Sonja Ferrufino that he was just a friend,
20 correct?

21 A. Yes, because at that time he was.

22 Q. Well, I'm not asking for a explanation. Just "yes" or
23 "no."

24 A. Yes.

25 Q. And Evelyn Marse, who's Ms. Marse?

1 A. She was one of my teachers, my counselor.

2 Q. Could you speak up.

3 A. One of my teachers. She was my counselor.

4 Q. You told her Jose Angel Garcia was just your tutor?

5 MR. ZABRISKIE: Objection foundation. Where was this
6 supposedly said.

7 MR. PEAD: I'm just asking if she told her that. It's
8 cross.

9 THE COURT: Overruled. Go ahead and answer.

10 THE WITNESS: Yes, I have.

11 Q. BY MR. PEAD: To your dad, you told him that you weren't
12 having sex?

13 A. Yes.

14 Q. Just friends?

15 A. Yes.

16 Q. To your mom, same thing, just friends, not having sex?

17 A. Yes.

18 Q. Yet to Anna and Rosa Smock, you said he was a best
19 friend, right?

20 A. Yes.

21 Q. A lover; and even your text messages had the tag, "In
22 love," didn't they?

23 A. Yes.

24 Q. You even spoke of him as your fiancé, that you were
25 going to get married to him?

1 A. No.

2 Q. You didn't?

3 A. Uh-uh.

4 Q. Did you hear Ms. Smock's testimony that you guys were
5 going to get married?

6 A. Yeah.

7 Q. Any reason why she would make that up?

8 A. We were joking about it at the time.

9 Q. You were joking about it?

10 A. Yeah, so she probably took it serious.

11 Q. I want to show you what's been marked State's Exhibit
12 297. Will you look at that. Did you read that?

13 A. Yes, I did.

14 Q. What's that?

15 A. Do you want me to read it or --

16 Q. Just tell me what it is first.

17 A. It's a text message.

18 Q. From who?

19 A. (No verbal response).

20 Q. Isn't that a text message you sent Angel?

21 A. Yes.

22 Q. What did you say in that text message?

23 A. Smiley face, "I freaking love you, too," smiley face,
24 "Sadie wants to come to our wedding."

25 Q. So you said, "Sadie wants to come to our wedding,"

1 right?

2 A. Yes.

3 Q. Was that a joke, too?

4 A. It was kind of a joke between us, yes.

5 Q. So everybody you talked to about wanting to marry Jose

6 was a joke?

7 A. Yes.

8 Q. Do you remember looking on your phone, doing web

9 searches for wedding dresses?

10 A. A little.

11 Q. A little, okay. What about wedding cakes; didn't you

12 search for wedding cakes?

13 A. Yes.

14 Q. And wedding rings?

15 A. Yes.

16 Q. And how to give a guy a ring?

17 A. Yes.

18 Q. In the candy bar card video that we played, you made

19 that card for Angel, correct?

20 A. Yes, I did.

21 Q. In that, you said you couldn't wait to give him a

22 ring?

23 A. Yes, I did.

24 Q. You talked about sex stuff, too?

25 A. Yes.

1 Q. According to this text message, that means you would
2 have been engaged by December 18th, because that's when that
3 text was sent, correct?

4 A. Correct.

5 Q. You testified that it got serious in November,
6 correct?

7 A. Yes, sir.

8 Q. You already knew that Jose Angel Garcia was everything
9 you wanted, right?

10 A. At the time.

11 Q. You told Ms. Smock you were going to go to Mexico and
12 live with he and his kids?

13 A. Yes.

14 Q. You also told two months in a row that you believed
15 you were pregnant with his child?

16 A. Yes, I did.

17 Q. So you've kind of minimized your relationship with
18 Jose Angel Garcia, haven't you?

19 A. Yes, I have.

20 Q. That's because the more serious it is, the more it
21 supports a motive, correct?

22 A. I guess if you want to call it that.

23 Q. To Gustavo -- you heard Gustavo testify, right?

24 A. Yes, I did.

25 Q. To him, you also told him you guys were just friends?

1 A. Yes, I did.

2 Q. To Officer Braegger, you told him Jose was a parolee
3 who was abiding by the law?

4 A. I don't remember saying that.

5 Q. You don't remember the video of you? You said he was
6 on parole, but he's doing great?

7 A. Oh, yeah.

8 Q. Maybe I've just characterized what you said, and I
9 apologize if I did; but you said that he was a parolee that was
10 doing great?

11 A. Yes, I did.

12 Q. You also told Officer Braegger that he had never
13 touched you?

14 A. Yes.

15 Q. Amy O'Neill, do you remember Amy O'Neill?

16 A. No.

17 Q. You talked about Angel's previous girlfriend, Julene
18 Pondus; is that her name?

19 A. I don't -- I don't recall her name.

20 Q. But you spoke to her, too, didn't you?

21 A. I can't put the name and the face together.

22 Q. Okay, but did you speak to Angel's previous girlfriend?

23 A. Yes.

24 Q. You told her, "He's my boyfriend, not yours"?

25 A. Yes, I did.

1 Q. Felicia, Felicia is one of your most loved friends and
2 relatives, correct?

3 A. Correct.

4 Q. She texted you about your mom finding a condom, and
5 you said, "We're not having sex," correct?

6 A. Correct.

7 Q. That was a lie?

8 A. Yes.

9 Q. And even after this incident on January 30th, 2014,
10 when you're with Patty Johnston, you tell her Angel was your
11 protector, protected you from your dad?

12 A. Yes.

13 Q. That your dad thought Angel was molesting you?

14 A. Yes.

15 Q. You said, "He never touched me," right?

16 A. Yes.

17 Q. That wasn't true, either?

18 A. No.

19 Q. You said, "He helped me out so much"?

20 A. Yes.

21 Q. To him, to Angel, you told him -- and I'm just telling
22 you up front right now, I'm going to use the language that's
23 been used. You told him, "You're the best fucking boyfriend
24 ever," right?

25 A. Yes.

1 Q. In this text message you tell him, "We're getting
2 married," basically?

3 A. Yes.

4 Q. Now during the trial, when you're facing very serious
5 charges, now you're testifying Angel Garcia was a kidnaper and
6 a threat?

7 A. Yes.

8 Q. So with all of these stories, how is anybody supposed
9 to know when you are telling the truth regarding Jose Angel
10 Garcia?

11 A. I don't know how to explain it, but you just like had
12 to have been there inside that cab for you to understand it.

13 Q. Okay, when Mr. Zabriskie asks you about why you didn't
14 tell the truth about these things, you said you were scared and
15 embarrassed, right?

16 A. That's true.

17 Q. That's why you lied? Are you scared and embarrassed
18 today?

19 A. No.

20 Q. Prior to January 30th of 2014 you were unwilling to
21 let Jose Angel Garcia go, and he was meant to be your future,
22 correct?

23 A. No.

24 Q. He wasn't? You both were moving, right?

25 A. Not to the same place.

1 Q. Didn't you hear Jeff Adams testify that Angel's stuff
2 was getting packed, too?

3 A. Yes, to move his stuff out of the house.

4 Q. Did you hear your mom say that he was moving with you
5 guys?

6 A. No.

7 Q. Did you hear his probation officer say he was with you
8 guys in Southern Utah and he wanted to transfer his probation
9 down there so he could be with you?

10 A. Yes.

11 MR. ZABRISKIE: Your Honor, I object. I think that's
12 a misstatement of the testimony. It's not my intent to review
13 it at this time, but that's not my recollection. I object the
14 statement of evidence that is not -- to statements that are not
15 in evidence.

16 THE COURT: Sustained.

17 MR. PEAD: I'll rephrase it, your Honor.

18 THE COURT: Sustained.

19 Q. BY MR. PEAD: He told his probation officer he was with
20 you in Southern Utah, and he wanted to transfer his probation
21 down there?

22 A. Yes.

23 Q. We've heard about occasions when your dad has said,
24 "Angel has got to go," right?

25 A. Yes.

1 Q. The first was in November of 2013, and when your dad
2 said he had to go, you punched holes in the wall?

3 A. Yes.

4 Q. And the police were called?

5 A. Yes.

6 Q. And you got cited?

7 A. Yes.

8 Q. Because your dad was trying to come between you and
9 Jose Angel Garcia?

10 A. Yes.

11 Q. You complained on that video that we watched that your
12 dad was upset because you were growing up?

13 A. Yes.

14 Q. But he was upset because you were intimate with Jose
15 Angel Garcia, right?

16 A. I would assume.

17 THE COURT: We're not picking you up at all, Ms. Grun-
18 wald. You're going to have to speak up.

19 THE WITNESS: Okay.

20 Q. BY MR. PEAD: Based on your video that we watched,
21 sometime prior to that, you'd been made aware -- at least
22 in the words you put it in, that he had been convicted of
23 manslaughter for killing someone?

24 A. Yes.

25 Q. Then you -- in the video you said you told him to

1 leave; do you remember that?

2 A. A little, yes.

3 Q. But yesterday when you testified you said you turned
4 around and he was just gone?

5 A. Yes.

6 Q. Do you know which one of those two it really was?

7 A. I can't really recall at the time.

8 Q. I don't know if you need some water. I needed some.
9 There's one there if you need it.

10 A. Thank you.

11 Q. Now, on the second occasion which was in January of
12 2014, you've heard testimony that Jose Angel Garcia pulled a
13 gun on your dad?

14 A. Yes.

15 Q. You again cited with Angel?

16 A. Yes.

17 Q. Over your dad, right?

18 A. Yes.

19 Q. During this period of time preceding January 30th of
20 2014, Felicia tells you about Jose Angel Garcia's previous
21 crime, doesn't she?

22 A. Yes.

23 Q. She even gave you a link to an article?

24 A. Yes.

25 Q. That article had some pretty serious facts in it,

1 didn't it?

2 A. Yes.

3 Q. You read those and said you didn't care; you were
4 standing by Angel and what he said?

5 A. Yes.

6 Q. This was January 15th; was it not?

7 A. (Inaudible).

8 Q. Isn't this after you started saying you didn't believe
9 what he was saying anymore?

10 A. Yes.

11 Q. But you told Felicia you believed him, correct?

12 A. Yes.

13 Q. Kristin Allred, she talked to you about it and she
14 said, "It's a bad idea for you guys to be together," right?

15 A. Yes.

16 Q. She told you to be done with him, right?

17 A. Yes.

18 Q. You heard her testify that she was aware of Angel's
19 age and she was aware of your age, and she told you about that,
20 and told you not to do it?

21 A. I don't recall that.

22 Q. You don't recall her testifying to that, or you don't
23 recall her saying that?

24 A. I don't recall her saying it. All she said to me was
25 that he was in his 20's.

1 Q. Okay, and her testimony, if you heard it, was that you
2 told her to butt out?

3 A. Yes.

4 Q. Now you're saying you didn't know he was older then?

5 A. No.

6 Q. Even if your story was accurate, you still stayed with
7 him after you realized he was lying to you, right?

8 A. Yes.

9 Q. Even to your own Grandma Renate, she told you not to
10 be with him?

11 A. Yes.

12 Q. You told her some explanation about how you care for
13 him, plus he makes a lot of money, right?

14 A. I don't remember saying that to her.

15 Q. Do you remember her testifying to that?

16 A. Yes.

17 Q. You knew he was on parole?

18 A. Yes.

19 Q. Did you believe he was in violation of his parole?

20 A. No.

21 Q. You had a calendar in your room, correct?

22 A. Yes.

23 Q. His parole appointments were on that calendar; were
24 they not?

25 A. I think so.

1 Q. You knew he was using drugs?

2 A. Yes.

3 Q. You knew that he had quit or had been fired for his

4 job?

5 A. I didn't know at the time.

6 Q. When did you know that?

7 A. Later on right before I was going to move.

8 Q. Wouldn't you assume those are violations of his

9 parole?

10 A. I would assume now.

11 Q. You expressed you couldn't wait until you were 18,

12 right?

13 A. Yes.

14 Q. Then you could be with Angel and do whatever you want,

15 get married?

16 A. I guess.

17 Q. In truth, no things and no persons were going to get

18 in your way of being with Angel?

19 A. I guess, if you want to put it that way.

20 Q. You remember on that video with the one incident with

21 police, you recited Jose Angel Garcia's birthday, didn't you?

22 A. Yes, I did.

23 Q. What was that date?

24 A. On the video I think it was '87 or '86.

25 Q. If I were to show you his --

1 THE COURT: Okay, hold on. We're having a hard time
2 hearing you, Ms. Grunwald.

3 THE WITNESS: Sorry.

4 THE COURT: You need to speak up.

5 THE WITNESS: Okay.

6 THE COURT: You were testifying fine before, and now
7 you're kind of a little bit lower. We need to have you speak
8 up.

9 THE WITNESS: Okay.

10 Q. BY MR. PEAD: You can go as close to the mic as you
11 need to, okay?

12 A. Okay.

13 Q. If I were to show you his Kansas ID card would that
14 help refresh your recollection?

15 A. Yeah. Do you want me to read it?

16 Q. Yes, please.

17 A. 1/25/1987.

18 Q. So 1/25/1987?

19 A. Yes, sir.

20 Q. So if my math is correct, and I think that's the date
21 you were citing on the video, then he would have been 26, and
22 just turned 27 before this incident?

23 A. Yes.

24 Q. You gave him a birthday card, correct?

25 A. Yes, I did.

1 Q. I'm going to show you what's been marked as Plaintiff's
2 Exhibit 191. What does it say right there?

3 A. "To Angel."

4 Q. Who wrote that?

5 A. Me.

6 Q. Okay, and there's a lot of words in here. Who wrote
7 these?

8 A. Me.

9 Q. Now, I'm not going to go through this whole thing
10 again; but I want you to read this bottom part right here.

11 A. That part?

12 Q. Yep.

13 A. "With love," and the a comma, and then the next line
14 is, "Your baby girl."

15 Q. How is "baby" spelled?

16 A. B-a-b-b-y.

17 Q. Then over here what does it say?

18 A. Love, your baby girl.

19 Q. And "baby" is spelled the same way?

20 A. Yes, sir.

21 Q. When did you give him this birthday card?

22 A. It was about middle December.

23 Q. The middle of December?

24 A. I mean, sorry, January.

25 Q. His birthday was January 25th, correct?

1 A. Correct.

2 Q. So why would you give him a birthday card in the
3 middle of the month?

4 A. Because I didn't know if I was going to see him on his
5 birthday, because I didn't know where he planned on going.

6 Q. So you're saying you gave it to him because you didn't
7 know where he'd be?

8 A. Yes.

9 Q. And if you gave it to him on his birthday, that would
10 show that he was in the house closer to the time of this event,
11 correct?

12 A. Can you re-say that.

13 Q. If you gave him the birthday card on his birthday, it
14 would show that you had given it to him closer to January 30th,
15 correct?

16 A. Yes.

17 Q. Did you give him anything else with the card?

18 A. Not that I can recall.

19 Q. I'm going to show you Exhibit 156. Do you recognize
20 this?

21 A. Yes, I do.

22 Q. What is it?

23 A. A balloon.

24 Q. What?

25 A. A balloon.

1 Q. A birthday balloon?

2 A. Yes.

3 Q. Did you give him that balloon with the birthday card?

4 A. Yes.

5 Q. That still has air in it, right?

6 A. Yes.

7 Q. Okay, and if I told you this picture was taken on
8 January 30th, that means it would have had to have been there
9 relatively soon to that -- for theirs to be in there, correct?

10 MR. ZABRISKIE: Your Honor, again, he's stating facts
11 that are not in evidence. He's stating speculation and I would
12 object.

13 MR. PEAD: I'm eliciting testimony, your Honor.

14 THE COURT: I'll sustain the objection.

15 Q. BY MR. PEAD: In regard to the way you signed that
16 card, you refer to yourself as his "babby girl" or "baby girl"
17 with two b's, right?

18 A. Yes.

19 Q. And he did the same to you?

20 A. Yes.

21 Q. So even though he may not have changed that tattoo for
22 you, certainly that tattoo was now about you?

23 A. I wouldn't say just about me.

24 Q. Well, who else did he call "babby"?

25 A. He did have other girls.

1 Q. Which ones?

2 A. I don't recall the names, but I remember seeing them
3 with him.

4 Q. Did he have other tattoos?

5 A. I think so.

6 Q. Did he have a tattoo on his back?

7 A. No, not that I remember.

8 Q. He didn't have a tattoo on his back?

9 A. Not that I can remember.

10 Q. So before Jose Angel Garcia, you're working, you're
11 in school, you're looking at professional goals, correct?

12 A. Yes.

13 Q. Then after you've been with him for a while, those
14 kind of go out the window to some extent?

15 A. A little.

16 Q. You quit your job at Holiday Oil, right?

17 A. Yes.

18 Q. Didn't you quit because you wanted to spend more time
19 with Jose Angel Garcia?

20 A. No.

21 Q. That was in December, correct?

22 A. Correct.

23 Q. You talked him getting the job at Dale T. Smith's.
24 How did he get that job?

25 A. He went and applied, and James Horne asked me about

1 him.

2 Q. So you helped him get that job?

3 A. No, I just said I knew him, but I didn't know much
4 about him. I just met him.

5 Q. Your testimony yesterday was that the first time you
6 knew Angel had a gun was the day of this incident?

7 A. Yes.

8 Q. I'm going to show you what's been marked Plaintiff's
9 Exhibit 294. Will you look at this.

10 A. Yes.

11 Q. In this text that was sent to bug, someone says, "Hmm,
12 is Will still awake? I want to look at his AK-47 and his other
13 guns," right?

14 A. Yes.

15 Q. Did you send that text?

16 A. I didn't send it.

17 Q. Isn't this the same kind of language that's used
18 previously when you're talking to bug?

19 A. I didn't send that text, though.

20 Q. Then you text Angel later, right?

21 A. (No verbal response).

22 Q. Isn't this Angel's number right here?

23 A. Yes.

24 Q. So you're texting him, but he's also using your phone?

25 A. Yes.

1 Q. You've heard Will say that he talked to Jose Angel
2 Garcia about guns?

3 A. Yes.

4 Q. You heard previous testimony that your mom told
5 Detective Leany that she saw Jose Angel Garcia shooting a
6 black gun in Southern Utah? Did you hear that testimony.

7 A. No.

8 Q. So Jose Angel Garcia used guns or talked about guns
9 with people?

10 A. From testimonies.

11 Q. But your story is he never talked to you about guns?

12 A. No.

13 Q. Or shot any guns in front of you?

14 A. Just a b.b. gun.

15 Q. Weren't you on the same trip with your mom and Angel
16 in Southern Utah?

17 A. Yeah.

18 Q. But you're saying only your mom observed him shoot?

19 A. Yes.

20 Q. Jose Angel Garcia had pulled a gun on your dad?

21 A. From testimonies.

22 Q. Did you hear Ms. Ferrufino's testimony?

23 A. Yes.

24 Q. She said you testified that a gun was used in that
25 incident.

1 A. No.

2 Q. Was she wrong on that?

3 MR. ZABRISKIE: Your Honor, if I may, he's using the
4 word "testify" and "testimony" as something that's given under
5 oath. A more appropriate environment she may not understand.
6 Just say "say."

7 MR. PEAD: Okay, well, I'm trying to separate what
8 was said that I would elicit her from what was said in Court.
9 That's my purpose.

10 MR. ZABRISKIE: But you're making it sound like it was
11 statement made in Court or under oath, and that's --

12 MR. PEAD: That statement was.

13 THE COURT: Okay, it's not appropriate, Mr. Zabriskie,
14 to go back and forth.

15 MR. ZABRISKIE: I apologize.

16 Q. BY MR. PEAD: I apologized if I mis-phrased that. Did
17 you hear Ms. Ferrufino testify that you told her gun was used
18 in that January incident?

19 A. All I said to her was my dad said there was one.

20 Q. But Ms. Ferrufino didn't equivocate like that, did
21 she?

22 A. I don't -- I don't recall saying that to her, though--

23 Q. Okay, but did you hear --

24 A. -- what she said.

25 Q. -- her say that?

1 A. Yes.

2 Q. You saw the bullets that were entered into evidence?

3 A. Yes.

4 Q. How did those get into the safe?

5 A. Angel asked if he could borrow the safe, and I gave

6 him the key.

7 Q. You gave him the key?

8 A. Yes, I did.

9 Q. Why -- do you know why Jose Angel Garcia would have

10 bullets without a gun?

11 A. He said they were for a friend.

12 Q. You believed the story about him giving them to

13 another friend?

14 A. Yes.

15 Q. Even though you've testified that at this point he's

16 lying to you about all kinds of things?

17 A. Yes.

18 Q. So it sounds like when it will help you, you believe

19 him; is that correct?

20 A. Yes.

21 Q. You said -- you testified that your family doesn't

22 allow guns, right?

23 A. True.

24 Q. They didn't allow sex either, did they?

25 A. No.

1 Q. But that didn't stop that?

2 A. No.

3 Q. The truth is you didn't care as long as you and Jose
4 Angel Garcia were together, about the ammunition or guns,
5 right?

6 A. No.

7 Q. Your mom testified that the safe the bullets and the
8 meth were found in was your safe; is that true?

9 A. Yes.

10 Q. Did you have any other safes?

11 A. No.

12 Q. What kind of a safe was this?

13 A. A small safe.

14 Q. Do you know what the brand is?

15 A. No.

16 Q. I'm going to show you what's been marked Plaintiff's
17 Exhibit 165. Will you look at that. Can you see the brand
18 name on that, on the handle?

19 A. I can't read it.

20 Q. Could it say "Century Safe"?

21 A. Yeah.

22 Q. Okay, I'm going to show you what's been marked as
23 Plaintiff's Exhibit 178, and I'd like to project this one, if
24 we could. Sorry. Okay, Ms. Grunwald, do you recognize this?

25 A. Yes.

1 Q. What is it?

2 A. A picture.

3 Q. What is this pic --

4 THE COURT: That microphone's got to get down.

5 Q. BY MR. PEAD: What was this a picture of?

6 A. Hearts.

7 Q. Is this a drawing Angel drew for you?

8 A. Yes.

9 Q. Okay, now I'm going to -- I'm going to use this laser

10 pointer. I'm going to point out some things and I want you to

11 tell me what they are, okay?

12 A. Okay.

13 Q. Right here, what's there?

14 A. My name.

15 Q. Okay, and right here, what's right there?

16 A. Angel's.

17 Q. Okay, and right here, what's here?

18 A. It says, "Baby," and then (inaudible).

19 Q. Okay, and right here, what's right there?

20 A. A bullet. What does the bullet have on it?

21 A. I can't really see that.

22 Q. Does it say .40SNW?

23 A. No.

24 Q. See it? Sorry, it's an old laser pointer. This is

25 a picture you displayed in you and Jose Angel Garcia's room,

1 correct?

2 A. Yes.

3 Q. Now yesterday you were testifying that you were
4 surprised when he had a gun?

5 A. Yes.

6 Q. You -- you had a lot of personal stuff in that safe,
7 didn't you?

8 A. Yes.

9 Q. In your testimony you've tried to separate yourself
10 from that safe, to some degree?

11 A. Yes.

12 Q. You're going to have to speak up.

13 A. Yes.

14 Q. Because it's incriminating, right?

15 A. I guess.

16 Q. If you were aware of the bullets, that would make your
17 claim regarding the gun less believable, correct?

18 A. I guess.

19 Q. Also, there was methamphetamine in that safe, right?

20 A. Yes.

21 Q. You did -- you saw the exhibits about searches for can
22 you use general anesthesia when you're on meth, that kind of a
23 thing, right?

24 A. Yes.

25 Q. Were those searches you performed?

1 A. Yes.

2 Q. You had -- you had talked about meth prior to January
3 29th, 2014 with friends, hadn't you?

4 A. Just one.

5 Q. Is that Ms. Smock?

6 A. Yes.

7 Q. You asked her for ice?

8 A. Yes.

9 Q. In trial you said the only time you had ever used meth
10 was the day before this incident?

11 A. Yes.

12 Q. The time when we can prove absolutely it was your
13 system -- it was in your system, excuse me?

14 A. Yes.

15 Q. You're going to have to speak up, okay?

16 A. Yes.

17 Q. Now, I'm going to skip ahead a little bit, okay?

18 A. Okay.

19 Q. To when you were on I-15, and you turned around in the
20 median to go back north.

21 A. Yes.

22 Q. This was after Officer Gurney saw you, okay?

23 A. Okay.

24 Q. You testified that you would take Jose Angel Garcia
25 back to your house to get more ammunition as long as he agreed

1 not to kill your mom or Uncle Buck; is that correct?

2 A. Yes, yeah.

3 THE COURT: I'm sorry?

4 THE WITNESS: Yes.

5 Q. BY MR. PEAD: So you didn't make him promise not to
6 kill anyone else, correct?

7 A. Yes.

8 Q. Is that a "yes"?

9 A. Yes.

10 Q. Including other law enforcement officers?

11 A. Yes.

12 Q. You testified that he made the promise, and you said,
13 "If we go there and you give me the key to the safe, I'll go in
14 the house and get the bullets for you."

15 A. Yes.

16 Q. Is that correct? Okay, I want to skip ahead a little
17 bit again --

18 A. Okay.

19 Q. -- to the 222 scene; do you know where that is?

20 A. Yes, yes.

21 Q. Okay, and when your car comes to an almost stop, Jose
22 Angel Garcia jumps out the passenger side, right?

23 A. Yes.

24 Q. When I say "car," I obviously mean your Tundra. I
25 think you understood that.

1 A. Yes.

2 Q. Then you jump out as well, right?

3 A. Yes.

4 Q. Did you turn off the vehicle?

5 A. No.

6 Q. No?

7 A. Not that I can remember.

8 Q. Did you leave the keys in the vehicle?

9 A. Yes.

10 Q. Okay, I'm going to show you something, Ms. Grunwald.

11 Will you look at this and tell me if you recognize it.

12 A. Yes.

13 Q. What is it?

14 A. My keys.

15 Q. What are they in?

16 A. My truck.

17 Q. Okay, is that what it would have looked like at the

18 scene when you left your door open and ran away?

19 A. Yes.

20 MR. PEAD: Can I mark this. Your Honor, I'd move to

21 admit 312.

22 MR. ZABRISKIE: No objection, your Honor.

23 THE COURT: Thank you. I'll accept and receive State's

24 Exhibit 312.

25 (Exhibit 312 received into evidence)

1 MR. PEAD: I'll just briefly publish this to the jury,
2 your Honor. Oh, may I publish?

3 THE COURT: Any objection?

4 MR. ZABRISKIE: No, your Honor.

5 THE COURT: Thank you.

6 Q. BY MR. PEAD: Now, Ms. Grunwald, I'm going to show you
7 what's been marked as Plaintiff's 313. Do you recognize this?

8 A. Yes.

9 Q. What is that?

10 A. My keys.

11 MR. PEAD: Okay, Amber, could I borrow your scissors
12 again. While I'm doing this, your Honor, I'd move to offer
13 Exhibit 313.

14 THE COURT: Any objection to that?

15 MR. ZABRISKIE: No, your Honor.

16 THE COURT: Accept and receive State's Exhibit 313.

17 (Exhibit No. 313 received into evidence)

18 MR. ZABRISKIE: Can we see it, though, Sam. Are you
19 going to publish that?

20 MR. PEAD: Yeah.

21 MR. ZABRISKIE: (Inaudible).

22 Q. BY MR. PEAD: Ms. Grunwald, I'm going to show you one
23 of the keys on your key ring you've just testified about, okay?

24 A. Okay.

25 Q. Do you see that key?

1 A. Yes.

2 Q. Does that have a word on it?

3 A. Yes.

4 Q. What is the word?

5 A. Century.

6 Q. Okay, that's the same brand as the safe, correct?

7 A. Correct.

8 Q. So would Jose Angel Garcia have to have given you the

9 key to the safe?

10 A. There's also another key.

11 Q. But you already had a key, didn't you?

12 A. Yes.

13 Q. Okay, so prior to January 30th of 2014, Angel is staying

14 with you, correct?

15 A. Yes.

16 Q. That night we have the pings that show his phone and

17 your phone at your house, right?

18 A. Yes.

19 Q. You guys are packing up to move?

20 A. Yes.

21 Q. And previous to this he had given you a ring, correct?

22 A. Yes.

23 Q. I'm going to show you a picture. Do you recognize

24 this?

25 A. Yes.

1 Q. What is that?

2 A. A ring.

3 Q. Is that the ring he gave you?

4 A. Yes.

5 MR. PEAD: Okay, move to offer State's Exhibit 314.

6 MR. ZABRISKIE: No objection, your Honor.

7 THE COURT: Thank you. I'll accept and receive State's
8 Exhibit 314.

9 (Exhibit No. 314 received into evidence)

10 MR. PEAD: May I briefly publish that.

11 THE COURT: Any problem with that?

12 MR. ZABRISKIE: No, your Honor.

13 THE COURT: Thank you.

14 Q. BY MR. PEAD: So this is our backdrop for January 30th
15 of 2014. I'm going to go to the Eagle Mountain scene, okay?

16 A. Okay.

17 Q. You guys say you're going to get friends or whatever
18 and you head toward five-mile pass, right?

19 A. Yes.

20 Q. But you don't get there?

21 A. No.

22 Q. This area, five-mile pass, that's kind of a rural out
23 there area, right?

24 A. Yes.

25 Q. Could be a good place to potentially smoke meth if you

1 don't want to be detected?

2 A. I guess.

3 Q. There was a meth pipe in the truck, correct?

4 A. Yes.

5 Q. Could be a place to have sex if you were trying to

6 hide that from other people?

7 A. I guess.

8 Q. Even a place to potentially shoot guns?

9 A. I guess.

10 Q. You say he shot a gun out the window, but you couldn't

11 see it, right?

12 A. I don't recall saying that.

13 Q. Is that what you said yesterday?

14 A. I said he shot out the window.

15 Q. How many shots did he shoot out the window?

16 A. I believe two.

17 Q. Did you see the gun?

18 A. When he pulled it back inside the cap.

19 Q. So the first time you saw the gun was when he pulled

20 it back inside the cab?

21 A. Yes.

22 Q. After he fired two shots?

23 A. Yes.

24 Q. I thought you said later that the first time you saw

25 the gun was after Sergeant Wride had come.

1 A. I didn't say that.

2 Q. You didn't say that?

3 A. No.

4 Q. You gave two different stories of when you became
5 aware of Jose Angel Garcia's Board of Pardon warrant yesterday,
6 didn't you?

7 A. Yes.

8 Q. The first you said is that you were driving toward
9 five-mile pass, and he got a call from his mom from Mexico
10 because you could recognize it was an international number on
11 the phone?

12 A. Yes.

13 Q. And she told him there was a Board of Pardons' warrant
14 out for him?

15 A. Yes.

16 Q. But later you said after Sergeant Wride had already
17 approached the vehicle, then he told you, "Oh, I've got a
18 warrant out for me. So do whatever I say."

19 A. That's the next time he told me again.

20 Q. But didn't you say that was the first time?

21 A. I don't recall --

22 Q. Was the first time when you're driving out to five-
23 mile pass?

24 A. Yes.

25 Q. So you're driving out to five-mile pass, and Jose

1 Angel Garcia tells you there's a Board of Pardons' warrant out
2 for him. You described his face as going white.

3 A. Yes.

4 Q. You hear this, and you love him?

5 A. Yes.

6 Q. The Board of Pardons' warrant has two ramifications,
7 right? Well, let me explain that. Either he has to check
8 himself in and go back to prison, or he has to abscond --

9 MR. ZABRISKIE: Objection, Counsel is testifying.

10 THE COURT: Overruled.

11 Q. BY MR. PEAD: Either he has to go back to prison or he
12 has to abscond, right?

13 A. (No verbal response).

14 Q. He has to leave, get out of town?

15 A. Yeah.

16 Q. He can't go back to your house because his probation
17 officer already knows he was living with you, right?

18 A. I guess.

19 Q. He can't go to Southern Utah because he told his
20 probation officer he wanted to transfer his probation down
21 there?

22 A. Yes.

23 Q. So the ramifications are no matter what, you're going
24 to lose your boyfriend, right?

25 A. He wasn't my boyfriend at the time.

1 Q. You got emotional, right?

2 A. A little.

3 Q. You -- did you flip around? Because you were headed

4 out to five-mile pass, right?

5 A. Uh-huh.

6 Q. Did you flip around?

7 A. Yes.

8 Q. You said you pulled off to the side of the road

9 because you were emotional?

10 A. Yes.

11 Q. Then the worst possible thing that could happen,

12 happens?

13 A. Yes.

14 Q. Right after he becomes aware of the Board of Pardons'

15 warrant, Sergeant Wride pulls behind you in your vehicle?

16 A. Yes.

17 Q. Jose Angel Garcia says he's not going back to prison?

18 A. (Inaudible).

19 Q. Did he say that?

20 A. Well, I guess.

21 Q. What?

22 A. Yes.

23 Q. You testified yesterday that at some point he commanded

24 you to hit the brakes, right?

25 A. Yes.

1 Q. Where were your feet before you were commanded to hit
2 the brakes?

3 A. At first they were on the brake before Sergeant Wride
4 was there. Then I had my foot still on the brake and I put it
5 in gear.

6 Q. I cannot hear you.

7 MR. TAYLOR: Judge, can she speak up. We can't hear
8 anything she said.

9 THE COURT: We're trying.

10 Q. BY MR. PEAD: We've got to have you speak up, okay?

11 A. Okay.

12 Q. When Mr. Zabriskie was asking you questions you were
13 able to do it. I'm not trying to intimidate you, but I really
14 need you to speak up.

15 A. Okay.

16 Q. So my question was, where were your feet at before you
17 hit the brakes when he commanded you to do it?

18 A. There.

19 Q. Huh?

20 A. They were just there, before they were on the brake.

21 Q. Were they like folded toward the seat; were they just
22 flat footed?

23 A. Just like kind of flat footed.

24 Q. Had you been hitting the brakes previous to this?

25 A. Yes.

1 Q. You'd hit it for long periods of time, right?

2 A. Yes.

3 Q. Then you said at some point he pointed the gun at your

4 head?

5 A. Yes.

6 Q. How did he do that?

7 A. There's like a little console in my truck, and he

8 pointed it up towards my head.

9 Q. So the console's down here, right, if we're sitting?

10 A. Yes.

11 Q. Right?

12 A. Yes.

13 Q. So he's like this?

14 A. No, he's like this.

15 MR. ZABRISKIE: Sam.

16 MR. PEAD: Sorry.

17 Q. BY MR. PEAD: Can you stand up and demonstrate for us

18 what you mean.

19 A. Yes. So my console's right here, and was just like

20 this.

21 Q. So he's pointing it at your head like this?

22 A. Not really back, though.

23 Q. Okay, sorry, I don't mean to bend my back.

24 A. You're fine.

25 Q. So let's pretend I'm sitting, and he's like this.

1 A. Yes.

2 Q. Because when you hold a gun like this, it kind of
3 twists your body, right?

4 A. No.

5 Q. Well, does -- I mean, it doesn't twist your body if
6 I'm pulling it down, right?

7 A. No, because his -- the seat's back.

8 Q. So he's like this?

9 A. Kind of.

10 Q. And he points the gun like this?

11 A. Yes.

12 Q. Okay, you can sit down.

13 MR. PEAD: I want to go to minute 13 of the Sergeant
14 Wride video, and I'm not going to use any audio for this, if no
15 one objects to that.

16 Q. BY MR. PEAD: Okay, Ms. Grunwald, I want you to watch
17 right around 13:05, okay?

18 A. Okay.

19 (Dash cam video played in the courtroom)

20 MR. PEAD: Okay, pause.

21 Q. BY MR. PEAD: Did you see what happened right around
22 13:05?

23 A. Yes.

24 Q. What happened?

25 A. It went into gear.

1 Q. Okay, is this what you're testifying he told you to
2 slam on the brakes, and then he grabbed the column and shifted
3 it?

4 A. Yes.

5 Q. I want to skip ahead to 14:20.

6 A. May I explain what happened?

7 Q. Not right now. I want you to watch the right side
8 of the Tundra. Okay, pause it. What happened right there,
9 Ms. Grunwald?

10 A. The window opens.

11 Q. How does that window open?

12 A. Angel opens it.

13 Q. Mechanically how does it open?

14 A. You have to pull the latch out and then like kind of
15 push it.

16 Q. Okay, so there's a latch there?

17 A. Yes.

18 Q. And you see what he's doing, right?

19 A. Yes.

20 Q. Is his seat in the back position at this point?

21 A. Yes.

22 Q. That we saw in the other pictures?

23 A. Yes.

24 Q. Then the two of you remain in this car for approxi-
25 mately three minutes before he slides open the back and fires

1 at Sergeant Wride, correct?

2 A. Correct.

3 Q. I want to pull ahead to 17:30. Okay, I want to stop
4 it right there. After -- after -- was it before or after the
5 car was shifted into gear that he said he was going to buck
6 him?

7 A. It was before.

8 Q. It was before?

9 A. Yes.

10 Q. So by the time the car has shifted into gear, you know
11 what he's going to do?

12 A. I didn't know at the time.

13 Q. I thought you just said he told you he was going to
14 buck him.

15 A. I don't know what bucking means until after.

16 Q. Well, didn't you testify that the specific words were
17 he was going to buck him in the fucking head?

18 A. Yes.

19 Q. You didn't know what that meant?

20 A. No.

21 Q. He had just shown you the gun and everything and
22 threatened you, purportedly?

23 A. Yes.

24 Q. So for that time between the shifting and the bucking
25 and that stuff, you don't drive away, correct?

1 A. Can you re-say that.

2 Q. So after he says the bucking thing --

3 A. Okay.

4 Q. -- and the car is shifted into gear, from then until

5 Sergeant Wride is shot, you didn't drive away?

6 A. No.

7 Q. You didn't do anything to warn Sergeant Wride?

8 A. No.

9 Q. Jose Angel Garcia had to maneuver around in his seat,

10 correct?

11 A. Yes.

12 Q. He had to position, get his arm set, right?

13 A. Yes.

14 Q. You heard Carrie Garret testify that when she drove by

15 you, she saw you looking in your mirrors; do you remember that

16 testimony?

17 A. Yes.

18 Q. So Jose Angel Garcia slides open the window and begins

19 to fire, and after four shots you start driving away?

20 A. Yes.

21 Q. Those are -- you said they were loud?

22 A. Yes.

23 Q. You said within one foot of your head?

24 A. Yes.

25 Q. Is your truck a king cab?

1 A. I don't know what that means.

2 Q. Well, you could sit in the back, right?

3 A. Yes.

4 Q. There's a seat in the back?

5 A. Yes.

6 Q. And he's by that window. Is that really within this
7 much range?

8 A. This much.

9 MR. PEAD: Let the record reflect your Honor, that --

10 MR. ZABRISKIE: Excuse me, I --

11 MR. PEAD: Good point. I'll make a record, if that
12 will help.

13 Q. BY MR. PEAD: So I'm holding my hand apart is what I
14 estimate is a foot, okay?

15 A. Okay.

16 Q. You did the same, right?

17 A. Yes.

18 Q. You're saying you were within a foot of that gun?

19 A. Yes.

20 Q. You said it was pretty loud?

21 A. Yes.

22 Q. Loud enough to cause damage to your ear, is what you
23 testified?

24 A. Yes.

25 Q. While that loud noise is going on, you said you were

1 able to here him command you to go, to pull away?

2 A. Yes.

3 Q. Even though the gun's going off?

4 A. Yes.

5 Q. You saw how fast that happened?

6 A. Yes.

7 Q. Wasn't it already planned that you were going to pull
8 away?

9 A. No.

10 Q. After you pull away, despite the repercussions sonic-
11 ally of the gun being fired, you maintain your lane just fine,
12 don't you?

13 A. A little, yes.

14 Q. After a few seconds you turn off your hazard lights
15 even?

16 A. Yes.

17 Q. Where are your hazards located?

18 A. On the top of my steering wheel.

19 Q. You pull out at a time when no traffic is coming
20 either east or westbound, correct?

21 A. Correct.

22 Q. Angel, he's back like this, facing Sergeant Wride,
23 right?

24 A. Yes.

25 Q. His view of that lane of traffic is blocked by

1 Sergeant Wride's patrol vehicle?

2 A. Well, his car -- my truck was a little over.

3 Q. Well, but Sergeant -- you saw Sergeant Wride's patrol
4 vehicle. It's a big SUV, right?

5 A. Yes.

6 Q. There's no way Angel could have seen around his
7 vehicle, could he?

8 MR. ZABRISKIE: Your Honor, calls for speculation.

9 THE COURT: Overruled. Go ahead and respond.

10 THE WITNESS: I don't know if he could.

11 Q. BY MR. PEAD: But you had a mirror to that lane, right?

12 A. Yes.

13 Q. To the eastbound lane?

14 A. Yes.

15 Q. And you pulled out right at a time when traffic wasn't
16 coming either direction?

17 A. Yes.

18 Q. Now, you also had a speaker behind you, right?

19 A. Yes.

20 Q. So shell casings could have hit the speaker, and the
21 speaker could have blocked some of the noise you've talked
22 about, correct?

23 A. I don't know if it could.

24 Q. What do you have a speaker for?

25 A. It's a bass speaker.

1 Q. Do you like loud music?

2 A. Uh-huh.

3 Q. So you can crank it up pretty loud in that?

4 A. I don't try to, but I usually sometimes do.

5 Q. Does it have an amplifier, too?

6 A. Yes.

7 Q. You said you thought about jumping out of the car?

8 A. Yes.

9 Q. Why not jump out of the car when you have a police
10 officer right there?

11 A. Because I couldn't find the courage.

12 THE COURT: I didn't hear.

13 THE WITNESS: Because I couldn't find the courage.

14 Q. BY MR. PEAD: Because you couldn't find the courage?

15 A. Yes.

16 Q. Were you worried about Sergeant Wride?

17 A. Yes.

18 Q. You wanted to help an anonymous police officer more
19 than the man you'd previously chosen over everything else?

20 A. Can you re-say that.

21 Q. I'll move on. We see in future scenes, future crime
22 scenes, the only time you jump out of the car is when Angel
23 jumps out of the car, correct?

24 A. Yes.

25 Q. Each time he got out before you, and you followed him?

1 A. Yes.

2 Q. Now, Sergeant Wride doesn't pursue you at all, does he?

3 A. No.

4 Q. He doesn't summon other law enforcement to pursue you,

5 at least as far as you know?

6 A. Yes.

7 Q. Because no -- no cops come after you for quite some

8 time, correct?

9 A. Yes.

10 Q. You said you were surprised Sergeant Wride had been

11 killed?

12 A. Yes.

13 Q. When Angel fired seven rounds at him?

14 A. I thought police officers had bulletproof glass.

15 Q. Okay, well, didn't Angel say he was going to buck him

16 in the fucking head?

17 A. Yes.

18 Q. Let's say it was just mechanical damage, okay?

19 A. Okay.

20 Q. Wouldn't he have been able to call other law enforce-

21 ment to come and get you guys?

22 A. I would assume.

23 Q. So why were you surprised that he was dead -- that he

24 ended up getting killed?

25 A. Because I thought they had bulletproof glass.

1 Q. Isn't it that you don't want to admit that you knew
2 what he was doing?

3 A. No.

4 Q. Now, at some point after this, you and Jose Angel
5 Garcia talk about things, right?

6 A. A little.

7 Q. What?

8 A. A little.

9 Q. Does he say anything about not going back to prison?

10 A. No, not after.

11 Q. You knew he was in violation of his parole, right?

12 A. All I knew is that he had a warrant.

13 Q. Well, you knew he had used drugs, because he used them
14 with you?

15 A. Yes.

16 Q. And you knew he'd quit his job?

17 A. Yes. I didn't know he quit his job. I found that out
18 later, that he got fired.

19 Q. Okay, and you knew he was supposed to go and stay with
20 Gustavo, right?

21 A. Yes.

22 Q. In fact, you were on a phone call, and you told
23 Gustavo, "Oh, I just dropped him off," right?

24 A. Yes.

25 Q. But that wasn't true, was it?

1 A. It was.

2 Q. You heard Gustavo say Angel never was there?

3 A. I dropped him off there.

4 Q. Soon after Sergeant Wride is shot, you talk to your
5 mom on the phone?

6 A. Yes.

7 Q. You heard her testify, right?

8 A. Yes.

9 Q. You heard me ask her if she knew if she'd be able to
10 recognize when you were troubled, that she could sense it in
11 your voice, right?

12 A. Yes.

13 Q. She said, "Yes," right?

14 A. I don't remember her saying just "Yes."

15 Q. Okay, but she testified that she didn't sense anything
16 wrong with you, right?

17 A. Yes.

18 Q. In your testimony you said she asked you if you were
19 okay?

20 A. Yes.

21 Q. You testified that you told her that you loved her?

22 A. Yes.

23 Q. Okay, so are you saying that after this tremendously
24 traumatic experience, you were able to keep it together when
25 you talked to your mom and not reveal anything about what you'd

1 done when she asks, "Are you okay?" and when you tell her you
2 love her you didn't get emotional at all?

3 A. I did, a little, after.

4 Q. Isn't it because you weren't worried about Jose
5 hurting you; you were worried about protecting him?

6 A. No.

7 Q. Very soon after you talk to your mom, Jose talks to
8 his uncle, correct?

9 A. Yes.

10 Q. You heard his uncle testify that he said, "My girl-
11 friend's family is protecting me"?

12 A. Yes.

13 Q. Now, you aren't seen for another hour and a half, are
14 you?

15 A. I think so.

16 Q. You had plenty of time to think of a story if it came
17 to that, didn't you?

18 A. No.

19 Q. You didn't have plenty of time?

20 A. Well, if you want to say it like that, I guess.

21 Q. You heard Sergeant Finch testify that going the speed
22 limit on Redwood Road -- and I'm looking at Exhibit 311 -- that
23 you went this way along Redwood Road, right?

24 A. Yes.

25 Q. Sergeant Finch testified that that route from there

1 to Santaquin Main Street near the freeway would take an hour,
2 right?

3 A. Yes.

4 Q. But you weren't seen for an hour and a half?

5 A. Yes.

6 Q. So what were you and Jose Angel Garcia doing for the
7 other half hour?

8 A. The roads were bad.

9 Q. What?

10 A. The roads were bad.

11 Q. The roads were bad?

12 A. Yes.

13 Q. But you said you were going 55 or so miles an hour on
14 Redwood Road?

15 A. Yes.

16 Q. Isn't that the speed limit?

17 A. I don't know.

18 Q. You're saying it took you --

19 A. I don't remember.

20 Q. -- an extra half hour to travel that distance?

21 A. Yes.

22 Q. You didn't stop anywhere else?

23 A. No.

24 Q. Get something to eat?

25 A. No.

1 Q. Get a drink?

2 A. No.

3 Q. Use the restroom?

4 A. No.

5 Q. Then Greg Gurney pulls behind you, doesn't he?

6 A. (No verbal response).

7 Q. Do you remember Greg Gurney?

8 A. No, I don't.

9 Q. You're going southbound on I-15, and there's a patrol

10 vehicle, it's marked, but it doesn't have lights and sirens on.

11 This is just before you flip around, right? Do you remember

12 seeing Officer Gurney?

13 A. Yes, I remember a police officer car.

14 Q. I can't hear that.

15 A. I remember seeing a police officer car.

16 Q. You remember seeing a police officer car before you

17 flipped around?

18 A. No.

19 Q. You don't remember that?

20 A. No.

21 Q. Okay, but you flip around in the median, and you take

22 the Main -- the Santaquin Main Street exit, right?

23 A. I think that's the exit.

24 Q. If this helps, I'm talking about when Deputy Sherwood

25 sees you.

1 A. Yes.

2 Q. Okay, and you said you turned right, and you went into
3 a gas station or some parking lot, and Angel said, "No, go this
4 way," or something like that, right?

5 A. Well, I turned right, because there was a road, then
6 there's a back road, and I went on that back road.

7 Q. Do you remember Deputy Sherwood's testimony?

8 A. Yes.

9 Q. Didn't he testify that he saw you in his rearview
10 mirror come off the freeway and go left?

11 A. No.

12 Q. He didn't testify to that?

13 A. I don't remember him saying it.

14 Q. Okay, you're saying you didn't just go left to get
15 back right on the freeway?

16 A. No.

17 Q. You're saying you didn't see Officer Gurney behind
18 you; that's not why you flipped around?

19 A. No.

20 Q. Is that confusing?

21 A. Yes.

22 Q. I'm sorry. Your testimony is that you flipped around
23 for this other reason of getting ammunition, not because you
24 saw Detective Gurney?

25 A. Correct.

1 Q. Then you went right and then back towards the freeway?
2 A. Yes.
3 Q. You said that "I'll take you to get ammo if you
4 promise not to kill my mom or my uncle," right?
5 A. Yes.
6 Q. Then you said you took your life into your own hands
7 because you got off the freeway, right?
8 A. I don't remember saying that.
9 Q. Didn't you say that you said, "I don't care. I'm
10 going to get off the freeway because I don't want you to kill
11 my mom and my uncle. I'm going to get off. I'm not going to
12 Draper until you make that promise"?
13 A. I don't remember saying that.
14 Q. You do or don't?
15 A. I didn't say that.
16 Q. He didn't want you to get off the freeway, did he?
17 A. No.
18 Q. He wanted you to proceed to Draper?
19 A. Yes.
20 Q. You did what he told you not to do?
21 A. Yes.
22 Q. He doesn't shoot you, does he?
23 A. No.
24 Q. Right, he never shot you?
25 A. No.

1 Q. Even though you disobeyed what he said to do?

2 A. Yes.

3 Q. You continued to think his threats were real, even
4 though he didn't follow through on it?

5 A. Yes.

6 Q. Then Deputy Sherwood sees you and he flips around,
7 right?

8 A. Yes.

9 Q. Now, he's in a marked patrol vehicle, meaning it has
10 -- it looks like a police car, right?

11 A. Yes.

12 Q. You testified that you heard the sirens as he came
13 behind you?

14 A. I heard sirens, and then I seen him pull behind me.

15 Q. Okay, so you heard sirens, and you heard him pull
16 behind you -- or saw him pull behind you?

17 A. Yes.

18 MR. PEAD: I'd like to play Deputy Sherwood's video,
19 just starting around the time that he's -- oh, perfect.

20 Q. BY MR. PEAD: Okay, Ms. Grunwald, I want you to both
21 watch this and listen for it, okay?

22 A. Okay.

23 (Dash cam video played in the courtroom. Recording
24 is turned on and off throughout witness' testimony.

25 Video portion is not transcribed due to it being too

1 inaudible to transcribe accurately.)

2 Q. BY MR. PEAD: What are you hearing now, Ms. Grunwald?

3 A. A siren.

4 Q. He didn't even have his sirens on when he was behind
5 you, did he?

6 A. No.

7 Q. In fact, he testified to that. He said -- do you
8 remember him saying, "I didn't have my lights or sirens on
9 because I didn't want them to know that I knew who they were
10 and what they'd done;" do you remember that testimony?

11 A. Yes.

12 Q. You're the one that's driving the car, right?

13 A. Yes.

14 Q. You veer to the right and punch the gas?

15 A. Yes.

16 Q. Angel's in a seated back position, right?

17 A. Yes.

18 Q. He couldn't see a patrol vehicle if the lights and
19 sirens aren't on, could he?

20 A. He was kind of sitting up a little.

21 Q. You take off almost immediately as he comes in behind
22 you?

23 A. Yes.

24 Q. You cut off a car right as you turn right, right?

25 A. Yes.

1 Q. Then you race down the road, right?

2 A. Uh-huh.

3 MR. PEAD: Let's go again, Chelsea.

4 Q. BY MR. PEAD: Now, you hit your brakes there, right?

5 A. Yes.

6 Q. Your testimony yesterday was that there were cars in
7 front of you so you had to?

8 A. Yes.

9 Q. Do you see this big turning lane in the left?

10 A. Yes.

11 Q. If there was a car in your way couldn't you have gone
12 into that lane?

13 A. I could have.

14 MR. PEAD: Okay, let's keep going, Chelsea. Okay,
15 pause.

16 Q. BY MR. PEAD: Now, after -- after Deputy Sherwood is
17 shot, you don't keep riding your brakes. You punch the back,
18 don't you?

19 A. Yes, because the cars in front of me right here, their
20 brake lights were off and they went.

21 Q. Well, you had enough room after slowing down to speed
22 up again, right?

23 A. A little.

24 Q. All right.

25 A. There's a car, you only can see it in a couple seconds

1 of the vehicle.

2 MR. PEAD: Let's hit play again. Okay.

3 Q. BY MR. PEAD: Then you flip around right in front of
4 that car, right?

5 A. Yes.

6 Q. You saw Deputy Sherwood had come to a complete stop?

7 A. Yes.

8 MR. PEAD: Play it. All right.

9 Q. BY MR. PEAD: Then you drive right past him?

10 A. Yes.

11 Q. You testified that he fired more than one shot?

12 A. I believe so.

13 Q. You don't drive intimidated after that, do you?

14 A. If you want to call it that.

15 Q. You're very in control. You speed up, flip around,
16 head the other direction, almost without thought?

17 A. I guess.

18 Q. You saw that Deputy Sherwood did not pursue you?

19 A. Yes.

20 Q. Were you surprised he was shot in the head?

21 A. Yes.

22 Q. Why?

23 A. Again, because I thought all police officer cars had
24 bulletproof glass.

25 Q. Well, if he had bulletproof glass couldn't he have

1 kept coming after you?

2 A. I though Angel just disabled the car.

3 Q. Then you testified -- well, (inaudible). At this
4 point you still haven't tried to get out of the car?

5 A. I couldn't find the courage.

6 Q. Even though Jose Angel Garcia had already -- well,
7 let me rephrase that. Even though you had already disobeyed
8 him and got off the freeway and he didn't shoot you?

9 A. (Inaudible).

10 Q. Could Jose Angel Garcia shoot your mom or Uncle Buck
11 from Santaquin?

12 A. No.

13 Q. You said you changed into a four-by-four transmission
14 at some point around this?

15 A. Yeah.

16 Q. You've got to speak up.

17 A. Yes.

18 Q. This was over kind of by the gas station or whatever
19 has been described by the funeral director?

20 A. Yes.

21 Q. How was your car initiated in the four-by-four?

22 A. You put it in neutral and you hit it, or sometimes if
23 you just hit it, it goes, but you have to come to a complete
24 stop.

25 Q. Okay, and is that inside of the cab?

1 A. Yes.

2 Q. Is this four-by-four high or four-by-four low?

3 A. I think it's just a button. It's just a button.

4 Q. No, I mean, which four-by-four gear is it, high or

5 low?

6 A. I don't know.

7 Q. You know a lot about cars, though, right?

8 A. Yes.

9 Q. So you're back on I-15 going southbound, and Trooper

10 Blankenagel shows up?

11 A. Yes.

12 Q. You saw his testimony when he identifies your vehicle

13 as the one they're attempting to locate?

14 A. Uh-huh.

15 Q. Is that a "yes"?

16 A. Yes.

17 Q. And he puts his lights on, correct?

18 A. Yes.

19 Q. Could you see those lights?

20 A. Yes.

21 Q. He's telling you to pull over, right?

22 A. Yes, yes.

23 Q. And you don't pull over?

24 A. No.

25 Q. You're driving very fast?

1 A. Uh-huh.

2 Q. Is that a "yes"?

3 A. Yes.

4 Q. Okay, 90 to 100, even up to 110 miles an hour?

5 A. Yes.

6 Q. And these are less than ideal weather conditions?

7 A. Yes.

8 Q. And you manage it very well, don't you?

9 A. Yes.

10 Q. You're driving very motivatedly?

11 A. No.

12 Q. You're not driving like someone who's crying and

13 scared.

14 A. I'm familiar with my truck.

15 Q. But you're in control, right?

16 A. Yes.

17 Q. After Trooper Blankenagel follows you for a couple

18 minutes, Jose Angel Garcia fires a shot at him?

19 A. Yes.

20 Q. Then law enforcement tries to spike you?

21 A. Yes.

22 Q. You're in the left lane, correct?

23 A. I think so.

24 Q. Well, they're trying to spike you in the left lane,

25 right?

1 A. I think so.

2 Q. Then you maneuver around the spike into the right

3 lane?

4 A. Yes.

5 Q. And they end up spiking Trooper Blankenagel, right?

6 A. Yes.

7 Q. You saw that on the video; but then you're in the

8 right lane, and there's a diesel right in front of you. Is

9 that what was in front of you?

10 A. I know it was a bigger car. I can't really --

11 Q. And I --

12 A. -- it was like a bigger vehicle, sorry.

13 Q. -- I don't remember either. That's why I'm asking.

14 There's some vehicle in front of you at this point, right?

15 A. Yes.

16 Q. Blocking your way?

17 A. Yes.

18 Q. Okay, so you go to the left and collide with Jerry

19 Stansfield's car, right?

20 A. Yes.

21 Q. He was in your way, so you drive into him?

22 A. Yes.

23 Q. I want to show this video just briefly at that ar --

24 at that scene. I know this is hard to see, and I'm going to

25 ask you if this is consistent with what we just talked about,

1 okay?

2 MR. PEAD: For the record, this is Trooper Blankenagel's
3 video at approximately 8:47.

4 (Dash cam video played in the courtroom)

5 Q. BY MR. PEAD: There's the spikes that missed you, and
6 right there -- pause. Okay, what is this right there?

7 A. I can't really see, but I believe that's my car.

8 Q. That's your truck, right?

9 A. Yes.

10 Q. What car is this?

11 A. I think the car that got hit.

12 Q. Uh-huh, the car that you hit?

13 A. I can't really see.

14 Q. Is this the big thing that was in front of you in your
15 way?

16 A. I believe so.

17 Q. Is this wreckage from the collision?

18 A. I believe so.

19 MR. PEAD: Play it.

20 Q. BY MR. PEAD: Then you go in front of Mr. Stansfield,
21 right?

22 A. Yes.

23 Q. And around that diesel?

24 A. Yes.

25 MR. PEAD: Okay, that's good. Thanks, Jess.

1 Q. BY MR. PEAD: You testified yesterday that when you hit
2 Jerry Stansfield's car, Angel -- his head hit the windshield,
3 right?

4 A. Yes.

5 Q. And he was mad?

6 A. Yes.

7 Q. Did he berate you?

8 A. What does that mean?

9 Q. Did he say mean things to you?

10 A. He just yelled at me.

11 Q. How long did he yell at you?

12 A. I don't really know how long, but it was for a little.

13 Q. I can't hear that.

14 A. I said I don't know for how long but I think a little.

15 Q. By "a little," could you estimate?

16 A. Probably like a minute or so.

17 Q. He's yelling at you for a minute or so?

18 A. Yes.

19 Q. He didn't shoot you, did he?

20 A. No.

21 Q. There was that diesel right in front of you, wasn't
22 there?

23 A. Yes.

24 Q. Wasn't that Alonzo Vantassell?

25 A. I'm not for sure.

1 Q. Do you remember Alonzo Vantassell's testimony?

2 A. Yes.

3 Q. He said he heard a shot, but he thought it was his
4 tire exploding, right?

5 A. Yes.

6 Q. Then he looks over, and Angel's out the window, and he
7 fires two more shots at a semi, right?

8 A. Yes.

9 Q. So you're saying Angel Garcia had the presence of
10 mind to bang his head, berate you for a minute, and then roll
11 down the window and fire three shots out of his car at Alonzo
12 Vantassell, as you're passing him right after hitting Jerry
13 Stansfield?

14 A. Can you re-say that. Sorry, I got confused.

15 Q. Sorry, it's -- there's a few elements to this, and
16 I'll try and slow it down, okay? You're saying Angel banged
17 his head, berated you for a minute, rolled down the window,
18 and then fired three shots at Alonzo Vantassell's semi right
19 as you drive past it after hitting Jerry Stansfield's car?

20 A. Yes.

21 Q. Now, your truck at this point is no longer capable of
22 you guys escaping, correct?

23 A. If you want to call it that.

24 Q. That front end is smashed, right?

25 A. Yes.

1 Q. Tire is up somehow?

2 A. I don't know how.

3 Q. So you pull off on the Nephi 222 exit at this point,
4 correct?

5 A. Yes.

6 Q. You said, "It won't turn right," and that is why you
7 stopped where you did?

8 A. Yes.

9 MR. PEAD: I'd like to go to this video briefly.

10 Q. BY MR. PEAD: Is this the same video we watched yester-
11 day?

12 A. Yes.

13 Q. We're at exit 222, correct?

14 A. Yes.

15 Q. This is Trooper Worwood's dash camera at approximately
16 6:56.

17 MR. PEAD: Will you hit play.

18 (Dash cam video played in the courtroom)

19 Q. BY MR. PEAD: Okay, Ms. Grunwald, do you notice some-
20 thing about this road?

21 MR. PEAD: Pause.

22 THE WITNESS: Yes.

23 Q. BY MR. PEAD: What's the road doing?

24 A. Goes this way and like about right here it gets
25 bigger.

1 Q. Okay, so the road curves to the right, correct?

2 A. Yes.

3 Q. So if it curves to the right, and you can't maneuver
4 your steering to the right, how did you not just drive off the
5 road?

6 A. Because my brakes didn't work. So I basically had no
7 control of my vehicle.

8 Q. What I'm saying is you said that you couldn't maneuver
9 your car to the right, right?

10 A. Yes.

11 Q. But doesn't this road curve to the right?

12 A. Yes.

13 Q. So if you can't maneuver to the right, wouldn't you
14 just drive right off the road as it starts to turn?

15 A. Yes.

16 Q. But you didn't, did you?

17 A. Yes, I ended up right here, just off the road.

18 Q. No, I mean, wouldn't you have driven right off the
19 road earlier?

20 A. I guess. I don't know. I couldn't control it at the
21 time.

22 Q. We've seen this video multiple times, right?

23 A. Yes.

24 Q. We see right here Jose Angel Garcia gets out of the
25 car before you do?

1 A. Yes.

2 Q. You see him get out?

3 A. Yes.

4 Q. Then you get out, and you go right towards him, right?

5 A. Yes.

6 MR. PEAD: Okay, I want you to play just briefly,

7 Chelsea. You get out. Pause.

8 Q. BY MR. PEAD: He runs right past you, doesn't he?

9 A. Yes.

10 Q. You went to the front of the truck, and he just jetted

11 it to the south?

12 A. Yes.

13 Q. You went right toward him, and then after he starts

14 going to the south, you chase after him again?

15 A. I guess.

16 Q. So you weren't going in a specific direction. You

17 were just going wherever he went?

18 A. Yes.

19 Q. Isn't it true that Jose Angel Garcia is a lot faster

20 than you?

21 A. Yes.

22 Q. As this is filming, the camera is actually coming

23 closer to you, right?

24 A. Yeah.

25 Q. Isn't the car moving?

1 A. Yes.

2 Q. And the camera is connected to the patrol car, right?

3 A. Yes.

4 Q. Okay, so that's going to change the dimension a little
5 bit. I'm going to have Chelsea play this, and I want you to
6 tell me when it is that you're claiming you stop, okay?

7 A. Okay.

8 Q. If you need -- do you want to go closer to be able to
9 see it better?

10 A. I don't --

11 MR. ZABRISKIE: Your Honor, I'm going to object as to
12 a misstatement of the evidence. She didn't say she came to a
13 complete stop. She said she slowed down and almost stopped.

14 THE COURT: Okay.

15 Q. BY MR. PEAD: Is that what your testimony is?

16 A. Yes.

17 Q. Okay, will it be easier for you to be closer or are
18 you fine doing it here?

19 A. I'm fine doing it right here.

20 Q. Okay, I want you to tell me right when it is that you
21 slow down and almost stop.

22 MR. PEAD: Okay, Chelsea.

23 (Dash cam video played in the courtroom)

24 THE WITNESS: Right there.

25 MR. PEAD: Go back.

1 Q. BY MR. PEAD: At approximately just before 7:25; is
2 that when you're saying?

3 A. Yeah, if you watch, I almost come to a complete stop.

4 MR. PEAD: Okay, play it again. Okay, pause.

5 Q. BY MR. PEAD: Now, you heard every witness from this
6 scene testify, right?

7 A. Yes.

8 Q. And every witness from the scene said Jose Angel
9 Garcia never looked back for you, correct?

10 A. He turned around.

11 Q. He turned around to fire at Detect -- or Officer
12 Robison, right?

13 A. No, he did kind of like a whole 360.

14 Q. Can you show us that on the video?

15 A. I don't know if you can see it on the video.

16 MR. PEAD: Okay, let's play, and go back about two
17 seconds, Chelsea.

18 Q. BY MR. PEAD: I want you to tell me if you see at all
19 on the video where he turns around.

20 A. The sign's in the way. He -- will you go back, please.

21 MR. PEAD: Yeah, please go back.

22 THE WITNESS: When I get like about right there, that's
23 when he like turns around after he fires a first shot up this
24 way.

25 MR. PEAD: Hit play.

1 Q. BY MR. PEAD: Was he like running backwards?

2 A. A little.

3 Q. Because he's still moving on the video, right?

4 A. I wouldn't say a full on run, but he was -- I don't
5 know. It was kind of like a jog, but not really.

6 Q. Okay, in addition to every witness saying Jose Angel
7 Garcia never stopped, they said you never stopped; do you
8 remember that testimony?

9 A. Yes.

10 Q. And you don't stay in your car, even though he's out
11 and running away from you?

12 A. Correct.

13 Q. Rather -- rather than running away from what you
14 perceived as a threat with a gun, you run toward it?

15 A. Yes.

16 Q. There's officers on both sides of you yelling to stop,
17 right?

18 A. I couldn't hear them.

19 Q. Well, yesterday you testified that Jose Angel Garcia
20 yelled something at you, right?

21 A. Yes.

22 Q. What did you say he said?

23 A. Told me to get out and follow.

24 Q. Well, you said he said something as well when you were
25 running, right?

1 A. Yes.

2 Q. What did you say he said?

3 A. "Find a car."

4 Q. "Find a car." So we've got officers from one side
5 yelling at you, we've got Officer Robison on the other side
6 with her PA system yelling at you to stop, and you testify that
7 you can't hear them?

8 A. You can't hear it because the wind was kind of blowing
9 at the time.

10 Q. But Angel Garcia, 30 feet in front of you, you could
11 hear every word he says?

12 A. When he told me that he wasn't 30 feet in front of me.

13 Q. How far in front of you was he?

14 A. Probably about 8.

15 Q. Was it right after you got out of the car?

16 A. Yes, it was right after when I got in front of the
17 vehicle.

18 Q. How does he yell at you?

19 A. (Inaudible).

20 MR. PEAD: Can we go back to that, Chelsea. Pause.

21 Q. BY MR. PEAD: Like here?

22 A. Yes, a little before when I'm like almost right in
23 front of the vehicle.

24 Q. Now, he's not facing you, is he?

25 A. No.

1 Q. But you can hear him say something to you while he's
2 running like this and not facing you?

3 A. Yes, because he's yelling.

4 MR. PEAD: Okay, let's play through that a little bit.
5 Okay, pause.

6 Q. BY MR. PEAD: At this point, you're apprised of the
7 plan to get a car?

8 A. Yes.

9 Q. So you go in front of Chetney and wave your hands or
10 something?

11 A. I was already in -- I was -- I was still kind of in
12 this first lane on this side.

13 Q. Okay, and you're -- you stop her somehow, right?

14 A. Yes.

15 Q. And that enables Jose Angel Garcia to point the gun at
16 her and get her out?

17 A. Yes.

18 Q. Did you tell -- tell Chetney what Jose Angel Garcia
19 was doing?

20 A. No.

21 Q. Did you say anything to her?

22 A. No.

23 Q. He holds -- he holds her up, and the two of you get in
24 the car?

25 A. Yes.

1 Q. Yesterday you testified that he got in the car first
2 and then you got in, correct?

3 A. I think you mis-understood me -- misunderstood me,
4 sorry.

5 Q. No, I think -- well, what did you say yesterday?

6 A. I said that he went over, got her out of the car and
7 I was running to the passenger side. That's when I opened the
8 door, and that's when -- and by the time I opened the door,
9 Chetney was already out of the car and he was already kind of
10 partway in.

11 Q. Okay, and then what did you testify about today?

12 A. That when he got in the car and shut the door, then I
13 shut the door. Well, I was like in full way, so like we almost
14 shut the door at the same time, but I probably was a little bit
15 before him.

16 Q. So is your memory of that better today than it was
17 yesterday?

18 A. Yes, because I was looking back on it.

19 MR. PEAD: Keep playing. Then -- pause.

20 Q. BY MR. PEAD: Did you ever hear the officers from this
21 distance yelling at you to stop?

22 A. No.

23 MR. PEAD: Pause.

24 Q. BY MR. PEAD: Did you hear what Chetney said here?
25 I'm not talking about her testimony. I'm talking about at the

1 scene.

2

3 A. All I remember her saying is asking if she could get
4 the baby out of the back seat.

5 Q. Okay, and did you say anything to her?

6 A. No.

7 Q. Did Jose Angel Garcia say anything to her?

8 A. All I remember him saying is, "You better hurry."

9 Q. And she tried to retrieve that baby?

10 A. Yes.

11 Q. Did she appear to have any difficulty doing that?

12 A. A little.

13 Q. What did you do?

14 A. Just sat there.

15 Q. Did you say anything to her?

16 A. No.

17 Q. Did you say anything to Jose Angel Garcia?

18 A. No.

19 Q. Chetney testified, correct?

20 A. Yes.

21 Q. She did not testify about observing any tears or signs
22 of distress from you, did she?

23 A. Yes.

24 THE COURT: Say that again.

25 MR. PEAD: Me?

1 THE COURT: What was your response?

2 THE WITNESS: Yes, I believe so.

3 Q. BY MR. PEAD: By stopping her, you put her in harm's
4 way?

5 A. Yes.

6 Q. Then after this, the two of you drive away, correct?

7 A. Yes.

8 MR. PEAD: Okay, that's good, Chelsea.

9 THE COURT: Shall we take a recess at this point,
10 Mr. Pead?

11 MR. PEAD: Sure.

12 THE COURT: Take a --

13 COURT BAILIFF: All rise for the jury.

14 (Jury exits the courtroom)

15 THE COURT: Thank you. Please be seated. Counsel,
16 please approach.

17 (Discussion at the bench)

18 THE COURT: Mr. Zabriskie, we're having too much
19 difficulty. Can you speak with her and have her speak up. We
20 can't hear.

21 MR. ZABRISKIE: I was going to ask --

22 THE COURT: My jurors are struggling, and she was
23 fine yesterday. If you would mention to her that this is not
24 helping --

25 MR. ZABRISKIE: I was going to ask (inaudible).

1 THE COURT: -- the situation at all.

2 MR. ZABRISKIE: In fact, I was going to ask for a
3 recess earlier to allow me to --

4 THE COURT: Okay.

5 MR. ZABRISKIE: -- tell her --

6 THE COURT: We're picking it up here, I think Amber
7 says okay.

8 MR. TAYLOR: Is there a hearing device that you have?

9 COURT CLERK: (Inaudible).

10 MR. ZABRISKIE: Judge, one thing is I think that it's
11 a little more appropriate to address her volume with more
12 discretion. I don't meant to be critical of how the Court
13 handled it, but when you said to her that "You spoke fine
14 yesterday," there was an implication there that she is delib-
15 erately trying to speak quietly for the prosecution when she is
16 not so for the defense. So I think --

17 THE COURT: That's a wrong interpretation.

18 MR. ZABRISKIE: Well, that --

19 THE COURT: Don't try and interpret what I'm trying to
20 do.

21 MR. ZABRISKIE: I'm not interpreting what you could do,
22 but I think it's --

23 THE COURT: That sounds like it is to me, and that's
24 not appropriate.

25 MR. ZABRISKIE: -- I don't want the jury to have the

1 impression --

2 THE COURT: Well, I've been around long enough how to
3 handle these, Mr. Zabriskie. If that's the way you interpret
4 it, it's wrong, okay?

5 MR. ZABRISKIE: I'm not questioning your motives,
6 Judge.

7 THE COURT: Sounds to me like you are.

8 MR. ZABRISKIE: No, I'm not. Method not motives.

9 THE COURT: Leave it at that. Leave it at that.

10 MR. ZABRISKIE: Thank you.

11 MR. ZABRISKIE: I'll chat with her. I won't discuss
12 anything --

13 MR. PEAD: I would appreciate that, Dean. Maybe we
14 could put the mic like right by her mouth. This other one.

15 THE COURT: Okay, are we good?

16 MR. ZABRISKIE: Both mics are on, right?

17 THE COURT: Yeah, they're both on.

18 MR. PEAD: Yeah, this one (inaudible). I don't know
19 that it's working, Judge.

20 THE COURT: Let's check that microphone. All right,
21 thank you. I gotcha.

22 COURT BAILIFF: Court is in recess.

23 (Recess taken)

24 (Court and Counsel meet in chambers)

25 THE COURT: This is the State vs. Grunwald matter. All

1 Counsel are present. Mr. Zabriskie.

2 MR. ZABRISKIE: Judge, I am very uncomfortable doing
3 this. We had an exchange at the bench. I didn't address it
4 further in there, not the appropriate setting for it. Waited
5 until the Court took a recess. I do want to make a motion to
6 the Court. This is a matter of preserving the record.

7 I want to motion the Court for a mistrial based on the
8 criticism that we had in the courtroom that we addressed at the
9 bench, specifically after Sam had requested that the defendant
10 speak up, the Court added an instruction to the defendant while
11 she's on the stand in front of the jury saying, "You need to
12 speak louder." We were fine with that.

13 Then the Court added instruction -- or added a comment
14 to record there in front of the jury that said -- the Court
15 stated, "You had no problem yesterday." That's the statement
16 that we have a problem with. There is an implication there
17 that the defendant is intentionally obstructing the prosecution
18 on cross examination.

19 It's not the Court's position to interject itself in
20 such a manner. The Court's supposed to remain neutral. That
21 is a greater -- or it's very important in a case like this.
22 The charges are very serious and the penalties are very grave.
23 We don't question the Court's motive, as I stated, but I think
24 that we do need to preserve a record on it, and based upon
25 these facts and circumstances, we're motioning the Court for

1 a mistrial.

2 MR. PEAD: Your Honor, I don't remember the exact
3 language. Did you write down the Judge's words verbatim?

4 MR. ZABRISKIE: I wrote it down after I sat down.

5 MR. PEAD: I don't remember it. I thought it was some-
6 thing to the effect of "You did just fine yesterday," or some-
7 thing like that. "You were able to speak up yesterday."

8 MR. ZABRISKIE: Even so, it's still the same --

9 MR. PEAD: Just -- could I finish.

10 MR. ZABRISKIE: Yeah, okay.

11 MR. PEAD: I think that could be interpreted as encour-
12 agement, as, "Look, I know this is hard. You can get through
13 this." Additionally, I think the juries -- the jury can draw
14 whatever they want without Judge McDade having said anything,
15 from the way that she's testifying but certainly in the State's
16 mind this is not something that they're going to rely on in
17 light of the huge amount of evidence we have in any way in
18 determining guilt in this matter.

19 Additionally, if it were something of grave concern, I
20 think a curative instruction would be more than sufficient. It
21 may draw more attention, but it would be more than sufficient.

22 THE COURT: It's already in the instruction (inaudible)
23 instruction.

24 MR. ZABRISKIE: May I response, your Honor.

25 THE COURT: Sure.

1 MR. ZABRISKIE: I think there's a difference -- there's
2 no one in the Court that has more status or enjoys more jury
3 affection than the Judge. That's been proven out over 200
4 years of judicial proceedings. When the Judge says something,
5 that more often than not carries more weight than anything
6 else that's said, even than a witness.

7 The inference that was made was that while your
8 attorney is questioning you -- and this is what could be
9 inferred. I didn't -- I don't know that the Judge said this,
10 but "When you were being questioned yesterday you didn't have
11 any trouble." I think there is a possible implication there
12 that it was a purposeful effort on her part today to either
13 obstruct justice or in some way or other impact her testimony.

14 You know what, that -- if that's a possibility, that's
15 fine; but again, when it comes from a Judge it adds -- juries
16 fall asleep on everybody but their Judge.

17 MR. PEAD: If I could add one other thing. I think
18 during my cross I even pointed that out to her, as well.

19 MR. ZABRISKIE: You said -- I didn't hear that.

20 MR. PEAD: I said, "You're having a hard time answering
21 my questions today, aren't you? But you didn't have a hard
22 time yesterday when your own attorney asked you.

23 MR. ZABRISKIE: The difference, though, is your cross
24 examining her. We --

25 MR. PEAD: I recognize that's different.

1 MR. ZABRISKIE: -- have different expectations shown at
2 the bench.

3 MR. PEAD: I'll submit it, your Honor.

4 MR. ZABRISKIE: We'll submit it.

5 THE COURT: Motion denied.

6 MR. ZABRISKIE: Thank you, Judge.

7 (Court and Counsel return to courtroom)

8 COURT BAILIFF: All rise. All rise for the jury.

9 (Jury enters the courtroom)

10 THE COURT: Thank you. Please be seated. Okay, we're
11 back on the record. All parties are present including Counsel,
12 all members of the jury.

13 MR. ZABRISKIE: Your Honor, may I assist her in mic'ing
14 up?

15 THE COURT: Sure.

16 MR. PEAD: Dean, make sure it's turned on this time.

17 MR. ZABRISKIE: Your Honor, I should indicate that I
18 told her that the mic was not on. We were not aware of it at
19 the time, but it is on now.

20 THE COURT: Okay.

21 MR. ZABRISKIE: Can she make some noise to make sure --

22 THE COURT: Yeah, let's see if it's working.

23 THE WITNESS: Is that okay?

24 THE COURT: Sounds like it. Go ahead and touch the top
25 with --

1 THE WITNESS: (Witness tapping microphone).

2 THE COURT: Okay. Mr. Pead.

3 MR. PEAD: All right. Thank you, Judge.

4 Q. BY MR. PEAD: Ms. Grunwald, we were at the point where
5 you and Jose Angel Garcia are driving away. Could you pull
6 that mic down towards you.

7 A. Okay.

8 Q. You and Jose Angel Garcia are driving away from exit
9 222 back down southbound I-15, okay?

10 A. Okay.

11 Q. And soon after you're in the vehicle you note a phone,
12 don't you?

13 A. Yes.

14 Q. Whose phone was that; do you know?

15 A. No, it was just in there.

16 Q. Where was it at?

17 A. On the floor.

18 Q. Of what area?

19 A. On the passenger's side.

20 Q. Okay, so there's a phone on the floor of the passen-
21 ger's side. Who's sitting in the passenger's side?

22 A. Me.

23 Q. What happens with that phone?

24 A. Angel says, "Pick it up," and I pick it up. He told
25 me to unlock it, and I went to go unlock it and there was like

1 a password thing.

2 Q. Then what happened?

3 A. Then he was like -- he started rolling down my window
4 and he's like, "Throw it out the window, and I threw it out the
5 window.

6 Q. So you threw it out the window?

7 A. Yes.

8 Q. Then the vehicle you and Jose Angel Garcia are in gets
9 spiked?

10 A. Yes.

11 Q. It appears from the vehicle, and you can correct me if
12 I'm wrong, that that spike was successful?

13 A. Yes.

14 Q. Did you have to slow down?

15 A. Angel slowed down.

16 Q. Okay, so Angel's driving?

17 A. Yes.

18 Q. It forces you guys to be slower than previously?

19 A. Yes.

20 Q. Did you feel a tire fly off, or was that just in the
21 video?

22 A. I don't recall.

23 Q. Okay, and then Jose Angel Garcia drives into the
24 median?

25 A. Yes.

1 Q. Then into oncoming traffic?

2 A. Yes.

3 Q. He goes by one car, and then does he swerve into

4 Edward Felsing's car?

5 A. It all happened so fast. I just remember him driving

6 -- like just driving straight over. I don't really recall him

7 swerving. It just happened so fast.

8 Q. Have you reviewed the video on that incident?

9 A. Yes.

10 Q. What does it appear like he's doing; could you tell?

11 A. No, I couldn't really tell.

12 Q. Okay, just a second. Then after that car is hit, Jose

13 Angel Garcia pulls immediately off the freeway?

14 A. Yes.

15 Q. And he jumps out?

16 A. Yes.

17 Q. He doesn't even put the vehicle in park?

18 A. Not that I can recall.

19 Q. To this point, again, he has never followed through

20 with any kind of threat he's made against you?

21 A. No.

22 Q. Correct?

23 A. Correct.

24 Q. Or your family?

25 A. Correct.

1 Q. He starts running north, right?

2 A. Yes.

3 Q. You're on the passenger side?

4 A. Yes.

5 Q. Car's still moving, right?

6 A. I don't remember the car moving until I started to run

7 away.

8 Q. Okay.

9 A. I was knelt down and then I seen a car roll down.

10 Q. So you look to your left to the north, and you see

11 Angel running?

12 A. Yes.

13 Q. Law enforcement has been attempting to pull you guys

14 over?

15 A. Yes.

16 Q. They've got lights on?

17 A. Yes.

18 Q. They've got sirens on?

19 A. Yes.

20 Q. Could you hear those sirens?

21 A. At that spot, all I remember seeing is lights. I

22 couldn't hear that well.

23 Q. But you saw -- at the very least you saw lights behind

24 you, police lights?

25 A. Yes, I did.

1 Q. Red and blues?

2 A. Yes.

3 Q. They'd been attempting to pull the car that you're in

4 over for a few minutes, in fact?

5 A. Yes.

6 Q. Yet you jump out yourself, go around the vehicle, and

7 chase after Angel to the north, correct?

8 A. He told me to get out and follow.

9 Q. I didn't ask you what he told you. You got out, went

10 around the vehicle and chased after him while he's running way

11 past where you're at?

12 A. Correct.

13 Q. Was the plan to get another car?

14 A. I don't know what he had in mind.

15 Q. You said you got out because you were trying to save

16 your family yesterday; is that correct?

17 A. Yes.

18 Q. Could he shoot your family from mile marker 216?

19 A. Is that where the other car stopped?

20 Q. Yeah.

21 A. Yes.

22 Q. He could shoot --

23 A. Oh, no, sorry.

24 Q. Law enforcement is yelling at you to stop and get

25 down?

1 A. Yeah.

2 Q. You saw them above you on the freeway at least with
3 their lights, right?

4 A. Yes.

5 Q. You testified yesterday that you saw them with guns?

6 A. Really big guns, yes.

7 Q. Really big guns?

8 A. Uh-huh.

9 Q. Do you know what kind of guns?

10 A. No, I don't know guns.

11 Q. Despite seeing all of that, you continued to run until
12 you heard gunfire?

13 A. No, I ran a little bit and then I got down on my
14 knees.

15 Q. You were running until shots went off, correct?

16 A. That I can recall.

17 Q. So even though you see their lights, and Angel's way
18 over here, you were still running?

19 A. Yes.

20 Q. You didn't -- you didn't put up your hands. You didn't
21 stay in the vehicle, did you?

22 A. No.

23 Q. When did you see the officer pointing a gun in your
24 direction?

25 A. When I got down on my knees and I looked over towards

1 all of the officers that were on the other freeway. They were
2 like starting to go in the middle. That's when I seen them.

3 Q. Okay, so when you were running you couldn't see that
4 he was pointing a gun at you?

5 A. I didn't look over that way.

6 Q. Okay, you were just looking at Angel?

7 A. Yes.

8 Q. Nobody -- nobody ever shot at you, correct?

9 A. That I --

10 Q. Are you aware?

11 A. Not that I -- well, they had -- there were bullets
12 flying towards my direction, but they didn't hit me.

13 Q. You heard bullets come toward your direction?

14 A. Well, I heard them shooting, like towards, and I
15 wasn't sure.

16 Q. Are you sure today?

17 A. That I was --

18 Q. That bullets came your direction?

19 A. Yes, I'm pretty positive.

20 Q. Like they were shooting at you?

21 A. At the time I felt like they were.

22 MR. ZABRISKIE: Your Honor, may I approach and push
23 that mic down.

24 THE COURT: Okay.

25 MR. ZABRISKIE: Thank you. Speak into it.

1 THE WITNESS: Okay, sorry. Yes.

2 Q. BY MR. PEAD: Ms. Grunwald, no one's trying to be
3 critical of you with the volume. We just need to hear it,
4 okay?

5 A. Okay.

6 Q. So I still don't understand what you're saying about
7 shots fired at you. Are you saying shots were fired at you?

8 A. I just heard gunshots and I thought they were towards
9 my direction.

10 Q. Okay, and you heard testimony that you got -- from
11 other witnesses that you got on your knees and you went down,
12 then you went up and you went down; is that correct?

13 A. I didn't go up. I just had arms underneath me, but I
14 didn't go all the way back up.

15 Q. But back to your knees?

16 A. No, I didn't. I went to my knees and I stayed down,
17 but I just had my arms underneath me because I was trying not
18 to get wet.

19 Q. Kind of like posturing like this?

20 A. A little, but not all the way.

21 Q. Now, which way are you facing when you're kind of down
22 like that?

23 A. Kind of northwest, I believe.

24 Q. You're still like towards Angel, right?

25 A. No. My head's towards the officers.

1 Q. Well, initially when Trooper Blankenagel comes up,
2 aren't you kind of laying like you're looking right at Angel?

3 A. No, I'm laying on my stomach.

4 Q. I know, but isn't your head and your body kind of at
5 that angle?

6 A. No, it's angled towards the officers.

7 Q. Then one of the shots hits Jose Angel Garcia in the
8 head?

9 A. Yes.

10 Q. You observe that?

11 A. All I remember is seeing a little bit of like -- it
12 looked like a little bit of red, but I didn't really know at
13 the time exactly what happened.

14 Q. When Angel was shot in the head, where was his gun
15 located?

16 A. I -- well, he had it up pointed towards the officers.
17 Then I remember hearing a gunshot, and then he kind of just
18 like put his face like -- it wasn't -- it was kind of like head
19 first into the snow; but I remember -- his gun I know wasn't on
20 the left hand, so I'm assuming it was on the right.

21 Q. So the gun was in his right hand?

22 A. That's what I'm assuming.

23 Q. Okay, and then it appeared that he'd been shot. He
24 was like -- like this or something?

25 A. Well, he had -- he had this arm like out here, and

1 then I don't know where this hand was, but I just remember him
2 like his face just kind of going like a little bit ahead first,
3 but kind of to the side.

4 Q. That's when he'd been hit?

5 A. That's -- yes.

6 Q. You said yesterday that you thought he might have shot
7 himself.

8 A. Yes.

9 Q. Did you ever see him point his gun at his own head?

10 A. No, I just -- I don't -- like it just happened so
11 quick.

12 Q. Okay, so then why did you tell Patty Johnston that you
13 thought he'd shot himself?

14 A. Because I thought he did at the time.

15 Q. Even though you saw him get shot with his gun out
16 here?

17 A. Well, I just-- okay, so he was -- he was faced towards
18 the officers and he had his arms up, and then I remember hearing
19 a gunshot, and I kind of looked back at the officer that was
20 behind me, I think it's Officer Sheets. Then I just -- then
21 all of a sudden I just seen him like kind of face first down in
22 the snow.

23 Q. Okay, then without thought, you cursed the officers as
24 "fucking ass holes" for shooting him?

25 A. I don't recall saying that.

1 Q. Did you hear Mr. Clarken testify to that?

2 A. Yes.

3 Q. Did you hear Deputy Sherwood testify that you said you
4 shot him in the fucking head?

5 A. No.

6 Q. You don't recall that?

7 A. No.

8 Q. Did you say that?

9 A. No, I just remember he shot in the head.

10 Q. Why did you say that?

11 A. Because I thought he shot himself in the head.

12 Q. Even though you never saw him point the gun at his
13 head when he was shot?

14 A. Yes.

15 Q. You testified -- now, I didn't understand this from
16 your testimony yesterday. Were you identifying the vehicles
17 that were driving by you as a result of what you remember from
18 that day, or as a result of watching the video?

19 A. That day, but at the time I thought there was a bunch
20 more cars passing. Then I looked at the video and I realized
21 there wasn't that many.

22 Q. So, for example, we had the big tractor/trailer that
23 was the car hauler, I believe?

24 A. Yes, sir.

25 Q. Do you remember that from that day or do you remember

1 that from watching the video?

2 A. The day.

3 Q. So all this stuff's going on. Angel's shot. People
4 were -- have testified you're yelling at the police, and you're
5 watching what kind of cars are driving by you?

6 A. Because I'm facing that direction.

7 Q. Then Trooper Sheets pulls up and draws down on you and
8 cuffs you, correct?

9 A. Yes, sir.

10 Q. I believe your testimony yesterday was you were staring
11 down the barrel of a shotgun?

12 A. Yes.

13 Q. Was that your testimony?

14 A. Yes.

15 Q. Didn't you tell your Counsel yesterday that you know
16 nothing about guns?

17 A. I don't know anything about guns.

18 Q. You don't know anything about pistols, rifles, shot-
19 guns? He went through a list with you. AK-47's?

20 A. I remember a shotgun off movies. That's all.

21 Q. So if you don't know anything about guns, how do you
22 know it was a shotgun?

23 A. Because by the view of it and how he was holding it.

24 Q. Is a shotgun held uniquely versus another rifle shaped
25 gun?

1 A. Only how I've seen off movies.

2 Q. So you can -- now you can tell the difference between
3 a shotgun and a different kind of rifle?

4 A. Yes.

5 Q. At this point the situation has reached a conclusion.
6 You're cuffed. Jose Angel Garcia is shot, right?

7 A. Yes.

8 Q. It is only after this point when it's over and there's
9 no going back that you say he kidnaped and threatened you?

10 A. Yes.

11 Q. Trooper Sheets puts you in the car?

12 A. Yes.

13 Q. Then you start to cry, right?

14 A. Yes.

15 Q. Then you stopped crying?

16 A. Yes.

17 Q. Then officers come back toward the car again, and you
18 start crying again when they're close?

19 A. Yes.

20 Q. You refer to Jose Angel Garcia as "baby" or "honey"?

21 A. Yes.

22 Q. I think your attorney even asked you if you said some-
23 thing like, "Come on, baby." Do you remember saying that?

24 A. I don't really recall saying it.

25 Q. Okay, I may be wrong on that. These references of

1 "baby" and "honey," these are references to a person you are
2 now claiming kidnaped you, threatened you, and threatened your
3 family?

4 A. Yes.

5 Q. While you're sitting in your patrol car, in Trooper
6 Sheets' patrol car, you curse law enforcement again. You saw
7 the video; you call them "fucking ho's," right?

8 A. I don't recall saying it.

9 Q. Did you see the video?

10 A. Yes.

11 Q. Is that what you heard?

12 A. A little.

13 Q. A little? There are only two words. That is what you
14 said to the people that got in the way of you being with Jose
15 Angel Garcia, isn't it?

16 A. Can you re-say that.

17 Q. You're cursing them because they got in the way of you
18 being with Jose Angel Garcia?

19 A. I don't recall saying that.

20 Q. I'm not asking you if you said it. I'm saying that's
21 what -- why you're cursing them.

22 A. No.

23 Q. You testified you were a little upset?

24 A. Yes.

25 Q. Is that a fair characterization?

1 A. Yes.

2 Q. So if I understand ths correctly, you were upset at
3 the police because they freed you from a person that you are
4 now testifying kidnaped you?

5 A. Can you re -- can you just repeat the question. Sorry.

6 Q. Yeah, and I'll try and make it more basic. You're
7 testifying that Angel Garcia kidnaped you, and threatened you
8 and threatened your family, right?

9 A. Yes, sir.

10 Q. But then you cursed the officers who shot him and
11 saved you?

12 A. No.

13 Q. Did you ever say, "Thanks for rescuing me"?

14 A. No.

15 Q. Did you ever express relief now that you're safe from
16 your purported kidnaper?

17 A. Yes.

18 Q. To who?

19 A. I didn't say it.

20 Q. Okay, so you didn't say it?

21 A. No.

22 Q. That's what I asked; did you say it? Did you ask
23 Trooper Sheets why he was handcuffing you?

24 A. No.

25 Q. You knew why he was handcuffing you?

1 A. I just assume that he thought that I did everything.

2 Q. Well, wouldn't that have been a good time to tell him

3 kind of what happened?

4 A. I was scared.

5 Q. You complained about the tightness of the handcuffs,

6 right?

7 A. Yes.

8 Q. You complained that your pants were falling down,

9 right?

10 A. Yes.

11 Q. You never complained about your ears hurting?

12 A. They were ringing.

13 Q. You didn't tell Trooper Sheets that?

14 A. No.

15 Q. In fact, you were -- we could hear your frustration

16 regarding the handcuffs.

17 A. Yes.

18 Q. But we didn't -- you didn't ever say anything about

19 your ears ringing?

20 A. No.

21 Q. Or your teeth hurting?

22 A. No.

23 Q. You never misunderstood Trooper Sheets or told him to

24 speak up?

25 A. No, I was kind of scared to ask him.

1 Q. You weren't speaking loud yourself?

2 A. Not that I can recall.

3 Q. In fact, you're not speaking very loud today?

4 A. No.

5 Q. Don't people with hearing problems usually talk loud?

6 A. I'm nervous.

7 Q. You never complained about being cold or wet, did you?

8 A. No.

9 Q. You spoke calmly and at a normal level?

10 A. Yes.

11 Q. During this time you believed you were pregnant?

12 A. No.

13 Q. Didn't you tell people at the detention center that

14 you were pregnant?

15 A. No.

16 Q. You didn't?

17 A. Uh-uh.

18 Q. You understand you're under oath today?

19 A. Yes, I do.

20 Q. You've heard testimony about a statement Jose Angel

21 Garcia made to Al Taylor about, "Are you going to let me kiss

22 my girlfriend with my last dying breath," correct?

23 A. Correct.

24 Q. If you were to hear Jose's voice, would you be able to

25 recognize it?

1 A. A little, yes.

2 Q. Okay, I'm going to play part of Deputy Thompson's dash
3 camera video. Now, he's talking on it, and it's cutting in and
4 out, but I want to hear if you recognize Angel's voice on that
5 recording, okay?

6 (Dash cam video played in the courtroom. Recording
7 too inaudible to be transcribed accurately.)

8 ASSISTANT: I'm sorry, my apologies.

9 MR. PEAD: It's okay, just keep playing it, Chelsea.
10 That's good.

11 Q. BY MR. PEAD: Did you hear Angel's voice on that?

12 A. All I could hear was "breath," but that's all.

13 Q. You heard him say "breath"?

14 A. Yes.

15 Q. Okay, and the statement from Al Taylor was, "Let me
16 kiss my girlfriend with my last dying breath," right?

17 A. Yes.

18 Q. I want to talk to you about some things that happened
19 after Jose Angel Garcia was -- was shot, okay?

20 A. Okay.

21 Q. We've talked a little bit about this, but when Patty
22 Johnston asks for your things, you were unwilling to give the
23 ring to her, correct?

24 A. Correct. Well, I wasn't willing. I asked her --

25 Q. You've heard her testimony that you were not wanting

1 to give her that ring, right?

2 A. Yes.

3 Q. Your explanation yesterday was that it had some value
4 to it and you wanted to give it to your mom for money or some-
5 thing?

6 A. Yes, sir.

7 Q. Did you have money in your wallet at the time?

8 A. Yes.

9 Q. Did you give her your wallet?

10 A. Yes.

11 Q. Without making any fuss about it?

12 A. Yes.

13 Q. How much money was in your wallet?

14 A. \$152.

15 Q. So you had no problem giving her the \$152, but you
16 had a problem giving her the ring, correct?

17 A. Correct.

18 Q. The money was in fact your mother's money, wasn't it?

19 A. Yes.

20 Q. So if you wanted to preserve something for your mom,
21 wouldn't it make sense to preserve the money that was actually
22 hers?

23 A. I thought the ring was worth more.

24 Q. Well, you could have said both, I guess, but you
25 didn't have any problem giving the wallet, did you?

1 A. No, sir.

2 Q. Isn't it because you couldn't bear the thought of
3 losing a memento that Jose Angel Garcia had given you?

4 A. No.

5 Q. You weren't willing to give up the ring that was given
6 to you by a person you claimed was your kidnaper?

7 A. Yes.

8 Q. After this, you made a list of tattoos you wanted to
9 get, right?

10 A. I think so.

11 Q. One of those tattoos was going to be in memory of
12 Angel, correct?

13 A. I don't remember.

14 Q. You don't remember that?

15 A. I don't remember saying that.

16 Q. Do you remember talking about the tattoos you wanted
17 to get?

18 A. Yes.

19 Q. Then after this, you talked to your mom and you told
20 her to keep some of Angel's property for you?

21 A. Correct.

22 Q. You wanted to keep property from the person you are
23 now saying was your kidnaper and threatened you?

24 A. No, sir. Actually will you re-say that, because I
25 kind of got a little confused.

1 Q. Did you have a boyfriend in May of 2014?

2 A. Yes.

3 Q. How was that?

4 A. One of my ex's.

5 Q. He was your boyfriend in May of 2014?

6 A. Yes, the beginning of May.

7 Q. Do you remember a person named Diablo?

8 A. No.

9 Q. You've never talked to a person named Diablo?

10 A. No.

11 MR. PEAD: May I approach the witness, your Honor.

12 THE COURT: Yes.

13 Q. BY MR. PEAD: Ms. Grunwald, I'm going to show you this,

14 okay?

15 A. Okay.

16 Q. Do you recognize that?

17 A. Yes.

18 Q. What is it?

19 A. A card I made.

20 Q. Okay, you made this?

21 A. Well, my friend had this template, and I just put it

22 on an envelope.

23 Q. Okay, is this a letter you sent to your Uncle Buck?

24 A. I don't --

25 Q. If I were to show you the rest of it, would that help?

1 A. Yes.

2 Q. So this was the envelope of a letter you sent to Uncle
3 Buck?

4 A. Yes.

5 Q. When did you send that?

6 A. I can't really remember.

7 Q. Is it dated?

8 A. It's dated March 10th.

9 Q. Of what year?

10 A. Of 2015.

11 MR. PEAD: Okay, your Honor, I'm going to mark and move
12 to admit this exhibit.

13 MR. ZABRISKIE: What was the date she said? I couldn't
14 hear.

15 MR. PEAD: March 10th of 2015. Move to admit 315, your
16 Honor.

17 THE COURT: Any objection?

18 MR. ZABRISKIE: No objection.

19 THE COURT: Thank you. I'll accept and receive Exhibit
20 315.

21 (Exhibit No. 315 received into evidence)

22 Q. BY MR. PEAD: Meagan, will you briefly describe what
23 this picture shows that you drew.

24 A. Two hands together.

25 Q. One of the hands appears to be a female hand; is that

1 correct?

2 A. Yes, I guess.

3 Q. Your other hand is a skeleton hand; is that correct?

4 A. Yes.

5 Q. And the female hand has a ring on it that says "Love"?

6 A. Yes.

7 Q. And the hands are in the shape of a heart?

8 A. Yes.

9 MR. PEAD: Move to publish Exhibit 315, your Honor.

10 THE COURT: No -- any objection?

11 MR. ZABRISKIE: No objection, your Honor.

12 THE COURT: Thank you.

13 Q. BY MR. PEAD: Ms. Grunwald --

14 MR. ZABRISKIE: If I may, your Honor, at the risk of

15 maybe recanting on my -- is that -- may I converse just briefly

16 with Counsel.

17 THE COURT: Okay.

18 (Counsel conferring off the record)

19 MR. ZABRISKIE: No objection, your Honor.

20 THE COURT: Okay, thank you.

21 Q. BY MR. PEAD: This picture was March of 2015, correct?

22 A. Correct.

23 Q. Aren't you still in love with Jose Angel Garcia?

24 A. No.

25 Q. Isn't this a picture of you and him holding hands?

1 A. No.

2 MR. PEAD: Can I have just a minute, your Honor.

3 (Counsel conferring off the record)

4 MR. PEAD: Your Honor, I would tender the witness at
5 this point.

6 THE COURT: Thank you. Redirect?

7 REDIRECT EXAMINATION

8 BY MR. ZABRISKIE:

9 Q. Meagan, would you pull that mic as close to your mouth
10 as you can. Okay, were you aware during your prior testimony
11 that the vest mic was not on before we went to the break? Did
12 you know it was off?

13 A. I didn't know.

14 Q. Okay, and if it's not, you have to speak into the mic.

15 A. Okay, sorry.

16 Q. If I say "speak up," I say it with good intent, okay?

17 A. Okay.

18 Q. All right, now I want to go back, because this has
19 been a little bit lengthy. Let me -- let me go back and start
20 at the end, and then we'll work forward. When you -- at mile
21 marker 216, which is the final scene wherein the car that you
22 were in, not your truck, but the other car was off the road,
23 okay?

24 A. Okay.

25 Q. And you get out of the car at almost the same time

1 that Angel does; do you recall that?

2 A. Yes.

3 Q. Okay, and did you think you had to get out of that
4 car?

5 A. Yes.

6 Q. Why was that?

7 A. Because I felt threatened.

8 Q. Okay, now just to remind you, this whole experience
9 started at 1 o'clock that afternoon; did it not?

10 A. I don't recall the time, but I know it was a little
11 after 12.

12 Q. Okay, and it started with an argument; did it not?

13 A. Yes, it did.

14 Q. During that period of time you've testified already
15 that there was a threat made on you?

16 A. Yes, sir.

17 Q. You testified that you saw something in this man's
18 eyes that you had never seen before?

19 A. Yes.

20 Q. You testified to that?

21 A. Yes.

22 Q. You've testified that during this period of time,
23 this good and heroic Sergeant Wride stops to inquire as to
24 why you're parked there?

25 A. Yes.

1 Q. You testified that he asked you on more than one
2 occasion, "Are you all right?"

3 A. Yes.

4 Q. Were you all right?

5 A. No.

6 Q. Okay, now sometime after that, and without reiterating
7 everything, there's gun firing; is there not?

8 A. Yes, there is.

9 Q. You've testified that -- and we know that at least
10 within that cab seven shells or seven shots range out?

11 A. Yes.

12 Q. What -- as those shots rang out, what was your
13 feeling?

14 A. I was really, really scared.

15 Q. You testified that the sound -- can you describe the
16 sound again.

17 A. I don't know how to really describe it. It was really,
18 really loud. I would say almost like an explosion.

19 Q. Okay, and that -- you've testified, if not yesterday,
20 you testified today that it was a foot from your ear?

21 A. Yes.

22 Q. So you've argued, you've been threatened, you've had a
23 gun go off in the car; is that correct?

24 A. Yes, sir.

25 Q. When you went down that back road now characterized as

1 Redwood Road, was he -- was there conversation between the two
2 of you?

3 A. Just very little.

4 Q. Uh-huh. Did he threaten you?

5 A. A little, yes.

6 Q. Did you think you could get out of that car at that
7 time?

8 A. No.

9 Q. Did you ask to be let out of that car?

10 A. Yes.

11 Q. Have you ever in your life been threatened like you
12 were threatened that day?

13 A. No, sir.

14 Q. Have you ever in your life been as afraid as you were
15 that day?

16 A. No, sir.

17 Q. You indicated that -- I think your testimony was --
18 and I had trouble hearing you, Meagan, I've got to tell you
19 that.

20 A. Okay.

21 Q. You testified, "You had to be there."

22 A. Yes.

23 Q. Do words describe what you felt and the fear you felt?

24 A. No.

25 Q. Okay, now, let me -- I'm going to jump back a little

1 bit. We've talked about that last week that you were in -- in
2 the house that you'd grown up in.

3 A. Yes.

4 Q. Was it during that period right there that last week
5 that you began to learn more about Angel Garcia?

6 A. Yes.

7 Q. For example, now did you find out if he had a pregnant
8 girlfriend?

9 A. Yes.

10 Q. Did you find out that he had more girlfriends than
11 you?

12 A. Yes.

13 Q. Now, were you aware that he was --

14 MR. PEAD: Judge, I'm going to object, it's leading.

15 MR. ZABRISKIE: I'll rephrase, your Honor.

16 THE COURT: Sustain the objection.

17 Q. BY MR. ZABRISKIE: Prior to that week -- okay, let me
18 back up. When you first met this man, did you know anything
19 about his past history?

20 A. No.

21 Q. Ultimately did you find out about his criminal record?

22 A. Yes, I did.

23 Q. Ultimately did you look up his record on the Internet
24 or something like that?

25 A. Yes.

1 Q. Did you ask him about it?

2 A. Yes.

3 Q. What was his response?

4 A. He said -- he explained it, but he said it wasn't like

5 that.

6 Q. Okay, and did you believe him?

7 A. Yes, I did.

8 Q. You do admit that you -- did you care for him?

9 A. Yes, I did.

10 Q. Love him?

11 A. Yes, I did.

12 Q. Did you want to believe him?

13 A. Yes.

14 Q. Okay, now that last week, you're moving; is that

15 correct?

16 A. Yes.

17 Q. You do admit that he was at the house?

18 A. Yes, he was.

19 Q. On the -- on the 30th of Jan -- excuse me, the 30th of

20 January of 2014, on that morning did you pack a bag?

21 A. No.

22 Q. Did you take any type of provisions like you're going

23 on a trip?

24 A. No.

25 Q. Were you asked to get anything in preparation for any

1 long journey?

2 A. No.

3 Q. Was there any discussion about -- did you discuss
4 confrontation with the police?

5 A. No.

6 Q. Did you have anything against law enforcement prior to
7 that day?

8 A. No.

9 Q. Did you know anything about what was in his mind as it
10 relates to that day?

11 A. No, I don't.

12 Q. Uh-huh, now you have testified that he seemed agitated
13 on that -- during that morning of the 30th.

14 A. Yes.

15 Q. Did you know why he was agitated?

16 A. A warrant.

17 Q. Well, that's what you know now. Do you know why --
18 when you were at the house do you know why he was agitated?

19 A. No.

20 Q. Okay, now you proceed -- you've testified that you
21 proceed out -- ultimately you end up on route 73; you remember
22 that?

23 A. Yes.

24 Q. Okay, and there -- is it your testimony that there was
25 arguing?

1 A. Yes.

2 Q. Okay, why were you crying?

3 A. Because I was scared.

4 Q. Uh-huh. Did he threaten you?

5 A. Yes.

6 Q. Was he angry with you?

7 A. Yes.

8 Q. Who else was he angry with?

9 A. Seemed like everyone.

10 Q. Okay, had you ever seen him act like that before?

11 A. No.

12 Q. Did his conduct scare you?

13 A. Yes.

14 Q. Now, when you're -- again, let me back up. You're

15 going down Redwood Road. Did you consider trying to escape?

16 MR. PEAD: Asked -- objection, asked and answered.

17 MR. ZABRISKIE: Your Honor, this is redirect and I have

18 to go -- I'm trying to go over all the ground that was covered.

19 THE COURT: Overruled. Go ahead and respond.

20 THE WITNESS: Can you re-ask that.

21 Q. BY MR. ZABRISKIE: Okay, did you consider the possibi-

22 lity of trying to escape?

23 A. Yes.

24 Q. Why didn't you?

25 A. Because I didn't -- couldn't find the courage.

1 Q. Were you scared?

2 A. Yes, I was.

3 Q. Okay, now you ultimately end up in Santaquin; is that
4 correct?

5 A. Yes.

6 Q. Let me ask you another question. During this whole
7 period of time beginning at 1 o'clock until around 3 o'clock at
8 mile marker 216, had you had anything to eat?

9 A. No.

10 Q. Had you -- had you stopped to go to the bathroom?

11 A. No.

12 Q. Had you had anything to drink?

13 A. No.

14 Q. Tell me again what the condition of your ears were.

15 A. They were ringing.

16 Q. How about your teeth?

17 A. They hurt.

18 Q. Okay, now when -- when there's -- the finality here
19 is Angel's shot. You're off to the side of the road, right?

20 A. Yes.

21 Q. Why did you think Angel had shot himself?

22 A. All I remember hearing is one gunshot, and when I
23 looked over, his face was in the snow, and I didn't see the
24 gun. Like I saw -- I didn't see the gun like at all on the
25 left side, where I could see.

1 Q. Did you testify yesterday that he said that he would
2 shoot you and then shoot himself?

3 MR. PEAD: Objection, leading.

4 THE COURT: Sustained.

5 MR. ZABRISKIE: I'm asking what she testified to --

6 THE COURT: Sustained.

7 MR. ZABRISKIE: -- yesterday. If she didn't, all she
8 can say is "no."

9 THE COURT: Sustain the objection.

10 Q. BY MR. ZABRISKIE: Were you fearful that he would shoot
11 himself?

12 A. I don't know. Can you re-say that.

13 Q. Can you what?

14 A. Can you re-say it.

15 Q. Were you fearful that he would shoot himself?

16 A. A little, yes.

17 Q. Uh-huh. When you were lying alongside of the road and
18 a police officer approached you -- and I -- was that Officer
19 Sheets?

20 A. Yes, I believe so.

21 Q. Okay, and is he the one that had the gun?

22 A. Yes.

23 Q. Was that gun pointed at you?

24 A. Yes, sir, it was.

25 Q. What kind of gun was it again?

1 A. It looks like a shotgun.

2 Q. Okay, did it have a big-- tell me about the dimensions
3 of the barrel.

4 A. It was pretty big.

5 Q. Uh-huh. Did you think he was going to shoot you?

6 A. A little, yes.

7 Q. Okay, now prior to that, you've testified that there
8 are police officers across the road?

9 A. Uh-huh.

10 Q. Did you think they were pointing their guns at you?

11 A. Yes.

12 Q. In fact, there's testimony to that effect, that at
13 least one police officer was looking through his scope. Did
14 you see that?

15 A. I didn't -- I don't remember him seeing through his
16 scope, but I remember his gun coming towards me.

17 Q. Were you fearful that he was going to shoot you?

18 A. Yes.

19 Q. Did you in fact think that they were shooting at you?

20 A. Yes.

21 Q. Okay, did you -- did you feel rescued after they took
22 you into custody?

23 MR. PEAD: Objection, leading.

24 THE COURT: Sustained.

25 Q. BY MR. ZABRISKIE: How did you feel when they took you

1 into custody?

2 A. I was happy that it was just all over.

3 Q. Uh-huh. Did you -- did you thank the police officers
4 for shooting at you?

5 A. No.

6 Q. Did you thank the police officers for placing their
7 knee in your back?

8 A. No.

9 Q. Did you thank them for putting the cuffs on too tight?

10 A. No.

11 Q. How did they treat you during this period of time?
12 I'm talking about when they cuffed you and put you under
13 arrest.

14 A. Pretty bad.

15 Q. Uh-huh. Did you thank them for that?

16 A. No.

17 Q. Were you relieved, though, that -- what was your
18 feelings as it relates to relief?

19 A. I was just so relieved and I couldn't believe that
20 like it was reality going on.

21 Q. Uh-huh, now did Angel at any time -- you've testified
22 that he threatened you with a gun.

23 A. Yes.

24 Q. Did he threaten to do anything else with that gun as
25 it relates to you?

1 A. Sometimes he would like pick it up and I thought he
2 was going to hit me with it.

3 Q. Did that scare you?

4 A. Yes, it did.

5 Q. When you say "pick it up and hit you," can you show us
6 or demonstrate to the jury what his action was?

7 A. He had like his finger still on the trigger, and I
8 thought he was going to hit me with the bottom of the gun.

9 Q. What would-- what would -- based on your recollection,
10 what would provoke him to do -- make that kind of action?

11 MR. PEAD: Objection, speculation.

12 Q. BY MR. ZABRISKIE: If you know.

13 THE COURT: Sustained.

14 THE WITNESS: I don't know.

15 THE COURT: Hold on.

16 MR. ZABRISKIE: Okay.

17 THE WITNESS: I'm sorry.

18 Q. BY MR. ZABRISKIE: Now, when your-- the first telephone
19 call that you had with your mother --

20 A. Yes.

21 Q. -- okay, did Jose say anything about that phone call
22 when it came in?

23 A. He just told me to act like everything was okay.

24 Q. Did he -- did he tell you to answer the phone or not
25 answer it?

1 A. I asked him if I could answer it, and he said, "You
2 better make it fast."

3 Q. Okay, and what else did he say?

4 A. That I better make sure everything's okay.

5 Q. Did you in fact do that?

6 A. Yes, I did.

7 Q. When -- after you had been arrested and you were being
8 taken to Officer Sheets' car, you said something about why you
9 were there. Do you remember what that was?

10 A. I remember telling him that I was kidnaped.

11 Q. Uh-huh. Did you feel like you were taken on that long
12 ride against your will?

13 A. Yes.

14 Q. Was there ever a time that you were not scared?

15 MR. PEAD: Objection, leading.

16 THE COURT: Sustained.

17 Q. By MR. ZABRISKIE: What was your feeling during the
18 entire time?

19 A. I was extremely scared.

20 Q. Question was asked of you, were you pregnant, or did
21 you tell anyone you were pregnant at the detention center.

22 A. No, I didn't.

23 Q. It's a little embarrassing. When did you start your
24 period?

25 A. Around the 20th.

1 Q. Uh-huh.

2 A. Usually. Usually lasts for a week.

3 Q. Uh-huh, you testified to the fact that-- let's go back
4 to mile marker 222. Could you hear any of the instructions
5 that have been demonstrated in this Court as it relates to the
6 police?

7 A. No, I couldn't.

8 Q. But you could hear some of the things that Jose was
9 saying to you?

10 A. Yes, I could.

11 Q. Did you hear everything Jose said?

12 A. No, sometimes I would like I could hear a little bit
13 of something, but I couldn't like very hear like where it was
14 coming from or what it was.

15 Q. Did you think that you had the option -- another
16 option, rather than following him?

17 MR. PEAD: Objection, leading.

18 THE COURT: Sustained.

19 Q. BY MR. PEAD: Did you consider running in the other
20 direction?

21 A. A little, yes.

22 Q. Why didn't you?

23 A. Because I was scared he was going to come find me and
24 shoot me.

25 Q. You've testified that you loved the man?

1 A. I did.

2 Q. At any time during your romance with Angel, was there
3 any discussion as it relates to what happened that day?

4 A. No.

5 Q. Did you at any time that day have any idea as to what
6 lay ahead?

7 A. No.

8 Q. Had you ever even on your own given any thought to
9 that type of adventure or misadventure?

10 A. No.

11 Q. Were you -- you've testified that you were scared.
12 Were there any other thoughts that were in your mind when this
13 -- when this thing started?

14 A. I just thought I wasn't going to see my family again.

15 Q. Is there any -- was there any time during this mis-
16 adventure that you felt, excepting after -- at the end, was
17 there any time that you thought you had another option?

18 A. No.

19 MR. ZABRISKIE: Thank you. No further questions.

20 THE COURT: Thank you.

21 MR. PEAD: I have no re-cross.

22 MR. ZABRISKIE: Oh, excuse me, your Honor. Just one
23 little thing, if I may. Will the Court --

24 THE COURT: Sure, go ahead.

25 MR. ZABRISKIE: -- re-allow.

1 Q. BY MR. ZABRISKIE: I'm going to show you what has been
2 marked as Plaintiff's Exhibit 178.

3 MR. ZABRISKIE: Approach, your Honor.

4 THE COURT: Sure.

5 Q. BY MR. ZABRISKIE: You've already testified that you
6 recognize that.

7 A. Yes.

8 Q. Did you participate in the creation of that?

9 A. No, I didn't.

10 Q. Do you know who the author of that unique picture was?

11 A. Jose Angel Garcia.

12 Q. Okay, and did he -- he called you "Babby"?

13 A. Yes.

14 Q. And there's something pointed out down here at the
15 bottom.

16 A. Yes.

17 Q. You've testified that that looks like -- what does it
18 look like?

19 A. Now that I look at it, it doesn't really look like a
20 bullet.

21 Q. Well, let me ask another question. When you first saw
22 that did you recognize that as anything unique?

23 A. I didn't even notice it.

24 MR. ZABRISKIE: Okay, I offer to re-publish, your
25 Honor.

1 THE COURT: Okay, any objection?

2 MR. PEAD: No, your Honor.

3 Q. BY MR. ZABRISKIE: That tattoo on his neck --

4 A. Yes.

5 Q. --when you first met him did it have the word "Babby"?

6 A. Yes, it did.

7 Q. All right, before you started dating?

8 A. Yes, it did.

9 Q. Thank you. No further questions.

10 THE COURT: Thank you.

11 MR. PEAD: I do have a little cross in light of that.

12 RECROSS EXAMINATION

13 BY MR. PEAD:

14 Q. When I asked you about the bullet, you said you
15 couldn't tell what it was; but then when Mr. Zabriskie just
16 asked you about it, it sounded like you were saying, "I can now
17 tell it's a bullet;" is that correct?

18 A. Can you repeat the question. Sorry, I got a little
19 lost.

20 Q. Do you recognize that as a bullet now?

21 A. Now that I do, yes.

22 Q. Okay, and does --

23 MR. ZABRISKIE: Your Honor, I'm going to object.

24 My recollection was that she did identify it as a bullet when
25 shown to her by -- by Mr. Pead. I think that's a misstatement

1 of the evidence, and we object.

2 MR. PEAD: What's the objection?

3

4 MR. ZABRISKIE: That she did identify it as a cartridge
5 when you asked her on -- on direct. You're saying now that she
6 didn't, and she's responding to --

7 MR. PEAD: I thought she said she didn't know; and I
8 said, "Doesn't it look like --"

9 THE COURT: Okay, overrule the objection.

10 Q. BY MR. PEAD: Do you recognize -- these are State's
11 Exhibit 189. Do you recognize this, Ms. Grunwald?

12 A. Yes, I do.

13 Q. Okay, and what is it?

14 A. They're bullets.

15 Q. Are these the ones that were in your safe?

16 A. Yes, they were.

17 Q. Will you read what's on that bullet stamp right there.

18 A. The whole thing?

19 Q. Just the bottom part right there.

20 A. "40S --" I believe that's an AW."

21 MR. PEAD: That's all I have.

22 THE COURT: Thank you. Anything else, Mr. Zabriskie?

23 MR. ZABRISKIE: No, your Honor.

24 THE COURT: All right, anything else for Ms. Grunwald?

25 MR. PEAD: No, your Honor.

1 THE COURT: May she be excused.

2 MR. PEAD: Yes.

3 THE COURT: Thank you. That's all.

4 MR. GRUNWALD: May I take this off?

5 (No verbal response)

6 THE COURT: Okay, at this time we'll take the lunch
7 recess. Come back at 1 o'clock, and just remind you again with
8 regard to the instructions that you've already received. Any-
9 thing before we break for lunch?

10 MR. PEAD: No, your Honor.

11 MR. TAYLOR: No, your Honor.

12 MR. ZABRISKIE: Judge, just that we have a couple of
13 witnesses that we're going to get here, and we'll get them here
14 as close to 1 as we can.

15 THE COURT: Okay.

16 MR. ZABRISKIE: They're like five or so minutes late.

17 THE COURT: Just let us know.

18 MR. ZABRISKIE: All right.

19 COURT BAILIFF: All rise for the jury.

20 (Jury exits the courtroom)

21 THE COURT: Thank you. We'll be in recess.

22 (Recess taken)

23 THE COURT: Thank you. Please be seated. All right,
24 we are back on the record, State vs. Grunwald matter. Parties
25 are present, including the defendant, Ms. Grunwald, all members

1 of the jury. Mr. Zabriskie, still you case.

2 MR. ZABRISKIE: Thank you, Judge. The defense calls
3 Patty Johnston back to the stand.

4 THE COURT: Okay, come forward, ma'am. Let's have you
5 back in the witness box. Been sworn in already, so just move
6 whatever you don't need in front of you out of your way.

7 THE WITNESS: All right.

8 MR. ZABRISKIE: Thank you. If I may, Judge.

9 THE COURT: Okay.

10 PATTY JOHNSTON,
11 having been previously sworn,
12 retakes the witness stand,
13 and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ZABRISKIE:

16 Q. Patty, how are you?

17 A. I am good. How are you?

18 Q. I'm doing great.

19 A. Good.

20 Q. It's your third time here.

21 A. I know, third time.

22 Q. If you're keeping score, you're winning.

23 A. Am I winning? Okay.

24 Q. Yep. Today we're going to be pretty brief, though.

25 We've gotten through most of the testimony that either side

1 would want to elicit from me, but I've got a couple of items.

2 MR. ZABRISKIE: I've got a couple of items, if I may
3 approach, your Honor.

4 THE COURT: Okay.

5 Q. BY MR. ZABRISKIE: Would you go ahead and identify what
6 you're holding there.

7 A. Is it the same thing? Oh, it's A and B, okay.

8 Q. It's A and B because of the length.

9 A. Okay, this is a DVD recording or a copy of the inter-
10 view that I did with Meagan Grunwald. That looks like it comes
11 out of your law firm.

12 Q. Okay, thank you.

13 A. Uh-huh.

14 Q. These are marked as Defense Exhibits 306-A and 306-B.
15 I just want to ask you if you've had opportunity to review the
16 content of this interview, the recording?

17 A. Yes, sir.

18 Q. Okay.

19 A. Can I -- I was given one DVD and I watched that. So --

20 Q. It's the -- Counsel and I have reviewed this issue.

21 It's --

22 A. Okay.

23 Q. -- the same thing; it's just because of the format we
24 posted and it --

25 A. Okay.

1 Q. -- turned out to be a little long for one disc.

2 A. Okay, sounds great.

3 Q. But you were given opportunity to review the content?

4 A. Yes, I was.

5 Q. Okay, and it reflects the interactions that you had
6 with Meagan Grunwald on January 30th. 2014; is that right?

7 A. Yes, it does.

8 MR. ZABRISKIE: All right, defense moves for the
9 admission of items 306-A and 306-B.

10 MR. PEAD: No objection, your Honor.

11 THE COURT: Thank you. I'll accept and receive Defend-
12 ant's Exhibits 306-A and 306-B.

13 (Exhibit No. 306-A and 306-B received into evidence)

14 MR. ZABRISKIE: Your Honor, what the parties have
15 agreed to do is to reserve publication of these items until
16 Ms. Johnston has been excused from the stand.

17 THE COURT: Is that correct?

18 MR. PEAD: It is, your Honor.

19 THE COURT: Okay.

20 MR. ZABRISKIE: What our intention is, is to ask her
21 whatever questions are relevant to this item while she's still
22 on the stand. Thank you, Judge.

23 Q. BY MR. ZABRISKIE: So I just have a few questions very
24 briefly. On this interview that was taken at the Santaquin
25 Police Department, you -- it was your understanding when the

1 interview was taken that it was not being recorded, right?

2 A. No, I knew it was being recorded.

3 Q. Oh, okay. Okay, so I'm looking here on the -- this is
4 on the DVD counter, because when we put this up on the screen,
5 and as you viewed it, there is the counter at the bottom --

6 A. Uh-huh

7 Q. -- which is the counter that indicates where you're at
8 on the DVD player.

9 A. Uh-huh.

10 Q. Then there's the imbedded time which appears up on
11 the top of the screen. So this interview began sometime around
12 what on the imbedded time would have been around military time
13 1800 and zero minutes, approximately 42 seconds. So it's around
14 6 at night --

15 A. I -- I'm sorry.

16 Q. -- and I don't know if that time on there was
17 accurate.

18 A. I believe that time is an hour fast.

19 Q. Okay, so it wasn't calibrated but --

20 A. I believe it was 1700.

21 Q. -- you agree that the imbedded time is approximately
22 1800 military time?

23 A. The imbedded time is, yes, yes.

24 Q. Okay, and this interview recording is kind of lengthy,
25 but we're not going to get into any questioning about all the

1 content of it. I just have a few items very specifically
2 I want to ask you about, and I'm looking at the DVD counter
3 time of 12 minutes into it. There is a statement that Meagan
4 Grunwald made to you. She said, "I'm just going to --" she's
5 says this, and correct me if this -- or tell me if this is
6 accurate. "He's like if you don't leave I'm just going to kill
7 your family; and if I don't die, I'm going to make sure you
8 die, too."

9 A. I believe that's accurate.

10 Q. Okay, I'm getting a little deeper into the recording
11 time-wise. At the 2 hour 10 minute 4 second mark, this is
12 something Meagan said to you, and tell me if this is accurate,
13 or based on your recollection. "Do you have some Tylenol?"

14 A. She did ask me that, yes.

15 Q. "I am supposed to have my wisdom teeth out tomorrow.
16 They have been bothering me for three weeks now. My jaw is
17 popping."

18 A. She did say that to me, yes.

19 Q. Okay, then at the 2 hour 19 minute 45 second mark, a
20 few seconds after that you ask her, "Are you tired?" Do you
21 recall that?

22 A. I don't, I'm sorry.

23 Q. Okay, and then she stated around that time also, "I'm
24 just in shock."

25 A. I don't recall that, I'm sorry.

1 Q. Okay, you don't disagree that that was said?

2 A. I don't disagree. I just don't recall that conversa-
3 tion.

4 Q. Okay, around the -- right at approximately the 4 hour
5 5 minute 12 second mark, a male police officer walks into the
6 interview room, Meagan complains to him that she's cold, that
7 she had to lay down on the interstate and she was all wet.
8 Does that sound accurate?

9 A. I was not aware of that conversation.

10 Q. Okay, you don't have any reason to disagree that
11 that's present there on the DVD?

12 A. No, no.

13 Q. Okay, and then 4 hour 36 minute 19 second mark, you
14 return into the room. You ask Meagan, "Are you okay?" Meagan
15 responds, "It's just cold in here." Does that sound accurate?

16 A. That sounds accurate.

17 Q. Okay, at any point in this interview did Meagan ask
18 you how Jose Angel Garcia was doing?

19 A. No, she did not.

20 MR. ZABRISKIE: Okay, appreciate you answering my
21 questions. Thank you.

22 THE WITNESS: No problem. You're welcome.

23 THE COURT: Thank you. Cross examination?

24 ///

25 ///

1 CROSS EXAMINATION

2 BY MR. PEAD:

3 Q. Sergeant Johnston, on this video, does the defendant
4 talk about whether or not she and Jose Angel Garcia were ever
5 sexual together?

6 A. She denies it. She never makes that statement that
7 they were, but she does deny that.

8 Q. What words does she use to deny it?

9 A. She says that he has never touched her in any way.

10 Q. Okay, in any inappropriate way?

11 A. Well, one time she says "in any inappropriate way,"
12 but then the other time she just says, "He's never touche me in
13 any way."

14 Q. Did you ask her if he was her boyfriend?

15 A. I did.

16 Q. What did she say?

17 A. She said he was just her friend.

18 Q. Okay, and did she say to you, "I'm not going to hide
19 anything"?

20 A. She did make that exact statement, yes.

21 Q. After she said that, she again told you that he's
22 never touched her before?

23 A. That's correct.

24 Q. She told you that she and Angel were in separate
25 rooms?

1 A. She did say that, yes.

2 Q. She says she's never been in trouble with the law
3 before?

4 A. She did say that, yes.

5 Q. Are you aware of an incident where she was cited by
6 Draper Police Department?

7 A. I am.

8 Q. Was that before or after this interview?

9 A. It was before.

10 Q. Okay, did she ever make any disparaging remarks about
11 Jose Angel Garcia?

12 A. No, not at all.

13 Q. Did she ever complaint that she couldn't hear you?

14 A. No.

15 Q. Or say her ears were ringing?

16 A. She never said that.

17 MR. PEAD: Okay, thank you.

18 THE WITNESS: You're welcome.

19 THE COURT: Redirect?

20 REDIRECT EXAMINATION

21 BY MR. ZABRISKIE:

22 Q. Patty, when you released Meagan, whose custody did you
23 release her into?

24 A. To Santaquin Officer Rod Hurst.

25 Q. Okay, and when that exchange was made --

1 A. Uh-huh.

2 Q. -- did you indicate to Rod whether -- or did you
3 indicate to Rod that Meagan had complained that she had been
4 threatened?

5 A. No.

6 MR. ZABRISKIE: Okay, no further questions. Thank you.

7 THE WITNESS: Okay.

8 THE COURT: Anything else, Mr. Pead?

9 MR. PEAD: No, your Honor.

10 THE COURT: Anything else, then, for Ms. Johnson?

11 MR. ZABRISKIE: May we excuse her.

12 MR. PEAD: I agree.

13 THE COURT: Thank you.

14 THE WITNESS: You're welcome.

15 MR. ZABRISKIE: At this time, Judge, we move to publish
16 Defense Exhibits 306-- well, it would be 306-A, and the parties
17 have agreed, so we're being as efficient as we can -- we've
18 agreed to a certain time frame (inaudible) approximately 46
19 minutes, I believe.

20 THE COURT: Okay, is that correct, Mr. Pead?

21 MR. PEAD: Yes.

22 THE COURT: All right.

23 MR. ZABRISKIE: So we're not going to be playing the
24 entire thing, but that-- the entire recording on the two discs,
25 but we'll give that over to the jury.

1 THE COURT: Okay.

2 MR. ZABRISKIE: May we begin, your Honor.

3 THE COURT: Sure.

4 MR. ZABRISKIE: Judge, Counsel and I have agreed to
5 pause it for a moment.

6 THE COURT: Okay.

7 MR. ZABRISKIE: We feel that there -- by stipulation
8 there's an explanation on order. This is the best condition
9 that the parties could get this video in. It wasn't made on
10 the most recent surveillance equipment, so there are a lot of
11 glitches in it, but we've done our best to present it to the
12 jury in the closest condition that the parties (inaudible) the
13 original.

14 MR. PEAD: There may be some parts repeated because of
15 the glitches, but that's just the condition of the video.

16 THE COURT: Will that be all?

17 MR. PEAD: Yes.

18 THE COURT: Okay, thank you.

19 (DVD of interview of defendant by Ms. Johnston is
20 played in the courtroom. As this is a recording of a
21 recording and only certain portions are audible enough
22 to be transcribed accurately, this would make for an
23 incomplete and inaccurate record. Witness is very
24 inaudible through much of the interview due to crying
25 throughout her answers. Please refer to Court file

1 for review of this interview.)

2 THE COURT: Mr. Zabriskie?

3 MR. ZABRISKIE: Judge, we have one remaining witness

4 that I think will only take a maximum of ten minutes.

5 THE COURT: Okay.

6 MR. ZABRISKIE: The defense calls Rodney Hurst.

7 THE COURT: All right. Come forward, sir, let's have

8 you sworn in

9 COURT CLERK: Raise your right hand, please. You do

10 solemnly swear that the testimony you shall give in the case

11 now pending before the Court will be the truth, the whole truth

12 and nothing but the truth, so help you God?

13 THE WITNESS: I do.

14 THE COURT: Thank you, sir. Please have a seat in the

15 witness box. Just make sure we get the microphone close enough

16 to you that it will pick you up okay.

17 THE WITNESS: Can you hear me all right?

18 THE COURT: Yeah, pull it down a little. Thank you.

19 THE WITNESS: How about that?

20 THE COURT: That's good.

21 MR. ZABRISKIE: May I, Judge.

22 THE COURT: Sure.

23 MR. ZABRISKIE: Thank you.

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RODNEY SHELDON HURST,

having been first duly sworn,

testified as follows:

DIRECT EXAMINATION

BY MR. ZABRISKIE:

Q. How you doing?

A. Good.

Q. Why don't you go ahead and state your full name for the record.

A. Rodney Sheldon Hurst.

Q. All right, and Rodney, why don't you tell us what you do for work.

A. I'm the Chief of Police in Santaquin City.

Q. Okay, how long have you been working in that capacity?

A. As the chief?

Q. Yeah.

A. One year.

Q. One year?

A. Correct.

Q. All right, did that begin before or after January 30th, 2014?

A. After.

Q. Okay, on the date of January 30th, 2014, what was your capacity in law enforcement there?

A. I was Sergeant, Patrol Sergeant.

1 Q. Okay, and you understand the purpose for which you're
2 here today; am I right?

3 A. Yes.

4 Q. Okay, you had some involvement in the investigation
5 into the case of Meagan Dakota Grunwald?

6 A. Minor involvement, yes.

7 Q. Minor involvement, okay. Why don't you tell us where
8 your involvement began.

9 A. I was a transportation officer. I took custody of the
10 defendant from Detective Johnston.

11 Q. Okay.

12 A. Transported her to Slate Canyon.

13 Q. Okay, so when the exchange took place, Ms. Johnston I
14 assume gave you some information about the status of Meagan?

15 A. Um --

16 Q. Gave you some information about Meagan, right?

17 A. Correct.

18 Q. Okay, and did that information include what Meagan
19 was being detained for?

20 A. Yes.

21 Q. Did it include what -- strike that question. Did
22 -- was any mention made to you by Patty Johnston of Meagan
23 claiming to have been threatened by Jose Angel Garcia?

24 A. I don't know if Detective Johns -- I knew of that
25 information but I don't know if it came directly from Detective

1 Johnston or not.

2 Q. Okay, so where did you take her -- when you took her
3 from the Santaquin Police Department, where did you transport
4 her to?

5 A. We made a stop at Mountain View Hospital to get a
6 medical clearance and then we --

7 Q. Okay.

8 A. -- went onto Slate Canyon.

9 Q. Appreciate that. While this medical clearance was
10 being conducted, I assume that was conducted by a nurse or a
11 doctor?

12 A. Both.

13 Q. Okay, for security reasons, though, while that was
14 taking place, you stayed very nearby?

15 A. Correct.

16 Q. Did you overhear -- I'm going to read to you directly
17 from your report and you tell me if this is something that you
18 recall reporting. "I overheard Grunwald ask for pain medication
19 due to what she described as aching wisdom teeth."

20 A. Yes.

21 Q. Okay, another statement. This is -- I'm reading from
22 your report, "I was just in the wrong place with the wrong
23 person at the wrong time." Did you overhear that?

24 A. Yes.

25 Q. Okay, and who was saying that?

1 A. The defendant.

2 Q. Okay, I -- looking over your report, it seems you had
3 some insight into her physical demeanor; is that correct?

4 A. Some, yes.

5 Q. Okay, and nothing that you observed would have given
6 you any indication that she appeared to be under the influence
7 of any drugs or alcohol?

8 A. No.

9 Q. Okay, and at any time in your presence of Meagan
10 Grunwald, did you hear her ask anybody the condition of Jose
11 Angel Garcia?

12 A. No.

13 Q. Then when you left the hospital where did you take her
14 to?

15 A. Slate Canyon Detention Center.

16 MR. ZABRISKIE: Okay, thank you.

17 THE WITNESS: That it?

18 THE COURT: Thank you. Cross examination?

19 MS. HOWARD: Thank you, Judge.

20 CROSS EXAMINATION

21 BY MS. HOWARD:

22 Q. Chief Hurst, just a few questions.

23 A. Okay.

24 Q. Chief, when you were with Meagan on January 30th, you
25 were with her about three hours; is that right?

1 A. Yes.

2 Q. While you were with her for those three hours did you
3 have occasion to visit with her?

4 A. Yes, we did talk a little bit, small chitchat, nothing
5 of any relevance really.

6 Q. Nothing relevant to the criminal case, right?

7 A. Correct.

8 Q. Okay, but while you were with her and you were talking
9 with her did you have occasion to see whether or not she under-
10 stood what you were saying?

11 A. She answered. I assumed she understood what I was
12 saying.

13 Q. Didn't seem to be difficult for her to hear you?

14 A. Not that I noticed.

15 Q. Okay, and while you were with her for those three
16 hours, what were her -- she had some complaints, as you've
17 listed in your report; is that correct?

18 A. Correct.

19 Q. What were those complaints?

20 A. Aching wisdom teeth and she was hungry.

21 Q. Any other complaints for those three hours?

22 A. No.

23 MS. HOWARD: Nothing further. Thank you, your Honor.

24 THE COURT: Okay, thank you. Redirect?

25 MR. ZABRISKIE: Just a couple questions.

REDIRECT EXAMINATION

BY MR. ZABRISKIE:

Q. When did your involvement with Meagan begin, approximately what time of day was it?

A. I'm not exactly sure, but I'm guessing 11 p.m.

Q. Okay, so this is --

A. Midnight maybe.

Q. -- hours after she'd been taken into custody, right?

A. Yes.

Q. Okay, when you were conversing with her, there was a question posed, "Did she seem to hear what you were discussing with her, or hear your communications?" That was a question -- that was a question asked to you. That's not another question for you to answer. When you were talking with her, though, were you in close proximity to her?

A. Yes.

MR. ZABRISKIE: Okay, no further questions. Thank you.

THE COURT: Thank you. Anything else for Officer Hurst?

MS. HOWARD: No, nothing further.

THE COURT: May he be excused?

MR. ZABRISKIE: We excuse the witness.

THE COURT: Thank you. That's all.

MR. ZABRISKIE: At this time, your Honor, the defense rests.

THE COURT: Okay, thank you. State intend to call

1 rebuttal witnesses?

2 MR. PEAD: May we approach briefly, your Honor.

3 THE COURT: Okay.

4 (Discussion at the bench)

5 MR. PEAD: Judge, we were going to call a witness,
6 Deputy Sherwood, to talk about when Meagan came off the free-
7 way when he was watching her in Santaquin. After that, we will
8 rest our rebuttal case, and we would then ask to excuse the
9 jury and we can finalize instructions. Our request is to
10 instruct tonight on all the instructions and read the verdict
11 form, but not give the verdict form to them. Then first thing
12 tomorrow we can do closings. Does that work?

13 MR. ZABRISKIE: (Inaudible).

14 THE COURT: How long on Officer Sherwood?

15 MR. TAYLOR: What's that?

16 MR. PEAD: Sherwood's what, five minutes?

17 MR. TAYLOR: Yeah, tops.

18 MR. ZABRISKIE: What's the rebuttal?

19 MR. PEAD: Huh?

20 MR. ZABRISKIE: He's going to offer rebuttal?

21 (Counsel speaking inaudibly)

22 THE COURT: Okay.

23 (Discussion at the bench concluded)

24 MR. PEAD: Your Honor, I -- just one little matter.

25 In Exhibit No. -- I think there was one that we didn't get

1 admitted and I think that's 311 or 316. We may have asked it
2 be admitted. I just can't recall.

3 THE COURT: Would there be any objection?

4 MR. ZABRISKIE: If we haven't, I have no objection,
5 your Honor.

6 THE COURT: All right, thank you. Admit -- yeah, it
7 looks like I had it admitted yesterday. Thank you. Rebuttal
8 witness from the State?

9 MR. TAYLOR: State calls Deputy Greg Sherwood.

10 THE COURT: Thank you. You're still under oath, Deputy,
11 so go ahead and have a seat. Just make sure we get that micro-
12 phone. Thank you.

13 GREG SHERWOOD,
14 having been previously sworn,
15 retakes the witness stand,
16 and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. TAYLOR:

19 Q. Deputy Sherwood, I'm just going to follow up just on
20 a couple of questions, if I could. Do you recall testifying
21 earlier about the dash cam video that was on, on the day of
22 January 30th, 2014?

23 A. Yes.

24 Q. Do you recall explaining to the jury how you had
25 exited the Main Street off-ramp there in Santaquin?

1 A. Yes.

2 Q. Okay, I'm going to go ahead and just play that again,
3 and I'll play that through and then I'm just going to ask you a
4 couple of questions, okay?

5 A. Okay.

6 Q. All right.

7 (Dash cam video played in the courtroom. Not audible
8 enough to be transcribed accurately.)

9 Q. Okay, you observed that little clip that we just
10 played there?

11 A. Yes.

12 Q. Okay, so when you came off the off-ramp in Santaquin
13 you turned left there; is that correct?

14 A. Correct.

15 Q. Okay, and so you went under the underpass. If you
16 were to continue to go straight and not turn back left north-
17 bound, where would you go?

18 A. There's a light there now. It's an intersection and
19 there's a Maverik gas station on the corner of that inter-
20 section.

21 Q. Okay, and so you pulled up onto the on-ramp going
22 northbound and parked, correct?

23 A. Correct.

24 Q. You testified that you're watching your rearview
25 mirror because you're anticipating or you're trying to find a

1 vehicle that -- attempted to locate a certain vehicle, correct?

2 A. Correct. I was using the side mirrors.

3 Q. Oh, you're using your side mirrors?

4 A. Yes.

5 Q. Okay, and once again, why don't you explain using your
6 side mirrors what you saw.

7 A. I could see the other side of the northbound I-15 off-
8 ramp. I could see most of that ramp, if not all of it. I was
9 watching in my mirrors as I was watching northbound traffic in
10 front of me. It was about 40 seconds from the time I parked
11 in that position that I observed a vehicle.

12 It appeared to be the only one at the time coming down
13 the off-ramp. It was driving pretty fast, highway speeds, down
14 the off-ramp. It was traveling straight. It was traveling at
15 a good rate of speed. It came to a quick stop at the stop sign
16 at the bottom of the northbound I-15 off-ramp, and quickly made
17 a left turn onto Main Street going westbound.

18 Q. Okay, and so at any time prior to making that left
19 turn did you observe that vehicle turn right up towards that
20 Maverik?

21 A. No.

22 Q. So you heard the testimony of Meagan Grunwald saying
23 that she turned right there and up towards that Maverik. Based
24 upon your observations is that correct?

25 A. Not at all.

1 MR. TAYLOR: Okay. All right, nothing further. Thank
2 you.

3 THE COURT: Thank you. Cross?

4 CROSS EXAMINATION

5 BY MR. ZABRISKIE:

6 Q. Officer, you -- when you were stationed -- how you
7 doing?

8 A. All right.

9 Q. Good. Where you were stationed, you stationed your-
10 self so you could look north in I-15; isn't that the case?

11 A. Yes.

12 Q. Your purpose in being there was to act in a role of
13 surveillance, keeping an eye out for the car that has been
14 identified in this Court as belonging to Meagan Grunwald,
15 correct?

16 A. Is that a question or a statement?

17 Q. You were there for a specific purpose, right?

18 A. Yes.

19 Q. That was to keep an eye out for the car being driven by
20 a person named Meagan Grunwald -- proved to be Meagan Grunwald,
21 correct?

22 A. Yes.

23 Q. Now, you looked in your side-view mirror and you saw
24 the truck coming off the northbound exit off I-15; is that
25 correct?

1 A. Yes.

2 Q. If you're on the freeway and you're going to get off
3 on that exit, do you not have to go to the right? Talking
4 about the exit.

5 A. Have to turn right to exit or --

6 Q. You have to veer to the right --

7 A. -- I-15?

8 Q. -- to get off on that exit?

9 A. Yes, you have to turn right from the freeway to exit.

10 Q. Exactly.

11 A. Yes.

12 Q. At the bottom of that, you get off there, you go
13 right, there is a Maverik on the right-hand side; is there not?

14 A. It would be east of that location, yes.

15 Q. That would be right?

16 A. Depending on which way you're going.

17 Q. If you're going north, it would be right?

18 A. Yes.

19 Q. All right, and so she did go right to get off the
20 freeway, not a sharp right, but she goes to the right; does
21 she not?

22 A. I didn't see that.

23 Q. You saw her come down the -- the northbound off-ramp
24 to Main Street in Santaquin; did you not?

25 A. Yes.

1 Q. Okay, and again, this will sound redundant, but at the
2 bottom of the ramp which way did she turn?

3 A. Eastbound or the orientation to them was left.

4 Q. Okay, so she would have turned --

5 A. Did I say eastbound?

6 Q. That's all right, I understood what you were saying.

7 A. No, I said -- I meant westbound.

8 Q. You and I are in the same boat when it comes to these
9 directions.

10 A. Yeah.

11 Q. She turned left, right?

12 A. She turned left.

13 Q. That is not the direction towards Draper, is it?

14 A. Depending on which route you go, no.

15 Q. It's not --

16 A. Could be.

17 Q. -- it's not the direct route on I-15, is it?

18 A. No.

19 Q. So in summary she goes right off the freeway, goes
20 left, and that is not the I-15 route to Draper?

21 A. No.

22 MR. ZABRISKIE: All right, thank you.

23 MR. TAYLOR: Nothing further, Judge. Thank you.

24 THE COURT: Anything more for Deputy Sherwood?

25 MR. ZABRISKIE: Wait, wait, just one moment. Maybe.

1 If I may, I've done this to you three times today, Judge, and I
2 apologize.

3 THE COURT: Go ahead.

4 Q. BY MR. ZABRISKIE: Your perception as they came off the
5 freeway was one that you had through your side view mirrors?

6 A. Yes.

7 Q. Through your side view mirrors were you able to see
8 anything going on inside the cab of that truck?

9 A. No.

10 Q. So if there was-- you wouldn't know if -- you wouldn't
11 be able to identify or claim to have viewed any type of inter-
12 actions between the drivers -- or excuse me, the occupants?

13 A. No.

14 Q. Were there other white trucks on the freeway that day?

15 A. Not that I observed.

16 MR. ZABRISKIE: All right, thank you.

17 THE COURT: Thank you. Anything else?

18 MR. TAYLOR: No, thank you.

19 THE COURT: All right. Thank you, sir. That's all.

20 MR. PEAD: Your Honor, at this time the State rests its
21 rebuttal case.

22 THE COURT: Thank you.

23 MR. ZABRISKIE: Defense has no post arrest motions to
24 make, your Honor.

25 THE COURT: Thank you. All right, at this time, for

1 the jury's sake we need to take care of some business outside
2 of your presence. So it may be a longer recess than you're
3 used to, and then I plan to bring you back in and go over some
4 additional things that we'll need to do before we break for the
5 day. I believe that's what I'm hearing from Counsel.

6 MR. PEAD: Correct, your Honor.

7 THE COURT: All right, so again, we're to the point
8 of almost leaving it in your hands. So please comply with
9 the instructions that I've given you with regard to the case,
10 especially during a longer recess than normal.

11 COURT BAILIFF: All rise for the jury.

12 (Jury exits the courtroom)

13 THE COURT: Okay, thank you. We'll take a short recess
14 as well to make sure we gather up everything. I'll gather up
15 what I need.

16 (Recess taken)

17 THE COURT: Okay, we're back on the record. The parties
18 are present, including the defendant, Ms. Grunwald. What we're
19 going to do now is go over the jury instructions, final jury
20 instructions, as well as the verdict form, make sure those are
21 in order. You've both had a chance to review those.

22 I've received some comments back from both of you,
23 and so what I normally would do is just start from No. 1 and
24 go forward. I'll ask you if there's any problem. If no, then
25 we'll be in good shape. Let's look at the jury instructions,

1 then. First one is talking about the duties of jurors. Any
2 problem with that?

3 MR. PEAD: No, your Honor.

4 THE COURT: Mr. Zabriskie?

5 MR. ZABRISKIE: No.

6 THE COURT: No. 2, lawyer's closing arguments, anything
7 with that?

8 MR. PEAD: No objection.

9 THE COURT: No problem with that?

10 MR. ZABRISKIE: No. May I inquire, your Honor, after
11 the Court has gone through the jury instructions and addressed
12 any of the concerns the attorneys have, then the Court will
13 give us back --

14 THE COURT: Yeah, I'll let you look -- before I give
15 them to the jury, I'll let you see those and make sure you can
16 review those.

17 MR. ZABRISKIE: Will they be numbered?

18 THE COURT: Yeah.

19 MR. ZABRISKIE: Okay, thank you.

20 THE COURT: Yeah, I'll number them as soon as we get
21 through that. Trial, certain rulings; any problem with that?

22 MR. PEAD: No.

23 MR. ZABRISKIE: No.

24 THE COURT: Judge being neutral?

25 MR. PEAD: No.

1 MR. ZABRISKIE: No.

2 THE COURT: Base your decision only on the evidence?

3 MR. PEAD: No.

4 MR. ZABRISKIE: No.

5 THE COURT: Okay, this next one is talking about the
6 defendant being a witness on her own behalf. Any problem with
7 that?

8 MR. PEAD: That's the appropriate one, I believe.

9 MR. ZABRISKIE: We agree.

10 THE COURT: Okay, talking about believability of
11 witnesses, the next one?

12 MR. PEAD: Looks good.

13 THE COURT: Okay.

14 MR. ZABRISKIE: We agree.

15 THE COURT: All right, the next one talks about the
16 rules of evidence and experts. Let's see -- yeah, expert
17 witnesses.

18 MR. PEAD: Yeah, we did have a couple of experts. So I
19 think it's appropriate.

20 MR. ZABRISKIE: I agree.

21 THE COURT: Okay, law enforcement officer's testimony,
22 the next one?

23 MR. PEAD: Yeah, that's not anymore. So yes.

24 MR. ZABRISKIE: We would like to tweak that a bit, but
25 that's standard, so we'll go with it.

1 THE COURT: Okay, then I put in again the one that you
2 had added, Mr. Zabriskie on another defendant testifying?

3 MR. ZABRISKIE: Okay, yes.

4 THE COURT: Is that okay, Mr. Pead?

5 MR. PEAD: Yes, that's fine.

6 THE COURT: Okay, this one -- next one is talking about
7 methamphetamine being a schedule 2.

8 MR. PEAD: Correct.

9 MR. ZABRISKIE: Yes.

10 THE COURT: Okay, the next one talking about physical
11 possession.

12 MR. PEAD: Constructive possession.

13 THE COURT: Constructive possession, right. Any problem
14 with that?

15 MR. ZABRISKIE: We agree.

16 THE COURT: Okay, next one's talking about possession
17 or use of a controlled substance.

18 MR. PEAD: Yes, use.

19 MR. ZABRISKIE: We agree.

20 THE COURT: Okay, the next one's talking about a felony
21 possessing a firearm. Any problem with that?

22 MR. PEAD: No.

23 THE COURT: Thank you. The next one -- I note your --
24 you want some changes in the wording. Is that still the case,
25 Mr. Zabriskie, on this one.

1 MR. ZABRISKIE: This is the --

2 THE COURT: Intimate relationship?

3 MR. ZABRISKIE: Yeah, we see this as being -- it's a
4 -- I think that the phrase "sexual and romantic relationship"
5 could be appropriately summarized with "intimate relationship."

6 THE COURT: See any objection to that?

7 MR. PEAD: I think it should be sexual and romantic.
8 That's why we included that. I think it's both. The evidence
9 I think supports both of those.

10 MR. ZABRISKIE: I think "intimate" is inclusive of both
11 and more appropriate language for jury instructions.

12 THE COURT: Well, based upon the evidence that's been
13 submitted, I think probably having both there would coincide
14 with that, okay? Then you had some other language.

15 MR. ZABRISKIE: So just as long as the Court's noting
16 our objection, then.

17 THE COURT: Yes, of course.

18 MR. ZABRISKIE: Thank you.

19 THE COURT: Anything else with that one?

20 MR. PEAD: No, your Honor.

21 MR. ZABRISKIE: No.

22 THE COURT: All right, thank you. What I'm going to
23 do here is take out the highlight definitions just to coincide
24 with everything else that I had done there, and just go with
25 the instruction.

1 MR. ZABRISKIE: Okay, we agree with that.

2 THE COURT: Okay.

3 MR. PEAD: No objection to that instruction as amended.

4 THE COURT: All right.

5 MR. ZABRISKIE: Yeah, the instruction's good, Judge.

6 THE COURT: Then the next one again I'm going to take
7 out the "bold" language, and just leave it as it is talking
8 about the person's conduct and mental state. Any problem with
9 that?

10 MR. ZABRISKIE: No objection to that.

11 MR. PEAD: No, your Honor.

12 THE COURT: All right. Next instruction deals with
13 proof beyond a reasonable doubt.

14 MR. PEAD: Correct, and for (inaudible) mental state.

15 THE COURT: Talking with the -- and with particular
16 mental state.

17 MR. PEAD: Yeah, that looks good.

18 THE COURT: Okay, with that?

19 MR. ZABRISKIE: We agree.

20 THE COURT: Okay, motive language here in the next
21 instruction?

22 MR. PEAD: Yeah, that's the MUJI.

23 MR. ZABRISKIE: We agree.

24 THE COURT: Talk -- the next one is talking about being
25 charged with one or more crimes.

1 MR. PEAD: I think that's appropriate.

2 MR. ZABRISKIE: We agree.

3 THE COURT: Okay, on or about a certain date is the
4 next one. Any problem with that?

5 MR. ZABRISKIE: We agree.

6 MR. PEAD: Agree.

7 THE COURT: Okay, let's see. Jury's not to consider
8 punishment?

9 MR. PEAD: That's appropriate.

10 MR. ZABRISKIE: We agree.

11 THE COURT: Consider all evidence fairly, partially,
12 conscientiously. Is that okay?

13 MR. PEAD: And no sympathy (inaudible).

14 MR. ZABRISKIE: We agree.

15 THE COURT: Okay, talking about the jury not worrying
16 about the sentencing. That that's the Court's responsibility.

17 MR. PEAD: Yeah, that's appropriate.

18 MR. ZABRISKIE: Yeah, we agree.

19 THE COURT: Okay, next one is direct or circumstantial
20 evidence.

21 MR. ZABRISKIE: That's good.

22 MR. PEAD: Yeah, we agree.

23 THE COURT: All right. The next one is the fleeing
24 instruction.

25 MR. PEAD: That's the MUJI.

1 THE COURT: Okay.

2 MR. ZABRISKIE: Yeah, we agree.

3 THE COURT: Okay. All right, so the next one is talking
4 about evidence admitted into the record. Any problem with that?

5 MR. PEAD: No, I think it's important they don't judge
6 based on objections.

7 THE COURT: Okay.

8 MR. ZABRISKIE: We agree.

9 THE COURT: All right, this language here is regarding
10 a person committing a crime as a party. Any problem with that?

11 MR. PEAD: No, looks good.

12 MR. ZABRISKIE: Yeah, we agree.

13 THE COURT: Okay. All right, so then we get to aggra-
14 vated murder and murder, and basically just talking about the
15 situation with regard to that instruction. Any problem with
16 that?

17 MR. PEAD: I reviewed the law before I submitted this
18 one, your Honor. The law says you don't go in any particular
19 order. So I put that exact language in there.

20 THE COURT: Okay.

21 MR. PEAD: We agree.

22 THE COURT: All right, the only -- well, let's go down.
23 I'll tell you what I was thinking. The next one is when a
24 person does commit aggravated murder it tells what that is and
25 the elements there, at least generically. Any problem with

1 that?

2 MR. ZABRISKIE: We agree.

3 THE COURT: Okay, and the next one does the same for
4 murder. Any problem for that?

5 MR. ZABRISKIE: No.

6 MR. PEAD: The reason for that, your Honor, is because
7 of the "charged as a party."

8 THE COURT: Right. Okay, the next one is the compulsion
9 defense. Now, my only concern here is whether we needed to put
10 that before or where it's at. I know we have an instruction
11 that says the sequence, whether or not to consider --

12 MR. PEAD: I think it would be -- I don't know what
13 the defense thought of this. I think it would be a good idea
14 before we get to any of the elements instructions.

15 MR. ZABRISKIE: We definitely agree with that.

16 THE COURT: So that's where I have it now.

17 MR. PEAD: Except for those --

18 THE COURT: Or that would be in the front of aggravated
19 murder?

20 MR. PEAD: Yeah, I think probably there.

21 THE COURT: Okay, that's -- that's the one thing I was
22 not certain of was where to put that language. Okay, let me do
23 that.

24 MR. PEAD: I think that's a good idea, your Honor.

25 MR. ZABRISKIE: Then we do have a concern --

1 THE COURT: Yeah, I --

2 MR. ZABRISKIE: -- with this instruction, so --

3 THE COURT: Okay, let me --

4 MR. ZABRISKIE: -- when the Court wants to hear what

5 that is, we'll address it then.

6 THE COURT: Okay, so I'm going to put it before we talk

7 about aggravated murder and murder. Is that where we're looking

8 at, or right after that?

9 MR. PEAD: I'd say right before.

10 THE COURT: Right before?

11 MR. ZABRISKIE: We agree with before.

12 THE COURT: Okay.

13 MR. PEAD: Your Honor, I meant to say on instruction

14 24, and I had this in my email, that it says "he" twice instead

15 of "she."

16 THE COURT: Yeah, did I -- I think I -- I thought I

17 changed that, didn't I?

18 MR. PEAD: I haven't seen the new ones.

19 THE COURT: Yeah, I think I changed --

20 MR. PEAD: Okay.

21 THE COURT: -- well, yeah. I did change it already.

22 MR. PEAD: Oh, great, I'm just making sure.

23 THE COURT: So I'm going to read that to you.

24 MR. PEAD: Cool.

25 THE COURT: So I've put compulsion --

1 MR. PEAD: Right.

2 THE COURT: -- after the party instruction, and then
3 before the --

4 MR. PEAD: (Inaudible).

5 THE COURT: -- advising of the Count I, charging the
6 defendant with aggravated murder and alternative murder. So
7 that's where I put that.

8 MR. PEAD: Okay.

9 THE COURT: Now, you had some questions with regard to
10 the compulsion language, Mr. Zabriskie?

11 MR. ZABRISKIE: Yeah, as I read this instruction, it --
12 there is an imbedded definition for the term "duress." It's
13 extracted directly from the statute, and it's numbered para-
14 graphs 1 and 2. Paragraph 1 reads, "Someone's use of unlawful
15 force against her or someone else," or in paragraph 2, "Some-
16 one's threat or use of imminent unlawful force against her or
17 someone else."

18 Next paragraph reads, "The use or threatened use of
19 force must be such that a person of reasonable firmness in
20 the defendant's situation would not have resisted." So we see
21 this as being the crux of the case. I mean, this is, in my
22 estimation, this is what the jury's going to swing on is this
23 very instruction. Has to be crystal clear.

24 There's an ambiguity in this instruction. I know this
25 is a MUJI instruction, but nonetheless there is an ambiguity

1 in the instruction in the next paragraph, which reads, "The
2 defensive compulsion is not available if the defendant intent-
3 ionally, knowingly or recklessly places herself in a situation
4 where it was probable that she would have been subjected to
5 duress.

6 So therein we have the term "duress," which is already
7 defined above, but there's nothing directing the jurors to the
8 imbedded definitions. We have the word "duress" there, so I
9 think that it leaves an ambiguity which could be cured by
10 simply inserting the word "such" before duress. "Subjected
11 to such duress." That would clearly indicate the definition
12 that's given above.

13 Without the word "such," we have that term "duress"
14 which could be given some grander more encompassing meaning
15 than what was contemplated by statute and what is imbedded as
16 a definition here in this instruction. Easily cured by adding
17 the word "such."

18 I don't know what -- how you could -- how Counsel
19 may have objection to that, other than that this is the MUJI
20 instruction, but MUJI is not the ultimate say. The ultimate
21 say is fairness to the defendant. That's for the Court to
22 determine.

23 Having this ambiguity here creates a situation where
24 the jury could give broader meaning to the term "duress," maybe
25 something less than what's contemplated by statute. Maybe the

1 jury could think that duress is synonymous with stress.

2 MR. ZABRISKIE: Or yelling maybe.

3 MR. ZABRISKIE: Yeah, or yelling, but I mean, it's
4 defined here in the instruction. So we ask that the Court
5 insert the word "such" before "duress."

6 THE COURT: I don't see real --

7 MR. PEAD: I think the MUJI one is pretty clear, but --

8 THE COURT: I mean, putting "such" isn't -- I don't
9 think it changes what's already there. Mr. Pead?

10 MR. PEAD: Yeah, I -- that's why I submitted the MUJI
11 one, your Honor.

12 THE COURT: All right, I'll add the word "such." I
13 just don't see how that --

14 MR. ZABRISKIE: Thank you, Judge.

15 THE COURT: I recognize that, you know, we're --

16 MR. PEAD: It appears it's straight from the statute.

17 THE COURT: Yeah, I recognize that. I was going to
18 say that I recognize that you're attorneys, and I don't believe
19 any of our jurors were. So we're trying to make this as clear
20 as we can for them. So I don't think by adding that line is
21 really going to sway anybody. We want to make sure they under-
22 stand.

23 MR. ZABRISKIE: Thank you, Judge.

24 MR. PEAD: That's fine, Judge.

25 THE COURT: All right, so anything else other than

1 that?

2 MR. PEAD: No.

3 MR. ZABRISKIE: Other than that, nothing; and we agree
4 with it with that one amendment.

5 THE COURT: Okay, and Mr. Pead where were you -- let's
6 see, I'd wrote -- written it down. It was in No. 24, or page
7 24.

8 MR. PEAD: That was the "he" to "she."

9 THE COURT: I think -- let me go back and check for
10 sure, then. So that was with regard to the mental state and
11 motive. That's where I had it at. Yeah.

12 MR. PEAD: It's been changed to "she"?

13 THE COURT: I changed that to "she," yeah.

14 MR PEAD: Great.

15 THE COURT: Okay. All right, I think that takes us,
16 then, to the elements instructions; is that correct?

17 MR. PEAD: Yes.

18 THE COURT: Okay. All right, so the first one is
19 dealing with Count I and aggravated murder. Did we have any
20 problems -- I didn't see any objections to that as it was set
21 forth, other than I had to add when we added the compulsion
22 defense, I added another element and then I needed to change
23 the language with regard to the elements and some of the
24 instructions, so --

25 MR. PEAD: So at the bottom did you put a 4?

1 THE COURT: I did put 4. I had changed it originally
2 up top, but I had forgotten to take it to the second half.

3 MR. PEAD: I understand, your Honor.

4 THE COURT: So I did change them to 4, and then the one
5 to 7.

6 MR. PEAD: Right.

7 THE COURT: So -- but like I say, I'll let you have a
8 chance to review these before we hand them to the jury --

9 MR. PEAD: Sure.

10 THE COURT: -- to make sure. That gives me more eyes
11 to look at it before we do that, so --

12 MR. PEAD: Yeah.

13 THE COURT: Any-- other than that, does everything look
14 fine on that instruction?

15 MR. ZABRISKIE: We agree with it as --

16 THE COURT: Okay, and then the next one is the lesser
17 included offense of murder.

18 MR. PEAD: Your Honor, and I don't know if you saw
19 this, but on page 40 it says, "The elements of murder are
20 explained in the next two instructions."

21 THE COURT: Oh.

22 MR. PEAD: Should just e "next instruction."

23 THE COURT: Yeah.

24 MR. ZABRISKIE: Judge, we do have issue here with the
25 term "lesser." We think it should just say "as an alternative

1 offense." My concern here is that by using the term "lesser,"
2 it could imply a lesser degree of penalty. I know there's
3 an instruction that tells the jury they're not to consider
4 penalty but I don't personally see how it would diminish this
5 instruction by simply changing the term "lesser" -- well, let's
6 see, that "murder is a lesser included offense to it," changing
7 it to "murder is an alternative offense." The purpose would be
8 to reduce any risk that the jury might imply in lesser degree
9 of penalty.

10 THE COURT: Mr. Pead.

11 MR. PEAD: Your Honor, I think the MUJI always uses the
12 word "lesser included." They've been instructed not to base it
13 on a future potential sanction. I think they're going to do
14 it on the evidence. I think that's the appropriate language.

15 MR. ZABRISKIE: Once again, I don't always agree with
16 MUJI. This is about fundamental fairness. Having language
17 in there that may imply a lesser degree of penalty is a risk,
18 although -- albeit a very small risk, but it's a potential
19 risk that can be easily cured by changing the wording to
20 "alternative offense."

21 THE COURT: But I don't know how that applies. I
22 don't know how you make murder as an alternative offense
23 of aggravated murder, because that then implies something
24 different. The lesser included is to imply just that. If
25 they -- if they find that, then it is what it is. I don't

1 see how putting "alternative" there, I think that really makes
2 it a little bit more difficult to understand, but --

3 MR. ZABRISKIE: Okay.

4 THE COURT: -- so I'll note your objection for the
5 record, and then just leave it as "lesser included."

6 MR. ZABRISKIE: Thank you, Judge.

7 THE COURT: Okay.

8 MR. ZABRISKIE: I won't make that objection on the
9 additional language -- or the other places within the --

10 THE COURT: That have --

11 MR. ZABRISKIE: -- instructions where that (inaudible).

12 THE COURT: -- where that applies?

13 MR. PEAD: Counts II and IV.

14 MR. ZABRISKIE: Yeah, but just the Court's noted our
15 objection that that would apply to other instructions within
16 this --

17 THE COURT: Okay.

18 MR. ZABRISKIE: -- in the set of instructions.

19 THE COURT: All right, that's fine.

20 MR. ZABRISKIE: Okay.

21 THE COURT: So the next one is Count II, charges with
22 attempted aggravated murder. Was that okay?

23 MR. PEAD: Did you do murder already, your Honor.

24 THE COURT: I did. I went -- that's where we were.

25 MR. PEAD: And murder you changed the three to four

1 elements involved with that?

2 THE COURT: Yes, I did.

3 MR. PEAD: Yes, that looks appropriate.

4 THE COURT: Okay, Mr. Zabriskie?

5 MR. ZABRISKIE: Yeah, we agree.

6 THE COURT: Okay, attempted aggravated murder as Count
7 II, any problem with that instruction?

8 MR. PEAD: No.

9 MR. ZABRISKIE: We agree.

10 THE COURT: Okay, and then the next instruction talks
11 about basically the generic form of attempted aggravated murder
12 again.

13 MR. PEAD: Right.

14 THE COURT: Okay, do you see any problem with that,
15 Mr. Zabriskie?

16 MR. ZABRISKIE: Yes.

17 THE COURT: It's okay, or -- yes, there's a problem or
18 we're okay?

19 MR. ZABRISKIE: We agree, yeah.

20 THE COURT: Yeah, the next one talks about attempted
21 murder, again, the generic elements of. Any problem with that?

22 MR. PEAD: No.

23 MR. ZABRISKIE: We agree.

24 THE COURT: Okay, then we get to the attempted aggra-
25 vated murder.

1 MR. PEAD: That's with the specific to the defendant
2 instructions, right?

3 THE COURT: Let's see, you mean the four elements
4 again?

5 MR. PEAD: What number are you on, your Honor, what
6 page number?

7 THE COURT: I'm on page No. 46.

8 MR. PEAD: Yes, yeah.

9 THE COURT: Yeah, I changed the 4 -- on the 4 again.

10 MR. PEAD: Okay, perfect.

11 MR. ZABRISKIE: Yeah, we agree.

12 THE COURT: Okay. All right, and the next one talking
13 about again the lesser included offense of attempted murder.
14 Do you see any problems -- I did change the elements on that
15 again.

16 MR. PEAD: Perfect.

17 MR. ZABRISKIE: We agree.

18 THE COURT: All right, and then Count III, discharge of
19 a firearm of serious bodily injury. See an problems with that?

20 MR. PEAD: No.

21 THE COURT: This one -- this one did -- well, okay,
22 yeah, I did change the elements on that as well before. So is
23 that okay?

24 MR. ZABRISKIE: We're okay with it.

25 THE COURT: Are you okay with that, then, Mr. Pead?

1 MR. PEAD: Yeah, it looks good, your Honor.

2 THE COURT: All right, and then attempted aggravated
3 murder, Count IV.

4 MR. ZABRISKIE: We agree.

5 MR. PEAD: Agree.

6 THE COURT: Okay, Count V -- or I'm sorry Count IV, as
7 a party attempted aggravated murder once again.

8 MR. PEAD: It's good.

9 MR. ZABRISKIE: Yeah, we agree.

10 THE COURT: Four elements. Yeah, four elements, okay.
11 Attempted murder is a lesser included offense of attempted
12 aggravated murder is the next one.

13 MR. PEAD: Correct.

14 THE COURT: Four elements. Any problem with that,
15 Mr. Zabriskie?

16 MR. ZABRISKIE: No, we're okay with it.

17 THE COURT: Okay, and did change four. All right, the
18 next instruction is discharge of a firearm, four elements as
19 listed. I should tell you as well that throughout this I tried
20 to make the defendant as "Meagan Dakota Grunwald" to try and
21 keep it consistent throughout.

22 So in the original documents it would say "Meagan
23 Grunwald," but I changed it to add her middle name to coincide
24 with the heading and everything else. So it should say "Meagan
25 Dakota Grunwald," and I'm going to have to review that again,

1 because some of them have "ME." It should be "MEA."

2 MR. PEAD: Yeah, I just noticed that, your Honor.

3 THE COURT: So I'll make those changes, disregard and
4 making sure we get the name right.

5 MR. PEAD: Okay.

6 MR. ZABRISKIE: Yeah, and we're okay with it.

7 THE COURT: Okay. All right let's see, four elements.
8 Then we're to Count VI, discharge of a firearm. Any problem
9 with that, four elements there?

10 MR. ZABRISKIE: We're okay with it.

11 MR. PEAD: Looks good.

12 THE COURT: Okay, the next one is Count VII, criminal
13 mischief.

14 MR. ZABRISKIE: We're fine with it.

15 MR. PEAD: Looks good.

16 THE COURT: Okay, next one is Count VIII, criminal
17 mischief. Four elements. So we okay on that?

18 MR. ZABRISKIE: We're fine with it.

19 THE COURT: Okay.

20 MR. PEAD: Looks good.

21 THE COURT: All right, Count IX, in violation of
22 operator's duties for accident, seven elements. This is the
23 one I changed to seven.

24 MR. PEAD: Right, looks good.

25 THE COURT: Is that okay?

1 MR. ZABRISKIE: We're fine with it.

2 THE COURT: Okay, Count X is the next one, failing to
3 respond to officer's signal to stop. Four elements there. We
4 took out "as a party" language in that one.

5 MR. PEAD: Right.

6 THE COURT: Okay, is that okay?

7 MR. ZABRISKIE: Sorry, where did you remove that
8 language?

9 THE COURT: So in the --

10 MR. PEAD: At the top.

11 THE COURT: -- the very start it says, "Defendant is
12 charged," rather than "Defendant is charged as a party."

13 MR. PEAD: But compulsion is still an element.

14 THE COURT: Yeah.

15 MR. ZABRISKIE: Oh, yeah, okay.

16 THE COURT: Is that okay?

17 MR. ZABRISKIE: Yeah, we're okay with that.

18 THE COURT: Okay, No. 11, aggravated robbery, four
19 elements listed again.

20 MR. ZABRISKIE: We're okay with that.

21 THE COURT: Mr. Pead, are you okay with that?

22 MR. PEAD: That one I think should be as a party.

23 THE COURT: Yeah, I have that in there.

24 MR. PEAD: Oh.

25 THE COURT: I put it back in, yeah.

1 MR. PEAD: I missed it, okay. That looks great, Judge.

2 THE COURT: Okay, the last one is Count XII, possession
3 or use of controlled substance. We had two elements there, and
4 I took out the party language in there.

5 MR. PEAD: Yeah, no "party" and no "compulsion," I'm
6 assuming --

7 THE COURT: That's correct.

8 MR. PEAD: -- (inaudible) compulsion.

9 MR. ZABRISKIE: That's correct.

10 THE COURT: Okay.

11 MR. ZABRISKIE: We're okay with that.

12 THE COURT: All right, and then I had the language here
13 again, pretty much similar to what I had in the preliminary
14 instruction with regard to reasonable doubt. I put it in here
15 again just to remind the jurors.

16 MR. PEAD: It's the MUJI, right?

17 THE COURT: It's MUJI. Any problem with that?

18 MR. PEAD: No, looks good.

19 MR. ZABRISKIE: Looks good, yeah.

20 THE COURT: All right, and talking about -- this is
21 one that the State had added, I think, attitude and conduct
22 important?

23 MR. PEAD: Yeah.

24 THE COURT: See any problem with that, Mr. --

25 MR. ZABRISKIE: We're good.

1 THE COURT: Okay, and the next one just advising the
2 jury of how they need to conduct their selves, and what they
3 need to do, and talking about unanimous agreement as well.

4 MR. ZABRISKIE: We agree.

5 THE COURT: All right.

6 MR. PEAD: Agreed.

7 THE COURT: Lastly talks about choosing someone as a
8 jury foreperson.

9 MR. PEAD: Right.

10 THE COURT: Any problem with that?

11 MR. ZABRISKIE: We agree with it.

12 THE COURT: Okay, good. So I'll number these, now that
13 I have approval, and I'll put the number on the bottom there.
14 I'll sign it and date it, give it to you before we hand any-
15 thing out or talk about anything before the jury. If you --
16 I'll give you a few minutes to review that, and then as soon as
17 you're done reviewing it, if you don't have any other changes,
18 then we'll bring the jury back out.

19 MR. PEAD: Am I to understand the Court has already
20 made all the Meagan Dakota Grunwald changes?

21 THE COURT: Not yet, but I'm -- I'll have Pona show me
22 how to do that more quickly than I know how, okay? So, all
23 right, so I've saved that. Now let's go to the trial verdict
24 form. All right, everything looks okay in the heading. So
25 we're talking about Count I here. Are we there, Mr. Zabriskie

1 and Mr. Pead?

2 MR. PEAD: Just waiting for mine to load up, your
3 Honor.

4 THE COURT: Okay.

5 MR. PEAD: Okay, I'm there.

6 MR. ZABRISKIE: We're there.

7 THE COURT: All right, did you see any problem with
8 Count I?

9 MR. PEAD: No, I drafted -- I think this is was the
10 one I submitted right, your Honor.

11 THE COURT: Okay.

12 MR. PEAD: That's good.

13 THE COURT: So my concern here, and you can tell me
14 what you think, but as I read this, it says, "We the jury make
15 the following special findings with regard to Count I." Then
16 it goes through and states the findings, and then the last
17 thing, of course, says, "If you cannot unanimously agree."

18 I'm concerned that possibly if they can't find some-
19 thing there, that they just go onto the next count rather than
20 stick with it. Do you see what I'm saying on "findings"?

21 MR. PEAD: Uh-huh.

22 THE COURT: If they, you know, I don't know if there's
23 a way that we can --

24 MR. PEAD: Could we say like "move onto finding two" or
25 something?

1 THE COURT: Yeah, I think -- otherwise I think if I get
2 it back and I read it, you know, I don't want the jury to come
3 back later to, well, we didn't really understand it. We could
4 go to the next finding if we didn't find unanimously on the
5 first one.

6 MR. PEAD: It does say "special findings" at the top,
7 but I have no objection to adding in the language, "Move onto
8 finding two," or something like that.

9 THE COURT: Or something that tells them -- well, you
10 let me know. I -- that's -- from reading juries in the past
11 it's just -- I don't want to have them to deliberate all this
12 time, come back out and I read it, you know, and I say --

13 MR. PEAD: We have to re-instruct them.

14 THE COURT: -- "Go back and --"

15 MR. PEAD: Yeah.

16 THE COURT: -- "figure this out." So, I don't know,
17 maybe -- maybe I'm not seeing this as the way it should be; but
18 what do you think, Mr. Zabriskie?

19 MR. ZABRISKIE: (No verbal response).

20 THE COURT: Do you like it as it is? I'll leave it as
21 is, but --

22 MR. PEAD: I mean, the other possibility is when the
23 Court --

24 THE COURT: When I instruct?

25 MR. PEAD: -- when you instruct and you read the

1 verdict form after the instructions, you can say, "Now --"

2 THE COURT: Yeah, I can do that.

3 MR. PEAD: --"you are to go through all of the findings
4 for each count if you find the defendant guilty of aggravated
5 murder or attempted aggravated murder."

6 THE COURT: I can do that as well.

7 MR. ZABRISKIE: I don't know. They might be over-
8 whelmed having received so much instruction if it's not in
9 writing to them.

10 THE COURT: I can tell you I was overwhelmed.

11 MR. ZABRISKIE: Yeah.

12 THE COURT: But that's the case. That's what we're in,
13 yeah.

14 MR. ZABRISKIE: So much information, yeah. I think it
15 has to be clearer and imbedded in this instruction.

16 MR. PEAD: Maybe -- maybe at the top where it says,
17 "We the jury make the following special findings." Oh, wait,
18 sorry. "After, as noted above, special findings for aggravated
19 murder must be unanimous," and then have a new sentence that
20 says, "Go through each finding for each count," or something
21 like that. "You are instructed to go through each finding for
22 each count."

23 MS. HOWARD: How many findings are there --

24 MR. PEAD: There's four in (inaudible).

25 MR. TAYLOR: What if we said that they must go through

1 finding one, finding two, finding three -- or do you want to
2 just say --

3 MR. PEAD: Oh, yeah, you could say, "You must go through
4 all findings one through four," or something.

5 MS. HOWARD: Count I has four findings --

6 MR. PEAD: That you must go through?

7 MS. HOWARD: Go through is kind of a --

8 MR. ZABRISKIE: Well, you could have an intermediate
9 instruction either -- I'd rather see it in writing again for
10 the same reason that the Court in (Inaudible) are concerned,
11 to the effect that "You must follow this procedure in each and
12 every count regardless of your finding in the preceding count,"
13 or something like that.

14 MR. PEAD: Your Honor, on the first sentence it says,
15 "If you find the defendant Meagan Dakota Grunwald guilty of
16 aggravated murder, fill out the following special findings for
17 Count I," could we say, "Fill out each of the special findings
18 for Count I"?

19 THE COURT: Here's what I'm thinking. "As noted above,
20 special findings, aggravating circumstances for aggravated
21 murder must be unanimous and at least one finding must be
22 made," because that's the only way they get to aggravated
23 murder.

24 MR. PEAD: Right.

25 MR. TAYLOR: Here's the sentence that I have, Judge,

1 after what -- the unanimous. "Each finding contains three
2 options. You must mark one of the boxes for each finding and
3 then proceed to the following finding."

4 MR. PEAD: I like that.

5 THE COURT: Mr. Zabriskie?

6 MR. ZABRISKIE: (No verbal response).

7 THE COURT: Because in order for them to get there,
8 they have to have at least one of the finding.

9 MR. PEAD: The general instruction for agg murder says
10 that.

11 MR. TAYLOR: One of the --

12 THE COURT: Right.

13 MR. TAYLOR: -- mark one of the options, not boxes.

14 MR. ZABRISKIE: So repeat -- would you repeat that,
15 Tim.

16 MR. TAYLOR: I said, "Each finding contains three
17 options. You must mark one of the options for each finding
18 and then proceed to the following or subsequent finding."

19 THE COURT: Yeah, that's true.

20 MR. ZABRISKIE: You're proposing to put that right
21 after "unanimous" --

22 MR. TAYLOR: Yeah.

23 MR. ZABRISKIE: -- a new sentence there?

24 MR. TAYLOR: Yeah, "You must mark one of the options
25 for each finding and then proceed to the following finding and

1 do the same thing," or something like that; or you could put --

2 THE COURT: I can put "You must mark one of the options
3 before you move to the next finding.

4 MR. TAYLOR: Yeah.

5 MR. PEAD: Yeah, and I think definitely that's on the
6 right track, that that would be a good place to insert.

7 THE COURT: Okay, and say they mark the third one every
8 time.

9 MR. ZABRISKIE: Well, if they mark the third one every
10 time --

11 THE COURT: They can't have --

12 MR. ZABRISKIE: --yeah, they can't have aggravated
13 murder, and they'd have to be re-instructed and sent back.

14 MR. PEAD: But no, but the instruction says, "You can
15 only go to the special findings if you find her guilty of
16 aggravated murder."

17 MR. ZABRISKIE: Yeah, that's true.

18 MR. PEAD: And the elements instructions already say
19 what that has to include.

20 THE COURT: I understand. I'm okay with the language
21 as "Each finding contains three options. You must mark one of
22 the options before you move to the next finding."

23 MR. PEAD: Yeah.

24 THE COURT: Are you okay with that, Mr. Zabriskie?

25 MR. ZABRISKIE: Yeah, we're okay with that.

1 THE COURT: Okay, let's move on, then. All the findings
2 were fine; didn't see any problems there?

3 MR. PEAD: Not that I remember. I went through it a
4 few times.

5 THE COURT: Okay, the right people are inserted where
6 you want them to be?

7 MR. ZABRISKIE: Let me look at it.

8 MR. TAYLOR: Where are we at?

9 THE COURT: We're still on one.

10 MR. TAYLOR: Okay, sorry.

11 THE COURT: Just looking at the findings and going
12 through them.

13 MR. TAYLOR: Oh, okay, I see them.

14 MR. PEAD: So the first one is an incident after
15 scheme, and they all have Sergeant Wride in them.

16 THE COURT: Yeah, that I saw.

17 MR. PEAD: But his real name, not Sergeant Wride,
18 obviously; and finding two is purpose of avoiding apprehension
19 or arrest. Cory Wride in each. Then the third one is hindering
20 a lawful government function for Cory Wride in each --

21 THE COURT: Right.

22 MR. PEAD: -- and then Count -- or sorry, finding four
23 was that he was a peace officer.

24 THE COURT: Right.

25 MR. PEAD: Yeah, okay. Looks good.

1 MR. ZABRISKIE: Yeah, we agree.

2 THE COURT: Okay, so Count II, then --

3 MR. PEAD: We'll put in the same language here as
4 you've noted above, right, on the special findings?

5 THE COURT: Yeah, unless there's a problem with that.
6 Are you okay with that, Mr. Zabriskie?

7 MR. ZABRISKIE: Yes.

8 THE COURT: Okay, so I'll put the same, "Each finding
9 contains --" is it still three options?

10 MR. PEAD: In attempted agg murder it's three. It's
11 three options and there's only three findings.

12 THE COURT: So I'll put, "Each finding contains three
13 options. You must mark one of the options before you move to
14 the next finding"?

15 MR. PEAD: Yes.

16 THE COURT: That works there, too?

17 MR. PEAD: Yep.

18 THE COURT: So one --

19 MR. ZABRISKIE: We agree.

20 THE COURT: -- okay, and so that looks okay, Count II?

21 MR. PEAD: Yes, so finding one, "Greg Sherwood avoiding
22 and apprehended --" excuse me, "avoiding or preventing arrest."

23 THE COURT: Okay.

24 MR. PEAD: Finding two, "Greg Sherwood, disrupting or
25 hindering legal function."

1 THE COURT: Okay.

2 MR. PEAD: Looks good. Finding three, "was a law
3 enforcement officer, Greg Sherwood --" it's the same, yes.

4 THE COURT: On duty, okay. All right. Okay, then,
5 Mr. Zabriskie?

6 MR. ZABRISKIE: We agree.

7 THE COURT: All right, and then Count III, discharge
8 of a firearm. See any problems with that at all?

9 MR. PEAD: No.

10 MR. ZABRISKIE: We agree with it.

11 THE COURT: Count IV, attempted aggravated murder
12 again, need to stick that language in here again?

13 MR. PEAD: Yes.

14 THE COURT: Okay, "Each finding contains three options.
15 You must mark one of the options before you move to the next
16 finding." Okay, and that still applies. This one is dealing
17 with Trooper Blankenagel.

18 MR. PEAD: Correct. So finding one is "avoiding or
19 preventing arrest." Finding two is "hindering lawful government
20 function." All have --

21 THE COURT: Okay.

22 MR. PEAD: -- and finding three is "law enforcement
23 officer --" yeah, looks good.

24 THE COURT: Okay. Is that okay, Mr. Zabriskie?

25 MR. ZABRISKIE: They're good, yeah.

1 THE COURT: All right, let's see. Okay, Count V, again,
2 discharge of a firearm?
3 MR. PEAD: Looks good.
4 MR. ZABRISKIE: Yeah, we agree.
5 THE COURT: Okay, Count VI, let's see, discharge of a
6 firearm?
7 MR. PEAD: Looks good.
8 MR. ZABRISKIE: We agree with it.
9 THE COURT: Count VII, criminal mischief?
10 MR. PEAD: Good.
11 MR. ZABRISKIE: Yeah, we agree.
12 THE COURT: Count VIII is, again, criminal mischief.
13 MR. PEAD: Looks good.
14 THE COURT: Fine?
15 MR. ZABRISKIE: We agree.
16 THE COURT: Count IX, violation of operator's duty for
17 accident?
18 MR. PEAD: Looks good.
19 MR. ZABRISKIE: We agree.
20 THE COURT: Okay, Count X, failing to respond to
21 officer's signal to stop?
22 MR. PEAD: Looks good.
23 MR. ZABRISKIE: We agree.
24 THE COURT: Okay, and Count XI, aggravated robbery?
25 MR. PEAD: Good.

1 MR. ZABRISKIE: We agree.

2 THE COURT: Then Count XII, possession?

3 MR. ZABRISKIE: We agree.

4 THE COURT: All right, (inaudible) that. Okay, so I'll
5 go ahead and check through it again, make sure that we've got
6 it correctly. I'll have Amber make copies for you to review,
7 and I don't know how long that will take. Give her 10 or 15
8 minutes, whatever it takes to go through that. Probably note
9 anything that you want to have done.

10 As soon as we're let known, we'll make the copies that
11 we need to make for the jury; and the plan is then hopefully
12 before 4 o'clock I'll come out and go through the instructions
13 with the jury. You've mentioned you wanted me to go over the
14 verdict form with them as well, Mr. Pead, or usually I would do
15 that after closing, but --

16 MR. PEAD: You'd usually read the verdict form after
17 closing?

18 THE COURT: Yeah, after I get ready to send them to
19 deliberate I would go over the verdict form with them.

20 MR. PEAD: Yeah, that makes sense.

21 MR. ZABRISKIE: We agree with that format.

22 THE COURT: Okay, so for this evening, then, it would
23 just be me reading through the final jury instructions to them.

24 MR. PEAD: And they'll each have a copy.

25 THE COURT: They'll each have a copy, and we would

1 break for the evening and come back tomorrow morning with
2 closing arguments.

3 MR. ZABRISKIE: May we have that at 9 o'clock, your
4 Honor, or is the --

5 THE COURT: That's fine. Okay, everything else okay?

6 MR. PEAD: Yep.

7 THE COURT: All right, let me get this done and then
8 we'll get that back to you as quickly as we can, and then we'll
9 bring the jury back in.

10 MR. PEAD: Thanks, Judge.

11 COURT BAILIFF: All rise.

12 (Recess taken)

13 COURT BAILIFF: All rise for the jury.

14 THE COURT: Let's hold on for a second. I'm not in.
15 Thank you. Please be seated. Are we on the record? All right,
16 we're back on the record State of Utah vs. Grunwald matter.
17 Parties are present including the defendant Ms. Grunwald, all
18 members of the jury.

19 All right, Counsel, I've previously handed you copies
20 of the final jury instructions. Have you had a chance to review
21 those?

22 MR. ZABRISKIE: Yes, your Honor.

23 MR. PEAD: Yes, your Honor.

24 THE COURT: Do you have any problems with those?

25 MR. PEAD: No.

1 THE COURT: Stipulate that they're okay?

2 MR. ZABRISKIE: They are okay.

3 MR. PEAD: We so stipulate.

4 THE COURT: All right, thank you.

5 (Court reads jury instructions to the jury. Please
6 refer to the Court file for these.)

7 THE COURT: All right, thank you for your patience
8 in going through that, members of the jury. It's so very
9 important that I do that so that at least we know one time
10 has gone through the jury instructions with you, although
11 you'll probably go through those more when you start to
12 deliberate.

13 Let's see. All right, I'm just going to go over
14 instruction No. 9 in the preliminary instructions real quickly
15 before I allow the jury to go home. I know you've heard me say
16 this before time and time again throughout the trial, but I'm
17 going to go over it with you once again just to make sure that
18 -- the importance of this instruction.

19 From time to time I will call a recess. It may be
20 for a few minutes or longer. During recesses do not talk about
21 this case with anyone; not family, not friends, not even each
22 other. Until the trial is over, do not mingle or talk with the
23 lawyers, parties, witnesses or anyone else connected with the
24 case. Court clerks or bailiffs can answer general questions
25 such as the length of breaks or the location of restrooms, but

1 they cannot comment about the case or anyone involved.

2 The goal is to avoid the impression that anyone's
3 trying to influence you improperly. If people involved in
4 the case seem to ignore you outside of Court, they're just
5 following this instruction. Until the trial is over do not
6 read or listen to any news reports about this case. If you
7 observe anything that seems to violate this instruction, report
8 it immediately to a clerk or bailiff.

9 All right, before we allow the jury to go home for the
10 evening is there anything else that we need to do?

11 MR. ZABRISKIE: Your Honor, we talked about returning
12 tomorrow at 9 o'clock. Is that still --

13 THE COURT: That's correct, yes. That's your under-
14 standing as well, Mr. Pead?

15 MR. PEAD: That's fine, your Honor.

16 THE COURT: So tomorrow we'll start at 9 o'clock. So
17 I'll request that you be here at 8:45, if that's okay. Is
18 there any problems with anybody making it at that time? All
19 right, then the plan, then, is to -- we'll start with closing
20 arguments at that time, and go from there. Anything else
21 before we release the jury for the day?

22 MR. ZABRISKIE: No, your Honor.

23 MR. PEAD: No, your Honor.

24 COURT BAILIFF: All rise for the jury.

25 (Jury exits the courtroom)

1 THE COURT: Thank you. I would like to see Counsel
2 in chambers just for a few minutes. We'll give the jury a
3 little bit of time to go, and then I'd just like to see you
4 real quickly if I could.

5 MR. PEAD: Sure.

6 (Meeting in chambers off the record)

7 (Eighth day of trial concluded)

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