

IN THE SUPREME COURT OF THE STATE OF NEVADA

KODY HARLAN

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Mar 10 2021 02:49 p.m.
Case No. 80318
Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANT'S APPENDIX
Volume XIII**

JEAN J. SCHWARTZER, ESQ
Nevada Bar No. 11223
Law Office of Jean J. Schwartzer
170 S. Green Valley Parkway
#300
Henderson, Nevada 89012
(702) 979-9941
Attorney for Appellant

STEVEN B. WOLFSON, ESQ.
Nevada Bar No. 1565
Clark County District Attorney
Clark County District Attorney's Office
200 Lewis Avenue
Las Vegas, Nevada 89155
(702) 671-2500
Attorney for Respondent

Harlan v. State Case No. 80318

INDEX TO APPELLANT'S APPENDIX

<u>Document</u>	<u>Page</u>
Information (7.17.2018)	1-4
Instructions to the Jury (8.7.2019)	50-94
Judgment of Conviction (12.12.2019)	178-179
Motion in Limine re Bad Acts (4.18.2019)	37-37
Motion for New Trial (8.13.2019)	95-99
Motion to Sever (4.8.2019)	5-17
Notice of Appeal filed (12.23.2019)	180-181
Response to State's OPP to MTN for New Trial (10.3.2019)	167-177
State's OPP to MTN in Limine re bad Acts (4.25.2019)	38-47
State's OPP to MTN to Set Aside Verdict (8.20.2019)	100-117
State's OPP to MTN to Sever(4.11.2019)	18-30
State's Supplemental Opposition to MTN for New Trial (9.26.2019)	139-166
Supplemental Briefing for MTN for New Trial (9.12.2019)	118-138
Verdict Form (8.7.2019)	48-49
<u>Transcript/Minutes</u>	<u>Page</u>
Transcript of Evidentiary Hearing (1.22.2020)	1529-1600
Transcript of Hearing on MTN for New Trial (1.22.2020)	1504-1528
Transcript of Hearing on MTN to Sever (5.1.2020)	1644-1653
Transcript of Jury Trial Day 1 (1.22.2020)	182-503

Transcript of Jury Trial Day 2 (1.22.2020)	504-699
Transcript of Jury Trial Day 3 (1.22.2020)	700-954
Transcript of Jury Trial Day 4 (1.22.2020)	955-1146
Transcript of Jury Trial Day 5 (1.22.2020)	1147-1375
Transcript of Jury Trial Day 6 (1.22.2020)	1346-1495
Transcript of Jury Trial Day 7 (1.22.2020)	1496-1503
Transcript of Sentencing (1.22.2020)	1601-1643

1 A The phone was thrown on the floor.

2 Q Who threw it on the floor?

3 A Kody.

4 THE COURT: Mr. Helmick?

5 MR. HELMICK: Thank you.

6 **FOLLOW-UP EXAMINATION**

7 BY MR. HELMICK:

8 Q Okay. So you say that here today, Traceo, to that
9 question but when you talked to the police when this was fresh in
10 your mind, you didn't say anything about that, Kody taking the
11 wallet, right?

12 A I don't remember.

13 Q Okay. So -- okay, Traceo.

14 MR. HELMICK: Page 62.

15 May I approach, again?

16 THE COURT: Yes.

17 BY MR. HELMICK:

18 Q So let's go ahead and read it again here.

19 What's that say on page 62?

20 A They never touched him in his pockets.

21 Q Okay. When you say they never touched him in his
22 pockets, you're including Kody in that conversation, right? They.

23 A Yes.

24 Q Okay. So -- I mean, today you're saying new things here
25 that were not said in the police report, right?

1 A Yes.

2 Q Okay. And now today you have an incentive to get off the
3 mountain that you're living on, right? Spring Mountain Ranch?

4 A No.

5 Q The youth camp, isn't that right?

6 A No.

7 Q You're not up there?

8 A Oh yeah, I am up there.

9 Q Okay. So you have an incent -- you don't want to be
10 there, isn't that right?

11 A I have to be there regardless.

12 Q Okay. But you don't want to be there, right?

13 A Who would?

14 Q Okay. Thank you.

15 THE COURT: Anything further?

16 MR. PESCI: No, thank you.

17 THE COURT: Okay. Mr. Meadows, you're all done. Thank
18 you very much.

19 Officer, thank you for your time. I appreciate it.

20 All right. State may call their next witness.

21 MR. PESCI: The State calls Dr. Mancini.

22 **DR. CHIARA MANCINI**

23 [having been called as a witness and being first duly sworn,
24 testified as follows:]

25 THE CLERK: Thank you, please be seated.

1 If you could state and spell your name for the record,
2 please.

3 THE WITNESS: My name is Dr. Chiara Mancini.
4 C-H-I-A-R-A. Last name, M-A-N-C-I-N-I.

5 THE COURT: Okay. All right. Mr. Pesci?

6 MR. PESCI: Thank you.

7 **DIRECT EXAMINATION**

8 BY MR. PESCI:

9 Q Ma'am, what do you do for a living?

10 A I am a medical examiner at the Clark County Coroner's
11 Office.

12 Q And what training and experience do you have that brings
13 you to that position?

14 A A medical examiner is a physician. I went to
15 undergraduate school at Colorado State University and got my
16 degree in biochemistry. I went to medical school at the Kansas City
17 University of Medicine in biosciences. Then I went to residency for
18 anatomic and clinical pathology at the University of Louisville
19 Hospital in Louisville, Kentucky. And I did my subspecialty
20 fellowship in forensic pathology at the Montgomery County
21 Coroner's Office in Dayton, Ohio.

22 Q And as a part of this training and experience, have you
23 performed autopsies?

24 A Yes.

25 Q Have you performed some here in Clark County and

1 actually in other jurisdictions?

2 A Yes.

3 Q And as you are here now in Clark County, are you
4 performing autopsies for the coroner's office here?

5 A Yes.

6 Q In this particular case, did you review a autopsy report
7 and photographs that was conducted by a different coroner?

8 A Yes.

9 Q A Dr. Roquero?

10 A Yes.

11 Q And has he since left the coroner's office?

12 A Yes, he is working another medical examiner job
13 elsewhere.

14 Q Okay. So he's moved to a different location, so you're
15 filling in for him?

16 A Yes.

17 Q All right. So it's very clear, however, when you reviewed
18 the report and you reviewed the photographs, did you come to
19 your own independent determination as to the cause and manner
20 of death?

21 A Yes.

22 Q Okay. And when you reviewed the autopsy report, did
23 you in the office of the coroner have a unique number specific to
24 the particular case that's being worked on?

25 A Yes.

1 Q And in this case was the case number 18-05977?

2 A May I consult the report?

3 Q If that will refresh your recollection and with the court's
4 permission.

5 THE COURT: Yes, you can go ahead.

6 BY MR. PESCI:

7 A Yes.

8 Q Okay. And does that number help when you're looking at
9 the photographs to be able to know that's the particular autopsy
10 that was performed under that number?

11 A Yes.

12 Q Okay. Speaking of the photographs, I'm going to show
13 you what's been previously entered as State's 1 -- State's 44
14 through 48 and ask you if you made your determination in part
15 based on these photographs.

16 Showing you State's 44.

17 Is that the decedent that has that unique number that we
18 just spoke of?

19 A Yes.

20 Q The 15 -- the 18-05977?

21 A Yes.

22 Q Focusing in on State's 45, tell us what you see from
23 reviewing this photograph and from the autopsy, what your
24 independent opinion is?

25 A This is a gunshot wound, specifically the findings indicate

1 that it's an entrance wound. I see a marginal abrasion from where
2 a projectile would have rubbed the skin as it entered. There are
3 also some lacerations which are a blunt force injury. Basically
4 because the skin of the area is tight, the force of the projectile
5 pulling the skin could cause some associated tears. I do not think
6 that these are a separate injury, I think they are associated with the
7 gunshot wound.

8 Q And speaking of that gunshot wound, I'm looking at
9 State's 46. Was there evidence inside of the mouth that helped you
10 to form that opinion?

11 A Yes. Additional injuries do include lacerations of the oral
12 mucosa, the inside of the lip basically; ruptured teeth, lacerated
13 tongue. It's a possibility that some of those tooth fragments could
14 have contributed to some of that but yes.

15 Q Okay. And showing you -- going back to what we looked
16 at a moment ago, State's 45.

17 Was there evidence of what you would consider close
18 range fire?

19 A No. And what I mean by that are there can be signs that
20 can provide some data on range of fire. For example, soot or
21 gunpowder stippling, which is abrasions or rubbing made by
22 gunpowder as it hits and rubs the skin. I do not see evidence of
23 that associated with this entrance wound.

24 Q So what does that indicate; the lack of that evidence?

25 A I would consider that a indeterminate range of fire and

1 what I mean by that is soot, generally speaking, extends to
2 approximately 12 -- up to 12 inches away and gunpowder stippling
3 extends to approximately 18 to 24 inches away. So past that you --
4 some medical examiners call that a distant range of fire or an
5 indeterminate range of fire. It is beyond that range of the what the
6 soot or stippling would imply.

7 Q So in the absence of that evidence, you're saying that this
8 shot was further than 18 to 24 inches away?

9 A Approximately 18 to 24 inches, yes.

10 Q So the muzzle of the gun would be further than that 18 to
11 24 inches upon firing?

12 A Generally, yes.

13 Q Okay. Because if the person gets closer to the target and
14 the muzzle's that close, the evidence that you spoke of would be on
15 the face.

16 A Yes.

17 Q Gunpowder or stippling, are those some of the signs of
18 that evidence?

19 A Yes.

20 Q All right. And what is it that the gunpowder does to
21 create that? Not in this case but in other cases we've seen, how
22 does that work?

23 A It is a -- as I said earlier, it's an abrasion which is under the
24 category of blunt force injury. It's generally not true tattooing like
25 the gunpowder being imbedded in the skin. It's an abrasion caused

1 when that powder hits the skin and it rubs it and it causes these
2 little punctate or pinpoint abrasions.

3 Q Okay. And those were not evident in this case.

4 A No.

5 Q Showing you State's 145.

6 Is it customary during an autopsy often to have x-rays
7 done?

8 A Yes. Postmortem autop -- postmortem radiographs are
9 typically taken.

10 Q All right. And we know this is from this case because we
11 have the victim Matthew Minkler and we have again, your unique
12 number to the coroner's office, correct?

13 A Yes.

14 Q All right. So you were able to see the photographs
15 showing the outside of the mouth and even some area inside the
16 mouth. But with this x-ray were you able to see what happened the
17 remainder of the way through the body?

18 A Yes. So what's -- and I can mark on this, right?

19 MR. PESCI: Yes.

20 THE COURT: Yeah, hold on.

21 If you just click on the little green pencil down there and
22 then you can left click and draw.

23 THE WITNESS: Thank you.

24 BY MR. PESCI:

25 A So what I just indicated that bright radiopaque object is

1 the projectile and it is within the -- adjacent to the third cervical
2 vertebrae.

3 Q Okay. So you're referring to this -- sorry, if just -- if maybe
4 if you circle it.

5 A Okay. Can I -- may I delete this line?

6 THE COURT: Yeah. See the little arrow down there,
7 three -- there you go. Just hit that and then you can go back.

8 BY MR. PESCI:

9 Q Is there evidence -- you've just circled on State's Exhibit --
10 and I don't dare move it at this point, but the number I said a
11 moment ago, I believe it's 145 or 144. Is there other evidence of
12 projectile or pieces of projectile exhibited in this particular
13 photograph?

14 A Yes. What I just circled, the largest object is the projectile
15 itself and there are several smaller radiopaque objects which
16 represent fragments of that projectile.

17 Q And where are those located, those fragments?

18 A They appear to be anterior --

19 THE COURT: You want to zoom on that so you can see
20 better what she's referring to?

21 MR. PESCI: I don't know if we have to clear out, Judge.

22 THE COURT: Yeah.

23 BY MR. PESCI:

24 A They appear to be anterior to or in front of, closer towards
25 the face. You can even see more radiopaque objects in the

1 mandible and in the tongue area which is further fragmentation; I
2 just circled the largest fragments.

3 Q And would that be this area here where there are
4 fragments scattered throughout?

5 A Yes.

6 Q Okay. And now the bullet you said was C3?

7 A Yes, sir.

8 Q Okay. What effect does that have?

9 A The spinal cord in the areas of the third through fifth
10 cervical vertebrae or C3 through C5 innervate the -- among other
11 functions, innervate the diaphragm. So the diaphragm is a band of
12 muscle that separates your chest from your abdomen, and it is
13 responsible for involuntary and voluntary motion -- respiration.

14 So in other words, injury to this level of the spinal cord
15 impairs sensory and motor function to this muscle that's essential
16 for breathing.

17 Q Okay. So that would stop breathing?

18 A Yes.

19 Q Okay.

20 A It would -- it would impair or even stop breathing, yes.

21 Q All right. Would it impair anything else?

22 A Other functions, but I think the most pertinent one in
23 terms of injury and cause of death would be the diaphragm.

24 Q Okay. So before we move to the cause of death, really
25 fast, showing you State's Exhibit 48.

1 When projectiles like we just saw in State's 145, from the
2 x-ray photograph, during autopsy are those often retrieved from
3 the body and then handed off to police personnel?

4 A Yes.

5 Q Okay. And now going to a moment ago you were talking
6 about the cause of death. So after reviewing the report and the
7 photographs, did you come to a conclusion of your own
8 independence as to the cause of death?

9 A Yes.

10 Q And what was that?

11 A Gunshot wound to the head.

12 Q And then the manner of death.

13 A Homicide.

14 Q Now when we say the manner of death is homicide, what
15 does that mean? To -- in medical terms.

16 A If the cause of death is the reason someone has died, the
17 manner of death are the circumstances surrounding the death. In
18 the state of Nevada there are five manners of death; natural,
19 suicide, homicide, accident, and undetermined. Suicide is generally
20 taking your own life, homicide is death at the hands of another
21 person, accident is death due to unforeseen circumstances, and
22 undetermined is when there is insufficient information to favor one
23 manner of death over the other.

24 Q And your opinion in this case is that it was a homicide.

25 A Yes.

1 Q So as far as what that is in a courtroom, murder-wise is
2 separate, but as far as this is an individual who died at the hands of
3 another individual.

4 A Yes.

5 Q In terms of forensic pathology terminology, this is a
6 homicide. But whether it is a criminal homicide, I leave that to
7 lawyers.

8 A Sure.

9 Q Did you also review the toxicology associated with this
10 particular individual?

11 A Yes.

12 Q And did you have the same notated specific number for
13 this particular autopsy, so you knew it dealt with this?

14 A Yes.

15 Q All right. And what were the findings of the toxicology
16 report, as far as from the victim, Matthew Minkler?

17 A May I refer to that report?

18 Q If that will refresh your recollection.

19 MR. PESCI: With the Court's permission.

20 THE COURT: Yes.

21 BY MR. PESCI:

22 A Toxicology findings included marijuana and THC
23 metabolites, as well as alprazolam and alprazolam metabolite.

24 Q Okay. What's a metabolite?

25 A A metabolite is a byproduct of the body processing the

1 parent compound. So for example, alprazolam, your body
2 processes that and one of the byproducts is alpha-
3 Hydroxyalprazolam

4 Q So is that where the body is breaking it down so to speak?

5 A Yes.

6 Q All right. So you mentioned a moment ago Delta THC?

7 A Yes.

8 Q And what's the one associated with? Which drug is that
9 associated with?

10 A That is the primary active ingredient of marijuana.

11 Q Okay. So we've got marijuana and then we've got the
12 breakdown, in essence of marijuana in the body as well, correct?

13 A Correct.

14 Q And then you said alprazolam. What is a name or another
15 alprazolam? Is that a generic version of a particular drug?

16 A Yes. It is the generic version of Xanax.

17 Q Okay. So when these are generated, they're generated off
18 what the generic name is for a particular item?

19 A Yes.

20 Q And then you talk about how alpha-Hydroxyalprazolam is
21 the metabolite or the breakdown of the alprazolam, which is in
22 essence Xanax.

23 A Yes.

24 MR. PESCI: Pass the witness.

25 THE COURT: Mr. Helmick?

1 MR. HELMICK: No questions, Your Honor. Thank you.

2 THE COURT: Mr. Yampolsky?

3 MR. YAMPOLSKY: No questions.

4 THE COURT: Anything from our jurors?

5 Yes.

6 [Bench conference transcribed as follows.]

7 MR. PESCI: No objection from the State.

8 MR. HELMICK: No objection.

9 MR. YAMPOLSKY: No objection.

10 [End of bench conference.]

11 THE COURT: Okay. I have a question for you if I could,
12 Dr. Mancini.

13 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

14 BY THE COURT:

15 Q With this injury, if the individual received emergency care,
16 could they survive?

17 A Yes, but it is likely that they'd have to be on a ventilator to
18 help them with breathing, perhaps for the rest of their life.

19 THE COURT: Okay. Mr. Pesci, any questions based on
20 mine?

21 MR. PESCI: No. Thank you, Your Honor.

22 THE COURT: Mr. Helmick?

23 MR. HELMICK: No, Your Honor. Thank you.

24 THE COURT: Mr. Yampolsky?

25 MR. YAMPOLSKY: No, Your Honor.

1 THE COURT: Dr. Mancini, thank you very much. I
2 appreciate your time today. You are excused.
3 The State may call their next witness.
4 MR. PESCI: Judge, may we approach?
5 THE COURT: Yes.
6 [Bench conference transcribed as follows.]
7 THE COURT: Anybody here yet?
8 MR. PESCI: What?
9 THE COURT: Anybody here yet?
10 MR. PESCI: No, I think he's here, but this is the one where
11 it's going to be utilizing the computer --
12 THE COURT: Okay.
13 MR. PESCI: -- so I don't know if we want to prep it up in
14 advance --
15 THE COURT: Okay.
16 MR. PESCI: -- outside the presence.
17 THE COURT: Okay.
18 MR. HELMICK: Spangler?
19 MR. PESCI: Yeah.
20 MR. HELMICK: I got to get my board set up too so --
21 THE COURT: Yeah.
22 [End of bench conference.]
23 THE COURT: All right. Folks, we're going to take a quick
24 recess to let the attorneys to set up some stuff before we start with
25 our next witness. So during the recess you're admonished not to

1 talk or converse among yourselves or with anyone else on any
2 subject connected with the trial. Or read or watch or listen to any
3 report of or commentary on the trial by any medium of information
4 including, without limitation, newspapers, television, the internet,
5 and radio. Or form or express any opinion on any subject
6 connected with the case until it's finally submitted to you. No legal
7 or factual research, investigation, or social media communication
8 on your own.

9 Thank you. Hopefully it won't be anymore than about 15
10 minutes, okay?

11 THE MARSHAL: All rise for the jury.

12 [Outside the presence of the jury]

13 THE COURT: You guys can sit down. Thank you.

14 All right. So each side kind of needs to get everything set
15 up from a computer standpoint?

16 MR. HELMICK: Yes, Your Honor.

17 MR. PESCI: Yes, Judge. So this --

18 THE COURT: Okay.

19 MR. PESCI: -- witness, Detective Spangler does the phone
20 extraction. It's an enormous amount of data.

21 THE COURT: Okay.

22 MR. PESCI: And there's data in there that we're purposely
23 not putting in front of the jury.

24 THE COURT: Okay.

25 MR. PESCI: So we're trying to present it without having

1 any of that exposed to the jury.

2 THE COURT: Okay. Yeah, you can go ahead.

3 And Ryan, you can get yours set up as well.

4 MR. HELMICK: All right. Thank you.

5 [Court recessed at 10:21 a.m., until 10:44 a.m.]

6 [In the presence of the jury.]

7 THE MARSHAL: All rise for the jury.

8 Jury is all present, Your Honor.

9 THE COURT: Thank you, you all can be seated. We will
10 be back on the record. Mr. Harlan, Mr. Caruso attorney's, jurors,
11 are all present.

12 We are going to continue on with the State's case in chief.
13 Your next witness is going to be?

14 MS. OVERLY: The State calls Jared Spangler.

15 THE COURT: Thank you.

16 **JARED SPANGLER**

17 [having been called as a witness and being first duly sworn,
18 testified as follows:]

19 THE CLERK: Thank you, please be seated. If you can state
20 and spell your name for the record, please.

21 THE WITNESS: Jared Spangler. J-A-R-E-D. Spangler is,
22 S-P-A-N-G-L-E-R.

23 THE COURT: Thank you, sir.

24 Ms. Overly.

25 MS. OVERLY: Thank you.

DIRECT EXAMINATION

BY MS. OVERLY:

Q Good morning, sir.

A Morning.

Q How are you employed?

A With the City of Henderson as a police detective.

Q And are you assigned to a specific unit?

A I am.

Q And what is that?

A The computer crimes unit.

Q And in the computer crimes unit, do you have the opportunity to conduct forensic analysis on phones?

A Yes, I do.

Q And were you tasked with doing that in a homicide investigation under Event Number 18-12238?

A Yes.

Q Now specifically what phones did you actually analyze?

A There was two iPhones, there was a Samsung Galaxy S6, there was an additional Samsung and there was a Apple laptop.

Q With regards to the Apple laptop, did you do a forensic analysis on that?

A Yes, I did.

Q And what did you find?

A That it belonged to an individual who lived in Las Vegas who is not related to the case.

1 Q Okay. Now with regards to the two iPhones, did you
2 receive those from a crime scene analyst?

3 A Yes, I did.

4 Q And would that have been, crime scene analyst Hornback?

5 A I believe that's the name, correct. Yes.

6 Q And that was -- those were items recovered from a
7 Mercedes vehicle is that correct?

8 A That is correct.

9 Q Okay. And with regards to the I -- the Samsung phone,
10 was that provided to you by a different CSA?

11 A Yes, that is correct.

12 Q And would that have been obtained from a Cool Lilac
13 address?

14 A Yes.

15 Q Okay. Now what program do you specifically use to do
16 this analysis on the phones?

17 A I utilize Cellebrite.

18 Q And what is Cellebrite?

19 A Cellebrite is a computer -- excuse me, mobile forensics, it
20 does cell phones and tablets. They produce software and hardware
21 so that law enforcement has the ability to extract data from cellular
22 phones and tablets.

23 Q And when you say extract data, does it extract contacts
24 from a phone?

25 A Yes, it does.

1 Q What about text messages?

2 A Yes.

3 Q Videos?

4 A Yes.

5 Q Okay. So essentially anything that's currently on the
6 phone?

7 A That is correct.

8 Q What about any items that have been deleted from the
9 phone?

10 A Depending on the device, yes you can get some deleted
11 content.

12 Q Okay. And specifically in this case, the phones that you
13 recovered, were they associated different mobile -- I'm sorry model
14 numbers?

15 A Yes.

16 Q And would that have been 1661 and 1784?

17 A Yes, that is correct.

18 Q And as a result -- specifically did you take photographs of
19 these phones?

20 A Yes, I did.

21 MS. OVERLY: And -- Your Honor, may I approach?

22 THE COURT: You may.

23 BY MS. OVERLY:

24 Q And showing you what's been marked as State's
25 Proposed Exhibits 125 through 138. Can you look at these and let

1 me know if they look familiar to you?

2 A Yes, they do look familiar to me.

3 Q And do those fairly and accurately reflect the photos that
4 you took of the three phones that you analyzed?

5 A Yes.

6 MS. OVERLY: Your Honor, the State would move to admit
7 State's Proposed Exhibits 125 through 138.

8 THE COURT: Any objection?

9 MR. HELMICK: No, Your Honor.

10 MR. YAMPOLSKY: No, Judge.

11 THE COURT: Thank you. Those will all be admitted.

12 **[STATE'S EXHIBIT NUMBERS 125 to 138 ADMITTED]**

13 BY MS. OVERLY:

14 Q So on this screen in front of you, I'm just going to publish
15 for you, 125.

16 Does that look familiar?

17 A Yes.

18 Q And is that one of the iPhones?

19 A It is, yes.

20 Q And again 126, it looks like there's somewhat of a
21 reflection there. Is that fair to say?

22 A Yes.

23 Q And --

24 THE COURT: Don't. Craig don't go in there. We got
25 another courtroom on the other side, so I asked somebody to go

1 over there and make sure that folks are trying to keep their voices
2 down. It's not real soundproof though.

3 BY MS. OVERLY:

4 Q And showing you 129.

5 Does that reflect a model number?

6 A Yes, I would have to zoom in just a little bit, or maybe get
7 closer to the picture, but yes there's a model number to the bottom
8 left-hand corner there. There we go.

9 Q There we go. Would that be model 1784?

10 A That is correct.

11 Q Okay. And with the respect to 1784, we look at State's
12 Proposed -- or I'm sorry, State's Exhibit 130.

13 Is that associated with Model Number 1784?

14 A Yes, it is.

15 Q And it looks like there is an Apple ID and an iCloud Gmail,
16 is that correct?

17 A That is correct.

18 Q And what does that indicate?

19 A JaidenCaruso2@gmail.com

20 Q And again, 131. That just a closer image of that?

21 A Same e-mail, yes.

22 Q And there was also another model of 1661. Is that
23 correct?

24 A Yes.

25 Q And that would have been an iPhone?

1 A Correct.

2 Q Okay. Now showing you State's Exhibit 127.

3 Let me zoom in here. Would that be 1661?

4 A Yes, it is.

5 Q Okay. So when using the Cellebrite system, were you
6 able to access the content of both of these iPhones?

7 A Yes, I was.

8 Q And when you did, were you able to identify the owner, or
9 possessor, of each phone?

10 A Yes.

11 Q And how were you able to do that?

12 A I take a look at the entire contents of the phone; it could
13 be text messages, phone calls, the e-mail as you showed. If the
14 phone is set up with a specific e-mail a lot of times people will use
15 their name.

16 There's phone number's associated with it. E-mails inside
17 the actual phone. One of the bigger indicators is usually photos, if
18 someone is taking selfies of themselves you -- it's pretty obvious
19 when you're going through a phone's contents to see who actually
20 possessed the phone.

21 Q So with regards to model number 1661, were you able to
22 determine who you believed the owner of that phone was?

23 A Yes.

24 Q And who was that?

25 A Kody.

1 Q Would that be Kody Harlan?

2 A Yes.

3 Q And was there anything unique about that specific phone
4 in terms of its capabilities?

5 A Yes, this phone was -- it was not connected to a cellular
6 provider. It's what we generally call a Wi-Fi device only, so there
7 was no phone calls on it utilizing the carrier. All the phone calls
8 were with FaceTime which you can do it with a phone that's not
9 connected to the cellular network but through Wi-Fi, and same
10 thing with messages, it was only iMessages. There was no typical
11 SMS or MMS messaging on the actual device.

12 Q Okay. So the phone was not equipped to make like an
13 audio phone call?

14 A Correct.

15 Q Okay.

16 THE WITNESS: Only --

17 THE COURT: So --

18 THE WITNESS: -- through FaceTime.

19 THE COURT: -- for old people like myself can you just tell
20 the jury what you mean when you say SMS and MMS?

21 THE WITNESS: Sure, an SMS is just a text message. It's
22 a basic text message up to 256 characters. If it's more than that, it
23 converts it to a multimedia message and that would be the MMS.
24 So it's just a standard text message is the SMS.

25 THE COURT: Thank you.

1 BY MS. OVERLY:

2 Q And whereas you were indicating with an iMessage, is
3 that something unique only to an iPhone?

4 A Yes, that is correct.

5 Q So somebody could send an iMessage to another person
6 who had an iPhone?

7 A Correct.

8 Q Okay. Now with regards to the model number 1784, what
9 did you determine about that phone?

10 A As?

11 Q In terms of who the owner of that phone was?

12 A That belonged to Jaiden.

13 Q Would that be Jaiden Caruso?

14 A Yes.

15 Q Okay. And again, showing you State's Exhibit 131, would
16 that reflect the Apple ID we see here?

17 A That is correct, yes.

18 Q Okay. Now, with regards to that specific phone, were you
19 able to extract videos from that phone?

20 A Yes, I was.

21 Q And approximately were there four videos of interest to
22 you?

23 A Yes.

24 Q Okay. And when you pulled those videos did you make a
25 report or generate a report based off of that?

1 A I did, yes.

2 MS. OVERLY: And -- if I may approach Your Honor?

3 THE COURT: You may.

4 BY MS. OVERLY:

5 Q Showing you what's been marked as State's Proposed
6 Exhibit 153. Does that appear to be the report that you generated?

7 A Yes.

8 MS. OVERLY: And, Your Honor, at this time the State
9 would move to admit State's Proposed Exhibit 153.

10 THE COURT: Any objections?

11 MR. HELMICK: No, Your Honor.

12 MR. YAMPOLSKY: No objection.

13 THE COURT: All right, that will be admitted.

14 **[STATE'S EXHIBIT NUMBER 153 ADMITTED]**

15 BY MS. OVERLY:

16 Q I would publish [indiscernible] just a minute. Let me just
17 zoom. Okay. So we'll just kind of go at the top here. So it looks
18 like there's a file info and then an additional file info next to each
19 video; is that fair to say?

20 A Yes.

21 Q Okay. And with regards to --

22 THE COURT: Can I interrupt you, real quick?

23 MS. OVERLY: Yes.

24 THE COURT: Can you guys all see the big screen? I didn't
25 know if the other screen is blocking the big screen or not. You

1 good? Okay. Thank you.

2 BY MS. OVERLY: I apologize it might -- not sure if it's --

3 MR. PESCI: Sorry, Judge.

4 MS. OVERLY: -- blurry just to me

5 THE COURT: No that's okay.

6 MR. PESCI: You okay, Sarah?

7 MS. OVERLY: Yeah.

8 THE COURT: I think you're find, I just couldn't see their
9 angle --

10 MS. OVERLY: Okay.

11 THE COURT: -- over there. Okay.

12 BY MS. OVERLY:

13 Q So with regards to the first video, 4881 -- let's see if I
14 can -- there we go.

15 What were you able to determine about that video?

16 A Well, first off, if you start in the top left-hand corner you
17 can see the name of the video, IMG4881. It is an mp4 file
18 extension, which means it is a video with audio and then
19 underneath that it gives you the path.

20 The path usually will direct you where to -- where the
21 video was located on the device, if it was on there. If you follow the
22 path the first word B-I-T-H-N-I-G-G-A is the device name and then
23 from there it goes to var/mobile/media/DCIM and so on.

24 That is an indication that that file is native to the phone,
25 meaning it was taken and saved in a native file path. That's how

1 Apple will save videos on the Apple device.

2 Q So is it fair to say when you say native to the phone it
3 means that the person who possessed the phone at the time would
4 have to go in to access the video application on the phone and
5 record the video themselves and then it saves into that phone?

6 A Correct.

7 Q So it wasn't something that was sent to the person?

8 A Correct.

9 Q Okay. And were you able to determine the date and time
10 it was created?

11 A Yes. If you look in the middle column there it shows a
12 creation date of June 8, 2018 at 12:59:13.

13 Q So 12:59:13, that would have been when the video was
14 actually recorded and saved to that phone?

15 A Correct.

16 Q Okay. And with regards to the next file 4882, what were
17 you able to determine about that?

18 A Similar results in the file path. It shows the exact same, it
19 just has a different file name itself. It's also located in the 104 Apple
20 folder and then obviously in the middle column you can see the
21 creation date which was June 8, 2018 at 2:43 p.m.

22 Q Okay. And then, again, the third video would that be the
23 same thing?

24 A Yes. That's also native with the file path and it was a
25 created on June 8, 2018 at 2:44:26 p.m.

1 Q Now with regards to the very last video here, 4884, what
2 were you able to determine about that?

3 A This one is different, the file path itself is saved in a library
4 folder underneath the SMS, which is a text message but with an --
5 as an attachment. There are few reasons that it may be an -- as an
6 attachment. I can get into that if needed. And the creation date
7 was June 8, 2018 at 2:50:59 p.m.

8 Q So if it is indicated here on the pathway that it's as an
9 attachment, does that mean that it's not native to the phone?

10 A Not necessarily, no.

11 Q Okay. So what could that mean?

12 A Well, with this phone, it has several apps -- applications
13 installed on it. Specific apps that utilize the camera would be
14 Snapchat. Snapchat, when you open the application it utilizes the
15 camera to record but when you -- if you want to record a video and
16 send it to someone, it's actually going to be saved underneath the
17 file path as an attachment not as a native because it wasn't used by
18 the camera application; that's not how it was recorded it was
19 recorded with a Snapchat --

20 Q I see.

21 A -- application.

22 Q So if somebody took their phone and they wanted to
23 record something but instead of going to the video application on
24 the phone, which is native to the phone, they went through an
25 application instead?

1 A Correct.

2 Q So they just took it through an application instead of the
3 phone?

4 A Correct.

5 Q And then it would show up as an attachment.

6 A Right.

7 Q Okay. And again, that indicates that it was sent as an
8 attachment at 2:50:59, is that correct?

9 A That is correct.

10 Q Okay. And I'd like to show you now State's Exhibit 147.

11 And we just discussed 4881, which would have been the
12 video that was native to the phone on June 8, 2018 at 12:59 p.m.

13 [Video playing]

14 BY MS. OVERLY:

15 Q So again, this video was found on Jaiden Caruso's phone
16 and you reflected that it was native to the phone, correct?

17 A That is correct.

18 Q And that it was created on 12:59, on June 8th?

19 A Correct.

20 Q Okay. And with regards to -- is that 4882? 4882.

21 [Video playing]

22 BY MS. OVERLY:

23 Q If we could just pause it for a second? Now this is video
24 4882 and that would have been native to the phone, correct?

25 A That is correct.

1 Q And that would have been on June 8th at 2:43 p.m.

2 A Right.

3 Q Now it looks like there's kind of a strip in front of the
4 video. Are you familiar with what that is?

5 A Yeah, that's some filters that you can add through
6 Snapchat.

7 Q Okay. So this would have been something that was at
8 least being attempted to post to Snapchat?

9 A It possibly could. You can change the filters during
10 recording itself so it -- that filter's -- that strip that we see down the
11 middle of the video itself, comes from the application.

12 Q Okay. So this would have been something that was at
13 least not necessarily originated through the application, but
14 transferred over to the application?

15 A It could.

16 Q Okay. And those are parts of the application that you can
17 utilize when posting to Snapchat?

18 A That's correct.

19 Q Okay. Now showing 4883.

20 [Video playing]

21 BY MS. OVERLY:

22 Q Is it fair to say that this particular video is the same as we
23 just saw --

24 A Yes.

25 Q -- on 4882? But now it doesn't have that Snapchat filter?

1 A Correct.

2 Q Okay. And again, that was native to the phone and
3 created on 2:44 p.m.

4 A Correct.

5 Q Okay. And then finally 4884.

6 [Video playing]

7 BY MS. OVERLY:

8 Q So that video, you indicated, was saved under the
9 pathway of an attachment?

10 A Yes, that is correct.

11 Q And, I believe, you indicated that that was on June 8th at
12 2:50 p.m.?

13 A Yes.

14 Q And again, just to clarify, that's not necessarily indicating
15 it's not native to the phone, just that it was utilized or recorded
16 through a Snapchat application.

17 A That is correct.

18 Q Or an application.

19 A Correct.

20 Q Okay. Now when you're doing this analysis on the phone,
21 are you also able to obtain content in terms of text messaging and
22 phone calls?

23 A Yes.

24 Q Okay. And were you able to review the phone calls,
25 incoming and outgoing on this phone on June 8th, 2018?

1 A Yes.

2 Q Okay.

3 [Colloquy between Counsel]

4 BY MS. OVERLY:

5 Q So if you look at the screen in front of you, does that look
6 familiar?

7 A Yes, it does.

8 Q And what is that?

9 A That is an Extraction Summary for one of the phones.

10 Q Okay. And when you say an Extraction Summary, is what
11 we're looking at here, the Cellebrite software system?

12 A Yes, this is the Cellebrite reader program. It allows the
13 Prosecution and Defense to be able to view the -- all the contents of
14 that was retrieved from the device itself.

15 Q Okay. And that's where you obtained the videos we just
16 saw?

17 A Correct.

18 MS. OVERLY: And now Your Honor, at this point I move
19 to admit State's Proposed Exhibit 147.

20 THE COURT: Any objection?

21 MR. YAMPOLSKY: No objection.

22 MR. HELMICK: No, Your Honor.

23 THE COURT: Thank you, that will be admitted.

24 **[STATE'S EXHIBIT NUMBER 147 ADMITTED]**

25 ...

1 BY MS. OVERLY:

2 Q So it appears as though we're on what looks like a
3 timeline feature here. Is that fair to say?

4 A Yes.

5 Q And what does that timeline feature provide for?

6 A So everything that the software extracts from the device,
7 phone calls, text messages, pictures, videos, it -- anything that it
8 extracts it compiles it into a timeline feature and that's what we're
9 looking at. So we're looking at everything that's available, all of the
10 artifacts, we call them, the extracted artifacts in one location. That's
11 the timeline.

12 Q And when looking at any given log, does it reflect
13 information about that call or that text message?

14 A Yes.

15 Q And so looking at specifically the one here, I believe the
16 timestamp indicates 6/8/2018; is that correct?

17 A That is correct.

18 Q And what would the time indicate?

19 A 2:08:28 p.m.

20 Q Okay. Would that be correct time?

21 A Yes, it is.

22 Q Okay. And does it indicate if it's an outgoing or ingoing
23 call?

24 A It indicates outgoing.

25 Q Okay. So that would mean that it was a phone call

1 coming from this phone.

2 A Correct.

3 Q Okay. And you indicated that you were able to review
4 this, correct?

5 A Yes.

6 Q Would this have been a reflection of the calls for Jaiden
7 Caruso's phone?

8 A Yes.

9 Q Now, it also indicates that in addition to it being an
10 outgoing call, the parties involved, correct?

11 A Yes.

12 Q And who is the party that the phone is calling?

13 A It's associated with Ghunnar. That's -- when you see a
14 name there that is a contact on the actual device. So on the device,
15 that phone number is associated with Ghunnar and that was what
16 the outgoing phone call was to.

17 Q So that's not a name that you've assigned to that
18 number?

19 A Correct. I did not.

20 Q That is the name that the phone has assigned to that
21 number.

22 A That is correct.

23 Q And so would this reflect a phone call from Jaiden
24 Caruso's phone to Ghunnar at 2:08 on 6/8?

25 A Yes.

1 Q And it -- would it indicate to you if it's a regular call or a
2 FaceTime call?

3 A It's a regular call.

4 Q Okay. Would it distinguish if it was a FaceTime call?

5 A Yes, it would.

6 Q Okay. So if we go down to the next one, does that reflect
7 a different call that was made?

8 A No, that's a duplicate.

9 Q That would be a duplicate?

10 A Uh-huh.

11 Q How do you know it's a duplicate?

12 A It has the exact same timestamp as the other one and the
13 same duration.

14 Q Okay.

15 A And --

16 Q And --

17 A -- if you look at the extraction -- so where it says
18 extraction on the right-hand side of the screen, it says file system.

19 Q Yes.

20 A If you go to the one just above that and look in the same
21 area, it will say logical. So that's different types of exams that we
22 do on the device, that's why there's two.

23 So the logical is one form of an extraction and the file
24 system is a secondary one. It's just to make sure that we can -- we
25 were pulling the same information so it's -- there's several different

1 extractions you can do, so that's why there's two because one
2 came from the logical, the other one came from the file system.

3 Q Okay. So it's almost just a shadow of the call that we saw.

4 A Correct.

5 Q Okay. So then the next one, which would be 7927, is
6 that -- that's a logical call.

7 A Correct.

8 Q So this would be a second call that was made now?

9 A Yes.

10 Q And what time and date does that reflect?

11 A That was on June 8, 2018 at 2:09:47 p.m.

12 Q And the duration of that call?

13 A 54 seconds.

14 Q And who was that to?

15 A To Ghunnar.

16 Q And again, does this indicate anything about whether or
17 not it's a regular call or a FaceTime call?

18 A That indicates it was just a regular call.

19 Q Okay. If we go down again, would that just be again the
20 shadow of the previous call?

21 A Correct.

22 Q Okay. So the next log, is this now a third separate call?

23 A Yes, it is.

24 THE COURT: This is 7929 for the record you're asking
25 about.

1 MS. OVERLY: Thank you, Your Honor.

2 THE COURT: Thank you.

3 BY MS. OVERLY:

4 Q So 7929, what does that indicate?

5 A That indicates that there was a outgoing call on June 8,
6 2018 at 2:10:38 p.m.

7 Q And --

8 A To Ghunnar.

9 Q And does it indicate any kind of duration of the call?

10 A It does not.

11 Q And what does that mean?

12 A Well when you do the logical extraction, it -- it's a very
13 minimal amount of data that it extracts that's why we -- I follow it
14 up with a file system extraction.

15 Q Okay. So would the file system reflect the length of the
16 call?

17 A Yeah. So as you can see here on the next one down, it's
18 the exact same timestamp, but if you look at the extraction type it's
19 the file system. This is where it provides more information;
20 specifically the source is showing FaceTime.

21 Q Okay. So now the third call to Ghunnar, which was
22 reflected technically on 7929, we get more information on 7930 and
23 that indicates that it was a FaceTime call.

24 A Correct.

25 Q And then the duration?

1 A Generally it's not recorded. The file system doesn't
2 record how long it is because it's not through a network provider,
3 it's through Apple servers.

4 Q I see.

5 A So we don't -- unless we were able to tap into their
6 servers, that's not something we generally know.

7 Q Okay. But again, this is an outgoing call?

8 A Correct.

9 Q So from Jaiden Caruso's phone to Ghunnar.

10 A Correct.

11 Q Okay. And now on line 7931, it looks like there is a phone
12 call on June 8th at 2:10 p.m. and it's -- would this be correct that it's
13 from Ghunnar?

14 A That is correct.

15 Q Okay. And how do you -- how are you able to tell that?

16 A It actually will tell you down at the bottom, it will show
17 what the number is calling from and it's showing the type as a
18 missed phone call.

19 Q Okay.

20 A Of June 8, 2018 at 2:10:41 p.m.

21 Q So it indicates that the phone number that you're doing
22 the analysis on is the one that had the missed call?

23 A Correct.

24 Q Okay. And then going to 7932, is that a different call?

25 A No, that's the same one.

1 Q Okay. So again, that's just reflecting the information from
2 the prior call?

3 A Correct.

4 Q So would that be a missed FaceTime call from Ghunnar?

5 A That is correct.

6 Q Okay. And then 7933, looks like June 8th at 2:10 p.m. and
7 that's an outgoing call to Ghunnar.

8 A That is correct.

9 Q And it appears as though that's 59 seconds long?

10 A That is correct.

11 Q And since it's giving us the duration, is this fair to say that
12 it's a regular phone call?

13 A I would have to go to the one right beneath it --

14 Q Okay.

15 A -- because this is through the logical extraction it doesn't
16 actually record it -- there.

17 Q Okay. So below it, it actually indicates it's a FaceTime
18 call.

19 A Correct.

20 Q Okay. So this would be a phone call from Jaiden's phone
21 to Ghunnar at 2:10 and it's a FaceTime call?

22 A Correct.

23 Q Okay. And then below that, line 7935, what does this
24 reflect?

25 A This is an outgoing call to -- it was on June 8, 2018 at

1 2:16:56 p.m. and it was made to Charles.

2 Q Okay. And again, that is the name assigned to the phone
3 by the phone --

4 A Correct --

5 Q -- not you.

6 A -- the contact.

7 Q Okay. And would the line below it, 7936, reflect more
8 information about that call?

9 A Yes, it does.

10 Q Okay. And does that indicate that it was a regular call?

11 A Yes.

12 Q And what does the duration tell you about that?

13 A It was zero seconds.

14 Q So would that indicate that the individual on the other end
15 didn't answer?

16 A Most likely, yes.

17 Q Okay. And again, that's at 2:16 p.m.?

18 A Yes.

19 Q Okay. Now you were also able to examine a Samsung
20 phone that you recovered from a Cool Lilac address, is that correct?

21 A Yes, that is correct.

22 Q And showing you what's been marked as -- can you just
23 [indiscernible].

24 [Colloquy between Counsel]

25 ...

1 BY MS. OVERLY:

2 Q 133 -- just get them out of here. Does that appear to be
3 the phone?

4 A Yes, that is it.

5 Q And what is it that you noticed first about the phone?

6 A Well this is the back of the phone, the Samsung Galaxy
7 S6's have a glass backing so that it can be wirelessly charged. The
8 back of this phone is extremely damaged.

9 Q And when you say damaged, what kind of damage did
10 you observe to the phone?

11 A The entire phone, or just the back?

12 Q The back, let's say.

13 A Okay. The back was completely cracked and smashed, as
14 you can see from the photo there.

15 Q And when looking at 135, what does this show?

16 A That's the back of the phone as well.

17 Q And is this an attempt to remove the back of the phone?

18 A Yeah, so the phone was completely inoperable. There
19 was severe damage to the phone.

20 Q And what kind of damage -- in addition to the cracks here,
21 what kind of damage was done?

22 A Well for starters, the charging port was completely
23 damaged it looked as if something had been rammed or injected
24 into it. It was completely damaged so I couldn't connect any cables
25 to the actual phone.

1 The back was cracked, as you can see. The front had
2 extensive damage. There was black like spray paint all over the
3 screen, it was also cracked and broken, and one of the edges was
4 collapsed in a little like someone had hit it on a hard object. There
5 was burn marks on the phone, on one of the sides. There was also
6 some water marks as well.

7 Q Okay. And showing you 132.

8 Is that the front of the phone?

9 A Yes, yes.

10 Q You say that there were burn marks. Where were there
11 burn marks on the phone?

12 A You can see some of the coloration in the bottom right-
13 hand corner, down by the home button. Down there. It's a darker
14 black.

15 Q Okay. If --

16 A And.

17 Q In front of you there's a mouse there --

18 A Oh.

19 Q -- if you could --

20 THE COURT: Just click on the little green pencil there and
21 then you can left click and --

22 THE WITNESS: Okay.

23 THE COURT: -- draw. So no, no, no, no, right -- in the
24 middle there, the little green pencil.

25 THE WITNESS: Oh, the green one? Okay.

1 THE COURT: There you go, and then you left click and
2 draw.

3 BY MS. OVERLY:

4 A So you can see down in here there's a discoloration. This
5 was a darker color and in this corner of the actual phone, you can
6 see some up here as well in this portion and can see some more up
7 in here in this section here. There's a little bit over here. All of
8 these were burn marks

9 And it's hard to see the cracked glass underneath this
10 because it is painted, but this was all broken. Once I was able to
11 start taking it apart -- because I was trying to determine if we could
12 get anything off the phone if it was actually completely inoperable
13 or if we were able to extract any data, so I had to take the phone
14 apart.

15 There was water marks in this corner here -- sorry for the
16 design there but there's water marks in the top left-hand corner.
17 And also when I took it apart -- Samsung has little stickers -- that's
18 what I refer to them as, I don't know the proper name, but there are
19 little stickers inside and when they get wet, they turn pink which is
20 another indication that the phone was wet. Both of those stickers
21 were pink.

22 Q And showing you --

23 A Yeah.

24 Q -- State's 138.

25 Is that the inside of the phone?

1 A Yes, it is.

2 Q And what does that show?

3 A This -- you can see the front -- or to the left over here is
4 the screen and the digitizer. You can see it's damaged and it's
5 completely black; it shouldn't be. This is --

6 Q When you say --

7 A -- just.

8 Q -- I'm sorry. When you say it's completely black, what did
9 you mean by that?

10 A I'm assuming it was from the spray paint.

11 Q Okay. So there was spray paint on the phone as well.

12 A Correct.

13 Q Okay. And would that have been the front of the phone
14 or --

15 A Yes.

16 Q -- all around the phone?

17 A Yes, the front of the phone.

18 Q Okay. Which obviously leaked into the inwards of the
19 phone.

20 A Correct.

21 Q Okay. Sorry, continue.

22 A It's okay. And then this portion here, the middle one this
23 is the actual body, the outer shell per se, of the phone itself. I
24 cannot see the stickers I was telling you about without zooming in.

25 Q It's okay, I think we can --

1 A Am I able to zoom in.

2 Q -- show you on 137.

3 A And then this here, this portion right here -- the mouse
4 has stopped here, I apologize. All of this is the actual motherboard
5 inside right in here is the chip that contains all the information from
6 the phone. It has everything recorded on there.

7 So this that I just drew over there was all intact and it
8 wasn't damaged. So at that point I was able to take this so that we
9 could repair the phone for an extraction.

10 Q And did you need to completely replace the digitizer that
11 you referenced?

12 A Yes, we replaced several parts in this phone.

13 Q Okay.

14 A But nothing that had any data on it. Nothing with
15 memory.

16 Q So you were able to extract information from the phone?

17 A Correct.

18 Q So just to be clear the phone had what appeared to be
19 water damage?

20 A Yes.

21 Q Burn damage?

22 A Yes.

23 Q Spray paint?

24 A Yes.

25 Q And it was cracked?

1 A Correct.

2 Q And the USB charging port was damaged.

3 A Yes. Completely inoperable at that point.

4 MS. OVERLY: I'll pass the witness, Your Honor.

5 THE COURT: Thank you.

6 Mr. Helmick.

7 MR. HELMICK: Thank you, Your Honor.

8 [Colloquy between Counsel]

9 **CROSS-EXAMINATION**

10 BY MR. HELMICK:

11 Q Okay. So we know that you went through Matthew's
12 phone, right?

13 A Yes.

14 Q Okay. And you went through all the text messages that
15 he sent that day as well, right?

16 A Most of them, I don't think I read every single one --

17 Q Sure.

18 A -- yes.

19 Q Okay. And the calls that he made you looked at -- and
20 we're just talking about June 8th.

21 A Right.

22 Q You looked over at those? Okay. So I want to --

23 MR. HELMICK: If I may approach to use the board, Your
24 Honor?

25 THE COURT: You may.

1 MR. HELMICK: Thank you.

2 BY MR. HELMICK:

3 Q Can you see this okay?

4 A Yes.

5 Q Okay. So at 12:15 p.m., Matt called Jaiden three times,
6 right?

7 A Yes.

8 Q Do you remember that? Okay. And then on the third --
9 after the third missed call, Jaiden calls him back at 12:30 p.m.,
10 right?

11 A I'm going off of my report that I did from the phone --

12 Q Sure.

13 A -- but that sounds correct.

14 Q Okay. And I know that you probably don't remember the
15 duration because you don't have your report, but I wrote it on there
16 just to be safe. Then there's a text from Matt if you recall at 12:32
17 p.m. -- sorry. I've got you on some when you get here. Do you
18 recall seeing that?

19 A Yes.

20 Q Okay.

21 Okay. So let's talk about the first video, and I believe that
22 was 4881, at 12:59 p.m. That's when Jaiden takes that first video
23 showing him with the marijuana and pretending to shoot the gun,
24 right?

25 A Correct.

1 Q Okay. So some stuff on here we don't have talk about
2 because we didn't talk about it on direct, so. Okay. Leave that right
3 there for a second.

4 Now the first video of Jaiden that he was trying to post to
5 Snapchat was at 2:43 p.m., right?

6 A Correct.

7 Q Okay. And there was no -- there's nobody in the
8 background saying we're just -- we just going to leave this nigga
9 here. In that first video, right?

10 A Not that I recall.

11 Q Okay. Now the second video at 2:50 p.m. that's when he
12 takes the video of Matt laying on the floor again, right?

13 A Correct.

14 Q Okay. So when you reviewed both of those videos were
15 you paying attention at all to the body position of Matthew during
16 those two videos?

17 A Little bit.

18 Q Okay. All right. I'm going to show you Defense Exhibit D.
19 Now we just watched the video a moment ago, right?

20 A Correct.

21 Q This was from the first video, isn't that correct? A clip
22 from the -- and I just clipped this from off the video, would you
23 agree --

24 A That looks --

25 Q -- that this is --

1 A -- like that. Yeah.

2 Q Okay. And this --

3 MR. PESCI: Judge, I apologize, we would just ask for
4 some specificity as to the exact file number, so we know if this is
5 4 --

6 MR. HELMICK: Oh, I'm sorry. Yes.

7 MR. PESCI: -- 881. Things of that nature.

8 MR. HELMICK: You got it.

9 THE COURT: Thank you.

10 MR. HELMICK: 4882 was the file number. 4882 on this
11 particular video.

12 BY MR. HELMICK:

13 Q Okay. And then the second video that Jaiden takes is
14 4883, right?

15 A Uh.

16 Q Of Matt deceased on the floor.

17 A Okay.

18 Q Right.

19 A Yes, yes.

20 Q Okay. And that would be a picture -- a clip from that
21 second video, right?

22 A Correct.

23 Q Okay. And Matt's body is in a different position, wouldn't
24 you agree?

25 A Yes.

1 Q Okay. And there's an individual standing behind him with
2 black jeans and white -- whiteish grayish shoes, right?

3 A Yes.

4 Q Okay. Now you also reviewed Kody Harlan's phone in
5 this case as well, right?

6 A Correct.

7 Q Okay. And out of the three individuals Jaiden, Matt and
8 Kody, there was the least amount of activity of his phone wouldn't
9 you agree.

10 A On? Which --

11 Q On --

12 A -- one?

13 Q -- Kody's phone.

14 A Correct.

15 Q Least amount of activity, right? In fact, he had missed --
16 he never replied to even three text messages that were sent to him
17 that day do you remember that?

18 A I don't.

19 Q That's okay. But you didn't see any texts to Matt at all
20 from Kody, right? That you can recall.

21 A There would be no text messages, it would only be
22 iMessages.

23 Q iMessages, right. Okay. So you didn't see any
24 communication rather, from Kody to Matt that day, right?

25 A I don't recall looking specifically --

1 Q Okay.

2 A -- for that. So I -- if I could look at it maybe I could --

3 Q Sure.

4 A -- let you know a better answer.

5 Q Sure, okay. I don't know if I have that particular part.

6 MR. HELMICK: Court's indulgence.

7 [Colloquy between Counsel]

8 BY MR. HELMICK:

9 Q Now the Cellebrite -- that would be on your Cellebrite
10 report, right?

11 A Correct.

12 Q Okay. Now there was also a report that you hand wrote in
13 regard to what you had extracted from the phones or what you
14 were doing with the phones, right?

15 A That is correct.

16 Q And that was submitted to Detective Nichols --

17 A Correct.

18 Q -- in this case. Okay.

19 And if you recall, there were no videos from Kody's phone
20 of Matt deceased on the floor, right?

21 A I don't recall any.

22 Q Okay. No sending of videos of Matt deceased on the floor
23 to anybody, right?

24 A Yeah, not that I recall.

25 Q Okay. Thank you very much, Detective.

1 THE COURT: Mr. Yampolsky.
2 [Colloquy between Counsel]
3 MR. YAMPOLSKY: Detective Spangler, I'm going to need
4 to have my colleague assist technically.
5 MR. HELMICK: Sorry, I just got to change this sorry.
6 MR. PESCI: Push the button.
7 MR. YAMPOLSKY: What now?
8 MR. PESCI: You got to push the button.
9 MR. YAMPOLSKY: Oh, okay.
10 MR. PESCI: The big black button.
11 MR. YAMPOLSKY: Which button?
12 THE COURT: The big button, Mace.
13 MR. YAMPOLSKY: Button.
14 THE COURT: The big button.
15 MR. YAMPOLSKY: Am I safe?
16 MR. PESCI: You want to do the?
17 MR. YAMPOLSKY: All right.
18 MR. PESCI: Hold on a second.

19 **CROSS-EXAMINATION**

20 BY MR. YAMPOLSKY:

21 Q Okay. And on the screen that's -- would you refer to that
22 as your Cellebrite report?

23 A Yes.

24 Q Okay. And I'd like to direct your attention to 7970. And
25 what is that?

1 A If I could just ask one clarifying question?

2 Q Okay.

3 A Is this the same extraction report we were looking at a few
4 minutes ago? And --

5 MR. PESCI: Yes, it is.

6 MR. YAMPOLSKY: Yes --

7 THE WITNESS: Yes?

8 MR. YAMPOLSKY: -- it is.

9 THE WITNESS: Okay. All right.

10 MR. YAMPOLSKY: I'm -- sorry.

11 THE WITNESS: No, that's all right. I was just going to
12 have you click on the extraction summary up there and that would
13 give me more information but if it's the same, well, I'm with you
14 now.

15 BY MR. YAMPOLSKY:

16 Q Okay. And this would come from -- it says from and 702-
17 412-0993 and it said -- next to that is says Nate and dollar sign,
18 correct?

19 A That is correct, yes.

20 Q And that would be the phone that that was from, correct?

21 A That is correct.

22 Q Now on that, can you see what the text was based on this
23 message?

24 A Are you referring to the body of the text?

25 Q Yes.

1 A Okay. Because it's actually an instant message, which is
2 not --

3 Q Okay. I'm sorry.

4 A -- but just for -- yeah to be --

5 Q All right. So --

6 A -- exact.

7 Q -- what should I call this? An instant message?

8 A This would -- if you click on the next one, remember how I
9 was explaining there's a logical and then there's the file system
10 there? So if you look, it's the same time as the one above. It's 7971
11 and 7970 are the same. One comes from the --

12 MR. YAMPOLSKY: Court's indulgence, Your Honor, can I
13 move this just a little?

14 THE COURT: Sure.

15 MR. YAMPOLSKY: Because I can't see.

16 MR. PESCI: Judge, may I ask as well could the witness
17 maybe step down? I think it would be better if he could manipulate
18 the computer as opposed to us kind of anticipating for him?

19 MR. YAMPOLSKY: Huh.

20 THE COURT: Mr. Yampolsky?

21 MR. YAMPOLSKY: What?

22 MR. PESCI: No, I was asking if the witness --

23 MR. YAMPOLSKY: Oh.

24 MR. PESCI: -- could come down here, Mace --

25 MR. YAMPOLSKY: Oh.

1 MR. PESCI: -- and that way he could go through it --
2 MR. YAMPOLSKY: Would you?
3 MR. PESCI: -- fast.
4 THE WITNESS: Sure.
5 MR. YAMPOLSKY: I just want to move this because I can't
6 see it.
7 MR. HELMICK: Mace, you got to hit that button again,
8 hold on.
9 MR. YAMPOLSKY: And I can't see that one, which is what
10 I need. I promise I won't break it for you, come on.
11 THE COURT: Thank you, Ryan.
12 Okay. You can go ahead Mr. Yampolsky.
13 BY MR. YAMPOLSKY:
14 A Okay. So 7970 this one here --
15 Q Okay.
16 A -- that we see, this one came from the logical extraction.
17 It has the same date and timestamp as the one directly beneath it
18 which is at 4:31:55 p.m. So as you can see it was from Nate, which
19 is that number right there associated with it, and the body of the
20 actual message itself is right here which says: Quit being a mark.
21 The one right beneath it with the same timestamp comes
22 from the file system extraction type. It has the same date and
23 timestamp, but it shows you the source application which was an
24 iMessage. So when you said is it a text? No, it's an iMessage --
25 Q Okay.

1 A -- which is different but again it has the same content
2 information that also includes that it was read by the owner of the
3 phone and again if you scroll down there you can see the body,
4 which is the content of the actual, iMessages: Quit being a mark.

5 Q And an iMessage is a text message sent between iPhones,
6 correct?

7 A Correct?

8 Q Okay. All right. Well if you could go to the next number,
9 7972?

10 A Okay.

11 Q And on -- that is also an extraction that you performed,
12 correct?

13 A That is correct.

14 Q And on that one, that -- it appears to be a response to the
15 previous iMessage, correct?

16 A Yes, this is a message -- an iMessage, that was sent from
17 this phone number which is the phone number that is associated
18 with the actual device. And --

19 Q And --

20 A -- it's --

21 Q -- that would be the phone number association --
22 associated with Mr. Caruso, correct?

23 A Correct.

24 Q Okay.

25 A And it's sent to Nate. Again this is going to be duplicative

1 because one comes from the logical extraction, the one directly
2 beneath it at 7973, this one here, is from the file system again with
3 more information showing that it's an iMessage and that's the
4 e-mail associated with the iMessage. It was sent date, June 8, 2018
5 at 4:32:09 p.m. And it says the body of the actual iMessage is that
6 right there: I just caught a body.

7 Q Okay. So now the next number, I guess would be 79 --

8 A 7974?

9 Q Right. And that would be the response to the last
10 iMessage.

11 A Correct.

12 Q And so this response would be from Nate's phone to
13 Jaiden's phone, correct?

14 A Yes.

15 Q And it says, you are lying. That was the body of the text.

16 A Yes --

17 Q Correct?

18 A -- it says you lying.

19 Q Right, you lying. Excuse me.

20 Okay. And then the next extraction would be -- is that a
21 picture or a video?

22 A 7976, is the one you're referring to?

23 Q Yes.

24 A Okay. So this was -- there's -- again this is going to be
25 duplicative.

1 Q Right.

2 A But from the logical extraction it shows that this was a
3 iMessage that was sent from the phone that's being extracted data
4 from to Nate and there is a photo there.

5 Q Okay.

6 A But, I apologize, it is an mp4 file. That is a video. That is
7 4884 --

8 Q Okay. So there --

9 A -- that we were referencing earlier.

10 Q -- was a video and you don't need to play it, but the video
11 was sent and then if you could go to the message below, the 7977 --

12 A Okay.

13 Q -- that would be the same one, that would be the
14 duplicate, correct?

15 A That is correct.

16 Q Okay. Then --

17 A Because this comes --

18 Q -- go to the one --

19 A -- from the file system, yes.

20 Q -- go to the one below that.

21 A Okay.

22 Q And in the body of that it says STG, correct?

23 A Yes.

24 Q Okay. And now could you go to the next -- to the 7980, I
25 believe that's it.

1 THE COURT: The one you just reviewed was --
2 THE WITNESS: The 7979 is from the --
3 THE COURT: -- 7978, for the record.
4 THE WITNESS: -- file system so that -- these two are
5 duplicative. 7978 and 7979.
6 MR. YAMPOLSKY: Right, so --
7 THE WITNESS: So 7980 --
8 MR. YAMPOLSKY: -- 7980 --
9 THE WITNESS: Okay.
10 BY MR. YAMPOLSKY:
11 Q Yes. And that message is from Jaiden's phone to Nate's
12 phone, correct?
13 A Yes, it shows that it was sent from this phone number
14 sent to Nate.
15 Q And then the body says: Popped him on accident.
16 A Popped his on accident.
17 Q Popped his --
18 A Correct.
19 Q -- on accident.
20 A Yes.
21 Q And that would be the actual message sent from Jaiden's
22 phone to Nate's phone --
23 A Correct.
24 Q -- correct?
25 A That is correct.

1 Q And it says, popped his on accident.
2 A Yes.
3 Q All right. Thank you.
4 MR. YAMPOLSKY: I have nothing further.
5 THE COURT: Mr. Pesci.
6 MR. PESCI: Actually, I think Ms. Overly.
7 MS. OVERLY: Yes.
8 MR. PESCI: If that's okay?
9 THE COURT: You want him to stay there at the computer?
10 MR. PESCI: I don't know, did you have more with him on
11 this?
12 MS. OVERLY: Yeah, but you can go back on --
13 THE WITNESS: Okay.
14 MS. OVERLY: -- the stand.
15 MR. PESCI: Thanks, Your Honor.

16 **REDIRECT EXAMINATION**

17 BY MS. OVERLY:

18 Q So just briefly, Detective, you were asked by Mr. Helmick
19 that when you reviewed the contents of Kody Harlan's iPhone that
20 you didn't find any messages or calls between Mr. Harlan and Matt
21 Minkler, is that correct?

22 A I honestly don't recall going through a lot of his
23 messages --

24 Q Okay.

25 A -- so I don't know, to be honest.

1 Q That's fine. But fair to say that most of the content that
2 you found was on Jaiden Caruso's phone.

3 A Correct.

4 Q However you reference that Kody Harlan's phone was
5 only equipped to do certain things considering it didn't have
6 cellular service, is that correct?

7 A That is correct.

8 Q So his phone could not make calls.

9 A Correct.

10 Q Couldn't send SMS messages.

11 A Correct.

12 Q And if he were to send an SMS message to Matthew
13 Minkler, he was unable to do so, correct?

14 A That is correct because it's not an iPhone.

15 Q So he was not able to send an iMessage to Matthew
16 Minkler?

17 A That is correct.

18 Q Because Matthew Minkler had a Samsung.

19 A Correct.

20 Q Okay. Now would this preclude him from contacting
21 people or individuals through an application?

22 A No.

23 Q But that wouldn't necessarily be documented --

24 A Correct.

25 Q -- in the Cellebrite software.

1 A That is correct.

2 Q So if he did contact somebody through an application like
3 Snapchat, it wouldn't be reflected in the report.

4 A Correct.

5 Q Okay. Now you were also asked about the text message
6 exchanges between Jaiden Caruso and what appears to be the
7 contact we have in here for -- is it safe to say Nate S.? Or is it --

8 A Money. Make money sign.

9 Q Make money sign, okay. So it appears as though some
10 point, he does send -- let me just see this, sorry -- he does send a
11 video to Nate, is that correct?

12 A Yes.

13 Q And that is 4884.

14 A Yes.

15 Q Is that correct?

16 A That is correct.

17 Q And 4884 per your report would have been the video that
18 we indicated was an attachment, correct?

19 A That is correct.

20 Q And that video was the video where someone's asking if
21 we're just going to leave the body here.

22 A Yes.

23 Q Okay. And so it indicates that in your report that you
24 recognize that that was an attachment on -- at 2:50 p.m., is that
25 correct?

1 A Yes, that is correct.

2 Q But then here we also see that that video was again sent
3 at 4:32 p.m.

4 A Correct.

5 Q Okay. So it was sent as an attachment again two hours
6 later?

7 A Yes.

8 Q Okay. Pass the witness, Your Honor.

9 THE COURT: Anything further, Mr. Helmick?

10 MR. HELMICK: Yes.

11 **RECROSS-EXAMINATION**

12 BY MR. HELMICK:

13 Q So he was able to connect -- Kody Harlan was able to
14 connect to Wi-Fi, right?

15 A Yes.

16 Q Okay. So he could get on the internet, right?

17 A Yes.

18 Q He could message people through Snapchat, right?

19 A Correct, yes.

20 Q He could message people through Facebook messenger,
21 right?

22 A Yes.

23 Q I mean any application, right?

24 A Yeah, any application.

25 Q Yeah, he could -- so he could send messages to people if

1 he wanted to, right?

2 A Yes.

3 Q Okay. And likewise, if somebody did have an iPhone, he
4 could send an iMessage and attach a video to that message, right?

5 A Correct.

6 Q Okay. And you didn't see any of that in this -- in your
7 extraction in this case with Mr. Harlan's phone, isn't that right?

8 A For iMessages?

9 Q Yes.

10 A Correct. There was only a few iMessages.

11 Q Okay. And the majority of them -- and I know that you
12 don't have your report in front of you, but the majority of them
13 were incoming to Kody and he never replied. Would that be you
14 guessing at this --

15 A I don't --

16 Q -- point?

17 A -- want to say yes without looking --

18 Q I understand.

19 A -- I honestly don't recall.

20 Q I understand. Yeah, I mean the report, and everything is
21 on the computer, so I don't want to have to have you --

22 A Sure.

23 Q -- dig through it all, so.

24 A I know there's not a great deal, but there are some
25 iMessages --

1 Q Right.

2 A -- on --

3 Q And so --

4 A -- the device.

5 Q Thank you. And so the majority of the communication
6 here, as Ms. Overly said, was between Jaiden and -- basically from
7 Jaiden's phone, right?

8 A Correct.

9 Q Okay. Thank you.

10 THE COURT: Anything Mace?

11 MR. YAMPOLSKY: I have nothing, Your Honor.

12 THE COURT: Sarah?

13 MS. OVERLY: Nothing, Your Honor.

14 THE COURT: Anything from our jurors? Yes?

15 [Bench conference, transcribed as follows.]

16 THE COURT: I don't know why you [indiscernible].

17 MR. HELMICK: I was already up here.

18 MR. YAMPOLSKY: What was the over under? Ten? Have
19 we forgotten about that?

20 MR. PESCI: So I don't know -- we've got our next witness,
21 but I don't know if you want to break for lunch?

22 THE COURT: That's okay, who's the next witness?

23 MR. PESCI: It's Detective Wayne Nichols.

24 THE COURT: Okay.

25 MR. PESCI: So --

1 THE COURT: How long you think he'll be?
2 MR. PESCI: On direct? Probably 15, 20 minutes.
3 THE COURT: And is he your last witness?
4 MR. PESCI: Yeah.
5 THE COURT: Okay. Yeah, yeah let's go ahead and do him
6 then before we break for lunch.
7 MR. PESCI: Okay.
8 MR. HELMICK: Excuse me?
9 THE COURT: We'll go ahead and do their last witness
10 before we break for lunch.
11 MR. HELMICK: Okay.
12 MR. YAMPOLSKY: Good.
13 MR. HELMICK: I'm just going to have to take a restroom
14 break though.
15 THE COURT: What?
16 MR. HELMICK: I've got to use the restroom.
17 THE COURT: Oh come on man, you've got to hold on.
18 MR. HELMICK: Sorry.
19 THE COURT: [Indiscernible] make you speed up.
20 MR. YAMPOLSKY: [Indiscernible] -- yeah.
21 THE COURT: I'm not sure what she means by physically
22 connected to Wi-Fi. I don't think you -- there is a physical
23 connection to Wi-Fi, right?
24 MR. HELMICK: Good question.
25 MR. PESCI: I think she's asking if there's a cord or

1 something?

2 THE COURT: Yeah.

3 THE COURT: Wi-Fi by its nature is not physical
4 connection, right?

5 MR. PESCI: Right.

6 MR. HELMICK: Well.

7 MR. PESCI: Wireless?

8 MR. HELMICK: It's a -- yeah, but I think that's what she
9 means though, right?

10 MR. PESCI: I would agree that's what she means.

11 MR. HELMICK: Physically connected to Wi-Fi though
12 the -- you know the Wi-Fi connection.

13 THE COURT: I think she's talking about -- no because she
14 says, or could functions be performed through Wi-Fi if not
15 physically connected to Wi-Fi?

16 MR. PESCI: You don't physically connect to Wi-Fi --

17 MR. HELMICK: No. No.

18 MR. PESCI: -- do you?

19 THE COURT: No, I know.

20 MS. OVERLY: I don't know if she means physically to the
21 modem?

22 MR. HELMICK: [Indiscernible] if it's cleared up yet.

23 THE COURT: Is there Wi-Fi at the house?

24 MS. OVERLY: We don't know.

25 MR. HELMICK: No idea. Would he know at all?

1 MR. PESCI: I don't know.

2 ALL COUNSEL: We can ask.

3 THE COURT: Okay. All right.

4 [End of bench conference]

5 THE COURT: A couple of questions for you if I could
6 please, sir.

7 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

8 BY THE COURT:

9 Q If you know, do you know if there was Wi-Fi at the house
10 that was alleged to be the crime scene here?

11 A I do not know.

12 Q Okay.

13 A I didn't actually enter the house.

14 Q Okay. No worries.

15 A So I don't know.

16 THE COURT: And then your question references being
17 physically connected to Wi-Fi? I don't understand that --

18 JUROR NUMBER 8: Yeah.

19 THE COURT: -- because Wi-Fi is wireless.

20 JUROR NUMBER 8: Right, but you -- like you have --

21 THE COURT: Are you asking did the phone have to be
22 connected by a cord to something?

23 JUROR NUMBER 8: No, no like if the -- like in your
24 wireless port -- like on my phone, you have to connect to a Wi-Fi
25 router or Wi-Fi area --

1 THE COURT: Sure.

2 THE WITNESS: Uh-huh.

3 JUROR NUMBER 8: -- or are you just using the Wi-Fi --
4 like do you have to be physically connected to a Wi-Fi --

5 THE COURT: Well I think our confusion is you keep using
6 the word physically --

7 JUROR NUMBER 8: Yeah, like.

8 THE COURT: -- as opposed to wireless.

9 JUROR NUMBER 8: Physically like it's --

10 THE WITNESS: Could I offer --

11 JUROR NUMBER 8: -- a Wi-Fi router in your line, as
12 opposed to just the air waves above you not connected to a Wi-Fi --

13 THE WITNESS: Can I offer some --

14 JUROR NUMBER 8: -- does it?

15 THE WITNESS: -- clarification?

16 JUROR NUMBER 8: Okay.

17 THE COURT: Sure.

18 JUROR NUMBER 8: That's what I'm trying to find --

19 BY THE COURT:

20 Q So here's the question, can you explain the phone for
21 Kody had to be physically connected to Wi-Fi to perform functions
22 or could functions be performed through Wi-Fi, if not physically
23 connected to Wi-Fi?

24 A Okay. So let me try and answer that. When -- on your
25 device, when you connect to the Wi-Fi network, you have to one,

1 turn the Wi-Fi on, and then you see the list as you were saying you
2 see a list of all the Wi-Fi networks.

3 JUROR NUMBER 8: Right.

4 THE WITNESS: You have to physically touch it and then
5 enter the password. Once you've done that once, the phone
6 memorizes it. So if you get in reach of that Wi-Fi --

7 JUROR NUMBER 8: Anywhere.

8 THE WITNESS: -- location again it will automatically
9 connect. That phone had to be connected to a Wi-Fi network --

10 JUROR NUMBER 8: Okay.

11 THE WITNESS: -- in order to use an application to use an
12 iMessage --

13 JUROR NUMBER 8: Okay.

14 THE WITNESS: -- to use FaceTime.

15 JUROR NUMBER 8: Okay.

16 THE COURT: Okay.

17 JUROR NUMBER 8: I understand.

18 THE WITNESS: Okay.

19 THE COURT: Okay. Mr. -- or Ms. Overly any questions
20 based on that?

21 MS. OVERLY: Just one.

22 **FOLLOW-UP EXAMINATION**

23 BY MS. OVERLY:

24 Q So to clarify then, unless he was connected to a network
25 which provided Wi-Fi, he was not able to do anything on the phone.

1 A That is correct.

2 Q Okay. Which means access, applications, or send
3 iMessages, correct?

4 A You cannot send iMessages, you certainly could draft one,
5 but you can't send one and I say majority, like 99% of applications
6 you can't do anything without the internet, which you need to be
7 connected to the Wi-Fi, or a cellular provider.

8 Q Because he didn't have a cellular provider as a carrier to
9 the phone.

10 A Correct.

11 Q Okay.

12 THE COURT: Mr. Helmick.

13 MR. HELMICK: Yeah, just a follow up.

14 **FOLLOW-UP EXAMINATION**

15 BY MR. HELMICK:

16 Q I mean, so clearly even if he didn't have any access to Wi-
17 Fi, which we don't know, right? But if he didn't have any access to
18 Wi-Fi then he wouldn't be able to communicate with anybody,
19 right? Through the text messages, and the apps and so forth.

20 A Correct. If you could repeat your question a little more
21 direct, I apologize.

22 Q Sure, no problem. Since he had to get on Wi-Fi to
23 communicate, right?

24 A Correct.

25 Q Okay. If there was no Wi-Fi in that house, there would be

1 no way to communicate with anybody, right? Through Kody
2 Harlan's phone.

3 A Through the home. Let me throw a caveat though, if
4 someone inside the residence --

5 Q Sure.

6 A -- has a hotspot, they can create a hotspot with their
7 phone the Samsung S6 could connect through that hotspot, but it
8 needs Wi-Fi --

9 Q Okay.

10 A -- for any type of communication.

11 Q To have communication, that's all I'm saying.

12 A Yes.

13 Q Okay. All right. Thank you, Detective.

14 THE COURT: Anything further?

15 MR. YAMPOLSKY: I have no additional questions.

16 MS. OVERLY: No, Your Honor.

17 THE COURT: Okay. Officer, thank you very much for your
18 time. I appreciate it. You are excused. Okay.

19 THE COURT: All right. State may call their next witness.

20 MR. PESCI: State calls Detective Wayne Nichols.

21 **WAYNE NICHOLS**

22 [having been called as a witness and being first duly sworn,
23 testified as follows:]

24 THE CLERK: Thank you, please be seated.

25 If you could state and spell your name for the record,

1 please.

2 THE WITNESS: Wayne Nichols; W-A-Y-N-E,
3 N-I-C-H-O-L-S.

4 MR. PESCI: Judge, could I just grab some photos?

5 THE COURT: Sure.

6 **DIRECT EXAMINATION**

7 BY MR. PESCI:

8 Q Sir, what do you do for a living?

9 A I am a detective with the Henderson Nevada Police
10 Department.

11 Q How long have you been in that position?

12 A I've been a police officer since 2002, I've been an
13 investigator since 2007.

14 Q How long have you been working homicide?

15 A Since 2015.

16 Q All right. A couple of things to kind of get out of the way
17 at the front end. In the course of this investigation, did you go to
18 various addresses associated with this event?

19 A Yes, I did.

20 Q Specifically where a car accident occurred?

21 A That is correct.

22 Q Did you also go to the 2736 Cool Lilac Avenue address?

23 A Yes, I did.

24 Q And were you aware also of a 9580 Summersweet Court
25 Address?

1 A Yes, I am.

2 Q Okay. I want to show you what's been marked as State's
3 Proposed Exhibits 154 and 155 and ask you if you recognize those.
4 Starting with 154, do you recognize that?

5 A I do.

6 Q What is that?

7 A This is going to be a bird's eye view map depicting the
8 distance between 2736 Cool Lilac, as well as the Galleria Mall
9 located at 1300 West Sunset.

10 MR. PESCI: Move for admission of State's 154.

11 THE COURT: Any objection?

12 MR. HELMICK: No objection.

13 MR. YAMPOLSKY: No objection.

14 THE COURT: That'll be admitted.

15 **[STATE'S EXHIBIT NUMBER 154 ADMITTED]**

16 MR. PESCI: Thank you, Your Honor.

17 BY MR. PESCI:

18 Q State's 155. What is that?

19 A This is a bird's eye view map depicting the distance
20 between 2736 Cool Lilac Avenue, as well as the victim's residence,
21 9580 Summersweet Court.

22 MR. PESCI: Move for admission of State's 155.

23 THE COURT: Any objection?

24 MR. HELMICK: No, Your Honor.

25 MR. YAMPOLSKY: No, Your Honor.

1 THE COURT: Thank you. That'll be admitted as well.

2 [STATE'S EXHIBIT NUMBER 155 ADMITTED]

3 MR. PESCI: All right. Thank you.

4 BY MR. PESCI:

5 Q And then also as a part of your investigation, did you
6 eventually have some contact with Snapchat?

7 A Yes, I did.

8 Q And did you get a search warrant in order to retrieve
9 information from Snapchat for different, what's the right word? For
10 different subscribers?

11 A Accounts is what I would describe it as.

12 Q Okay. Different accounts. Is that accurate?

13 A Yes, sir.

14 Q Okay. And did you obtain documentation from Snapchat
15 indicating that these were in fact official records and documents
16 and videos from Snapchat for those accounts?

17 A That is correct.

18 Q Showing you State's Exhibit 151 and State's Exhibit 150.
19 Do you recognize State's Exhibit 151?

20 A I do.

21 Q And what do you recognize that to be?

22 A These are documents directly from Snapchat. They are
23 what I would say -- they are categorized as being a certificate or a
24 certification of business records from that company referenced in
25 my request.

1 MR. PESCI: Move for admission of State's 151.

2 THE COURT: Any objection?

3 MR. HELMICK: No, Your Honor.

4 MR. YAMPOLSKY: No objection.

5 THE COURT: Thank you.

6 **[STATE'S EXHIBIT NUMBER 151 ADMITTED]**

7 MR. PESCI: Thank you, Your Honor.

8 BY MR. PESCI:

9 Q And do these authenticate as accurate the photos or the
10 videos that you retrieved from Snapchat for various accounts under
11 different names?

12 A They do.

13 Q Did you in the course of your investigation retrieve
14 account names from certain individuals in the case?

15 A Yes, I did.

16 Q And are those all reflected in State's 151?

17 A Yes, they are.

18 Q Okay. 32 clips, T-Savage5, T2Crazy22, SupremeAlaric,
19 those are all those account names?

20 A Yes, sir.

21 Q All right. And in your experience with Snapchat is
22 someone can create whatever name they want?

23 A That is correct.

24 Q And those are the names that you obtained from some of
25 those witnesses and people involved in this case?

1 A Yes, I did.

2 Q And showing you State's Exhibit 150.

3 Specifically did you review Matt Minkler's account and
4 some of his Snapchat activity?

5 A Yes, I did.

6 Q To include a video that we have here, State's 150.

7 A That is correct.

8 Q Is it a fair and accurate copy of the originals that were
9 authenticated to the exhibit we just looked at?

10 A Yes, I did -- yes, they are.

11 MR. PESCI: Move for admission of State's 150.

12 THE COURT: Any objection?

13 MR. HELMICK: No, Your Honor.

14 MR. YAMPOLSKY: No objection.

15 THE COURT: That'll be admitted as well.

16 **[STATE'S EXHIBIT NUMBER 150 ADMITTED]**

17 MR. PESCI: Then State's 149, I believe has not been
18 admitted, correct?

19 THE CLERK: It has.

20 THE COURT: It is.

21 MR. PESCI: It is? All right.

22 And if I could ask as far as 147 through 148.

23 THE CLERK: Yes.

24 MR. PESCI: All right. So we got those all admitted. We
25 don't have to go through that.

1 BY MR. PESCI:

2 Q When you first were assigned to this case, did you
3 respond to the scene of the car crash?

4 A Yes, I did.

5 Q And just to kind of reorient everybody to that area,
6 showing you State's Exhibit 14. Now is this the area here or in
7 Henderson where the car accident occurred?

8 A That's correct.

9 Q Is that in the area of Sunset and is it Green Valley
10 Parkway?

11 A That is correct. The intersection.

12 Q Did patrol officers from the Henderson police department,
13 were they the first to respond?

14 A Yes, they were.

15 Q And then later on did you receive information that would
16 initial -- or would bring out the homicide detectives?

17 A That is correct.

18 Q And then were you aware that this car, this Mercedes was
19 searched at the scene and then later with a search warrant?

20 A That is correct.

21 Q All right. And when you went -- later on did you go to the
22 Cool Lilac residence?

23 A I did.

24 Q And were you a part of the search warrant execution in
25 the search of that particular residence?

1 A Yes, I was.

2 Q Okay. And were you aware of various -- showing you
3 State's Exhibit 82. Did you go to that home as well?

4 A I did.

5 Q All right. In the course of your investigation, did you
6 receive two iPhones, one from each of the Defendants?

7 A Yes, I did.

8 Q And then was it also a Samsung that was recovered at
9 that house on Cool Lilac?

10 A Yes, there was.

11 Q And then Detective Spangler who just testified, did he
12 assist you and your colleagues in extracting information from those
13 Defendants?

14 A That is correct.

15 Q Okay. The phones themselves were found still in the car
16 at the crash scene, correct?

17 A Yes, they were.

18 Q All right.

19 THE COURT: You're referencing the iPhones?

20 MR. PESCI: Yes. Thank you, Your Honor.

21 BY MR. PESCI:

22 Q The two iPhones. We have two iPhones and one
23 Samsung, correct?

24 A We do.

25 Q Samsung is at the Cool Lilac, two iPhones are inside the

1 Mercedes at that car crash.

2 A Yes, sir.

3 Q All right. After you go to the car crash and to the murder
4 scene, do you eventually go to autopsy?

5 A Yes, I do.

6 Q All right. Is that customary for the homicide detectives to
7 attend that?

8 A Yes, it is.

9 Q Okay. And then are you aware of about how tall the
10 victim was from attending autopsy?

11 A I apologize, that is not -- that's not something that I recall
12 at this moment.

13 Q That's okay. Do you have the autopsy report with you?

14 A I do not have the autopsy report.

15 Q If you saw it, would that refresh your recollection?

16 A Yes, it would.

17 Q All right. Just a moment, I'm, going to have that for you.
18 I apologize.

19 Take a second to review that if you would.

20 A I do see the information on the autopsy report.

21 Q All right. What was the listed height of Matthew Minkler?

22 A They have it listed as 72 inches.

23 Q All right.

24 A So -- yeah.

25 Q You were about to say something?

1 A No. I just wanted to make sure I read it correctly.

2 Q All right. And then does it have the date of birth as well?

3 A It does.

4 Q Okay. And what was the date of birth of Matthew

5 Minkler?

6 A 4/4 of 2001.

7 Q All right. So from that we can figure out exactly how old

8 he was.

9 A That is correct.

10 Q Okay. Thank you.

11 The cell phones themselves or some of the information

12 that you received off of the cell phone, you reviewed that to try to

13 figure out what information you could gather from the videos

14 themselves, correct?

15 A That is correct.

16 Q All right. Now in reviewing those, State's 147, which has

17 already been admitted, do you recall seeing the video that says bro,

18 I just caught a body?

19 A Yes, I do.

20 Q Okay. And then was that information that came up again

21 in looking at some of the things from Snapchat, from some of the

22 other witnesses?

23 A Yes.

24 Q All right. So that wasn't a one-time statement or a one-

25 time video?

1 A No, it was not.

2 Q Okay. Now, in addition to looking at the crime scene,
3 going to the autopsy, and also looking at those videos, did you
4 meet and speak with witnesses?

5 A Yes, I did.

6 Q Now, is there often a division of labor among detectives --
7 did you work this with other detectives?

8 A That is correct.

9 Q Was Nathan Calvano working with you?

10 A Yes. he was.

11 Q Was there also another detective, Lapear?

12 A That is correct.

13 Q All right. Collectively between you and your colleagues,
14 did you interview Alaric Oliver?

15 A Yes, my colleague did.

16 Q Do you remember when he was interviewed?

17 A I believe he was interviewed two times; the first being on
18 June 9th of 2018 and then a second follow-up interview was
19 conducted, I believe on June 12th of 2018.

20 Q All right. But you personally didn't do those?

21 A No, I did not.

22 Q All right. When someone does an interview or you do an
23 interview, is it recorded often?

24 A Yes, it is.

25 Q Later, is there a transcript made of that recording?

1 A Yes, they are.

2 Q And does the transcript make it into your file?

3 A Yes. For -- if you're asking for Alaric's, I believe I do have
4 it.

5 Q Right. I'm just saying generally speaking.

6 A It does.

7 Q So as you are a part of investigation, you personally don't
8 interview Alaric, but you can review that?

9 A That is correct.

10 Q All right. Was Ghunnar Methvin interviewed?

11 A Yes, he was.

12 Q When was he interviewed?

13 A Ghunnar was interviewed by myself, I believe on 6/12 of
14 2018.

15 Q Okay. And then did you learn of an individual by the
16 name of Kymani Thompson?

17 A Yes, I did.

18 Q All right. Was he interviewed after Ghunnar?

19 A Yes, he was.

20 Q Do you know when?

21 A I believe it was the following day on 6/13 of 2018.

22 Q All right. Were you involved in that one?

23 A No, I was not.

24 Q All right. So someone else did it, but you know it was that
25 day.

1 Now, what about a Charles Osurman, did you interview
2 him?

3 A No, we were unable to locate him to conduct and
4 interview.

5 Q All right. Did you want to, however?

6 A Yes, I did.

7 Q Okay. But you were never able to do that?

8 A No, I was not.

9 Q Okay. Now talking about the Snapchat, we're going to
10 look at Snapchat --

11 MR. PESCI: Number 150, do you have that one?

12 MS. OVERLY: Yes.

13 [Video playing]

14 BY MR. PESCI:

15 Q Showing you what's been marked State's 150.

16 MR. PESCI: I apologize. Did you say it was admitted?

17 THE CLERK: Yes.

18 MR. PESCI: So State's 150 is admitted.

19 Hold on one second.

20 BY MR. PESCI:

21 Q In reviewing Matthew Minkler's Snapchat account, were
22 you able to retrieve some videos?

23 A Yes, I was.

24 Q Okay. So we'll play this and then we'll pause it at the end.

25 [Video playing]

1 BY MR. PESCI:

2 Q All right. Now Detective --

3 MR. PESCI: If you could just turn on the audio.

4 BY MR. PESCI:

5 Q Were you able to review this video pursuant to that search
6 warrant to Snapchat for Matthew Minkler's account?

7 A Yes, I was.

8 Q Okay. Now were you able to look at some other videos,
9 not just this one to help you know who it was that possessed the
10 phone?

11 A That is correct.

12 Q And could you tell who it was that was making this video?

13 A Yes. It was --

14 Q Who was it?

15 A -- Matthew Minkler?

16 Q All right. Now, in the top left corner of this video, is there
17 a timestamp or a date stamp that's attached to the particular
18 exhibit?

19 A Yes, there is.

20 Q Okay. Now, are you familiar with the concept of UTC
21 time?

22 A I am.

23 Q What is that?

24 A It is a universal time zone. So when a provider -- or an
25 electronic service provider provides your results, they provide it in

1 a universal time zone. You will have to then subtract the amount of
2 hours or add depending on your time zone or location from where
3 you believe those results originated from.

4 Q All right. So the timestamp is what Snapchat attributes to
5 this particular video, correct?

6 A That is correct.

7 Q And then is it your understanding that with Snapchat we
8 have to subtract from that time in order to come away from their
9 UTC to get to what it is Las Vegas?

10 A That's correct.

11 Q So would we have to subtract 7 from a 24-hour clock
12 when it shows up in UTC time?

13 A That is correct.

14 Q All right. So we're looking at this and it says Memories
15 2018, is 06 the month?

16 A That is correct.

17 Q And is 08 the date?

18 A That is correct.

19 Q And then is it 2:32:12 UTC time?

20 A Yes, sir.

21 Q All right. So if we subtract seven hours from 2:32 a.m.
22 because it's a 24-hour clock, what time does that get us to and what
23 date does that get us to?

24 A So if we subtract the 7, it would get us to June 7th of
25 2018, and that would put us at, I believe 7:32 p.m.

1 Q Okay. So this video predates the homicide on June 8th?

2 A Yes, it does.

3 Q Okay. So we got Matt posting himself with a whole lot of
4 cash on June the 7th?

5 A That's correct.

6 Q Okay. All right.

7 [Colloquy between Counsel]

8 BY MR. PESCI:

9 Q Detective, with Snapchat, in addition to videos -- well, I --
10 can there sometimes be -- I don't know if filters are the right word
11 or can people send a message on a video or on a post?

12 A Yes, they can.

13 Q Okay. What is that?

14 A So within Snapchat, you can send screenshots, screen
15 captures, texts over a photo background, it just really depends. But
16 if I'm looking at this exhibit, I would categorize this as a caption
17 with a photo background or a blank photo background.

18 Q Okay. And then does it read: Lucky I fw him?

19 A That is correct.

20 Q Okay. And you reviewed the Snapchat data in this case
21 for Matthew Minkler's account, correct?

22 A Yes, I did.

23 Q All right. To include State's Exhibit 148.

24 [Colloquy between Counsel]

25 ...

1 BY MR. PESCI:

2 Q So the chat story --

3 [Video playing]

4 BY MR. PESCI:

5 Q So Detective, a moment ago we saw that one that says:
6 Lucky I fw him.

7 What was that in time relation to the video we just
8 watched, which was State's Exhibit 148?

9 A Almost simultaneous.

10 Q All right. So a video of the hole in the ceiling and then the
11 subsequent from Matt's -- or posting with Matt's account: Lucky I
12 fw him?

13 A That is correct.

14 Q Okay. Now, in this particular case, did you interview Kody
15 Harlan?

16 A Yes, I did.

17 Q And at the beginning of that interview, did you provide
18 him with his Miranda Rights?

19 A Yes, I did.

20 Q Did he indicate that he was willing to speak with you?

21 A Yes, he did.

22 Q And then did you take a statement from him?

23 A I did.

24 Q In fact, did you end up taking two statements from Kody
25 Harlan?

1 A That is correct.

2 Q Looking or focusing on that first statement, did he indicate
3 that there had been smoking or treats.

4 A Yes, he did.

5 Q What did you understand that to mean?

6 A That he was involved in smoking marijuana.

7 Q Okay. And did he talk about how their -- well was he
8 explaining to you the happenings of June the 8th around the time
9 when Matthew Minkler was shot?

10 A That is correct.

11 Q And did he talk about how there had been guns at the
12 scene and they were playing with guns?

13 A Yes, he did.

14 Q Did he specifically say to you, quote: I was like chill. Like
15 you guys are being retarded?

16 A Yes, he did.

17 Q And further did he say: But I always think ahead before I
18 do something?

19 A Yes, he did.

20 Q This is what Kody's telling you as far as his actions and
21 his thoughts on the day in question?

22 A That is correct.

23 Q All right. And did he indicate in fact that Matthew had
24 been shot?

25 A Yes, he did.

1 Q And what was done after the body had been shot?

2 A His initial claim was that he had immediately left the
3 residence.

4 Q Okay. And then later on did he however say: Me and
5 Jaiden were there to like clean it up like -- not like clean it up to hide
6 it type shit?

7 A He did say that.

8 Q All right. So indicated he was a part of the cleaning
9 process?

10 A He did.

11 Q And did you or someone else ask whether or not 9-1-1
12 was called?

13 A I did.

14 Q And did he say if they called 9-1-1?

15 A He said that they did not.

16 Q Did you ask about whether a parent was called?

17 A I did.

18 Q Did he indicate whether he did that or not?

19 A He said nobody was called.

20 Q All right. Did he talk about what he physically did
21 Matthew Minkler's body?

22 A Ultimately throughout the interviews, he admitted to
23 having a role in placing a tarp over his body.

24 Q All right. Now I'll ask with specificity did he say: I just put
25 a tarp over him and left him there, like cleaned up the blood around

1 his face and made sure, you know, like -- I don't know I tried to help
2 him out the best I -- because that was my -- that was a homie to
3 me?

4 A That was his claim.

5 Q That's his exact quote to you?

6 A Yes, it was.

7 Q All right. In fact, did he say to you: I want to help you find
8 it because that's my friend, you know, like I just don't want to leave
9 him sitting there.

10 Did he say that?

11 A Yes, he did, sir.

12 Q Do you have his statement with you?

13 A I do.

14 Q Would you mind looking at it and tell us what time it was
15 that you took this first statement?

16 A So my initial statement with Kody, I'm going to categorize
17 it as being the first interview. I conducted that on June 8th and that
18 was at 9:57 p.m. that I began.

19 Q All right. So the comment that I just read, that's coming in
20 during that interview at 9:57 p.m., correct?

21 A That's correct.

22 Q Now in the course of your investigation you had learned
23 that after the Defendants had been involved in this, they went
24 shopping at the Galleria Mall.

25 A Yes.

1 Q After going shopping to the Galleria Mall, they had in fact
2 gone to a pool party?

3 A That is correct.

4 Q After the pool party, they were driving around and were
5 involved in a chase and a crash.

6 A That is correct.

7 Q And the information you had is that Kody Harlan who was
8 giving you this statement ran from the scene.

9 A Yes, he did.

10 Q Okay. So when he was talking about helping you find
11 him, that wasn't until after all those things had already occurred?

12 A Yes, sir.

13 Q All right. Did you ask him if he was driving the car?

14 A Yes, I did.

15 Q Did he indicate that he was?

16 A His initial account was that he was not driving the vehicle;
17 however, ultimately admitted that he was in fact driving the vehicle
18 during the time of the accident.

19 Q All right. And did you ask him specifically about Matthew
20 coming to the residence on that date, June the 8th?

21 A Yes, I did.

22 Q Did he in response, that being Kody say: He walk -- I
23 guess he -- I'm honestly -- I don't know how he got there, he just
24 popped up?

25 A That was his claim, yes sir.

1 Q So that's specifically Kody Harlan's response to your
2 question as to how Matthew Minkler got to the home on Cool Lilac?

3 A That's correct.

4 Q He just popped up.

5 A That's correct.

6 Q All right. Did you go on to a second statement with Kody?

7 A Yes, I did.

8 Q All right. Did you ask him some questions about firearms
9 based on your interviews and based on the information that you
10 had gathered at that point?

11 A Yes, I did.

12 Q When was the second statement?

13 A The second inter -- oh sorry, the second statement was
14 collected from Kody and that's technically now the 9th of June 2018
15 at 3:06 in the morning is when I begin the second.

16 Q Okay. Did Kody give you information about having an XD
17 .40 semi-automatic firearm?

18 A Yes, he did.

19 Q And did he tell that he last had the gun months ago?

20 A That is correct.

21 Q Did he told you that he sold the gun?

22 A Yes, he did.

23 Q And did he indicate that he personally did not have a gun
24 at that scene on the June the 8th at Cool Lilac?

25 A That was his claim.

1 Q And then did you confront him with information from
2 your investigation about the fact that Kody did have a gun?

3 A Yes, I did.

4 Q Okay. And then does -- did he respond: Yeah, they was --
5 because I didn't have a gun on me. That's funny.

6 That's what he said to you when you said, well other
7 people said you had a gun?

8 A That is correct.

9 Q All right. So he maintained with you he did not have a
10 gun?

11 A That is correct.

12 Q Did he actually go on again to say no, I didn't have no gun
13 on me? That's why you didn't find one on me.

14 A That is what he said.

15 Q Okay. However, did he talk about how there was a gun at
16 the house and people were flexing with the gun?

17 A Yes, he did.

18 Q Did you ask what flexing meant?

19 A I don't believe I asked but I knew what it meant as far as in
20 the form of showing off or posturing.

21 Q Okay. And specifically did Kody indicate that there are no
22 images or videos of him on his phone holding guns?

23 A That was his claim.

24 Q Did you ask about the body of Matthew being moved
25 around?

1 A Yes, I did.

2 Q And did he talk about the body being dragged and moved
3 out of the kitchen so they could spray it down and clean up?

4 A Yes, he did.

5 Q All right. Specifically did he say: We was just trying to
6 help him out, trying to tell him to get up and stuff or like we didn't
7 know he was dead?

8 A That was his claim.

9 Q Okay. Detective, you've watched those videos. We're not
10 going to play it again, but you've watched those videos, correct?

11 A Several times.

12 Q Was it obvious to you that Matthew was dead?

13 A Yes.

14 Q Did you ask him if anybody else was there later on the 8th
15 and did he indicate it was just he and Jaiden?

16 A Yes, I did.

17 Q All right. Did you introduce to him the name of Trae
18 Meadows?

19 A I believe I did.

20 Q Okay. And after being confronted with Trae Meadows,
21 what does the Defendant say as far as Trae being there?

22 A He seemed to -- his impression that it was oh yes, I
23 remember that Trae was there.

24 Q All right. Did he say yeah -- hey, I think there was a Trae
25 in there?

1 A Yes, he did.

2 Q Okay. Did he -- Kody specifically say that he laid a tarp
3 over Matt but left it there.

4 A That is correct.

5 Q And did Kody indicate that he left with Jaiden -- that he
6 lived with Jaiden at the Villas on Green Valley?

7 A Yes, he did.

8 Q And again, reiterates to you another time that he did not
9 have a gun that night.

10 A That is correct.

11 Q Specifically did he say: Like everything I've been telling
12 you has been 100 percent truth?

13 A That is the claim.

14 Q All right. And you've reviewed video and there's video
15 from the day of with Kody Harlan holding a gun, correct?

16 A That is correct.

17 Q But he nonetheless in another point says to you because
18 I'm telling you already. I didn't have the gun, I didn't have it. That's
19 that. Period.

20 A Yes, he did.

21 Q Did he indicate that he was involved in the moving of
22 Matt?

23 A Ultimately, he did.

24 Q Okay. Did he indicate that Trae -- what Trae was doing in
25 the moving process?

1 A Yes, he did.

2 Q And what did he say Trae was doing?

3 A I believe he categorized Trae as grabbing -- and I can't
4 recall exactly, a certain body part of the victim in this case. I believe
5 it was his arms.

6 Q Okay. And did he indicate who made the decision as to
7 where to put Matt's body?

8 A I believe -- I don't recall what his claim was regarding
9 whose idea it was.

10 Q Would you mind looking at page 44? Just take a second.

11 A Yes, sir.

12 MR. HELMICK: Giancarlo, which interview?

13 MR. PESCI: The second interview. I apologize.

14 MR. HELMICK: Thank you.

15 BY MR. PESCI:

16 A I do see it. I do recall now.

17 Q Okay. And what did he indicate as far as the decision --
18 who made the decision where to put Matt?

19 A It was Kody's decision.

20 Q Okay. And then did you ask how it is that they left after
21 the body was put in the closet?

22 A Yes, I did.

23 Q And did he indicate as far as did all three of them leave
24 together or did Trae leave separately?

25 A Kody's initial claim was that they had left in the vehicle

1 and Traceo, aka Trae, had left on foot.

2 Q Okay. So his explanation to leaving the residence was
3 that he and Jaiden left in the vehicle and that Trae walked away on
4 foot?

5 A That is correct.

6 Q Okay. And he maintained with you the whole time that he
7 did not have a gun with him.

8 A Yes, he did.

9 MR. PESCI: Court's indulgence.

10 THE COURT: Okay.

11 MR. PESCI: Pass the witness, Your Honor.

12 THE COURT: Mr. Helmick.

13 **CROSS-EXAMINATION**

14 BY MR. HELMICK:

15 Q Detective, I want to just start with when the police first
16 came into contact with Kody, okay?

17 A Yes, sir.

18 Q When he came into contact it was with a different officer,
19 right?

20 A That is correct.

21 Q And I don't know how to say the last name. It was
22 Manasco, or something like that, right?

23 A Officer Mancuso.

24 Q Mancuso, okay. Thank you.

25 And in fact, wasn't he the one who told that officer about

1 being a witness to a kid being deceased in a house?

2 A That was the information that was relayed to me.

3 Q Okay. So during the course of your interview, you talked
4 to him about that, right?

5 A That is correct.

6 Q And you asked him can you take us to that house, right?

7 A I did.

8 Q And he said sure.

9 A Yes, he did.

10 Q And he actually took you guys to the house where Matt's
11 body was found, right?

12 A That is correct.

13 Q Okay. He also told who pulled the trigger in that case,
14 isn't that right?

15 A Yes, he did.

16 Q Okay. You had some issues in regards to your interview
17 with Jaiden on getting the password for his phone, right?

18 A Yes, I did.

19 Q Okay.

20 MR. YAMPOLSKY: Objection, Your Honor, this goes
21 beyond the scope.

22 THE COURT: Well, overruled.

23 MR. HELMICK: Thank you.

24 THE COURT: You can go ahead.

25 ..