

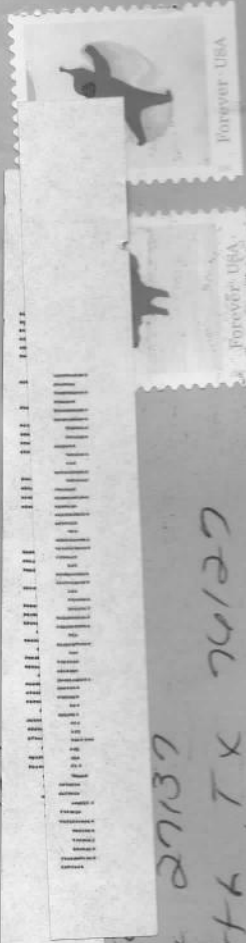
Amy
490

FMC
PO Box 27137
Fort Worth, TX 76127

CERTIFIED MAIL



7019 1640 0001 2810 2668



Legal mail

49619-379
Rudy Davis
PO BOX 2088
Forney, TX 75126
United States

Rudy Davis

7/8

124



FMC Carswell
 P.O. Box 27066
 Fort Worth, TX 76127
 Mailed: 5-5-20
 The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has neither been opened nor inspected. If the writer raises a question or problem over which this facility has jurisdiction, you may wish to return the material for further information or clarification. (4)

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THE COURT: Please be seated, counsel. I am told that all of our jurors are here, so if there is nothing that needs the attention of the Court, we would be ready to begin.

Counsel.

MR. IBRAHIM: I had a discussion with Mr. McAndrew that had to do with numbering of exhibits and it's done.

MR. McANDREW: And we provided to Nate, Your Honor, some new exhibits. They're marked 741 through 746.

THE COURT: And he's handed them up to me.

MR. McANDREW: Those are the new exhibits for a witness that will be called later today, later this morning, I should say.

THE COURT: I assume the defense has seen the exhibits?

MR. McANDREW: I E-mailed them last night. They were produced in discovery, but I E-mailed them last night. In the flurry, the state I was in, I misnumbered them one, so I gave them a new copy, re-numbered. One of them

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A2413

1 dropped out because the witness didn't see it.

2 THE COURT: I'm familiar with that
3 state having tried cases, Mr. McAndrew. Before
4 we get to that witness, we will just make sure
5 there are no objections. For now we'll go
6 ahead.

7 If Ms. Bender is present, why
8 don't we go ahead and bring her in.

9 MR. WEEDE: Yes, Your Honor.

10 THE COURT: All right. And then
11 as we're doing that, if I could ask to bring in
12 the jury.

13 Ms. Bender, you may retake the
14 stand.

15 (Jury entering the courtroom at
16 9:05 a.m.)

17 THE COURT: Good morning, ladies
18 and gentlemen of the jury. Please, be seated.
19 Again, the end of a full week of trial this
20 morning. Thank you again for all of your
21 patience and attention.

22 You'll recall we had Ms. Bender on
23 the stand. We were still on'direct examination
24 with the government.

1 Mr. Weede, you may proceed.

2 MR. WEEDE: If I may, Your Honor.

3 Thank you.

4 BY MR. WEEDE:

5 Q. Good morning, Ms. Bender. Just to
6 reorient you, I think we left off yesterday
7 afternoon looking over some e-mails and we are
8 going to continue doing that today. So we'll
9 proceed just how we were doing yesterday
10 afternoon.

11 At this point we have Government's
12 Exhibit 431, and if we could highlight the
13 bottom portion, please. And if you could look
14 towards the bottom portion where it says 7/23,
15 Pookiesmom67, would you read that portion into
16 the record, please.

17 A. Hey, Chris, seen your Facebook.
18 Are you back on? How is everything going?
19 Anything new? E-mail soon. Cindy.

20 Q. All right. So if you may recall
21 yesterday, there was an E-mail saying that she
22 had taken her Facebook down, so what does this
23 E-mail indicate? Was her Facebook up at that
24 point in time?

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A2415

1 A. I asked if she was back on, so I'm
2 not real sure if it was up or if I'm asking did
3 she put it up, because I know she was going to
4 put it up again.

5 Q. Okay. And if you could read, if
6 you look at the top portion, it's from Christine
7 Belford to you, dated July 24, 2012. Could you
8 read that in, please?

9 A. Sorry I haven't been in touch.
10 Reopened Facebook page for a while. I am dating
11 a man in the Air Force. Don't know how long or
12 serious it will be. It may just be a casual
13 thing since is very busy and he does work. I
14 hope we spend some more time together soon. He
15 is a cutie at twenty-nine years old. Talk to
16 you later.

17 Q. Can you go into your response at
18 the top, please? And that's your response also
19 dated July 24th, 2012 to Christine Belford.
20 Could you read in what you said, please?

21 A. Well, you go girl. LOL. Keep me
22 posted on that one. Glad all is good. Hope it
23 stays that way. Keep me updated on anything
24 new. Love Ya.

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A2416

1 Q. Now, if you could go to 432,
2 please. And if we could just read in the top
3 portion, first page, top portion. This is an
4 E-mail from you dated July 27, 2012. And that's
5 to whom?

6 A. Beardog.

7 Q. And that's Dave Matusiewicz?

8 A. Yes.

9 Q. And what did you write to him?

10 A. Got a message from Chris late last
11 night from Facebook. She put her page back up
12 for a bit. She's dating a new guy now.
13 Twenty-nine years old. LOL. She said he's a
14 cutie pie and hopes it becomes serious. LOL.

15 Q. 433, please. Start at the bottom.
16 This is another E-mail from you to Dave
17 Matusiewicz, dated July 27, 2012?

18 A. Yes.

19 Q. Could you read that, please?

20 A. I'm sure he will run the other way
21 once he gets to know her. LOL. Seems like all
22 of them do. Boy she gets around. I wouldn't
23 even want to share the same toilet as -- that's
24 all I see.

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A2417

1 Q. The second page, please.

2 A. Her. LOL.

3 Q. If we go back to the first page,
4 please. And your response -- and the response.
5 This is from Dave Matusiewicz to you, also July
6 27th, 2012. Could you read that in, please?

A. Okay. It's been her high school
boyfriend, her first husband, Bill Moffa, me,
* Jerald, Frank, Fran, and now the new guy. She
was born in '73. You do the math. Problem is,
her children are seeing this as this as how
women should behave.

12 Q. Next E-mail up, please. This is a
13 response from you back to Dave Matusiewicz,
14 dated July 27, 2012. Could you read that in,
15 please?
16

17 A. Yes. I know it's terrible. She
18 had to find me on Facebook. Couldn't find her.
19 Her Facebook was set to private. Amy tried
20 finding her also and couldn't.

21 Q. Could you go up -- now, when you
22 say Facebook is set to private, what do you mean
23 there?

24 A. The Facebook settings are set to

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Again -
only
concern
is the
children

A2418

1 private.

2 Q. What does that mean?

3 A. So if someone wants to add you as
4 a friend, they would have to be the ones to add
5 you because you wouldn't be able to because their
6 Facebook would be set to private. They would
7 have to contact you first. If my Facebook was
8 set to private, I would have to contact another
9 person if I want to add them as a friend because
10 they wouldn't be able to do the same.

11 Q. If they're added as a friend, that
12 means they get to see what's on your Facebook
13 page; right?

14 A. Yes.

15 Q. And this is from David Matusiewicz
16 to you, again, July 27th. And what does that
17 say?

18 A. So she looks up your Facebook
19 account and sends you info.

20 Q. And the E-mail above it, this is
21 your response, same date?

22 A. No. She added me as a friend on
23 her Facebook a while ago, so when she gets on
24 all she has to do is message me from there and

1 it goes to my Facebook page, then to my phone.

2 Q. 436, please. So I would like to
3 focus just on the second E-mail there. It's
4 fair to say that this exhibit has another series
5 of e-mails from you and Christine Belford; is
6 that right?

7 A. Yes.

8 Q. And this is dated August 2nd,
9 2012. And here we have an E-mail from Christine
10 Belford to you?

11 A. Yes.

12 Q. Could you read in, please, the
13 first -- from Hi, then the first three
14 paragraphs.

15 A. Hi. Actually switch gears again,
16 back with Jerald. Ex number three. LOL. Yes,
17 he is concerned for me as well, but will be
18 around if I need him. We are not living
19 together, but dating. I plan on obtaining a gun
20 prior to 9/5 with a trigger lock so kids don't
21 get it and practice.

22 Q. Stop there. What's the
23 significance of 9/5, do you know?

24 A. That I'm not sure.

1 Q. 437, please. Second page. Start
2 from the bottom, please. This is from you to
3 Dave Matusiewicz, dated Friday, August 3rd,
4 2012. Could you read that in, please?

5 A. So are you like mad at me or
6 something? Am I e-mailing too much? Do I need
7 to back off for a while?

8 Q. Can we go back up to the response,
9 please. And that's from David Matusiewicz?

10 A. No, just gearing up for the coming
11 battle with the ex. Don't want to end up back
12 in jail, but I want to be involved with raising
13 my children. Your pics and videos are great.
14 Keep them coming. Just wish we could talk on
15 the phone or video chat like I can with my other
16 friends. Look into it.

17 Q. First page, please. Just go up,
18 if you can, Special Agent Gordon. This is from
19 you to Dave Matusiewicz, August 3rd, 2012.
20 Could you read that in, please?

21 A. I did some but didn't find much
22 with my phone. I don't want to be a pest. If
23 you have other things to deal with right now,
24 just let me know when you can talk and you're

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A2421

1 not busy. I'll be here.

2 Q. All right. He responds okay. If
3 you could go up -- there is the okay.

4 If you go up to the next E-mail,
5 please. And this is from you to Dave
6 Matusiewicz, the same date and it says what?

7 A. Oh, yeah, Chris is with Jerald
8 again.

9 Q. And then go up, please. Dave's
10 response, same date, can you read that, please?

11 A. Are you seeing this online
12 somewhere?

13 Q. And your response, same date?

14 A. No, she messaged me on Facebook.

15 Q. This is from David to you, the
16 same date. What's it say?

17 A. What's her Facebook account.

18 Q. If you go up the last one on the
19 top, there, please. From you to David, same
20 date?

21 A. Yes.

22 Q. Go ahead.

23 A. She's just under Christine
24 Belford, but she is set to private so she would

1 have to find you and add you.

2 Q. And when you're saying set to
3 private there, that's what you previously
4 described to the jury?

5 A. Yes.

6 Q. 439, please. Another e-mail from
7 you to David dated August 3rd to you.

8 A. Well, I'm glad she does send me
9 pics and give me info on them. At least you
10 will know some things about them and see pics.
11 Is there any other family members or friends who
12 can help you stay in touch with them?

13 Q. And then in the first sentence
14 there, who are you referring to there?

15 A. The girls.

16 Q. And if we go up to the next
17 response, please. This is from David
18 Matusiewicz to you, same date, August 3rd.

19 A. There has been a private
20 investigator watching my children since they
21 were returned to their abusive mother's care,
22 multiple friends, patients, et cetera, have seen
23 the girls and kept in touch with them too to see
24 how they are doing. I was a well respected eye

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A2423

1 physician in the community where my children
2 live. Wouldn't you take advantage of all your
3 contacts if you were me?

4 Q. 440, please. If we could start at
5 the bottom, this is an e-mail from you to David
6 dated August 5th. Could you read that in,
7 please?

8 A. Glad you get to do all the fun
9 things now with your family that you missed out
10 on.

11 Q. Go up to the next one, please.
12 And this is from David to you dated August 5th.
13 Could you read that in, please?

14 A. Yeah. Catching up with everyone
15 is fun. So far no one's got in any problem with
16 what I did to protect my daughters. Just seems
17 the ex has all the public backing and has the
18 Delaware court lawyers snowed. Time to fix
19 that.

20 Q. Go up to the next one, please.
21 And you respond back to David, same date?

22 A. Yeah. I hope it works out in your
23 favor.

24 Q. Go up to the next one, please.

That's a response from David same date.

A. Yes. It will.

Q. And if you go up to the next two e-mails, please. Fast forward this a little bit. At the bottom there it's your response back to David and you say, where it starts so?

A. So what do you have to do to get things started now on that?

Q. And his response same date where it says I started --

A. I started at 3-13-09 when I was arrested.

Q. And then you say?

A. So what are you waiting for? Word from a lawyer or something?

Q. 441, please. No. 441?

MR. WEEDE: Switch gears here for a second, Your Honor. If I could have the Elmo, please. This is exhibit 441.

BY MR. WEEDE:

Q. And looking to the bottom, this is an e-mail from you to David dated August 13th, 2012.

A. Yes.

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A2425

1 Q. Could you read in this portion,
2 please.

3 A. Do you know how to maneuver around
Facebook? Is Amy there? Maybe she can help
you.

Q. And then David's response?

A. This will be between you and me
only.

9 Q. And your response back to David
10 also dated August 13th.

11 A. Okay. Just text if you need help.

12 Q. Go ahead.

13 A. Do you want me to continue to read
14 the whole thing? Okay. Next e-mail
15 pookiesmom67@hotmail.com password cinnabon. Let
16 me know when you're done or if you need me.

17 Q. What's this e-mail about?

18 A. I was going to let him into my
19 Facebook account.

20 Q. 442, please, starting at the
21 bottom. E-mail from you to David dated August
22 13th.

23 A. Let me know if you found her.

24 Q. And what are you speaking about

Cindy
suggesting
Face Book
not
David

there?

A. Christine.

Q. Up, please. That's from you --
David to you, same date.

A. I'll think about how to do this.
Thank you. Happy, happy, happy, happy.

Q. Go up to the top. That's from you
to David, August 13th. What do you say?

A. What do you mean? Just get on and
look at your girls.

Q. And then look at the top. There's
a response from David and it says what?

A. It sent in confirming code to your
phone.

Q. Go up, please. You back to David,
August 13th.

A. I didn't get anything.

Q. Now, what are you talking about
here?

A. He was trying to get in my
Facebook account and I had ended up blocking
him, because I decided that I didn't want him to
have my information and for Facebook, to let
another person log into your account from

1 another state or device, it will send you a
2 notice on your phone to okay it or not okay it,
3 so I didn't okay it.

4 Q. All right. If we could go up
5 then, please. So David says back, give it a few
6 minutes. It's August 13th.

7 A. Give it a few minutes.

8 Q. Okay. And you respond what?

9 A. That doesn't make sense. You
10 should just sign in. Hang on a minute.

11 Q. David sends an e-mail back to you
12 same date?

13 A. Facebook doesn't recognize my
14 location. Sent code to confirm to your phone.

15 Q. And then you said back on August
16 13th to David what?

17 A. Oh, wow. I didn't know it checked
18 that.

19 Q. Now, was that an accurate
20 statement, ma'am?

21 A. No.

22 Q. And then David responds on August
23 13th?

24 A. Oh whatever, it will ask you to

1 identify pics of your friends you posted or ask
2 you questions to identify you, that's all. Just
3 security for Facebook.

4 Q. And finally the top one, please?

5 A. Go? Still nothing.

6 Q. All right. So if we could go to
7 443, please. And I just need to look at the top
8 two e-mails, please. I'd like you just to start
9 with if we could go to where it starts any time
10 you're e-mailing or you log on --

11 A. Okay.

12 Q. Go ahead. That's from David to
13 you dated August 13th, 2012.

14 A. Any time you're e-mailing or ya
15 log onto a website, the site sends a piece of
16 info back to your computer so it logs who you
17 are and where you are and what PC you log in
18 from. It's called an IP address for internet
19 protocol.

20 Q. And then you're response at the
21 top, please?

22 A. Oh, I didn't know. I'm sorry.

23 Q. Now, is that true, you didn't
24 know?

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A2429

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A. I knew.

Q. If you go to 444, please. Sorry, Exhibit 444, please. This is the following day, August 14th, 2012, from you to David, could you read this in, please?

A. Hey baby. Hope I didn't wake you. Just wanted to tell you I got something from Facebook. It said suspicious log in has been detected or something and then it made me change my password because I couldn't log on it. LOL. So I didn't know if it will let you in or not. New password, starry85. Let me know. It didn't tell me to verify anything.

Q. Why did you send this e-mail?

A. So he could try to get into it again, but he couldn't because I changed my password.

Q. What password did you change it to?

A. It was my dog's name.

Q. Exhibit 447, please. This is dated September 2nd, 2012, e-mail from you to Christine Belford; is that right?

A. Yes.

Cindy suggesting a and time Dave to try again

1 Q. If you could read this in, please.

2 A. Hey Chris, just wondering once
3 David is a free man will he be able to leave
4 Texas. I know he will have a probation officer
5 that he will have to ask permission to go
6 anywhere or do anything, but do you think they
7 would actually let him leave the state to go
8 someplace? What if he came to Delaware or
9 something? Just so worried bout you guys.

10 Q. That's from Christine Belford,
11 September 2nd to you?

12 A. He will be on federal probation
13 for five years. Don't know about mobility yet.
14 Plan on buying a gun as soon as I have extra
15 money. Will worry about explaining to kids why
16 I shot their dad if it ever came to pass. I am
concerned as well. Not many people seem to
recognize the threat.

Q. And if you could go up to the top,
that's your response. That's from you again,
September 2nd, to Christine Belford. Could you
read that in, please.

A. I know. That's why I was hoping
they at least make him stay on probation for a

*Cindy
instilling
fear in
Chris
why?
jealousy
she said
it.*

*Again if
she really
was scared
or felt
truly
threatened
why no
PFA charges
etc?*

1 long time before he's allowed to go anywhere.

2 Q. So what's going on around this
3 time with David, do you know?

4 A. I believe he's going to be
5 released.

6 Q. I mean, is that what your
7 recollection is?

8 A. I think so.

9 Q. Okay.

10 A. Or he was released if they said
11 that for him to stay on probation, maybe he was
12 already released.

13 Q. Ma'am, only what you know, that's
14 all you can testify to.

15 A. Okay.

16 Q. Could you go to 448, please. All
17 right. This is an e-mail from David Matusiewicz
18 to you September 3rd, 2012. Can you read that
19 in, please?

20 A. They asked if I'd be staying at
21 the job I'm at now. Gee, I can make what I make
22 in a year as a regular employee in a week as an
23 optometrist. What do you think?

24 Q. And if you could go up, please.

1 It's from you to David. Saying?

2 A. I know right. LOL.

3 Q. And if you could go up. From
4 David to you, September 3rd. Could you read
5 that in, please?

6 A. Also the fact that the halfway
7 house takes a fourth of my income. No way I was
8 paying them to keep me in prison what I'd make
9 as an eye doc.

10 Q. And then you respond, September
11 3rd, what do you say?

12 A. Just hope you can doctor again
13 somewhere?

14 Q. And then his response on September
15 3rd?

16 A. State of Delaware says I owe them
17 like 80K in back child support. This is the
18 same state that terminated my rights to
19 visit/contact/parent my children.

20 Q. 449, please. And this time I just
21 need to second E-mail from the top, please.

22 This is an E-mail from David to you, September
23 3rd, 2012. Could you read that in, please?

24 A. You got to remember my credit's

They were
taking
David's
entire
paycheck as
a waiver for
child support
so he couldn't
pay the 1/2
way house.

1 shot anymore. Can't open a bank account. Can't
2 get a credit card. Lots of can't after I
3 protected my daughters by taking them away.

4 Q. 451, please. If you could just
5 look through this E-mail chain. First, before
6 we start, Ms. Bender, it's fair to say that you
7 and David were having an E-mail discussion about
8 Christine Belford?

9 A. Yes.

10 Q. If we could go to just the top two
11 e-mails. First, this is from David to you,
12 September 6, 2012. Could you read that in,
13 please?

14 A. Someone whose's not mentally ill
15 doesn't abuse their own child to get their ex
16 husband. She knew exactly how to push my
17 buttons.

18 Q. And then fair to say you say
19 something negative about Christine in response?

20 A. Yes.

21 Q. 452, please. This is an E-mail
22 dated at the bottom, September 19th, 2012. And
23 this is an E-mail to Chris Belford; is that
24 right?

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A. Yes.

Q. If you could read this in, please?

A. Hey, Chris, hope all is well with you and the girls. Anything new? Just wanted to let you know we just found out that I'm going to be a grandmother. My daughter just found out she is expecting. We are praying all goes well with this pregnancy since it's been fourteen months since she lost the last one. Hope you and the girls and grand baby are all doing good. Just wanted to share the news.

Q. And then the response, please?

This is from Christine Belford to you, September 21st?

A. Hi, Cindy. I am excited to hear about your daughter. I will keep her in my thoughts and prayers. I think a year plus is a good wait for the body to rest and recover. Nothing new here. Still trying to find that second job. Received a little child support from David. Must be condition of his probation. Doubt he would do it otherwise. Take care and keep me posted.

Q. And then at the top, you respond?

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A2435

1 A. I will, Chris. Wow, glad to hear
2 about the child support. You and the girls
3 deserve it. Hope it keeps coming. You keep me
4 posted, also.

5 Q. Now, if you could go to 453,
6 please. We're only going to do the top two
7 e-mails. Then there is a note from David,
8 September 21st to you, what does that say?

9 A. What did Chris have to say?

10 Q. And if you could read in your
11 response, also dated September 21st?

12 A. Not much. Wanted to congratulate
13 me about Jade having a baby. Said not much new
14 for her way except she received a little child
15 support from you. She said she figures it's
16 condition of your probation because you would
17 not support your kids otherwise. Sweet of her,
18 huh?

19 Q. 454, please, starting at the
20 bottom, second page. This is dated -- this is
21 from you to David dated October 4th, 2012. And
22 could you read in the last three lines, please?

23 A. Why didn't you put an updated pic
24 of you as your profile pictures?

Q. What are you referring to here?

A. On his Facebook profile as his picture, he had a younger picture of him when he was a lot younger.

Q. Okay. If we could go up, he responds why. Now, I want to you look at something here. This is the same E-mail, Beardog1985@yahoo that you have been using from David Matusiewicz?

A. Yes.

Q. You notice there is a name in there that says Jon Smythe?

A. Yes.

Q. Do you have any idea where that came from?

A. No. The only thing I can think of he was using it as a name to cover --

Q. Ma'am, you can only testify about what you know. But do you know where that name came from?

A. It came from David.

Q. Okay.

A. It was him.

Q. All right. So then your

1 response -- and then you respond back to Beardog
2 and you say, IDK.

3 What does that mean?

4 A. I don't know. So everyone who
5 hasn't seen you forever can see what you look
6 like.

7 Q. Then go up to the top, that's a
8 response back from David to you, October 4th, it
9 says what?

10 A. Figured most of the people I want
11 to share Facebook stuff with will know me since
12 the photo was taken.

13 Q. And then you go back and forth and
14 talk a little bit about -- if you could pull
15 that up, Special Agent Gordon. Just to
16 summarize this, if you go to the first page,
17 please. If you could just look at this, ma'am,
18 it's fair to say that you're going back and
19 forth about what's on his Facebook page?

20 A. Yes.

21 Q. All right. Now, if you can go to
22 the top portion of the E-mail there, please.
23 There we go. And if you could focus on the
24 bottom E-mail, sent from Jon Smythe, Beardog1985

1 to you, dated October 4th, what does he say?

2 A. I doubt the ex will be checking me
3 out on Facebook anyway. She thinks she's won.

4 Q. The E-mail, your response, dated
5 10/4/2012?

6 A. Oh, trust me, she will if she
7 knows you are on. She will want to know if
8 there is anything about her on your Facebook on
9 the girls.

10 Q. 455, please. And if you could
11 just look at the bottom portion of this E-mail,
12 sorry, it's a little bit jumbled up there. This
13 is from you to Beardog, also dated October 4th.
14 If you look at the subject line it says at the
15 bottom, hungry. Do you see that?

16 A. Yes.

17 Q. Hungry? Just back from the gym.
18 Steaks are cooking.

19 A. Yes.

20 Q. Do you know what this is referring
21 to?

22 A. He was back from the gym.

23 Q. All right. So if you can go up to
24 the top portion there where it says, start where

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A2439

1 it says, Cool. Seen your Facebook today. Do
2 you see that?

3 A. Yeah.

4 Q. Does that put it in the context
5 for you?

6 A. Yeah, now it's highlighted. Cool,
7 seen your Facebook today.

8 Q. All right. And then if you could
9 go up to the top, please. This is from you,
10 again, same date, to Beardog1985. Could you
11 read that in, please, it says fist time?

12 A. Fist time I seen it online -- I
13 think it's supposed to be first -- would have
14 added you but don't want Chris to see and not
15 let me talk to the girls.

16 Q. What does that mean? What would
17 adding you, what are you referring to there?

18 A. Add him as a friend to my
19 Facebook.

20 Q. What do you mean by would have
21 added you, but don't want Chris to see?

22 A. I don't want her to know that I
23 was talking to David.

24 Q. All right. So, ma'am, it's fair

to say that in October, the relationship you have with Dave Matusiewicz gets a bit rocky?

A. Yes.

Q. All right. And can we have 456, please. And if you could just orient yourself to the second page. We don't need to read all this into the record, but what's this E-mail about?

A. He want me to keep sending more pictures and things. And I got to the point where I just really didn't feel like doing it. So I tried to back off. And when I did, he got very aggravated and mad.

Q. Can we go to the first page of 456, please. Actually, let's go back to the second page. Did there come a point where he -- strike that.

Let's go back to 476. I apologize, I'm jumping around here. Page one. Sorry. And if you go to the E-mail, the second from the top, please. And could you read in, this is dated -- this is from, the E-mail address says Jon Smythe, but it's Beardog1985, dated October 9th to you. Could you read that

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A2441

1 in, please, starting where it says, You?

2 A. You are a text message and some
3 pics and vids you send when you're in the mood.
4 If we were good friends, I would be able to pick
5 up the phone and call you whenever I wanted.
6 Don't kid yourself, I'm the guy you cheat on
7 hubby with, nothing more. As to my girls, I've
8 told you before I've got many people watching
9 them. Leave them out of this. Your point is
10 made. As to playing again, you can keep it.
11 Hope you and hubby are very happy together.
Laughing my ass off.

so where
is this
subsequent
email to
put it all
in paper
context.

Q. Is it fair to say that after this
E-mail, and then a subsequent E-mail, your
online relationship with Dave Matusiewicz
stopped?

17 A. Yes.

18 Q. And did there come a time after
19 that when you spoke with Christine Belford?

20 A. Yes.

21 Q. And about when did that happen?

A. It was two days after I had gotten
the E-mail from David. I don't believe you have
that one. I'm not sure. He had E-mailed me and

you mean to
tell me that
the govt
has all of
these emails
but they
didn't produce
this one...
seriously

1 told me not to contact him or Chris or his girls
2 anymore or he would contact my husband and my
3 daughter. So after that E-mail was sent, I
4 believe it was in January -- no, I'm wrong,
5 October, around the 26th or 28th of October, and
6 that's when I ended up telling my husband
7 everything and Chris everything. I told my
8 husband that night, and Chris a couple of days
9 after.

10 Q. Ma'am, do you need a minute?

11 A. No.

12 THE COURT: There is some
13 Kleenexes right to your right, ma'am.

14 Q. Now, if I could have you focus, I
15 know it's hard, if you could just focus on what
16 you said. You told Christine everything?

17 A. Not everything, no.

18 Q. And what does that mean?

19 A. I told her that I was in contact
20 with David, that we had sent pictures back and
21 forth. I did tell her that he did want some
22 info from her about the girls and stuff, but I
23 did not give him any contact information, like I
24 would never give him any phone, phone numbers or

pay
attention
because
the story
changes...
She later
admits
she basically
made this
up.

1 any e-mails or any regular house addresses,
2 anything like that, but no, I didn't tell her
3 everything that I was giving him, other
4 information.

5 Q. Okay. And what was her reaction?

6 A. She was actually understanding.

7 Q. Of you?

8 A. Yes. She said I understand,

9 Cindy. I understand how it is, I lived with it
10 for a very long time. She says and I understand
11 that you were afraid the minute mentioned your
12 daughter.

13 Q. 457, please. This is an e-mail
14 again from John Smythe to you. This is January
15 21st, 2013, and could you read this in, please?

16 A. Yes. Just for your information,
17 your buddy Chris has gotten her hands on some of
18 your e-mails. Her new boyfriend is apparently
19 pretty handy with spying on people through their
20 phones. Thought you'd like to know.

21 Q. To your knowledge, had Chris
22 gotten any of your e-mails.

23 A. No, I talked to Chris and she said
24 I don't know what he's talking about because my

1 boyfriend has no idea how to do a whole lot with
2 a computer.

3 Q. 319, please. Now, after that
4 October, late October discussion that you had
5 with David, I think you said that your online
6 relationship stopped?

7 A. Yes.

8 Q. I'd like to point to what I
9 believe is the last e-mail or text message you
10 received from him.

11 A. Yes. It says I'll be up your way
12 in the next few weeks. Lots going on you should
13 know about. Don't write back if you don't want
14 to meet.

15 Q. What's the date?

16 A. January 26th, 2013.

17 Q. Did you write back?

18 A. I did not.

19 MR. WEEDE: Your Honor, if I may
20 have a moment.

21 THE COURT: You may, Mr. Weede.

22 MR. WEEDE: Your Honor, I tender
23 the witness.

24 THE COURT: Who wants to proceed

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A2445

1 for the defense?

2 MR. IBRAHIM: I'll go first if I
3 may, Your Honor. Good morning.

4 BY MR. IBRAHIM:

5 Q. Good morning, miss. How are you.

6 A. Good morning.

7 Q. My name as Jeremy Gonzalez
8 Ibrahim. I represent Amy. I just have a few
9 questions for you. If any of my questions are
10 unclear, let me know, okay?

11 A. Okay.

12 Q. If any of my questions are a
13 little bit too personal, let me know. I can try
14 to rephrase it. I'm not trying to do that, but
15 as I'm sure you've seen, a lot of your personal
16 life has been uncovered here; is that fair?

17 A. Yes.

18 Q. Ms. Bender, do you recognize these
19 two individuals?

20 A. No, I do not.

21 Q. Would it surprise you if I told
22 you that was Juan, Amy's husband and Tatiana
23 Gonzalez, Amy's daughter?

24 A. Yes. I haven't seen them.

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Q. Okay. It's accurate to say that the last time you physically saw Amy was back in high school?

A. Yes.

Q. Is it also correct that if I remember your testimony correctly, and please correct me if I'm wrong, at some point you learned about David's troubles and through that process, at least at that time, you decided you wanted to get back in contact with David?

A. Yes.

Q. And the best way you knew how to reach him, because he was in prison, was to try to locate Amy; is that fair to say, at least at that time?

A. Could have been, yeah, but I believe I got a link, an e-mail first.

Q. Okay. Are you talking about from Ms. Belford?

A. No. From the prison.

Q. Understood. And then at that point you somehow were able to get in contact with Amy, correct?

A. Yes.

1 Q. And when you first contacted her,
2 you did indicate, if I'm accurate, sometimes you
3 spoke on the phone, but the majority of times it
4 was e-mail; is that right?

5 A. Yes.

6 Q. And the purpose that you had
7 behind contacting Amy in truth was actually to
8 be able to communicate with David?

9 A. Yes.

10 Q. Okay. And you made that pretty
11 clear during your testimony?

12 A. Yes.

13 Q. Now, let me just jump ahead just a
14 little bit. There came a time when you learned
15 David was now out of prison, correct?

16 A. Yes.

17 Q. Prior to that time, you were
18 contacting him using Amy as a conduit; is that
19 fair to say?

20 A. Yes, at times, yeah.

21 Q. But eventually when he came out,
22 he had his own e-mail so you were able to
23 communicate directly?

24 A. Right.

1 Q. Now, in your communications with
2 David, is it correct to say that you got
3 information that when he was first released for
4 a short period of time, he stayed with Amy, Juan
5 and Tatiana?

6 A. Yes.

7 Q. And then ultimately he moved in
8 with his parents in Edcouch, Texas, or that he
9 moved?

10 A. He moved. I wasn't sure if he was
11 with his parents or whatever.

12 Q. Okay. I'd just like to go through
13 some of the e-mails that you had with Amy.

14 A. Okay.

15 Q. Going to be a little less
16 sophisticated, though. I'm going to use a pen
17 and this machine.

18 A. That's fine.

19 Q. Now, this e-mail.

20 THE COURT: What's the exhibit
number, Mr. Ibrahim, just for the record?

MR. IBRAHIM: Your Honor, I'm
going to use the Government's exhibits number.
They are already on there.

1 THE COURT: 371.

2 MR. IBRAHIM: 371. Thank you.

3 I'll make sure I do that going forward, sir.

4 BY MR. IBRAHIM:

5 Q. This is an e-mail from you to Amy,
6 correct?

7 A. Yes.

8 Q. And it's right around the time you
9 first started communicating with Amy by e-mail;
10 is that fair to say?

11 A. Yes.

12 Q. Now, during the communication with
13 Amy, you knew she was a nurse, correct?

14 A. I did, yes.

15 Q. And you knew that she worked a lot
16 of hours, correct?

17 A. I wasn't sure how she worked, no.

18 Q. Okay. Did you get some e-mails
19 from her at all different times?

20 A. Yeah, different times, yeah.

21 Q. So sometimes really early in the
22 AM and sometimes in the evening?

23 A. Could have been, yeah,
24 depending -- whenever I checked them they were

there.

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Q. Okay. I'd like you to read that e-mail that I have up. Can you see it clearly on your machine?

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A. Hey Amy, hope all is well with you. I just wanted to tell you I got an e-mail from corrlink from prison. David wanted to add me to his list so we could e-mail. I'm sure you got one. We did. I talked with him today and was very happy to hear from him. Then tonight got a corrlink message saying he wanted to remove from his list. Could you please find out why? I don't think I said anything wrong or anything to upset him. We didn't even talk about much. I didn't even mention the girls. Not real sure what you can talk about on there with him, you know. Anyway it really hurt me. Please let me know if you hear anything.

19
20
21
22
Q. I know it's emotional. You talked about when the relationship was over with Mr. Weede. I'm obviously taking you back to the beginning, right?

23
A. Right.

24
Q. So at this point you had feelings

1 for David as you testified and for whatever
2 reason you assumed that since you couldn't talk
3 to him, you might have done something?

4 A. Right.

5 Q. Next I'd ask you to take a look at
6 what's been marked as Government Exhibit 373.
7 Can you please read that?

8 A. Hey Amy. Hope all is well.

she started
passing us
messages
at her
own free
will...
unprovoked.

Anything new going on your way? Just wanted to
tell you let Dave know that I sent Laura her
birthday card and when she got it she was so
happy to get the money I sent her that she sent
me a thank you card right back in the mail that
she made herself. I was so happy to get that
15 from her. It made me cry when I read it. She
16 said she hopes one day she can meet me and that
17 she's saving her money to get a new puppy. She
18 seems to be doing well, but of course I'm not
19 there. Just let Dave know that I heard from her
20 and that I continue to keep in touch with the
21 girls. Let me know how things are at your end.
22 Send my love to everyone. Cindy.

23 Q. At that time your motivation from
24 sending the card was different than the way you

ended up feeling toward the end, right?

A. Yes.

Q. If you ever need to take a moment, let me know.

A. I'm fine.

Q. At that time you were sending the card because you were acting on behalf of David based upon something he wanted you to do and it's security simply sending some kind of greeting card?

A. Actually it was something I wanted to do also, yes.

Q. And based upon him telling you it's for his daughter, you sent the card and you also sent a little gift?

A. Yes.

Q. And that was about May 28th of 2010, right?

A. Yes.

Q. Next, Ms. Bender, it's Mrs. Bender, right?

A. Married, yes.

Q. Yes. Mrs. Bender, could you look at what I'm putting up on the Elmo. It's marked

Turn to the next page. And David

1 as Government Exhibit 374. Now, this is an
2 e-mail reply to you on June 24th, 2010, from
3 Amy, correct?

4 A. Yes.

5 Q. Could you read what was written to
6 you?

7 A. I am but that is what I was told
8 during this mediation meeting. If David gets
9 his parental rights revoked then basically all
of our rights as relatives are revoked as well.
Sucks doesn't it. I can't even imagine not
being able to see my girls again. I just want
Tati to be able to play with her cousins again.

David +
I always
wanted to
raise our
children
to be
close.

15 Q. Okay. Now at that point you
16 understood that Amy was referring to
17 communication between the cousins, Tatiana and
the girls, correct?

18 A. Yes.

19 Q. Next I'd like you to take a look
20 at what is marked as Government Exhibit 385.
21 And this is an e-mail starting off at the bottom
22 from you to Amy on or about September 18th of
23 2011, correct?

24 A. Yes.

1 Q. All right. Could you read what
2 you said to Amy?

3 A. Yes.

4 Q. Could you read what you said to
5 Amy?

6 A. Amy, I got this card from Leigh.
7 She thanked me for sending a birthday card and
8 money to her and she signed the card herself.
9 Dave wanted to see the card because he wanted to
10 see how her writing was progressing. Please
11 copy and send it to him. Thank you.

12 Q. That's referring to the previous
13 card that you had sent her; correct?

14 A. Yes.

15 Q. And ultimately you had hoped,
16 again, because you had feelings for David at
17 this point, that Amy would send that card on to
18 David; correct, because you asked her to?

19 A. Yes.

20 Q. All right. Could you just read
21 what Amy's response is to you?

22 A. Thank you so much for the card
23 from Leigh. I will print a copy and send it to
24 Dave. Is it true that Chris and her husband are

*Innocently
wanting to
see the
progress of
his child's
writing.
He wouldn't
even know
about the
card unless
chidy told
him.*

1 separated and that she has a new boyfriend? Do
2 you know what is going on with them? I feel
3 really sad for the girls whom this will affect
4 the most. Men are just coming in and out of
5 their lives. Who knows what is up with this new
6 one. Take care and thanks again.

7 Q. You're a mom and you are a
8 grandmom, believe it or not; correct?

9 A. I am a grandmom.

10 Q. What Amy was referring to in here
11 in the course of your communication with
12 Ms. Belford, she had a number of different
13 paramours; correct?

14 A. Excuse me, number of?

15 Q. Boyfriends?

16 A. Yes. Sorry.

17 Q. All right. Ms. Bender, I'm going
18 to ask you about some e-mails that are on
19 Government Exhibit 386.

20 Now, if you want to take a look at
21 your first E-mail, you don't have to read it out
22 loud. It's correct to say that you're still
23 talking about a card, the card that you had
24 sent, but to another one of the girls?

A. Yes.

Q. This was about September 18th,

11; correct?

V T PR
date
8/18/11

A. Yes.

Q. And all during this time, Amy is

Texas while you're e-mailing her; right?

A. Yes. I believe so, yes.

Q. Now, can you read Amy's response,

just the part that I have highlighted?

A. I got a card from Laura that says

she wants to know when Tati's birthday is so

that she can send her a card. We are going to

send her a card back today.

Q. If I'm correct, correct me if I'm

wrong, that's referring to one of the girls,

Ms. Belford's daughter sending a card over to

Amy's daughter, Tatiana?

A. Yes, sir.

Q. Now, that same exhibit, I would

just like you to go up to the part I have

highlighted. That's an E-mail from you to Amy

on or about September 21st, 2011; correct?

A. Yes.

Q. Let me ask you, it says, Thanks

Turn to the next page

This is the card
Laura sent after the
Termination of
Parental Rights.
Did anyone actually
sit down + explain
to this child that
by law we are
no longer her
family... not even
Tatiana?

1 lady. Now that I have all of you back in my
2 life, I'd hate to lose you all again.

3 You're referring to Amy and her
4 family, Amy and David, who are you referring to?

5 A. Amy and David, yeah.

6 Q. And you meant that at that time?

7 A. I did.

8 Q. I'm next going to ask you to take
9 a look at what's been marked Government Exhibit
10 388. Starting off at the bottom, it's an E-mail
11 dated November 8, 2011. Okay? And it's about
12 one o'clock in the morning from Amy to you;
13 correct?

14 A. Yes.

15 Q. Okay. In that E-mail, Amy talks
16 about requesting information about Christine
17 Belford's telephone?

18 A. Yes.

19 Q. I want you to read what Amy said
20 to you.

21 A. Hey there, girl.

22 Q. In the highlighted. If you could
23 read the whole thing, Hey there girl.

24 THE COURT: You may need to move

it over on the Elmo.

A. Hey there, Girl. I just wanted to see if there was any way that you could give me Christine's cell number or house number. I would never tell her that you gave it to me. I will tell her that I got it from one of her coworkers at the office or some other story like a PI, et cetera. Laura called me for Tati's birthday, but they called from a blocked number and all numbers that I have for Christine's cell phone, house phone, and Jerry's cell phone are all disconnected. Tati wants to talk to her cousin. Please let me know.

Q. So what's going on here is Amy wants Christine's number so Tati can call Laura and talk; correct?

A. Yes.

Q. Now, at this point if I understood your direct testimony correctly, you really didn't want to give out Ms. Belford's telephone number; right?

A. Yes.

Q. So in the E-mail response to Amy, which is November 8th, at 12:24 a.m., because

Again
Laura
called Tati
after
Termination
of parental
rights

I thought
maybe
she is
reaching
out to
me for
help.
possibly

1 you're in West Virginia, which is a different
2 time zone than Texas?

3 A. I think it's an hour or so.

4 Q. Right. You essentially tell her,
5 hey, why don't you either E-mail her back or
6 just send a card; right?

7 A. Yes.

8 Q. Why don't you go to your E-mail
9 and read what you told Amy?

10 A. Starts from Hey lady.

11 Hey Lady, I talked to Dave also.
12 He asked me the same thing. LOL. I'm sorry I'm
13 not much help. Chris only called me once a long
14 time ago and she said it was from her husband's
business phone because her's was broke and she
was trying to get another one. Most of the time
her and girls E-mail or send cards through the
regular mail. I told David that you said before
that Chris E-mailed you to let you know that she
gave Laura your number, E-mail her back and let
20 her know that Laura called you and you couldn't
21 answer and maybe she will E-mail you the number
22 or tell Laura to call back'. I have not gotten
23 any other numbers from her and since she called
24

Christine
never
emailed
me -
she sent
in a card
that she
gave the
girls my #.

1 into me from her husband's phone I didn't keep
2 that number because it wasn't her's. And now
3 she's with another man so it wouldn't do any
4 good now. LOL. She has never really
5 volunteered much to me really. She has never
6 fully trusted me and kind of does things when
7 she wants to, you know. LOL. Sorry I couldn't
8 be more help on this one. Hope all is good with
9 you, also.

10 Q. Going to the top, same date, but a
11 little later in the date, like about 7:55 a.m.,
12 you got a response from Amy; correct?

13 A. Yes.

14 Q. And I'm going to ask you to read
15 that response in a moment, but it's fair to say
16 that Amy followed your suggestion and sent a
17 card by mail; correct?

18 A. Yes.

19 Q. Why don't you read that for me.

20 A. Chris sent me things by regular
21 mail, never E-mail. I just sent the girls a
22 card saying that they never left me a number to
23 call back and that Tati wants to talk to them.
24 Hopefully they will get it and try to call

1 again. I figure it was worth a try to ask you
2 if you had the number. It was crazy how Dave
3 and I both thought the same day that you might
4 have her phone contact numbers. Great minds
5 think alike. Thanks anyway. We'll keep you
6 updated to any progress.

7 Q. Next I'm going to ask you some
8 questions about the E-mail marked as Government
9 Exhibit 392. When you were in high school, Amy
10 was a little kid. You only knew her because you
11 were dating Dave; correct?

12 A. Correct.

13 Q. You really didn't hang out with
14 her?

15 A. We did at times.

16 Q. Okay. After high school, I think
17 you testified everybody went their separate
18 ways?

19 A. Yes.

20 Q. But you hung out with her enough
21 that she knew who you were so when you
22 reconnected, it wasn't some stranger reaching
23 out to her?

24 A. Right.

1 Q. During the renewed contact, the
2 relationship you had with Amy, you started to
3 learn some things about Amy and started to
4 express some concern about them?

5 Let me retract that. Let me ask
6 you to go to the E-mail and I'll ask you that
7 question afterward. This E-mail is dated April
8 23rd, 2012; correct?

9 A. Yes.

10 Q. And this Exhibit 392, this E-mail
11 is from you to Amy. I will ask you to read that
12 E-mail.

13 A. The one that has, Hi, Amy?

14 Q. Correct.

15 A. Hey, Amy. I text you, but I don't
16 know if you got it. Dave called me this morning
17 but I couldn't answer. If you talk to him, tell
18 him I'm so sorry. Do you know when he will get
19 internet? And do you know if he can receive
20 calls there? Please let me know. Maybe I can
21 call him back when I'm alone. LOL. Thanks.
22 And hey, good luck with everything you are going
23 through. I know the surgery will be fine. Love
24 you all.

1 Q. Okay. Then at about 11:30, 11:27
2 p.m., Amy responds to you; correct?

3 A. Yes.

4 Q. And what does she say?

5 A. Thank you so much. Dave said to
6 just let me know when a good time to call will
7 be and he will call you then. Going to sleep.
8 I have surgery in the early a.m. Love you.

9 Q. And then at the top is your reply
10 to Amy, 10:29 p.m., but again, you're an hour
11 behind in West Virginia. What do you say?

12 A. Okay, Amy, I will. Good luck
13 tomorrow. I will be thinking of you.

14 Q. Now, I understand that you
15 testified that the reason that you contacted Amy
16 was because of having feelings for David; right?

17 A. Yes.

18 Q. And at this time you're having
19 some discussion with Amy because you knew she
20 was going through surgery for a double
21 mastectomy; correct?

22 A. Yes.

23 Q. When you put there those well
24 wishes, did you really mean them?

A. Of course.

Q. Next I would ask you to take a look at what's marked Government Exhibit 395. And I'm just going to go to a portion of this exhibit on the second page dated April 29th, 2012. And can you just read the highlighted part. That's from you to Amy; correct?

A. Yes.

Hey Amy, just wanted to drop up a line and see how you are feeling and how you are healing. Hope you are getting better fast. Have you heard from Dave anymore? Tell him hello for me and tell him I miss talking to him every day.

Q. Okay. Sometimes words get --

A. I didn't know if I was just going to read the highlighted part or skip it.

Q. You did fine.

A. Okay.

Q. You were sincerely checking on Amy's health at that time; correct?

A. Yes.

Q. And then also in the E-mail, though, you're also asking about Dave because

1 you want to maintain contact with him; correct?

2 A. Yes.

3 Q. Next I ask you to take a look at
4 what has been marked Government Exhibit 401.

5 Now, that's an e-mail from you to bear dog, to
6 David, correct?

7 A. Yes.

8 Q. And you're actually replying
9 because you got an e-mail that said guess who?

10 A. Yes.

11 Q. And please read your response,
12 just the part I have highlighted.

13 A. Well, hello there bear dog LOL got
14 your own e-mail now. I don't know if Amy told
15 you, but if you can call today I will be out at
16 7 p.m. all night. If not, I understand. Hope
17 to hear from you soon.

18 Q. Is it fair to say from that point
19 on since now Dave had his own e-mail you were
20 able to communicate directly with him?

21 A. Yes.

22 Q. Next I'd ask you to take a look at
23 Exhibit 441. Now, I believe you were shown this
24 by Mr. Weede. Want you to take a look at it and

Cindy suggested using her Facebook

1 see if you recollect Mr. Weede asking you
2 questions about this?

3 A. Yeah.

4 Q. And this' has to do with your
5 suggestion to David as to him trying to maneuver
6 around Facebook, correct?

7 A. Yes.

8 Q. But what I gathered from your
9 testimony was it was never your idea that he
10 would do it through your Facebook?

11 A. Well, at first I was going to let
12 him, but then I decided not to.

13 Q. So initially, when he initially
14 tried you got the sense from him that although
15 you were going to allow him to use your
16 Facebook, he couldn't navigate?

17 A. Yeah, I wasn't sure he was
18 familiar with Facebook since he was away.

19 Q. You asked him to ask his sister
20 because you presumed that Amy might be able to
21 use Facebook?

22 A. Yes.

23 Q. But ultimately what did he tell
24 you?

1 A. This will be between you and me
2 only.

3 Q. And ultimately you testified this
4 is your decision not to let him in, that was
5 just between you and him?

6 A. Yes.

7 MR. IBRAHIM: May I just have a
8 quick moment, Your Honor?

9 THE COURT: You may, Mr. Ibrahim.

10 MR. IBRAHIM: Mrs. Bender. Thank
11 you.

12 THE WITNESS: Thank you.

13 MR. IBRAHIM: Thank you.

14 THE COURT: Counsel, who would
15 like to proceed next? Ms. Chavar.

16 MS. CHAVAR: Thank you, Your
17 Honor. And I just need another minute.

18 THE COURT: By all means.

19 MS. CHAVAR: Thank you.

20 BY MS. CHAVAR:

21 Q. Mrs. Bender, as I listen to your
22 testimony, yesterday and today and the e-mails
23 and the texting and there were some pictures and
24 video?