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ORIGINAL

VOLUME: VI of X
PAGES: 1-239
EXHIBITS: 7

MIDDLESEX, SS. COMMONWEALTH OF MASSACHUSETTS
DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT

* * * * *
MIDDLESEX DISTRICT ATTORNEY *
*
v. * Docket No. 1853IN000001
*
ALAN GREENOUGH *
*
* * * * *

INQUEST HEARING DAY 5
BEFORE THE HONORABLE STACEY J. FORTES

APPEARANCES:

For the Commonwealth:
By Adrienne Lynch, Assistant District Attorney
Middlesex District Attorney's Office
15 Commonwealth Avenue
Woburn, MA 01801

For Officer Erik Drauschke:
By Peter Pasciucco, Attorney at Law
Anderson, Goldman, Tobin and Pasciucco, LLP
50 Redfield Street, Suite 201
Dorchester, MA 02122

Woburn, Massachusetts
Courtroom 2
May 22, 2019

Quaverly H. Rothenberg, Q & A Transcripts
Approved Court Transcriber

APPEARANCES (Continued):

For the Greenough Family:

By Victor Koufman, Attorney at Law

By Melissa Garand, Attorney at Law

Koufman & Frederick, LLP

145 Tremont Street

Boston, MA 02111

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1 [Case Called at 9:13:45]

2 THE COURT: Okay. So, just for everybody's information, you
3 plan to call who today?

4 MS. LYNCH: Today I have Mr. Chaghouri's continuation.

5 THE COURT: Mm-hmm.

6 MS. LYNCH: I have Mr. Randall, Mr. Ortiz, Dr. Shah, Trooper
7 Gagne -- who was the other one? -- Trooper Perry.

8 THE COURT: Okay.

9 MS. LYNCH: If I might just have one minute, Your Honor.

10 THE COURT: That's okay.

11 MS. LYNCH: Dr. Shah will be at two o'clock. Oh, Hari
12 Arisetty.

13 THE COURT: All righty.

14 MS. LYNCH: And possibly Anthony Perrotti.

15 THE COURT: Okay.

16 MS. LYNCH: And I also have Alisha Zimmermann on call.

17 THE COURT: Okay. Are any of the witnesses outside that I
18 need to give a sequestration order to at this time?

19 MS. LYNCH: Possibly Mr. Randall, but I think he's by
20 himself.

21 THE COURT: Okay. All right. Well, then we can continue
22 with Mr. Chaghouri.

23 [TALAL JOSEPH CHAGHOURI, Sworn.]

24 CONT. DIRECT EXAMINATION OF WITNESS, TALAL JOSEPH CHAGHOURI

25 BY MS. LYNCH:

1 Q Good morning, sir. For the record, would you please state
2 your full name and spell your last name for the record.

3 A Talal J. Chaghouri, C-H-A-G-H-O-U-R-I.

4 Q Now, Mr. Chaghouri, your testimony -- I'm going to go back to
5 your testimony from the last hearing date. On Friday, the first
6 time you saw -- you spoke to Alan Greenough that day was when he
7 called you in that evening to report misconduct by Devin; is that
8 right?

9 A That's right.

10 Q And when he called you, you thought he sounded like he had a
11 couple of glasses of alcohol, just from his voice; is that right?

12 A Yeah, his voice was a little different, yeah.

13 Q Now, you had talked to Anthony about that that evening and
14 the following day as well, is that right, that --

15 A That's correct.

16 Q -- whole incident?

17 And Anthony told you that he didn't sound that drunk to him;
18 is that right?

19 A Yes. Yes, ma'am. I did --

20 Q And --

21 A -- mention that, and he said that.

22 Q And that was because Alan was usually more raging and angry
23 when he was drunk; is that right?

24 A I -- I don't know if that was the reason or not. I'm not
25 sure.

1 Q Did you say that, though, --

2 A He would. Yeah, he would --

3 Q -- to the police?

4 A -- be raging at some points but not every time.

5 Q Okay. But during your interview with the police, that's what
6 you told them: that Anthony didn't think he was that drunk because
7 he's usually ranging when he's drunk.

8 A Did I mention that? Can --

9 Q Yes.

10 A -- I read it? Can I see it?

11 Q Sure. I just want to get that interview book. Yeah, I'll
12 bring this up. Direct your attention to -- "But to his brother,
13 he did not sound like normal. Like, you know, he would be more
14 ranging and more -- But I could tell that he had a couple of
15 alcohol glasses or -- from the voice."

16 A Yes, yes. Okay.

17 Q So, you told the police that night --

18 A Mm-hmm.

19 Q -- that when Alan was drunk he would be more raging.

20 A I've seen him, yes. I've seen him more raging, screaming.
21 You know, he was quiet when he talked to me that night on the
22 phone. But his voice sounded little bit, you know, different.
23 But he was not raging. He was calm.

24 Q And that was on Friday night.

25 A Yes, ma'am.

1 Q And you told the police that Alan had had some problems for --
2 he had not been stable for about two years; is that fair to say?

3 A Yes, yes.

4 Q Now, that particular evening, you did not go and do anything
5 with respect to what was going on according to Devin or according
6 to Alan Greenough.

7 A No, I stayed home.

8 Q Now, the following day when you arrived at work, that was in
9 the afternoon; is that right?

10 A Yes, ma'am.

11 Q And at that time Anthony had been working as the manager
12 during the course of that day, prior to your arrival; is that
13 right?

14 A That's right.

15 Q Had you had any telephone communication with Anthony prior to
16 arrival at the office concerning what had taken place the night
17 before?

18 A No, no.

19 Q Okay. When you arrived at the building that day, the office
20 that day, Alan was not yet there; is that right?

21 A He was not seen to me.

22 Q Okay.

23 A He was not seen to me.

24 Q Were you aware of when he was on scene?

25 A I was aware after I talked to Anthony while I was still

1 parking that, yes, Alan's inside the apartment and his roommates
2 are going to leave because he had an argument with them.

3 Q Okay. So it was around the time that Devin and Kim Bellino
4 were going to leave that you arrived and realized that the --

5 A Yes, ma'am. They were in the car. They were talking to
6 Anthony outside. And very shortly after, they took off.

7 Q Okay. So you then go into the office; --

8 A Yes.

9 Q -- is that right?

10 A That's correct.

11 Q Now, when you came -- when -- while you were in the office,
12 how did you first become aware that the police were there?

13 A That's a good question. Let me try to recall that. I think
14 I was doing some work behind the desk and one of the employees
15 says, "The police cruiser is out here."

16 Q Was it Anthony that told you about the police being there?

17 A There was, like, 3-4 guys around me, ma'am, so I'm not really
18 sure. But we were -- You know, it was a commotion. I know I came
19 out, I see the cruiser pull in front of me and make a U-turn and
20 come in. So --

21 Q Okay. Well, do you recall telling the police on the night of
22 February 3rd that Anthony came in and said that the police had a
23 warrant and that they were there?

24 A I had no knowledge about any warrant. If I did say that,
25 it's probably just my English trying to explain --

1 Q Okay.

2 A -- that they're coming from Al.

3 Q Well, I'm going to put your transcript in front of you and
4 ask you some questions about it.

5 A Sure, ma'am.

6 Q I'm going to direct your attention to page 22. I'm going to
7 have to use this.

8 A That's fine.

9 Q Twenty-two, I'm going to start all -- line 22.

10 "Trooper Connolly: Okay. So who got -- who alerted the
11 police to come into the house?"

12 "I reckon is was Devin, his roommate, maybe. But we didn't
13 know. To be hones with you, we thought there's a warrant."

14 This is continuing on page 23.

15 A Okay.

16 Q "Anthony says, 'The cops are here.'"

17 A Okay.

18 Q "'They got a warrant on my brother.'"

19 A Okay.

20 Q "So I say, 'Warrant is simple. Just let him go with it and
21 we'll bail him out no problem.'"

22 A Okay.

23 Q "But he was, you know, in psychic [sic] situation where he
24 did not want to go with nobody. Plus he opened the window and he
25 was telling the officers, 'Fuck you.' He was talking bad

1 language."

2 A Yes. I did say that.

3 Q And so, you told the police that it was Anthony that alerted
4 you that the police were there to arrest him.

5 A Sounds -- Yes, sounds correct. One of the four guys, as I
6 told you, told me. But I couldn't remember.

7 Q So, when you learned that during the business day there are
8 police officers there to arrest one of your tenants, what do you
9 do? Do you go outside? Do you stay in the office?

10 A Well, you know, whenever any police are present, the owner
11 really should be outside. So I -- I tried. They had already
12 mentioned to me that the police came Friday night for Alan, very
13 shortly before. So I assumed that they're coming for the same
14 reason. And, you know, I did not make a big deal out of it. I --
15 I opened the door. If I remember correctly, I met the officers
16 halfway after they knocked on the door and they could not get a
17 response. And that's when they asked me for the keys and for the
18 other exit doors and the entrance doors and all the information.

19 Q So you came out for a little while and talked to them, right?

20 A I believe so, because I was -- at some point, I was outside
21 seeing when Al opened the window and when they were knocking on
22 the door. I was outside and inside, outside and inside.

23 Q Now, in your memory of events, it was shortly after, like
24 within 20 minutes of the police officers arrival, that you
25 witnessed an incident between Alan inside the apartment and the

1 police outside of the apartment, where they talked through the
2 window.

3 A Yeah. When -- About 10-15, maybe, I would think. Or maybe --
4 maybe later. Maybe half an hour later.

5 Q Do you recall saying to the police during the course of your
6 interview that it was about 20 minutes, that it was a while?

7 A Okay.

8 Q That he didn't -- That he hid for a while.

9 A Yes. And they were waiting. And then, you know, they got
10 more backup, you know, as we go along.

11 Q I'm going to direct your attention to the book before you,
12 page 15, line 7: "I saw Alan after the police came. There were
13 just a couple of cruisers in the beginning. And they were talking
14 to him through the window. Well, not right away. Right away, he
15 was hiding."

16 A Yes, in the beginning he was not show -- he did not show
17 himself for, like, a few minutes until they found out he was
18 there.

19 Q And there was a period of time where there was an exchange
20 between Mr. Greenough and one of the officers.

21 A Yes, correct.

22 Q Now, during that time did you see Mr. Greenough with a stick
23 or a table leg in his hand?

24 A No, ma'am.

25 Q So you were present outside the window but you did not see

1 him or hear him say that he had a stick and he was going to use
2 it?

3 A No, I just see him pull the window with both hands. Both
4 hands were kind of occupied with the window getting pulled up.
5 And he screamed at the cops; they screamed back. They were
6 laughing little bit. And then he closed the window.

7 Q He said more than that, though, didn't he?

8 A Yeah. He -- You know, he said, "If you come get me if you
9 can," and stuff like that. And, you know, there was some "F"
10 language.

11 Q There was lot of "F" language, wasn't there?

12 A I don't know about a lot. I mean, I s -- I've heard a few
13 words, you know.

14 Q In terms of what you witnessed, he told the police that he --
15 that they were not going to arrest him, "Fuck you," things of that
16 nature.

17 A Yes, yes.

18 Q He was angry at them.

19 A Yes, he -- he seemed that way.

20 Q He was using a lot of profanity.

21 A Yeah, he did use it. I don't know if "a lot" a lot. But,
22 you know, he did -- You know, he was mad. You could tell that he
23 was, you know, --

24 Q So you witnessed this whole exchange outside between Mr.
25 Greenough and the police.

1 A That thing -- Really, that exchange took, like, 10 seconds.
2 That -- It was not really long-long exchange. He just opened the
3 window for, like, maybe 10 seconds and closed it.

4 Q Was that incident before or after Mr. Greenough came in and
5 threatened you with the stick?

6 A That was before.

7 Q Now, --

8 MR. KOUFMAN: Objection, Your Honor. He did not say that
9 Alan Greenough came in and threatened him with a stick.

10 MS. LYNCH: Okay. Well, I will --

11 THE COURT: That's --

12 MR. PASCIUCCO: Objection. He did say that.

13 THE COURT: Yeah, that's overruled. I heard the testimony.

14 Thank you.

15 BY MS. LYNCH:

16 Q I'm going to direct your attention, sir, to page 19:

17 "Did you think he was going to hit you?"

18 "I was really afraid in the beginning because he was not
19 himself."

20 "Yeah?"

21 "You could see that his eyes were going in all directions.
22 He was kind of threatening, but he did not really come too close
23 to me, to the counter. Like, you know, he stopped maybe four feet
24 away."

25 A Yes, yes.

1 Q So you felt threatened.

2 A I did. I did feel threatened the moment I look up and seen a
3 guy with a big stick. Absolutely, I did, yes. But then when I
4 said -- As I told you, when I said, "Lower the stick, Al, please,"
5 he did lower it. And you c -- the video would show that.

6 Q Now, you had testified at your last appearance that it was
7 Anthony who discovered that the door was unlocked; is that right?

8 A Yes.

9 Q And that Anthony saw the -- Alan in the office with the stick
10 in his hand.

11 A Anthony s -- saw him? No, he did not, ma'am.

12 Q Did you tell the police that you believed that his brother
13 and a police officer saw Alan with the stick?

14 A I don't recall that.

15 Q Okay. Directing your attention to page 20.

16 Detective Fitzgerald: "So, once he said that to you and you
17 said he had the stick raised in the air ---"

18 "Yeah."

19 "Okay. Where were the officers?"

20 Mr. Chaghouri: "Officers were outside, across the -- of the
21 door of the apartment."

22 "Yeah."

23 Mr. Chaghouri: "They had a little angle from that waiting
24 room."

25 "Sure," Detective Fitzgerald said.

1 A Mm-hmm.

2 Q Mr. Chaghouri: "I think they saw him and his brother saw him,
3 too. Then when he went back inside, he must have forgot to lock
4 the door."

5 So when you were interviewed by the police that night, you
6 told them that it was your belief that Anthony and a police
7 officer saw your brother assault you with the stick.

8 A My --

9 Q Or threaten you.

10 A My brother? No, my brother wasn't there.

11 Q Alan's brother.

12 A Well, you just s -- I'm reading this, really, and I'm very
13 shocked reading it. I'll tell you why: because I know Anthony was
14 outside that room.

15 Q Okay.

16 A And those two police officers --

17 Q Does --

18 A -- that I mentioned, with an angle, they were looking like
19 this, straight. And we were, like, at the 30-degree angle. So if
20 I said that, I would like to hear me say that, because --

21 Q Okay.

22 A -- because really I -- I would be, you know, --

23 MS. LYNCH: With the Court's permission, there is a recorded
24 interview.

25 THE COURT: Sure.

1 MS. LYNCH: I'd like to play it for --

2 THE COURT: Yeah, absolutely.

3 MS. LYNCH: I think it's 1544.

4 THE COURT: Is there a section of this also depicted on the
5 video? Somehow it got --

6 MS. LYNCH: Of the interview?

7 THE COURT: No, of when the -- when he had the stick.

8 MS. LYNCH: Yes, the stick.

9 THE COURT: Yeah, okay. I might want to see that again, too.

10 MS. LYNCH: Yeah.

11 THE COURT: Okay? So maybe after you play this, if you could
12 have Mr. Chaghouri just go through that section on the video and --

13 MS. LYNCH: Yes.

14 THE COURT: Mm-hmm.

15 [Audio Playing at 9:32:08]

16 BY MS. LYNCH:

17 A See? See, ma'am?

18 [Audio Playing at 09:34:05 a.m.]

19 BY MS. LYNCH:

20 Q So, first you said to the police --

21 A Misspoken, ma'am.

22 Q -- that the officer --

23 A Yes.

24 Q -- said that?

25 A Substance was not there. It was mis -- mis-language, mis --

1 It was fear, it was six hours of waiting from 5:00 until 11:30 to
2 get my turn.

3 Q I'm not asking you for an explanation, --

4 A No, but I --

5 Q -- Mr. Chaghouri.

6 A I s --

7 Q I'm asking you --

8 A I explained it.

9 Q -- what you said.

10 A Ma'am, I explained it 10 seconds later, saying they probably
11 did not see him. If they saw him, they would've arrested him.
12 Why would they let him stay, if they saw him? Why would I say
13 something --

14 Q Exactly.

15 A -- that stupid?

16 Q Exactly.

17 A Why would I say something that stupid?

18 Q Exactly. But that's what you said the last time.

19 A Ma'am, it's -- it's mis-smoke [sic] -- It's not the
20 substance.

21 Q Now let's --

22 A I -- I've said that --

23 Q -- look at --

24 A -- many times.

25 Q Let's look at the timeframe when Greenough was in the room

1 with you.

2 MS. LYNCH: And if I could just get the timeline exhibit.

3 BY MS. LYNCH:

4 Q Direct your attention to the video at -- This would be Camera
5 Angle C1, timestamp 1644:35, 4:11:45 p.m. Now maybe you'll -- it
6 would help if you --

7 [Video Playing at 09:35:35 a.m.]

8 BY MS. LYNCH:

9 A Okay. I'm on the phone here with Devell.

10 Q Now, who is the person that entered?

11 A That's Alan.

12 Q So that's at --

13 A Yeah.

14 Q -- 1644:37 or thereabouts?

15 A Yeah. He's waving the -- He's showing me the two cops that
16 were standing in front of that apartment.

17 Q Oh, so he's telling you about the cops.

18 A When he -- Yes, with the stick. When he --

19 Q Sure.

20 A -- went with the stick like this, he saw them. I said,
21 "Lower the stick. Don't let -- Al, lower the stick. Keep it
22 down." So he did, after that.

23 THE COURT: And where are the two officers that --

24 THE WITNESS: The two officers were standing in front of his
25 apartment window. But you really can see them really clearly when

1 you go to that section where I was.

2 BY MS. LYNCH:

3 Q Okay. Now let's go to the other camera angle and see what's
4 going on outside.

5 A At 1644 was --

6 Q Yeah.

7 A Sixt -- Okay.

8 [Video Playing at 09:36:53 a.m.]

9 THE COURT: And where was Mr. Perrotti at that point?

10 THE WITNESS: He was outside the office.

11 THE COURT: Outside.

12 THE WITNESS: He -- He was making phone calls and, you know,

13 --

14 [Video Playing at 09:37:31 a.m.]

15 BY MS. LYNCH:

16 Q So, 1644:35 is when that's seen. And --

17 A Yeah.

18 Q -- do you see Mr. Perrotti now?

19 A Yeah. Now he's walking, I think, closer.

20 [Video Playing at 09:38:03 a.m.]

21 BY MS. LYNCH:

22 Q And then he walks back towards the police officers; is that
23 right?

24 A Yes, ma'am.

25 Q And the police officers only made it as far as the ice, the

1 beginning of the ice --

2 A Yes.

3 Q -- separating that.

4 A Yes. That's why I said they have a 30-degree angle from that
5 window.

6 Q But you would agree that this area here is where the ice
7 began.

8 A Yeah.

9 Q And the officer only made it to the first threshold of ice --

10 A Yes.

11 Q -- before Anthony turned around and walked back towards him.
12 Would you like to see it again?

13 A No, I lost the substance. So, the officers walked to the ice
14 when Anthony what?

15 Q Anthony starts walking --

16 MS. LYNCH: If you could just back that up just a few
17 seconds.

18 [Video Playing at 09:39:07 a.m.]

19 BY MS. LYNCH:

20 Q All right. So do you see Anthony just beginning to walk up
21 at 45?

22 A Yes, yes.

23 Q And he's -- walks the extent of the ice.

24 A Ice, and then he goes back to it.

25 Q And then the officer's just standing on the edge.

1 A Yes, they don't come.

2 Q They don't come close.

3 A No, they don't.

4 Q And it's your testimony that from that perspective that you
5 believe the officer saw --

6 A Could have.

7 Q Could have.

8 A Could have seen him if they turned their head 30 degrees to
9 the left.

10 Q So, just want to show you this picture, which for the record
11 is Exhibit 8. So, this is the area separating the pavement where
12 the iceway is; is that right?

13 A Exactly right.

14 Q So the officer is about here, right?

15 A Right across of Al's window. If you see the --

16 Q Right.

17 A -- window there to the left, yes, they were right -- I could
18 see them.

19 Q Right there.

20 A Yes. Yes, ma'am, right there.

21 Q So it's your testimony that you believe the officers saw it
22 in that window, which is located --

23 MS. LYNCH: If I might just have one moment, Your Honor.

24 THE COURT: Sure.

25 BY MS. LYNCH:

1 A It's an -- 8-feet away from the other window. So I don't
2 think they saw it, ma'am. They had to make an effort to turn
3 their head to the left to see.

4 Q Okay. So now --

5 A Th -- That was the scary part for me.

6 Q Now you are revising your testimony.

7 A No, that was the testimony I've always said, ma'am.

8 Q So you never saw an officer looking through that window at
9 the time that Mr. Greenough was there.

10 A I -- Yes, I did see two officers looking at Al's window, not
11 the window to the left, ma'am. There's -- Al's window is right
12 here. And the window of the shop is right here. [Indicating.]
13 And the police officers standing right here, two of them. And Al
14 was doing this thing with the stick. So I was afraid if they
15 turned their eyes this way, they could see him. And then, guess
16 what? I'll be in the line of fire. So that was my concern, to
17 tell him, "Lower the stick, please, and get the hell out of here,
18 back in the apartment."

19 Q But, Mr. Chaghouri, the blinds were drawn in the apartment,
20 with the exception of the window that Alan was talking to the
21 police through; is that right?

22 A I don't know. I wasn't examining no blinds, to be --

23 Q Okay. So you --

24 A -- to be honest.

25 Q So you have no idea whether the officers could've even looked

1 through that window to see Mr. Greenough coming in from that
2 office.

3 A Of course not. They're not going to see him.

4 Q Okay.

5 A Of course not.

6 Q So when you say the officers saw him and Anthony saw him,
7 you're just speculating.

8 A No, I just misspoken, as I told you because, 10 seconds
9 after, I corrected that by saying there's no way they could've
10 seen him, because if they seen him they would've apprehended him.
11 Why would they leave him there threatening me with a stick? Their
12 job there was to arrest him, right?

13 Q Now, Anthony then came in after that happened. And that is
14 when -- And you indicated that it was approximately five minutes
15 later that Anthony came into the office.

16 And I'm going to bring this up to you. So, continue on page
17 20 to line 24:

18 Detective Fitzgerald said, "Forgot to lock the door?"

19 "Yes."

20 "Okay."

21 Mr. Chaghouri: "Because Anthony comes in about five minutes
22 later. And he says to me, 'The door is open.' I said, 'Great,
23 bring the officers. Let them go in.' He said, 'Dude, I don't
24 want to do that right now 'cause I'm afraid. You know, he doesn't
25 want to come out. Just let me -- let me wait it out. Let me see

1 what we can do.' And I guess he was looking for his brother.
2 When he went inside, he didn't find him."

3 "When Anthony went inside to try to look for Alan, were there
4 any police officers that went with him?"

5 "No, no. He went by himself."

6 "Okay."

7 "Because the officers were still at the other side, outside.
8 They were, you know, at the main door. They were not -- They
9 probably did not have a clue that Al walked in for 10 seconds,
10 waving that stick, and then went back in there."

11 A I agree. I still stick --

12 Q Okay.

13 A -- to that, yep.

14 Q But you agree that your version of events is inconsistent.

15 A About what?

16 THE COURT: Can I just ask one thing. Because then the --

17 After Detective Fitzgerald says, "Okay," then Mr. Chaghouri
18 says, "But I think one officer seen him, the tall guy. The tall
19 guy. Tall guy, I think he seen him. The one -- one of the first
20 ones that was on the site."

21 "Okay. You think he saw Alan with the stick?"

22 "Yes, he probably did. And I mentioned that to them, too."

23 What does that mean?

24 THE WITNESS: I don't know.

25 BY MS. LYNCH:

1 Q Well, that wasn't the tall guy that walked up to the
2 threshold of the ice, was it?

3 A How do -- I mean, I can't see really anything from here,
4 who's the tall guy and who's not. I mean, they were all tall if
5 you ask me. But, I mean, I really -- From -- From my angle, I
6 cannot really know for sure if they saw him or not. If they saw
7 him, that means they didn't do their job, because no one came in.
8 So --

9 Q And when you said you did mention it to them, that was after
10 Mr. Greenough was shot.

11 A Yeah, at the end. Of course.

12 THE COURT: Okay.

13 BY MS. LYNCH:

14 Q So you didn't --

15 A 'Cause I never got --

16 Q -- mention it to them --

17 A No, at the invest --

18 Q -- at all.

19 A No, at the end, at the end, you know, when the guys -- Before
20 he took us I think I mentioned that.

21 Q So, continuing on, it was after Mr. Greenough came in the
22 office that the incident with the -- at the window, talking to the
23 officers, took place; isn't that right? Alan comes into your
24 office, he goes back into the apartment, and it was after that
25 that the window incident happened; isn't that right?

1 A No, that's wrong.

2 Q Okay. Well, in terms of what was going on, --

3 MS. LYNCH: For the record, Your Honor, I would like to
4 reference the Reading Police radio transmissions concerning -- If
5 I might just get to the -- Okay. So, this would be Track 30,
6 Reading Police dispatch, 4:21:52. I'd play that.

7 THE COURT: Yes.

8 [Audio Playing at 09:46:53 a.m.]

9 BY MS. LYNCH:

10 Q Now, if the officers first mentioned that there -- that Mr.
11 Greenough had a pole -- happened at 4:21:52 p.m. according to the
12 recorded call, that would be 10 minutes after 4:11 when the
13 incident with the stick happened; is that right?

14 A This conversation was taking place between who? I'm sorry;
15 I'm lost, ma'am.

16 Q The radio transmission, the police radio transmission, did
17 you see it -- hear a man say, "He's got a pole," in that
18 transmission?

19 A So, that means they saw him, if they --

20 Q At 4:21.

21 A After he left my a -- After he left the office, you mean?

22 Q My point is this: you could be wrong on the sequence of
23 events; is that right?

24 A Not with the window, ma'am, because I never -- when he opened
25 the window, I was outside. And then I went to the office for a

1 good 35 minutes; I never left after. So I know --

2 Q Oh, you say you were outside of the office?

3 A Yeah, when the first -- when the police came. When the
4 police came, we were in and out, in and --

5 Q Well, --

6 A -- out periodically, every 5-10 minutes, you know, to go
7 check out what the progress -- And at one of the --

8 Q All right. Let me just --

9 A -- events --

10 Q -- ask you this, though: --

11 A Yeah.

12 Q -- if the tape showed Mr. Greenough in your office with that
13 pole --

14 A Yeah.

15 Q -- at 4:11, --

16 A Okay.

17 Q -- you would agree that 4:21 is 10 minutes later?

18 A Yeah, yeah, I agree. But can I hear that conver -- What was
19 --

20 THE WITNESS: What did you understand, Your Honor, from this
21 conversation? I don't know what I heard there. Two officers --

22 BY MS. LYNCH:

23 Q That's all you need to say. I'm asking you whether your
24 understanding -- 4:11 happens before 4:21?

25 A It's obvious, yes.

1 Q Now, you said that --

2 A But something does not make sense, though. Something is --

3 Q Well, --

4 A -- really not adding up here.

5 Q Exactly. That's what we're trying to get at: your statements

6 --

7 A Mm-hmm.

8 Q -- and why they don't add up.

9 A Well, my statement has a video that shows you proved the time
10 that I said Al came in and when he walked out. And you have other
11 outside videos seeing me in front of that window when Al opened
12 the window. So, I don't know why -- you know, why you're
13 confusing me. I'm confused right now. I don't know what you're
14 trying to get.

15 Q So, you indicate that Mr. Perrotti --

16 A Mm-hmm.

17 Q -- came in and you had a conversation with him about the --
18 Al coming into the office with a stick.

19 A Yes, I did tell him.

20 Q That after that, Al [sic] went into that room, tried the
21 door, found that it was unlocked, and came out and told you.

22 A Yeah, he -- he -- he told me. He said the door is open.

23 Q So it wasn't you that discovered that the door was open.

24 A Of course not. I never moved from behind the counter. The
25 video would show that, too, as well.

1 Q And so, Mr. Perrotti went into the apartment in that waiting
2 room on more than one occasion; is that right?

3 A Yes. We seen three times, I think, last time, when we
4 watched that video.

5 Q Okay. And one of those times, at 1701:32 on the timestamp, --
6 And that's the timestamp 1701:32.

7 [Video Playing at 09:51:03 a.m.]

8 MS. LYNCH: Now, just if you could pause that for a moment.

9 BY MS. LYNCH:

10 Q That is Mr. Perrotti, with the baseball cap; is that correct?

11 A Yes.

12 Q That's you across the counter, --

13 A Yep.

14 Q -- with the blue sweatshirt.

15 A Yes, ma'am.

16 Q And at the end is Orlando Ortiz.

17 A That's correct.

18 Q Okay.

19 MS. LYNCH: If you would continue, please.

20 [Video Playing at 09:51:41 a.m.]

21 BY MS. LYNCH:

22 Q So, at 1101:52 [sic], Mr. Perrotti has walked into that room
23 where the door is; is that right?

24 A Yeah, yeah.

25 Q Is that when he discovered that the door was unlocked?

1 A I don't know if that was the first -- first time he went in
2 that room or the second. It looks like 14 seconds it took him,
3 this time. When he seen the door unlocked, I think it was more
4 like 4 seconds, --

5 Q Okay. And so, he leaves --

6 A -- if I remember correctly. Yeah.

7 Q -- at 17:02:24.

8 A Yeah.

9 MS. LYNCH: Now I'm going to ask the -- you to go to 1703:49,
10 please, timestamp.

11 [Video Playing at 09:52:52 a.m.]

12 BY MS. LYNCH:

13 Q That's Mr. Perrotti coming in?

14 A Yeah.

15 Q Okay. And he's out of sight at 50; is that right?

16 A Yeah, 51, maybe but we'll -- we'll give it to you, no
17 problem. Fourteen seconds, fifteen seconds, seventeen. Okay.

18 [Video Playing at 09:53:27 a.m.]

19 BY MS. LYNCH:

20 A Twenty-five seconds. Okay.

21 Q Well, -- And so, you are outside at that time; is that right?

22 A I'm not there but I don't know where I am. I could be --

23 Q Okay.

24 A -- in the bathroom. I'm not --

25 MS. LYNCH: If we could --

1 A -- sure.

2 MS. LYNCH: -- go to the other camera angle at around the
3 same time. Maybe if we could start at 1703:40.

4 [Video Playing at 09:54:07 a.m.]

5 BY MS. LYNCH:

6 A Okay, yeah.

7 Q Okay. If we --

8 A You're past that already.

9 Q -- could just continue from there.

10 [Video Playing at 09:54:40 a.m.]

11 BY MS. LYNCH:

12 Q So, you're among the group leaving the office, --

13 A Yeah. We're all --

14 Q -- correct?

15 A We're all outside. Everybody's outside right now.

16 Q And then Mr. Perrotti goes back in, right?

17 A By himself, yes.

18 Q 1703:47.

19 A Yes.

20 Q And the officers are all down there.

21 A Mm-hmm.

22 Q And you're standing between the officers and where the window
23 is; is that right?

24 A I'm stand -- Yeah, I'm -- I'm near them. But I'm not trying
25 to stop the officers, if --

1 Q Okay. But --

2 A -- that's what you're implying.

3 Q -- you would agree that at the point when Anthony went into
4 that room --

5 A I was outside.

6 Q -- for that period of time, you were outside and no officers
7 came down; is that right?

8 A No one came down until Anthony comes out.

9 Q Now, you indicated to the police that night that when Anthony
10 came in and said he left the door open -- that you said to him,
11 "Bring the cops in and let's get it over."

12 A Yes.

13 Q And Anthony said to you, "I can't do that to him." Let me
14 just get the page -- 25, line 10.

15 Mr. Chaghouri: "But Anthony comes in and he says to me, 'He
16 left the door open.' I said, Bring the cops in there and let's
17 get it --"

18 Detective Fitzgerald: "Right, right."

19 Mr. Chaghouri: "You know, 'Let's get it.' He says to me, 'I
20 can't do that to him. Let me see. Let me go in and talk to
21 him.'"

22 A Yes, yes. That -- That --

23 Q And then you said, "He goes inside and he doesn't find his
24 brother. He calls, 'Al, Al,' and he comes out. He says, 'Al is
25 not in -- not here.'"

1 A Okay.

2 Q "He said, 'He must have split from the window, from the rear
3 window.'"

4 A Yes.

5 Q "I ask him -- I say, 'Was there no problem behind -- no
6 police --"

7 A No police.

8 Q "-- behind on the back?' He said to me, 'I didn't see
9 anybody waiting behind.'"

10 "Okay."

11 You continue: "So, -- And then Anthony walks out. I'm still
12 inside the office. So I'm doing -- I'm counting my cash and stuff
13 for the shift."

14 A Yeah.

15 Q "And an officer comes in late on the scene, little
16 heavyweight, --"

17 Fitzgerald: "Uh-huh."

18 Chaghouri: "-- bald. And he comes running out of his car."

19 A Yeah.

20 Q "He parked his car all the way at the end."

21 A Mm-hmm.

22 Q "And he's running."

23 A Yeah.

24 Q "And he's going in the direction where the Hummer is, --"

25 A Yes.

1 Q "Where is the Hummer?"

2 "-- as if he knew this guy was going to be in that
3 direction."

4 A Okay.

5 Q So, that night, you told the police that the officer that
6 showed up late on the scene --

7 A Mm-hmm.

8 Q -- parked down near the house and immediately started running
9 --

10 A Yes.

11 Q -- to the area where the Hummer was.

12 A Yes, with his hand on his gun. And he was a heavysset guy,
13 tall, and he kept running.

14 Q Okay. And I just want to show you the video and see if you
15 want to amend your testimony.

16 A Well, we did amend it last time when you showed it to me in
17 your office, ma'am.

18 Q I'll get there, believe me.

19 A Yeah, yeah.

20 Q Direct your attention to the exterior camera and the
21 timeframe 4:29:30 real-time, 1702:20 according to the timestamp.

22 [Video Playing at 09:58:22 a.m.]

23 BY MS. LYNCH:

24 Q Now, that white car at the end there, that's your car; is
25 that right? I'm just going to point to it right now.

1 A Yes, it is. Right there, yep.

2 Q This is your car, right?

3 A Yes, ma'am.

4 Q And this is a vehicle that just pulled in? Black SUV? We'll
5 just go back. See that?

6 A I mean, there was a lot of them. It was not only SUV there.
7 If you really -- I mean, if you could see what was on the left,
8 there was --

9 Q I'm not asking you any question right now.

10 A Oh, okay.

11 Q I'm just asking you --

12 A Okay.

13 Q -- to watch the videotape.

14 A All right. I agree.

15 [Video Playing at 09:59:01 a.m.]

16 BY MS. LYNCH:

17 Q See the black SUV pull in?

18 A Yes, I do.

19 Q See that white vehicle pull in?

20 A Yes, ma'am.

21 Q 1702:22? See the officers getting out?

22 A Mm-hmm.

23 Q So, all those -- Those two vehicles, the people, go directly
24 towards the front of the apartment; is that right?

25 A Yes, ma'am.

1 Q And Mr. Perrotti then walks into the office; is that right?

2 A Yes.

3 Q Now, as this is going on, you are inside along with Mr.
4 Perrotti and Mr. Randall; is that right? Just if you'd observe
5 the people --

6 A We just all came --

7 Q -- coming out of the office, four people, five people in
8 total?

9 A Yes. So, we were inside and we all came out.

10 Q And then Mr. Perrotti went back in, correct?

11 A Yeah, yeah, yeah.

12 Q And you're standing on the edge, talking to a customer. And
13 the police are still down in front of the house; is that right?

14 A Yes, absolutely.

15 Q This man is a customer that's walking in the foreground; is
16 that right?

17 A Yep.

18 Q And you remain outside --

19 A Yeah.

20 Q -- and then go in. And then you come out with the dog,
21 right?

22 A Yep.

23 Q And you're standing there on the edge --

24 A Mm-hmm.

25 Q -- closest to the door.

1 A Yeah.

2 Q And then Mr. Perrotti comes out.

3 A He runs out, yeah.

4 Q Now, is this when he tells the police about the door being
5 open?

6 A I -- No. That's when he tells them that he's brother is not
7 in the apartment, I believe.

8 Q So you believe he said the door was open before that, but
9 they didn't respond?

10 A No, no. He did not tell them that. No.

11 Q All right. Let's just stop this for a minute. Let's get to
12 this. That is the point when the police first became aware --
13 That's the first time that either you or Mr. Perrotti told the
14 police that door was unlocked.

15 A I agree, because that's when they ran after him.

16 Q Okay.

17 MS. LYNCH: So, if you would continue, please.

18 [Video Playing at 10:02:13 a.m.]

19 BY MS. LYNCH:

20 Q There's one officer, two officer, three officer, four
21 officer, and then five officer, and then person goes in after him;
22 is that right?

23 A Yeah.

24 Q And then Mr. Ortiz goes in.

25 A And that's Ortiz right there, yep.

1 Q Yep.

2 [Video Playing at 10:02:43 a.m.]

3 BY MS. LYNCH:

4 Q This is Mr. Perrotti coming out; is that right?

5 A Yeah.

6 Q Now you see an officer walking towards the foreground; is
7 that right?

8 A Yes, this guy --

9 MS. LYNCH: Can you just --

10 A -- that passed --

11 MS. LYNCH: -- stop that?

12 BY MS. LYNCH:

13 Q Now, that is the officer that you said got out of his police
14 cruiser and immediately ran towards the Hummer like he knew
15 someone was there.

16 A No, that's not, ma'am. I did not see him run. This guy came
17 with the group inside. He did not come out of --

18 Q Okay.

19 A -- his car.

20 Q But didn't you say that one of the last officers --

21 A Yes. I said --

22 Q -- on the scene --

23 A -- one of the last arrivals on the scene, he is the one, I
24 saw him running. But I could -- But then I saw the video of the
25 guy running and it was completely different. So, -- And I

1 acknowledged that. I told you this is --

2 MS. LYNCH: If you would continue, please.

3 A -- this is the one I meant.

4 MS. LYNCH: I have no question before you.

5 THE WITNESS: Yeah, no. But, Judge, [Indiscernible at
6 10:03:51 a.m. - pronunciation unclear]. It's not fair.

7 BY MS. LYNCH:

8 Q It's not fair if you keep changing your answers.

9 A I'm not changing. I'm showing you which officer that -- I
10 indicated I --

11 Q All right.

12 A -- saw him run with his hand on his gun.

13 MS. LYNCH: With the Court's permission, --

14 A And he's in the video.

15 MS. LYNCH: -- may I continue --

16 THE COURT: Yes, you may.

17 MS. LYNCH: -- to play the tape?

18 THE COURT: Yes.

19 MS. LYNCH: Thank you.

20 THE WITNESS: He's in the video. You'll see him.

21 [Video Playing at 10:04:11 a.m.]

22 BY MS. LYNCH:

23 Q Now, you see Mr. Perrotti running at 1706:44, in that
24 direction?

25 A Yeah. But I was nowhere to see him, ma'am; I was inside, if

1 | you can see that.

2 | Q The officers run out.

3 | A Yeah, yes, I -- I --

4 | Q The officers run out and they head towards the apartment; is
5 | that --

6 | A I'm --

7 | Q -- right?

8 | A I'm still inside. I did not hear any shots at all. So when
9 | these guys come back running, that's when I indicated I saw them.
10 | I was late but that's what I saw.

11 | Q This is the woman police officer --

12 | A Yeah. And --

13 | Q -- running in that direction?

14 | A And after that, you're going to see the officer --

15 | Q And that's --

16 | A -- I saw.

17 | Q -- you, right?

18 | A That's me right there, yeah.

19 | Q And that's Mr. Perrotti, coming --

20 | A Yeah.

21 | Q -- back.

22 | A And this is the officer I showed, to the right. He had his
23 | hand on his gun.

24 | THE COURT: Can you --

25 | Q Okay.

1 THE COURT: -- step down and just show me which officer?

2 THE WITNESS: The one -- Yes, right here.

3 THE COURT: Step down.

4 MS. LYNCH: Yeah.

5 THE WITNESS: The --

6 MS. LYNCH: You could back it up, Ms. Cunningham.

7 [Video Playing at 10:05:37 a.m.]

8 BY MS. LYNCH:

9 Q That's the --

10 MS. LYNCH: Excuse me; if you could stop that for a moment.

11 BY MS. LYNCH:

12 Q The first officer to run in that direction was the woman
13 police officer, correct?

14 A Yes, yes.

15 MS. LYNCH: Continue.

16 A It would be right through right here, to the right side.

17 [Video Playing at 10:06:24 a.m.]

18 BY MS. LYNCH:

19 Q And you would agree by this point Mr. Greenough has already
20 been shot.

21 A Yeah, but I didn't know that. I never heard no shots. The
22 only indication --

23 Q Okay.

24 A -- I had was Mr. Perrotti coming out. He said, "They shot my
25 brother, they shot my brother." And you have --

1 Q So, I'm just going to go back and ask you again: --

2 A Mm-hmm.

3 Q -- you told the police the night it happened that the last
4 officer that arrived got out of his car and began running towards
5 the Hummer like he knew where the guy was, and that's when the
6 shooting happened.

7 A Well, yeah, but I was wrong obviously because I --

8 Q Okay.

9 A -- did not know when the shooting took place. I did not hear
10 the shots. All I seen: commotion and guys running with their
11 hands on their gun. And the lady cop --

12 Q So, --

13 A -- had her gun in the air. That's all I saw. I was late.

14 And --

15 Q So you were wrong about that.

16 A I was, --

17 Q Now let me --

18 A -- yeah.

19 Q -- ask you about something else.

20 A Mm-hmm.

21 Q You told the police that the officers never came inside and
22 were never in that room; is that right?

23 A Inside where, the office?

24 Q Inside the apartment when you were there, up until this time.

25 A I don't -- I don't know what I said, ma'am. Can I see it?

1 Q Yes. Page 26, starting at the top:

2 You say, "So -- And then Anthony walks out. I'm still inside
3 the officer [sic], sir. So I'm doing -- I'm counting my cash and
4 stuff for the shift. And an officer comes in late on the scene,
5 little heavyweight."

6 Officer says, "Uh-huh."

7 You continue: --

8 A Mm-hmm.

9 Q -- "Bald. And he comes running out of his car. He parked
10 his car all the way at the end, and he's running. And he's going
11 in the direction where the Hummer is."

12 Detective Fitzgerald: "Where the Hummer is?"

13 Mr. Chaghouri: "As if he knew that this guy is going to be in
14 that direction."

15 "Yeah."

16 Mr. Chaghouri: "And he was running. And he asks me how's
17 this guy looks like. And I tell him, 'Tall and skinny.'" "

18 A And skinny, yep.

19 Q "And then I go back inside for not even 40 seconds. I come
20 back outside, I see Anthony running, screaming, 'Okay, they killed
21 my brother, they killed my brother.' So I was inside. I didn't
22 even hear the shots."

23 Now, in terms of -- I -- Continuing on, page 27:

24 "I didn't even hear the shots, sir. I was just inside. And
25 I came outside to see if they got him or they found him. And the:

1 I see Anthony running from that direction, screaming and crying.
2 I was crying, too."

3 Now, you were asked about whether the police ever came
4 through the door. And I'm going to direct your attention to page
5 27.

6 A Mm-hmm.

7 Q "So, did the police ever come in through the unlocked door?"

8 13: "Never. Never did."

9 Next question, from Trooper Connolly: "Because you were in
10 the office that whole time, you would've known, right?"

11 Mr. Chaghouri: "I was in the office, absolutely.

12 Absolutely."

13 A Unlock -- Yeah, the door --

14 Q Detective Fitzgerald: "So, they did not go in Alan's
15 apartment?"

16 Mr. Chaghouri: "They could not go, sir, because he didn't
17 give them access. They did --

18 A Yeah.

19 Q -- not know this door on the inside was open when he came out
20 at me."

21 A Yes, the door was locked. So, the -- You know, I'm answering
22 the question of: "When the door was locked, could anyone go in?"
23 I said no.

24 Q Okay. So you're not saying now that the police officers
25 never went inside the apartment prior to Mr. Greenough getting

1 shot.

2 A Yes, the police never got in there while the door was
3 unlocked. They got in there earlier, ma'am, when the door was
4 locked. Both doors were locked, okay? So when the door was
5 unlocked during that five minutes' period time before Mr. Perrotti
6 let -- notified the police, no one had come in.

7 Q No, that's not --

8 A That -- That's what I was answering to. That's what I --

9 Q Oh.

10 A -- thought I was asked about.

11 Q So, you were confused by the question, whether the police had
12 ever gone inside the apartment?

13 A He says, "Unlocked." You got to -- You got to read it very
14 specifically. The officer says, "That locked door." Can -- Can
15 you read it to the Judge once more, please? Just read it exactly
16 how Mr. -- how the officer asked me the question."

17 Q "So, they did not go in Alan's apartment?"

18 "They could not go, sir, because he didn't give them access.
19 They did not know this door on the inside was open when he came
20 out of it."

21 A Before -- Before that. The question when I -- when he said,
22 "Locked door." Can you give me the paper? And I'll read --

23 Q Yes, I --

24 A -- I'll read it?

25 Q -- will be --

1 A All right.

2 Q -- happy to give you the paper, sir.

3 A Thank you. Thank you, ma'am.

4 Detective Fitzgerald said, "So, did the --"

5 THE COURT: What page are you on, Mr. Chaghouri?

6 THE WITNESS: I'm on --

7 MS. LYNCH: Page 27.

8 THE WITNESS: -- page 27.

9 THE COURT: Okay.

10 BY MS. LYNCH:

11 A Detective Fitzgerald says, "So, did the police ever come in
12 through that unlocked door?"

13 Okay? "Unlocked." Was not unlocked, ma'am. This door was
14 locked.

15 So, I answer, "Never, never, never," because they never did
16 until Anthony notified them that the door was open. And then they
17 came in all. And you could see them, on the video.

18 Q Oh, so now you are referring at this point immediately after
19 the statement, "I didn't even hear the shots. I was just inside.
20 I came outside," and then it's after that that you're asked that.
21 So you say that you believed that they were going back to
22 originally when you discovered it was unlocked?

23 A No, the officer is asking me, "During this door was -- when
24 it was unlocked, did any of the officers try to come in?"

25 I said, "No, no one came in, in that room." I won't change

1 my statement.

2 Q Okay.

3 A Until --

4 Q Well, then let's --

5 A Until --

6 Q If we could --

7 A -- Mr. Perrotti notified them that the door is open. And you

8 can see them --

9 Q Okay. So, --

10 A -- all running.

11 Q You're revising your testimony today --

12 A Revising?

13 Q -- to say --

14 Yes.

15 A I'm not revising anything. I --

16 Q You said the police never went through the unlocked door, did
17 you not?

18 A Until --

19 Q Do you see that in the transcript?

20 A Ma'am, until the end. Of course the police -- 10 of them --

21 Q Didn't you say --

22 A -- went inside.

23 Q Until the end, you said, "No, never."

24 A Well, --

25 Q Isn't that what the transcript said?

1 A Listen, you're just playing around words. I -- I don't think
2 that's true. I mean, the substance is clear to everybody. The
3 video shows everything. So you can say whatever you like.

4 Q Well, I'll be happy to show you the video in the timeframe of
5 when Mr. Perrotti came out, --

6 A Mm-hmm.

7 Q -- told the officers, and --

8 A We saw them. We saw them 20 times coming in, all of them.
9 Why do we need to see them again?

10 Q That's my point. You --

11 A What's your point?

12 Q My point is you told the police that night that the police
13 never went in through the unlocked door.

14 A That's correct, ma'am. They never went The guy fled from
15 his window. And no one went in. We had to report it. Of course.
16 I stick to that.

17 Q The first time you told the police that Mr. Greenough had
18 come in and assaulted you was also Mr. Greenough got shot.

19 A Yeah, I said it in the police station.

20 Q And you also said it at your station when the officer, the
21 tall officer, came in and talked to you and Mr. Perrotti behind
22 the counter.

23 A Yes, I might have said. It's -- It's --

24 Q That was the first time --

25 A Yeah.

1 Q -- you told anyone --

2 A Okay.

3 Q -- in law enforcement --

4 A That's correct, that's correct.

5 Q -- that Mr. Greenough came out with a stick.

6 A Okay. Where are you trying to get to? Okay, that's --

7 Q I'm --

8 A -- right.

9 Q -- asking to clarify your testimony, sir.

10 A Ma'am, the off -- I mean, Officer Fitzgerald asked me very
11 precisely, "Did any officer come in through the unlocked doors?"
12 While the suspect is in, I assumed he's asking, now while he fled.

13 Q So you're --

14 A Why leave the --

15 Q -- making all these assumptions as they're asking the
16 questions? You're thinking about them that --

17 A Ma'am --

18 Q -- minutely?

19 A Ma'am, it's a -- it m -- it makes sense. I mean, why would
20 he ask the question if the guy's already out of the apartment?
21 How could they open the door? They would have shot him inside,
22 then, right? If they opened the door and he's inside, they
23 would've apprehended him. I wouldn't have to testify.

24 Q You indicated to the police that night after the shooting
25 that the police never went in that apartment; is that right?

1 A Yeah. They never did until the end, until Al was outside. I
2 agree to that, yeah.

3 Q Now, when Mr. Perrotti came out and told you that his brother
4 was not inside the night -- I'm going to direct your attention to
5 page 27 -- strike that -- 28.

6 Mr. Chaghouri: "Just Anthony was the only one that figured
7 that out."

8 And I'm just going to go back to the prior page.

9 "They could not go in, because he didn't give them access.
10 They did not know the door on the inside was open when he came out
11 of the --"

12 A Yeah.

13 Q "Right. Just Anthony went inside."

14 Your answer: "Just Anthony was the only one who figured that
15 out, yeah. And he came out and he told me, 'It's open and nobody
16 is there.' I said, 'Bring the police in there.'"

17 So, you told the police that night -- is that as soon as you
18 heard that there was nobody in the apartment, --

19 A Mm-hmm.

20 Q -- you told Anthony, "Bring the police in there."

21 A Not accurately, no. I said, "Let's give him a little
22 head's-up, couple of minutes, so we avoid big confrontation here."

23 Q Okay. But --

24 A I --

25 Q According to the transcript, what you told the police

1 officers --

2 A Mm-hmm.

3 Q -- who were asking you questions to find out what happened --

4 A Detectives, you mean, in the interview.

5 Q Yes, they're police, --

6 A Yeah, yeah.

7 Q -- aren't they?

8 A Yeah, yeah.

9 Q "And he came out and he told me it's open and nobody is
10 there. I said, 'Bring the police in there.'"

11 A Okay. And he did.

12 Q Mr. Chaghouri: --

13 A He did.

14 Q -- "I said, 'This is the time to fucking end it,' you know."

15 A Yes, yes.

16 Q And then you said, "I wish he listened to me, man. I wish.
17 I really wish."

18 A Yeah.

19 Q "I wish he listened to me."

20 A Yeah. That's my true feeling. I want -- I didn't want this
21 to happen.

22 Q Okay. Well, let me just ask you about this.

23 A Mm-hmm.

24 Q So, you claimed on the night in question that as soon as you
25 realized the door was unlocked and that Mr. Greenough was not

1 inside, you that night told the police that you told Anthony,
2 "Bring 'em in. Let's get it over with."

3 A Yes, yes, yes.

4 Q And you were lying to the police about that.

5 A I'm lying? How am I lying?

6 Q Well, do you remember when you got the subpoena to testify in
7 this inquest? Remember you were served with a subpoena?

8 A Yeah.

9 Q And you were asked to contact the District Attorney's Office?

10 A When I came to your office, yeah.

11 Q Yes, and you came to the Middlesex D.A.'s Office; is that
12 right?

13 A Mm-hmm, yes.

14 Q And you met with me on March 15th at approximately noontime;
15 is that right?

16 A That's correct.

17 Q And I was there at the meeting.

18 A Mm-hmm.

19 Q And Trooper James Connolly, who interviewed you, was also
20 there; is that right?

21 A Yeah.

22 Q Now, during that meeting you provided new information to
23 Trooper Connolly and myself; is that right?

24 A New information?

25 Q Yes.

1 A I don't know what information you're talking about.

2 Q Okay. Well, let me ask you this: did you say that after Mr.
3 Greenough entered -- Mr. Greenough's brother, Anthony Perrotti,
4 had entered Greenough's apartment from the door in the lobby, he
5 told you that Greenough was not in the apartment? You said that
6 he told Anthony, "We should give him a few minutes and then report
7 it to the police"; is that right?

8 A Yeah, "Let's give him head's-up."

9 Q "Let's not talk about it --" Well, you knew that he was not
10 in the apartment for four or five minutes before you told the
11 police and the police entered the apartment.

12 A Well, the video showed last time that was not --

13 Q I'm not asking --

14 A Yeah.

15 Q -- about the video.

16 A Was -- Was only 30 seconds, 40 seconds.

17 Q I'm asking you -- Sir, --

18 A Mm-hmm.

19 Q -- don't answer questions, please, --

20 A Well, so --

21 Q -- that are not asked.

22 A So, what's --

23 Q I'm --

24 A -- the question?

25 Q -- asking your view.

1 A Yes.

2 THE COURT: Hang on a second. Mr. Chaghouri, could you step
3 out for a minute --

4 THE WITNESS: Sure.

5 THE COURT: -- in the courtroom?

6 THE WITNESS: Sure.

7 [Witness steps down and exits]

8 THE COURT: Okay. Let me just remind everyone --

9 And I appreciate, Ms. Lynch, that you're trying to get the
10 truth, which is what we're trying to do here. It's a fact-finding
11 mission.

12 But I just want to remind everyone about the procedural rules
13 for the inquest. And the Court's responsibility is to ensure that
14 the District Attorney remains essentially neutral and not act as
15 the proponent or opponent of any particular proposition or point
16 of view. And I'm just concerned that this is starting to feel a
17 little bit like a trial, little bit combative, and it's making it
18 difficult for me to try to get to the facts. So, --

19 MS. LYNCH: Sorry, Your Honor.

20 THE COURT: -- I just want to remind everybody about that.
21 Okay?

22 MS. LYNCH: Thank you, Your Honor.

23 THE COURT: And I understand your frustration and all of
24 that.

25 Why don't we have Mr. Chaghouri come back.

1 [Witness enters and resumes the stand]

2 BY MS. LYNCH:

3 Q Do you recall, Mr. Chaghouri, saying on March 15th of this
4 year that you and Mr. Perrotti knew that Alan was not in the
5 apartment for four or five minutes before they told the police and
6 they entered the apartment?

7 MR. KOUFMAN: Objection, Your Honor.

8 THE COURT: Have a seat. Overruled.

9 BY MS. LYNCH:

10 A Yes, I did say that.

11 Q And you told us at that time that you told Mr. Perrotti,
12 "Let's not talk about it for a few minutes. If he is going to
13 flee, let him not be on the property."

14 A Yes, I did say that.

15 Q And you said that you and Mr. Perrotti felt guilty about that
16 and wished you had told the police about the unlocked door into
17 the apartment earlier.

18 A Well, I was really talking about myself, that I felt guilty,
19 you know. I couldn't --

20 Q And --

21 A I could not really --

22 Q And you acknowledge that you did not tell the officer that
23 door -- in the interviews, is that right?

24 A I acknowledge I did not tell the officers?

25 Q That you had been the one to suggest not telling the police.

1 A Well, I s -- I kind of said Tony said it, but it was really
2 mutual. Like, we -- we understand each other from just looking at
3 each other. We've been with each other 12 years, working with
4 each other. So, I could not recall, ma'am, the events. It's been
5 a year and some. And very drastic, very dramatic events took
6 place. So I do not remember.

7 And when I went to your office, we were supposed to be
8 refreshed over my testimony of this. And when I d -- when I did
9 mention that to you there, you said, "How come you never said it
10 to Detective Fitzgerald and Connolly?" I said, "Ma'am, I did."
11 You did not make an effort to find it in that -- in that testimony
12 paper that day and to show me to refresh your memory because I
13 couldn't remember --

14 Q But in that --

15 A -- from a year ago.

16 Q -- testimony, Mr. Chaghouri, you said it was Anthony that --
17 you said, --

18 A I did.

19 Q -- "Let's end it." And you did not say, "Let's end it."

20 A I -- Listen, he was in charge. I was behind the counter.
21 He's the one that went to the apartment. That was his brother. I
22 was not going to go jump and -- over his head and go to the
23 police, say, "Oh, come arrest this guy." No.

24 Q So, --

25 A I wanted his opinion. I wanted -- You know, I said, "What

1 should we do? Let --" You know, we -- we agreed together. It was
2 not like one guy's call. And he did not listen to me, anyways.
3 He did not agree to what I suggested to him. He went right away
4 and let the cops in. And you could see that.

5 Q But you said that you and Mr. Perrotti waited four to five
6 minutes before you --

7 A I was wrong, --

8 Q -- told the police.

9 A -- ma'am. I did not see the videotape of the events of the
10 three times, when Anthony found out the first time the door was
11 unlocked. And then when I watched that video last time with you
12 here, I was convinced that it only was 40 seconds that he -- we
13 hid that fact. Only 40 seconds. You see that.

14 Q Well, without playing the tape again, you would agree that
15 you were not counting the seconds or minutes that something
16 happened.

17 A Not at that time. I was -- You know, I was there for six
18 hours waiting in a small room, ma'am, not -- no food, no hu -- you
19 know, no drinks, nothing. I mean, it's 1 -- long time.

20 Q You told Trooper Connelly when he asked on on the 15th of
21 this year --

22 A Mm-hmm.

23 Q -- why you didn't tell him about that during the initial
24 interview of the night of February 3rd. He asked you that
25 question, didn't he?

1 A He asked me what?

2 Q Why you didn't tell him on February 3rd of 2018 --

3 A About what?

4 Q -- that it was you who suggested that the police not be
5 notified right away.

6 A I said it was mutual, if he did ask me that.

7 Q You don't recall saying that you did not say that because you
8 were not directly asked about it?

9 A I could've been. Could've been.

10 Q But you --

11 A I don't remember.

12 Q -- agree that that night you were asked by Detective
13 Fitzgerald and Trooper Connelly about what happened. And on that
14 night you blamed that on Anthony.

15 A I did not really blame it on anyone. I'm not -- Neither me
16 or Anthony did anything wrong, ma'am. We're not the one --

17 Q Did you --

18 A -- that did this.

19 Q -- say that you said to Anthony, "Let's just end it," and he
20 said, "I don't want to do that. He doesn't want to come out"?

21 A But what did he do? Look at the fact.

22 Q I'm not --

23 A Doesn't matter --

24 Q You don't get to ask --

25 A -- what he says.

1 Q -- questions, Mr. Chaghouri.

2 A Listen, --

3 Q Just answer the --

4 A Listen, I told you --

5 Q -- question, please.

6 A -- we confirmed with each other, we looked at each other's
7 eyes. "What should we do?" It was -- It took 2-3 seconds. So, I
8 cannot really tell you details. He didn't even talk much, the
9 guy. He didn't even acknowledge what he was going to do.
10 Actually, I was shocked when he led the cops right away. I
11 thought he would give him couple of minutes. He did not.

12 Q So it's your testimony that when you told the police on
13 February 3rd that it was Anthony who wanted to give Mr. Greenough
14 some time, and on March 15th that you were the one that wanted to
15 give him more time, --

16 A It was more mutual, ma'am. It was not me, --

17 Q But that --

18 A -- it was not him.

19 Q But --

20 A It was both of us together.

21 Q But all I'm getting at Mr. Chaghouri, is when you talked to
22 them on the 3rd it was Anthony's fault, and when you talked to
23 them on the 15th of March of this year it was your fault, and now
24 today in Woburn District Court it's both of your fault.

25 A Well, it makes more sense. I mean, o -- you think one person

1 can make a decision? You saw the whole video. I was behind the
2 counter. He's the one that opened the door. He's the one that
3 found the truth. He's the one that reported it. Whatever I told
4 him and he -- that has no meaning right now because he did the
5 action, he took the -- brought the cops and -- and let them in.
6 And that's it.

7 Q But that night, you told the police that you didn't tell the
8 police --

9 A Ma'am, I --

10 Q -- right away.

11 A -- told you I was confused. I -- Do you think it was any
12 easy day to go through this from morning until 11:45 at night?
13 It's not. I mean, I'm not accurate. I'm not a computer. Lot of
14 events -- I thought I saw the officer that --

15 Q I'm --

16 A -- started running. I saw another officer, now when I see
17 the video.

18 Q Now, I just want to ask you a few questions. After that, Mr.
19 Greenough -- After Mr. Greenough was shot, Anthony Perrotti came
20 back to where you were. Did Mr. Perrotti indicate to you that he
21 witnessed the shooting?

22 A No.

23 Q Did he tell you that he was standing at the side of the
24 building and that he saw the police officer shoot his brother
25 twice from 4-yards' distance?

1 A I did not say that, no.

2 Q You did not say that to --

3 A No.

4 Q -- the police?

5 A No, no. I -- He saw -- He saw the -- He got there after the
6 shot. The -- He saw the officer down at his brother. And he saw
7 big pool of blood.

8 Q Okay.

9 A But he did not get there when he shot him, no.

10 Q Okay. But on the night of February 3rd, you told the police
11 officers that he saw this and that the shooting happened at a
12 distance of four yards; is that right?

13 A [No audible response.]

14 THE COURT: I didn't hear you, Mr. Chaghouri. Was that right
15 or did you say --

16 THE WITNESS: No, no, I -- That's not the -- I mean, that's
17 not what I understood. I don't know. If I said that, it would be
18 also mis -- misspoken, probably.

19 BY MS. LYNCH:

20 Q Page 31, line 1.

21 A Mm-hmm.

22 Q "Because he was running -- Well, the first thing I noticed:
23 the lady cop had her gun out and she was running when I came out.
24 I seen that scene. And then I seen another officer behind her,
25 also with the gun drawn.

1 "And then within two seconds Anthony was running, facing
2 those officers that -- running in that direction. He was running
3 and he must've -- he must've followed the officer when he was
4 going to the Hummer. And he says he seen his brother go down and
5 went like this in a pool of blood. He says, like, not even 4-
6 yards' range he shot him, according to Anthony."

7 A Yeah, "He must've." I say, if you notice, "He must've seen,"
8 because --

9 Q Okay

10 A -- he runs back t -- running and crying and, you know,
11 grabbing his head and -- "They shot my brother, they shot my
12 brother," --

13 Q Line --

14 A -- twice.

15 Q -- 15, Detective Fitzgerald asks you, "So, Anthony basically
16 stated he was right on the scene when it happened, right near
17 where the incident happened?"

18 And you said, "I believe so, sir, because he's the only one
19 that knew what was going on."

20 A Yeah.

21 Q "The other guys thought it was a backfire from a truck or a
22 car."

23 A That's correct.

24 Q Now, you and -- You spoke to Mr. Perrotti while the police
25 were tending to Mr. Greenough and when the officer came into the

1 station. You and Mr. Perrotti were together; is that right?

2 A I don't know. They separated us.

3 Q Okay. Well, were you --

4 A We were not together.

5 Q -- in the office together with Mr. Perrotti when a police
6 officer came in with a --

7 A When he stayed guard.

8 Q -- knit cap?

9 A Yeah. He stayed guard. He kept us for, like, five minutes
10 until they got the cruisers --

11 Q Yep.

12 A -- to take each one separately.

13 Q Okay. And there was -- So there was a period of time that
14 you and Mr. Perrotti had an opportunity to talk about what you'd
15 seen and what had happened; is that fair to say?

16 A No, it's not fair at all, ma'am, because the guy was crying
17 and he was in bad shape. And he still believed his brother's
18 still alive. He never thought that his brother was dead. So --
19 And then when the police guard on us, he did not -- he made sure
20 we could not speak to each other.

21 Q Okay.

22 A He said, "I'm sorry, it's -- it's the rules. We have to keep
23 you separated until the detective interviews you."

24 Q And that night, you were asked about your surveillance
25 system; is that right?

1 A Yes, I was.

2 Q And you were asked if you would be willing to give a consent
3 to search the area in connection with video surveillance tapes.

4 A I did.

5 Q And you gave the police a written consent that allowed them
6 to access your video system and make a copy of it.

7 A Correct.

8 Q And you signed that form at 9:02 p m. on February 3rd. I'm
9 going to show you this document now, if you recognize it.

10 A Mm-hmm. And the day is 2/3. 9:02, yeah. Yeah, that's my
11 signature.

12 Q Okay. So you signed this before you were even interviewed by
13 the police at the police station.

14 A Yes. I was secluded in the room. They drove me back to the
15 station to locate the key for the Hummer and also to get that
16 waiver signed.

17 MS. LYNCH: Your Honor, at this time I would offer the
18 consent form as the next exhibit.

19 THE COURT: Yes.

20 [Consent Form Marked as Exhibit No. 81]

21 BY MS. LYNCH:

22 Q And it was after that that the police brought you back to the
23 police station and you're -- you were interviewed from
24 approximately 10:15 to approximately 10:45.

25 A That's not what I recall. I got out of there around 11:15, I

1 believe, --

2 Q Okay.

3 A -- or 11:40 or --

4 Q Well, in terms of the interview, you would agree, much like
5 the surveillance video in your station, the video would speak for
6 itself about how long the actual recorded interview was?

7 A Yeah.

8 Q Okay. Now, in terms of your knowledge of Mr. Greenough, had
9 you ever witnessed him have a seizure or be taken by ambulance?

10 A Yes, couple of times, I did.

11 Q Did you describe for the police that when Alan was not under
12 the influence he was a great guy, but as soon as he drinks
13 everything totally changes?

14 A I did, yes.

15 Q Did you also tell the police that Mr. Greenough could not do
16 any work with customers because he had a lot of issues with it and
17 he had issues with what customers said to him?

18 A Yes, he's not a customer service guy, for sure.

19 Q Okay. And you would agree that during the time that you were
20 with or observed Mr. Greenough briefly in your office, and what
21 you saw from outside, that Mr. Greenough on the afternoon of
22 February 3rd appeared to be under the influence of something,
23 because he was not in his right mind?

24 A He was agitated, as I repeat. And, yeah, he was -- he was
25 mad or scared. Something like this. I don't -- really don't

1 know. I can't put my finger on it.

2 Q Now, did you say, though, that that night -- that that
3 afternoon he appeared to be angry?

4 A In the after -- Well, with the stick?

5 Q Yes.

6 A Yes. Oh, yes, yes.

7 Q Okay.

8 MS. LYNCH: If I might just have one moment, Your Honor.

9 THE COURT: Sure.

10 BY MS. LYNCH:

11 Q And when you say he wasn't in his right mind, did you have an
12 opinion as to whether he was under the influence of alcohol or
13 drugs?

14 A I assume, you know, for someone to come with a stick when
15 police officers outside looking for him that he's not in his right
16 mind to do that. I assume that.

17 Q And you said that to the police?

18 A I did.

19 Q Did you also mention that you believed he had consumed
20 alcohol and possibly Klonopins?

21 A Maybe. I said I don't know. I said --

22 Q Okay.

23 A -- you guys could find out. But he was not himself.

24 Q Thank you.

25 A You're welcome.

1 THE COURT: So, did you tell the police that based on
2 observations you made of him?

3 THE WITNESS: Yes. All --

4 THE COURT: That you thought he was under the influence --

5 THE WITNESS: Yes, all based --

6 THE COURT: -- [Indiscernible at 10:35:14 a.m. - simultaneous
7 speech]?

8 THE WITNESS: Yes, ma'am. But all based --

9 THE COURT: And what kind of specific observations, other
10 than the fact that he was holding the stick?

11 THE WITNESS: Just how mad he was and how -- you know,
12 thinking that I called the cops on him, and all these cruisers and
13 stuff.

14 THE COURT: Okay.

15 THE WITNESS: And he knows I'm his friend; I wouldn't --

16 THE COURT: All right.

17 THE WITNESS: -- do that.

18 THE COURT: But -- 'cause you also just testified that he was
19 agitated, mad, or scared.

20 THE WITNESS: Yes, yes. It could be one of -- I mean, he
21 would react like this when he was scared, too, you know what I
22 mean?

23 THE COURT: So, despite the fact that you told the police you
24 thought he was under the influence of something, either alcohol or
25 Klonopin --

1 THE WITNESS: I can't -- Yeah, I can't --

2 THE COURT: -- you --

3 THE WITNESS: I can't be really the judge, you know.

4 THE COURT: You said that based on how he was acting.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Okay.

7 Mr. Pasciucco?

8 MR. PASCIUCCO: Thank you, Your Honor.

9 CROSS EXAMINATION OF WITNESS, TALAL JOSEPH CHAGHOURI

10 BY MR. PASCIUCCO:

11 Q Good morning, sir.

12 A Good morning.

13 Q My name's Peter Pasciucco. I represent Officer Erik
14 Drauschke. I just have a few questions for you today.

15 Now, you own the property at 1462 Main Street; is that
16 correct?

17 A Yes.

18 Q And you own that property with your brother?

19 A Yeah.

20 Q Okay. And do you own it in -- Is there any type of corporate
21 structure?

22 A Yeah, it's a corporation, yes.

23 Q It's a corporation?

24 A Yes. It's an S-corporate. Yeah.

25 Q Okay. And are you an officer of that corporation?

1 A Yes, I'm the president.

2 Q Okay. And how long have you owned that property?

3 A Since March of '05, 2005.

4 Q Okay. Do you have an attorney that you consult with, with
5 respect to corporate matters?

6 A Yes. The -- The attorney that drew the corporation.

7 Q Okay. Is it -- Attorney Koufman your attorney?

8 A He's one of the group that -- you know, in the office that
9 represented the corporation.

10 Q Okay. Have you had any --

11 A No, I'm sorry; Kaufman is -- You mean this guy right here?

12 Q Yes.

13 A No, he's not; I'm sorry.

14 Q Okay. You expect to be sued as a result of this incident, by
15 the family; is that correct?

16 A Nev -- Really not. I never thought about it. I never really
17 -- I hope not. But never thought about that, no.

18 Q Do you have a liability insurance for the property?

19 A I do.

20 Q And liability insurance for the business?

21 A Yes, I do.

22 Q Okay. Now, I understand that it's a gas station, there's a
23 residential component to it, and then there's also an auto body
24 shop?

25 A It's a repair shop, --

1 Q Repair shop?

2 A -- not an auto body. Yeah.

3 Q Okay. And when customers leave their cars at the premises,
4 it's the policy of your business to keep those cars locked; is
5 that correct?

6 A Absolutely, yeah.

7 Q Okay. How did Mr. Greenough get in the locked Hummer?

8 A It was not locked. We were not done working yet, sir. We
9 were still -- we're still open.

10 Q So you were working on the Hummer that day?

11 A We were not working on the Hummer particularly that day, but
12 we did work on it that same week. And what I do at the end of
13 Saturday, I go by the cars and lock every one of them when
14 everybody's gone, you know. One employee will do that.

15 Q Okay. So, all week, that Hummer was open?

16 A Not necessarily. It could've been worked on Friday or
17 Thursday. I really don't have the schedule of what we did on it.
18 But the policy of us is at the end of the business day to go
19 around all the cars and lock them.

20 Q Okay. So, did you give Anthony permission to give his
21 brother the keys to the Hummer?

22 A No.

23 Q Okay. But Anthony gave his brother the keys to the Hummer;
24 is that correct?

25 A I -- I cannot assume that, sir. I cannot. It could've been

1 open. It -- As I said, we did not yet do our round of locking the
2 cars.

3 Q Okay. So you don't know whether or not it was opened or
4 locked when Alan Greenough --

5 A Yeah. I --

6 Q -- went inside the Hummer?

7 A -- don't know if he had the key. But I know the key was in
8 the -- inside the garage when I came back at nine o'clock to give
9 it to the state police. So, it could not have been with Mr.
10 Greenough, because how could it make it inside the -- the chain
11 that's hanging inside the garage?

12 Q Well, do you know if Anthony put it back on the chain?

13 A No, no. I don't know that.

14 Q Now, a lot -- There were a lot of police officers that
15 responded to the scene; is that fair to say?

16 A Yes, yes.

17 Q And the fire department at some point responded?

18 A Yes.

19 Q Okay. So there's a lot of activity around the premises when
20 Mr. Greenough was inside the apartment, correct?

21 A Correct, yeah.

22 Q Okay. And you would agree, as a business owner, that's not
23 great for business.

24 A It's very bad, yeah.

25 Q Okay. So, you wanted to -- you would've liked to have seen a

1 quick resolution to the problem; is that correct?

2 A Yes, sir.

3 Q Okay. So why didn't you have the police go inside? Just a
4 simple question.

5 A I did ask that. I did ask one of the officers when I came
6 outside after Al opened the window. I said, "Why can't you go
7 in?"

8 He said, "We'd rather not go and confront someone inside.
9 We'd rather he comes to us."

10 Q Okay. So you wished the -- Looking back on the incident now,
11 you wish the police had gotten inside earlier; is that correct?

12 A I wish I would've been able to tackle him when I saw him in
13 the office, and hold him until the police come. Yes, I would've
14 loved to save his life. Absolutely.

15 Q Okay. But you didn't tackle him, because he was holding a
16 stick, correct?

17 A Yes.

18 Q And you indicated that you were threatened by him, correct?

19 A Little bit, yes.

20 Q And you indicated that his eyes were all over the place,
21 correct?

22 A Yeah. He was looking in different directions, yeah.

23 Q Okay. So he wasn't in his right state of mind.

24 A No. He was agitated, as I said.

25 Q Okay. And you indicated that you told him to put the stick

1 down because you thought you were in the line of fire.

2 A Yes, sir.

3 Q Okay.

4 A I said, "Keep it down, please, Alan."

5 Q So, his behavior as you observed it in that waiting area, in
6 your opinion, would have possibly caused him to be shot by police;
7 is that correct?

8 A I was afraid of that, to be honest with you. I was afraid
9 of, you know, him being misunderstood, you know, by acting in, you
10 know, a way that -- We know how he is. And, you know, he's
11 harmless. But I was afraid for his safety, yes.

12 Q Okay. So just to sort of summarize that statement, based on
13 how he was acting, you were afraid that the police might
14 misunderstand his actions and possibly shoot him; is that correct?

15 A Yes, yes, yes.

16 Q Okay.

17 MR. PASCIUCCO: No other questions.

18 THE COURT: Mr. Koufman?

19 MR. KOUFMAN: Thank you, Judge.

20 CROSS EXAMINATION OF WITNESS, TALAL JOSEPH CHAGHOURI

21 BY MR. KOUFMAN:

22 Q Mr. Chaghouri, my name is Victor Koufman and I represent the
23 family.

24 A Okay.

25 Q Is it fair to say that you and I have never met before the

1 shooting?

2 A That's correct.

3 Q And you never received any correspondence from me; is that
4 correct?

5 A No.

6 Q You never even knew I existed; is that correct?

7 A I didn't even know your name until he said, "Mr. Koufman." I
8 honestly know nothing.

9 Q Now, you met Alan Greenough about 10 years ago; is that
10 correct?

11 A Yes, sir.

12 Q And at that time he was working for a landscaping company?

13 A Yes. Ram's [phonetic] Landscaping.

14 Q And they had a contract with your station in order to do the
15 landscaping?

16 A No. They had a contract as far as a gas account.

17 Q Gas account.

18 A We fill up the gas for free and at the end of the month they
19 send a check.

20 Q And so, as a result of that, you got to know him; is that
21 correct?

22 A Yes, yes.

23 Q And as a result of that, eventually you learned that he was a
24 brother to Anthony; is that correct?

25 A Yes, yes.

1 Q And when you first met him, at some point you -- So, you
2 basically knew him for 10 years; is that correct?

3 A Yes. Yes, sir.

4 Q And during that 10-year period, have you ever known him to
5 own a weapon?

6 A Never.

7 Q Have you ever known him to own a gun?

8 A No.

9 Q Have you ever known him to possess a gun?

10 A Never.

11 Q Have you ever known him to -- Have you ever seen him act
12 violently?

13 A No, no. But I've seen him scream and agitated. But nothing
14 violent.

15 Q Would you call him a yeller?

16 A Yes.

17 Q Okay. But you also just said in response to this attorney's
18 questions that he's harmless, did you not?

19 A Of course he is.

20 Q And you need to speak up so I can hear you.

21 A Yes, sir, he is very harmless. He's got a good heart. He
22 helps anybody that ask for help. He's a -- He's a -- You know, I
23 -- I loved this guy. I really can say that.

24 Q How can he be a yeller yet be harmless?

25 A He -- You know, he has issues with his personality. We're

1 not all in control of ourselves. Some people are weaker than
2 others. Some people have issues. I've seen that, you know, when
3 he drinks or -- you know, he had some kind of substance abuse once
4 in a while -- and will reflect on his personality. But he's a
5 genuinely great helper, you know, positive. Everyone loved him.
6 If I come to him, say, "My wife did this," -- "No, you're bad.
7 Your wife is r -- right. You're -- You're the bad guy."

8 Q Other than the night of February 2nd -- I'm sorry -- February
9 3rd of 2018, have you ever seen him holding a weapon?

10 A Never.

11 Q Did you ever see him hold a weapon when you thought he might
12 be under the influence?

13 A No. Never had a weapon.

14 Q Even when he was under the influence, did you ever see him
15 violent in any way?

16 A No. He's always had peace at the end of his texts. "Peace,
17 brother. Love." He was a peace, like, follower. You know? He
18 loved peace.

19 Q Okay. Now, in December of 2016, is that when he moved into
20 your apartment, into the apartment on your premises?

21 A In December 2015 or '14, I believe, not '16, because that's --

22 Q And --

23 A -- when my mom passed.

24 Q Okay. And at that time, he's -- how did you end up hiring
25 him to do work on your business?

1 A He did -- He did the work before this, couple of years
2 before. He worked few shifts on the gas. And then he had an
3 issue and he had to leave away, go somewhere to another state.
4 So, he was familiar with the gas. He was familiar with the
5 repairs, with the stickers. He did stickers also. At some point,
6 he had sticker license about five years ago. So, he was an
7 inspector for the state. He helped me in many ways. He used to
8 cut the grass. He used to, you know, -- Anything dirty that none
9 of us wanted to do, he would be the one to do it.

10 Q Now, you said that he was not a customer person; is that
11 correct?

12 A Yes. He's --

13 Q What did you mean by that?

14 A I mean, you know, he gets agitated quick. You know, like --
15 You know, he could not be, like, patient enough. If someone says,
16 "Oh, you did not check my oil," he will end up, like, being mad.
17 And he takes it personally. And, you know, that -- that's what I
18 meant. He's --

19 Q Did he ever get verbally abusive to another customer?

20 A No, no, nothing like this.

21 Q So it was more that he became impatient with customers.

22 A Impatient. And then he'll mess up. He'd start making
23 mistakes.

24 Q Now, he had other responsibilities with respect to your
25 business; is that correct?

1 A Yes.

2 Q And was he able to perform those responsibilities?

3 A Absolutely.

4 Q And what were some of those responsibilities?

5 A You know, cleaning the turtle tank every -- every week.

6 Cleaning the filter. Cutting the grass. Before any inspection by
7 the town officials, the fire department, he would be the one that,
8 you know, makes us look good. When we're not there, me and his
9 brother, he would be there for us. The gas attendant will reach
10 him. He'll come in from his apartment, book the customer, write
11 the information, take the keys, call me later at home, say, "Hey,
12 Joe, a tow -- a car came on a tow truck." All the stuff that, you
13 know, he is capable of doing.

14 Q Was he reliable?

15 A He was very reliable.

16 Q In what way?

17 A He -- If he say -- If I say, "Saturday, Al, I need you to
18 come do my landscape," for example, Saturday at ten o'clock at the
19 time we agree, he'll be calling me: "Joe, where are you?"

20 Q Now, you mentioned he had issues with drugs; is that correct?

21 A From what I heard. I really did not see him myself.

22 Q Okay. Did that affect the way he was able to perform on the
23 job?

24 A No. None of the landscape stuff, you know, affected him at
25 all. I mean, nothing physical. He loved being into physical

1 stuff.

2 Q If he wasn't able to appear at work at his scheduled time,
3 did he notify you?

4 THE COURT: Mr. Koufman, I'm going to ask you to give me some
5 offer at this point, 'cause these questions are --

6 MR. KOUFMAN: Here, I'll move on, Judge.

7 THE COURT: Yeah.

8 BY MR. KOUFMAN:

9 Q Now, at some point did he leave the apartment in 2018? Did --
10 I'm sorry -- Did Alan move out of the apartment and go into a drug
11 detox --

12 A Yes, he did.

13 Q -- program?

14 A He did.

15 Q Okay. And during that time, is that when Alan's girlfriend
16 moved into the apartment?

17 A D -- Devin's girlfriend.

18 Q I'm sorry. Anthony's girlfriend? Is that correct?

19 MS. LYNCH: No. Anthony's his brother.

20 BY MR. KOUFMAN:

21 Q No, I'm sorry; Alan's girlfriend. Is that correct?

22 A Devin. Devin's girl --

23 Q Devin.

24 A Devin, yeah.

25 Q Okay. Devin's girlfriend moved into the apartment when Alan

1 went into the detox program; is that correct?

2 A I believe so.

3 Q Okay. So --

4 A I believe so, yeah.

5 Q -- when Alan returned to the apartment, did he have any prior
6 notice that Devin's girlfriend was living with him, to your
7 knowledge?

8 MS. LYNCH: Objection. Basis of knowledge.

9 THE COURT: Yeah. Objection's sustained.

10 And, Mr. Koufman, again, I'm going to ask you to -- Some of
11 this, the Court's already heard.

12 MR. KOUFMAN: If I can just get to February 2nd.

13 THE COURT: Sure.

14 BY MR. KOUFMAN:

15 Q On February 2nd of 2018, on that Friday, you said you have a
16 conversation with a Michael Randall; is that correct?

17 A Yes.

18 Q And Michael Randall works in your --

19 A Yes, he does.

20 Q -- in the business?

21 A He's a gas attendant, yes.

22 Q Okay. And you said there was a conversation, that you spoke
23 with him when you arrived at the property at some time with
24 respect to commotion in the apartment; is that correct?

25 A Yes.

1 Q And what did he say about the -- And what time was that? Was
2 that --

3 A That was during conversation on the phone.

4 Q Okay. Was that before Alan had arrived at the apartment?

5 A Friday?

6 Q Yes.

7 A No, that was after.

8 Q When was --

9 A No, no, no. I -- I talked to Mike after the problem, when he
10 was calling to report the gas situation, at nine o'clock.

11 Q Okay.

12 A And he says to me, "Oh, there was a problem," blah, blah,
13 blah

14 I said, "I heard. They called me. What happened before Al
15 came?"

16 He said, "Joe, they were going at it way before Alan showed
17 up."

18 Q And who were -- When you say "they," who are you referring
19 to?

20 A Devin and his girlfriend.

21 Q Okay. Going at it in what way? Did he --

22 A He heard th -- He heard them breaking things. And he heard
23 screaming and stuff like that.

24 Q Okay. And at that point, to your knowledge, Alan was not at
25 the apartment; is that correct?

1 A Yes, he told me --

2 MS. LYNCH: Objection.

3 A -- before.

4 MS. LYNCH: I don't know how he would have a basis of --

5 THE COURT: Yeah, objection's sustained.

6 BY MR. KOUFMAN:

7 Q Now, on Saturday, February 3rd, 2018, the day of the
8 shooting, you arrived around 1:40 p.m.; is that correct?

9 A Yes, sir.

10 Q Okay. And when you arrived, I mean, typically on those
11 Saturdays you arrive, do your paperwork, --

12 A Yeah.

13 Q -- do your books, and --

14 A Yes.

15 Q -- pay the employees; is that correct?

16 A Yes, yes.

17 Q Okay. And then when you got there you saw Devin and his
18 girlfriend enter the apartment and leave; is that correct?

19 A I saw them talking to Anthony on the right side of the
20 property.

21 Q Okay. And then eventually --

22 A And then event --

23 Q -- they left.

24 A Yes. And then, very shortly after, they left.

25 Q Okay. Then you went back to the office; is that correct?

1 A Yes, sir.

2 Q And then the police arrived; is that correct?

3 A Not right away. Like, maybe 20 minutes or half an hour
4 after.

5 Q Okay. And when the police arrived, at some point there was
6 conversation where you made mention to somebody -- where you saw --
7 Did you see the police knock on Alan's door?

8 A Yes, yes. I met -- I come out of the door. Actually,
9 Anthony's the first one, I think, that went to the side.

10 Q Okay. And then at some point, though, did you see the police
11 knock on --

12 A Yes. They --

13 Q -- the apartment door?

14 A They wanted -- They wanted the owners. If I remember
15 correctly, they checked my ID, too, if I remember correctly.

16 Q Okay. And when they -- When the police -- We're talking
17 about Alan's door; is that correct?

18 A Yes.

19 Q The apartment?

20 A Yes, sir.

21 Q Okay. And when they knocked on the door, were they able to
22 get in?

23 A No.

24 Q And at that point, did they ask for -- you for a key?

25 A Yes, they asked me for keys, yeah.

1 Q Okay. And at that point did you give them a key?

2 A I did not have the keys. I said, "I'll find them for you."

3 And then I went, I checked with Anthony, and obviously Anthony had
4 gave them the keys later on.

5 Q Okay. But at some point did -- was it determined that the
6 front -- I'm just talking about the front door to the apartment.

7 A Yeah.

8 Q The front door to Alan's apartment, is that locked from the
9 inside?

10 A It -- It was. It -- You c -- It could be locked from the
11 inside and the outside. We have a key, and he's got a dud --
12 deadbolt on the inside, as well.

13 Q Right. And so, the key to the outside wouldn't necessarily
14 open the door, --

15 A No, if he's got --

16 Q -- right?

17 A -- the deadbolt on, no one can move in.

18 Q Okay. Did you explain that to the police?

19 A I don't remember if right at the moment. But they knew that
20 both doors locked. And then when they s -- could not open, we
21 told them there was this kind of lock that --

22 Q When you say --

23 A -- cannot be o --

24 Q -- that they knew that both doors lock, what do you mean by
25 that?

1 A I mean that they attempted -- You know, they -- they tried,
2 they knocked on the doors, and they asked me if there's an
3 emergency door. I said, "Yes, it's in the office." And they were
4 both locked. And the keys that we had would not work.

5 Q Okay. So they -- So both those doors --

6 A Both deadbolted from the inside.

7 Q From the inside. And the key that you have would not work
8 for the front door; is that correct?

9 A Would not work for neither door, sir.

10 Q For either door.

11 A Yeah.

12 Q And that's -- When you say "the door," that's the door that's
13 separating the business from the apartment; is that correct?

14 A Yeah, that's the inner door.

15 Q Okay.

16 A We call it the emergency exit.

17 Q Okay. Now, at some point you heard Alan at the window; is
18 that correct?

19 A Yes, I did.

20 Q Okay. Now, when you heard Alan at the window, what did you
21 do?

22 A I -- I was standing next to the officers. I really did not
23 do much. But I witnessed Alan go up, open the window, and say,
24 "Come and get me if you can," blah, blah, blah. And, you know, --

25 Q Okay. And when -- Did you walk outside to see what was going

1 on when you heard him at the window?

2 A Yes. I just happened to walk outside. But I was a lot
3 inside, too. I would periodically go in and out. Like -- But I
4 was inside. I did not hear no shooting or anything.

5 Q Okay. And what did you hear Alan say?

6 A Alan says, "Come and get me if you can. I'm here."

7 Q Okay. And did you hear an officer say something to Alan?

8 A Yes. An officer answered and we told him, "Well, if we go
9 inside -- if we go in there, we're going to come out with broken
10 jaws and ribs," and stuff like that.

11 Q And did the officers say anything else at that point?

12 A No. After that, I did not hear him say anything.

13 Q Okay. And when the officers said that, do you recall whether
14 or not Anthony was present?

15 A I really do not recall.

16 Q Okay. Now, at that point during that conversation, was Alan
17 threatening in any way?

18 A No. I mean, physically, he -- You know, he had the T-shirt,
19 white T-shirt, skinny arms. He was really -- You could see him,
20 you know, --

21 Q Did he appear worked up?

22 A Yeah. He was mad, yeah.

23 Q Did he appear scared?

24 A Yeah.

25 Q And what makes you --

1 A Could be.

2 Q -- say that?

3 A Because he -- You know, he -- There was an incident right
4 before I -- He did not say nothing that day about, you know, being
5 afraid. But I knew his --

6 MS. LYNCH: I would --

7 A -- state of mind.

8 MS. LYNCH: I would ask the answer --

9 THE COURT: Sorry; you're objecting to?

10 MS. LYNCH: I'm objecting to --

11 THE COURT: Yeah.

12 MS. LYNCH: -- his answer.

13 THE COURT: Objection sustained.

14 BY MR. KOUFMAN:

15 Q Now, that statement that you just said the police officer
16 made, when you were interviewed that evening at the police station
17 did you tell the police officers that the officer had said that to
18 Alan when he was standing in the window?

19 A I believe so. I did say that, yeah.

20 Q Okay. And -- Now, at some point you were in the office and
21 did you have a conversation with a police officer about breaking
22 down the door?

23 A Not in the office. When I was outside, when he was trying --
24 You know, they were trying to open the door, and no results.

25 Q Okay. And when you had a conversation with the officer, were

1 | you -- you said you were outside; is that correct?

2 | A | Yes, I was outside the window. Right.

3 | Q | Okay. And do you -- was it a police officer or was it a
4 | fireman?

5 | A | No, it was a police officer.

6 | Q | And exactly was -- did you say?

7 | A | I said, "Why don't we break the door and -- and apprehend him
8 | that way?"

9 | Q | And what did the officer say?

10 | A | He says, "We don't do that. We don't like confrontation like
11 | this. We don't know if he's got something," or, you know, --

12 | Q | And when you say "has something," are you referring to a
13 | weapon?

14 | A | Probably that's what they meant.

15 | Q | Okay. And so what did you say to the officer?

16 | A | I did not say anything after that.

17 | Q | Did you assure the officer that he didn't have weapons?

18 | A | I didn't.

19 | MS. LYNCH: Objection.

20 | A | I did not.

21 | THE COURT: Objection sustained.

22 | A | I did not really interfere.

23 | THE COURT: Objection sustained.

24 | BY MR. KOUFMAN:

25 | Q | Now, when you were in the office, at some point Alan came

1 from his apartment into the office; is that correct?

2 A Yes.

3 Q Yes. And at that point, when he came through that door, you
4 said that he had a leg in his hand; is that correct?

5 A Yeah, leg of a table, yeah.

6 Q Okay. Now, he came in and then you had a conversation with
7 him; is that correct?

8 A Yes.

9 Q And after you initially saw him, did he threaten you in any
10 way?

11 A No, no.

12 Q And were you afraid of Alan doing something with the table to
13 you? To you.

14 A No, I was initially -- So, I'm not lying, I was afraid the
15 first two seconds when I seen a big stick in my face. But then
16 when I said, "Alan come down, bring it down, please. Hide the
17 stick," and then he lowered it, I was fine.

18 Q And did you actually make any observations with respect to
19 his demeanor at that time?

20 A He was -- He was very mad. I can tell that he was very mad.
21 But I don't know what's -- why he was mad. Is it because the
22 Super Bowl he's going to miss? Or he doesn't want to get
23 arrested? I really don't know. But he said, "I just want to
24 watch the Super Bowl, Joe."

25 Q Was he afraid of anything at that point?

1 A He could, yes --

2 MS. LYNCH: Objection.

3 A He could've been.

4 THE COURT: Objection --

5 A He could've been.

6 THE COURT: -- sustained.

7 BY MR. KOUFMAN:

8 Q And did you have conversation about what he was afraid -- if
9 he was afraid --

10 THE COURT: No, objection's --

11 A No, --

12 THE COURT: -- sustained.

13 A -- we did not. No.

14 BY MR. KOUFMAN:

15 Q Okay. Now, at some point down --

16 THE COURT: Mr. Koufman, can you -- can -- Remember I said
17 you could ask questions if you gave me some offer --

18 MR. KOUFMAN: Yes.

19 THE COURT: -- of what you were going to ask. So what is it
20 that you want to ask that we haven't --

21 MR. KOUFMAN: I -- I'd like to ask questions about the fact
22 that Anthony wanted to talk to Alan first. And the reason he
23 wanted to talk to Alan first was because he -- Anthony wanted an
24 opportunity to get Alan out of the apartment --

25 THE COURT: So, what's the question? What's the question --

1 MR. KOUFMAN: -- as as result of what the officer said.

2 THE COURT: -- with regard to that?

3 MR. KOUFMAN: Okay.

4 BY MR. KOUFMAN:

5 Q So, at some point, did -- when Anthony asked you -- Or did
6 Anthony ask you, "What should we do?" at some point?

7 A Yes. Either --

8 Q Okay.

9 A -- me or him. I really -- I mean, I can go back and forth
10 for a year. I don't remember really how it started. But we both
11 conferred. We -- I -- I believe I wanted to give him head's-up so
12 he does not, you know, have confrontation on the property.

13 Q And did -- As a result of what the officer said at the
14 window, did Anthony say that he wanted to do something about
15 checking to see whether or not Anthony was in the house, in the
16 apartment?

17 A I'm -- I didn't understand the question; I'm sorry.

18 Q As a result of what the officer had said at the window about
19 -- if they have to go into the apartment, he was going to hurt --

20 A Oh.

21 Q -- Alan --

22 A Ribs and jaw, yeah.

23 Q Right.

24 A Okay.

25 Q Did Anthony say what he wanted to do?

1 A Anthony wasn't -- I don't know if he was there. I -- I -- I
2 was really --

3 Q No, no. I'm talking about when you were talking to him in
4 the office, when Alan had --

5 A Oh, no.

6 Q -- exited.

7 A Anthony did not -- He just looked at me. He did not open his
8 mouth, not a single word. So I did not understand if he really
9 was going to give his brother slack like we agreed or not. But
10 then very quickly I seen the officers come. Then I knew he did
11 not give him slack, we agreed.

12 Q Okay. And what was your understanding as the reason why
13 Anthony wanted to go into the apartment?

14 A He -- I don't know. He t -- He turned the knob on and found
15 it open --

16 Q Right.

17 A -- after I reported to him that his brother came.

18 Q Uh-huh. And so, at some point did he want to go into the
19 apartment to see if his brother was there?

20 A Believe it or not, he did not talk to me that period. He --
21 He did everything out of his head, honestly, except for when he
22 came back and he says to me, "He's not --" you know, "Do you
23 believe the door's open?"

24 Q Okay. And at that point, how much time elapsed before he
25 went outside to tell the police to come in because the door was

1 open?

2 A From what I -- I mean, I really could not be accurate. I got
3 convinced last time at her office it was 20 minutes. But now when
4 I seen it at the video, I think it's more towards 3 minutes maybe
5 or 2 minutes or may -- maybe even 40 seconds. If we have the, you
6 know, -- the pleasure of watching it again, maybe I can pinpoint
7 exactly, you know

8 Q Well, what is your best estimate?

9 A According to the last time, I think it was like 40 seconds if
10 I -- if I seen it correctly.

11 MR KOUFMAN: Thank you, Judge.

12 THE COURT: Thank you.

13 CROSS EXAMINATION OF WITNESS, TALAL JOSEPH CHAGHOURI

14 BY THE COURT:

15 Q So, Mr. Chaghouri, where are the surveillance cameras on the
16 property?

17 A There is one -- There's two in the office. Let me see. One
18 on the outside that you saw.

19 Q Mm-hmm.

20 A And one on the office, like you saw, f -- comes from the
21 corner.

22 Q Mm-hmm.

23 A And two inside the garage.

24 Q Okay. And there are none out in the back where the Hummer
25 was?

1 A Unfortunately.

2 Q All right.

3 A That was my mistake.

4 Q Okay. I didn't know whether there was one out in the back
5 that wasn't working.

6 A No, never. We never --

7 Q Never had one.

8 A -- installed it. But it was suggested to me, because people
9 steal stuff usually from the --

10 Q Yep.

11 A -- back room.

12 Q Yeah.

13 A But I never did it. I --

14 Q Okay.

15 A I regret that.

16 Q All right. Now, when you first saw Mr. Greenough with the
17 table leg in his hand, did he open the door himself?

18 A Yes.

19 Q Okay.

20 A Yes.

21 Q So he had the table leg in one hand, and he opened the door
22 with the other hand.

23 A Well, you know, where I'm standing, ma'am, I cannot -- there
24 is, like, 8 feet I cannot see off of blind vision.

25 Q Mm-hmm.

1 A But all I know: that when he got to the point in front of me,
2 he had the stick and he was going like this. [Indicating.]

3 Q Okay. And back to the questions that I think Assistant
4 District Attorney Lynch had asked you with regard to officers'
5 ability to see: --

6 A Yeah.

7 Q There's a page of the transcript that's prior to the
8 questions that she was asking you. And you told Detective
9 Fitzgerald, "And I got surprised by him, you know, coming out.
10 And officers outside can see him." This is on page 19.

11 A Yeah.

12 Q And then you -- And then Detective Fitzgerald says, "Yeah."
13 And then you say, "-- can see him The tall guy that was
14 there on the scene can see him."

15 So, was that a specific officer you were talking about?

16 A Yes. There's a -- That's the officer that -- He stayed with
17 us, I believe, when we went -- escort to the police station.

18 Q Okay.

19 A They put him as a guard. I don't know his first name. He's
20 the tall guy. Nice gentleman.

21 Q Okay. So, when you say -- So, you're talking about --

22 A It's an English -- I mean he --

23 Q Okay.

24 A -- could see. What I meant -- What I'm trying to see [sic]:
25 that if he turned his head, yes, he could've seen us.

1 Q So, early you testified officers could see. But are you
2 saying that there was one officer in particular that --

3 A Yes, the one that was standing to the left, more closer to
4 the window.

5 Q Yeah.

6 A He -- All he had to do, ma'am, was go like this.
7 [Indicating.] But he was luckily looking straight.

8 Q Okay. Because --

9 A You know?

10 Q -- then Detective Fitzgerald says, "You think the officers
11 were able to see him with the --"

12 And you say, "Yeah. When he came at me, I think they saw the
13 stick."

14 And then he says, "Okay."

15 You say, "For sure, for sure, they must."

16 A I -- As I said, I'm really confused that I said that because
17 it makes no sense. If they seen him with the stick, why don't
18 they come apprehend him? I -- I tried to say, ma'am, that if they
19 -- You see, this is -- this is how the window of Al -- and this is
20 the window of the office. [Indicating.] And I'm here on the
21 counter.

22 Q Mm-hmm.

23 A So, I looked when -- when Al went to the back to his house.

24 Q Mm-hmm.

25 A I went to the center point, if you see, between the doors.

1 And from that point, I looked and I saw those two officers
2 standing, looking at this window, not at this window.

3 [Indicating.] All they had to do, ma'am, --

4 Q Looking at which window?

5 A At his -- the window that he opened up earlier and talked to
6 them through, which is right to the left of his main entrance
7 door, ma'am. So, those two officers, they could -- what I meant
8 to say is all they had to do is look 30-degree angle and they
9 could see him. I -- There's no way I would say that they saw him
10 and they let him go. Why would they do that?

11 Q And where was Mr. Perrotti at that time?

12 A He was not in the room. Only Mr. Randall came in very
13 shortly, like three seconds after --

14 Q So when you --

15 A -- Al.

16 Q -- told the police Mr. -- his brother saw him too, that's not
17 correct?

18 A That's not correct, no.

19 Q Okay. But that's what you told the police.

20 A If I did, I don't know how I did that. But there's no way he
21 could've seen him, because I reported to Perrotti myself that
22 "Your brother just came out at me with a stick."

23 Q And then you said, "I think they --" So, after you said it,
24 "I think they saw him and his brother, too," -- and now you're
25 saying you weren't correct about his brother -- "Then he went back

1 inside and he must have forgotten to lock the door," you mean Mr.
2 Greenough --

3 A Yes.

4 Q -- locked the door from the inside?

5 A From the inside.

6 Q And it's your testimony also that you told the police on --
7 when they interviewed you that there was an officer who said, "If
8 I come in here, you're going to have some broken jaws and broken
9 ribs and stuff, so you don't want me to come in." Do you remember
10 which officer that was?

11 A Yes. I think it was the same guy that escorted us to the
12 police station, the one that guarded us.

13 Q The tall police officer?

14 A The tall police officer, yeah.

15 Q And where were you when you said --

16 A When I --

17 Q -- you heard him say that?

18 A I was right behind them. He was -- The officer was -- The
19 window was here. The officer is standing right here, and other
20 officers here, also. I was right here. [Indicating.]

21 Q So you were outside.

22 A Outside, yes.

23 Q But you just testified you were going back and forth, inside
24 and outside.

25 A Yes, ma'am.

1 Q And what was Mr. Greenough saying prior to that officer
2 saying that?

3 A He said, "Come and get me if you can. 'F' this, 'F' that."
4 You know, we don't want to repeat that.

5 Q So, some of the cars that you work on outside, despite the
6 fact that you testified that there are keys that are kept --
7 Inside the garage is, is that where they're kept?

8 A Yes, ma'am.

9 Q Okay. Sometimes they're unlocked.

10 A Yes.

11 Q So, the Hummer could've been unlocked.

12 A Yes, it could've been.

13 Q And just to clarify, the heavysset officer that you said --
14 bald officer, it's your testimony now that you didn't see him
15 running until after the shots were --

16 A Yes, --

17 Q -- fired.

18 A -- now that I know what happened, because really I had no
19 clue that there were shots taken first.

20 Q Okay. So when you told the police when they interviewed you
21 that that officer, a bald officer, --

22 A Yeah.

23 Q -- had asked you --

24 A "How's he look like?"

25 I said, "Tall and skinny." And he was --

1 Q Okay.

2 A -- running by me with his hand on his gun.

3 Q So, that didn't happen?

4 A Yeah, that did happen, of course.

5 Q Okay. When did that happen? After the shots?

6 A When I went to show you where that officer went, behind the
7 lady.

8 Q But that was after the shots.

9 A That was after shots. But I didn't know back then that that
10 was after shots.

11 Q So, are you saying that officer who was running stopped to
12 ask you, "What's he look like?"

13 A He did not.

14 Q Or that --

15 A He did not stop.

16 Q Or was that the --

17 A He --

18 Q I'm sorry.

19 A While he was running, --

20 Q He asked you?

21 A -- yes, he asked me. He said, "How's he look like?" Or he
22 asked someone else. And I did answer.

23 Q Did you see the apartment after -- Did you have any occasion
24 to go inside the apartment after and view the table?

25 A Yes.

1 Q You did.

2 A Yes.

3 Q And when did you do that?

4 A Either the night -- the same night or Monday -- or Monday
5 night. I'm not sure. But I know we stayed away for two days.
6 Saturday and Sunday, we kept the business closed. Monday, I came.

7 Q So, you didn't see the table prior to the shooting.

8 A No, --

9 Q You saw it after.

10 A -- no. But I saw the leg. I only saw the leg.

11 Q Okay. Had you ever seen Devin McDonald under the influence
12 of anything?

13 A Drunk, you know.

14 Q Drunk.

15 A I've seen him, yeah.

16 Q Okay. You told the police, "He really is not a good guy. He
17 doesn't pay the rent. He destroys when he drinks. They smoke bad
18 stuff, him and his girl. They get violent. They break the walls.
19 If you go to the apartment, you'll see all the walls punctured."

20 A Yeah.

21 Q "They're bad apples, you know. They're bad apples, so I
22 don't want to deal with them."

23 A That's correct.

24 Q Is that correct?

25 A That's correct. He fixed --

1 Q Okay.

2 A -- all the holes he punctured in the wall before he left, --

3 Q Mm-hmm.

4 A -- just to be fair.

5 Q Mm-hmm. But you didn't have any plans to have them --

6 A Evicted?

7 Q -- moved out, evicted?

8 A Yeah, not before. After the incident, yes, I went to court
9 and we served him.

10 Q But --

11 A And then the --

12 Q But that was after the incident.

13 A That was after the incident, absolutely.

14 Devin's behavior really started going downhill the last
15 couple of months before the incident, you know, that I -- I
16 started being aware of what he's doing, and screaming, and all the
17 music at night.

18 Q Okay.

19 THE COURT: Ms. Lynch, do you have anything else you want to
20 ask?

21 MS. LYNCH: Nothing, Your Honor.

22 THE COURT: Thank you.

23 Thank you, Mr. Chaghouri.

24 THE WITNESS: Okay. Thank you.

25 [Witness steps down]

1 MS. LYNCH: The next witness would be Michael Randall.

2 [MICHAEL RANDALL, Sworn.]

3 DIRECT EXAMINATION OF WITNESS, MICHAEL RANDALL

4 BY MS. LYNCH:

5 Q Morning, sir. If you would, would you please state your name
6 and spell your last name for the record?

7 A I'm Michael A. Randall. And my last name is R-A-N-D-A-L-L.

8 Q And where do you live?

9 A 340 Main Street, Apartment 206, Melrose, Mass.

10 Q And how long have you lived in that address in Melrose?

11 A Sixteen years.

12 Q What is your date of birth, sir?

13 A 7/31/1950.

14 Q And what is your occupation?

15 A Gas attendant.

16 Q Do you work at a specific location?

17 A East Coast Gas Station in w -- in Reading, Mass., on Main
18 Street.

19 Q Okay. And how long have you worked there?

20 A Seven years.

21 Q And that's seven years from 2019 going back to 2012?

22 A You got me fixed.

23 Q Okay. Well, that's not --

24 A I don't have a good memory, there. I'm not going to lie
25 about it.

1 Q Okay. In your capacity working there, did you know Alan
2 Greenough?

3 A Yes.

4 Q How long did you know Alan Greenough?

5 A Ten years.

6 Q Okay. And did you know --

7 A Yeah

8 Q -- Mr. McDonald, Devin McDonald?

9 A Oh, his roommate, yeah.

10 Q Okay. And did you know him before he became Mr. Greenough's
11 roommate or only because he was Mr. Greenough's roommate?

12 A I knew him because that was Al's roommate.

13 Q Okay. And what about --

14 A Mm-hmm.

15 Q -- Kim Bellino? Did you know her?

16 A I don't know the name.

17 Q Okay.

18 A Is that Devin's girlfriend there?

19 Q Okay. But did Devin have a girlfriend that was there?

20 A Yeah, he had --

21 Q And you knew who she was?

22 A Only by sight.

23 Q Okay. Now, direct your attention to Friday, February 2nd,
24 were you working that evening at the gas station at around six
25 o'clock?

1 A I have no memory. I -- If I -- If you say I'm there, I was.

2 I --

3 Q No, I'm --

4 A I can't remember --

5 Q I'm not putting words in your mouth.

6 A Okay.

7 Q Did you -- Do you usually work Fridays?

8 A Oh, f -- I work every Friday.

9 Q Okay.

10 A Yeah, okay.

11 Q And what hours do you work on Fridays?

12 A Fridays, let me see Friday night I come in at two in the
13 afternoon to nine at night.

14 Q And while you were at the gas station that day, that Friday,
15 did you work two to nine?

16 A Yeah I work two to nine every Friday.

17 Q Okay. Now, that afternoon while you were working the gas
18 station, you were the only person working the pumps at around six
19 o'clock?

20 A I'm -- I was the only one, yeah. I -- I would say that's
21 correct, yeah.

22 Q Okay.

23 A Yeah, yeah.

24 Q Now, did you notice shortly after 6:00 p.m. Alan Greenough
25 get out of a car --

1 A Yes.

2 Q -- outside --

3 A Yes.

4 Q -- and go in the apartment?

5 A Yes.

6 Q And did you see him or did you hear or see anything between
7 the time that Alan got home and approximately 7:30 p.m.?

8 A Well, I seen him coming out of his friend's car. And he
9 says, "Hi, Mike."

10 I say, "Hi, ya. How's it doing?"

11 He says, "Good."

12 Q And then he went in his apartment?

13 A And then he went in his appointment.

14 Q Did you see what happened to the car that dropped him off?

15 A Let me see. She left.

16 Q Okay. And so you saw that it was a woman that dropped him
17 off?

18 A Yes.

19 Q Okay. Now, during the time 6:10 to 7:30, did you see or hear
20 anything coming from the premises where people were living?

21 A 6:10 f -- Truthfully, I don't remember. But I can't remember
22 that far back because --

23 Q Okay.

24 A -- I don't remember what I had for supper last night. You
25 know, --

1 Q Okay.

2 A -- that's -- I -- I don't remember.

3 Q Fair enough. Do you remember whether after -- at any point,
4 Mr. Greenough leaving again with that same girl?

5 A Not really, no. No, that's -- Jeez. After that, that was
6 it. I didn't see him no more.

7 Q Okay. What about that evening while you were working? Did
8 you see police cruisers from the Reading Police Department show up
9 at the house, approximately 7:30/6:00 p.m. or thereabouts?

10 A Yeah, there was a bunch of them there.

11 Q Okay. And that was after Alan left or before?

12 A Wait a minute. He was in there -- I don't know. I -- Well,
13 I guess a bunch of them came. They were looking for him. And
14 they were --

15 Q Do you --

16 A -- looking for him there now.

17 Q Okay. But you don't have a memory of whether Alan was still
18 -- had already left or whether he was still there when the police
19 got there?

20 A Oh, far as I know, he w -- he -- yeah, he was still in there,
21 in the apartment.

22 Q So, when the police showed up at 7:30, you believe he was
23 still inside the apartment?

24 A Yes, that's right. Yeah, yeah.

25 Q Did the police --

1 A He was.

2 Q -- come up to you and talk to you? Whether you heard or saw
3 anything?

4 A I don't remember. But in the police station --

5 Q No, no, no.

6 A -- they talked --

7 Oh, oh.

8 Q I'm talking about the Friday.

9 A You got me fixed. I -- I can't remember.

10 Q Now, when the police came to the house, did you call Joe or
11 Anthony or Alan?

12 A When the police came to the house? Oh.

13 Q Yes, that night, that Friday.

14 A No. They know he -- he -- Everybody knew he was there. You
15 know, like, Joe knew he was there because all the policemen were
16 there.

17 Q But Joe wasn't there, was he?

18 A Yeah, Joe was there.

19 Q That Friday night?

20 A Yeah.

21 Q Okay. Now, when you were at the gas station up until six
22 o'clock, did you ever have any conversation with Anthony Perrotti
23 or call him on the phone?

24 A Six o'clock?

25 Q To tell him that the police were there?

1 A Oh, a bunch of police came. He knew they were there anyway.
2 Everybody knew they were there.

3 Q Well, are you confusing the Friday night with Saturday day?

4 A No. What day you talking about?

5 Q I'm talking about Friday --

6 A Oh.

7 Q -- night.

8 A Oh, when all the s --

9 Q When --

10 A -- stuff happened, yeah?

11 Q When the police --

12 A Oh, no, Anthony was there. He knows.

13 Q So you believe that Anthony was there that night.

14 A Yeah, Anthony was there, Joe was there, the mechanics were
15 there

16 Q And this was all at between 6:00 and 9:00 p.m. on a Friday?

17 A Six? Yeah, as far as I know, everybody was there.

18 Q Okay. What about the following day, Saturday? Did you work
19 on Saturdays at the gas station?

20 A I work every Friday, Saturday, Sunday, and Tuesday.

21 Q Okay. And on that Saturday, what hours were you working?

22 A Saturday, I come in at one o'clock in the afternoon and shift
23 is done at eight o'clock at night.

24 Q Okay. Now, at some point that afternoon did you see police
25 officers at the apartment?

1 A On Saturday?

2 Q Yes, the day that Alan Greenough was shot.

3 A Jeez. I'm pretty -- I'm -- I'm pretty sure I did. I'm not a
4 hundred percent sure because the -- the memory it's just no good.

5 Q Do you have any specific issues with memory problems?

6 A Oh, I have mental illness. I have --

7 Q Okay.

8 A -- severe disability.

9 Q Okay Now, do you remember whether you spoke to Alan at any
10 point that day before the police got there?

11 A Oh, before the police got there? Yeah. He pulled up with
12 his friend and he got out.

13 I said, "Hi, Al."

14 He says, "Hi, Mike. How's it going?" And then he went in
15 the apartment. And I don't see him no more.

16 Q Okay. Now, when the police officers arrive, did you observe
17 them knocking at the door to the --

18 A Oh, jeez.

19 Q -- apartment?

20 A You got me fixed. Jeez, I -- Knocking at the door? Think
21 so. I'm not -- I'm not sure.

22 Q Did you --

23 A They might've been, but I -- I'm not a hundred percent sure.

24 Q Okay.

25 A I'm trying to answer the best I can.

1 Q Sure. That's all --

2 A I don't want to --

3 Q -- we can ask you.

4 A Thank you kindly.

5 Q Do you remember Anthony being at work that day?

6 A Yeah. Everybody was there.

7 Q Okay. And do you remember Anthony telling Alan, "They just
8 want to talk to you"?

9 A Yes.

10 Q And then Anthony was on the phone talking to Alan, telling
11 him, "They just want to talk to you"?

12 A That's correct.

13 Q Okay Now, at some point did -- as you were outside, did you
14 alert Joe Chaghouri that the police were outside?

15 A That the police were outside? Did I tell Joe? I m -- I -- I
16 might've. I might've.

17 Q But you don't have a specific memory of that.

18 A I'm sorry. I --

19 Q No, that's --

20 A I'm trying to do the best I can.

21 Q In terms of what was going on there, do you recall being
22 outside and -- Or strike that. At any point did you see Alan
23 Greenough inside the office with a table leg?

24 A Yeah, he come into the -- the business with a table leg.

25 Q How did he come into the business? Did you see?

1 A Yeah, I seen it. He c -- He come in pretty fast, --

2 Q Was it --

3 A -- upset.

4 Q Did he come in from outside or inside?

5 A Outs -- Oh, no the -- He'd probably come in inside.

6 Q Okay. So he came in from inside. Were the police there at
7 that time?

8 A No. Just me and Joe were right there.

9 Q Okay. Now, when Alan left, did Joe tell you that Alan opened
10 the door with the stick?

11 A Did Alan open the door with a stick? You can't open it with
12 a stick. You got to t -- turn the --

13 Q No, that he had opened the door and he had a stick in his
14 hand.

15 A I don't remember him telling me that. But --

16 Q Okay.

17 A I --

18 Q You don't remember him telling you that.

19 A No, he might've. I -- I don't remember.

20 Q Do you --

21 A I don't -- My memory, you know.

22 THE COURT: Mr. Randall, can I ask you sir, is -- You said
23 you had some mental health issues and some issues -- Ms. Lynch
24 asked you -- with you memory?

25 THE WITNESS: Sure, yeah.

1 THE COURT: Have those gotten worse since you were
2 interviewed by the police?

3 THE WITNESS: No.

4 THE COURT: Or are they same?

5 THE WITNESS: I'd say they're the same.

6 THE COURT: Okay.

7 THE WITNESS: Yeah.

8 THE COURT: Just wanted to check on that, sir.

9 THE WITNESS: Yeah.

10 THE COURT. All right.

11 BY MS. LYNCH:

12 Q Now, did you have a conversation with Mr. Chaghouri about Joe
13 being scared?

14 A Yeah, he was scared. He told me.

15 Q And what did he say about that?

16 A He said, "I'm scared." He said, "I --" you know, "I -- I
17 thought he was going to hit me."

18 Q Okay. Now, during this time, customers are still coming in
19 and out of the gas station; is that right?

20 A I don't -- I -- I would say yeah. I don't remember. But I'm
21 -- I'm sure there was 'cause we were still open.

22 Q Okay. And in terms of Mr. Greenough, in the time that you
23 knew him, can you generally describe for us whether you -- Strike
24 that.

25 That afternoon, were you ever in the office when it was you

1 and Joe and Anthony and Orlando Ortiz that were in the office
2 standing near the door of the waiting room, talking about what had
3 happened with Alan coming out with the stick?

4 A Me, Anthony, Ortiz, and -- Outside? We were outside?

5 Q Inside the office.

6 A Oh, inside talking? Inside, talking. I don't know.

7 Q Was there any conversation that you recall today about what
8 they should do about the door being unlocked into the apartment,
9 and the police?

10 A I can't help you. I --

11 Q Okay.

12 A I --

13 Q You don't recall.

14 A I can't remember.

15 Q Okay. And at some point did you see the police attempting to
16 talk to Alan through a window in his apartment?

17 A Yes.

18 Q Did you hear anything about that?

19 A I heard Anthony talk on the telephone, saying, "They just
20 want to talk to you." And then I think that's -- I think that's
21 all I heard, because then I went back inside the office.

22 Q Now, at some point did the police officers go into the office
23 and into the apartment from the inside?

24 A That -- That I'm -- I -- I don't think so. I'm not a hundred
25 percent sure, but I don't think so.

1 Q At any point did you hear any gunshots?

2 A I heard two.

3 Q Where were you when you heard them?

4 A Okay, give an example, I s --

5 Q Were you inside or outside?

6 A Well, I was outside.

7 Q And when you were outside and you heard the shots, did you
8 see anyone react to them?

9 A Yeah, Anthony. He ran over there.

10 Q So, where did he --

11 A And --

12 Q -- run over there from?

13 A From right in front of the garage doors.

14 Q Okay. And at some point after he ran over to the area where
15 the gunshots were, did you see him again? Anthony? Did he come
16 back?

17 A Yeah, he was there the whole time. Like, I saw him.

18 Q And did he tell you that "They shot my brother"?

19 A Yes. He said, you know, "They shot my brother --

20 Q And did he tell you --

21 A -- and they killed him."

22 Q -- that they shot him point blank? Were those your words?

23 A No, he just said, "They killed my brother. They killed my
24 brother," or -- or "shot my brother."

25 Q But Anthony was not in the area of the Hummer when the --

1 when you heard the shots; is that fair to say?

2 A Correct, yeah.

3 Q And in terms of your knowledge of Mr. Greenough, have you in
4 the time that you've known him ever seen him under the influence
5 of alcohol or drugs?

6 A Yes.

7 Q And can you to the Court, is there any difference in his
8 demeanor or behavior when he's sober and when he's under the
9 influence of those substances?

10 A Well, of course he's better when he's sober.

11 Q Okay. And what do you mean by that?

12 A You know, he's just -- You know, he's just calm and, you
13 know, doesn't act up or anything.

14 Q When he's sober?

15 A Yes.

16 Q And when he is not sober, how is that different?

17 A He's a little bit, you know, like, m -- m -- more rest --
18 more -- I don't know how to say it. I don't know. I don't know.
19 I --

20 Q So, you don't know what the -- how he was different?

21 A He was a little different. Yeah, like a little angry or
22 something.

23 Q Did you tell the police that Mr. Greenough had disabilities?

24 A Did I tell the police that he had -- that Al -- Alan had
25 disabilities?

1 Q Yes.

2 A No, I don't know. No, of course not.

3 Q Did you tell the police that you always got along with Alan?

4 A Yeah, we always got along real good.

5 Q Did you tell the police that Alan had odd behaviors and was
6 on drugs?

7 A No, no.

8 Q You don't recall it, or you didn't say it?

9 A No, I didn't say. No.

10 Q Okay. Did you tell the police that Alan had gone to rehab?

11 A No. When I went to the -- the police station and I sat in
12 the police station for a couple of hours -- and I went in the
13 police station and he says, the cop says, you know, "What
14 happened?"

15 And I thought Anthony -- I -- I just said I seen him with a s
16 -- with a stick. But I thought it was a leaf.

17 Q A leaf?

18 A I thought it -- it was a leaf, yeah.

19 Q A --

20 A But I guess it -- I --

21 THE COURT: A leaf or a --

22 THE WITNESS: You know, a branch.

23 THE COURT: A branch.

24 BY MS. LYNCH:

25 A And that was it. That's all the cop asked me, as far as I

1 can remember. The police asked me --

2 Q Okay.

3 A -- one or two questions, and that was it. He said okay.

4 Q But you did -- you saw Mr. Greenough with that? Or was that
5 just what Joe told you?

6 A No, Joe didn't -- No, I -- When I seen him with the table
7 stand there, --

8 THE COURT: You thing it was a branch.

9 THE WITNESS: I thought it was a branch.

10 THE COURT: And were you afraid when you saw it?

11 THE WITNESS: I was afraid, yeah

12 THE COURT: You were afraid. And what did you see him do
13 with it?

14 THE WITNESS: He just raised it up like this. [Indicating.]
15 And towards Joe. And then --

16 THE COURT: What did you do?

17 THE WITNESS: I -- I didn't do anything. I -- I just stayed
18 there.

19 THE COURT: You just stayed there.

20 THE WITNESS: Just -- Yes.

21 THE COURT: But you thought, at the time, it was a branch.

22 THE WITNESS: I thought it was a branch, yeah.

23 THE COURT: Okay. And that made you afraid for you?

24 THE WITNESS: Well, I was n -- nervous, too, yes.

25 THE COURT: You were nervous.

1 THE WITNESS: I was -- Yeah, I was --

2 THE COURT: Okay.

3 THE WITNESS: -- scared, yeah.

4 THE COURT: And -- But you didn't do anything.

5 THE WITNESS: No.

6 THE COURT: Okay. And so, what did you see him do with the --
7 what you thought was a branch?

8 THE WITNESS: He just put it up like that. [Indicating.]

9 THE COURT: And how long was it up?

10 THE WITNESS: Just a few seconds.

11 THE COURT: And where was Joe, at the time?

12 THE WITNESS: Joe was right be -- behind the counter.

13 THE COURT: Okay. And Mr. Greenough was on the other side of
14 the counter?

15 THE WITNESS: Yes.

16 THE COURT: Was he saying anything?

17 THE WITNESS: Just said, "Why'd you call the cops?" And that

18 --

19 Joe said, "I didn't call the cops."

20 THE COURT: And what observations did you make of Mr.
21 Greenough at that time?

22 THE WITNESS: You mean how he was acting --

23 THE COURT: How he was acting, --

24 THE WITNESS: -- and stuff?

25 THE COURT: -- yeah.

1 THE WITNESS: Kind of, you know, a little scary.

2 THE COURT: Scary?

3 THE WITNESS: Scary, yeah.

4 THE COURT: Did he appear to be under the influence of
5 anything then?

6 THE WITNESS: I don't -- I'd say no.

7 THE COURT: No?

8 THE WITNESS: Just -- No.

9 THE COURT: And why did -- why do you think no?

10 THE WITNESS: Because when the cops were at Al's house -- And
11 it happened s -- It happened so fast. Al was only I think in the
12 apartment maybe for, like, 15-20 minutes --

13 THE COURT: Mm-hmm.

14 THE WITNESS: -- when he come out and he went to the -- in
15 the gas station, --

16 THE COURT: Mm-hmm.

17 THE WITNESS: -- right with Joe.

18 THE COURT: Yeah.

19 THE WITNESS: So, it's kind of fast if he was drinking
20 something. But, I mean, I don't think he did because it wasn't a
21 long period of time that he was in the apartment before he come in
22 the gas station.

23 THE COURT: Okay. All right. And before he came into the
24 gas station, had you seen him before that, before he came into the
25 gas station?

1 THE WITNESS: Yeah.

2 THE COURT: Yeah.

3 THE WITNESS: He drove up with his girlfriend.

4 THE COURT: He -- A girl --

5 THE WITNESS: His --

6 THE COURT: Drove up with his girlfriend.

7 THE WITNESS: Yes.

8 THE COURT: Al did?

9 THE WITNESS: Al did, yeah.

10 THE COURT: Okay. Who's the girlfriend?

11 THE WITNESS: Her name was Amy.

12 THE COURT: Amy. Okay. And so, you saw him drive up then?

13 THE WITNESS: Yeah. She drove up with him. He got out.

14 THE COURT: Yeah.

15 THE WITNESS: He says, "Hi, Mike, how you doing?"

16 I say, "Yeah, how's everything going?"

17 He said, "Good, Mike," and he went in the apartment.

18 THE COURT: And then went in the apartment.

19 THE WITNESS: Yeah.

20 THE COURT: And then you didn't see him again until you say
21 you saw him with what you thought was the tree branch.

22 THE WITNESS: Oh, yeah, okay, yeah, with the tree bra --

23 Yeah. After the -- Yeah, yeah. You're right.

24 THE COURT: Is that right?

25 THE WITNESS: Yeah, you're right.

1 THE COURT: Okay.

2 THE WITNESS: Yeah.

3 MS. LYNCH: Thank you.

4 BY MS. LYNCH:

5 Q I just want to ask you a few questions about the area outside
6 the gas station. There is a room here, and that is where there's
7 the inside door, where I'm pointing. Do you see this window here?

8 A Yeah, I see it. Yeah, yeah.

9 Q Okay. And that's --

10 A Yeah.

11 Q -- the room that the door into the apartment is?

12 A I -- I can't -- Yeah, there's only one door. It goes right
13 into the apartment.

14 Q Okay. Now, the front of the gas station, are there two doors
15 in front? The area behind the pump here. I'm going to try to
16 find a better picture, but --

17 A Yeah, there's two doors out front.

18 Q Okay. And in terms of those two doors, does one of them
19 almost have a little double door, a foyer where there's an area
20 where you can stand, where you're between two doors? You're not
21 in the office but you're not outside?

22 A Two for -- Yeah, there's like a little room to the -- Yeah,
23 you -- You can stand. There's, like, another room to the right.

24 Q Yeah, but it's very small, isn't it? It's like a foyer or a

25 --

1 A It's like a f -- It's a small room, yeah. It's not a big
2 room.

3 Q Okay. And where were you when Mr. Greenough came in with the
4 stick?

5 A I was right inside. Here's the counter. And I was just
6 standing right here.

7 Q So you were inside the office?

8 A I was inside --

9 Q Your memory is --

10 A -- the office.

11 Q Okay. So you were not in the foyer. You're saying that you
12 were in the actual office when this happened.

13 A Yeah, I was in the actual office itself.

14 Q And did --

15 A Correct.

16 Q -- Mr Greenough see you or --

17 A Yeah.

18 Q -- talk to you?

19 A No, he didn't say nothing to me, just -- just says to Joe,
20 "Why'd you call the police?"

21 And Joe said, "I didn't call the police."

22 Q Now, when he went back inside the apartment, did you notice
23 whether the door -- he locked or unlocked the door?

24 A Oh, no. I mean, just -- The doorknob -- There's the doorknob
25 and there's a little handle. And you could lock and unlock it.

1 But he went back inside. So, that's improbable. There -- There's
2 no way.

3 THE COURT: It's impossible that he locked it?

4 THE WITNESS: No, it's improbable that I could see if --

5 THE COURT: Oh, that you could see it.

6 THE WITNESS: -- if it was locked or if it was unlocked,
7 yeah.

8 THE COURT: Okay.

9 BY MS. LYNCH:

10 Q But at any point did anyone say to you, "Hey, he didn't lock
11 the door"?

12 A I -- No one said that to me, no.

13 Q Okay. So you weren't aware that that door was unlocked?

14 A There's no way I c -- I could know.

15 Q Yeah, but did -- Well, you could know if somebody told you,
16 right?

17 A Nobody said nothing to me.

18 Q Okay. So you did not have any -- hear any conversation
19 involving Joe or Anthony that the door was unlocked?

20 A No, I don't hear -- remember hearing anything about the door
21 being locked or --

22 Q But you --

23 A -- unlocked.

24 Q Did you tell the police officers who were at the door,
25 knocking on the apartment door, that Alan had come into the office

1 while they were at the police station -- while they were at the
2 gas station trying to get in?

3 A I didn't talk to any police officers.

4 Q Okay. So even though you saw him in the office, you didn't
5 tell the police officers that at the scene.

6 A No, because I was there and I didn't talk to any police
7 officers at all.

8 Q Okay.

9 A I didn't say any. There were none inside --

10 Q Okay.

11 A -- the business, either.

12 Q All right. Thank you, Mr. Randall.

13 A Okay.

14 Q Oh, let me just ask you one question.

15 A Yeah, sure.

16 Q Do you know Mr. Dris Cuther [phonetic]?

17 A He's a tenant.

18 Q Okay.

19 A He lives in the apartment.

20 Q And does -- did he recently have a stroke, within the past
21 couple of months?

22 A Yes, yeah.

23 Q Okay. And as a result of that, is he no longer able to
24 remember things and --

25 A I -- I'm n -- I would say maybe a -- I'm not too sure. But

1 Joe says he don't remember like he used to.

2 Q Okay. But Mr. Dris -- Mr. Cuther did have a --

3 A He had a stroke, I -- Yeah.

4 Q Okay.

5 A It's a brain hem -- Something.

6 Q Okay.

7 A He had something. Yeah.

8 Q Thank you.

9 THE COURT: Mr. Pasciucco, anything?

10 MR. PASCIUCCO: I don't have any questions.

11 THE COURT: No? Mr. Koufman, nothing?

12 MR. KOUFMAN: Just --

13 THE COURT: No. What's the offer?

14 MR. KOUFMAN: The offer is I just want to find out whether
15 Anthony was with him when he heard the gunshots.

16 THE COURT: Okay. You can ask that question.

17 **CROSS EXAMINATION OF WITNESS, MICHAEL RANDALL**

18 BY MR. KOUFMAN:

19 Q Sir, you testified that you heard two gunshots; is that
20 correct?

21 A Yes.

22 Q And were you with anybody when you heard those two gunshots?

23 A I was by myself. I was outside.

24 Q Okay. Was anybody around you at that time?

25 A Yeah, the mechanics --

1 Q Do you know if Anthony was with you?

2 A -- and -- and Anthony. I was with Anthony.

3 Q Okay. Where exactly were you?

4 A Right in f -- front of the -- one of the garage doors.

5 Q ' And could you tell where the gunshot was coming from?

6 Gunshots?

7 A Yes, I could tell, yes, where they were coming from.

8 Q And where were they coming from, to the best of your ability?

9 A From where Alan Greenough was.

10 Q Is that, if you're facing the front door, to the left?

11 A If you're -- If you're face -- If you're outside the
12 establishment, to the right. It's to the right, where all the
13 cars are parked there. You know what I mean? Like, here --
14 here's the door. [Indicating.] When you walk out the door, you
15 go right.

16 Q Okay. So, if your back is to the establishment, it's to your
17 right? If you're leaving the establishment, it's to the right?

18 A Yeah, if you're leaving the establishment. If you go to the
19 right, that's where I heard the sounds, --

20 MR. KOUFMAN: Thank you, Judge.

21 A -- you know, go --

22 CROSS EXAMINATION OF WITNESS, MICHAEL RANDALL

23 BY THE COURT:

24 Q So, Mr. Randall, you told the police, if you recall, "I -- I
25 don't want to see, you know, a police officer getting in trouble.

1 You know, I respect the police. But that's -- Like I said, you
2 know, this is what he said, you know." What did you mean by that?

3 A I'm sorry; I didn't s -- I didn't hear what --

4 Q So, you told the detectives when you were being interviewed,
5 "I don't want to see you get -- I don't want a police officer to
6 get in trouble. You know I respect the police."

7 A I didn't say that.

8 Q Well, it's in --

9 A Not me.

10 Q It's in your -- in the transcript of the --

11 THE COURT: I don't know, Ms. Lynch, if you want to show him
12 page 14. Or I can show him.

13 MS. LYNCH: Do you have any issues with reading?

14 THE WITNESS: Yes, of course I do.

15 MS. LYNCH: Okay. So, just going to come up and show you the
16 page.

17 THE WITNESS: I mean, I have d -- I have d -- difficulties in
18 everything. If I go to dial somebody's phone number, it's hard
19 for me just to dial --

20 MS. LYNCH: All right.

21 THE WITNESS: -- seven numbers.

22 MS. LYNCH: The page that Your Honor was referring to, --

23 THE COURT: -- I have as 14.

24 MS. LYNCH: Okay. Thank you.

25 THE WITNESS: Oh, boy.

1 MS. LYNCH: All right. Do you remember -- And I'm just going
2 to read this to you.

3 THE WITNESS: All right.

4 MS. LYNCH: A state trooper asked you, at page 13, "So, when
5 he said they shot him point blank, it's -- he's speculating?"

6 You answered, "He's just speculating, yeah. Oh, yeah."

7 And then the trooper said, "All right. I just want to make
8 sure."

9 And you said, "Yeah, yeah, yeah. Of course, yeah."

10 And Trooper Gagne said, "All right."

11 And that's when you said, "I don't want to see, you know, a
12 police officer getting in trouble, you know. I respect the
13 police. So, -- But that's -- Like I said, you know, this is what
14 he said, you know. He's speculating."

15 And then you continued after the trooper said, "Uh-huh":

16 "You know, because this is how he says everything. He says
17 he pulled him out and point blank -- point blank -- oh, and I
18 forgot to tell you -- shot him twice in the chest, he said, you
19 know. But he's speculating, like I said. You know?"

20 And then Detective Fitzgerald said, "So, he wasn't anywhere
21 near the shooting? He was off to the right side if you're looking
22 at the gas station? You go to the right?"

23 And you answered, "Yeah, yeah."

24 And then Trooper Gagne asked, "So, he's further away than you
25 were?"

1 And you said, "He's further away than I am, yeah. Yeah,
2 yeah. There's no way. Yeah, no, you know."

3 And then Detective Fitzgerald asked you, "You didn't hear --
4 Before the shooting that happened, you didn't hear any yelling or
5 anything?" And --

6 THE WITNESS: Now you're talking about when I was at the
7 police station?

8 MS. LYNCH: Yes, that you're telling the police this.

9 BY THE COURT:

10 Q Do you remember saying that, sir?

11 A No.

12 Q Okay. All right.

13 A I don't remember none of it.

14 Q And the reason I'm asking you these questions is 'cause
15 there's another section on page 18 where it says, "Hey," you say,
16 "If you ever need anything I can do, you know I respect the
17 police. I know if somebody breaks into my house, who do I call?
18 The cops. Everybody forgets they call the cops."

19 So, I understand a lot of people have a lot of respect for
20 the police. You're in a position where you've indicated the
21 respect that you have for the police. And you also work at the
22 gas station and you know Mr. Greenough and Mr. Perrotti. This is
23 a process where the Court is trying to gather all the facts.

24 A Yeah.

25 Q And I want to make sure that you have told everything that

1 you remember.

2 A Oh, yeah, as far as I can remember. I mean, I don't remember
3 much. But, you know, to the best of my ability, which is not good
4 -- I get that. But to the best of my ability, anyway.

5 Q Okay. All right. And so, this -- Do you remember -- Again,
6 just to get back -- Was Mr. Perrotti with you at the time that the
7 shots -- you heard the shots?

8 A Yes.

9 Q Okay. And then Mr. Perrotti did what? Did he run to the
10 back? Do you remember?

11 A No, he was really upset, Mr. Perrotti. And he said that "You
12 killed my brother, you killed my brother."

13 Q And where were you when you heard the shots?

14 A I was right beside him.

15 Q Right. But did you stay or did you go with him when he ran?

16 A Oh, I walked up a couple of steps, few feet with him.

17 Q Did you ever see Mr. Greenough, then, after he'd been shot?

18 A No.

19 Q You didn't go to where the Hummer was?

20 A Oh, no.

21 Q Okay.

22 A Oh, no.

23 Q All right. And do you work on the cars or are you just a gas
24 station attendant?

25 A I'm just a gas station --

1 Q Okay.

2 A I don't know anything about --

3 Q I shouldn't say --

4 A -- cars.

5 Q -- "just."

6 A Yeah.

7 Q But you're a gas station attendant.

8 A No, I -- No, yeah.

9 Q Okay.

10 A No, yeah.

11 Q All right. Okay.

12 A Fine.

13 Q All right. Thank you, sir.

14 MR. PASCIUCCO: Judge?

15 THE COURT: Yeah.

16 MR. PASCIUCCO: I just have one --

17 THE COURT: Yeah.

18 MR. PASCIUCCO: -- quick question based on the -- how he was
19 examined.

20 THE COURT: Sure.

21 **CROSS EXAMINATION OF WITNESS, MICHAEL RANDALL**

22 BY MR. PASCIUCCO:

23 Q Mr. Greenough, my name's Peter Pasciucco. I represent
24 Officer Erik Drauschke.

25 You indicated that you heard gunshots; is that correct?

1 A Two.

2 Q Okay. Do you remember telling the police that you initially
3 thought it was cars backfiring?

4 A I thought it was -- Yes.

5 Q Okay. So, were you told that it was then gunshots?

6 A Find out later. Then I know, you know, what everything
7 happened.

8 Q Okay. Thanks.

9 A Yeah, you're welcome. Yeah.

10 THE COURT: Thank you, Mr. Randall.

11 THE WITNESS: My pleasure.

12 THE COURT: Careful stepping down, sir.

13 THE WITNESS: Thank you, kindly. Thanks. Appreciate it.

14 [Witness steps down]

15 THE COURT: Why don't we take -- You have -- Who's the next
16 witness?

17 MS. LYNCH: Well, that was what I was going to address --

18 THE COURT: Okay.

19 MS. LYNCH: -- with the Court. I have Dr. Shah, the medical
20 examiner, coming in at two, along with two troopers, Trooper Gagne
21 who did the phone downloads and Trooper Hari Arisetty who did the
22 mapping --

23 THE COURT: Mm-hmm.

24 MS. LYNCH: -- of the area.

25 THE COURT: Yeah.

1 MS. LYNCH: I can start with Mr. Perrotti. I don't know if
2 we would finish with him by two o'clock. But --

3 THE COURT: Okay.

4 MS. LYNCH: -- I'm prepared --

5 THE COURT: I'm fine taking him out order.

6 MS. LYNCH: And --

7 THE COURT: Why don't --

8 MS. LYNCH: -- interrupting that testimony?

9 THE COURT: Yeah, sure.

10 MS. LYNCH: Okay.

11 THE COURT: Fine. So, why don't we just take, though, a --
12 just a brief morning -- maybe 10-minute recess. Okay?

13 [Court in Recess at 11:43:00 a.m.]

14 [Back on Record at 11:56:07 a.m.]

15 THE COURT: -- having some major car issues. So I either
16 need to wrap to get it into the dealership early by quarter to
17 four, or I'll have to be late tomorrow. And I know we have a
18 abbreviated day tomorrow. So, in terms of scheduling of
19 witnesses, just let me know what the preference is.

20 MS. LYNCH: Sure. I think today would probably be best.

21 THE COURT: Okay.

22 MS. LYNCH: But I just wanted to make sure I could get Dr.
23 Shah in at --

24 THE COURT: Yes.

25 MS. LYNCH: -- two.

1 THE COURT: Yes. Yep. Okay. So, you're going to call Mr.
2 Perrotti now?

3 MS. LYNCH: Yes. Just --

4 THE COURT: Okay.

5 MS. LYNCH: -- for the hour.

6 THE COURT: Yeah.

7 [ANTHONY PERROTTI, Sworn.]

8 DIRECT EXAMINATION OF WITNESS, ANTHONY PERROTTI

9 BY MS. LYNCH:

10 Q Good afternoon, sir.

11 A Good morning.

12 Q Would you please state your name and spell your last name for
13 the record?

14 A Anthony Perrotti, P-E-R-R-O-T-T-I.

15 Q And what is your date of birth, Mr. Perrotti?

16 A 10/19/79.

17 Q And where do you presently live?

18 A Wilmington.

19 Q And who do you live with at that address in Wilmington?

20 A My wife and my son.

21 Q Now, are you presently employed?

22 A Yes.

23 Q And where do you work?

24 A East Coast Gas.

25 Q And how long have you been working at East Coast Gas?

1 A Approximately eight years.

2 Q Going back to 2011?

3 A 2012.

4 Q 2012, okay.

5 A Approximately, yeah. Or --

6 Q And what is your job at East Coast Service & Gas or Gas &
7 Service?

8 A Manager.

9 Q How long have you been the manager there?

10 A Probably six years, seven years.

11 Q Okay. From today?

12 A Approximately.

13 Q Okay. So around 2013 you became the manager?

14 A I believe so.

15 Q Or '14?

16 A Yes. I worked as a mechanic prior.

17 Q Give or take.

18 Now, when you were manager at the gas station back in
19 February, did you have set hours? Then, this is February of 2018.

20 A Not exact --

21 Q Or days?

22 A Not exactly set hours, but --

23 Q What about --

24 A But I worked --

25 Q -- set days?

1 A Yes.

2 Q Okay. And what were the days that you generally worked?

3 A Monday through Saturday.

4 Q Now, do you recall whether or not on Friday, February 2nd of
5 2018, you had a medical procedure scheduled for that day?

6 A Yes.

7 Q And as a result of that, did you go to work at East Coast
8 that day?

9 A I did not go to work. I may have stopped by. But I don't
10 recall.

11 Q But you were not on the clock, so to speak.

12 A Correct.

13 Q Now, during the day, did you see your brother, Alan
14 Greenough?

15 A Friday?

16 Q Strike that. Let me ask you this: what is your relationship
17 to Alan Greenough?

18 A He's my brother.

19 Q And is your older brother or younger brother?

20 A Older.

21 Q And how much older?

22 A Four years.

23 Q And in terms of your brother, he lived at the apartment at
24 1462 Main Street?

25 A Yes.

1 Q And do you recall whether you saw your brother at all that
2 day?

3 A I do not.

4 Q Okay. Now, on that particular Friday after you had your
5 medical procedure, did you go home to your house in Wilmington?

6 A Yes.

7 Q And while you were there, did you receive a series of phone
8 calls?

9 A Yes

10 Q And text messages?

11 A Yes.

12 Q And were they from your brother, Alan Greenough?

13 A I received multiple. I -- But, yes, some were from him.

14 Q Okay. And were some from Devin McDonald?

15 A Yes, I believe so.

16 Q And who was Devin McDonald?

17 A Alan's childhood friend.

18 Q And was -- did you know him to be also a roommate at that
19 apartment at 1462 --

20 A Yes.

21 Q -- Main Street?

22 Can you describe your brother's apartment in terms of the
23 layout?

24 A The main entrance, when you walk into the main entrance, you
25 got the one apartment door on the right, other -- Alan's apartment

1 door on the left. And you walk into the apartment. Straight in
2 is a complete kitchen area, with the fridge on the left. To the
3 right is the living room/Alan's bedroom.

4 And then the stairs are kind of straight ahead, to the right.
5 You go up to the top of the stairs, the bathroom's to the left.
6 And then the bedroom is directly -- Alan's old bedroom is directly
7 across from the bedroom. And then Devin's bedroom would be down
8 the -- at -- at an end of the hallway.

9 Q And you mentioned the living room/Alan's bedroom on the first
10 floor. Was that a recent room-change, so to speak?

11 A I believe so.

12 Q And in terms of the living room, was it still used as a
13 living room? That is, was there still a TV and some sofas in
14 there?

15 A I believe Alan's stuff was in there for him to watch TV.

16 Q Okay. Now, in terms of the other apartment, did you know
17 whether there were any other tenants back then?

18 A Yes.

19 Q In that building?

20 A Devell Range and Dris Couture [phonetic].

21 Q And did either or both of them work at the gas station?

22 A Yes, both of them.

23 Q Now, were you familiar with the number and location of
24 entrances and exits to the apartment?

25 A Yes.

1 Q And what were the doors related to the apartment? Where were
2 they located?

3 A When you walk in the main entrance, you have the main front
4 door to my brother's apartment to the left; Devell Range's
5 apartment to the right.

6 Q Okay. But in terms of, like, your brother's apartment, what
7 were the ways that you could enter or exit the apartment through
8 doorways?

9 A The main door that is always used was a door to the kitchen.

10 Q Okay.

11 A There is another door that goes to the office, but it was
12 always locked, never used, and it didn't lead to the outside. So
13 we just kept it completely locked.

14 Q And how would it be locked? Did it require a key to lock it?
15 Or was it something with a bolt mechanism that you could turn?

16 A I believe it was a key.

17 Q Okay. So, someone inside would need to use a key --

18 A Or --

19 Q -- to unlock it?

20 A I don't know for sure.

21 Q Okay.

22 A I'm -- I'm assuming.

23 Q Okay. So you don't have a memory. But someone on the
24 outside could also lock it or unlock it with a key?

25 A Yes, I remember there's a key for the outside.

1 Q Okay. And when you walk in the front door or would walk in
2 the front door into your brother's apartment, you actually looked
3 straight ahead and see that door into the gas station; is that
4 right?

5 A Yes, you would see that door.

6 Q Okay. So, the front door is on one side of that bank of
7 windows, and the other door is on the opposite side. You know
8 what I'm referring to?

9 A Yes.

10 Q Okay. And so, the whole front of the house is the kitchen.

11 A Correct.

12 Q And then there's a stairway in the kitchen that leads
13 upstairs to the bedrooms.

14 A Correct.

15 Q And there was a curtain that separated the kitchen area from
16 the room that you described as Alan's --

17 A Yes.

18 Q -- bedroom.

19 And, now, who had the keys for the front door?

20 A I'm not sure.

21 Q Okay. Obviously, the tenants would have keys.

22 A I would assume.

23 Q So your brother probably had one?

24 A Yes.

25 Q Do you know whether your brother had a key to the front door?

1 A I'm assuming he did.

2 Q Okay. And do you know who had keys to the door into the gas
3 station?

4 A I don't -- I don't believe there was a key for the door to
5 the gas --

6 Q You don't believe there was a key for the --

7 A The -- We have a set of keys that we keep in the drawer. But
8 I don't know if there was a key to that door, though. I'm
9 assuming there was.

10 Q Okay. But I thought you said that the only way you could get
11 in that door was through a key.

12 A Yeah, from the outside.

13 Q Okay.

14 A So I'm assuming there's a key to the door.

15 Q Okay. But you were not familiar with it or --

16 A I can't remember.

17 Q And are you -- Do you know if your brother had a key to that
18 door?

19 A I don't.

20 Q Do you know if Devin had a key to that door?

21 A I do not.

22 Q Now, in addition to those doors, was there any way to get
23 into the basement from your brother's apartment?

24 A Basement? I don't think so.

25 Q Okay. But there is actually, in the back of the premises,

1 | what appeared to be an old bulkhead-type situation, where there's
2 | stairs going down?

3 | A | I believe so. But I think it's got cinderblocks s --

4 | Q | Okay.

5 | A | -- blocking it.

6 | Q | So you don't believe that's a means of egress or access?

7 | A | I don't believe so.

8 | Q | Okay. What is the setup with the other apartment? Do you
9 | know whether there's more than one door/exit?

10 | A | There is a back door.

11 | Q | Okay. So they have a back door.

12 | A | Yes.

13 | Q | Okay. Now, in terms of the residence of -- On February 2nd,
14 | in your brother's apartment, other than Devin McDonald and your
15 | brother, was anyone else living there?

16 | A | Yes, Kim Bellino.

17 | Q | And who was Kim Bellino?

18 | A | Devin's girlfriend.

19 | Q | And do you recall when it was that you first remember seeing
20 | her or being aware that she existed?

21 | A | I couldn't give you a exact time.

22 | Q | Okay. Did it seem to be weeks, months, a year? If you can.

23 | A | From when?

24 | Q | From the time of your brother's decease.

25 | A | I can't tell you; I'm not sure.

1 Q Okay. So you don't -- you're not sure whether it was a
2 long-term --

3 A It may --

4 Q -- thing or --

5 A It may have been a few months.

6 Q Okay. Do you know how long Devin lived with your brother?

7 A Possibly --

8 Q Prior to February 2nd?

9 A Approximately maybe a year.

10 Q And had Kim lived there that time?

11 A Not the whole time.

12 Q Do you remember when it was that she actually started staying
13 there?

14 A I don't.

15 Q Okay. Now, your brother had a cell phone back in February of
16 2018; is that right?

17 A Yes.

18 Q And you had a cell phone as well.

19 A Yes.

20 Q And Devin McDonald, to your knowledge, had a cell phone?

21 A Yep.

22 Q And you would communicate with your brother using your cell
23 phone, and he using his cell phone?

24 A Yes.

25 Q And the same thing with Devin; is that right?

1 A Absolutely.

2 Q Okay. And I just want to show you what has previously been
3 marked as an exhibit, which are the downloads of the phones, okay?
4 And so with regard to the reports, the first section here is the
5 Devin McDonald phone and the second section is the Greenough --

6 A Same thing you showed me --

7 Q -- phone.

8 A -- in the office?

9 Q Yes.

10 A Okay.

11 Q And so, prior to coming in here today, you had an opportunity
12 to at least see the layout of the page and what it represents; --

13 A Yes.

14 Q -- is that right

15 MS. LYNCH: Okay. And as I did with a prior witness, I'm
16 just going to for the record -- Your Honor, I have copied the
17 pages just because of its -- the two sections. And I was hoping
18 that we could do the same thing with that, if that is a
19 possibility. Okay.

20 BY MS. LYNCH:

21 Q Okay. And I'm just going to show you this for the McDonald
22 phone, page 185. And then we'll go here, just to show you what
23 I'm doing. Start with that. This is --

24 MS. LYNCH: I'm sorry. One moment, Your Honor.

25 BY MS. LYNCH:

1 Q This is the McDonald phone. I'm showing you page 198 of the
2 McDonald phone. All right. I'm just going to do it with this.

3 On the evening of -- Let me just ask you this: do you know
4 any of your brother's friends that he would, you know, communicate
5 or socialize with at the house?

6 A I don't understand the question.

7 Q Okay. Do you know someone, a friend of your brother's, named
8 Curt?

9 A Yes.

10 Q And who was Curt?

11 A Friends with my brother.

12 Q Okay. And you know Amy Thorn?

13 A Yes.

14 Q Do you know someone known -- referred to as Al -- A-L-B?

15 A Al. B.? A-L-B?

16 Q "B," yeah.

17 A Yeah, yeah.

18 Q And who's that?

19 A Friend of Alan.

20 Q Okay. But do you know what their connection is? Or just
21 friends?

22 A Yeah.

23 Q What about Jim-Bo?

24 A Jimmy Brown?

25 Q That would be James Brown?

- 1 A I believe so. I don't know. Or it could be another Jim.
- 2 Q Okay. And what about Jim Knight? Do you know who that is?
- 3 A No.
- 4 Q Okay. Now, I'm going to --
- 5 A I've heard the name, but I don't know who it is.
- 6 Q Okay. Now, on the evening of February 2nd, you were home in
7 Wilmington after your medical appointment; is that right?
- 8 A Correct.
- 9 Q And directing your attention to the timeframe 6:19:57 p.m.,
10 I'm going to ask you to look at the exhibit in front of you in the
11 McDonald tab. If you would look at page 4, Entry 35.
- 12 A Thirty-five?
- 13 Q Yes.
- 14 A Yep.
- 15 Q And do you see an Entry 35 on page 4?
- 16 A Yes.
- 17 Q And does that appear to be a call placed from the Devin
18 McDonald cell phone to your cell phone for 0 seconds' duration?
- 19 A It does.
- 20 Q And directing your attention to the following -- the previous
21 entry, Entry 34, --
- 22 A Yep.
- 23 Q -- at 6:24:39, does it appear that Devin called your cell for
24 42 seconds at that time?
- 25 A It does.

1 Q Do you remember whether you spoke to Devin at that time?

2 A I do not.

3 Q Okay. Now directing your attention to the records for your
4 brother's phone, I'm going to -- Sorry. Does it appear at page 9,
5 Entry 48, -- Do you see that entry?

6 A Yep.

7 Q Does that appear to be your brother's cell phone calling your
8 cell phone for 36 seconds?

9 A Yes.

10 Q Do you recall whether you spoke to your brother in that phone
11 call?

12 A I do not.

13 Q And directing your attention to Entry 47 on that page,
14 8:28:54 p.m., does it appear that your brother called your cell
15 phone again at 30 -- for 32 seconds?

16 A Yes.

17 Q Now I'm going to ask you to refer back to the Devin McDonald
18 phone records and on page 41. And that would be Entry 121.

19 A Okay.

20 Q Do you see that?

21 A Yep.

22 Q And does that appear to be an entry at 6:30:09 p.m. in which
23 Devin texted you, "Anthony, he is L-T-I-N-G through his teeth. He
24 just came home, destroyed my kitchen table and chairs as soon as
25 he came in. WTF?" Does that appear to be that entry?

1 A Yes.

2 Q Now, do you remember whether you were receiving these as they
3 were coming in or --

4 A I was pretty tired. I had --

5 Q Okay.

6 A I had that procedure so I -- I -- I really don't know.

7 Q Okay.

8 A I --

9 Q Now, directing your attention to page 41, Entry 120, does it
10 appear that Devin McDonald texted you at 6:30:34 p.m., "We wanted
11 to call the cops but called you first"?

12 A Yes.

13 Q Do you remember whether you received that real-time?

14 A I -- I don't.

15 Q Okay.

16 A I -- I do remember getting texts but I don't remember what --
17 what it was --

18 Q What time?

19 A -- about.

20 Q Whether you --

21 A Yeah, what time. Yeah.

22 Q -- were reading them as they were --

23 A Correct.

24 Q -- coming in or --

25 A Yep.

1 Q -- in bulk, so to speak.

2 Now, at some point -- Now, in terms of your brother's
3 relationship with the gas station, were you aware that at one
4 point that evening your brother at approximately 6:31:02 walked
5 into the gas station and appeared to be involved in a transaction
6 with a customer, --

7 A I was aware when --

8 Q -- accepting keys?

9 A I was aware when I saw the video.

10 Q Okay. So, at some point in preparing for today's hearing, we
11 met; is that right?

12 A Yes.

13 Q And at that time I showed you some of the video evidence?

14 A Yes.

15 Q And you recognize the person in the office --

16 A Yes.

17 Q -- waiting on the customer to be Alan; is that right?

18 A Yep.

19 Q Now, directing your attention to the McDonald records, page
20 40, Entry 118, 6:32:39 p.m. --

21 A Yep.

22 Q Do you see Entry 118?

23 A I do.

24 Q And does that appear to be Devin texting you, "Bro, he just
25 came in from Ronnie's wake and started smashing everything"?

1 A Yep.

2 Q And in terms of those call records, I'm going to ask you for
3 the next series of questions to refer to your brother's cell phone
4 records. And direct your attention to page 9, Entry 145.

5 A Page 9, 145?

6 Q Oh, I'm sorry, Entry -- Strike that. I'm going to ask you to
7 go to page 9, Entry 46.

8 A Okay.

9 Q And does that appear that Alan's cell phone called you at
10 6:33:35 p.m. for 7 seconds?

11 A Yeah.

12 Q Now, in looking at page 9, Entry 46, do you recognize that
13 phone number that the "Alan Greenough's cell" called for a minute
14 and thirty-five seconds to be your mom's phone?

15 A Forty-six? No, that's my number.

16 Q Forty-five; I'm sorry.

17 A Yes, 45 would be my mother's number.

18 Q Okay. So it appears that at 6:34:25 p.m. your brother called
19 your mother for 1 minute and 35 seconds?

20 A It does.

21 Q Okay. Now, directing your attention to -- Now I'm just going
22 to switch and ask you to look at page 189 of your brother's
23 records. And I'm going to direct you to Entry 1959. And that
24 would be an entry at 6:37:34 p.m. Does that -- Do you see that
25 entry?

1 A Mm-hmm.

2 Q 1959. And does that appear to be a text that your brother's
3 cell phone received from your mother's number?

4 A Yep.

5 Q And that said, "Call the police. Go next-door after you take
6 pictures. Make sure you take pictures, okay?" Does that appear
7 to be accurate?

8 A I see that, yeah.

9 Q And that after that entry, 1960, on that same page, at
10 6:38:33 p.m., does it appear that your brother's cell phone
11 received another text from your mom: "Just keep your cool, okay?"
12 Does that appear --

13 A Yeah.

14 Q -- to be accurate?

15 A Yeah. It says it.

16 Q Now, directing your attention to the Devin McDonald records
17 at page 40, --

18 A Mm-hmm.

19 Q Entry 111 at 6:41:16 p.m., --

20 A Yep.

21 Q Does it appear that Devin texted your phone: "Ant, sorry. Al
22 is in a bad way. He drank a lot with Al B. this afternoon. I saw
23 it when I came back at two"? Does that appear to be accurate?

24 A Yep.

25 Q And then the following would be the next entry, 110, at

1 6:41:42 p.m. Devin texted you again: "And paid Joe." Does that
2 appear accurate?

3 A Yep.

4 Q Next, the entry, 109, at 6:42:10 p.m. Devin -- It appears at
5 that entry that Devin texted you, "He is acting like a nut."

6 A Yep.

7 Q And that at 6:48:12, Entry 107, Devin texted you again:
8 "Dude, your brother just picked Kim. All fuck up." Does that
9 appear accurate?

10 A Yep.

11 Q At 6:48:45 p.m. on page 40, Entry 106, does it appear that
12 the McDonald phone texted your phone: "Tell him to stay away or we
13 are calling the cops"?

14 A Yep, looks like that.

15 Q Okay. And then Entry 105, that he texted you yet again, at
16 6:48:51 p.m.: "Now."

17 A Yep.

18 Q Now, directing your attention to your brother's phone records
19 -- And I'm just going to try to do it with this, make it a little
20 bit easier for you. Sorry about that. I'm just going to direct
21 you to your brother's record at page 189, Entry 1962, at --

22 A Okay.

23 Q -- 6:48:53 p.m. Does it appear that your brother called your
24 cell for 9 seconds?

25 A Hold on; I'm sorry. Nine -- 1862?

1 Q 1962; I'm sorry.

2 A Nine -- On which page?

3 Q This would be on page 189 of your book.

4 A Oh, that's why, that's why; you gave me a different page.
5 189, 1962, yep.

6 Q That would be 1962, yes.

7 A Yep, I see that.

8 Q And that at 6:49:47 p.m., Entry 1963 on that page, -- that
9 the Greenough phone received a text from your mother: "You can
10 send me the pictures if you want."

11 A Yep.

12 Q Now directing your attention to the Devin McDonald records at
13 page 40, 104 -- and that would be Entry 104, 6:50:02, that Devin
14 texted you again: "He destroyed a \$300 table and chairs and almost
15 kicked in the very front door because it wouldn't open right
16 away." Does that appear accurate?

17 A That's what it says, yes.

18 Q Okay. And at 6:50:33, another text from Devin to your phone:
19 "Please tell him to chill, because we are minding our own shit."
20 And that would be Entry 103.

21 A Yep.

22 Q And that Entry 102 on that same page, Devin against texts
23 you: "I understand his buddy died, but he is trying to start
24 fights all around." And does that appear accurate?

25 A That's what it says, yes.

1 Q And at 6:52:28 p.m., Devin texted you again: "He comes in
2 this room again, I am calling the cops." Does that appear
3 accurate?

4 A That's what -- Yeah.

5 Q And that at Entry 100 on page 39 now, which was at
6 6:52:48 p.m., Devin texted you, "He's just looking for a fight."
7 Is that correct?

8 A Yep.

9 Q And in terms of the next -- the entry on page 189 of your
10 brother's record, Entry 1964, --

11 A Yep.

12 Q -- does that appear to be: your brother's cell phone receives
13 a call from your mother for 20 minutes and 22 seconds?

14 A It does.

15 Q And so, if the call came in 6:54:35, if you add 22 minutes --
16 20 minutes and 22 seconds, it would appear that that call ended at
17 7:14:57 p.m., just by arithmetic?

18 A If that's what it is, yes, correct.

19 Q Okay. And that, directing your attention to page 189 of your
20 brother's records, Entry 1970, which was at 7:29:08 p.m., does it
21 appear that your brother received a text from your mother's phone
22 number: "Hey, want to come over tomorrow after I babysit? I'll
23 pick you up on my way home. Then you can stay over tomorrow
24 night, and Sunday we will watch the game. You can stay over and
25 I'll take you home Monday morning on my way to work. Let me know,

1 okay?" Does that appear to be an accurate entry?

2 A Yep.

3 Q Now, according to the records of the McDonald cell phone that
4 you have been reviewing, would you agree that you did not respond
5 to Devin until approximately the time of 7:43:14 p.m.?

6 A Which entry?

7 Q And that would be -- Excuse me. I'm sorry; that would be the
8 McDonald Cellebrite report, 39, Entry 97.

9 A Yep.

10 Q 7:43:14.

11 A Yep.

12 Q That is your first response to all that series of texts,
13 right?

14 A I believe so.

15 Q Okay. And your response to him at that time was, "Dude, the
16 both of you need to grow the fuck up. I just got out of the
17 hospital from surgery. I don't need this shit. Stay the fuck
18 away from each other. If anything is damaged in the house,
19 there's going to be issues. I said the same to Al." Does that
20 appear to be an accurate reference?

21 A Yes.

22 Q So, from the content of that cell phone text message, do you
23 recall whether you actually spoke to your brother in any of those
24 phone calls between his number and yours?

25 A I may have, but I don't remember.

1 Q Okay. So, that reference to "I told Al the same thing" does
2 not refresh your recollection --

3 A It does not.

4 Q -- or anything like that.

5 Okay. Now, directing your attention to 8:05:30 p.m., which --
6 on the Cellebrite report for McDonald's phone, page 39, Entry 92,
7 does it appear that Devin McDonald texted you, "I am sorry your
8 brother assaulted us. Both wasted. He came out of nowhere and
9 freaked out. I am sorry"?

10 A Yep.

11 Q And then at 8:07:02 p.m., which is page 39, Entry 90, that
12 Devin texted, "We were minding our own shit. He used like -- He
13 used to like the table and use it for cribbage." Does that appear
14 to be accurate?

15 A Yeah.

16 Q And that -- Entry 89 on that same page, at 8:10:15, that
17 Devin again texted your phone: "He trasher [sic] it after he left
18 Ronnie's service and started to fight and talk smack. I went to
19 my room, which he says is his -- and talked shit about my father.
20 So I said, 'I took care of my father, so fuck off. You couldn't
21 do what I did for my dad.' Then he tried to fight. Sorry." Does
22 that appear accurate?

23 A Yep.

24 Q Now, did you know Devin to have experienced the loss of his
25 father within the past several months?

1 A -- I knew he lost his father.

2 Q Okay. But you weren't cognizant of when exactly.

3 And during this time, had you been alerted or had any
4 conversation with Joe Chaghouri about what was going on at the
5 house?

6 A I don't recall.

7 Q You don't recall that, okay.

8 A On Friday?

9 Q Yes, on Friday.

10 A Yeah, I don't. I don't recall.

11 Q Okay. And you -- I'm going to direct your attention to the
12 records for your brother's cell phone. And that would be page
13 190, Entry 1998. Does it appear that at 9:18:02 p.m. your brother
14 again tried to call your cell phone but it was 00 seconds --

15 A Yes.

16 Q -- according to his records, and that Entry 1999 at 9:21:31
17 your brother texted your cell phone number, "I will be home at my
18 house tomorrow, so please tell Devin McDonald to watch his p's and
19 q's after his shit tonight. Calling the cops was a bad idea."
20 "Bad idea," sorry; no "was."

21 A Yep.

22 Q Prior to receiving that message, did you have any knowledge
23 that police had actually responded to the East Coast Gas & Service
24 Station sometime between 7:30 and 8:00 p.m.?

25 A I really can't remember. I -- Like I said, I had -- I was in

1 the hospital with -- procedure. So --

2 Q Okay.

3 A -- I was pretty tired.

4 Q Had -- So had you received a sedative of some point [sic] --

5 A Yeah, they put me under.

6 Q -- that made you tired?

7 Okay. So, as this was going on, though, you were --

8 nevertheless had some communication with both Devin and your

9 brother Alan.

10 A It looks so, yes.

11 Q Okay. So you are basing this on your review of the

12 Cellebrite records and not any recollection that you independently

13 --

14 A I remember a little bit.

15 Q Okay.

16 A Bits and pieces.

17 Q Yeah, no, I --

18 A But I can't be specific.

19 Q No, I -- I'm not pushing you. I'm just trying --

20 A Yep.

21 Q -- for the record understand what's your memory and what's

22 just your accepting from the record.

23 A Yep.

24 Q So, okay. Now, directing your attention to the next entry,

25 2000, on page 190, at 9:22:36 p.m., when you -- your phone

1 received a text from Alan's cell-phone: "I come home tonight to
2 them breaking the apartment up, and he calls the cops. Joe will
3 be happy to hear about this." Does that appear to be accurate?

4 A Yep.

5 Q And then at 9:23:34 p.m., Entry 2001, it appears -- does it
6 appear that Alan Greenough's cell texted your cell, "Just ask D.
7 about the crazy shot [sic] that is nonstop not my doing." Does
8 that appear accurate?

9 Who was "D"?

10 A Devell Range.

11 Q Devell, okay.

12 A Yep.

13 Q So he was referring to Devell. Now, do you have any
14 knowledge about how Alan learned that Devin had actually contacted
15 the police?

16 A I don't.

17 Q Okay. Did you have any contact with Alan or Devin further
18 that evening of February 2nd of 2018 that you recall?

19 A I don't recall, sorry.

20 Q No, no sorry necessary.

21 Now, directing your attention to Saturday, February 3rd of
22 2018, did you report to work at East Coast Service Station that
23 day?

24 A Yes.

25 Q Now, did you have set hours for a Friday? Or did you -- do

1 | you recall what time you showed up --

2 | A | I --

3 | Q | -- that day?

4 | A | -- may have got -- got -- On Friday or Sat -- You just --

5 | Q | I'm talking about --

6 | A | -- Saturday.

7 | Q | -- Saturday now.

8 | A | On Saturday I probably got in around nine.

9 | Q | Okay. And given that it was the beginning of the month, was
10 | that a busy time at the service station, given the inspection
11 | sticker --

12 | A | It could be for stickers.

13 | Q | -- changeover?

14 | Okay. And on that particular day when you arrived at work,
15 | did you see or speak to your brother, Alan, when you got there?

16 | A | Briefly.

17 | Q | In the morning?

18 | A | Yes.

19 | Q | Was that on the phone or was that in person?

20 | A | When he pulled up, getting dropped off.

21 | Q | Okay. So do you recall what time that was?

22 | A | Approximately twelve-thirty, one o'clock.

23 | Q | Okay. Let me -- Do you recall when we met that I showed you
24 | a series of videos?

25 | A | Yep.

1 Q And I'm just going to ask you whether -- Well, let me ask you
2 this: the first time you saw your brother that day was when he got
3 dropped off?

4 A Yes.

5 Q So you had been at work for a period of time before your
6 brother came back to the house.

7 A Yes.

8 Q Do you know at that point whether you were aware that the
9 police had been there the night before?

10 A I was not.

11 Q Okay. So when your brother comes, who dropped him off?

12 A Amy Thorn.

13 Q And when Amy Thorn dropped him off, what did you do? Did you
14 go over there? Did you --

15 A I walked over to my brother. I just wanted to see how he was
16 doing 'cause he just buried his friend. And I said, "Hey, how you
17 doing?"

18 He goes, "Oh, I'm bummed out." So him and I w -- kept just
19 talking. And we walked into the apartment together.

20 Q Okay. And at that time do you remember whether he said that
21 -- told you that he was actually just getting home?

22 A I don't.

23 Q Okay. Now, I'm just going to ask you to view video, with the
24 Court's permission, to see if this will refresh your recollection
25 on the time.

1 A Okay.

2 Q This would be Video Angle C2 and this would be timestamped
3 1524:39, actual time 2:51:49. I'm going to ask you to look at the
4 area in front of your brother's apartment.

5 [Video Playing at 12:33:24 p.m.]

6 BY MS. LYNCH:

7 A Yeah.

8 Q Do you see a vehicle pulling in?

9 A I see Amy pulling up.

10 Q Okay. SO that would be Amy --

11 A Yep.

12 Q -- Thorn's vehicle?

13 [Video Playing at 12:33:34 p.m.]

14 BY MS. LYNCH:

15 Q And then just at the time around 1525:48.

16 MS. LYNCH: If you could just stop a little before that.

17 Okay. That's good.

18 BY MS. LYNCH:

19 Q Does that appear to be you walking out of the front door,
20 over to the white vehicle?

21 A Yep.

22 Q Okay.

23 [Video Playing at 12:34:12 p.m.]

24 BY MS. LYNCH:

25 Q And do you see where you're going at that point?

1 A Yep. Walking over to my brother.

2 Q And so, would that have been the time when you first
3 encountered your brother that Saturday?

4 A Looks like it, yes.

5 Q Okay. And so, with the timestamp difference that would be
6 approximately 2:51:49 p.m.

7 MS. LYNCH: And then if you would just fast-forward, please,
8 to 1526 -- about :05 to start, which would be 2:53:18. Strike
9 that. If you could just go back -- I'm sorry -- to 1526:08.
10 Okay.

11 [Video Playing at 12:35:11 p.m.]

12 BY MS. LYNCH:

13 Q And I'm just going to ask you to look at the area where Amy
14 Thorn's vehicle was.

15 A Okay.

16 Q Does it appear that that vehicle then leaves?

17 A Yes.

18 Q And turns towards Reading.

19 Now, were you inside or outside -- Well, strike that. Let me
20 ask you: does looking at this allow you to more precisely recall
21 that it was more like 2:50?

22 A It does.

23 Q Okay. Now, as Ms. Thorn was leaving, what did you and your
24 brother do?

25 A We walked into the apartment together 'cause we were still

1 talking.

2 Q Okay. So you walked in that front door to the apartment?

3 A The main entrance and then opened the door to his apartment,
4 yes.

5 Q And was that outer door unlocked or open?

6 A Yes.

7 Q And when you got inside, what was the condition of the
8 interior door into the apartment?

9 A The condition of it?

10 Q Meaning locked or unlocked.

11 A I --

12 Q Don't recall.

13 A I don't recall if it was --

14 Q But your brother was the one who --

15 A Opened the door, --

16 Q -- made entry.

17 A -- yes.

18 Q And do you have any memory of any difficulties or anything
19 like that?

20 A No.

21 Q Nothing at that time?

22 Now, when your brother opened the door, what happened next?

23 A Him and I both walked in and --

24 Q And so, you -- you're in the kitchen now?

25 A Yep.

1 Q And what happened at that point?

2 A We walk in and we see Kim in his bedroom. She's got a saw in
3 her hand.

4 And Alan said, "What the fuck are you doing in my bedroom?
5 Why you going through my stuff?"

6 I said the same thing. I said, "What are you doing in his
7 bedroom? You know, he's not home, yet you're going through his
8 stuff." I said, you know, "You need to get out of there."

9 Q So you --

10 A And --

11 Q Did you tell her to get out?

12 A I don't know if I told her to get out that moment, but --

13 Q Okay. But that was the gist.

14 A Yes.

15 Q Okay. And what did your brother do or say at that time?

16 A He kept asking, "Kim, why are you going -- why are you in my
17 room? Get the fuck out of my room. Why are you going through my
18 shit?"

19 And then they started arguing back and forth. And --

20 Q Okay. Do you remember what the specific words were?

21 A I do not.

22 Q Do you remember whether your brother ever yelled, "Get the
23 fuck out of the house. Get out. Get out"?

24 A I don't.

25 Q Do you remember him saying, "Why are you touching my radio?"

1 A Yes.

2 Q Do you remember him saying, "Why is my TV unplugged?"

3 A Yes.

4 Q Now, when your brother was saying this, did he do anything,
5 you know, physically or with his hands?

6 A No.

7 Q At some point do you remember your brother grabbing a
8 speaker?

9 A Yep.

10 Q Where was the speaker at the point when your brother --

11 A On top of the TV to his right.

12 Q Okay. So by now he's in that bedroom/living room.

13 A He's at the edge of it, 'cause the TV and the nightstand were
14 right at the edge of the doorway.

15 Q Okay.

16 A So it's pretty close.

17 Q And was it on the same stand that the TV was located on?

18 A I think it was on top of the TV.

19 Q Okay. And I just want to try to get the picture to
20 understand it. I don't know if I can find a better one. But just
21 to give an idea of where the TV is.

22 MS. LYNCH: Oh, sorry; thank you.

23 BY MS. LYNCH:

24 Q So I'm just going to show you this picture and ask you -- two
25 pictures. I'm just going to show you these two pictures. In

1 terms of the first photo that I'm showing you, does this appear to
2 be a photograph that depicts the door that you and your brother
3 had just entered, the door into his room, the TV table, --

4 A Yep.

5 Q -- and the living room portion of the room, if you will?

6 A Sure.

7 Q Okay. And is the area in this -- where the radio was
8 retrieved from depicted in this photograph?

9 A Yeah, I believe the speaker was there.

10 Q So it would be on top of the TV set, --

11 A I believe so. It could've b --

12 Q -- on that righthand --

13 A It could've been here on top of the --

14 Q Okay.

15 A -- TV.

16 Q To the right?

17 A Yeah.

18 Q Okay.

19 MS. LYNCH: And I would offer this photograph.

20 [Photo of Living Room Marked as Exhibit No. 82]

21 BY MS. LYNCH:

22 Q And, sir, just for purposes of the record, what you had
23 previously shown me or pointed to, you had indicated this area
24 either up on the side of the TV --

25 A Yep.

1 Q -- or on the side of the --

2 A On the --

3 Q -- cabinet --

4 A Of the cabinet, yep.

5 Q -- just next to it.

6 A Yep.

7 Q Okay. So, when this happened, your brother actually came
8 into the room?

9 A He must've.

10 Q In to retrieve it?

11 And where was Kim? Is that area depicted in here?

12 A She could've been standing in the -- right in between the
13 room and the kitchen.

14 Q Okay. So she had at least approached and come to the --

15 A Yeah, sh --

16 Q -- threshold area?

17 A Yep, yep

18 Q Okay. And when your brother grabs the speaker, what happens
19 next?

20 A He --

21 THE COURT: Can you --

22 A -- smashed it on the --

23 THE COURT: You might've --

24 A -- toward --

25 THE COURT: -- already said this; I'm sorry. Can you

1 describe the speaker? Or is there a picture of it?

2 THE WITNESS: It's a -- There is a picture of the speaker.

3 THE COURT: And how big --

4 THE WITNESS: The o -- The s --

5 THE COURT: How big was the speaker?

6 THE WITNESS: About this big. [Indicating.]

7 THE COURT: Small or --

8 THE WITNESS: Yep. Small.

9 THE COURT: Small speaker, okay.

10 THE WITNESS: It's like a little Bose speaker.

11 THE COURT: A little Bose, all right.

12 THE WITNESS: You can see it in the -- on top of the TV.

13 THE COURT: Okay.

14 BY MS. LYNCH:

15 Q So it was identical --

16 A It's the same -- Yeah, same photo -- same -- same speaker.

17 They're two identical speakers.

18 THE COURT: Okay. And what's it made of?

19 THE WITNESS: Plastic.

20 THE COURT: Plastic?

21 THE WITNESS: I'm assuming.

22 BY MS. LYNCH:

23 Q Okay. So just -- This would be the twin or the pair --

24 A I -- I believe so, yeah.

25 Q -- of speakers? Okay.

1 A He had multiple speakers, so I --

2 Q Okay.

3 A I have no idea if it was the same, but similar.

4 Q And I think --

5 MS. LYNCH: If I might just have one moment to --

6 BY MS. LYNCH:

7 Q Now, what if anything -- Once your brother got that speaker,
8 what if anything did he do with it?

9 A Well, he said -- he grabbed the speaker and said, "Why are
10 you play -- Why are you listening to my radio? Why did you unplug
11 my TV?" And then he took the speaker and he threw it to the
12 ground and said, "Nobody's going to listen to my stuff," or
13 "shit."

14 Q Now, when he threw the speaker to the ground, where was Kim?

15 A Maybe in front of me.

16 Q And --

17 A Alan's to the right of me.

18 Q Did you at some point do something to lock or prevent the
19 speaker from actually hitting anyone?

20 A I did not.

21 Q You did not do that?

22 A No, the speaker hit me. It bounced off the ground --

23 Q Okay.

24 A -- and hit me.

25 Q And that's because you placed yourself between where --

1 A I didn't place myself anywhere.

2 Q Okay. Was Kim on the stairs, sitting? Or was she standing?

3 A I don't remember if she was sitting or standing.

4 Q Okay. Now I'm just going to show you what's been admitted as
5 Exhibit 48. I'll show it to you in person and then put it on the
6 presenter.

7 A Yep, speaker.

8 Q Okay.

9 A Yep.

10 Q And does that appear to be a fair and accurate representation
11 of the speaker that your brother threw and where it landed?

12 A I believe so.

13 Q Okay.

14 A I don't know if it landed there. It could've been moved.

15 Q Okay. But --

16 A I don't know why it would be in the middle still, when people
17 are coming down the stairs. So, I -- I have no idea if it landed
18 there.

19 Q Okay. But the stairs are wider to the --

20 A Yeah, I understand.

21 Q -- right of that?

22 A But I don't know --

23 Q Right?

24 A -- where it landed.

25 Q Okay. But that was the speaker that was dropped, --

1 A Yes.

2 Q -- right?

3 Does this appear to be the saw that Kim had had in this same
4 picture? Can you tell that's a saw?

5 A I -- I can't tell but --

6 Q Okay.

7 A But it looks --

8 Q Let me --

9 A It looks like it --

10 Q -- show you a different angle.

11 A -- could be, yes.

12 Q Exhibit 49: does it appear to be that that is the saw?

13 A I think so?

14 Q Okay. But it's a saw, right?

15 A That is a saw.

16 Q It might not be --

17 A Yep.

18 Q You don't know whether it's the same one.

19 A Correct.

20 Q Okay. So just for --

21 THE COURT: Did he throw the speaker or drop it to the
22 ground?

23 THE WITNESS: I wouldn't say he dropped it. But he said,
24 "Nobody's going to listen to my s -- stereo."

25 THE COURT: And then it --

1 THE WITNESS: It --

2 THE COURT: -- hit you.

3 THE WITNESS: -- hit -- bounced -- It hit the floor and then
4 bounced off of me, from what I can remember.

5 BY MS. LYNCH:

6 Q So, --

7 MS. LYNCH: Sorry. If I might proceed, Your Honor.

8 THE COURT: You sure can.

9 BY MS. LYNCH:

10 Q Now, referring --

11 MS. LYNCH: Exhibit 48, just for the people in the courtroom.

12 BY MS. LYNCH:

13 Q The area of the speaker is this -- This is the item here,
14 right, that I'm circling?

15 A Yes.

16 Q Okay. And the item that appears to look like a saw, that's
17 this item hear?

18 A Yeah.

19 Q And in the next exhibit, 49, does that give a wider view of
20 the saw itself?

21 A Yep.

22 Q Okay. Now, as this was going on, once the speaker was thrown
23 to the ground, what part of -- you know, what part of your body
24 was struck with the speaker?

25 A I believe it was my, like, side here. On my right.

1 Q Okay. So it's your --

2 A My -- Like, right --

3 Q For purposes of the record, --

4 A My --

5 Q -- it's your lower --

6 A Yeah, my --

7 Q -- right --

8 A -- hand was --

9 Q -- hip area?

10 A It hit my -- hit my hand and my leg, like, at the same time.

11 Q All right.

12 A Just kind of bounced off of me.

13 Q And so it's your testimony that he basically smashed his own
14 speaker in anger?

15 A Yep. I -- I don't know if it was anger. He just didn't want
16 anybody to listen to his music.

17 Q Okay. And in terms of -- Once that event occurred, did you
18 at that point tell Kim that "He's pissed off 'cause you're in his
19 bedroom. Just leave"?

20 A I believe I did.

21 Q Okay.

22 A Possibly. I don't know if those exact words, but --

23 Q Okay. Do you recall whether you told the police that?

24 A I could have.

25 Q Okay. And if you told the police that, it would've been

1 fresher on your memory the night it happened than it is today, a
2 year-and-a-half --

3 A Sure.

4 Q -- later? Okay.

5 A I do recall telling Kim to just leave.

6 Q Okay. And that night you told the police that his reason for
7 doing it was just prevent them from -- or Kim from using their --
8 his stuff.

9 A I guess.

10 Q Did he -- your brother ever say or did you ever tell the
11 police that your brother said, "Who do you think you are, being in
12 my room when I'm not here?"

13 A I do.

14 Q What was the tone of voice your brother was using at that
15 time?

16 A He was upset.

17 Q Okay. Do you remember describing it as he was yelling?

18 A Yeah, he was yelling.

19 Q Okay. So the volume was -- When you say yelling, does it
20 imply volume?

21 A Yelling should -- I believe implies volume, yeah.

22 Q Okay. And does it -- Do you have any descriptive word for
23 his demeanor when he said it?

24 A I do not.

25 Q Okay. Now, about how far away was Kim when the speaker was

1 | smashed on the floor?

2 | A | I couldn't tell you how far it was. Sorry.

3 | Q | Now, do you recall at any point Kim sitting down on the
4 | stairs and Devin coming down?

5 | A | Yes.

6 | Q | What happened when Devin came down the stairs?

7 | A | Devin started yelling at Alan. Alan started yelling back.
8 | They both went upstairs and I heard some wrestling/rustling
9 | around.

10 | Q | And so, when you say they both went upstairs, you're
11 | referring to Devin and --

12 | A | Alan.

13 | Q | -- your brother?

14 | A | Yes.

15 | Q | Okay. Now, you heard this wrestling sound --

16 | A | Mm-hmm.

17 | Q | -- from downstairs?

18 | A | Yes.

19 | Q | What happened next?

20 | A | Alan came downstairs and went in his bedroom.

21 | Q | Okay. And did Devin come down at any point?

22 | A | He came down after.

23 | Q | And when Devin came down -- So it's now Devin, Kim, and you
24 | in the kitchen?

25 | A | No, I believe Kim already left.

1 Q Okay. So what were the circumstances of Kim leaving?

2 A I had told her to go outside, --

3 Q And she --

4 A -- just leave.

5 Q -- complied?

6 A She did.

7 Q And then when Devin came down, did you say, --

8 A I just --

9 Q -- "Guys, just leave"?

10 A Yeah, j -- I said, "Just leave. Just --"

11 Q Did you say, "This isn't going anywhere. Everyone is just
12 going to keep arguing," things to that --

13 A If that's what I --

14 Q -- effect?

15 A -- said, I said it.

16 Q You have no specific memory, though, --

17 A I do remember --

18 Q -- at this point?

19 A -- saying --

20 Q Okay.

21 A -- something similar, yes.

22 Q Yeah, I'm just trying to --

23 A If I said it, --

24 Q -- clarify.

25 A -- I said it. I'm just --

1 Q Yeah, I'm just trying to clarify.

2 A Yep.

3 Q How long do you think this went on? You know, this whole --
4 from the point that you and your brother encountered her in his
5 bedroom to the time that both Devin and Kim were outside?

6 A Maybe 15 minutes.

7 Q Okay. And so, just approximating, understanding that it's
8 not a stopwatch situation, if it -- if your brother came in at
9 sometime around 2:53:18 into the apartment, you and your brother,
10 --

11 A Yep.

12 Q -- then that would place it sometime shortly after three
13 o'clock? 3:05, 3:04?

14 A If the math does it, yes.

15 Q Okay. You don't want to do math.

16 A I'm not good at math, sorry.

17 Q Okay. So, was there a problem, though, that you became aware
18 of with Kim and Devin actually leaving the premises, related to
19 their transportation?

20 A Yeah, Devin said his tire was flat.

21 Q Okay. And so, did he tell you that when he was inside the
22 apartment or when you came out?

23 A I believe I was outside.

24 Q Okay. So when they left, you left.

25 A When they left, I left shortly after, yeah.

1 Q Okay, 'cause --

2 A [Indiscernible at 12:49:49 p.m. - simultaneous speech] --

3 Q -- you were actually working.

4 A Yeah, I was trying to work, yeah.

5 Q So, you go outside and that's when Devin says, "I need help
6 with my tire."

7 A Yep.

8 Q And so, you actually went and got the equipment necessary --

9 A I did.

10 Q -- to remove the tire.

11 A Yep.

12 Q And at some point the tire was replaced; is that right?

13 A Yes.

14 Q And after the tire was replaced, that is when they drove off.

15 A Yes.

16 Q Okay. Now, in terms of your leaving, I'm going to ask you to
17 look again at your brother's cell phone records, page 191, Entry
18 2020.

19 A Okay.

20 Q 3:04:01 p.m. And does that appear to be Alan's cell phone
21 calling your cell phone for a minute and twenty-two seconds?

22 A Yep.

23 Q And so, looking at that entry, would that indicate to you or
24 do you recall that you were not in the apartment as of 3:04:01?

25 A Yes.

1 Q Yeah. And when you changed the hat -- the tire, do you
2 recall whether you had a conversation with your brother in which
3 you told him, "They're gone. Just chill out"?

4 A I believe so.

5 Q And do you recall your brother saying, "They better not
6 fucking come home. They shouldn't be in my bedroom"?

7 A I think so.

8 Q Okay. And at that point you returned to your duties at the
9 gas station --

10 A Yep.

11 Q -- that day.

12 Okay. Now, assuming, in terms of the timestamps and the
13 conversions that were done, if Amy Thorn's vehicle drove away at
14 2:53:18 and if the video showed Devin McDonald's vehicle leaving
15 at around 3:10:36 p.m., you would agree that that is only
16 approximately 19 minutes that your brother and the two roommates
17 were in the same place --

18 A If it adds up, --

19 Q -- at the same time?

20 A -- yeah.

21 Q Okay. Now, in terms of going back to work, did you receive
22 any further calls that you recall from either Devin or Alan in
23 that half-hour?

24 A I don't recall.

25 Q Okay. I'm just going to direct your attention to your

1 | brother's cell phone records, --

2 | A Mm-hmm.

3 | Q -- page 191, Entry 2021.

4 | A Okay.

5 | Q And I'm going to ask you whether that appears to be an entry
6 | at 3:10:12 where Alan called your cell phone for 33 seconds.

7 | A Yeah, I remember we spoke briefly. But I don't remember what
8 | the conversation was.

9 | Q Okay. And directing your attention to the McDonald
10 | Celebrite report, page 3, Entry 15, does it appear that at
11 | 3:32:19 -- that Devin McDonald's cell called your cell for 22
12 | seconds?

13 | A What number?

14 | Q Sorry; 15.

15 | A Yep.

16 | Q Do you recall whether you talked to Devin in that 22-second
17 | period?

18 | A I may have. I don't know. I don't remember.

19 | Q Now, at 3:39:56 p.m. did you receive a text forwarded from
20 | Devin's phone that was from your brother Alan?

21 | A If it's --

22 | Q And I'm going to draw your attention in terms of the entry on
23 | the McDonald Celebrite, page 37, Entry 47.

24 | A What entry? I'm sorry.

25 | Q Do you see Entry 47? Or maybe it's 45; I'm sorry.

1 A It's not -- On 37? Page 37?

2 Q I'm sorry; page 36, Entry 45.

3 A Yeah, I see that.

4 Q Okay. Does that appear to be a text forwarded to you that
5 says, "I have someone coming to adopt the cat. You have an hour.
6 Not my cat, not my problem"?

7 A It does. I don't know if it was forwarded, because --

8 Q Okay.

9 A -- it doesn't show "forwarded." So, I --

10 Q Okay. But did --

11 A I'm not sure.

12 Q Did you respond to that text?

13 A I don't believe I did. I was very busy trying to --

14 Q Sure.

15 A -- wrap things up for the day.

16 Q Sure. Directing your attention to the McDonald Cellebrite
17 report at page 36, Entry 42, --

18 A Okay.

19 Q And that was at 3:43:41 p.m. Does it appear that Devin
20 texted you, "To [sic] your brother is trying to get rid of my
21 cat"?

22 A Yes, I see that.

23 Q Did you respond to that?

24 A I don't believe so.

25 THE WITNESS: Excuse me, Judge. Not to be out of line, I

1 just -- Can I ask one question?

2 THE COURT: Sure.

3 THE WITNESS: Well, you've already gone over these.
4 Repetitive, repetitive, you know? It's wearing my mother out.
5 It's wearing me out. We know. We've already heard this. Do we
6 really have to keep going over the specific repeating-repeating?

7 THE COURT: I appreciate certainly your feelings and your
8 mother's feelings. But, again, the purpose of the inquest is for
9 me to be able to get all the facts that I need, to be able to make
10 a decision.

11 THE WITNESS: Okay.

12 THE COURT: So, to the extent that this is helping the
13 Assistant District Attorney get to the questions that she's about
14 to ask you, then unfortunately we need to go through it.

15 THE WITNESS: Okay.

16 THE COURT: Okay?

17 THE WITNESS: Hope I wasn't out of line.

18 THE COURT: Nope.

19 THE WITNESS: Just wanted to ask, 'cause --

20 BY MS. LYNCH:

21 Q Now, is it fair to say that your brother had wanted them to
22 leave and they left? Is that right?

23 A Yes. Yeah.

24 Q Now I'm going to ask you to look at your brother's cell phone
25 records, entry at page 191, starting at Entry 2023.

1 A Okay.

2 Q Does it appear that your brother's called Devin's cell phone
3 for 29 seconds at 3:31:10 p.m.?

4 A Yep.

5 Q Does it appear that at Entry 2024 on page 191 at 3:36:29 your
6 brother's cell again called Devin McDonald for 0 seconds?

7 A Yep.

8 Q Does it appear that on page 191 at 2025 at 3:38:40 p.m. --
9 that your brother texted Devin, "I have someone coming to adopt
10 the cat. You have an hour. Not my cat, not my problem"?

11 A Yep.

12 Q Does it appear that Devin then messaged your brother, "No,
13 you are not," at Entry 46 on page 37 at 3:39:37? Does that appear
14 accurate?

15 A We were on 191. You want me to look at 37 now?

16 Q That would be Entry 2026 on 191.

17 A Oh, okay. Yep.

18 Q And does it appear that at 3:40:18 that your brother's cell
19 texted Devin, "You better get her or she is going to an adoption"?
20 Does that appear accurate? 2027?

21 A Yep.

22 Q And that your brother again texted at page 191, Entry 2028,
23 3:43:33, "They are coming to take her today, so figure it out"?

24 A Yep.

25 Q And at 3:44:43 p.m., does it appear that Devin texted your

1 brother, responding, "Nobody is touching my cat. It isn't yours
2 and that is illegal to do"?

3 A Yep.

4 Q Now, at some point after this series -- strike that -- after
5 you had received the communication regarding the cat that was --
6 came to your cell phone or was forwarded to your cell phone from
7 Devin's cell, did you become aware that the police had responded
8 to your brother's apartment at 3:51 p.m.?

9 A I'm sorry; say that again?

10 Q Okay. At some point after that series of texts at 3:51 p.m.,
11 did you become aware that the police were at your house? At the --
12 At your brother's house/apartment?

13 A At some point I did become aware.

14 Q How did you first become aware that the police were there?
15 Did someone tell you or did you see them or --

16 A I think I saw the police car.

17 Q Okay.

18 A I can't remember where I was at the time.

19 Q And what was -- what did you first do once you realized the
20 police were there?

21 A I believe I went outside and spoke with one of them.

22 Q And was that a man or a woman?

23 A A gentleman, I believe. The first time? I spoke with a
24 woman at one point, but I don't remember if it was the first --

25 Q And --

1 A -- person.

2 Q And do you recall what that conversation was?

3 A I don't.

4 Q Okay.

5 THE COURT: We're going to stop there -- it's one o'clock --
6 for the lunch recess. We're going to stop --

7 THE WITNESS: Okay.

8 THE COURT: -- with you, Mr. Perrotti, because I think Dr.
9 Shah is going to be called at two o'clock.

10 THE WITNESS: Okay.

11 THE COURT: And then at some point we'll resume. Okay?

12 THE WITNESS: Okay.

13 THE COURT: Thank you.

14 THE WITNESS: Thanks.

15 [Witness steps down]

16 [Court in Recess at 12:59:57 p.m.]

17 [Back on Record at 2:04:57 p.m.]

18 MS. LYNCH: If I might just look outside, Your Honor. Dr.
19 Shah mistakenly went to Superior --

20 THE COURT: Oh.

21 MS. LYNCH: -- where he usually testifies.

22 THE COURT: All righty.

23 MS. LYNCH: So, --

24 [Pause]

25 MS. LYNCH: He's not here yet.

1 THE COURT: Okay.

2 MS. LYNCH: If we want to resume with Mr. Perrotti until he
3 gets here.

4 THE COURT: Sure.

5 [Witness resumes the stand]

6 CONT. DIRECT EXAMINATION OF WITNESS, ALAN PERROTTI

7 BY MS. LYNCH:

8 Q Okay. Multiplicity of binders, here. Okay.

9 Where we left off, you were describing when you first became
10 aware of the police officers' arrival. At some point you walked
11 down and met with them; is that right?

12 A Yes.

13 Q And that was in front of the apartment building.

14 A Yes.

15 Q And at some point they asked you if your brother was actually
16 there; is that right?

17 A Yes.

18 Q And at that point you didn't know whether he had left yet.

19 A Correct.

20 Q Now, the police at that time asked you if you had a key to
21 that front door into the building nearest your brother's
22 apartment. You know, the front entrance outside, as well as the
23 interior.

24 A They did ask me. I don't know if -- when -- when it was.

25 Q Okay. At some point were you aware that somebody from

1 upstairs came down and opened the exterior door for the police?

2 A I was not.

3 Q You were not. Okay.

4 But at some point you were asked about a key. And you went
5 over -- you indicated that you had a key to that front door.

6 A Yep.

7 Q And that required you to go back into the office, --

8 A Correct.

9 Q -- look for the key, --

10 A Yes.

11 Q -- and then go back with it?

12 A Yes.

13 Q And when you got there and tried the key, it did not work; is
14 that right?

15 A I don't remember what exactly happened.

16 Q Okay. So you don't remember that -- whether you brought a
17 key? Or you do remember you --

18 A I don't. I remember going to look for a key. But I don't
19 remember exactly what -- how it transpired.

20 Q Okay. So you don't know whether the door was deadbolted when
21 you tried to open it with your key or that you didn't get a key.

22 A No, I don't know when or -- I don't remember the situation
23 that happened when I got the key, if and when I did.

24 Q Okay.

25 A I was asked for the key, went and looked for it, but I don't

1 remember when it -- when did -- I went over to go and give the key
2 to the officers.

3 Q Okay. So by that point they may already have been in the
4 hall?

5 A I believe so.

6 Q And do you know whether they used a key that you retrieved to
7 unlock or try to unlock the door? You don't --

8 A I don't believe so.

9 Q -- just don't know that?

10 A I don't believe so You just said somebody came down and
11 opened the door for them.

12 Q The outside door.

13 A Yeah.

14 Q So, you were going in and getting the inside door key, right?

15 A I was just getting a set of keys that have a ton of keys on
16 them.

17 Q Okay. I'm just --

18 A I -- I don't know.

19 Q -- just asking you --

20 A I'm telling you --

21 Q I --

22 A -- that's -- I don't remember.

23 Q Okay. Well, I -- Like I said, --

24 A Yeah.

25 Q -- just asking you to do the best you --

1 A And --

2 Q -- you can.

3 A -- I'm trying to.

4 THE COURT: So, you said you just were going to get a set of

5 --

6 THE WITNESS: Yeah.

7 THE COURT: -- keys. So, would that set of keys have

8 included keys for the outside and the inside door?

9 THE WITNESS: The -- It's a bunch of keys. So, --

10 THE COURT: Okay.

11 THE WITNESS: -- I don't know what keys are on it. I know

12 some of the keys to the apartment are on there.

13 THE COURT: Okay.

14 THE WITNESS: But I don't remember which key it was. We

15 didn't know. We'd have to go through them and check them.

16 THE COURT: Okay. So you've never had occasion, then, to use

17 those keys occasion, then, to use those keys --

18 THE WITNESS: No.

19 THE COURT: -- to get into your brother's apartment.

20 THE WITNESS: Absolutely not.

21 THE COURT: Okay.

22 THE WITNESS: Nope.

23 BY MS. LYNCH:

24 Q And they were only asking you about the keys to that door,

25 correct? The front door into the apartment?

1 A They asked for a key to -- for the door.

2 Q Okay.

3 A I don't remember if it was the front door or the door to the
4 outside.

5 Q Okay. But you never provided them with a key to the inside
6 door.

7 A Not that I recall.

8 Q Where were the keys kept?

9 A Usually in a drawer behind the desk.

10 Q Okay. So, like, if customers came in, you'd put the keys on,
11 like, a key board in the --

12 A You're talking about --

13 Q -- garage area?

14 A Talking about car keys or --

15 Q Yes, that's what I'm --

16 A -- apartment keys?

17 Q -- just saying. I'm trying to distinguish. You didn't keep
18 the keys to the premises in the same place that the keys --

19 A No, we did not.

20 Q -- for the cars were. So, those keys were behind the desk, --

21 A Yes.

22 Q -- the ones that the officers were looking for.

23 Now, in terms of that afternoon, when the officers came they
24 at some point had a question about whether your brother was even
25 there, because they were not getting an answer; is that correct?

1 A - Yep.

2 Q And I'm going to ask you, in terms of the door being
3 deadbolted, do you -- don't have a memory at this point because of
4 the lapse of time; is that your --

5 A It's fair enough to say.

6 Q Okay. I'm just going to ask you to see if this refreshes
7 your recollection.

8 A Sure.

9 Q And that would be on the transcript, page 6. And that would
10 start on line 3.

11 "So, they said, 'Do you have a key?' and I said, 'Yeah,' so
12 we grabbed the key. Key wouldn't open the door because the
13 deadbolt was locked. So they kept at it for a while, yelling at
14 him through the door. Finally, he responded. And they kept going
15 back."

16 A Okay.

17 Q Okay?

18 A Yep.

19 Q Reviewing that transcript, is your present memory refreshed
20 that you produced a key for that front door that couldn't open it
21 because you didn't have a key for the deadbolt?

22 A I'll be honest with you: I don't remember. I --

23 Q Okay.

24 A I remember having the interview, but I can't remember exactly
25 saying that. But --

1 Q Okay.

2 A -- if I said it, I said it.

3 Q Now, at some point you continued to try to call your brother,
4 or you tried to call your brother to see if you could reach him on
5 the phone.

6 A Multiple times.

7 Q And initially he did not answer your phone calls; is that
8 fair to say?

9 A I don't think he answered the first few times I called, no.

10 Q Okay. So I'm just going to ask you to go back to your
11 brother's cell phone records again. And that would be on that
12 smaller page you can go to. And directing your attention to page
13 192, Entry 2036. Does it appear that at 4:05:34 p.m your cell
14 called your brother's cell for 7 seconds?

15 A It does.

16 Q And that would be fair to say that that was not a
17 conversation?

18 A Probably not.

19 Q Okay. Do you have a memory of that?

20 A I don't.

21 Q Okay. Directing your attention next to Entry 2037 at
22 4:05:57 p.m., you again called your brother's cell phone, for
23 17 seconds; is that fair to say?

24 A Yep.

25 Q And then at 4:08:49 p.m., which would be Entry 2038, --

1 | strike that -- which would be Entry 2037, does it appear -- Strike
2 | that. 2037 was the 17-second call; is that right?

3 | A Yeah.

4 | Q And that at 4:08:49 you called and reached your brother for a
5 | period of 2 minutes and 57 seconds?

6 | A Yep.

7 | Q So, assuming that it's 4:08:49 and the call was 2 minutes and
8 | 57 seconds, which is almost 3 minutes, would you agree that that
9 | call ended somewhere at 4:11?

10 | A Sure.

11 | Q And seconds.

12 | A Yep.

13 | Q Okay. Now, do you recall what that conversation with your
14 | brother was?

15 | A Yeah. I called him. When he answered, I said, "Alan, the
16 | police are here. They just want to talk to you. You know, please
17 | come out."

18 | And Alan said, "Dude, what did I do wrong? I didn't do
19 | anything wrong." He goes, "If I come out, they are going to beat
20 | the fuck out of me."

21 | I believe after going back and forth about that, at maybe a
22 | few minutes, like a -- not a minute, s -- probably seconds after,
23 | I went over to the police officer and said, "I have him on the
24 | phone." And I put Alan on the phone with the officer.

25 | Q Okay. Now I'm going to ask you some questions about your

1 observations of your brother inside the office sometime around
2 4:11 p.m. You saw the video this morning of when your brother is
3 alleged to have come into the office from the waiting room door --

4 A Yep.

5 Q -- to the apartment, holding the table leg?

6 A Yep.

7 Q Okay. And you've seen those?

8 A Seen the video?

9 Q Yes.

10 A Yes.

11 Q Okay. So, I'm just going to ask you questions about it. If
12 you need to or want to see them, please let me know.

13 A Okay.

14 Q So, --

15 THE COURT: Dr. Shah is here.

16 MS. LYNCH: Oh, okay.

17 THE COURT: Okay? So, Mr. Perrotti, why don't we suspend
18 with you --

19 THE WITNESS: Tomorrow?

20 THE COURT: -- 'cause we want to be able to get the doctor --

21 THE WITNESS: Okay.

22 THE COURT: -- on. Thank you.

23 THE WITNESS: Yep. Just close this?

24 THE COURT: Sure. Thank you, sure.

25 THE WITNESS: Yeah.

1 observations of your brother inside the office sometime around
2 4:11 p.m. You saw the video this morning of when your brother is
3 alleged to have come into the office from the waiting room door --

4 A Yep.

5 Q -- to the apartment, holding the table leg?

6 A Yep.

7 Q Okay. And you've seen those?

8 A Seen the video?

9 Q Yes.

10 A Yes.

11 Q Okay. So, I'm just going to ask you questions about it. If
12 you need to or want to see them, please let me know.

13 A Okay.

14 Q So, --

15 THE COURT: Dr. Shah is here.

16 MS. LYNCH: Oh, okay.

17 THE COURT: Okay? So, Mr. Perrotti, why don't we suspend
18 with you --

19 THE WITNESS: Tomorrow?

20 THE COURT: -- 'cause we want to be able to get the doctor --

21 THE WITNESS: Okay.

22 THE COURT: -- on. Thank you.

23 THE WITNESS: Yep. Just close this?

24 THE COURT: Sure. Thank you, sure.

25 THE WITNESS: Yeah.

1 jurisdiction.

2 Q And in preparation for your work as a Medical Examiner, can
3 you describe generally your educational background?

4 A Sure. So, I graduated from undergrad in 2001, from Boston
5 University. I went to BU School of Medicine, Boston University
6 School of Medicine, from 2001 to 2005. I'm sorry; that's wrong.
7 I went from the college from 2001 to 2005, med school from 2005 to
8 2009. I did my residency in anatomic and clinical pathology at
9 Long Island Jewish School of Medicine in Long Island from 2010 to
10 2014. I did a year of a forensic pathology fellowship from 2014
11 to 2015 in Miami-Dade County Office of the Chief Medical Examiner.

12 Q Okay. And then after that you resumed [sic] your
13 professional responsibilities as a Medical Examiner in
14 Massachusetts; is that right?

15 A Correct.

16 Q Now, in terms of your work as a Medical Examiner do you have
17 any -- or pathologist, do you have any board certifications?

18 A Yes. I'm board-certified in anatomic and clinical pathology
19 as well as forensic pathology.

20 Q What is the difference between the three?

21 A Anatomic and clinical pathology are more of a general
22 pathology, not s -- really specified. They're more
23 hospital-based. Forensic pathology is a subspecialty, and so it
24 just focuses on the forensic pathology alone.

25 Q And in order to become board-certified, what did you have to

1 do in the field of forensic pathology?

2 A So, after my fellowship year, you have to take an examinat --
3 an examination in order to receive your board certification. And
4 I passed that examination.

5 Q And when were you board-certified in forensic pathology?

6 A I believe that was 2015, probably around September/October.

7 Q And do you hold any professional licenses to practice
8 medicine?

9 A Yes. I'm licensed -- I have my medical license in
10 Massachusetts.

11 Q And do you belong to any professional organizations related
12 to your field?

13 A No, not at the moment.

14 Q Now, as a Medical Examiner/forensic pathologist, in the
15 course of your experience have you been called upon to conduct
16 autopsies?

17 A Yes.

18 Q Approximately how many autopsies have you performed in your
19 career?

20 A I'd say about 900, to this point.

21 Q Okay. Of that 900, can you approximate how many involved
22 examinations involving gunshot wounds?

23 A Probably 60 to 70.

24 Q Now, in conducting autopsies, what are your responsibilities
25 if any regarding the determination of manner and cause of death?

1 A So, that responsibility falls on us -- is to determine the
2 cause and manner of death.

3 Q And as a result of conducting your autopsy and doing that
4 type of examination, do you issue death certificates under your
5 signature?

6 A Yes.

7 Q Now, what steps if any do you take to document your
8 examination and your findings when conducting an autopsy?

9 A So, we have body diagrams that we list any injuries, any
10 findings, defining characteristics, scars, et cetera, tattoos. On
11 top of that, we also have -- we take photographs. I take my own
12 photographs. And in the case of homicides, we usually have
13 photographers coming from either our own state police department,
14 in house, or from outside. And then we make that -- the
15 photographs, the -- the body diagrams, we turn that into a
16 readable document after there -- after the fact.

17 Q And do you prepare an autopsy report --

18 A Yes.

19 Q -- that documents your findings?

20 A Correct.

21 Q Now, directing your attention to Monday, February 4th, were
22 you on duty as a Medical Examiner in Boston?

23 A Yes.

24 Q And on that day did you perform an autopsy on an individual
25 identified to be one Alan Greenough?

1 A Yes. ."

2 Q Can you describe the procedure by which an autopsy is
3 conducted, and any preliminary steps that are taken before you do
4 your actual examination?

5 A So, beforehand the body of the deceased, depending on the
6 case -- in this case, the body was x-rayed just to determine if
7 there's any retained projectiles or any other injuries, I guess.
8 They -- They usually x-ray them. And then they are brought to the
9 morgue, where we begin our examination.

10 First we do an external examination before we do any kind of
11 dissection or anything. So we do a c -- a comprehensive
12 examination of the front and the back of the body of the decedent
13 -- documenting any, again, physical characteristics, any scars,
14 tattoos, any injuries, any evidence of natural disease. And we
15 photograph all of that thoroughly, especially in the case of
16 homicides or gunshot wounds.

17 After we do our external examination, -- I mean, in the
18 process, I also take fingernail clippings, hair samples, in the
19 case of -- in these cases, specifically, sometimes they're sent
20 out for DNA analysis. And then after that, we begin our extern --
21 internal examination, involving --

22 Q And --

23 A -- dissection.

24 Q -- before we get to that, you indicate that x-rays were taken
25 to determine the presence of any foreign objects, specifically

1 projectiles; is that fair to say?

2 A Correct.

3 Q And in this particular case, were there any projectiles or
4 foreign objects with the decedent?

5 A No.

6 Q Now, in terms of the documentation of the condition of the
7 body, is there any measurement of height or weight taken of the
8 individual that is then documented in your report?

9 A Yes. When the body is received by the technicians
10 downstairs, they usually do the height and weight.

11 Q Now, in the -- in this particular autopsy, was -- did you
12 note in your report that Mr. Greenough's height was 6 feet,
13 2 inches, and he weighed 177 pounds?

14 A Yes.

15 Q And he was a white male?

16 A Correct.

17 Q And did you indicate that his appearance was consistent with
18 the given age of 43?

19 A Yes.

20 Q Now, in terms of your examination of the decedent, did you
21 note whether there was any obvious evidence of medical
22 intervention or treatment?

23 A Yes, he did have medical intervention.

24 Q And specifically what types of medical intervention were
25 indicated by the condition of the body?

1 A He had a -- a thoracotomy, I believe, which is an opening of
2 the chest, where the gunshot wounds were, I guess in order to
3 evaluate and try to stop any bleeding or injury.

4 Q And --

5 A And that was the most significant one. He had other medical
6 devices, like a intraosseous catheter, a needle in his shin, I
7 believe he had a cervical collar on and possibly endotracheal
8 tube. But he did have several medical interventions.

9 Q Okay. And with regard to those markings, they were noted and
10 distinguished from any injuries to the body; is that correct?

11 A Correct.

12 Q Now, during the external examination, can you describe for
13 the Court what observations if -- of injury you made during a
14 preliminary external examination?

15 A Sure. There were two entrance gunshot wounds of the left
16 chest and two exit gunshot wounds of the left back.

17 Q Now, how -- Can you describe for the Court how you are able
18 to distinguish between an entrance gunshot wound and an exit
19 gunshot wound?

20 A Yes. Entrance wounds typically are very round, symmetrical,
21 very even. They just kind of, in ideal situations, look like a
22 perfect circle, in which case -- I mean, in -- in this case,
23 that's kind of how they were; whereas exit wounds are very
24 irregular, they may look like tears, they may look like flaps,
25 they don't have that nice symmetry to them, and that's an

1 | indication of the body -- of the projectile not being fast enough
2 | anymore to cause it a really even wound.

3 | Q Okay. And so, you were able to determine based upon your
4 | education, training and experience, and your personal examination
5 | of the body during the external examination that the two wounds to
6 | the upper chest were entrance wounds?

7 | A Correct.

8 | Q And were you able to determine that the two wounds to the
9 | lower back were also exit wounds?

10 | A Correct.

11 | Q Okay. Now, I'm just going to show you these photographs,
12 | doctor, and ask you if you can point out to the judge -- Now,
13 | doctor, we do have some family members of the decedent here in
14 | court today. And so I'm just going to ask you in looking at these
15 | photographs to direct your explanation to the Court.

16 | MS. LYNCH: And if counsel needs to see it, with the Court's
17 | permission maybe they can --

18 | THE COURT: Sure.

19 | BY MS. LYNCH:

20 | Q Showing you this photograph, do you recognize what that
21 | photograph depicts?

22 | A Yes. This shows the entrance gunshot wounds of the left
23 | chest.

24 | Q And is part of the sutures for -- from the thoracotomy
25 | evident in this photograph?

1 A Yes.

2 Q And does this show the relevant -- relative location of Mr.
3 Greenough's left nipple in relation to the two gunshot wounds and
4 his neck?

5 A Yes.

6 MS. LYNCH: I would ask that this be marked as the next
7 exhibit.

8 [Autopsy Photo Marked as Exhibit No. 83]

9 BY MS. LYNCH:

10 Q And so, Dr. Shah, if you would just point out to the Court
11 the area of the thoracotomy sutures.

12 A Sure, it's right here. [Indicating.]

13 Q The location of the left nipple?

14 A Right there.

15 Q The location of the entrance wounds that you've described?

16 A Sure. These two right here.

17 Q Okay. And this area here would be the neck of the decedent?

18 A Correct.

19 Q And in terms of your examination, did you distinguish in any
20 way by labeling these two wounds to distinguish them from each
21 other?

22 A I don't remember. I don't recall if I had labeled them or
23 not. Usually with only two gunshot wounds I don't typically --

24 Q Okay.

25 A -- go about labeling or numbering.

1 Q Okay. But you do -- there is a method in which you at least
2 verbally explain the distinction between the two?

3 A Yes, I locate them specifically in my report.

4 Q Okay. And, again, this shows the clear circular margins of
5 the wound?

6 A Correct.

7 Q I'm showing you this next photograph. Does this appear to be
8 a fair and accurate representation of the body of the decedent,
9 depicting the exit wounds that you observed?

10 A Yes.

11 [Autopsy Photo Marked as Exhibit No. 84]

12 BY MS. LYNCH:

13 Q And with regard to Exhibit 84, pointing -- these two areas,
14 do they depict the exit wounds?

15 A Correct.

16 Q And that is the -- shows the irregular margins; is that fair
17 to say?

18 A Yes.

19 Q Okay. Now, in addition to photographing these, do you take
20 specific measurements that will allow you to determine where
21 anatomically each of the injuries is located?

22 A Yes.

23 Q And did you do that in this case?

24 A Yes.

25 Q Now, I don't know if you need to reference your autopsy

1 report for the specific measurements, -- -

2 A I probably would, yes.

3 Q Okay. Just going to -- Okay.

4 MS. LYNCH: And at this time, Your Honor, I would just ask
5 that this item be marked as one exhibit. It's the Medical
6 Examiner's file provided in connection with this.

7 THE COURT: Okay.

8 [Medical Examiner's File Marked as Exhibit No. 85]

9 BY MS. LYNCH:

10 Q And referencing Exhibit 85, do you recognize page 2 to be the
11 cover page of the report of your autopsy?

12 A Yes.

13 Q And this appears to be a five-page autopsy report; --

14 A Correct.

15 Q -- is that right?

16 A Yes.

17 Q Followed by a postmortem toxicology report?

18 A Yes.

19 Q And was that something that you requested and relied upon in
20 forming your ultimate opinions in this case?

21 A I mean, I -- Yes.

22 Q Okay.

23 A I take everything into consideration, yes.

24 Q Now, the -- after the toxicology report, do you recognize
25 this diagram and the notations on it?

1 A Yes.

2 Q And is -- are those notations that you made during the course
3 of the procedure that you subsequently incorporated into your full
4 report?

5 A Yes.

6 Q And then, the following sheets, is this additionally a
7 Medical Examiner sheet concerning the intake of this case?

8 A Yes.

9 Q And does this appear to be a blank document that formed the
10 basis of the death certificate ultimately issued in this case?

11 A Correct.

12 Q And again do you recognize these various pieces of portions
13 of the Medical Examiner's record concerning identification of the
14 deceased and labs that were requested in the case?

15 A Yes.

16 Q And in terms of your report, I'll leave it in front of you
17 and I will ask, having reviewed the exhibit, did you for purposes
18 of writing this report just distinguish the entrance wounds as "A"
19 and "B" --

20 A Yes.

21 Q -- on the first page?

22 Okay. I'm going to ask you a series of questions regarding
23 those measurements. What observations did you make concerning the
24 location and anatomical position of what you designated as Wound A
25 of the left upper chest?

1 A Sure. So, we measure the location of a gunshot wound based
2 upon the distance from the top of the head or from the bottom of
3 the foot -- in this case, it was top of the head -- and distance
4 from the midline of the body, that is, down the center, this way.
5 In this case, perfor -- the Gunshot Wound A was located in 15
6 inches below the top of the head and 1 3/4 inches left of the
7 midline. And it was about 1.1 centimeter in diameter with a small
8 circumferential abrasion color, which is just a -- an abrasion
9 around the edge of the wound that's about 0.1 centimeters or about
10 a millimeter thick. And there's about a h --

11 Q And then --

12 A -- half a centimeter bruise around the entrance wound itself.

13 Q And what is the significance of the bruising around the
14 wound?

15 A That's just some soft tissue hemorrhage that is associated
16 with the gunshot wound.

17 Q Now, did you also track the path of the wound from its
18 entrance on the front of the chest to its exit in the back?

19 A Yes.

20 Q And similarly, with regard to Perforating Gunshot Wound A,
21 what did you observe about the path that projectile to --

22 A So, the -- the projectile, it passed between the first and
23 second ribs on the left side. So, it's the first intercostal
24 space. While doing that, it also fractured the first rib. It
25 then went through the upper lobe and the lower lobe of the left

1 lung. The lung left -- the left lung has two lobes, and it went
2 through both of them. It then goes through the space between the
3 ninth and the tenth ribs in the back, so that's the ninth
4 intercostal space. And it also, in doing that, fractures the
5 ninth rib, the posterior or back aspects of the ninth rib.

6 And then it exited the body through a -- One of the exit
7 wounds in the back was located 20 inches below the top of the head
8 and about 4 inches left of the midline. And it was 1.5 by 1.7
9 centimeters. And it was just an irregular wound; that's how I
10 described it.

11 Q And so, your description was that it entered at 15 inches
12 from the top of the head, correct?

13 A Yes.

14 Q So, whatever 15 would be. And it exited 5 inches below that
15 in the back.

16 A Correct.

17 Q And in terms of the path within the body, it entered the
18 space between the first rib and the second rib?

19 A Yes, --

20 Q And it --

21 A -- in the front.

22 Q -- exited at the ninth rib.

23 A Between the ninth and tenth ribs, yes.

24 Q Okay. And so, were -- based upon that, were you able to
25 determine that the wound path went front-to-back?

1 A Yes.

2 Q Downward?

3 A Yes.

4 Q And was there any directionality to it beyond that?

5 A Yes, right to left.

6 Q So it went in closer to the midline and exited further from
7 the midline?

8 A Correct, yes.

9 Q Okay. Just to be sure -- And there was no projectile in that
10 wound. It had exited the body completely; is that --

11 A Correct.

12 Q -- right?

13 In terms of the -- what you described in your report as
14 Perforating Gunshot Wound B of the left upper chest, can you
15 describe where that was located?

16 A Yes. So, that was located slightly lower, slightly more to
17 the left. It was 17 1/2 inches below the top of the head and
18 about 3 inches left of the midline. And again it was 1.1
19 centimeters in the diameter, about the same size as the other
20 entrance wound. And it does have the same 1-millimeter abrasion
21 color around it. And it has about 2 centimeters' worth of
22 bruising associated with it.

23 Q And did you make note of the corresponding exit wound for B
24 on its position on the back of the body?

25 A Yes. It exited at about 21 1/2 inches below the top of the

1 head and 4 3/4 inches left of the midline.

2 Q So that wound started at 17 1/2 [sic] inches from the top of
3 the head and exited at approximately -- sorry -- at 4 inches below
4 that in the back; is that right?

5 A Yes.

6 Q And it entered approximately 3 inches left of the midline and
7 then exited approximately 4 3/4 inches left of midline.

8 A Correct.

9 Q And again did you note the path of the bullet on the internal
10 examination as extending from the exit wound to the entrance wound
11 of Point B?

12 A Yes.

13 Q Can you describe what path that bullet took?

14 A Sure. So, in this case it perforated the third intercostal
15 space, so the space between the 1 -- left third and the fourth ribs
16 in the front. It also in doing so fractured the third rib. So, it
17 then -- it perforated the pericardial sac, which is -- it -- the
18 heart is in the pericardial sac, basically; it's just a fibrous
19 covering. So, it perforated that. It lacerated the left ventricle
20 of the heart, so kind of the left side of the heart. And it also,
21 after doing so, went through the upper and lower lobes of the left
22 lung, just like the first projectile did.

23 In exiting the body, it went into the tenth intercostal space
24 in the back, so between the tenth and eleventh ribs. And it
25 fractures the tenth rib in doing so.

1 Q And so, again the distance was: it entered somewhere
2 approximately at the third rib and exited at the tenth rib? So,
3 seven ribs' difference --

4 A Correct.

5 Q -- between.

6 Based upon that, were you able to determine that the bullet
7 path had a trajectory from front-to-back, downward?

8 A Yes.

9 Q And that went slightly to the --

10 A Right to left.

11 Q -- right. Right to left, okay.

12 Now, in addition to noting those gunshot wounds, did you
13 notice where there was any -- on the internal examination, any
14 blood located within the chest cavity itself?

15 A Yes. There was about 200 milliliters of liquid and clotted
16 blood within the chest.

17 Q And in terms of any other injuries, can you describe what
18 other injuries you observed?

19 A Sure. So, in the mid-chest there were some small superficial
20 abrasions, linear, like scratches, basically, they looked like.
21 And there were some abrasions of the left hand, right around the
22 knuckles, and same as the right hand. But nothing -- nothing
23 really major.

24 Q And again, forgive me if I already asked you this: did you
25 note his height to be 6-feet-2 on the external examination and his

1 weight to be approximately 177 pounds? I may have --

2 A Yes.

3 Q -- asked this; I'm sorry.

4 A That's okay. Yes.

5 Q Now, in terms of doing any toxicology testing, do you take
6 samples from particular areas of the body that are best-suited for
7 doing toxicology testing?

8 A Yes. We usually take samples from several parts of the body.

9 Q And in this case, what were the areas that you took samples
10 of that were submitted for further analysis?

11 A So, this case, we took blood from the iliac vein. It's kind
12 of right by the groin. That's the vessel that we get from. We
13 get -- I got blood from the pooled cavity, the blood that was in
14 the chest -- chest -- the left chest cavity; bile from the
15 gallbladder; and vitreous fluid from the eyes.

16 Q Now, as part of your duties as a Medical Examiner, do you
17 have -- do you routinely request toxicology of a common panel of
18 drugs or substances?

19 A Yes.

20 Q Is alcohol one of them?

21 A Yes.

22 Q And in addition to alcohol, what types of drugs are tested
23 for in the routine screen?

24 A There's a lot. It's pretty much anything you can think of.
25 But it covers benzodiazepines, opiates, cocaine, m --

1 amphetamines, a -- just it's a very big panel.

2 Q Okay. And in terms of the records before you, I'm going to
3 direct your attention to the portion of the record of the Medical
4 Examiner's Office that was the toxicology report issued in
5 connection with this case. Do you see that as part of the record?

6 A The toxicology report?

7 Q Yes.

8 A Okay.

9 Q Now, in terms of the iliac blood, is that considered to be a
10 reliable means of quantitating a person's toxicology results by
11 taking blood from that vein -- vessel?

12 A Yes. We usually take peripheral blood because it tends to be
13 more accurate when you're quantifying. And we usually take
14 centrally located blood that's more useful for qualifying, just
15 determining if a blood -- a drug is present or not.

16 Q And the ethanol results, what were they that you received in
17 connection with this case?

18 A In the iliac blood it was about 0.25. In the vitreous fluid
19 it was about 0.27.

20 Q Okay. And what is the -- in your experience, the distinction
21 between vitreous sample or testing of -- for ethanol and iliac
22 blood? Is one considered more reliable or --

23 A I usually rely more on the vitreous fluid. It tends to
24 preserve the true value longer than the blood would, I think, --
25 The iliac blood usually goes a little bit low. But they're both

1 fairly accurate. If you have -- If you don't have one, the other

2 --

3 Q And --

4 A -- is -- is reasonable to use.

5 Q Were these two results, 0.25 and 0.27, consistent with each
6 other based upon your experience and the --

7 A Yes.

8 Q -- differences between that?

9 Now, what specifically does the result "0.25-gram percentage"
10 mean for each?

11 A So, I guess I would describe it as the -- The typical legal
12 blood alcohol limit is 0.08. So, this would be about three times
13 the normal legal limit, if I can describe it that way.

14 Q Okay. So it is correlated to the blood alcohol evidence
15 that's admissible in, say, motor vehicle fatality cases?

16 A Correct.

17 Q Okay. Now, in addition to testing for alcohol did they
18 indicate, according to the toxicology report issued at your
19 request on the samples taken by you, were there any positive
20 substances for drugs or medications that you detected --

21 A Yes.

22 Q -- or that were detected, I should say?

23 What were the positive results, starting with the iliac
24 blood?

25 A So, in the iliac blood it was also positive for

1 benzodiazepines, specifically Clonazepam. It was positive for
2 fentanyl and cannabinoids, as well.

3 Q And what is Clonazepam?

4 A Clonazepam is a -- is a benzodiazepine.

5 Q Okay.

6 A So, it's a -- it's a central nervous system depressant.

7 Q Is it related in any way to Klonopin?

8 A I think that's the -- I think Clonazepam is the generic name
9 for Klonopin, if I'm --

10 Q Okay.

11 A -- if I remember correctly.

12 Q And in terms of the screen, was a screen done for fentanyl?

13 A Yes.

14 Q And what were the results of that?

15 A It was positive as a level of 3.0 nanograms per milliliter.

16 Q Now, is there any significance to that amount of fentanyl,
17 3.0 nanograms per milliliter?

18 A It -- It depends. It -- It really depends on the context.
19 In cases of overdoses where there's no other findings, a level of
20 3.0, with the alcohol, with the Clonazepam can be a cause of
21 death. However, people also develop tolerances to alcohols,
22 benzodiazepines, and fentanyls. So, it in this case I don't
23 believe is a causative factor of death. He may have been
24 intoxicated but I wouldn't say this is an overdose, by any means.

25 Q Okay. But you have seen results where it would not be

1 unusual to see a result in a particular case of 3.0 that would be
2 an overdose, but not necessarily?

3 A Correct.

4 Q Okay. And additionally did you also note any byproducts or
5 derivatives indicate of marijuana ingestion?

6 A Yes.

7 Q And what did you observe --

8 A The --

9 Q -- on the results, I should say?

10 A There's two specific d -- derivatives, Delta-9-THC at 6.1
11 nanograms per milliliter, and Delta-9-carboxy-THC at greater than
12 20 nanograms per millimeter -- milliliter.

13 Q And are you able to derive any information concerning when
14 that marijuana may have been ingested?

15 A I don't know.

16 Q Okay. We -- Those results don't tell that to you; they just
17 tell you that it had at some point prior to death been ingested?

18 A Correct, because marijuana doesn't metabolize very quickly.
19 It may take s -- weeks to exit a person's body. So I really don't
20 know --

21 THE COURT: What about the --

22 A -- when this was ingested.

23 THE COURT: What about the other substances and the alcohol
24 that you testified to?

25 THE WITNESS: Alcohol would metabolize at a faster rate.

1 Fentanyl and the Clonazepam would also metabolize at faster rates,
2 more so over the course of hours to maybe a day or two, whereas
3 marijuana would be weeks. So, these are -- those other three are
4 definitely a lot faster-metabolizing. We -- In -- In overdose
5 cases, specifically where a person has lived for a while before
6 passing, I usually look at these numbers as probably lower than
7 they would've been at the time that the overdose took place.

8 THE COURT: So, back to Ms. Lynch's question with regard to
9 the marijuana: are you able to tell when he digested the other
10 substances and alcohol, within -- in terms of --

11 THE WITNESS: I'd probably say within that day.

12 THE COURT: Within that day?

13 THE WITNESS: Yes, possibly a little bit longer if -- if they
14 took quite a bit.

15 THE COURT: Okay. Could it have been the day before, or
16 within that day?

17 THE WITNESS: It's possible. But it could also be possible
18 that it was consistent ingestion over several days, too. So, it --
19 it's really hard to specify.

20 THE COURT: Thank you.

21 BY MS. LYNCH:

22 Q With regard to the alcohol and the results that you saw,
23 two-seven and two-five, would it be fair to say that those results
24 would be consistent with ingestion within hours of the death?

25 A Yes.

1 Q Given the way alcohol --

2 A Yes.

3 Q -- metabolizes, --

4 A Yes.

5 Q -- in contrast to drugs.

6 A Correct, yes.

7 Q Now, during the course of your examination, as a result of
8 reviewing the results of the tests performed at the lab at your
9 request, did you cause a death certificate to be issued in this
10 case?

11 A I'm sorry; can you repeat the question?

12 Q Did you cause a death certificate to be issued in this case?

13 A Yes.

14 Q And did you certify the cause of death to be gunshot wounds
15 of the chest?

16 A Yes.

17 MS. LYNCH: At this time, Your Honor, I would offer a
18 certified copy --

19 THE COURT: Yes.

20 MS. LYNCH: -- of the death certificate.

21 [Death Certificate Marked as Exhibit No. 86]

22 BY MS. LYNCH:

23 Q Now, doctor, I believe you indicated this earlier, but it
24 was: Based upon your examination of the body, your education,
25 training, and experience, and your review of all the materials in

1 | this case, do you have an opinion to a reasonable degree of
2 | medical certainty as to what the cause of Mr. Greenough's death
3 | was?

4 | A Yes.

5 | Q And what was that?

6 | A Gunshot wounds of the chest.

7 | Q Now, in terms of a gunshot wound to the chest, can I ask you
8 | if -- I'm going to ask with the Court's permission a hypothetical
9 | question. Assume that the shooter reported that the decedent had
10 | been charging at him, and when he got within 6 feet of the officer
11 | -- the shooter, I should say -- he shot the decedent twice,
12 | causing him to the ground [sic]. And when I say "charging," I'd
13 | ask you to further assume that the description was: bent at the
14 | waist, hands in pocket, running towards the shooter.

15 | Do you have an opinion based upon your education, training and
16 | experience, and your personal observations at the autopsy as to
17 | whether the location of the entrance and exit wounds of these two
18 | wounds was consistent or inconsistent with that description?

19 | A It is consistent.

20 | Q Now, in terms of a review of the materials in this case, did
21 | you also have available to you records from the Lahey Clinic as
22 | well as from the Reading Fire Department that you considered as
23 | part of your overall assessment?

24 | A Yes.

25 | MS. LYNCH: If I might just have one moment, Your Honor.

1 BY MS. LYNCH: -

2 Q In terms of your observation of abrasions on Mr. Greenough's
3 chest, would those types of abrasions be consistent with the
4 performance of CPR in the field?

5 A There's two different -- There's two different, I think,
6 abrasions I described. There are abrasions that are consistent
7 with CPR and there are some linear-type abrasions, the scratches,
8 which may have also -- have come of CPR if they're being done by
9 hand or if someone's trying to, like, take their shirt off or
10 something like that.

11 Q Okay. And --

12 A But there are --

13 Q -- in terms --

14 A -- definitely --

15 Q -- of your description, when you look at a gunshot wound, if
16 a person is wearing a garment when they are shot, would you expect
17 to see stippling or markings on the body if there was clothing,
18 intermediate clothing between them?

19 A No, the clothing usually catches any sort of stippling that
20 would have been ejected from the barrel of the gun.

21 Q Thank you.

22 MS. LYNCH: I have no further questions.

23 THE COURT: Thank you.

24 CROSS EXAMINATION OF WITNESS, DR. ANAND SHAH

25 BY THE COURT:

1 Q So, doctor, you're able to tell, based on what you reviewed,
2 whether an individual in this case was moving at the time that he
3 was shot?

4 A I can't really tell if they're moving. I can -- I can tell
5 you whether or not a specific body positioning is consistent.

6 Q So, Ms. Lynch asked you in the hypothetical: bent over,
7 charging, "charging" meaning "moving."

8 A Sure, it could be consistent with that. But it could also be
9 consistent with being bent over and not charging.

10 Q Okay.

11 A It could be consistent with several different positions. I --
12 I'm just saying that in that description it is consistent, as well.

13 Q Okay. So you're not able to tell -- You're able to tell
14 whether somebody is standing or bent over but not whether a body's
15 in movement at the time.

16 A Correct.

17 Q Okay.

18 A I can just give you hypotheticals on positioning of a body.

19 Q All right. And before you did the examination, you knew this
20 was an officer-involved shooting?

21 A Yes.

22 Q Okay. Have you had occasion to do autopsies on any other
23 officer-involved shootings?

24 A Several, yes.

25 Q Several. Approximately how many?

1 A I'd say around five, give or take.

2 Q Are you able to give an opinion, if there is, as to -- The
3 cause of death was gunshot wounds. Was it the -- Are you able to
4 tell whether the first or the second wound was the wound that
5 caused the decedent's death?

6 A I can't really differentiate. I -- I can't tell you which is
7 -- came first, which came second.

8 Q Yeah.

9 A But I guess if I had to give a severity, I would say the
10 gunshot wound that injured the heart was the more severe --

11 Q The second.

12 A -- of the two gunshot wounds. Yes, that's --

13 Q That was the --

14 A -- Gunshot Wound B.

15 Q -- second one that you testified to.

16 A Correct.

17 Q Are you able then to say whether the first gunshot would've
18 been disabling to someone? Would they have been able to continue
19 moving after the first shot?

20 A It's possible. I can't tell you how long. But, I mean, even
21 with the second gunshot wound, a person's momentum may carry them
22 still a couple of feet, a few feet, before a person collapses. If
23 it were just the first gunshot wound or Gunshot Wound A of the
24 lungs, it -- I think he may have probably had been able to go a
25 little farther than if he were shot in Gunshot Wound B. I think

1 Gunshot Wound B would've been much more quickly disabling.

2 Q Disabling.

3 And so, there was some testimony that you gave both -- with
4 regard to life-saving measures, some at the scene and then some I
5 assume at the -- in the ambulance or at the hospital; is that
6 right?

7 A Yes. In the emergency room they did the thoracotomy. And
8 then I guess they were just doing CPR up until that point.

9 Q Okay.

10 A And they also put little catheters, needle catheters into the
11 chest. Sometimes they do that for collapsed lungs just to keep
12 the air from accumulating between the lung and the chest cavity.

13 Q And the time of death was?

14 A The time of death I believe was 5:18 p.m. Yes, 5:18 p.m.

15 MS. LYNCH: May I just --

16 THE COURT: Sure.

17 MS. LYNCH: I'm sorry. I forgot --

18 THE COURT: Absolutely.

19 REDIRECT EXAMINATION OF WITNESS, DR. ANAND SHAH

20 BY MS. LYNCH:

21 Q That -- The time, 5:19, was when he was pronounced by the
22 medical personnel; is that correct?

23 A Correct, yes.

24 Q Given the type of injury to the heart that you described, in
25 terms of the amount of time that it would take for that injury in

1 and of itself to be fatal, do you have an opinion --

2 A N --

3 Q -- between --

4 A Not long at --

5 Q -- onset and death?

6 A Not long at all. I -- It seems as if, reading the reports,
7 that he arrived kind of -- he was deceased upon arrival. He had
8 no pulses or anything like that on the way to the hospital, as
9 well. So, in cases where a heart is injured, you're looking at
10 seconds to minutes, maybe, if -- if you're -- if it's a very
11 minimal injury.

12 Q But this was not.

13 A No.

14 MS. LYNCH: Thank you, Your Honor, for that.

15 THE COURT: Thank you. Mr. Pasciucco?

16 CROSS EXAMINATION OF WITNESS, DR. ANAND SHAH

17 BY MR. PASCIUCCO:

18 Q Good afternoon, sir.

19 A Good afternoon.

20 Q My name is Peter Pasciucco. I represent Officer Erik
21 Drauschke. I just really have a couple questions for you today.

22 A Sure.

23 Q Sir, you indicated that you've conducted approximately 900
24 autopsies --

25 A Yes.

1 Q -- in your career, correct?

2 And you approximated about five of those were
3 officer-involved shootings?

4 A Yes, give or take.

5 Q Okay. Prior to conducting an autopsy in an officer-involved
6 shooting case, are you told how many shots the officer fired?

7 A If it's given to me in the reports or sometimes the --
8 whoever is at the autopsy, whatever police officers or detectives,
9 sometimes they'll say -- give me that information. But not
10 always.

11 Q Do you know if you were provided with that information in
12 this case?

13 A I don't recall offhand. I'm trying to look at the intake
14 sheet they gave us. Sometimes it has that information on there,
15 too. [Reviewing document.] So, yes, okay, according to the
16 circumstances that was provided, it noted that he was shot twice
17 in the chest.

18 Q Okay. And --

19 A That was the information I was given.

20 Q And that was consistent with your examination of two gunshot
21 wounds?

22 A Yes.

23 Q Okay. In any of the other officer-involved shootings that
24 you've -- autopsies that you've handled, were -- did the deceased
25 have more gunshot wounds?

1 A Yes.

2 Q Okay. And can you give an approximate number with respect to
3 each?

4 A Anywhere from one to over forty. There was a case I think
5 probably a couple years ago where it was about 40-plus gunshot
6 wounds, probably more.

7 Q To the same victim?

8 A Yes.

9 Q Or to the same deceased?

10 A Yes. It was from numerous officers --

11 Q Okay.

12 A -- to that person who was firing back and had, like, a
13 bulletproof vest. I don't know if you recall that from a couple
14 years ago, but that was the case.

15 Q All right. Now, with respect to the substances that were
16 recovered or that were detected in the toxicology reports, you
17 indicated that alcohol, fentanyl, cannaboid [sic] -- Is that --
18 That's marijuana?

19 A Yes.

20 Q And benzos? Was that the --

21 A The Clonazepam, yes.

22 Q Okay. Now, can an individual metabolize substances
23 postmortem?

24 A No. Generally at the time that a person's deceased, those
25 values are stable.

1 Q Okay. So, those values that were recovered from, I believe
2 it was, the -- excuse my pronunciation -- but the iliac and the --
3 Is it the vitriol [sic]?

4 A The vitreous fluid? Yes.

5 Q Vitreous. Those were, in your opinion, consistent with the
6 quantity within Mr. Greenough's system at the time of death?

7 A Correct.

8 Q Okay.

9 MR. PASCIUCCO: No other questions. Thank you, sir.

10 THE WITNESS: Sure.

11 THE COURT: Thank you.

12 Do you have an offer to make?

13 MR. KOUFMAN: Yes, Judge. I'd just like to ask some
14 questions about the effects of some of these drugs.

15 THE COURT: Sure.

16 MR. KOUFMAN: If I may.

17 THE COURT: Yes.

18 CROSS EXAMINATION OF WITNESS, DR. ANAND SHAH

19 BY MR. KOUFMAN:

20 Q Dr. Shah, my name is Victor Koufman. I represent the
21 Greenough family. And I just -- You indicate that he had
22 Clonazepam in his system; is that correct?

23 A Yes.

24 Q And could -- Is -- The effects of Clonazepam, is it to
25 relieve anxiety?

- 1 A It can be used for that, yes.
- 2 Q And is it also to calm a person down?
- 3 A Yes, it may be used for that, as well.
- 4 Q Okay. And it's also used as an anticonvulsant --
- 5 A Yes.
- 6 Q -- medication? So it's given for seizures; is that --
- 7 A Correct.
- 8 Q -- correct?
- 9 Okay. And you were talking about how long it takes for the
- 10 body to metabolize drugs; is that correct?
- 11 A Yes.
- 12 Q Are you talking about half-lives? Is that what you're
- 13 talking about?
- 14 A Yeah, half-lives are associated with that. But just
- 15 generally the overall metabolism. But that -- that's part of it,
- 16 yes.
- 17 Q And do you know, like, for -- I'm sorry -- Clonazepam, which
- 18 is -- that's marketed as Klonopin, right?
- 19 A Yes.
- 20 Q Is that correct? Okay. Is the half-life for Klonopin 48
- 21 hours? Do you know?
- 22 A I don't know exactly. But it -- it is somewhere within,
- 23 like, hours-range rather than weeks. So, that sounds like it's
- 24 familiar. But again, I'm not -- I'm not too, too --
- 25 Q And that's how long it takes for the body to metabolize the

1 drug, to get it out of the system; is that correct?

2 A Yes.

3 Q So, a person can take the drugs and the actual effect of the
4 drugs can have worn off by the time the test is done; is that
5 correct?

6 A Yes.

7 Q Now, you also mentioned -- There's mention in your report of
8 7-aminoclonazepam; is that correct?

9 A Correct.

10 Q Is that just -- That's not a separate drug, is it? That's --

11 A That's just a metabolite of Clonazepam. That's what it
12 metaboli -- That's what Clonazepam breaks down into.

13 Q Okay. So that's not a -- Okay. And then you also mentioned
14 fentanyl; is that correct?

15 A Yes.

16 Q And fentanyl is a opiate; is that correct?

17 A Yes. It's in the same type of effects category.

18 Q And it's used to reduce pain; is that correct?

19 A Yes.

20 Q And one of the effects is to make persons relax, again; is
21 that correct?

22 A Correct.

23 Q Okay. And that has a half-life, as well; is that correct?

24 A Yes. I don't know the half-life of fentanyl offhand.

25 Q You don't know?

1 A But I know, again, it's -- it's on the shorter frame, more
2 like hours rather than days.

3 Q Say, it could be 12 to 24 hours?

4 A Seems reasonable, yes, depending on the amount.

5 Q So he could've taken it 24 hours before the incident; is that
6 correct? Before the test was taken; I'm sorry.

7 A It depends. I mean, maybe have probably needed to take quite
8 a bit if it were 24 hours prior.

9 THE COURT: So, this may have already been asked, but do you
10 confirm prior to the autopsy and prior to your findings that there
11 was no use of fentanyl by either the -- any of the emergency room
12 or --

13 THE WITNESS: Right. I usually try to do that. And --

14 THE COURT: Did you do that in this case?

15 THE WITNESS: In this case, I believe he was not -- because
16 he arrived -- he was deceased on arrival, --

17 THE COURT: He --

18 THE WITNESS: And I didn't --

19 THE COURT: But they were still working on him at the
20 emergency room, right? Weren't they?

21 THE WITNESS: Right. For --

22 THE COURT: And so, would --

23 THE WITNESS: -- a few minutes. I just -- I don't recall
24 them giving him fentanyl. But I'd have to --

25 MS. LYNCH: Your Honor, --

1 THE WITNESS: -- take a look.

2 MS. LYNCH: I do have an affidavit from the --

3 THE COURT: Okay.

4 MS. LYNCH: -- Lahey Clinic doctor.

5 THE COURT: Sure.

6 MS. LYNCH: If I can offer that --

7 THE COURT: Absolutely.

8 MS. LYNCH: -- into evidence.

9 [Affidavit of Dr. Erik Wang Marked as Exhibit No. 87]

10 MS. LYNCH: It's a two-page document: cover letter and
11 affidavit of Dr. Erik Wang.

12 THE COURT: Okay.

13 MS. LYNCH: Just showing you this document. Dr. Erik Wang
14 was one of the physicians at the Lahey Hospital; is that -- Just
15 show you that here.

16 THE WITNESS: Mm-hmm.

17 MS. LYNCH: And Exhibit 87 indicates that "During the course
18 of Mr. Greenough's treatment at the hospital he was not
19 administered fentanyl or any drugs or medications, which is
20 reflected in his medical record. Although the records reflect
21 than an anesthesiologist, Dr. Kaufman, was present at bedside, no
22 anesthesia was administered to the patient."

23 Does that refresh your recollection as to whether or not that
24 information was sought in connection with this?

25 THE WITNESS: Yes, thank you.

1 MS. LYNCH: Okay. Thank you.

2 THE COURT: Thank you, Ms. Lynch.

3 Mr. Koufman?

4 MR. KOUFMAN: Judge, if I may, I'd like to ask some questions
5 about whether Gunshot A and B -- which one came first.

6 THE COURT: You may.

7 BY MR. KOUFMAN:

8 Q Which one came first, Gunshot A and B, or can you tell?

9 A I can't tell you that; I don't know.

10 Q And so -- But one of them would've been instantly fatal, and
11 the other one would not have been; is that correct?

12 A I wouldn't say "instantly." But one of them would be much
13 more, I think, rapidly fatal depending on the level of severity.
14 So, yes, I guess, the short answer. Gunshot Wound B would've been
15 more quickly fatal than Gunshot Wound A.

16 Q And you know the sequence as to how it happened.

17 A Correct.

18 Q Okay.

19 MR. KOUFMAN: I'd like to ask some -- a couple questions
20 about the hypothetical that was posed, if I may.

21 THE COURT: Yes.

22 BY MR. KOUFMAN:

23 Q You were asked a hypothetical; is that correct?

24 A Yes.

25 Q And the hypothetical was that if the shooter was actually --

1 that the shooter was standing there and then Alan Greenough was
2 bent over and he was shot, whether the wounds were consistent with
3 that scenario. And you said that was one of the possibilities; is
4 that correct?

5 A Correct.

6 Q Now, Mr. Greenough was 6-foot-2; is that correct?

7 A Yes.

8 Q And if you learned that there were indentations of the
9 bullets in a door, at the bottom of a door, approximately 2 feet
10 off the ground, given his height would you feel the same way?

11 MS. LYNCH: Your Honor, I'm going to object. I don't know
12 what his basis of knowing about gunshot wounds to cars --

13 THE COURT: What is --

14 MR. KOUFMAN: I just --

15 THE COURT: What is the basis?

16 MR. KOUFMAN: There's going to -- I believe there's -- I
17 would hope there's going to be some evidence that the bullets in
18 this case -- well, at least, there are indentations in the door
19 that were barely 2 feet off the ground. And Alan Greenough was
20 6-foot-2.

21 BY MR. KOUFMAN:

22 Q So, my question is whether or not if the bullets were
23 entering Mr. Greenough, even if he was bent over, -- whether it's
24 feasible to assume that the bullets would've ended up 2 feet off
25 the ground.

1 THE COURT: I'll let him ask the question.

2 You can answer.

3 BY MR. KOUFMAN:

4 A It's -- It's entirely -- I don't know how far the door is.

5 Q Say within -- It's within 6 feet.

6 A Within 6 feet. I mean, my physics aren't really all that
7 great. But I -- I don't see why it would be out of the realm of
8 possibility if --

9 Q Can you state to a reasonable degree of medical certainty
10 whether it would be likely?

11 A I can just say its possible. I -- I don't have the numbers,
12 I don't have probably enough description of the setting of the
13 scene to really give you with any sort of, like, certainty whether
14 or not that's consistent or not. But if I'm given a flat surface,
15 if I'm given the positioning as bent over and charging, with a
16 possibly s -- slightly downward aim, then I don't think it would
17 be impossible for bullet indentations to be 2 feet above the
18 bottom --

19 Q But you wouldn't --

20 A -- of the ground.

21 Q -- be able to say it to a reasonable degree of medical
22 certainty?

23 MS. LYNCH. 'Cause it -- Your Honor, I'm going to object
24 because it's not --

25 THE COURT: Objection's sustained.

1 MS. LYNCH: -- medical certainty.

2 THE COURT: Yeah, mm-hmm.

3 MR. KOUFMAN: Thank you, Judge.

4 THE COURT: Thank you.

5 Anything further for the doctor?

6 MS. LYNCH: No.

7 THE COURT: Ms. Lynch? Okay. All right.

8 Thank you very much, doctor.

9 THE WITNESS: Thank you.

10 [Witness steps down]

11 MS. LYNCH: I don't know if Your Honor wanted to resume --

12 THE COURT: I --

13 MS. LYNCH: -- with Mr. Perrotti.

14 THE COURT: I'd like to recess now, just 'cause I'm --

15 MS. LYNCH: Okay.

16 THE COURT: -- worried about making the garage by five
17 o'clock.

18 MS. LYNCH: Okay.

19 THE COURT: Okay? All right.

20 MS. LYNCH: Thank you.

21 THE COURT: Thank you.

22 THE CLERK: So, this matter will be continued until tomorrow.

23 MR. PASCIUCCO: Judge, excuse me. I don't know if we have
24 time to just set another date or --

25 THE COURT: Sure.

1 MR. PASCIUCCO: I think --

2 THE COURT: We can do that. Sure.

3 Thank you very much, doctor. Thank you.

4 Okay. So, Mr. Pasciucco makes a good point about setting
5 another date. So, we have June -- We have tomorrow. We have June
6 11th. I don't have my book.

7 MS. LYNCH: Your Honor, may we wait until tomorrow morning?
8 The only problem is that I am on the Forensic Science Oversight
9 Commission and we have a meeting in June.

10 THE COURT: Absolutely.

11 MS. LYNCH: There's a lot -- Okay.

12 THE COURT: We can wait until --

13 MS. LYNCH: And I --

14 THE COURT: -- tomorrow.

15 MS. LYNCH: -- don't have that --

16 THE COURT: Yep.

17 MS. LYNCH: -- with me.

18 THE COURT: Absolutely. Okay? We'll do that, set the date
19 tomorrow. All right? Thank you everybody.

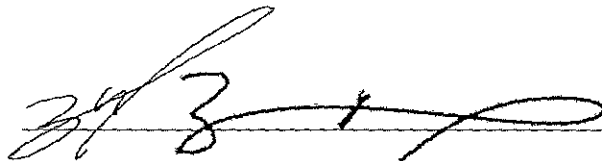
20 [Adjourned at 3:07:45 p.m.]

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October 23, 2019

Quaverly H. Rothenberg of Q & A Transcripts

22 Graves Avenue, Northampton, MA 01060

(413) 570-0033 and (925) 999-0990

QandAtranscripts@gmail.com



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DOCKET NUMBER: 1853IN000001

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| <input checked="" type="checkbox"/> simultaneous speech | 10:35:14 a.m. 12:49:49 p.m. enter time; |
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