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R E P O R T E R ' S R E C O R D

VOLUME 44 OF 53 VOLUMES

TRIAL COURT CAUSE NO. 380-80047-01

THE STATE OF TEXAS)	IN THE DISTRICT COURT
)	
VS.)	COLLIN COUNTY, TEXAS
)	
IVAN ABNER CANTU)	380TH JUDICIAL DISTRICT

JURY TRIAL

COPY

On the 22nd day of October, 2001, the following proceedings came on to be heard in the above-entitled and -numbered cause before the Honorable Charles F. Sandoval, Judge Presiding, held in McKinney, Collin County, Texas:

Proceedings reported by Computerized Machine Shorthand.

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18 VOLUME 44

19 CHRONOLOGICAL INDEX

20 OCTOBER 22, 2001

21 DEFENSE
WITNESSES Direct Cross Redirect Recross

Table with 5 columns: Name, Direct, Cross, Redirect, Recross. Rows include SYLVIA CANTU, TERRI MCCRAW, MATTHEW A. BARR, SYLVIA CANTU (cont'd), IMELDA MARTINEZ.

25 Court Reporter's Certificate 196

2 ALPHABETICAL INDEX

Table with 5 columns: Name, Direct, Cross, Redirect, Recross. Rows include MATTHEW A. BARR, SYLVIA CANTU, IMELDA MARTINEZ, TERRI MCCRAW.

7 EXHIBIT INDEX

Table with 4 columns: STATE'S NO., DESCRIPTION, OFFERED, ADMITTED. Row 9: 179 Inmate request form 165 (not)

11 DEFENSE
NO. DESCRIPTION OFFERED ADMITTED

Table with 4 columns: NO., DESCRIPTION, OFFERED, ADMITTED. Rows 12-25 listing various reports and awards.

1 PROCEEDINGS:

2 (Open court, defendant and jury present.)

3 THE COURT: Mr. High, are you ready to
4 proceed?

5 MR. HIGH: I am, Your Honor. May it
6 please the Court, Mr. Schultz, Ms. Falco.

7 MR. SCHULTZ: Yes, sir.

8 THE COURT: Ms. Lowry, counsel, and ladies
9 and gentlemen. Good morning.

10 JURY PANEL: Good morning.

11 MR. HIGH: I have some remarks I want to
12 say in my opening statements, so I'm going to use some
13 notes. I can't remember it all. So, pardon me, I'm
14 going to go through my notes as I talk to you this
15 morning.

16 We expect to prove to you that the State
17 of Texas cannot prove that Ivan Cantu will be a danger
18 in the future. We expect to bring you evidence that
19 will convince you that your answer to special issue
20 No. 1, future dangerousness, should be "no."

21 The evidence that the State has brought
22 you thus far indicates that Ivan was dangerous and
23 committed these acts of violence when he was either
24 intoxicated because of alcohol or high because of drugs.
25 Now that doesn't excuse what he did, but it does

11:11 1 indicate when he is dangerous and when he is not.
 11:11 2 We expect to put on Ivan's mother, Sylvia
 11:11 3 Cantu, who will verify this assessment. She will tell
 11:11 4 you that Ivan did not have the most ideal childhood in
 11:11 5 that she and his father divorced when Ivan was 8 and
 11:11 6 that Ivan basically grew up without a father. She will
 11:11 7 also tell you that money was tight and that she
 11:11 8 struggled to house, feed and raise two young boys.

11:11 9 The evidence will show you that she did
 11:11 10 the best she could, and that Ivan grew into a
 11:11 11 responsible young man. That he was motivated and
 11:12 12 willing to work for things he got.

11:12 13 She will tell you that he was successful,
 11:12 14 and he did very well for a person his age. The evidence
 11:12 15 will show that. But she will also tell you that drugs
 11:12 16 and alcohol got ahold of him, and shortly his lifestyle
 11:12 17 caught up with him.

11:12 18 She will tell you that he became depressed
 11:12 19 and went spiraling down and then finally crashed when in
 11:12 20 September of 2000 -- and you've heard about that -- he
 11:12 21 wanted to take his life.

11:12 22 She will say that he was out of control
 11:12 23 and that she worried about him so much, so much so that
 11:12 24 she had him committed to Parkland Hospital, and you
 11:12 25 heard about that. In addition, she will tell that after

11:12 1 his arrest in this case, he had to detoxify, DTs, while
 11:12 2 he was in the Collin County jail, went through drug
 11:13 3 withdrawal. But after he detoxified, she was able to
 11:13 4 communicate with him in a sensible way.

11:13 5 She will also testify that earlier this
 11:13 6 year he became a Christian, which has changed his life,
 11:13 7 changed his actions and changed his outlook.

11:13 8 She will testify that he has developed a
 11:13 9 hunger for The Word and spends his time in daily Bible
 11:13 10 studies and prayer. She will say that his faith has
 11:13 11 allowed her to make it through these tough days of his
 11:13 12 incarceration and this trial. Sylvia Cantu believes in
 11:13 13 The Word of God.

11:13 14 The evidence will show that she believes
 11:13 15 that Ivan Cantu is a new creation, and that all things
 11:13 16 are passed away and that Ivan has become new, a new
 11:14 17 creation.

11:14 18 Now, I don't want you to get the
 11:14 19 impression that -- that we intend to rely just on
 11:14 20 religion or a conversion or emotion to get you or to
 11:14 21 persuade you to answer special issue No. 1, no. We
 11:14 22 intend to bring you some expert testimony, and this
 11:14 23 expert will base his testimony on empirical data and
 11:14 24 scientific evidence.

11:14 25 Now, your job as a juror is to weigh the

11:14 1 credibility of the witnesses and also weigh the
 11:14 2 credibility of the experts that are brought before you
 11:14 3 in this case.

11:14 4 (Cell phone ringing from jury panel.)

11:14 5 MR. HIGH: That's fine. It will give me a
 11:15 6 chance to look at my notes again. I appreciate that.
 11:15 7 Your job as a juror is to weigh --

11:15 8 MR. SCHULTZ: Pardon me, Mr. High. Judge,
 11:15 9 at this point, we're going to object to him straying
 11:15 10 beyond the customary bounds in an opening statement,
 11:15 11 which is to simply identify evidence. He's moving into
 11:15 12 jury argument now.

11:15 13 THE COURT: Well, I'll tell you what.
 11:15 14 I'll overrule the objection for now, but let's just say
 11:15 15 what you intend to prove.

11:15 16 MR. HIGH: We want you to be educated,
 11:15 17 savvy consumers of the best information.

11:15 18 MR. SCHULTZ: Excuse me, Judge. The same
 11:15 19 objection, same ground.

11:15 20 THE COURT: Sustained.

11:15 21 MR. HIGH: We're going to bring you an
 11:15 22 expert who is absolutely the best expert, has the best
 11:15 23 research to assist you in making a fully informed
 11:15 24 determination. You are going to hear from Dr. Mark
 11:15 25 Cunningham, the foremost expert in the United States on

11:15 1 capital sentencing evaluations. And we'll ask him a
 11:15 2 series of questions to prove to you that Dr. Cunningham
 11:16 3 is a leading expert in this area, capital sentencing
 11:16 4 evaluations.

11:16 5 Now, I want to talk to you for a moment
 11:16 6 about how to evaluate the direct and cross-examination
 11:16 7 of Dr. Cunningham. And for that matter, any other
 11:16 8 expert who comes before you in this case. Understand
 11:16 9 that we could put up Dr. Cunningham for ten minutes and
 11:16 10 establish that he's an expert and ask him some
 11:16 11 conclusions and ask you --

11:16 12 MR. SCHULTZ: Excuse me. Judge Sandoval,
 11:16 13 we'll again object to him straying from the bounds of an
 11:16 14 opening statement, which is to identify the evidence to
 11:16 15 be deduced and not argue to the jury about how they are
 11:16 16 supposed to view the evidence.

11:16 17 THE COURT: I'll tell you what, I'll give
 11:16 18 you a little latitude. But let's just talk about what
 11:16 19 you intend to prove.

11:16 20 MR. HIGH: Ladies and gentlemen, we're not
 11:16 21 going to ask you just to buy what Dr. Cunningham says,
 11:16 22 like a pig and a poke. Instead, we expect that
 11:16 23 Dr. Cunningham is going to explain to you how to go
 11:16 24 about a scientifically reliable assessment of the
 11:17 25 likelihood that someone will commit acts of serious

11:17 1 violence in the future. And that's special issue No. 1.
11:17 2 You learned about it and discussed it in voir dire when
11:17 3 you came in and we talked to you individually.

11:17 4 We also expect that Dr. Cunningham is
11:17 5 going to give you research data and the statistics to
11:17 6 plug into the scientific method. We're not going to ask
11:17 7 you to rely on smoking mirrors. We're going to give you
11:17 8 the method, and we're going to give you the data, and
11:17 9 you can look at it yourself.

11:17 10 I'm going to tell you right now, this is
11:17 11 going to take some time. We can't just give you the
11:17 12 bottom line. We're going to have to go over the data.
11:17 13 Dr. Cunningham is going to take some time in testifying
11:17 14 to you. Please understand that we're not trying to
11:17 15 waste your time. We're trying to help you to be fully
11:17 16 informed.

11:17 17 MR. SCHULTZ: Excuse me, Mr. High. Judge,
11:17 18 again, we're going to object to him going outside the
11:18 19 bounds of an opening statement.

11:18 20 THE COURT: Sustained.

11:18 21 MR. HIGH: Well, we all know that the
11:18 22 stakes are high at sentencing at this point in time.
11:18 23 And we're going to take the time necessary.

11:18 24 MR. SCHULTZ: Excuse me, Mr. High. Judge,
11:18 25 same objection, same grounds. It's argument. It's not

11:18 1 an outline of the evidence he's going to deduce.

11:18 2 THE COURT: Sustain the objection.

11:18 3 MR. HIGH: Well, the evidence is going to
11:18 4 show that it's going to take some time for him to talk
11:18 5 to you about his scientific method. And it is just as
11:18 6 important, his evidence, the evidence is going to show
11:18 7 it's just as important as any ballistics or fingerprint
11:18 8 evidence in this case.

11:18 9 MR. SCHULTZ: Objection. Judge, he's
11:18 10 again arguing to the jury, instead of outlining what
11:18 11 evidence he's going to present.

11:18 12 THE COURT: I sustain the objection.

11:18 13 MR. HIGH: Here's what else is going to
11:18 14 happen in this trial. The evidence is going to show
11:18 15 that if the State puts up their experts, they are not
11:18 16 going to be able to cite any research for where their
11:18 17 conclusions come from, and they are not going to --

11:18 18 MR. SCHULTZ: Excuse me, Mr. High. Judge,
11:18 19 again we're going to object. All he's doing now is
11:18 20 speculating what types of evidence we might put up, if
11:19 21 we do. His only job is to outline the evidence he's
11:19 22 going to show this jury. He's just arguing to them.

11:19 23 MR. HIGH: Judge, I believe that's what
11:19 24 the evidence is going to show. I'm arguing based on
11:19 25 what I believe the evidence will show.

11:19 1 THE COURT: Well, I tell you what. This
11:19 2 is time for you to cite what your evidence is going to
11:19 3 show, right? Not what the other side's evidence is
11:19 4 going to show. Tell the jury what your evidence is
11:19 5 going to show.

11:19 6 MR. HIGH: My evidence is going to show
11:19 7 that Dr. Cunningham is a leading expert. I also believe
11:19 8 that the evidence will show that the State is not going
11:19 9 to be comfortable with him as an expert.

11:19 10 MR. SCHULTZ: Objection, Judge. He's
11:19 11 certainly arguing now. That's not -- our comfort has
11:19 12 nothing to do with the evidence he's going to show this
11:19 13 jury. And we believe he's outside the bounds of an
11:19 14 opening statement.

11:19 15 THE COURT: Sustain the objection.

11:19 16 MR. HIGH: Judge, I have an opportunity to
11:19 17 inoculate the jury as to what the State intends to do
11:19 18 with this expert jury and discredit him. And I have an
11:19 19 opportunity to tell the jury what I believe the evidence
11:19 20 will show and what's going to happen in this case.

11:19 21 THE COURT: Well, you have an opportunity
11:19 22 at the end of the trial to argue everything you are
11:20 23 going to argue. But now is just the time to tell the
11:20 24 jury what you intend to show.

11:20 25 MR. HIGH: All right.

11:20 1 THE COURT: What you intend to prove.

11:20 2 MR. HIGH: Well, basically the State is
11:20 3 going to disagree with Dr. Cunningham and say what he is
11:20 4 saying is actually incorrect.

11:20 5 MR. SCHULTZ: Objection. Judge,
11:20 6 anticipating what we're going to do or what we are going
11:20 7 to think is not helping this jury understand what
11:20 8 evidence he'll present.

11:20 9 THE COURT: Sustained.

11:20 10 MR. HIGH: They are going to paint his
11:20 11 evidence as fancy-pants science.

11:20 12 MR. SCHULTZ: Judge, please give me some
11:20 13 help here. He keeps violating the Court's ruling.
11:20 14 That's more argument exactly in the same line. The
11:20 15 Court just sustained the objection.

11:20 16 THE COURT: Mr. High, here is what I want
11:20 17 you to do. Just tell the jury what you intend to prove,
11:20 18 and then you'll have your opportunity to prove it. At
11:20 19 the end of the trial you'll have an opportunity to argue
11:20 20 what they heard. But for now just tell the jury what
11:20 21 you intend to prove. The objection is sustained.

11:20 22 MR. HIGH: Ladies and gentlemen, this is
11:20 23 not fancy-pants science. The evidence is going to show
11:20 24 that this evidence that Dr. Cunningham will give you is
11:20 25 tried and true. The evidence is going to show that this

11:20 1 has been the evidence for many years.

11:21 2 The evidence is going to show that it's
11:21 3 based upon scientific experts that are recognized in the
11:21 4 field. A guy by the name of Sorenson and Monahan. And
11:21 5 that Dr. Cunningham has reserved these experts, and he
11:21 6 has written papers in this field.

11:21 7 The evidence is going to show that he has
11:21 8 accumulated the data, not only from the State of Texas,
11:21 9 but from Carolina, from New Jersey, from California,
11:21 10 from Oregon, from all over the country. He has
11:21 11 nationwide data to pull from.

11:21 12 The evidence is going to show that he's
11:21 13 discovered trends within people who have committed
11:21 14 homicide or other violent acts. The evidence is going
11:21 15 to show that he will base his opinions on firman
11:21 16 commutees, people who were once sentenced to death, but
11:21 17 their sentence was later commuted to a life sentence and
11:21 18 were evaluated over a period of time.

11:21 19 The evidence is going to show that there
11:21 20 are various experts who have studied those commutees,
11:21 21 have studied the statistics and have hard evidence to
11:22 22 bring you as a jury. The evidence is going to show that
11:22 23 we can make determinations just like we do in any other
11:22 24 science, such as in the medical field or in aeronautics
11:22 25 where we rely on scientific evidence to make our

11:22 1 decisions.

11:22 2 Basically, ladies and gentlemen, what
11:22 3 we're going to do is we're going to try to remove this
11:22 4 decision from your heart and take it up to your head
11:22 5 where this is a decision that you will make based upon
11:22 6 empirical --

11:22 7 MR. SCHULTZ: Excuse me, Mr. High. Judge,
11:22 8 we are going to object to him straying beyond the bounds
11:22 9 of opening statement, arguing to the jury.

11:22 10 THE COURT: Sustained.

11:22 11 MR. HIGH: Ladies and gentlemen, we expect
11:22 12 that Dr. Cunningham is going to allow you -- the
11:22 13 evidence is going to show to make a fully informed
11:22 14 logical decision on special issue No. 1.

11:22 15 We also expect that the State will attack
11:22 16 him in any number of ways. We also expect that the
11:22 17 State is not going to be satisfied with his information.

11:23 18 MR. SCHULTZ: Judge, you've ruled on this
11:23 19 so many times, but I have to reassert my objection.

11:23 20 THE COURT: Objection is sustained,
11:23 21 Mr. High. Don't tell the jury what you expect to hear
11:23 22 from the State. Just tell them what you expect to
11:23 23 prove.

11:23 24 MR. HIGH: We're also going to prove to
11:23 25 you, ladies and gentlemen, that we've hired

11:23 1 Dr. Cunningham, and we've paid him a fee to testify for
11:23 2 us today. We're not ashamed of that. We're not afraid
11:23 3 of that.

11:23 4 If you hire the foremost expert in the
11:23 5 United States, the doctor, you have to compensate him.
11:23 6 We expect that that's going to come out in his
11:23 7 testimony, and we want you to know that from the get-go.
11:23 8 We expect the State is going to do the same thing.

11:23 9 Now, we intend to ask Dr. Cunningham
11:24 10 straight and fair questions. We expect that he should
11:24 11 be able to give you straight and fair opinions. And we
11:24 12 expect that at the end of his testimony, you will be
11:24 13 better informed on capital sentencing.

11:24 14 Finally, ladies and gentlemen, we expect
11:24 15 that, once you hear him and once you hear Ivan's mother,
11:24 16 Sylvia Cantu, and all the other punishment evidence in
11:24 17 this case, you're going to be fully informed and capable
11:24 18 of making the right decision in which we believe is that
11:24 19 Ivan is no longer a future danger, and/or that there's
11:24 20 sufficient mitigation whereby a life sentence, as
11:24 21 opposed to a death sentence, should be imposed. Thank
11:24 22 you.

11:24 23 THE COURT: Thank you, Mr. High. Do you
11:24 24 want to call your first witness, please?

11:24 25 MR. HIGH: Yes. At this time I call

11:25 1 Sylvia Cantu.

11:25 2 THE COURT: All right. Come on up to the
11:25 3 bench, and I'll swear you in.

11:25 4 SYLVIA CANTU,
11:25 5 being first duly sworn, testified as follows:

11:25 6 THE COURT: Put your hand down. Have a
11:25 7 seat right here, please.

11:25 8 THE COURT: Mr. High, is this your
11:25 9 witness?

11:25 10 MR. HIGH: It is, Your Honor.

11:26 11 THE COURT: All right. Go ahead.

11:26 12 DIRECT EXAMINATION

11:26 13 BY MR. HIGH:

11:26 14 Q. Could you state your name, please.

11:26 15 A. Sylvia Cantu.

11:26 16 Q. Sylvia, how old are you?

11:26 17 A. 49.

11:26 18 Q. Are you married, single, divorced?

11:26 19 A. Divorced.

11:26 20 Q. Do you know the defendant Ivan Cantu?

11:26 21 A. Yes.

11:26 22 Q. And how do you know him?

11:26 23 A. He's my son.

11:26 24 Q. When did you give birth to him?

11:26 25 A. June the 14th, 1973.

11:26 1 Q. And that would make him how old today?
 11:26 2 A. 28.
 11:26 3 Q. How old would he have been on November 4th,
 11:26 4 2000, when this offense was committed?
 11:26 5 A. 27.
 11:26 6 Q. Let's go back in time to Ivan's birth. Were
 11:26 7 you married at the time?
 11:26 8 A. Yes.
 11:26 9 Q. To whom?
 11:26 10 A. His dad.
 11:26 11 Q. What is his name?
 11:26 12 A. Abner Cantu.
 11:26 13 Q. Where were you living then?
 11:27 14 A. In an apartment.
 11:27 15 Q. Where?
 11:27 16 A. In Dallas.
 11:27 17 Q. Was Ivan your first child?
 11:27 18 A. Yes.
 11:27 19 Q. Did Abner work at that time?
 11:27 20 A. Yes.
 11:27 21 Q. What kind of work did he do?
 11:27 22 A. He was a waiter.
 11:27 23 Q. Describe for the jury the living that Abner
 11:27 24 made?
 11:27 25 A. He made an average living.

11:27 1 Q. Sylvia, you are going to have to speak up a
 11:27 2 little bit. I can barely hear you.
 11:27 3 A. He made an average living.
 11:27 4 Q. Was it enough to support the family?
 11:27 5 A. Yes.
 11:27 6 Q. And where were you living when you and Abner
 11:27 7 were married and Ivan was first born?
 11:27 8 A. In a mid-rise apartment.
 11:27 9 Q. Located where?
 11:27 10 A. Northwest Dallas, off Maple.
 11:27 11 Q. How long did you live there?
 11:27 12 A. Three years.
 11:27 13 Q. And where did you move from there?
 11:28 14 A. We bought a home on Belmont in the northeast
 11:28 15 Dallas area.
 11:28 16 Q. And how long did you live there?
 11:28 17 A. Six years.
 11:28 18 Q. And I take it you lived there at the time you
 11:28 19 and Abner divorced?
 11:28 20 A. Yes.
 11:28 21 Q. After the divorce did you move again?
 11:28 22 A. Yes.
 11:28 23 Q. And where was that to?
 11:28 24 A. I bought a home in Plano.
 11:28 25 Q. Located where?

11:28 1 A. On Silverstone on the west side.
 11:28 2 Q. And how long did you live there?
 11:28 3 A. Two years.
 11:28 4 Q. Why did you move out of that home?
 11:28 5 A. The home was foreclosed.
 11:28 6 Q. And why was it foreclosed?
 11:28 7 A. I could no longer make the payments.
 11:28 8 Q. Is it fair to say that money was tight?
 11:29 9 A. Yes.
 11:29 10 Q. Where did you go?
 11:29 11 A. I moved home with my mother.
 11:29 12 Q. And how long did you live there?
 11:29 13 A. About a month.
 11:29 14 Q. Did you take Ivan with you?
 11:29 15 A. No.
 11:29 16 Q. Where did he stay?
 11:29 17 A. He stayed with some friends, the Knight family.
 11:29 18 Q. And who were the Knights?
 11:29 19 A. They were some neighbors down the street.
 11:29 20 Q. And why did he stay with them?
 11:29 21 A. He needed to finish the fall semester, and then
 11:29 22 they let him out for Christmas break.
 11:29 23 Q. When did you and Ivan reunite?
 11:29 24 A. That Christmas.
 11:29 25 Q. And where was that?

11:29 1 A. At my mother's home.
 11:29 2 Q. Where did you move from there?
 11:29 3 A. We took a duplex on Spring Creek on the west
 11:30 4 side of Plano.
 11:30 5 Q. And how old was Ivan then?
 11:30 6 A. About 11.
 11:30 7 Q. And how long did you live in that duplex?
 11:30 8 A. Two years.
 11:30 9 Q. What school was he attending at the time?
 11:30 10 A. Carpenter.
 11:30 11 Q. Is that in Plano?
 11:30 12 A. Middle school, yes.
 11:30 13 Q. Where did you move from there?
 11:30 14 A. I took a leasing position, an apartment
 11:30 15 community on the east side of Plano.
 11:30 16 Q. And did you live on property?
 11:30 17 A. Yes. Waterford on the Meadow.
 11:30 18 Q. And which school did Ivan attend now?
 11:30 19 A. Armstrong and Haggard.
 11:30 20 Q. And approximately how old was he?
 11:30 21 A. 14.
 11:30 22 Q. And how long did you live in this apartment?
 11:31 23 A. Two years.
 11:31 24 Q. Where did you move next?
 11:31 25 A. To the west side of Plano.

11:31 1 Q. Where was that specifically?
 11:31 2 A. Park Springs Town Homes.
 11:31 3 Q. And approximately how old was Ivan then?
 11:31 4 A. About 16.
 11:31 5 Q. And which schools did he attend at this age?
 11:31 6 A. Schimelpfenig.
 11:31 7 Q. Any others?
 11:31 8 A. Vines.
 11:31 9 Q. I can't hear you.
 11:31 10 A. Vines, Schimelpfenig.
 11:31 11 Q. How long did you live at this location, Park
 11:31 12 Springs Town Home, west side of Plano?
 11:31 13 A. About a year.
 11:31 14 Q. Did you move from there?
 11:31 15 A. Yes.
 11:31 16 Q. Where did you move to?
 11:31 17 A. I took a condo at Collin Green condos on the
 11:31 18 west side of Plano.
 11:31 19 Q. And how old was Ivan when you moved there?
 11:32 20 A. 16, 17.
 11:32 21 Q. And was this the time that he switched from
 11:32 22 Schimelpfenig to Vines?
 11:32 23 A. Yes.
 11:32 24 Q. Did you move after that?
 11:32 25 A. Yes.

11:32 1 Q. Where?
 11:32 2 A. The Greenbriar Apartments.
 11:32 3 Q. And those are located where?
 11:32 4 A. On Spring Creek on the west side of Plano.
 11:32 5 Q. And how old was Ivan then?
 11:32 6 A. 17.
 11:32 7 Q. And which school did he attend?
 11:32 8 A. Plano Senior High.
 11:32 9 Q. And was that as a junior and a senior?
 11:32 10 A. Yes.
 11:32 11 Q. And did he finish at Plano Senior High?
 11:32 12 A. He didn't graduate with his class. He lacked
 11:32 13 some credits.
 11:32 14 Q. Did he later graduate?
 11:32 15 A. He later made up his credits and got his
 11:32 16 diploma.
 11:32 17 Q. From Plano Senior High?
 11:32 18 A. Yes.
 11:32 19 Q. And we've just been over approximately eight to
 11:32 20 nine moves during Ivan's childhood; is that correct?
 11:33 21 A. Yes.
 11:33 22 MR. HIGH: I believe I'm up to Defendant's
 11:33 23 Exhibit No. 8.
 11:33 24 THE COURT: I believe the next one would
 11:33 25 be 9, if I'm not mistaken.

11:33 1 MR. HIGH: Thank you, Judge. May I
 11:33 2 approach the witness?
 11:33 3 THE COURT: Yes.
 11:33 4 Q. (BY MR. HIGH) I want to show you what I've
 11:33 5 marked as Defendant's Exhibit No. 9 and ask you if you
 11:33 6 recognize that.
 11:33 7 A. That's Ivan's report card at elementary school
 11:33 8 in Dallas.
 11:33 9 Q. And I see it's a one-page piece of paper with
 11:33 10 writing on both sides; is that right?
 11:33 11 A. Yes.
 11:33 12 Q. And have you kept this since Ivan was a child?
 11:33 13 A. Since '79, '80.
 11:34 14 Q. I want to show you what I've marked as
 11:34 15 Defendant's Exhibit No. 10, which is -- why don't you
 11:34 16 tell the jury what that is.
 11:34 17 A. This is the elementary report card as well.
 11:34 18 Ivan's in the second grade. This is in '81. He's
 11:34 19 making satisfactory.
 11:34 20 Q. Don't testify from it. That's what it is,
 11:34 21 right?
 11:34 22 A. Uh-huh.
 11:34 23 Q. And I want you to take a look at Defendant's
 11:34 24 Exhibit No. 11.
 11:34 25 A. He received an award at the elementary school

11:34 1 in Dallas.
 11:34 2 Q. You recognize that?
 11:34 3 A. Yes.
 11:34 4 Q. You've had that in your possession since he was
 11:34 5 a child?
 11:34 6 A. Yes.
 11:35 7 Q. Now, I want to show you Defendant's Exhibit
 11:35 8 No. 12 and ask you if you recognize that.
 11:35 9 A. It's another report card with fourth grade.
 11:35 10 Q. Okay. You've had that since Ivan was a child?
 11:35 11 A. Yes.
 11:35 12 Q. I show you Defendant's 13 and ask you if you
 11:35 13 recognize that.
 11:35 14 A. Yes.
 11:35 15 Q. What is that?
 11:35 16 A. Outstanding Achievement Award, Houston
 11:35 17 Elementary in Plano.
 11:35 18 Q. You've had that since Ivan was a child?
 11:35 19 A. Yes.
 11:35 20 Q. I show you Defendant's 14 and ask if you
 11:36 21 recognize that.
 11:36 22 A. It's Ivan's graduation diploma from elementary
 11:36 23 school from Houston Elementary.
 11:36 24 Q. You've had that since Ivan was a child?
 11:36 25 A. Yes.

11:36 1 Q. I show you Defendant's Exhibit 15 and ask you
11:36 2 if you recognize that.

11:36 3 A. Another award from his elementary school for
11:36 4 perfect attendance.

11:36 5 Q. You've had that since Ivan was a child?

11:36 6 A. Yes.

11:36 7 Q. I show you Defendant's 16 and ask you if you
11:36 8 recognize that.

11:36 9 A. Yes.

11:36 10 Q. And what is that?

11:36 11 A. It's a physical fitness award, May of '83.

11:36 12 Q. And you've had that since Ivan was a child?

11:36 13 A. Yes.

11:36 14 Q. I show you Defendant's Exhibit 17 and ask you
11:37 15 if you recognize that.

11:37 16 A. Yes, I do.

11:37 17 Q. And what is it?

11:37 18 A. Another fitness award in May of '84.

11:37 19 Q. And you've had that since Ivan was a child?

11:37 20 A. Yes.

11:37 21 Q. And I want to show you Defendant's Exhibits 18
11:37 22 and 19 and ask you if you recognize those.

11:37 23 A. Yes.

11:37 24 Q. And what are they?

11:37 25 A. His report cards.

11:37 1 Q. And you've had those since Ivan was a child?

11:37 2 A. Yes.

11:38 3 MR. HIGH: At this time I'll offer those
11:38 4 exhibits, Your Honor.

11:38 5 THE COURT: This is 9 through 19, I
11:38 6 suppose?

11:38 7 MR. HIGH: Yes, Your Honor.

11:38 8 MS. FALCO: We have no objection, Your
11:38 9 Honor.

11:38 10 THE COURT: Defendant's Exhibits 9 through
11:38 11 19 are admitted.

11:38 12 (Defendant's Exhibit Nos. 9 through 19
11:38 13 admitted.)

11:38 14 MR. HIGH: Your Honor, if those are all
11:38 15 originals, if we could ask the Court if we could make
11:38 16 copies and substitute them for the record.

11:38 17 THE COURT: All right.

11:39 18 Q. (BY MR. HIGH) Now, Sylvia, I've put these in
11:39 19 order, starting with Defendant's Exhibit 9. We don't
11:39 20 want to spend a whole lot of time on these, but can you
11:39 21 tell us what Defendant's 9 is?

11:39 22 A. Ivan's report card for the first grade.

11:39 23 Q. And that was in Dallas Independent School
11:39 24 District?

11:39 25 A. Yes.

11:39 1 Q. And does he have passing grades on his report
11:39 2 card?

11:39 3 A. Yes.

11:39 4 Q. Let's go to Defendant's Exhibit No. 10, and
11:39 5 what is that?

11:39 6 A. This is an Ivan's report card for the second
11:39 7 grade.

11:39 8 Q. Is that in the Dallas Independent School
11:39 9 District?

11:39 10 A. Yes, it is.

11:39 11 Q. And do his scores reflect passing grades?

11:39 12 A. Yes. He was assigned to the third grade.

11:40 13 Q. Let's go to Defendant's Exhibit No. 11. What
11:40 14 is that?

11:40 15 A. It's a certificate award from Bonham
11:40 16 Elementary, reading readiness.

11:40 17 Q. So he demonstrated some reading proficiency?

11:40 18 A. Yes.

11:40 19 Q. Let's go to the Defendant's Exhibit No. 12.
11:40 20 What is that?

11:40 21 A. Report card for the fourth grade at Rogers.

11:40 22 Q. What school district is that?

11:40 23 A. That's Dallas.

11:40 24 Q. And does he have passing grades in that report
11:40 25 card?

11:40 1 A. Yes.

11:40 2 Q. Let's go to the next exhibit. I believe it's
11:40 3 13. Is it 13?

11:40 4 A. Yes.

11:40 5 Q. What is that exhibit?

11:40 6 A. Certificate award, outstanding achievement for
11:40 7 the reading program.

11:40 8 Q. Okay. Again, demonstrating some proficiency in
11:41 9 reading?

11:41 10 A. Yes.

11:41 11 Q. Let's go to exhibit 14. What is that?

11:41 12 A. Certificate of promotion from Houston
11:41 13 Elementary.

11:41 14 Q. Okay. What does that mean?

11:41 15 A. He passed elementary school.

11:41 16 Q. Let's go to Defendant's Exhibit 15. What is
11:41 17 that?

11:41 18 A. Perfect attendance certificate for Houston
11:41 19 Elementary, May of '84.

11:41 20 Q. Let's go to Defendant's Exhibit 16. What is
11:41 21 that?

11:41 22 A. Governor's physical fitness award, May of '83.

11:41 23 Q. All right. What was your understanding of
11:41 24 that? Do you recall what that was about?

11:41 25 A. He excelled in physical fitness testing.

11:41 1 Q. Let's go to the next exhibit. What is that?
 11:42 2 A. Another physical fitness award, May of '84.
 11:42 3 Q. Same thing?
 11:42 4 A. Exceptional achievement.
 11:42 5 Q. Let's go to the next exhibit. Is that 18?
 11:42 6 A. Yes.
 11:42 7 Q. What is that?
 11:42 8 A. Report card for the fifth grade, Houston
 11:42 9 Elementary.
 11:42 10 Q. All right. And how did he do? Did he pass his
 11:42 11 grades, his subjects, on that report card?
 11:42 12 A. Yes, he did.
 11:42 13 Q. Let's go to the next exhibit. I believe it's
 11:42 14 19?
 11:42 15 A. Yes.
 11:42 16 Q. What is that?
 11:42 17 A. Another report card for the fifth grade.
 11:42 18 Q. From where?
 11:42 19 A. Houston Elementary.
 11:42 20 Q. And does that indicate that he passed his
 11:42 21 subjects?
 11:42 22 A. Yes.
 11:42 23 Q. Now, most of those indicate schooling in
 11:43 24 Dallas; is that correct?
 11:43 25 A. Dallas and Plano.

11:43 1 Q. He later went to upper years in school in
 11:43 2 Plano; is that right?
 11:43 3 A. Yes.
 11:43 4 Q. And we've talked about the moves. With all
 11:43 5 this moving around in Plano and Dallas, were you
 11:43 6 renting?
 11:43 7 A. Yes.
 11:43 8 Q. And why was that?
 11:43 9 A. My income supported an apartment. I didn't
 11:43 10 have enough money to -- for a down payment on a house.
 11:43 11 Q. You were a single parent?
 11:43 12 A. Yes.
 11:43 13 Q. How many children did you have?
 11:43 14 A. Two sons.
 11:43 15 Q. Were you receiving child support from Abner?
 11:43 16 A. Occasionally.
 11:43 17 Q. Was he regular?
 11:43 18 A. No.
 11:43 19 Q. Did you work, Sylvia?
 11:43 20 A. Yes.
 11:43 21 Q. What kind of work did you do?
 11:43 22 A. Different fields of real estate. I did sales,
 11:44 23 property management and apartment locating.
 11:44 24 Q. Did you ever sell real estate?
 11:44 25 A. Yes.

11:44 1 Q. How were you paid?
 11:44 2 A. Commission. It was always commission.
 11:44 3 Q. Did you raise these children by yourself?
 11:44 4 A. Yes.
 11:44 5 Q. Have you had any other financial assistance?
 11:44 6 A. No.
 11:44 7 Q. Was money tight?
 11:44 8 A. Yes.
 11:44 9 Q. Was it always tight?
 11:44 10 A. Yes.
 11:44 11 Q. Explain that.
 11:44 12 A. We always had enough money to take care of
 11:44 13 necessities. There wasn't really anything left over.
 11:44 14 It was pretty much living paycheck to paycheck.
 11:44 15 Q. And what about the child support? Was that
 11:45 16 extra?
 11:45 17 A. When we received it we'd get the additional
 11:45 18 things that were needed.
 11:45 19 Q. How did Abner pay his child support to you?
 11:45 20 A. He held me pretty much hostage with the child
 11:45 21 support.
 11:45 22 Q. What do you mean by that?
 11:45 23 A. If I wanted it, I had to come get it. And it
 11:45 24 would be late at night when the children were little. I
 11:45 25 would get them up and take them with me until they were

11:45 1 old enough to take care of themselves.
 11:45 2 Q. And how did he treat you when you got over
 11:45 3 there to pick up your child support?
 11:45 4 A. He was very disrespectful. He would throw
 11:45 5 money in the car. He was verbally abusive, and my
 11:45 6 children saw this.
 11:45 7 Q. When Ivan was growing up, did he participate in
 11:46 8 athletics, sports, scouting, anything like that?
 11:46 9 A. I don't remember scouting, but he was very
 11:46 10 athletic in competition roller skating and bike racing.
 11:46 11 Q. And how did he do in those endeavors, roller
 11:46 12 skating and bike racing?
 11:46 13 A. He excelled in that. He did very good.
 11:46 14 Q. Did he get any trophies?
 11:46 15 A. A lot of first place trophies.
 11:46 16 Q. Were those expensive pastimes, roller skating,
 11:46 17 bike racing?
 11:46 18 A. No.
 11:46 19 Q. Did it require any special equipment?
 11:46 20 A. Yes.
 11:46 21 Q. And tell the jury what you did.
 11:46 22 A. I purchased the skates for him, bought him a
 11:46 23 bike. The helmet that was needed for bike racing and
 11:46 24 the racing gear, body gear, he would borrow those from
 11:46 25 his friends.

11:46 1 Q. Why did he do that?
 11:47 2 A. We didn't have the money to buy them.
 11:47 3 Q. When did Ivan move out?
 11:47 4 A. At 18.
 11:47 5 Q. Where did he move to?
 11:47 6 A. He followed a girlfriend to Austin.
 11:47 7 Q. And how long was he in Austin?
 11:47 8 A. About five or six months.
 11:47 9 Q. Did he come back home?
 11:47 10 A. Yes.
 11:47 11 Q. Where were you living then?
 11:47 12 A. At the Greenbriar Apartments.
 11:47 13 Q. At a place that you testified to earlier?
 11:47 14 A. Yes.
 11:47 15 Q. Incidentally, when did you and Abner divorce?
 11:47 16 A. 1982.
 11:47 17 Q. And how old was Ivan at the time?
 11:47 18 A. He was eight years old.
 11:47 19 Q. In your opinion, did Abner play a factor in
 11:48 20 Ivan's childhood?
 11:48 21 A. No.
 11:48 22 Q. Was he involved at all?
 11:48 23 A. Very little.
 11:48 24 Q. Tell the jury about that.
 11:48 25 A. He would call the children during the week and

11:48 1 he'd tell them that he was coming to visit them that
 11:48 2 Saturday, and he always set them up. Saturday would
 11:48 3 come and at the 11th hour he'd call and tell them he
 11:48 4 couldn't make it because he had to work that night. But
 11:48 5 he was free from eight o'clock that morning to five
 11:48 6 o'clock that afternoon.
 11:48 7 Q. And you said, set them up. What do you mean by
 11:48 8 that?
 11:48 9 A. They would look forward to meeting with him,
 11:48 10 and he would let them down.
 11:48 11 Q. Did that happen with both of the boys?
 11:48 12 A. Yes.
 11:48 13 Q. Is it fair to say that Ivan grew up without a
 11:48 14 father?
 11:49 15 A. Yes.
 11:49 16 Q. Who was the male influence in Ivan's life?
 11:49 17 A. (Weeping) His friends' fathers.
 11:49 18 Q. His friends' fathers?
 11:49 19 A. Yes.
 11:49 20 Q. And what would they do?
 11:49 21 A. They would take him on fishing trips, invite
 11:49 22 him to family functions and invite him to spend the
 11:50 23 night.
 11:50 24 Q. Is that the only male influence he had?
 11:50 25 A. Pretty much.

11:50 1 Q. Do you have a sister?
 11:50 2 A. Yes.
 11:50 3 Q. How many sisters do you have?
 11:50 4 A. Two.
 11:50 5 Q. Do you have any brothers?
 11:50 6 A. Yes.
 11:50 7 Q. Did he spend any time with your brothers?
 11:50 8 A. Sometimes.
 11:50 9 Q. As a young adult in his late teens and his
 11:50 10 early 20s, did Ivan leave and go out on his own?
 11:50 11 A. Yes.
 11:50 12 Q. You mentioned he went to Austin and then came
 11:50 13 back home. How long did he live at home with you?
 11:50 14 A. About a month.
 11:50 15 Q. Where did he go from there?
 11:50 16 A. He moved in with a girlfriend.
 11:51 17 Q. Who was that girlfriend?
 11:51 18 A. Tawny Svihovec.
 11:51 19 Q. And how long did he live with Tawny?
 11:51 20 A. Four years.
 11:51 21 Q. Four years?
 11:51 22 A. Four.
 11:51 23 Q. Was he working?
 11:51 24 A. Yes.
 11:51 25 Q. Where?

11:51 1 A. He had a couple of jobs. One was --
 11:51 2 Q. Hang on. Let me back up. Did Ivan work as a
 11:51 3 child?
 11:51 4 A. Yes.
 11:51 5 Q. Tell us about that. What was his first job?
 11:51 6 A. He worked for a Del Taco at Collin Creek Mall.
 11:51 7 Q. How old was he when he first went to work
 11:51 8 there?
 11:51 9 A. He was pretty industrious. He was 14 and a
 11:51 10 half.
 11:51 11 Q. Not very old?
 11:51 12 A. No.
 11:51 13 Q. How long did he work there?
 11:51 14 A. Five or six months.
 11:51 15 Q. Was he successful?
 11:52 16 A. Yes.
 11:52 17 Q. What do you mean by that?
 11:52 18 A. They offered him an assistant manager position.
 11:52 19 They had no idea how old he actually was and wanted him
 11:52 20 to work more hours.
 11:52 21 Q. I want to show you what I've marked as
 11:52 22 Defendant's Exhibit No. 20, and ask you if you recognize
 11:52 23 this.
 11:52 24 A. Yes, I do.
 11:52 25 Q. What is it?

11:52 1 A. That's the Employee of the Month, age 15, 1987.
 11:52 2 Q. From Del Taco?
 11:52 3 A. Yes.
 11:52 4 MR. HIGH: I offer Defendant's Exhibit
 11:52 5 No. 20.
 11:52 6 MS. FALCO: No objection.
 11:52 7 THE COURT: No. 20 is admitted.
 11:52 8 (Defendant's Exhibit No. 20 admitted.)
 11:52 9 Q. (BY MR. HIGH) If you could read that line
 11:52 10 starting with: In recognition.
 11:52 11 A. In recognition of demonstrated excellence in
 11:53 12 customer kindness, performance of responsibility and
 11:53 13 teamwork with fellow employees.
 11:53 14 Q. And that was a certificate that Del Taco gave
 11:53 15 him?
 11:53 16 A. Yes.
 11:53 17 Q. Okay. We're done with that. You can set that
 11:53 18 down in front of you. Where did he go from Del Taco?
 11:53 19 A. I believe Soup or Salads. And while he was
 11:53 20 there, he was offered a position at Wescott
 11:53 21 Communications at the Galleria.
 11:53 22 Q. So he worked at Soup or Salads for a period of
 11:53 23 time?
 11:53 24 A. Yes.
 11:53 25 Q. And what did he do at Soup or Salads?

11:53 1 A. He was a waiter.
 11:53 2 Q. How was he paid at that job?
 11:53 3 A. He made some pretty good tips.
 11:53 4 Q. And you indicated he got a position with
 11:53 5 Wescott Communications?
 11:54 6 A. Yes.
 11:54 7 Q. And somebody offered him that position?
 11:54 8 A. Yes.
 11:54 9 Q. And what did he do for Wescott Communications?
 11:54 10 A. He was in their sales division. Ivan was about
 11:54 11 21 at the time. The people in his department, the
 11:54 12 gentleman in his department were all about their late
 11:54 13 20s, early 30s, and I was very proud of him.
 11:54 14 Q. How long did he work at Wescott Communications?
 11:54 15 A. About two years, maybe two and a half.
 11:54 16 Q. Did he do well there?
 11:54 17 A. Yes.
 11:54 18 Q. And describe for the jury, you know, his income
 11:54 19 and how he performed at Wescott Communications.
 11:55 20 A. He was pretty much a high achiever there. And
 11:55 21 their goals were -- his goals were always met or
 11:55 22 exceeded. They were very proud of him.
 11:55 23 Q. Did he leave Wescott Communications?
 11:55 24 A. Yes.
 11:55 25 Q. Where did he go from there?

11:55 1 A. I need a moment. His cousin James opened up a
 11:56 2 business, and Ivan went to help him.
 11:56 3 Q. Okay. James who?
 11:56 4 A. James Mosqueda.
 11:56 5 Q. And what business was that?
 11:56 6 A. He opened a tanning salon on Garland Road.
 11:56 7 Q. And I think the jury is familiar with tanning
 11:56 8 salons, but describe that for the jury. What's a
 11:56 9 tanning salon?
 11:56 10 A. It's a business where people would come in and
 11:56 11 take a tanning booth and spend some time in there
 11:56 12 tanning, and they would buy memberships to the tanning
 11:56 13 salon.
 11:56 14 Q. And he and James Mosqueda opened that business
 11:56 15 together?
 11:56 16 A. Ivan had the expertise in that. James opened
 11:56 17 up the store.
 11:56 18 Q. How old was Ivan when he and James opened up
 11:57 19 this tanning salon?
 11:57 20 A. About 22 or 23.
 11:57 21 Q. And what happened to that salon?
 11:57 22 A. It was closed.
 11:57 23 Q. Okay. What happened then?
 11:57 24 A. James opened up another store, another tanning
 11:57 25 salon on Campbell and Preston.

11:57 1 Q. And did Ivan work there?
 11:57 2 A. Yes, he did.
 11:57 3 Q. And how long did he stay at the new salon at
 11:57 4 Campbell and Preston?
 11:57 5 A. About a year.
 11:57 6 Q. Why did he leave there?
 11:57 7 A. Friend of his from high school offered him a
 11:57 8 position with Show Biz.
 11:57 9 Q. And Show Biz is what?
 11:57 10 A. It's a company that puts on dance competitions
 11:57 11 throughout the United States.
 11:57 12 Q. And who gave him the job?
 11:57 13 A. Keith Carpenter.
 11:58 14 Q. Tell the jury what he did for Keith Carpenter
 11:58 15 and Show Biz. Show Biz what, Show Biz Agency?
 11:58 16 A. I think it's just Show Biz Agency.
 11:58 17 Q. Okay.
 11:58 18 A. Ivan was in marketing. Dave Westerfield was
 11:58 19 the owner and took Ivan under his wing and was a very
 11:58 20 good mentor for him.
 11:58 21 Q. And these were dance competitions?
 11:58 22 A. They are dance competitions. They went to
 11:58 23 nationals. They traveled around the United States year
 11:58 24 round.
 11:58 25 Q. And do you recall if Ivan worked a lot?

11:58 1 A. Yes, he did.
 11:58 2 Q. And on that job did he have to travel?
 11:58 3 A. Yes.
 11:58 4 Q. How much?
 11:58 5 A. All year round.
 11:58 6 Q. So how long did he do that job?
 11:58 7 A. About two and a half years.
 11:58 8 Q. Why did he quit?
 11:58 9 A. He got burned out of staying in hotels and not
 11:58 10 being home. It was taking its toll.
 11:59 11 Q. After he left Show Biz, where did he go?
 11:59 12 A. He got into the mortgage business.
 11:59 13 Q. And you know the approximate year that
 11:59 14 happened?
 11:59 15 A. '95, '96.
 11:59 16 Q. How long did he work in the mortgage industry?
 11:59 17 A. Until the time he was arrested.
 11:59 18 Q. And that was not a continuous thing, was it?
 11:59 19 We'll get into that, right?
 11:59 20 A. No.
 11:59 21 Q. Okay. How many different mortgage companies
 11:59 22 did he work for?
 11:59 23 A. Several.
 11:59 24 Q. Did he make good money in the mortgage
 11:59 25 business?

11:59 1 A. Yes.
 11:59 2 Q. Mortgaging business, excuse me. Did he make
 11:59 3 good money?
 11:59 4 A. Excellent.
 11:59 5 Q. When we're talking good money, are we talking
 12:00 6 thousands of dollars?
 12:00 7 A. Yes.
 12:00 8 Q. I'm going to show you a copy of his tax return
 12:00 9 for 1998, which I'm going to mark as Defendant's Exhibit
 12:00 10 No. 21, along with his W-2s. Looks like he's got some
 12:00 11 1099s on here, too. Do you recognize that?
 12:00 12 A. Yes.
 12:00 13 Q. What is it?
 12:00 14 A. It's Ivan's tax return for 1998.
 12:00 15 Q. You've seen it before?
 12:00 16 A. Yes.
 12:00 17 Q. And do you also recognize Ivan's signature?
 12:01 18 A. That document was prepared by Ron.
 12:01 19 Q. Okay. Who is Ron?
 12:01 20 A. Tawny's father.
 12:01 21 Q. Ron Svihovec?
 12:01 22 A. Uh-huh.
 12:01 23 Q. Do you know if this tax return was filed?
 12:01 24 A. Yes.
 12:01 25 Q. At this time I'd offer Defendant's Exhibit

12:01 1 No. 21, and ask you to take a look at Defendant's
 12:01 2 Exhibit No. 22.
 12:02 3 MS. FALCO: No objection.
 12:02 4 THE COURT: Defendant's Exhibit 21 is
 12:02 5 admitted. Let me take a look at it.
 12:03 6 MR. HIGH: Judge, it's got several pieces
 12:03 7 of paper attached to it, the W-2s and 1099s. If we
 12:03 8 could make copies and substitute it for the record.
 12:03 9 THE COURT: All right.
 12:02 10 (Defendant's Exhibit No. 21 admitted.)
 12:03 11 Q. (BY MR. HIGH) All right. I want to take a
 12:03 12 look at -- have you taken a look at Defendant's Exhibit
 12:03 13 No. 22?
 12:03 14 A. Yes.
 12:03 15 Q. What is that?
 12:03 16 A. Ivan's '99 return, and he's presently in the
 12:03 17 Navy.
 12:03 18 Q. In the Navy?
 12:03 19 A. Yes.
 12:03 20 Q. And you are familiar with the '99 tax return?
 12:03 21 A. Yes.
 12:03 22 Q. You've kept these documents for Ivan, haven't
 12:03 23 you?
 12:03 24 A. Yes.
 12:03 25 Q. And you recognize his signature on Defendant's

12:03 1 22?
 12:03 2 A. Yes.
 12:03 3 Q. And with respect to Defendant's 23, what is
 12:03 4 that?
 12:03 5 A. I filed this return for Ivan.
 12:03 6 Q. And he was in custody at the time?
 12:03 7 A. Yes. 2000 return.
 12:03 8 MR. HIGH: At this time I'd offer
 12:04 9 Defendant's Exhibit No. 22 and 23.
 12:05 10 MS. FALCO: No objection.
 12:05 11 THE COURT: 22 and 23 for the defendant
 12:05 12 are admitted. Can I take a look at those?
 12:04 13 (Defendant's Exhibit Nos. 22 and 23
 12:04 14 admitted.)
 12:05 15 MR. HIGH: Absolutely, Judge. Again, they
 12:06 16 are multiple pieces of paper. We'd ask that we can make
 12:06 17 copies and substitute them for the record.
 12:06 18 THE COURT: I understand. All right.
 12:06 19 Q. (BY MR. HIGH) Sylvia, I want to go back to
 12:06 20 Defendant's 21, which is the '98 tax return. We were
 12:06 21 talking about the money he was making in 1998. And I
 12:06 22 want to show you line 7 which talks about income, wages,
 12:06 23 salaries, tips, etc. Can you tell me what that line
 12:06 24 says, line 7?
 12:06 25 A. \$129,130.

12:06 1 Q. And he had some other assorted income. So line
12:06 2 22 comes to how much?
12:06 3 A. 129,145.
12:07 4 Q. And we saw that he had a mortgage interest
12:07 5 deduction, a form 1098. So that helped him with his
12:07 6 itemized deductions on page 2, correct?
12:07 7 A. Yes.
12:07 8 Q. And he reported a taxable income on line 39.
12:07 9 How much is that?
12:07 10 A. 113,682.
12:07 11 Q. And line 56 showed his total tax to be how
12:07 12 much?
12:07 13 A. \$30,104.
12:07 14 Q. And line 57 shows the payments he made. How
12:07 15 many -- how much in payments did he make that year?
12:07 16 A. Tax withheld \$35,613.
12:08 17 Q. Therefore, getting a net refund of how much
12:08 18 money?
12:08 19 A. \$5,509.
12:08 20 Q. So the tax he paid was in excess of \$30,000?
12:08 21 A. Yes.
12:08 22 MR. HIGH: At this time I request to
12:08 23 publish this to the jury.
12:08 24 THE COURT: Your other two returns are
12:08 25 right here.

12:08 1 Q. (BY MR. HIGH) In 1998 how old was he?
12:08 2 A. 23, 24, 25.
12:08 3 Q. He was born June 14th, 1973. So let's say June
12:09 4 of 1998 he would be what, 25?
12:09 5 A. 25.
12:09 6 Q. And that's a lot of money, you'd agree with
12:09 7 that?
12:09 8 A. Yes.
12:09 9 Q. I want to show you what's been admitted as
12:09 10 Defendant's Exhibit No. 22. This is the tax return for
12:09 11 1999, and this is a different form. This is not the
12:09 12 long form. From what I can tell it's the short form.
12:09 13 Am I right about that?
12:09 14 A. Yeah, yes.
12:09 15 Q. Let's look at the income on line 7. Can you
12:09 16 tell the jury how much that is?
12:10 17 A. \$2,260.
12:10 18 Q. And the adjusted gross, line 18, is how much?
12:10 19 A. \$2,260.
12:10 20 Q. He didn't have any taxable income, so his total
12:10 21 tax was how much?
12:10 22 A. Zero.
12:10 23 Q. Yet he had made payments of how much, on line
12:10 24 39?
12:10 25 A. \$357.

12:10 1 Q. And so what, did he get a refund for \$357?
12:10 2 A. Yes. He overpaid.
12:10 3 MR. HIGH: At this time I ask to publish
12:10 4 Defendant's 22 to the jury.
12:10 5 THE COURT: All right.
12:11 6 Q. (BY MR. HIGH) Sylvia, were you aware that your
12:11 7 son was using drugs?
12:11 8 A. Yes.
12:11 9 Q. When did you first find out he was using drugs?
12:11 10 A. My younger son, Eric, was living in Ivan's
12:11 11 home.
12:11 12 Q. And where was that home?
12:11 13 A. In Frisco.
12:11 14 Q. And what year was that?
12:11 15 A. Summer of the year that Ivan bought his home.
12:11 16 Q. Okay. Do you recall the year?
12:11 17 A. '97.
12:11 18 Q. That would have been the year before he filed
12:11 19 this -- well, that would be the year before this taxable
12:11 20 income year, and then he would have filed a return early
12:11 21 in '99. Is that fair to say?
12:12 22 A. Yes.
12:12 23 Q. And I take it he was making good money when he
12:12 24 bought the home?
12:12 25 A. Yes.

12:12 1 Q. Did your son drink alcohol?
12:12 2 A. Yes.
12:12 3 Q. I want you to describe to the jury your
12:12 4 relationship with Ivan in the late 1990s.
12:12 5 A. He was courteous, respectful, kind.
12:12 6 Q. Did he start having problems?
12:12 7 A. Yes.
12:12 8 Q. And approximately when was that?
12:12 9 A. About '98.
12:12 10 Q. And when we say problems, what do we mean?
12:13 11 A. He was becoming short-tempered. His hands were
12:13 12 always shaking. He was nervous.
12:13 13 Q. Did you know what was going on?
12:13 14 A. I had my suspicions, but --
12:13 15 Q. What were you suspicious of?
12:13 16 A. Drugs.
12:13 17 Q. Did you confront him about it?
12:13 18 A. No.
12:13 19 Q. Were you able to confirm that he was using
12:13 20 drugs?
12:13 21 A. I couldn't find any evidence.
12:13 22 Q. So is that a no?
12:13 23 A. No.
12:13 24 Q. What about the alcohol?
12:13 25 A. Yes.

12:13 1 Q. Did you know there was an alcohol problem?
 12:13 2 A. Yes.
 12:13 3 Q. And how did you know there was? I mean, how
 12:13 4 did you know there was indeed an alcohol problem?
 12:13 5 A. The majority of his traffic citations were due
 12:14 6 to alcohol.
 12:14 7 Q. You also knew he had a DWI arrest?
 12:14 8 A. Yes.
 12:14 9 Q. And a public intox?
 12:14 10 A. Yes.
 12:14 11 Q. Was Ivan married?
 12:14 12 A. Yes.
 12:14 13 Q. And tell us who he was married to.
 12:14 14 A. Michelle Traister.
 12:14 15 Q. When did they marry?
 12:14 16 A. '96.
 12:14 17 Q. And when did they divorce?
 12:14 18 A. In '98.
 12:14 19 Q. And what were your observations of their
 12:14 20 marriage?
 12:14 21 A. It was very typical. I didn't spend much time
 12:14 22 with them. They were busy and on the go, and in the
 12:14 23 evenings they would go out to dinner with friends. And
 12:14 24 I worked pretty much late hours. I didn't get home
 12:14 25 until after eight o'clock.

12:14 1 Q. Did they have a loving relationship?
 12:14 2 A. As far as I could tell.
 12:15 3 Q. What else did you observe about their
 12:15 4 relationship?
 12:15 5 A. I noticed Ivan had a temper, and one evening he
 12:15 6 exploded at Michelle. They had been working some pretty
 12:15 7 late hours, hardly getting any sleep. They were under a
 12:15 8 lot of stress getting their business started.
 12:15 9 Q. Were they working that business out of their
 12:15 10 apartment?
 12:15 11 A. Out of his home on Bow Court.
 12:15 12 Q. You indicated that he exploded. Tell the jury
 12:15 13 what he did.
 12:15 14 A. He was yelling at her. He was verbally
 12:15 15 abusive. I tried to stop him and calm him down, and I
 12:15 16 suggested to him that he needed to seek counseling for
 12:15 17 anger management.
 12:16 18 Q. Okay. And did you have a suggestion as to
 12:16 19 where he could do that?
 12:16 20 A. Yes.
 12:16 21 Q. And where did you suggest he go?
 12:16 22 A. Minreth Meyer.
 12:16 23 Q. Did he?
 12:16 24 A. No.
 12:16 25 Q. Any idea why he didn't?

12:16 1 A. He was in denial.
 12:16 2 Q. After all, you were confronting him?
 12:16 3 A. Yes.
 12:16 4 Q. Do you know whether or not Ivan and Michelle
 12:16 5 divorced?
 12:16 6 A. Yes.
 12:16 7 Q. When was that?
 12:16 8 A. Fall of '98.
 12:16 9 Q. Was that hard on Ivan?
 12:16 10 A. Very.
 12:16 11 Q. Explain that.
 12:16 12 A. He was disoriented, depressed, very unfocused,
 12:17 13 and he was withdrawing.
 12:17 14 Q. Okay. And how did that make you feel?
 12:17 15 A. I was very much concerned for him.
 12:17 16 Q. And what else did you observe about him in the
 12:17 17 latter part of 1998?
 12:17 18 A. It was difficult for him to find work. The
 12:17 19 background checks pretty much showed a problem with
 12:17 20 possession of a controlled substance. So it was
 12:17 21 difficult for him to find work.
 12:17 22 Q. Okay. Did Ivan have any other female
 12:17 23 relationships that you know of?
 12:17 24 A. Yes.
 12:17 25 Q. Tell us about those.

12:18 1 A. There was a young lady from high school that he
 12:18 2 went out with. They went to church together, and he
 12:18 3 enjoyed going to Bible study on Thursdays with her
 12:18 4 father.
 12:18 5 Q. What was his name?
 12:18 6 A. Mr. Denton.
 12:18 7 Q. And did you approve of this relationship and
 12:18 8 these activities?
 12:18 9 A. Yes.
 12:18 10 Q. And why is that?
 12:18 11 A. Ivan was becoming more like himself again,
 12:18 12 pretty much an ego booster for him.
 12:18 13 Q. Did they split up?
 12:18 14 A. Yes.
 12:18 15 Q. Why?
 12:18 16 A. He decided to go to the Navy.
 12:18 17 Q. And when did he go to the Navy?
 12:18 18 A. January of 2000.
 12:18 19 Q. Okay. Now, wait a minute, was it 2000 or '99?
 12:19 20 A. '99.
 12:19 21 Q. Are you sure about that?
 12:19 22 A. '99.
 12:19 23 Q. January of '99, he went to the Navy?
 12:19 24 A. Yes.
 12:19 25 Q. And what were his reasons for doing that?

12:19 1 A. It was something he said he needed to do, and
 12:19 2 he looked forward to doing this.
 12:19 3 Q. Why else?
 12:19 4 A. I believe it was going to be a fresh start for
 12:19 5 him.
 12:19 6 Q. Tell us about the year 1999. We've seen the
 12:19 7 tax return. How was that year for Ivan?
 12:19 8 A. Very difficult.
 12:19 9 Q. Be more specific.
 12:19 10 A. He left the Navy. He didn't graduate boot
 12:20 11 camp. Three weeks before graduation he left.
 12:20 12 Q. Did you think it was a good idea for him to go
 12:20 13 to the Navy?
 12:20 14 A. Yes.
 12:20 15 Q. You did?
 12:20 16 A. (Moving head up and down.)
 12:20 17 Q. But he didn't finish boot camp?
 12:20 18 A. No.
 12:20 19 Q. And how long was he in the Navy?
 12:20 20 A. About two and a half months.
 12:20 21 Q. And I take it he didn't succeed?
 12:20 22 A. No.
 12:20 23 Q. Where did he go when he left boot camp?
 12:20 24 A. He came to Frisco.
 12:20 25 Q. And where did he go in Frisco?

12:20 1 A. To my brother's home.
 12:20 2 Q. And were you living there at the time?
 12:20 3 A. Yes. He's single, and I was sharing a home
 12:20 4 with him.
 12:20 5 Q. And I take it that Ivan was AWOL. Do you know
 12:20 6 what we mean when we say AWOL?
 12:20 7 A. Yes.
 12:21 8 Q. And were you aware that he was AWOL?
 12:21 9 A. Yes.
 12:21 10 Q. Did you call the police?
 12:21 11 A. No.
 12:21 12 Q. Did you call the Department of the Navy?
 12:21 13 A. No.
 12:21 14 Q. Did you call his commanding officer?
 12:21 15 A. No.
 12:21 16 Q. Why didn't you?
 12:21 17 A. Because he's my son.
 12:21 18 Q. How long did he stay with you?
 12:21 19 A. About a month.
 12:21 20 Q. Where did he go from there?
 12:21 21 A. He moved back into his home on Bow Court.
 12:21 22 THE COURT: Mr. High, I'm going to ask you
 12:21 23 to mark your notes at this time, and I think we'll take
 12:22 24 some time for lunch. Ladies and gentlemen, let's come
 12:22 25 back at about 1:40 to continue the trial of this case.

12:22 1 THE BAILIFF: All rise.
 13:49 2 (Lunch recess.)
 13:49 3 (Open court, defendant present, no jury.)
 13:49 4 MR. GOELLER: Judge, before we do that, we
 13:49 5 have a couple records we'd like to call briefly out of
 13:49 6 order so the officers don't have to --
 13:49 7 THE COURT: Yeah. Go ahead. And do you
 13:49 8 want to bring the jury in and call them in? Is that
 13:49 9 okay with you guys?
 13:49 10 MS. FALCO: Yes, sir.
 13:49 11 MR. HIGH: What about Cunningham?
 13:49 12 MR. GOELLER: Judge, we anticipate -- we
 13:49 13 have Dr. Cunningham who is one of our experts in this
 13:49 14 case. He's sitting here in the courtroom. We'd ask the
 13:49 15 Court, he'll be able to testify to the jury regarding
 13:49 16 his area of expertise, and it would be necessary for him
 13:49 17 to view some of the other evidence such as the
 13:49 18 defendant's mother's testimony about growing up, factors
 13:49 19 in his life, things of that nature. We'd ask the Court
 13:50 20 for him to be allowed to witness that testimony.
 13:50 21 THE COURT: Okay. All right. We'll
 13:50 22 excuse him. Is that okay with you guys?
 13:50 23 MR. SCHULTZ: No, sir. It's really not.
 13:50 24 I see no reason he can't interview these people, if his
 13:50 25 object is to learn material about the defendant or the

13:50 1 defendant's background. I see no reason he needs to be
 13:50 2 present to see testimony of other witnesses that he will
 13:50 3 then base his opinion on. And so we do object because
 13:50 4 we see no reason.
 13:50 5 I can understand -- I can understand a
 13:50 6 relaxation of the Rule if you are talking about experts
 13:50 7 viewing other experts just simply for clarity and
 13:50 8 efficiency purposes. But asking a witness to come in
 13:50 9 and just be able to view the witness of some lay person
 13:50 10 talking about report cards and that sort of thing is
 13:50 11 objectionable to the State. And I know of no authority
 13:50 12 to deviate from the Rule of Sequestration. It's been
 13:50 13 invoked already.
 13:50 14 THE COURT: Oh, yeah. There's authority
 13:50 15 for experts. But I'll tell you what my thinking is, is
 13:50 16 there anything that, when you look at the reasons for
 13:51 17 the Rule of Sequestration, I don't see how it -- I
 13:51 18 don't see how it violates any of the reasons for the
 13:51 19 Rule if you think of why you don't want people, fact
 13:51 20 witnesses, to hear other fact witness testimony.
 13:51 21 At any rate, if you want to bring your
 13:51 22 expert in too, you may. But I'll overrule the objection
 13:51 23 and allow -- what's your man's name?
 13:51 24 MR. GOELLER: What's my next witness?
 13:51 25 THE COURT: What's this gentleman's name?

13:51 1 MR. GOELLER: Cunningham, sir.
 13:51 2 THE COURT: Dr. Cunningham, we'll let you
 13:51 3 -- we'll release you from the Rule.
 13:51 4 MR. SCHULTZ: Well, could we at least have
 13:51 5 him -- if we're going to do it this way, could he be
 13:51 6 released, could he be placed under the Rule so he
 13:51 7 doesn't go conversing with the witnesses?
 13:51 8 THE COURT: Oh, yeah. Up to that extent.
 13:51 9 MR. SCHULTZ: We'd ask you to swear him in
 13:51 10 as a witness.
 13:51 11 THE COURT: Rise and raise your right
 13:51 12 hand, please.
 13:51 13 (Dr. Cunningham sworn in.)
 13:51 14 THE COURT: The Rule has been invoked, but
 13:51 15 it's relaxed to the extent that you are allowed to sit
 13:51 16 in here during the testimony of the witnesses, but you
 13:51 17 cannot discuss your testimony with anybody except the
 13:51 18 attorneys on both sides. Do you understand?
 13:52 19 DR. CUNNINGHAM: Yes, sir. Thank you,
 13:52 20 sir.
 13:52 21 THE COURT: All right. Let's bring the
 13:52 22 jury in then. Oh, is there anything else?
 13:52 23 MR. SCHULTZ: No.
 13:52 24 THE COURT: All right. Let's bring the
 13:52 25 jury in. Why don't you just ask to put on the witness

13:52 1 out of order, and the State will say fine. And the jury
 13:52 2 will hear it instead of me explaining.
 13:52 3 MR. GOELLER: The reason I ask, it is a
 13:52 4 very very busy day at the S.O. today, and these are kind
 13:52 5 of key people out there.
 13:52 6 THE COURT: What's going on at the
 13:52 7 sheriff's office?
 13:52 8 MR. GOELLER: I don't know, but they told
 13:52 9 me Monday is extremely busy. And if they don't get
 13:52 10 back, tomorrow is going to be worse. I'm just trying to
 13:52 11 be a nice guy.
 13:53 12 THE COURT: All right. Should we put that
 13:53 13 in front of the jury or --
 13:53 14 MR. GOELLER: I am kind to my law
 13:53 15 enforcement friends.
 13:53 16 THE COURT: Sounds good.
 13:53 17 THE BAILIFF: All rise.
 13:53 18 (Open court, defendant and jury present.)
 13:53 19 THE COURT: Please be seated.
 13:53 20 MR. GOELLER: Your Honor, at this time
 13:53 21 we'd like to take a few very brief witnesses out of
 13:53 22 order so we can get back to their job assignments with
 13:54 23 the County.
 13:54 24 THE COURT: Is that agreeable to the
 13:54 25 State?

13:54 1 MR. SCHULTZ: Yes.
 13:54 2 MR. GOELLER: Call Sheriff's Deputy
 13:54 3 McCraw.
 13:54 4 THE COURT: All right.
 13:54 5 TERRI MCCRAW,
 13:54 6 being first duly sworn, testified as follows:
 13:54 7 THE COURT: Please have a seat right here.
 13:54 8 THE COURT: All right. Mr. Goeller?
 13:54 9 DIRECT EXAMINATION
 13:54 10 BY MR. GOELLER:
 13:54 11 Q. Good afternoon, sir. Would you tell the ladies
 13:54 12 and gentlemen your name.
 13:54 13 A. Lieutenant Terri McCraw.
 13:54 14 Q. How are you presently employed, sir?
 13:54 15 A. Lieutenant with the Collin County sheriff's
 13:54 16 office in charge of the custodian of the disciplinary
 13:54 17 records.
 13:54 18 Q. Lieutenant McCraw --
 13:54 19 MR. GOELLER: May I approach the witness,
 13:54 20 Your Honor?
 13:55 21 THE COURT: Yes.
 13:55 22 MR. GOELLER: Let me show what I'll mark
 13:55 23 as State's Exhibit 24 on the outside being a manila
 13:55 24 envelope.
 13:55 25 MR. HIGH: Defendant's Exhibit, not

13:55 1 State's Exhibit.
 13:55 2 MR. GOELLER: Did I say State's exhibit?
 13:55 3 THE COURT: Did you say 25 or 24?
 13:55 4 MR. GOELLER: I think I said 24. Maybe I
 13:55 5 ought to just start over.
 13:55 6 Q. (BY MR. GOELLER) How about the Defendant's
 13:55 7 Exhibit 24, manila envelope, ACCO clipped with some
 13:55 8 documents inside. Ask you if you have seen this
 13:55 9 subpoena, of course would be a subpoena and the
 13:55 10 documents attached?
 13:55 11 A. Yes, sir.
 13:55 12 Q. And what are those?
 13:55 13 A. These are just his disciplinary file,
 13:55 14 classification file.
 13:55 15 Q. And who would that be on?
 13:55 16 A. Ivan Cantu.
 13:55 17 Q. Ivan Abner Cantu?
 13:55 18 A. Yes, sir.
 13:55 19 Q. All right. And I think you've already
 13:55 20 testified you are the custodian of records for those
 13:55 21 disciplinary records?
 13:55 22 A. Yes, sir.
 13:55 23 Q. Are the records contained therein made by
 13:55 24 persons with knowledge at or near the time of the event
 13:55 25 described?

13:55 1 A. Yes, sir.
 13:55 2 Q. All right. Are they kept in the normal course
 13:55 3 of business with the Collin County Sheriff's Department?
 13:55 4 A. Yes, sir.
 13:56 5 MR. GOELLER: Thank you, sir. I'd offer
 13:56 6 24, Your Honor.
 13:56 7 MR. SCHULTZ: No objection.
 13:56 8 THE COURT: All right. No. 24 for the
 13:56 9 defendant is admitted.
 13:56 10 (Defendant's Exhibit No. 24 admitted.)
 13:56 11 Q. (BY MR. GOELLER) Lieutenant McCraw, have you
 13:56 12 had an opportunity to go through the records?
 13:56 13 A. Yes, sir.
 13:56 14 Q. I believe you put together those records on
 13:56 15 what date?
 13:56 16 A. I believe --
 13:56 17 Q. Approximately?
 13:56 18 A. 10th of October, I believe. Sometime around
 13:56 19 the 10th.
 13:56 20 Q. Are there any updates to those records?
 13:56 21 A. No.
 13:56 22 Q. Would it be fair to say there are no
 13:56 23 disciplinary infractions of Ivan Cantu?
 13:56 24 A. None that I could find.
 13:56 25 MR. GOELLER: All right. That's all I

13:56 1 have, Judge. I'll pass the witness.
 13:56 2 THE COURT: All right. Mr. Schultz?
 13:56 3 CROSS-EXAMINATION
 13:56 4 BY MR. SCHULTZ:
 13:56 5 Q. So apparently he can behave himself when it
 13:56 6 suits him; is that right?
 13:56 7 A. Well, he's locked up 23 hours a day. So he
 13:56 8 doesn't have a whole lot of opportunity to get in any
 13:56 9 trouble.
 13:56 10 Q. Does that mean that anyone under that lockdown
 13:56 11 situation doesn't get in trouble?
 13:56 12 A. They can get in trouble, but it's a little bit
 13:56 13 harder for them to.
 13:57 14 Q. Well, I understand. I guess what I'm getting
 13:57 15 at is there is probably no practical way to get out of
 13:57 16 that situation for the defendant; is that right?
 13:57 17 A. You are correct.
 13:57 18 Q. Nevertheless, you have people even under
 13:57 19 similar circumstances that are a disciplinary problem,
 13:57 20 right?
 13:57 21 A. Yes, sir.
 13:57 22 Q. And that happens with some frequency there,
 13:57 23 doesn't it?
 13:57 24 A. The disciplinary problems or not disciplinary
 13:57 25 problems?

13:57 1 Q. Having disciplinary problems.
 13:57 2 A. I would say with this type of offense we
 13:57 3 usually don't. Usually, you would think the people that
 13:57 4 you think are charged with the larger crimes or the more
 13:57 5 serious crimes --
 13:57 6 Q. Uh-huh.
 13:57 7 A. -- they routinely don't give us any trouble
 13:57 8 when they come to jail.
 13:57 9 Q. Are you saying he's just like other capital
 13:57 10 murderers then that you have over there, about the same
 13:57 11 way?
 13:57 12 A. Similar, yes, sir.
 13:57 13 Q. So I mean your position is, even the most
 13:57 14 hard-core kind of capital murderers you get over there
 13:57 15 behave under your circumstances?
 13:57 16 A. Yes, sir.
 13:57 17 Q. And is it fair to say that most of your work
 13:57 18 with these people is prior to trial, it's that pre-trial
 13:57 19 situation?
 13:57 20 A. Yes, sir. Or bench warrant situations where
 13:58 21 they bring them back from an appeal or something.
 13:58 22 Q. All right. But he hasn't been any problem?
 13:58 23 A. No, sir.
 13:58 24 Q. Has he -- do you know him personally?
 13:58 25 A. No, sir.

13:58 1 Q. So, I mean, other than being able to infer that
 13:58 2 he must be the defendant from where he's sitting?
 13:58 3 A. Apparently. I don't know. I've never seen him
 13:58 4 before.
 13:58 5 Q. And you don't know what he's thinking or what
 13:58 6 his reasons are for behaving?
 13:58 7 A. No, sir.
 13:58 8 Q. You just don't have any records of him doing
 13:58 9 anything wrong?
 13:58 10 A. None.
 13:58 11 Q. Which does mean he has self-control?
 13:58 12 A. Apparently.
 13:58 13 Q. Okay. Let's -- let's spin it a different way.
 13:58 14 Suppose an inmate, even under a 23-hour lockdown
 13:58 15 situation wished to act up, is there the opportunity to
 13:58 16 act up? Not will it get him good things. But is there
 13:58 17 that opportunity?
 13:58 18 A. Yes, sir.
 13:58 19 Q. What kinds of things of a misbehaving nature
 13:58 20 could an inmate do if he chose to?
 13:58 21 A. He could flood his cell, mess with the fire
 13:58 22 alarm, sprinkler devices in there, tear up the TV, tear
 13:58 23 up the phone, not obey the regular housekeeping rules
 13:58 24 and just keeping himself clean and stuff.
 13:58 25 Q. Okay. Now, obviously, that would not advantage

13:59 1 anybody other than kind of a warped or kind of a
 13:59 2 rebellious way because they are still not getting out
 13:59 3 for doing those things, right?
 13:59 4 A. Correct.
 13:59 5 Q. Do you have any sanctions that you can apply to
 13:59 6 people who do such things as tamper with fire alarms or
 13:59 7 flood the place or stop up the commode or set a mattress
 13:59 8 on fire?
 13:59 9 A. Yes, sir.
 13:59 10 Q. What kind of sanctions in addition to the
 13:59 11 23-hour-a-day lockup do you have available?
 13:59 12 A. We can take away their privileges. He is in
 13:59 13 administrative separation which is just because of the
 13:59 14 nature of the crime and high profile. We don't
 13:59 15 associate those with the general population. So we
 13:59 16 could move him to a disciplinary segregation which would
 13:59 17 be take away any commissary he has, limit his phone
 13:59 18 calls, take away his personal visitation, things such as
 13:59 19 that.
 13:59 20 Q. And moreover, you could come over and tell the
 13:59 21 jury that he had been acting up in the jail, and that
 14:00 22 was just one more example of things that he was doing
 14:00 23 wrong; is that true?
 14:00 24 A. If he did that?
 14:00 25 Q. Uh-huh.

14:00 1 A. Yes, sir.
 14:00 2 Q. Now, is there any indication in your
 14:00 3 disciplinary records of any type of mental breakdown on
 14:00 4 the part of the defendant at any point in time?
 14:00 5 A. No, not that I know of.
 14:00 6 Q. Would they be reflected in disciplinary records
 14:00 7 if the breakdowns or episodes took effect in terms of
 14:00 8 property damage or assault on somebody?
 14:00 9 A. Yes, sir.
 14:00 10 Q. And there are no references to that?
 14:00 11 A. No, sir.
 14:00 12 Q. And what you are -- you are not saying the
 14:00 13 defendant's done anything more than not done destruction
 14:00 14 to property or attack people over there; is that --
 14:00 15 A. He's done what he's expected to do.
 14:00 16 Q. Okay. And according to you, most inmates do
 14:00 17 that anyway?
 14:00 18 A. Probably a small percentage of our inmates give
 14:00 19 us problems.
 14:00 20 Q. And that's even true of capital murderers.
 14:00 21 It's a very few percentage of them give you any
 14:00 22 troubles?
 14:00 23 A. Correct.
 14:00 24 Q. When is the last capital murderer you ever
 14:01 25 recall ever giving you any trouble over there?

14:01 1 A. Michael Sigala, I believe.
 14:01 2 Q. Okay. And he was just recently prosecuted; is
 14:01 3 that right?
 14:01 4 A. Yes.
 14:01 5 Q. What kind of trouble did he give you?
 14:01 6 A. Just his verbiage, his failure to want to
 14:01 7 cooperate, making threats and just his attitude in
 14:01 8 general, as far as -- he wasn't a major infraction
 14:01 9 violator, but just his attitude and stuff made us a
 14:01 10 little weary of him.
 14:01 11 Q. And did you offer any testimony as the records
 14:01 12 custodian in regard to the Sigala matter?
 14:01 13 A. I was subpoenaed, but I was never called.
 14:01 14 Q. Subpoenaed with your records?
 14:01 15 A. Yes, sir.
 14:01 16 Q. Okay. Since the defendant hasn't done any
 14:01 17 disciplinary violations, does that mean you trust him,
 14:01 18 and he's not a dangerous person?
 14:01 19 A. I don't trust any of the inmates, sir.
 14:01 20 Q. I guess what I'm saying is, the fact that he
 14:02 21 hasn't destroyed any property or anything like that,
 14:02 22 would you ever turn your back on the defendant?
 14:02 23 A. No, sir.
 14:02 24 MR. SCHULTZ: Thank you. Pass the
 14:02 25 witness.

14:02 1 REDIRECT EXAMINATION
 14:02 2 BY MR. GOELLER:
 14:02 3 Q. You wouldn't turn your back on any inmate in
 14:02 4 the penal institution, would you?
 14:02 5 A. Correct.
 14:02 6 Q. The jail has the ability to classify, so to
 14:02 7 speak, individuals that are going to be housed there
 14:02 8 according to risk assessment?
 14:02 9 A. Yes, sir.
 14:02 10 Q. And why do you all do that?
 14:02 11 A. Just -- we have State standards that tell us to
 14:02 12 do that and just the fact to alleviate any problems. If
 14:02 13 we can classify them correctly, most of the time we can
 14:02 14 eliminate any problems.
 14:02 15 Q. Somebody that maybe, oh, is in there because
 14:02 16 they didn't pay a speeding ticket. You would -- you
 14:02 17 might view that differently than somebody in there on a
 14:02 18 serious felony charge?
 14:03 19 A. Yes, sir.
 14:03 20 Q. And then you have the tools available to place
 14:03 21 people where you think you will best be able to control
 14:03 22 them?
 14:03 23 A. Yes, sir.
 14:03 24 Q. And minimize any risk?
 14:03 25 A. Yes, sir.

14:03 1 Q. You've testified that Ivan's on a 23-hour
 14:03 2 lockdown?
 14:03 3 A. Yes, sir.
 14:03 4 Q. And what happens the other hour?
 14:03 5 A. That's his hour out for recreation.
 14:03 6 Q. How does that work?
 14:03 7 A. They give them a basketball if they want to
 14:03 8 play basketball. They let them walk around the
 14:03 9 recreation yard. They just basically let them out of
 14:03 10 their cell. They have the shower and everything in
 14:03 11 their cells. So his hour of recreation would just be
 14:03 12 physical exercise, basketball, something like that.
 14:03 13 Q. Is he alone for that?
 14:03 14 A. I really don't know. I'd have to view his
 14:03 15 file. I don't know.
 14:03 16 Q. All right. Do you feel that your
 14:03 17 classification system works well in achieving the goals
 14:03 18 of the jailhouse? That is, minimizing the risk to
 14:03 19 staff and other inmates?
 14:04 20 A. Yes, sir.
 14:04 21 Q. And minimizing the risk to the inmates
 14:04 22 themselves?
 14:04 23 A. Yes, sir.
 14:04 24 MR. GOELLER: That's all I have. Thank
 14:04 25 you, sir.

14:04 1 RECCROSS EXAMINATION
 14:04 2 BY MR. SCHULTZ:
 14:04 3 Q. Does the defendant have television privileges
 14:04 4 in his cell?
 14:04 5 A. Yes, sir.
 14:04 6 Q. Does he actually have a TV in his cell?
 14:04 7 A. Yes.
 14:04 8 Q. What about phone privileges? Does he have a
 14:04 9 phone in there?
 14:04 10 A. Yes, sir.
 14:04 11 Q. It's kind of a motel room except for the
 14:04 12 security aspect, wouldn't you say?
 14:04 13 A. Yes.
 14:04 14 Q. Pretty nice, all things considered?
 14:04 15 A. Yes, sir.
 14:04 16 Q. And those are things that he could also lose?
 14:04 17 A. Yes, sir.
 14:04 18 MR. SCHULTZ: I pass the witness.
 14:04 19 REDIRECT EXAMINATION
 14:04 20 BY MR. GOELLER:
 14:04 21 Q. And the reason why you have televisions and
 14:04 22 phone privileges and maybe the ability to buy a bag of
 14:04 23 Doritos or -- that's all part of the system's control on
 14:04 24 people?
 14:04 25 A. Right. And we have to classify them. Because

14:04 1 he's not a disciplinary problem, we have to continue to
 14:04 2 give him the things that the general population has
 14:04 3 access to. Until he displays behavior we can take it
 14:05 4 from him.
 14:05 5 Q. Take it away?
 14:05 6 A. Yes, sir.
 14:05 7 Q. You work inside the jail?
 14:05 8 A. Yes, sir.
 14:05 9 Q. Do you, Lieutenant?
 14:05 10 A. Yes, sir.
 14:05 11 Q. Oftentimes you hear people complain about, you
 14:05 12 know, inmates have too much of this and too much of that
 14:05 13 and too many privileges. But from a correction
 14:05 14 standpoint these quote, unquote luxuries -- maybe
 14:05 15 television and magazines and access to a phone actually
 14:05 16 become a very important part of your business in
 14:05 17 controlling human behavior?
 14:05 18 A. Yes, sir.
 14:05 19 MR. GOELLER: Okay. Thank you, sir.
 14:05 20 That's all I have, Judge.
 14:05 21 RECCROSS EXAMINATION
 14:05 22 BY MR. SCHULTZ:
 14:05 23 Q. When we are talking about disciplinary
 14:05 24 problems, we're not talking -- you don't handle the
 14:05 25 complaint end of the jail, do you?

14:05 1 A. Only if it's complaining on the area that I
 14:05 2 supervise.
 14:05 3 Q. Now, do you show any complaints by the
 14:05 4 defendant about his stay over there?
 14:05 5 A. Not under my area, no, sir.
 14:05 6 Q. And you wouldn't know about other areas?
 14:05 7 A. I have just a few in the file, but none -- it's
 14:06 8 mail, something about mail, and a dentist, or something
 14:06 9 like that.
 14:06 10 Q. What's his complaint about the mail?
 14:06 11 A. It seems -- the one that I have in the packet.
 14:06 12 I don't know where the packet is. Right here. It was
 14:06 13 something about someone had opened some of his legal
 14:06 14 correspondence by accident or he wasn't put on the
 14:06 15 dentist list or something, but they are all in here.
 14:06 16 Complaining about the food.
 14:06 17 Q. He didn't like the food in the jailhouse,
 14:06 18 right?
 14:06 19 A. That's what his complaint is, something about
 14:06 20 the food.
 14:06 21 Q. Can you tell me what?
 14:06 22 A. I could read it for you. Would you like me to
 14:06 23 read it for you?
 14:06 24 Q. Uh-huh.
 14:06 25 A. The dinner meal that was delivered at 5:12 was

14:06 1 ruined. A very hot meal was served in styrofoam, and it
 14:06 2 melted altogether. Since I am -- I can't -- a
 14:06 3 vegetarian, maybe, now I haven't -- I wasn't to receive
 14:07 4 something about a beef and cheese hot pocket and French
 14:07 5 fries. A squash and cobbler did have melted styrofoam
 14:07 6 mixed together. The only eatable portions for me were
 14:07 7 uneatable. Again, can you please change my meals to
 14:07 8 vegetarian as future meat trays are not wanted.

14:07 9 Q. Is that the only way he could have corrected
 14:07 10 that problem is with a complaint?

14:07 11 A. Well, there's a -- there's a request form. We
 14:07 12 have requests and we have complaints. And generally, we
 14:07 13 try to get them to put it on a request form, what they
 14:07 14 are requesting. And if they are not satisfied then,
 14:07 15 then you go into the complaint.

14:07 16 So I don't know, he could have put a
 14:07 17 request in for something. That's not the area I
 14:07 18 supervise. I just seen that in this packet.

14:07 19 Q. I understand. What about his complaint about
 14:07 20 the dentist. What's his problem with that?

14:08 21 A. It reads something to the effect of: For the
 14:08 22 last three weeks the medical staff has been telling me,
 14:08 23 "one more week." I still need to have a tooth pulled.
 14:08 24 And if it takes any longer, I will be in pain. Please
 14:08 25 help me resolve this miscommunication problem. I could

14:08 1 give you the names, but the nurses don't -- don't wear
 14:08 2 name badges. I didn't fill out a previous grievance in
 14:08 3 reference to the matter of the same -- something.

14:08 4 Please -- it's just a bad copy. I really
 14:09 5 can't read the defendant's handwriting. And something
 14:09 6 so that future inmates are not lost in the crack. I
 14:09 7 guess the system or something. The system failed him.

14:09 8 Q. Okay. And you can't tell whether that problem
 14:09 9 was ever resolved to his satisfaction or not, huh?

14:09 10 A. No, sir. I just got the complaint reply form,
 14:09 11 and I just kind of -- it just says, I've read your
 14:09 12 complaint. Our records show that you are on the dental
 14:09 13 list to be seen at the next available appointment.
 14:09 14 There are others on the list before you.

14:09 15 You have seen dental on November 17, 2000,
 14:09 16 December 1, 2000, December 3rd, 2000, January 22, 2001,
 14:09 17 May 7, 2001, by the dental assistant or the dentist.

14:09 18 And I know it's hard to wait, but I assure you that you
 14:09 19 are on the list. Regarding badges, all nurses wear
 14:09 20 badges that are provided by detention for name purposes.

14:09 21 Q. Are those the only complaints that you see
 14:09 22 under your area?

14:09 23 A. No. These aren't my area. These are just in
 14:09 24 my classification packet. I have no complaints in the
 14:09 25 area that I supervise.

14:09 1 Q. Okay. Any other complaints in your packet
 14:09 2 there?

14:10 3 A. Here's another one something about visiting
 14:10 4 with a nurse. I visited with a nurse on June 22, 2001,
 14:10 5 around 10:11 a.m. At that time the nurse told me that I
 14:10 6 would be on the dentist list to have a tooth pulled
 14:10 7 with -- with Monday passing. Still no sign of a
 14:10 8 dentist.

14:10 9 On my way to visitation, I did visit with
 14:10 10 Nurse Tray, but coincidence, he's here in the pod at
 14:10 11 2:05 p.m. They stated they knew nothing about the
 14:10 12 appointment, but filled out another medical form. I
 14:10 13 visited with the nurse today at 10:22 a.m. and she
 14:10 14 stated that the June 22nd, '01, visit confirms
 14:10 15 everything. But for some reason I was not added to the
 14:11 16 June 25th dental list, and I can't read the rest. And
 14:11 17 again, that complaint reply tells him he's still on the
 14:11 18 dentist list.

14:11 19 Q. Okay. So he's not acting up in jail, and he's
 14:11 20 following the rules. And he, whatever our view of
 14:11 21 prisoners' rights or prisoner situations, those are
 14:11 22 logical things he's asking about, right?

14:11 23 A. Yes.

14:11 24 Q. Some people might think he ought to be more
 14:11 25 patient. Other people might say, you ought to get more

14:11 1 dentists, but he's trying to handle the problem himself?

14:11 2 A. Yes.

14:11 3 Q. And it makes sense. And he's got a lieutenant
 14:11 4 responding to him with the complaint form. He
 14:11 5 understands how to work for what he wants when he wants
 14:11 6 to; is that right?

14:11 7 A. Yes.

14:11 8 Q. Because the way to get what you want is to
 14:11 9 follow this formal procedure at the jail; is that right?

14:12 10 A. Yes.

14:12 11 Q. And the same thing with the food. Now, whether
 14:12 12 or not we have -- whether or not we have sympathy for a
 14:12 13 capital murderer's food not being to the liking or
 14:12 14 not --

14:12 15 MR. GOELLER: Objection to the form the
 14:12 16 question. It is really argumentative and is intended to
 14:12 17 be sidebar.

14:12 18 THE COURT: Sustained.

14:12 19 Q. (BY MR. SCHULTZ) He's attempting to solve his
 14:12 20 problem to get food of his liking, rather than what's
 14:12 21 being provided; is that right?

14:12 22 A. It says something about a vegetarian. He's
 14:12 23 requesting vegetarian meals. I don't know if that's
 14:12 24 what his liking or his religious belief or what, I don't
 14:12 25 know.

14:12 1 Q. But my point is, if someone wants to change a
 14:12 2 diet in the jailhouse, the way he's approaching it is a
 14:12 3 logical way to do it, isn't it?
 14:12 4 A. It's the appropriate way to approach it. It's
 14:12 5 within the means.
 14:12 6 Q. Okay. And so my point is he demonstrates the
 14:12 7 ability to do things the regular way when it suits him
 14:12 8 or when he wants to?
 14:12 9 A. Yes, sir.
 14:12 10 MR. SCHULTZ: I'll pass the witness.
 14:12 11 REDIRECT EXAMINATION
 14:12 12 BY MR. GOELLER:
 14:12 13 Q. Not only the appropriate way, the way you and
 14:12 14 your staff teach them to respond to requests or
 14:13 15 complaints, correct?
 14:13 16 A. Formally.
 14:13 17 Q. Right. Instead of acting out or yelling or
 14:13 18 screaming at nurses or cooks or mess hall personnel
 14:13 19 or -- you teach them. You have these forms. These are
 14:13 20 the forms you use?
 14:13 21 A. Yes, sir.
 14:13 22 MR. GOELLER: Okay. That's all I have,
 14:13 23 Judge.
 14:13 24 MR. SCHULTZ: Nothing further.
 14:13 25 THE COURT: Is he excused by both sides?

14:13 1 MR. GOELLER: Yes, sir.
 14:13 2 MR. SCHULTZ: Yes, sir.
 14:13 3 (Witness excused.)
 14:13 4 THE COURT: Thank you, Officer McCraw.
 14:13 5 Call your next witness, please.
 14:13 6 MR. GOELLER: Lieutenant Barr, Your Honor.
 14:13 7 THE COURT: Lieutenant Barr?
 14:13 8 MATTHEW ALLEN BARR,
 14:14 9 being first duly sworn, testified as follows:
 14:14 10 THE COURT: Have a seat right here.
 14:14 11 THE WITNESS: Yes, sir.
 14:14 12 THE COURT: All right.
 14:14 13 DIRECT EXAMINATION
 14:14 14 BY MR. GOELLER:
 14:14 15 Q. Thank you. Good afternoon, sir. Could you
 14:14 16 tell the ladies and gentlemen of the jury your name.
 14:14 17 A. Matthew Allen Barr.
 14:14 18 Q. And you are currently employed with the
 14:14 19 sheriff's office of Collin County?
 14:14 20 A. Yes, sir.
 14:14 21 Q. And what rank do you hold, sir?
 14:14 22 A. Lieutenant.
 14:14 23 Q. What are some of your job duties and
 14:14 24 responsibilities regarding medical records out there?
 14:14 25 A. I'm the services lieutenant. I'm the first

14:14 1 line supervisor for the medical department, the mail
 14:14 2 room, and various other areas of the jail.
 14:14 3 MR. GOELLER: All right. May I approach,
 14:14 4 Your Honor?
 14:14 5 THE COURT: Yes.
 14:14 6 Q. (BY MR. GOELLER) Lieutenant Barr, let me hand
 14:14 7 you what I've marked as Defendant's Exhibit No. 25 and
 14:14 8 ask you if you can just flip through that and look at
 14:14 9 that and see if you recognize those documents.
 14:15 10 A. These would be the medical records for
 14:15 11 Mr. Cantu.
 14:15 12 Q. Is that Ivan Abner Cantu, sir?
 14:15 13 A. Yes.
 14:15 14 Q. You are one of the custodian of records --
 14:15 15 A. Yes, sir.
 14:15 16 Q. -- for that package of materials. How long
 14:15 17 have you been with the jail?
 14:15 18 A. I've been employed there since '93.
 14:15 19 Q. All right. How long have you been a lieutenant
 14:15 20 over those areas?
 14:15 21 A. About nine months.
 14:15 22 Q. Is it the normal course of business for the
 14:15 23 sheriff's office to maintain those type of records?
 14:15 24 A. Pardon?
 14:15 25 Q. Is it the normal course of business of the

14:15 1 sheriff's office to maintain records of that nature?
 14:15 2 A. Yes, yes.
 14:15 3 Q. And are the entries and records made at or near
 14:15 4 the time that the events are perceived?
 14:15 5 A. Yes, sir.
 14:15 6 Q. And those are Defendant's Exhibit No. 25. Is
 14:15 7 that an accurate copy of Mr. Cantu's medical?
 14:15 8 A. Yes.
 14:15 9 MR. GOELLER: I offer 25, Your Honor.
 14:15 10 MR. SCHULTZ: No objection.
 14:15 11 THE COURT: All right. No. 25 for
 14:15 12 defendant is admitted.
 14:15 13 (Defendant's Exhibit No. 25 admitted.)
 14:15 14 Q. (BY MR. GOELLER) Your background is law
 14:15 15 enforcement and management?
 14:15 16 A. Yes, sir.
 14:15 17 Q. You don't have any medical training or any
 14:15 18 medical knowledge.
 14:15 19 A. No, sir.
 14:15 20 Q. You are here as a custodian?
 14:15 21 A. Yes, sir.
 14:15 22 MR. GOELLER: Thank you, sir. I'll pass
 14:15 23 the witness.
 14:15 24 MR. SCHULTZ: A moment please, Judge?
 14:15 25 THE COURT: All right.

14:16 1 MR. SCHULTZ: No questions, Judge.
 14:16 2 THE COURT: All right. You may step down.
 14:16 3 Is he excused by both sides?
 14:16 4 MR. GOELLER: Yes, Your Honor.
 14:16 5 MR. SCHULTZ: Yes.
 14:16 6 THE COURT: All right. You are finally
 14:16 7 excused. I appreciate it.
 14:16 8 (Witness excused.)
 14:16 9 THE COURT: All right. Do you have
 14:16 10 another one?
 14:16 11 MR. GOELLER: I don't have any more live
 14:16 12 testimony, Judge. I've spoken with the State. For the
 14:16 13 sake of time, we'd agree to -- I'd offer Defendant's
 14:16 14 Exhibit No. 26 and No. 27, would be the records of the
 14:16 15 Plano Independent School District for Ivan.
 14:16 16 And Defendant's Exhibit No. 27 is our
 14:16 17 school records from DISD. Although they are not quite
 14:17 18 as nice as the Plano's package, but those are what they
 14:17 19 purport to be.
 14:17 20 MR. SCHULTZ: No objection.
 14:17 21 THE COURT: All right. 26 and 27, for the
 14:17 22 defendant, are admitted.
 14:16 23 (Defendant's Exhibit Nos. 26 and 27
 14:16 24 admitted.)
 14:17 25 MR. GOELLER: And I believe that's all I

14:17 1 have, Your Honor.
 14:17 2 THE COURT: All right. Shall we ask
 14:17 3 Mrs. Cantu to take the stand again?
 14:17 4 (Sylvia Cantu present.)
 14:17 5 THE COURT: Please be seated. As you
 14:17 6 know, Mrs. Cantu, you are still under oath.
 14:17 7 THE WITNESS: Yes.
 14:17 8 THE COURT: All right. Go ahead,
 14:17 9 Mr. High.
 14:17 10 MR. HIGH: Thank you, Your Honor.
 14:17 11 DIRECT EXAMINATION (CONT'D)
 14:17 12 BY MR. HIGH:
 14:17 13 Q. Are you the same Sylvia Cantu that was
 14:17 14 testifying before we took our lunch break?
 14:17 15 A. Yes.
 14:17 16 Q. And you understand that you are still under
 14:17 17 oath and this is sworn testimony?
 14:18 18 A. Yes.
 14:18 19 Q. And before we broke for lunch we were talking
 14:18 20 about Ivan having come back from the Navy and was
 14:18 21 staying in the Frisco area.
 14:18 22 A. Yes.
 14:18 23 Q. And we had established that you didn't call the
 14:18 24 commanding officer of the Navy or police or anything
 14:18 25 like that; is that right?

14:18 1 A. Correct.
 14:18 2 Q. And where did he live once he got back in the
 14:18 3 Frisco area?
 14:18 4 A. In his home on Bow Court.
 14:18 5 Q. Did he ever return to the boot camp or back to
 14:18 6 the Navy?
 14:18 7 A. Yes, he did.
 14:18 8 Q. And tell the jury about that and how that took
 14:18 9 place.
 14:18 10 A. He wanted to go back and clear up his record at
 14:18 11 the tribunal. They gave him a month, and he served two
 14:18 12 weeks at that, and they released him due to good
 14:18 13 behavior.
 14:18 14 Q. Now, you've said several things there. Let's
 14:19 15 break it up. You said he went back to boot camp in the
 14:19 16 Navy?
 14:19 17 A. Yes.
 14:19 18 Q. And the tribunal; are you talking about like a
 14:19 19 hearing?
 14:19 20 A. Yes.
 14:19 21 Q. A court proceeding?
 14:19 22 A. Yes.
 14:19 23 Q. And you mentioned that they gave him a month.
 14:19 24 Do you mean like a time in jail or in the brig, or
 14:19 25 whatever they call it in the Navy?

14:19 1 A. Yes.
 14:19 2 Q. So he -- he was sentenced to some time, one
 14:19 3 month?
 14:19 4 A. Yes.
 14:19 5 Q. And how much time did he do on that?
 14:19 6 A. Two weeks.
 14:19 7 Q. Two weeks. And he was released out of the
 14:19 8 Navy?
 14:19 9 A. Yes.
 14:19 10 Q. And are you aware that he was discharged other
 14:19 11 than honorable?
 14:19 12 A. Yes.
 14:19 13 Q. Okay. And once he was released out of the
 14:19 14 Navy, what happened? What did he do next?
 14:19 15 A. He went to work for Baby Dolls.
 14:19 16 Q. Did he come back to Texas?
 14:19 17 A. Yes.
 14:19 18 Q. And specifically this area?
 14:19 19 A. Frisco.
 14:19 20 Q. And was the issue with the Navy finally
 14:19 21 resolved?
 14:19 22 A. Yes.
 14:19 23 Q. No more contact with the Navy?
 14:20 24 A. No.
 14:20 25 Q. And you indicated he went to work for Baby

14:20 1 Dolls?
 14:20 2 A. Yes.
 14:20 3 Q. Where is Baby Dolls located?
 14:20 4 A. Northwest Highway.
 14:20 5 Q. In Dallas?
 14:20 6 A. In Dallas.
 14:20 7 Q. And what is Baby Dolls?
 14:20 8 A. It's a gentlemen's club.
 14:20 9 Q. And what was he doing there at Baby Dolls? Do
 14:20 10 you know?
 14:20 11 A. I'm not sure of his position.
 14:20 12 Q. But he was working there?
 14:20 13 A. He was working there.
 14:20 14 Q. How long did he work at Baby Dolls?
 14:20 15 A. Three months, I guess.
 14:20 16 Q. Okay. And just so everybody's straight on
 14:20 17 this. This is 1999? What time of year was this?
 14:20 18 A. This is in the fall.
 14:20 19 Q. All right. And you indicated he worked there
 14:20 20 several months, and then what happened? Did he quit?
 14:20 21 Get fired, what happened with Baby Dolls?
 14:20 22 A. He quit.
 14:20 23 Q. What did he do after he left Baby Dolls?
 14:20 24 A. He went back into the mortgage business.
 14:21 25 Q. And approximately what time is this?

14:21 1 A. 2000.
 14:21 2 Q. Okay. Are you sure about that? Maybe my
 14:21 3 question is not specific. Approximately when did he
 14:21 4 leave Baby Dolls, do you know?
 14:21 5 A. I think it was the fall.
 14:21 6 Q. Okay. And did he go right back to work in the
 14:21 7 mortgage business or was there a break in time?
 14:21 8 A. No. He went right back to work.
 14:21 9 Q. Okay. So did he go back to work in the fall of
 14:21 10 '99 or in 2000 or do you recall?
 14:21 11 A. I'm not sure.
 14:21 12 Q. Okay. At that particular point in time, was he
 14:21 13 in a relationship?
 14:22 14 A. Yes.
 14:22 15 Q. Who with?
 14:22 16 A. Jennifer Snyder.
 14:22 17 Q. And how did he meet Jennifer Snyder?
 14:22 18 A. At Baby Dolls.
 14:22 19 Q. And do you know whether or not Jennifer Snyder
 14:22 20 was a dancer there?
 14:22 21 A. I believe she was a waitress.
 14:22 22 Q. Did they marry?
 14:22 23 A. Yes.
 14:22 24 Q. And when did they marry, if you know?
 14:22 25 A. August of '99.

14:22 1 Q. And where did they live?
 14:22 2 A. In Dallas, in an apartment.
 14:22 3 Q. And were you aware that Ivan and Michelle had
 14:22 4 resided in that exact same apartment?
 14:22 5 A. Yes.
 14:22 6 Q. I don't -- was that planned or was that just
 14:22 7 kind of a freak thing that happened?
 14:22 8 A. It was coincidental.
 14:22 9 Q. Were you aware of any mental problems that
 14:22 10 Jennifer had?
 14:22 11 A. Yes.
 14:22 12 Q. Tell us about those.
 14:23 13 A. Ivan called me late one afternoon, and he told
 14:23 14 me that Jennifer --
 14:23 15 MS. FALCO: Objection, Your Honor.
 14:23 16 Hearsay, self-serving hearsay.
 14:23 17 THE COURT: Sustained.
 14:23 18 Q. (BY MR. HIGH) Okay. What was the effect of
 14:23 19 the call?
 14:23 20 A. Jennifer was on her way to the hospital --
 14:23 21 MS. FALCO: Again, Your Honor, I'm going
 14:23 22 to object as calling for self-serving hearsay.
 14:23 23 THE COURT: Sustained.
 14:23 24 Q. (BY MR. HIGH) Do you know whether or not
 14:23 25 Jennifer had ever made an attempt on her life?

14:23 1 A. Yes.
 14:23 2 Q. Do you know whether or not she was ever
 14:23 3 committed to Presbyterian Hospital?
 14:23 4 A. She was taken to the emergency room at
 14:23 5 Presbyterian Hospital in Plano.
 14:23 6 Q. Okay.
 14:23 7 A. And then transferred to Green Oaks Behavioral.
 14:23 8 Q. Okay. And Ivan was aware of that?
 14:23 9 A. Yes.
 14:23 10 Q. And how did Ivan handle that?
 14:23 11 A. He wanted to care for her after she was
 14:23 12 released. And I asked that he call his sister -- her
 14:23 13 sister in Wills Point to come and take care of her, that
 14:24 14 this was something that was beyond what he could assist
 14:24 15 her with.
 14:24 16 Q. Okay. Basically, as his mom did you feel like
 14:24 17 that was beyond his ability to cope with a situation
 14:24 18 like that?
 14:24 19 A. I was very concerned for him at that point.
 14:24 20 Q. As his mom did you approve of that relationship
 14:24 21 that he had with Jennifer Snyder?
 14:24 22 A. No.
 14:24 23 Q. How long did they stay together?
 14:24 24 A. Three or four months.
 14:24 25 Q. Now, are we into early 2000? Is that about the

14:24 1 point in time we're talking about?
 14:24 2 A. Yes.
 14:24 3 Q. And what happened in early 2000, as you recall?
 14:24 4 A. I observed Ivan pretty much shutting down from
 14:24 5 the time that he divorced Michelle, and now I was
 14:24 6 viewing him as being very nervous. He was unfocused.
 14:25 7 Q. What about his work?
 14:25 8 A. It was difficult for him to find work.
 14:25 9 Q. Why? Why is that?
 14:25 10 A. I believe there was something on his record
 14:25 11 that or background check that showed possession of a
 14:25 12 controlled substance.
 14:25 13 Q. Okay. And the jury's heard about that. That
 14:25 14 was involving cocaine, correct?
 14:25 15 A. Yes.
 14:25 16 Q. And that was a problem that kind of stood in
 14:25 17 his way for getting some employment?
 14:25 18 A. Yes.
 14:25 19 Q. Had his income dropped off?
 14:25 20 A. Very much so.
 14:25 21 Q. And you've seen -- you've compared the '98 tax
 14:25 22 return with the '99 tax return that the jury has seen?
 14:25 23 A. Yes.
 14:25 24 Q. And it's a drastic reduction in income?
 14:25 25 A. Yes.

14:25 1 Q. And did this continue on into the year 2000?
 14:25 2 A. Yes, it did.
 14:26 3 Q. I want to show you Defendant's 23 which has
 14:26 4 already been admitted into evidence, and I want to ask
 14:26 5 you about line 22 which is his total income.
 14:26 6 A. \$5,691.
 14:26 7 Q. All right. I want to ask you about his taxable
 14:26 8 income on line 39.
 14:26 9 A. \$2,800.
 14:26 10 Q. You are looking at 38. That's his exemption.
 14:26 11 A. 39, zero.
 14:26 12 Q. So his taxable income was zero?
 14:26 13 A. Yes.
 14:26 14 Q. And he made some payments in the year 2000 on
 14:27 15 line 58 of how much?
 14:27 16 A. \$668.
 14:27 17 Q. And he had an earned income credit on line 68
 14:27 18 of \$353?
 14:27 19 A. Yes.
 14:27 20 Q. And basically it came down to a refund or an
 14:27 21 overpayment on line 67A of how much?
 14:27 22 A. \$1,021.
 14:27 23 Q. Okay. I see that your signature is on the
 14:27 24 bottom of this return. It's dated April 13th, 2001.
 14:27 25 Why is that?

14:27 1 A. I'm his attorney in fact.
 14:27 2 Q. And Ivan was in custody at the time this return
 14:27 3 was filed; is that correct?
 14:27 4 A. Yes.
 14:27 5 Q. And he had been arrested November 8th of 2000;
 14:27 6 is that correct?
 14:27 7 A. Yes.
 14:27 8 MR. HIGH: At this time I request to
 14:27 9 publish Defendant's 23.
 14:27 10 THE COURT: All right.
 14:28 11 Q. (BY MR. HIGH) We've seen the reduction in
 14:28 12 income of '99 and 2000. How did that affect his mood,
 14:28 13 if you know?
 14:28 14 A. He was under tremendous stress.
 14:28 15 Q. How do you know that?
 14:28 16 A. He came to me that summer and told me that he
 14:28 17 wanted to commit suicide. He wanted to die.
 14:28 18 Q. Would that have been around September 2000?
 14:28 19 A. Yes.
 14:28 20 Q. And what did you do at that point?
 14:28 21 A. I called a policeman friend of mine.
 14:28 22 Q. Do you recall his name, that policeman friend?
 14:28 23 A. Carlos Cerarra.
 14:28 24 Q. You are the one that called Carlos?
 14:28 25 A. Yes, I did.

14:28 1 Q. And what happened at that point?
 14:29 2 A. Ivan was taken into custody and taken to
 14:29 3 Parkland Hospital for a psychiatric evaluation.
 14:29 4 Q. And the jury has heard some testimony about
 14:29 5 that. Basically Carlos, along with some other Dallas
 14:29 6 police officers, they didn't really arrest him, but they
 14:29 7 took him into custody and took him to the hospital; is
 14:29 8 that correct?
 14:29 9 A. Yes. They assisted me in getting him some
 14:29 10 help.
 14:29 11 Q. At that time were you aware of his alcohol as
 14:29 12 well as his drug use?
 14:29 13 A. Yes.
 14:29 14 Q. And were you getting the impression that this
 14:29 15 problem was very serious?
 14:29 16 A. Yes. But I didn't know the extent of his
 14:29 17 addictions.
 14:29 18 Q. Sylvia, have you ever loaned Ivan a car to use,
 14:29 19 or were you making payments on a car for him to use?
 14:30 20 A. Yes.
 14:30 21 Q. And tell the jury about that.
 14:30 22 A. I needed to repossess the car that Ivan was
 14:30 23 driving.
 14:30 24 Q. Okay. Why?
 14:30 25 A. The payments weren't being made, and I needed

14:30 1 to get rid of the car.
 14:30 2 Q. Because you were responsible for that car?
 14:30 3 A. Yes.
 14:30 4 Q. Did you ask him if he would relinquish it to
 14:30 5 you?
 14:30 6 A. Yes.
 14:30 7 Q. And when approximately was that?
 14:30 8 A. That was about September 2000.
 14:30 9 Q. About the same time he wanted to kill himself?
 14:30 10 A. Yes.
 14:30 11 Q. What kind of car was it?
 14:30 12 A. A 2000 Accord.
 14:30 13 Q. What color was it?
 14:30 14 A. Silver.
 14:30 15 Q. How did you go about repossessing, if you will,
 14:30 16 this car?
 14:31 17 A. It was late in the afternoon, and I called
 14:31 18 James Mosqueda, my nephew, to assist me in helping
 14:31 19 getting my car back. And he said he had to take care of
 14:31 20 something, and then he'd be glad to meet with me.
 14:31 21 So as I drove around to stall, Ivan was
 14:31 22 following me, and I was stalling for time. And we
 14:31 23 eventually met at my younger son's apartment in Dallas.
 14:31 24 Q. That's Eric?
 14:31 25 A. Eric's apartment. And --

14:31 1 Q. What time of day was it?
 14:31 2 A. About six o'clock in the afternoon.
 14:31 3 Q. Okay. Are we talking September? Is the sun
 14:31 4 still up? Is it still broad daylight?
 14:31 5 A. Yes.
 14:31 6 Q. What happened next?
 14:31 7 A. They followed me to where I had the car parked
 14:31 8 on Plano Parkway and Preston at the Holiday Inn. And I
 14:32 9 parked -- I pulled up and parked right behind the
 14:32 10 Accord.
 14:32 11 Q. Why did you do that?
 14:32 12 A. Ivan had a set of keys. So I didn't want him
 14:32 13 moving the car out, and then I wouldn't be able to get
 14:32 14 the car back. And --
 14:32 15 Q. Basically, you blocked the car so it couldn't
 14:32 16 leave?
 14:32 17 A. Right. I blocked the car.
 14:32 18 Q. What happened then?
 14:32 19 A. There's about seven or eight parking spaces,
 14:32 20 and we're on the far three right. My sister and I are
 14:32 21 in my car. Ivan parks to the left of the Accord, and
 14:32 22 Rick Alcala is driving his car. And James is in the
 14:32 23 passenger seat, and they take the farthest left parking
 14:32 24 space.
 14:32 25 Q. Uh-huh. Do you remember that clearly?

14:32 1 A. Yes.
 14:32 2 Q. Okay. What happened then?
 14:32 3 A. Ivan gets out of the car, and he is screaming
 14:32 4 at me, and he wants to know why I'm doing this to him.
 14:32 5 Q. Okay. Is he cursing at you?
 14:33 6 A. Yes, yes. He's verbally abusive.
 14:33 7 Q. Do you recall whether or not he kicked the car?
 14:33 8 A. Yes, he did.
 14:33 9 Q. Tell the jury about that.
 14:33 10 A. James is standing to the left of me at the end
 14:33 11 of my car, and he's observing Ivan and speaking to Ivan
 14:33 12 softly and asking him to calm down. And Ivan approaches
 14:33 13 my car and kicks in the driver's panel, and kicks in the
 14:33 14 passenger panel on the left side. James --
 14:33 15 Q. So it's two kicks?
 14:33 16 A. Two kicks.
 14:33 17 Q. Any more than that or --
 14:33 18 A. No, no. Previously, he had waived some money
 14:33 19 in my face and said, "Do you want your car payment?"
 14:33 20 Q. Was he angry?
 14:33 21 A. Very.
 14:33 22 Q. And had he been drinking?
 14:33 23 A. I couldn't tell.
 14:33 24 Q. Okay. Do you know whether or not he was on
 14:34 25 dope at the time?

14:34 1 A. He had just left work, so...
 14:34 2 Q. Do you know?
 14:34 3 A. No.
 14:34 4 Q. What was James doing during this time?
 14:34 5 A. He walks up to Ivan and places his hand over
 14:34 6 his chest, and Ivan takes the hint and starts backing
 14:34 7 up. There's no aggressiveness on Ivan's part towards
 14:34 8 James. He's calming down because of the way that James
 14:34 9 is speaking to him.
 14:34 10 Q. Okay. Did Ivan -- did Ivan calm down?
 14:34 11 A. Yes, he did.
 14:34 12 Q. And at any point during that interchange, were
 14:34 13 you afraid of Ivan?
 14:34 14 A. Never.
 14:34 15 Q. Have you ever been afraid of Ivan?
 14:34 16 A. No. I was very concerned for him, but I was
 14:34 17 never afraid of him.
 14:34 18 Q. And even though he's kicking your car, you are
 14:34 19 telling the jury you weren't afraid of him?
 14:35 20 A. No. I was -- I was definitely very concerned
 14:35 21 for him at that time.
 14:35 22 Q. Do you understand that's kind of hard to
 14:35 23 understand, why you wouldn't be afraid?
 14:35 24 A. No.
 14:35 25 Q. It's not hard for you, though?

14:35 1 A. No, no. I knew that there was something
 14:35 2 seriously wrong, but I couldn't -- I didn't know what it
 14:35 3 was. That was not my son.
 14:35 4 Q. Okay. You talked about the reduction of
 14:35 5 income, his job situation, the Navy, the car situation,
 14:35 6 the drug and the alcohol use. Was there anything else
 14:35 7 that was bothering Ivan at this time?
 14:35 8 A. Yes.
 14:35 9 Q. And what was it?
 14:35 10 MS. FALCO: Objection, Your Honor. It
 14:35 11 calls for speculation and hearsay.
 14:35 12 THE COURT: Why don't you -- yeah, why
 14:35 13 don't you rephrase your question.
 14:35 14 Q. (BY MR. HIGH) Okay. You knew he was dating
 14:35 15 Amy Boettcher?
 14:35 16 A. Yes.
 14:35 17 Q. And you knew about that relationship?
 14:35 18 A. Yes.
 14:35 19 Q. Was that another problem for Ivan?
 14:36 20 A. Very much so.
 14:36 21 Q. Okay. Why do you say that? Did you know Amy
 14:36 22 Boettcher?
 14:36 23 A. No, I didn't.
 14:36 24 Q. Well, but you knew what --
 14:36 25 A. I knew that she was dating him. That he was

14:36 1 going out with her.
 14:36 2 Q. Did you also know that she was a topless
 14:36 3 dancer?
 14:36 4 A. No.
 14:36 5 MS. FALCO: Your Honor, I object to
 14:36 6 speculation, leading, hearsay.
 14:36 7 THE COURT: Sustained to the leading
 14:36 8 objection.
 14:36 9 Q. (BY MR. HIGH) She, in fact, came to live with
 14:36 10 you at one point?
 14:36 11 MS. FALCO: Your Honor, I'm objecting to
 14:36 12 the continuing leading of this witness.
 14:36 13 THE COURT: Sustain the objection.
 14:36 14 Q. (BY MR. HIGH) Okay. Did she ever live with
 14:36 15 you?
 14:36 16 A. Yes, she did.
 14:36 17 Q. And you had some conversations with her?
 14:36 18 A. Yes, I did.
 14:36 19 Q. In your opinion, was she good for Ivan?
 14:36 20 A. No.
 14:36 21 Q. Why?
 14:36 22 A. She wasn't a very industrious person, and she
 14:36 23 slept all day long waiting for Ivan to come home. She
 14:36 24 had no intentions of looking for work.
 14:37 25 Q. What else? Did you try to get rid of her?

14:37 1 A. Ivan tried to get her to go back home.
 14:37 2 Q. And were you successful?
 14:37 3 A. No.
 14:37 4 Q. I take it that created a problem for both of
 14:37 5 you, you and Ivan?
 14:37 6 A. Yes.
 14:37 7 Q. With respect to these other stressors, was the
 14:37 8 stress mounting for Ivan?
 14:37 9 MS. FALCO: Objection, Your Honor.
 14:37 10 Speculation, hearsay, leading.
 14:37 11 THE COURT: Sustained.
 14:37 12 Q. (BY MR. HIGH) Okay. You've seen your son all
 14:37 13 his life, have you not?
 14:37 14 A. Yes.
 14:37 15 Q. And you've seen him under points of stress
 14:37 16 before, have you not?
 14:37 17 A. Yes.
 14:37 18 Q. And we've talked about all these other
 14:37 19 stressors. What is your opinion of that at this point
 14:37 20 in his life?
 14:37 21 A. The stress level, in my opinion, was more than
 14:37 22 any human endurance. I certainly couldn't get through
 14:38 23 to him at that time, and he was not clear thinking.
 14:38 24 Q. And describe how he was acting at this time,
 14:38 25 September of 2000.

14:38 1 A. He was very nervous. He was withdrawing. He
 14:38 2 was being real evasive. He's not wanting to spend very
 14:38 3 much time around me, as if I might figure out what's
 14:38 4 going on.
 14:38 5 Q. Okay. Have you ever heard the term crashing?
 14:38 6 A. Yes.
 14:38 7 Q. In your opinion, Sylvia, was Ivan crashing?
 14:38 8 MS. FALCO: Your Honor, I'm going to
 14:38 9 object to speculation, lack of predicate, leading.
 14:38 10 THE COURT: Sustained.
 14:38 11 Q. (BY MR. HIGH) Have you ever heard of a nervous
 14:38 12 breakdown?
 14:38 13 A. Yes.
 14:38 14 Q. In your opinion, was your son having a nervous
 14:38 15 break down?
 14:38 16 MS. FALCO: Again, Your Honor, I'm going
 14:38 17 to object to lack of predicate. She's not a medical
 14:39 18 doctor. He's continuing to lead this witness and ask
 14:39 19 that he be asked to ask questions in proper form.
 14:39 20 THE COURT: Sustained.
 14:39 21 Q. (BY MR. HIGH) What is a nervous breakdown, in
 14:39 22 your opinion?
 14:39 23 MS. FALCO: Again, Your Honor, she is not
 14:39 24 a medical doctor. Lack of predicate. I object.
 14:39 25 THE COURT: Yeah. Sustain the objection.

14:39 1 Just ask her what she saw.
 14:39 2 Q. (BY MR HIGH) What did you see? What did you
 14:39 3 see, Sylvia? What did you see in your son?
 14:39 4 A. Ivan was shutting down.
 14:39 5 Q. Okay. What do you mean *shutting down*?
 14:39 6 A. He was going through the motions of the day and
 14:39 7 doing what he had to do, but he wasn't there.
 14:39 8 Q. Okay. And of course we know the results of
 14:39 9 that and why we're here today, correct?
 14:39 10 A. Yes.
 14:39 11 Q. I mean, we're at that point in time where this
 14:39 12 offense occurred?
 14:39 13 A. Yes.
 14:39 14 Q. All right. Now, are you aware that Ivan was
 14:39 15 arrested and incarcerated in early November of 2000?
 14:39 16 A. Yes.
 14:39 17 Q. Right around November the 8th of 2000?
 14:39 18 A. Yes.
 14:39 19 Q. And prior to this time, Sylvia, was Ivan a
 14:39 20 believer, Christian?
 14:40 21 A. No.
 14:40 22 Q. Prior to this time did Ivan pray or go to
 14:40 23 church with you?
 14:40 24 A. No.
 14:40 25 Q. Did he believe in God?

14:40 1 A. No.
 14:40 2 Q. Are you a strong believer in God?
 14:40 3 A. Yes.
 14:40 4 Q. How long have you been a believer?
 14:40 5 A. All my life.
 14:40 6 Q. Have you attempted to share your faith with
 14:40 7 your sons?
 14:40 8 A. Many times.
 14:40 9 Q. And has it been met with rejection?
 14:40 10 A. Yes.
 14:40 11 Q. You are aware of Ivan's relationships with
 14:40 12 less-than-desirable women, his alcohol and his drug use,
 14:40 13 and his lifestyle in general. Did you approve of it?
 14:40 14 A. No.
 14:40 15 Q. Did it create additional stress for the two of
 14:40 16 you?
 14:40 17 A. Yes.
 14:40 18 Q. Was it a battleground, if you will?
 14:40 19 A. Yes.
 14:40 20 Q. Are you aware that Ivan has converted to
 14:40 21 Christianity since being in custody?
 14:41 22 MS. FALCO: Objection, Your Honor.
 14:41 23 Leading and calls for hearsay.
 14:41 24 THE COURT: I'll overrule the objection.
 14:41 25 You may answer.

14:41 1 A. Would you repeat the question?
 14:41 2 Q. (BY MR. HIGH) Okay. Are you aware that Ivan
 14:41 3 has converted to Christianity since being in custody?
 14:41 4 A. Yes, yes.
 14:41 5 Q. Has he spoken to you about it?
 14:41 6 A. Yes.
 14:41 7 Q. And have the two of you rejoiced about it
 14:41 8 together?
 14:41 9 MS. FALCO: Objection, Your Honor. Calls
 14:41 10 for hearsay, leading.
 14:41 11 THE COURT: Overruled.
 14:41 12 Q. (BY MR. HIGH) Have the two of you rejoiced
 14:41 13 about it together?
 14:41 14 A. Yes.
 14:41 15 Q. What have you done to try to nurture him in his
 14:41 16 newfound faith?
 14:41 17 A. I ordered him a correspondence course with The
 14:41 18 Crossroads Institute for Bible Study.
 14:41 19 Q. And have you discussed biblical references with
 14:41 20 him?
 14:41 21 A. Many times.
 14:41 22 Q. What else have you done?
 14:41 23 A. I've nurtured him in his walk. The questions
 14:42 24 that he's had. I've tried to answer them as best I
 14:42 25 could.

14:42 1 Q. Have you encouraged him to pray?
 14:42 2 A. Yes. We pray together.
 14:42 3 Q. In your opinion, Sylvia, is he open and
 14:42 4 receptive to this counseling you have given him?
 14:42 5 A. Yes.
 14:42 6 Q. Instead of rejecting you does he now
 14:42 7 reciprocate?
 14:42 8 A. Yes.
 14:42 9 Q. And has Ivan expressed an interest in a
 14:42 10 thorough study of the Bible?
 14:42 11 MS. FALCO: Objection, Your Honor. It
 14:42 12 calls for hearsay, and it is leading.
 14:42 13 THE COURT: Sustained.
 14:42 14 Q. (BY MR. HIGH) Well, has he told you, Sylvia,
 14:42 15 have you heard him -- excuse me. Have you heard him
 14:42 16 say, look, I'm interested in a thorough study of the
 14:42 17 Bible?
 14:42 18 MS. FALCO: Objection, Your Honor. That's
 14:42 19 hearsay and it's leading.
 14:42 20 THE COURT: Sustained.
 14:42 21 Q. (BY MR. HIGH) Okay. Do you know whether or
 14:42 22 not he's interested in a thorough study of the Bible?
 14:42 23 MS. FALCO: Objection, Your Honor. It
 14:42 24 calls for speculation and hearsay.
 14:42 25 THE COURT: I'll sustain the objection.

14:42 1 Q. (BY MR. HIGH) Are you aware of it in any way?
 14:42 2 MS. FALCO: Objection, Your Honor. Calls
 14:42 3 for hearsay and speculation.
 14:43 4 MR. HIGH: Judge, we'll be here all day.
 14:43 5 She knows this. She's entitled to testify to it.
 14:43 6 MS. FALCO: She knows it is as a result of
 14:43 7 hearsay and speculation, Your Honor.
 14:43 8 THE COURT: Sustained.
 14:43 9 Q. (BY MR. HIGH) Ivan has been doing a thorough
 14:43 10 study of the Bible, has he not, since he's been in jail?
 14:43 11 MS. FALCO: Objection, leading, Your
 14:43 12 Honor.
 14:43 13 THE COURT: Sustain the objection.
 14:43 14 A. (BY MR. HIGH) Okay. Has Ivan told you about
 14:43 15 his thorough study of the Bible since she's been in
 14:43 16 jail?
 14:43 17 MS. FALCO: Objection, Your Honor,
 14:43 18 hearsay.
 14:43 19 THE COURT: Sustained.
 14:43 20 MS. FALCO: And I ask that this attorney
 14:43 21 be instructed to ask questions in the proper form on
 14:43 22 direct examination and not continually lead this
 14:43 23 witness.
 14:43 24 MR. HIGH: Judge, I'm going to object to
 14:43 25 her sidebar comment to the jury.

14:43 1 THE COURT: Overruled. Ask her what he
 14:43 2 said.
 14:43 3 Q. (BY MR. HIGH) What did he say about reading
 14:43 4 the Bible?
 14:43 5 MS. FALCO: Objection, Your Honor. It's
 14:43 6 self-serving hearsay.
 14:43 7 THE COURT: Overruled.
 14:43 8 THE WITNESS: May I answer, Judge?
 14:43 9 THE COURT: Yes.
 14:43 10 A. Not only did he complete the Crossroads Bible
 14:44 11 Study, he took it upon himself to do two other studies
 14:44 12 simultaneously. So he was very much so seeking God's
 14:44 13 ways for his life.
 14:44 14 Q. All right.
 14:44 15 MR. HIGH: Thank you. Approach the
 14:44 16 witness, Your Honor?
 14:44 17 THE COURT: All right.
 14:45 18 Q. (BY MR. HIGH) I want to show you what's marked
 14:45 19 as 28 through 32. I want you to take a look at them and
 14:45 20 ask you if you recognize those.
 14:45 21 A. Yes. It's the correspondence from the
 14:46 22 instructor from Crossroads, Ivan's instructor.
 14:46 23 Q. Okay. Look at them all, if you would. I've
 14:46 24 got them on top of each other.
 14:47 25 A. (Complying.)

14:48 1 Q. Okay. Have you reviewed all the exhibits?
 14:48 2 A. Yes.
 14:48 3 Q. Did you receive those exhibits from Ivan?
 14:48 4 A. Yes, I did.
 14:48 5 Q. And have you kept them safely in your custody
 14:48 6 until you've delivered them to his lawyer?
 14:48 7 A. Yes.
 14:48 8 Q. And are those exhibits from Crossroads Bible
 14:48 9 Institute?
 14:48 10 A. Yes, they are.
 14:48 11 MR. HIGH: At this time we'd offer those
 14:48 12 exhibits 28 through 32.
 14:50 13 MS. FALCO: No objection.
 14:50 14 THE COURT: 28 through 32 are admitted.
 14:50 15 (Defendant's Exhibit Nos. 28 through 32
 14:50 16 admitted.)
 14:50 17 THE COURT: Are you offering them for the
 14:50 18 truth?
 14:50 19 MR. HIGH: I'm not offering them for the
 14:50 20 truth of the matter, Judge. I'm offering them to show
 14:50 21 that Ivan has participated in the Crossroads Bible
 14:50 22 Institute.
 14:50 23 THE COURT: All right.
 14:50 24 Q. (BY MR. HIGH) Now, the --
 14:50 25 MR. SCHULTZ: Excuse me, Judge. With that

14:50 1 condition, we'll offer them for the truth of the matter.
 14:50 2 We don't care. We want them in for all purposes,
 14:50 3 whatever the jury wants to use them for.
 14:51 4 MR. HIGH: That's fine.
 14:51 5 THE COURT: These being Bible studies, I'd
 14:51 6 be surprised if they weren't being offered for the truth
 14:51 7 of the contents.
 14:51 8 MR. HIGH: Judge, I certainly didn't want
 14:51 9 to step on anybody's toes in terms of hearsay or ability
 14:51 10 to cross. I sure didn't want to do that, but that's
 14:51 11 fine. We accept that.
 14:51 12 THE COURT: All right.
 14:51 13 Q. (BY MR. HIGH) I mean, the jury can look at
 14:51 14 those, right, and see what they say?
 14:51 15 A. Yes.
 14:51 16 Q. All right. I take it -- I take it though, when
 14:51 17 you saw them, did that make you feel good?
 14:51 18 A. Yes. For him to accomplish 12 lessons and
 14:51 19 graduated with honors, I was very proud of that. It
 14:51 20 showed that he had a very thorough understanding and
 14:51 21 comprehension of the lessons that he had read.
 14:51 22 Q. And you guys talked about it, and you talked
 14:51 23 about his progress?
 14:51 24 A. Yes.
 14:51 25 Q. Have you talked about his willingness to share

14:51 1 his faith at the Collin County jail?
 14:52 2 MS. FALCO: Objection, Your Honor. It
 14:52 3 calls for hearsay.
 14:52 4 THE COURT: Overruled. Because it's --
 14:52 5 Q. (BY MR. HIGH) Have you talked --
 14:52 6 THE COURT: It's being offered to show
 14:52 7 that he did it, right?
 14:52 8 MR. HIGH: Uh-huh.
 14:52 9 Q. (BY MR. HIGH) Have you discussed his
 14:52 10 willingness to share his faith at the Collin County
 14:52 11 jail?
 14:52 12 A. Yes.
 14:52 13 Q. And has he done that?
 14:52 14 A. Yes.
 14:52 15 Q. In your opinion, Sylvia, does he speak with
 14:52 16 boldness about his faith?
 14:52 17 A. Yes.
 14:52 18 Q. In your opinion, is it fair to say that faith
 14:52 19 has become the most important thing in his life at this
 14:52 20 point?
 14:52 21 A. Yes.
 14:52 22 Q. And would you agree that Ivan has a hunger for
 14:52 23 The Word?
 14:52 24 A. Yes.
 14:52 25 Q. Do you know what I mean when I say that?

14:52 1 A. Yes.
 14:52 2 Q. What do you mean when you say that?
 14:52 3 A. I experience very much the same thing. Once
 14:52 4 you start reading and understanding, it's as if God's
 14:53 5 spirit is speaking to you, and there is a clarity that
 14:53 6 comes with that and a fellowship that grows, a
 14:53 7 relationship that grows.
 14:53 8 Q. Like any other relationship?
 14:53 9 A. Yes.
 14:53 10 Q. Is this subject of your faith now one of your
 14:53 11 favorite subjects with you when you correspond with your
 14:53 12 son?
 14:53 13 A. Yes.
 14:53 14 Q. Has he become a source of encouragement for you
 14:53 15 in your faith?
 14:53 16 A. Yes.
 14:53 17 Q. And has it enabled both you and Ivan to more
 14:53 18 adequately deal with these circumstances we all find
 14:53 19 ourselves here in today?
 14:53 20 A. Yes.
 14:53 21 Q. Has Ivan encouraged you that everything is
 14:53 22 going to be okay?
 14:53 23 A. Yes.
 14:53 24 Q. In other words, have you seen his faith in
 14:53 25 action?

14:53 1 A. Yes, I have.
 14:53 2 Q. Anything else you want to say about this issue
 14:53 3 before we leave it?
 14:53 4 A. I've even viewed correspondence from other
 14:54 5 inmates that have written to him and thanked him for the
 14:54 6 encouragement.
 14:54 7 Q. Is there any other indication -- we've heard
 14:54 8 about the depression. Is there any other depression
 14:54 9 that you know of within your family?
 14:54 10 A. Yes.
 14:54 11 Q. And could you tell the jury about that.
 14:54 12 A. It's on both sides of the family, clinical
 14:54 13 depression.
 14:54 14 Q. Okay. And was there someone in the family that
 14:54 15 committed suicide?
 14:54 16 A. His uncle at 43.
 14:54 17 Q. And which side of the family was that?
 14:54 18 A. That's his dad's side of the family.
 14:54 19 Q. And tell the jury about that suicide.
 14:54 20 A. He had had bouts with hallucinations, paranoia.
 14:55 21 He went over to my older sister's home and asked for his
 14:55 22 .357 Magnum. My brother-in-law was keeping it for him.
 14:55 23 The children were in school, and he takes the gun and
 14:55 24 starts walking to the backyard. He knelt down. He put
 14:55 25 the gun in his mouth, and he shot himself.

14:55 1 Q. That was Uncle Lico?
 14:55 2 A. Yeah.
 14:55 3 Q. So depression in your family is not an uncommon
 14:55 4 thing?
 14:55 5 A. No.
 14:56 6 MR. HIGH: At this time, Judge. We move
 14:56 7 to publish Defendant's Exhibits 9 all the way up through
 14:56 8 32. I believe we've already published 21 and 22, but
 14:56 9 we'll need to publish 23. All right. We've published
 14:56 10 23. We request to publish all the other exhibits,
 14:56 11 Judge. And we pass the witness, Judge.
 14:56 12 THE COURT: All right. Let's do this:
 14:56 13 I'm sure the State wants the jury to listen to the
 14:56 14 cross-examination, and I'm sure you want them to see
 14:56 15 your exhibits.
 14:56 16 MR. HIGH: Yes, sir.
 14:56 17 THE COURT: But I don't think they can do
 14:56 18 both things at the same time.
 14:56 19 MR. HIGH: Yes.
 14:56 20 THE COURT: So why don't we -- why don't
 14:56 21 we let the State cross-examine her, and we'll pass down
 14:57 22 those exhibits at a later time.
 14:57 23 MR. HIGH: All right.
 14:57 24 THE COURT: All right.
 14:57 25 MR. HIGH: Thank you, Judge.

CROSS-EXAMINATION

14:57 1
 14:57 2 BY MS. FALCO:
 14:57 3 Q. Ms. Cantu, when you were talking about the
 14:57 4 defendant's schooling and you got to Plano Senior High,
 14:57 5 you said he didn't graduate with his class?
 14:57 6 A. Correct.
 14:57 7 Q. Is that because he failed class the senior
 14:57 8 year?
 14:57 9 A. No. He lacked credits.
 14:57 10 Q. And he just didn't bother to get it at that
 14:57 11 time? It wasn't until after he was on probation several
 14:57 12 years later, when he was forced to get his GED that he
 14:57 13 got his GED, correct?
 14:57 14 A. I'm not sure if that was the circumstance. I
 14:57 15 just know he made up his credits.
 14:57 16 Q. Several years later?
 14:57 17 A. Yes. It was later.
 14:57 18 Q. How did he not have enough credits?
 14:57 19 A. He needed to pass economics.
 14:57 20 Q. And he didn't pass it?
 14:57 21 A. And he needed to study that more. He didn't
 14:57 22 pass economics.
 14:57 23 Q. So when I asked you earlier it's because he
 14:57 24 failed a class, that's true. He failed economics?
 14:58 25 A. Yes.

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14:58 1 Q. You understand how this works? I ask you a
 14:58 2 question, and you answer it? Okay. So did he fail
 14:58 3 anything else, or was it just that one class?
 14:58 4 A. That one.
 14:58 5 Q. Okay. And let's talk a little bit about his
 14:58 6 work history. You said he started working at DeI Taco
 14:58 7 when he was 14 and a half?
 14:58 8 A. Yes.
 14:58 9 Q. And you said that the people there didn't know
 14:58 10 that he was that young. They thought he was older than
 14:58 11 that?
 14:58 12 A. Yes.
 14:58 13 Q. Did he lie to them about how old he was?
 14:58 14 A. Yes.
 14:58 15 Q. So he started lying at a young age, got people
 14:58 16 to believe him?
 14:58 17 A. They were all young at the mall.
 14:58 18 Q. But --
 14:58 19 A. A friend of his was a manager.
 14:58 20 Q. And he was able to convince his employers that
 14:58 21 he was older than 14 and a half?
 14:58 22 A. His best friend was his boss.
 14:58 23 Q. But the other people that he was working with,
 14:58 24 he was able to convince them he was older than 14 and a
 14:58 25 half?

14:58 1 A. I don't know about the other people.
 14:58 2 Q. How long did he work there at DeI Taco?
 14:58 3 A. About six months.
 14:58 4 Q. Did he quit or get fired?
 14:58 5 A. He went to work for another branch at the
 14:58 6 company. It was bought out by Taco Bell.
 14:58 7 Q. So he was working for Taco Bell?
 14:58 8 A. Yes.
 14:58 9 Q. And how long did he work for Taco Bell?
 14:58 10 A. For about a year.
 14:58 11 Q. And after that year did he quit or get fired?
 14:58 12 A. He quit.
 14:58 13 Q. So now he's what, about 16?
 14:58 14 A. Yes.
 14:58 15 Q. When did he start working at Soup or Salads?
 14:58 16 A. About that time frame.
 14:58 17 Q. How long did he work at Soup or Salads?
 14:58 18 A. About a year.
 14:58 19 Q. And did he quit or get fired?
 14:58 20 A. He quit.
 14:58 21 Q. Why did he quit?
 14:58 22 A. He went to work for Wescott Communications.
 14:58 23 Q. Okay. Well, if he was 16 when he started
 14:58 24 working at Soup or Salads and worked for about a year,
 14:58 25 that means he was 17?

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15:00 1 A. He worked with Taco Bell up and through
 15:00 2 graduation.
 15:00 3 Q. Okay.
 15:00 4 A. Or when his class graduated. That was his high
 15:00 5 school job.
 15:00 6 Q. So he worked at Taco Bell until he was about
 15:00 7 18?
 15:00 8 A. Yes.
 15:00 9 Q. And he worked at Soup or Salads until he was
 15:00 10 how old?
 15:00 11 A. About 20, 21.
 15:00 12 Q. And that's when he started working for Wescott?
 15:00 13 A. Yes.
 15:00 14 Q. And you said he was 20 or 21?
 15:00 15 A. Yes.
 15:00 16 Q. So that would have been 1993, 1994?
 15:00 17 A. I'm not sure about the date.
 15:00 18 Q. He was born in 1973, correct?
 15:00 19 A. Yes.
 15:00 20 Q. So about 20 years later it's --
 15:00 21 A. 21.
 15:00 22 Q. -- 1994?
 15:00 23 A. Okay.
 15:00 24 Q. And how long did he work for Wescott?
 15:00 25 A. About a year and a half.

15:00 1 Q. About a year and a half? So that would have
 15:00 2 been mid-1995?
 15:00 3 A. I'm really not keeping up with his jobs at that
 15:00 4 time because we have separate lives.
 15:01 5 Q. Okay. Did he quit or get fired from Wescott?
 15:01 6 A. He quit.
 15:01 7 Q. Why did he quit?
 15:01 8 A. To make more money.
 15:01 9 Q. And that was working with James Mosqueda in the
 15:01 10 tanning salons?
 15:01 11 A. Yes.
 15:01 12 Q. How long did he -- and actually he worked for
 15:01 13 James. He wasn't co-owner. He didn't start it up. He
 15:01 14 worked for James?
 15:01 15 A. Right.
 15:01 16 Q. And how long did he work for James?
 15:01 17 A. About a year.
 15:01 18 Q. Was he making more money?
 15:01 19 A. I'm not sure. I'm not keeping up with his
 15:01 20 income at that time.
 15:01 21 Q. Did he quit or get fired?
 15:01 22 A. He quit.
 15:01 23 Q. Why he did quit that job?
 15:01 24 A. He went to work for Show Biz, more money.
 15:01 25 Q. So we're at 1996 already. How long did he work

15:02 1 A. Yes.
 15:03 2 Q. And you said that was in '95 or '96?
 15:03 3 A. To the best of my knowledge.
 15:03 4 Q. Who did he work for in the mortgage business
 15:03 5 when he started out, do you know?
 15:03 6 A. U.S. Homestead was the first one.
 15:03 7 Q. And how long did he work for U.S. Homestead?
 15:03 8 A. Not very long.
 15:03 9 Q. Did he quit or get fired?
 15:03 10 A. He quit.
 15:03 11 Q. Why did he quit?
 15:03 12 A. A coworker started his own company, and Ivan
 15:03 13 went to work with him.
 15:03 14 Q. What was the name of that company?
 15:03 15 A. Southwest Mortgage.
 15:03 16 Q. How long did he work for Southwest Mortgage?
 15:03 17 A. A year and a half, two.
 15:03 18 Q. Did he quit or get fired?
 15:03 19 A. He quit.
 15:03 20 Q. Why did he quit that job?
 15:03 21 A. He decided to open up his own mortgage company.
 15:03 22 Q. Is this when he was married to Michelle?
 15:03 23 A. Yes.
 15:03 24 Q. When he was working for Southwest Mortgage, was
 15:03 25 that his friend, Lloyd?

15:01 1 at Show Biz?
 15:01 2 A. Almost three years.
 15:01 3 Q. Okay. Well, that would have been about 1999.
 15:02 4 Was he working at Show Biz while he was doing all the
 15:02 5 mortgage business and joining the Navy and all that?
 15:02 6 A. I'm not sure about the years. I just know that
 15:02 7 that was the sequence.
 15:02 8 Q. So probably a lot less?
 15:02 9 A. That I can best remember.
 15:02 10 Q. So probably about three years that he worked at
 15:02 11 Show Biz?
 15:02 12 A. About two and a half, three years.
 15:02 13 Q. Two and a half, three years would put us at
 15:02 14 '98, '99. Is that fair to say?
 15:02 15 A. No.
 15:02 16 Q. Because it was something less than that?
 15:02 17 A. Yes.
 15:02 18 Q. With regard to the Show Biz, did he quit or get
 15:02 19 fired?
 15:02 20 A. He quit.
 15:02 21 Q. Why did he quit that job? Do you know?
 15:02 22 A. He always quit for more money. He thought
 15:02 23 other opportunities were going to make more money.
 15:02 24 Q. And that's when he went to the mortgage
 15:02 25 business?

15:03 1 A. Yes.
 15:03 2 Q. And that's when he was making \$130,000 a year?
 15:04 3 A. Yes.
 15:04 4 Q. And he decided to quit because he thought he
 15:04 5 could make more money than that; is that correct?
 15:04 6 A. He didn't -- he felt that he could do this on
 15:04 7 his own. He was pretty industrious.
 15:04 8 Q. And make more than \$130,000 a year?
 15:04 9 A. Possibly.
 15:04 10 Q. So he had a good thing going. He had a good
 15:04 11 job making lots of money, and he quit. He just up and
 15:04 12 quit?
 15:04 13 A. Yes.
 15:04 14 Q. That was his own doing. Nobody made him quit.
 15:04 15 He just got greedy, right?
 15:04 16 A. No. I think if anyone has the opportunity to
 15:04 17 go out on their own and do something for themselves, I
 15:04 18 think that's very admirable.
 15:04 19 Q. But he didn't do so well on his own, did he?
 15:04 20 A. No. His marriage was deteriorating.
 15:04 21 Q. And he also started getting investigated by the
 15:04 22 federal government for mortgage scams, correct?
 15:04 23 A. I have no knowledge of that.
 15:04 24 Q. You had heard of that?
 15:04 25 A. No, I have not.

15:05 1 Q. And then at some point he went into the Navy.
 15:05 2 And that was in the beginning of 1999, correct?
 15:05 3 A. Yes.
 15:05 4 Q. And he was only in the Navy a couple of weeks
 15:05 5 when he went AWOL?
 15:05 6 A. Two months.
 15:05 7 Q. And left without authorization. Just up and
 15:05 8 left?
 15:05 9 A. Yes.
 15:05 10 Q. He couldn't control or manipulate the drill
 15:05 11 sergeants there so he left?
 15:05 12 A. I'm not sure what the circumstances were. He
 15:05 13 left.
 15:05 14 Q. And you said he came back to Frisco; is that
 15:05 15 true?
 15:05 16 A. Yes.
 15:05 17 Q. So you knew where his whereabouts were from
 15:05 18 March when he went AWOL until July when he was arrested,
 15:05 19 correct?
 15:05 20 A. July?
 15:05 21 Q. When he got arrested by the military?
 15:05 22 A. Oh.
 15:05 23 Q. July of '99.
 15:05 24 A. He was never arrested. He voluntarily went
 15:05 25 back. He called to let them know he was coming back to

15:06 1 clear up his record.
 15:06 2 Q. From that time period, from March of '99 to
 15:06 3 July of '99, you knew where he was?
 15:06 4 A. Yes.
 15:06 5 Q. And that was in Frisco?
 15:06 6 A. Yes.
 15:06 7 Q. At your brother's house?
 15:06 8 A. I lived with my brother.
 15:06 9 Q. And he lived with you and your brother?
 15:06 10 A. For a short period of time.
 15:06 11 Q. Was he working then?
 15:06 12 A. Yes.
 15:06 13 Q. Where was he working then?
 15:06 14 A. I believe that's when he was at Baby Dolls.
 15:06 15 Q. Okay. Earlier you testified that was in the
 15:06 16 fall of '99, when he met Jennifer?
 15:06 17 A. When he came back from the Navy. Is that what
 15:06 18 you are talking about?
 15:06 19 Q. No. I'm talking about the time that he was
 15:06 20 AWOL. The time he absconded from the military. March
 15:06 21 of '99 to July of '99, did he work?
 15:06 22 A. Yes.
 15:06 23 Q. Where did he work?
 15:06 24 A. In the mortgage business.
 15:06 25 Q. For who?

15:06 1 A. For Lloyd.
 15:06 2 Q. Was that after he already quit Lloyd?
 15:06 3 A. Yes.
 15:06 4 Q. He went back?
 15:06 5 A. Yeah.
 15:06 6 Q. Did he still only made \$5,000 that year?
 15:06 7 A. It didn't work out.
 15:07 8 Q. How long did he work for Lloyd?
 15:07 9 A. Couple of months.
 15:07 10 Q. He worked for Lloyd for a couple of months, and
 15:07 11 he was in the military for two months, and he still only
 15:07 12 reported \$5,000 on his income tax?
 15:07 13 A. I believe that they did him pretty dirty at
 15:07 14 that time.
 15:07 15 Q. Lloyd did?
 15:07 16 A. Yes. They held back money.
 15:07 17 Q. And was this when he was doing the mortgage
 15:07 18 scams?
 15:07 19 A. Yes -- no. I don't know -- I don't know of any
 15:07 20 mortgage scams.
 15:07 21 Q. With regard to your knowledge of the
 15:07 22 whereabouts of your son, the military sent you a letter
 15:07 23 asking where he was, correct?
 15:07 24 A. Where he was?
 15:07 25 Q. Asking you if you knew where the defendant was?

15:07 1 A. No. The letter stated that he had left, and
 15:07 2 they wanted to make me aware of it.
 15:07 3 Q. And asked you if you knew where he was and to
 15:07 4 contact them if you knew his whereabouts.
 15:07 5 A. I don't recall.
 15:08 6 Q. And you never contacted them?
 15:08 7 A. No.
 15:08 8 MR. HIGH: Judge, we're going to have to
 15:08 9 object. I believe she is not asking that question in
 15:08 10 good faith. And if she has something she's going to
 15:08 11 impeach the witness with, I believe she should be
 15:08 12 showing the contents, showing her a letter and giving
 15:08 13 her an opportunity to explain it. This is improper
 15:08 14 impeachment.
 15:08 15 THE COURT: Overruled.
 15:08 16 Q. (BY MS. FALCO) And you never called the
 15:08 17 police?
 15:08 18 A. No, I did not.
 15:08 19 Q. Never contacted the military?
 15:08 20 A. No.
 15:08 21 Q. And in that letter they gave you phone numbers
 15:08 22 and information to contact them. You knew how to reach
 15:08 23 them, correct?
 15:08 24 A. I believe the letter stated something to the
 15:08 25 effect that, should I hear from him to please have him

15:08 1 contact them.
 15:08 2 Q. And you did hear from him because he was living
 15:08 3 in your house?
 15:08 4 A. Yes.
 15:08 5 Q. But you didn't contact him?
 15:08 6 A. No.
 15:08 7 Q. Because he's your son and you would do anything
 15:08 8 to protect him?
 15:08 9 A. That's what mothers do.
 15:08 10 Q. And they'd lie for their son?
 15:09 11 A. I've always encouraged my sons to do what is
 15:09 12 right.
 15:09 13 Q. Well, for four months you let him hide out from
 15:09 14 the military; is that right?
 15:09 15 A. (No response.)
 15:09 16 Q. Anyway he eventually turned himself in, got
 15:09 17 arrested and did 30 days, correct?
 15:09 18 A. He voluntarily went back to clear up his
 15:09 19 record.
 15:09 20 Q. And then after he got out of jail with the
 15:09 21 military, that's when he worked at Baby Dolls, correct?
 15:09 22 A. Yes.
 15:09 23 Q. Did you approve of him working there at Baby
 15:09 24 Dolls?
 15:09 25 A. He doesn't need my approval for anything.

15:09 1 Q. And how long did he work there at Baby Dolls?
 15:10 2 A. A short period of time.
 15:10 3 Q. And did he quit or get fired?
 15:10 4 A. He quit.
 15:10 5 Q. And why did he quit?
 15:10 6 A. He didn't like that position.
 15:10 7 Q. He had already met his wife there?
 15:10 8 A. Yes.
 15:10 9 Q. And after he quit Baby Dolls, where did he go
 15:10 10 to work? Is that when he went to work for James
 15:10 11 Mosqueda?
 15:10 12 A. He went back to work in the mortgage business.
 15:10 13 Q. For James Mosqueda?
 15:10 14 A. James offered him a job.
 15:10 15 Q. So when he couldn't find a job and, according
 15:10 16 to you, it was too difficult for him to find a job,
 15:10 17 James helped him out and gave him a job, correct?
 15:10 18 A. Yes.
 15:10 19 Q. And James was doing quite well in his mortgage
 15:10 20 business, wasn't he?
 15:10 21 A. I gave James a lot of business.
 15:11 22 Q. And he was doing quite well with that, wasn't
 15:11 23 he?
 15:11 24 A. Yes.
 15:11 25 Q. And you gave him that business because you

15:11 1 thought he was a good businessman, correct?
 15:11 2 A. I needed someone that spoke Spanish, and I
 15:11 3 worked on a Hispanic community.
 15:11 4 Q. And you thought James was a good businessman?
 15:11 5 A. James' copartner made a good team. Yes, they
 15:11 6 could do the loans in Spanish. Ivan doesn't speak
 15:11 7 Spanish.
 15:11 8 Q. And you wanted James to get your business,
 15:11 9 correct?
 15:11 10 A. I needed his help.
 15:11 11 Q. How long did Ivan work for James?
 15:11 12 A. A short period of time.
 15:11 13 Q. Before James fired him, correct?
 15:11 14 A. I'm not aware of that situation.
 15:11 15 Q. You are not aware that the defendant was
 15:11 16 writing hot checks and conducting mortgage scams, so
 15:11 17 James had to fire him?
 15:11 18 A. I had no knowledge of that.
 15:11 19 Q. James never talked to you about that?
 15:11 20 A. No, he did not.
 15:11 21 Q. You never asked him, Why did you fire my son?
 15:11 22 A. Never.
 15:11 23 Q. It never occurred to you? You never wanted to
 15:12 24 know?
 15:12 25 A. I thought it was just a parting of the ways.

15:12 1 That's the way I understood it.
 15:12 2 Q. So kind of sounds like you stood up for James
 15:12 3 over your own son?
 15:12 4 A. I wasn't taking up sides on anything.
 15:12 5 Businessmen make business decisions everyday.
 15:12 6 Q. But this involved your son.
 15:12 7 A. Whether it's my son or anyone else's son, a
 15:12 8 businessman needs to make whatever decisions he feels is
 15:12 9 best for the company. James was mostly into FHA loans,
 15:12 10 and that was not Ivan's expertise. So Ivan needed to go
 15:12 11 somewhere where he could make a good living.
 15:12 12 Q. And you agreed with James's decision -- to fire
 15:12 13 Ivan was the best thing?
 15:12 14 A. I don't have any knowledge of him firing.
 15:12 15 Q. And after he got fired by James, where did he
 15:12 16 go to work?
 15:12 17 MR. HIGH: Judge, I'm going to have to
 15:12 18 object to assuming facts not in evidence.
 15:12 19 THE COURT: Sustained.
 15:12 20 Q. (BY MS. FALCO) After he left James's place of
 15:12 21 employment, where did he go to work?
 15:12 22 A. Different mortgage companies.
 15:13 23 Q. How many different mortgage companies?
 15:13 24 A. I'm not sure. Maybe three, four.
 15:13 25 Q. What time period are we talking about?

15:13 1 A. Within a year's time.
 15:13 2 Q. He was at three or four different mortgage
 15:13 3 companies?
 15:13 4 A. Possibly.
 15:13 5 Q. Did he quit those places or did he get fired?
 15:13 6 A. I'm not sure. I imagine some, they had to let
 15:13 7 him go because of background checks. Others he might
 15:13 8 have quit on his own.
 15:13 9 Q. So really Ivan didn't -- he didn't have a
 15:13 10 problem getting a job. It was just staying there at the
 15:13 11 job that he had a problem with, correct?
 15:13 12 A. Would you repeat that question?
 15:13 13 Q. He didn't have a problem getting a job. It was
 15:13 14 staying at the job that he had a problem with?
 15:14 15 A. Yes.
 15:14 16 Q. And that was his own decision to continually
 15:14 17 quit job after job after job?
 15:14 18 MR. HIGH: Object to argumentative, Judge.
 15:14 19 THE COURT: Sustained.
 15:14 20 MR. HIGH: Ask the jury to be instructed
 15:14 21 to disregard that comment and argument of counsel.
 15:14 22 THE COURT: All right. I'll ask the jury
 15:14 23 to disregard that last argument of counsel.
 15:14 24 MR. GOELLER: And I move for a mistrial,
 15:14 25 Your Honor.

15:14 1 THE COURT: Overruled.
 15:14 2 Q. (BY MS. FALCO) The Navy gave him a job, and he
 15:14 3 didn't like that, did he?
 15:14 4 A. I can't answer that for my son.
 15:14 5 Q. Well, despite his criminal history, the Navy
 15:14 6 gave him a job, correct?
 15:14 7 A. Would you repeat that?
 15:14 8 Q. Despite his criminal history in 1999, the Navy
 15:14 9 gave your son a job?
 15:14 10 A. He joined the Navy.
 15:14 11 Q. Okay. And then he decided to quit?
 15:14 12 A. Yes.
 15:15 13 Q. Let's talk a little bit about his drug usage.
 15:15 14 You testified on direct that you didn't find out until
 15:15 15 1997 when Eric was living with your son, with your other
 15:15 16 son, Ivan, in their house in Frisco, that's when you
 15:15 17 found out? Isn't that what you testified to on direct?
 15:15 18 A. Yes.
 15:15 19 Q. Were you aware that he was arrested in 1995 for
 15:15 20 possession of cocaine?
 15:15 21 A. No.
 15:15 22 Q. Did he lie to you about that?
 15:15 23 A. He didn't share that with me until later --
 15:15 24 Q. I'm sorry?
 15:15 25 A. Until later.

15:15 1 Q. When was later?
 15:15 2 A. When the background checks were being done at
 15:15 3 the mortgage company.
 15:15 4 Q. When was that?
 15:15 5 A. I noticed that he was moving from mortgage
 15:15 6 companies very quickly, and I wanted him to explain that
 15:15 7 to me.
 15:15 8 Q. What year are we talking about?
 15:15 9 A. I'm not sure. It's going through different
 15:16 10 mortgage companies in a year's time.
 15:16 11 Q. Is that after the Navy then?
 15:16 12 A. Yes.
 15:16 13 Q. So this was in 1999?
 15:16 14 A. Yes.
 15:16 15 Q. So you never even knew your son was on
 15:16 16 probation for two years for possession of cocaine?
 15:16 17 A. No.
 15:16 18 Q. He lied to you about all that?
 15:16 19 A. He never mentioned it to me.
 15:16 20 Q. Don't you think that's kind of an important
 15:16 21 event in somebody's life, being arrested for a felony
 15:16 22 and placed on probation?
 15:16 23 A. I don't think it's something that somebody
 15:16 24 wants to talk about.
 15:16 25 Q. But he hid that from you?

15:16 1 A. Yes.
 15:16 2 Q. And he hid his drug usage from you during all
 15:16 3 that time?
 15:16 4 A. Yes.
 15:16 5 Q. Fooled you?
 15:16 6 A. If that's what you want to call it.
 15:16 7 Q. I mean, from 1995 to 1997, you testified you
 15:16 8 didn't know he had a drug problem?
 15:16 9 A. No.
 15:17 10 Q. And when you finally -- was it Eric telling
 15:17 11 you, or was it you noticing his actions that made you
 15:17 12 think he was on drugs?
 15:17 13 A. His demeanor.
 15:17 14 Q. Did you confront him about it?
 15:17 15 A. No.
 15:17 16 Q. Why not?
 15:17 17 A. He's my son.
 15:17 18 Q. Well --
 15:17 19 A. And I felt that if there was a problem, he
 15:17 20 would be intelligent enough to take care of it and seek
 15:17 21 help or counseling.
 15:17 22 Q. Being your son, didn't you take any
 15:17 23 responsibility being his mother to help him out?
 15:17 24 A. I never saw any evidence, and I never accuse my
 15:17 25 children of something that I don't see any evidence in.

15:17 1 Q. Well, when did you finally know for sure that
 15:17 2 he was on drugs?
 15:17 3 A. When I lived in their home for a short period
 15:18 4 of time.
 15:18 5 Q. Is that when you were living with Ivan and
 15:18 6 Michelle?
 15:18 7 A. Yes.
 15:18 8 Q. Did you actually see him doing drugs?
 15:18 9 A. Never.
 15:18 10 Q. How did you know?
 15:18 11 A. His demeanor, his behavior.
 15:18 12 Q. How was that different from what you'd observed
 15:18 13 before?
 15:18 14 A. It was more intensified at this time.
 15:18 15 Q. Did you confront him about it?
 15:18 16 A. No. I pretty much thought it was because of
 15:18 17 the stress of starting a new business and staying up
 15:18 18 late hours.
 15:18 19 Q. Did you ever confront your son about doing
 15:18 20 drugs?
 15:18 21 A. I don't remember.
 15:18 22 Q. You don't remember? Don't you think that would
 15:18 23 be kind of an important conversation to have with your
 15:18 24 child if you know they are doing drugs? And you don't
 15:18 25 remember? Is that your answer?

15:18 1 A. I knew there was an alcohol problem. I just
 15:19 2 didn't know --
 15:19 3 Q. Did you ever confront him --
 15:19 4 A. -- the extent.
 15:19 5 Q. -- about the alcohol problem?
 15:19 6 A. Yes, I did.
 15:19 7 Q. What did you say to him?
 15:19 8 A. Don't you think that the alcohol is getting out
 15:19 9 of control? Most of your -- the majority of your
 15:19 10 tickets are due to alcohol. I think I'd quit drinking.
 15:19 11 Q. And was this before or after he got his DWI?
 15:19 12 A. I don't know.
 15:19 13 Q. Did you know about the DWI?
 15:19 14 A. No. I didn't know very much about his driving
 15:19 15 record.
 15:19 16 Q. He never told you he got arrested for DWI and
 15:19 17 spent 60 days in jail?
 15:19 18 A. I don't remember him spending 60 days in jail.
 15:19 19 He did a...
 15:19 20 Q. Did you ever remember him being in jail?
 15:19 21 A. Yes.
 15:19 22 Q. Did he tell you what it was for?
 15:20 23 A. Speeding.
 15:20 24 Q. So he lied to you about that?
 15:20 25 A. (No response.)

15:20 1 Q. Is that correct?
 15:20 2 A. (No response.)
 15:20 3 Q. Did he tell you he was also convicted of
 15:20 4 evading arrest, running from the police?
 15:20 5 A. Yes. He did tell me about that.
 15:20 6 Q. But he didn't tell you that he got a DWI at the
 15:20 7 same time?
 15:20 8 A. No. I don't think so. I don't remember. It's
 15:20 9 too long ago.
 15:20 10 Q. Don't you think that's kind of important if
 15:20 11 your son tells you he has been convicted of a DWI?
 15:20 12 A. He never confronted me and told me he had a
 15:20 13 DWI.
 15:20 14 Q. Did you ever confront him with information
 15:20 15 about why you are in jail?
 15:20 16 A. I knew it was because of traffic violations. I
 15:20 17 didn't know any more than that, other than maybe it was
 15:20 18 speeding.
 15:21 19 Q. And in your opinion is DWI just like speeding,
 15:21 20 just another traffic violation?
 15:21 21 A. Maybe tickets that hadn't been paid for.
 15:21 22 Q. Because that's what he told you?
 15:21 23 A. Right.
 15:21 24 Q. What about theft? Did he ever tell you he got
 15:21 25 arrested and convicted of theft?

15:21 1 A. No.
 15:21 2 Q. What about public intoxication? Did he ever
 15:21 3 tell you he got arrested for that?
 15:21 4 A. Yes.
 15:21 5 Q. When did he tell you that?
 15:21 6 A. I'm not sure of the year.
 15:21 7 Q. Did you ever confront him about it? And when
 15:21 8 you confront him about his drinking problem, what did he
 15:21 9 tell you?
 15:21 10 A. That he was not going to drink anymore.
 15:21 11 Q. He told you he wasn't going to drink anymore?
 15:21 12 A. Right.
 15:21 13 Q. When was that?
 15:21 14 A. He realized that there was an alcohol problem,
 15:21 15 and he promised me that he wouldn't drink anymore.
 15:21 16 Q. That was another lie, wasn't it?
 15:21 17 MR. HIGH: I have to object to -- it's --
 15:22 18 it's not based on fact. There hasn't been any other
 15:22 19 proof of other lies before this jury. Therefore, it
 15:22 20 assumes facts not in evidence, and it's an improper
 15:22 21 question.
 15:22 22 THE COURT: Sustain the objection.
 15:22 23 MR. HIGH: And ask the jury to disregard
 15:22 24 that comment of counsel.
 15:22 25 THE COURT: I overrule that.

15:22 1 Q. (BY MS. FALCO) So was that a lie, when he said
 15:22 2 he wasn't going to drink anymore?
 15:22 3 A. I believe he had the best intentions to
 15:22 4 probably correct that.
 15:22 5 Q. But he did drink after that?
 15:22 6 A. (No response.)
 15:22 7 Q. Correct?
 15:22 8 A. Yes.
 15:22 9 Q. Did he ever tell you why he left the Navy? Why
 15:22 10 he just up and left in the middle of boot camp?
 15:22 11 A. No.
 15:22 12 Q. You never asked him?
 15:23 13 A. He just said it wasn't for him.
 15:23 14 Q. Coming to obey orders and follow rules wasn't
 15:23 15 for him?
 15:23 16 A. He stated he made a mistake.
 15:23 17 Q. But he didn't say that about the DWI he got or
 15:23 18 the possession of cocaine he got or the theft conviction
 15:23 19 he got. You never heard him say those were mistakes,
 15:23 20 did you?
 15:23 21 A. No.
 15:23 22 Q. But joining the military, that was a mistake,
 15:23 23 correct?
 15:23 24 A. Yes.
 15:23 25 Q. When you were living with him and Michelle, you

15:23 1 described their relationship as typical. While you were
 15:23 2 living there or even before you were living there, you
 15:23 3 saw the bruises on Michelle, didn't you?
 15:23 4 A. No.
 15:23 5 Q. Well, you knew he beat her up pretty severely
 15:24 6 twice, didn't you?
 15:24 7 A. No, I did not.
 15:24 8 Q. Eric told you about the one he saw, where the
 15:24 9 defendant beat Michelle up right in front of him?
 15:24 10 A. Years later.
 15:24 11 Q. Years later? He didn't tell you at the time?
 15:24 12 A. No.
 15:24 13 Q. But he did tell you he saw it?
 15:24 14 A. Yes.
 15:24 15 Q. And you are saying you never saw any bruises on
 15:24 16 Michelle?
 15:24 17 A. No.
 15:24 18 Q. Well, when you were living there, you were --
 15:24 19 on direct, you talked about a time when he just exploded
 15:24 20 at her.
 15:24 21 A. They were yelling, but he didn't physically
 15:24 22 hurt her.
 15:24 23 Q. What was he yelling at her?
 15:24 24 A. I was in the living room. So they were just
 15:24 25 yelling at each other, and it was about whatever papers

15:24 1 they were working on, whatever loan they were working
 15:24 2 on.
 15:24 3 Q. In fact, his temper had you so afraid you moved
 15:24 4 out?
 15:24 5 A. No.
 15:25 6 Q. You moved out because of Ivan's temper?
 15:25 7 A. No.
 15:25 8 Q. Why did you move out?
 15:25 9 A. My brother purchased a home on the next street.
 15:25 10 It was completed, and I was going to share a home with
 15:25 11 him.
 15:25 12 Q. You never saw her with black eyes or a swollen
 15:25 13 head?
 15:25 14 A. No. I never --
 15:25 15 Q. You never did?
 15:25 16 A. I never saw them argue. That was the only time
 15:25 17 I ever saw them argue.
 15:25 18 Q. Were you around them very much?
 15:25 19 A. Not really. They kept very busy hours. They
 15:25 20 were gone most of the time. The short period of time
 15:25 21 that I stayed there, that was the only thing I ever saw.
 15:25 22 And I made it a point not to -- I made it a point not to
 15:25 23 get involved in my children's marriage problems. That
 15:26 24 that was something that was for themselves to work out.
 15:26 25 Q. Well, if --

15:26 1 A. I didn't want to interfere.
 15:26 2 Q. -- if Ivan is beating up Michelle, that's more
 15:26 3 than just a marriage problem that can resolve itself,
 15:26 4 don't you think?
 15:26 5 A. I didn't know about that.
 15:26 6 Q. You learned later?
 15:26 7 A. Much later.
 15:26 8 Q. Right. Did you ever talk to Ivan about it
 15:26 9 after Eric told you that?
 15:26 10 A. No.
 15:26 11 Q. So Eric tells you, I saw Ivan beat up Michelle
 15:26 12 badly, and you never talked to Ivan about it?
 15:26 13 A. This was after their divorce. Much later.
 15:26 14 Q. And it didn't concern you that he had it in him
 15:26 15 to beat someone up that badly?
 15:26 16 A. I didn't think he was capable of that.
 15:26 17 Q. Well, Eric told you he saw it, correct?
 15:26 18 A. Yes.
 15:26 19 Q. Did you think he was just lying to you about
 15:26 20 it?
 15:27 21 A. No.
 15:27 22 Q. So at that point you knew he had it in him?
 15:27 23 MR. HIGH: Judge, I'm going to have to
 15:27 24 object to the vagueness of the question. I mean, what
 15:27 25 exactly did he have in him? What was the extent of the

15:27 1 beating? I think that's unclear for this witness.
 15:27 2 THE COURT: If you would, put your
 15:27 3 questions in question form.
 15:27 4 Q. (BY MS. FALCO) So when you stated you didn't
 15:27 5 think Ivan had it in him to beat her up after Eric told
 15:27 6 you he saw it, you knew that Ivan had it in him to be
 15:27 7 able to beat somebody up like that, correct?
 15:27 8 A. I found it very uncomprehensible.
 15:27 9 Q. But you knew it was true?
 15:27 10 A. I did not view it. I didn't see it.
 15:27 11 Q. So, therefore, it didn't happen?
 15:27 12 A. I didn't say that.
 15:27 13 Q. He was just able to show you a side of his
 15:27 14 personality to fool you?
 15:27 15 MR. HIGH: Judge, again, the question is
 15:27 16 vague.
 15:28 17 THE COURT: Could you repeat the question,
 15:28 18 please?
 15:28 19 Q. (BY MS. FALCO) So he was able to keep that
 15:28 20 side of him, the side that's capable of beating somebody
 15:28 21 up like that, he was able to hide that side of him?
 15:28 22 A. He didn't share that with me.
 15:28 23 Q. He never showed you that side of his
 15:28 24 personality; is that what you are saying?
 15:28 25 A. Would you be more specific?

15:28 1 Q. The side of his personality that's capable of
 15:28 2 beating up his wife, did he ever show that side of his
 15:28 3 personality to you?
 15:28 4 A. No.
 15:28 5 Q. Do you think he murdered James and Amy?
 15:28 6 A. No.
 15:28 7 Q. Why not?
 15:28 8 A. I haven't seen any evidence to that.
 15:28 9 Q. Well, I could show you pictures, but I'm not
 15:28 10 going to do that. If I showed you pictures would that
 15:28 11 convince you that your son did that?
 15:28 12 MR. HIGH: I'm going to have to object,
 15:28 13 Judge. That's not relevant. That doesn't determine any
 15:29 14 issue that this jury has to decide.
 15:29 15 THE COURT: Sustain the objection.
 15:29 16 MR. HIGH: I ask the jury to be instructed
 15:29 17 that that comment and that approach of counsel.
 15:29 18 THE COURT: Ask for what?
 15:29 19 MR. HIGH: Well, she's truly badgering the
 15:29 20 witness. I ask the jury to disregard that comment and
 15:29 21 that outburst of counsel at this time.
 15:29 22 THE COURT: Which comment?
 15:29 23 MR. HIGH: Well, if I showed you the
 15:29 24 pictures, would that be enough to convince you that he
 15:29 25 killed her? I mean, what does that prove? I ask that

15:29 1 be stricken from the record, and the jury be instructed
 15:29 2 to disregard that.
 15:29 3 THE COURT: I'll ask the jury to disregard
 15:29 4 that.
 15:29 5 MR. HIGH: Thank you, Your Honor. And I'm
 15:29 6 going to move for a mistrial.
 15:29 7 THE COURT: Overruled.
 15:29 8 THE WITNESS: May I have a glass of water?
 15:29 9 THE COURT: Yes, ma'am.
 15:29 10 Q. (BY MS. FALCO) Did you ever talk to Ivan about
 15:29 11 the murders?
 15:29 12 A. No.
 15:29 13 Q. Your son's in jail for capital murder, and you
 15:29 14 never asked him about it?
 15:30 15 A. He was under his attorneys' instructions not to
 15:30 16 discuss anything.
 15:30 17 Q. He's your son, and you didn't want to know if
 15:30 18 he did it or not?
 15:30 19 A. No.
 15:30 20 Q. That's not important to you?
 15:30 21 A. I'm not saying it's not important. We were
 15:30 22 under instruction.
 15:30 23 Q. The attorneys didn't instruct you not to talk
 15:30 24 about his newfound Christianity.
 15:30 25 MR. GOELLER: Judge, I'm going to object.

15:30 1 THE COURT: Just a minute. If we got one
 15:30 2 lawyer handling the case, let's have one lawyer make the
 15:30 3 objection. Just one on each side. Ms. Falco gets to
 15:30 4 object.
 15:30 5 MR. HIGH: Sit down.
 15:30 6 MR. GOELLER: I've been admonished.
 15:30 7 Q. (BY MS. FALCO) His attorneys didn't instruct
 15:31 8 you not to talk about Ivan's newfound Christianity, did
 15:31 9 they?
 15:31 10 MR. HIGH: Judge, I'm going to have to
 15:31 11 object to what we have told her, what we've told his son
 15:31 12 because that's clearly protected by the attorney-client
 15:31 13 privilege.
 15:31 14 THE COURT: Well, let me just ask
 15:31 15 Ms. Falco, for what purpose are you asking that
 15:31 16 question? Just so I can understand the relevance.
 15:31 17 MS. FALCO: Your Honor, if she was
 15:31 18 instructed not to talk about the murders, but then she's
 15:31 19 up there talking about his newfound Christianity. Was
 15:31 20 that, you know, just --
 15:31 21 THE COURT: I sustain the objection.
 15:31 22 Q. (BY MS. FALCO) And even before -- well, first
 15:31 23 of all, you were with your son from November 4th from
 15:31 24 the time you knew James and Amy were dead until November
 15:31 25 8th when he was arrested, and you talked to him on

15:31 1 numerous occasions on the phone, correct?
 15:31 2 A. No.
 15:31 3 Q. No?
 15:31 4 A. I talked to him twice, maybe three times.
 15:32 5 Q. Well, there will be phone records showing you
 15:32 6 called him a whole lot more than that. Are they wrong?
 15:32 7 A. I'm guessing at the times we talked.
 15:32 8 Q. These were like hour-long conversations,
 15:32 9 correct?
 15:32 10 A. I spoke with him. We were not together.
 15:32 11 Q. And he actually, before he got arrested he met
 15:32 12 you and Penny Leeland and Amy Boettcher at an I-HOP and
 15:32 13 talked to you, correct?
 15:32 14 A. Yes.
 15:32 15 Q. And you were actually with him, just the two of
 15:32 16 you, when he got arrested on November 8th?
 15:32 17 A. Yes.
 15:32 18 Q. So you had plenty of opportunity to talk to him
 15:32 19 about the murders before the lawyers got involved,
 15:32 20 correct?
 15:32 21 A. I did not know Ivan was a suspect.
 15:32 22 Q. Even though you were on your way --
 15:32 23 A. So we talked about what all I knew at that
 15:32 24 time. We discussed that.
 15:32 25 Q. You didn't know he was a suspect even though

15:32 1 when he got arrested he was on his way to an ATM
 15:32 2 machine?
 15:32 3 A. No. I stopped at the ATM machine. I needed
 15:32 4 cash. I didn't have any money on me.
 15:32 5 Q. That was --
 15:32 6 A. That was my ATM. I asked him to stop there for
 15:33 7 me.
 15:33 8 Q. And you never talked to him about the murders?
 15:33 9 A. I never even knew why he was arrested.
 15:33 10 Q. And the only thing he's told you is that pizza
 15:33 11 man story?
 15:33 12 A. That was part of it.
 15:33 13 Q. He told you that at I-HOP? That the pizza man
 15:33 14 shot at him in his apartment?
 15:33 15 A. No.
 15:33 16 Q. What did he tell you about the pizza man?
 15:33 17 A. He told me about that on the phone.
 15:33 18 Q. That a pizza man had come to his house the
 15:33 19 night before the murders with a gun?
 15:33 20 A. Yes.
 15:33 21 Q. The pizza man that looked like John Travolta
 15:33 22 with a Steven Seagal haircut?
 15:33 23 A. Yes.
 15:33 24 Q. And that he had shot at him, shot at Ivan?
 15:33 25 A. Yes.

15:33 1 Q. And put the bullet hole in the wall?
 15:33 2 A. Yes.
 15:33 3 Q. Were you believing that?
 15:33 4 A. Yes.
 15:33 5 Q. Because that's your son and he can manipulate
 15:34 6 you?
 15:34 7 A. Because I was in shock.
 15:34 8 Q. When Ivan got arrested did you go down there
 15:34 9 and talk to him?
 15:34 10 A. Yes, I did.
 15:34 11 Q. And you never said, Did you do it?
 15:34 12 A. No, I did not.
 15:34 13 Q. Let's talk about Jennifer Snyder. When he was
 15:34 14 married to her -- and actually, legally, he's still
 15:34 15 married to her, isn't he?
 15:34 16 A. Yes.
 15:34 17 Q. In fact, she's in the Marshall Islands. You
 15:34 18 tried to get ahold of her, correct?
 15:34 19 A. Yes.
 15:34 20 Q. She doesn't want to come back?
 15:34 21 A. I never spoke to her.
 15:34 22 Q. And in the short time they were together, she
 15:34 23 called the police on Ivan three times, correct?
 15:34 24 A. I'm not sure how many times.
 15:34 25 Q. You showed up out there a couple of the times,

15:34 1 didn't you?
 15:35 2 A. I know twice.
 15:35 3 Q. You tried to get her to not press charges
 15:35 4 against Ivan?
 15:35 5 A. This was after she was released from Green Oaks
 15:35 6 Behavioral.
 15:35 7 Q. And you saw the bruises on her head and the
 15:35 8 bruises on her hand, bruises on her arm. You saw all
 15:35 9 that?
 15:35 10 A. No. I didn't see any bruises.
 15:35 11 Q. You never saw any bruises?
 15:35 12 A. Never.
 15:35 13 Q. You never saw any marks?
 15:35 14 A. I was standing right next to her. I didn't see
 15:35 15 any marks. I didn't see any bruises.
 15:35 16 Q. So if the police officer saw them, they are
 15:35 17 just lying?
 15:35 18 MR. HIGH: Judge, I'm going to have to
 15:35 19 object. It's argumentative.
 15:35 20 THE COURT: Sustained.
 15:35 21 MR. HIGH: I ask the jury to be instructed
 15:35 22 to disregard the comment of counsel.
 15:35 23 THE COURT: Overruled.
 15:35 24 Q. (BY MS. FALCO) So it's your story that you
 15:35 25 never saw any bruises on her?

15:35 1 A. No.
 15:35 2 Q. But you did try to get her to not press charges
 15:35 3 against your son?
 15:35 4 A. Yes.
 15:35 5 Q. And one time when her arm was severely swollen
 15:35 6 and hurt from the defendant pushing her down the stairs,
 15:35 7 you wanted to take her over to Amy Kitchen's because Amy
 15:35 8 was in nursing school, correct?
 15:36 9 A. No.
 15:36 10 Q. Well, you saw her arm was hurt. She told you
 15:36 11 how it got hurt from Ivan throwing her down the stairs.
 15:36 12 A. I offered to take her to the emergency room if
 15:36 13 she had to go. If she needed attention, I'd be glad to
 15:36 14 drive her.
 15:36 15 Q. You wanted to take her to Amy Kitchen, who was
 15:36 16 in nursing school, because that would be better. That
 15:36 17 way nobody else would have to get involved?
 15:36 18 A. I don't know anything about Amy. Maybe she
 15:36 19 called Amy to ask her a few questions. She told me that
 15:36 20 she didn't need to go to the emergency room.
 15:36 21 Q. The second time you showed up out there with
 15:36 22 the police again you tried to talk Jennifer into not
 15:36 23 pressing charges against Ivan?
 15:36 24 A. That was the only time that I know of. I
 15:36 25 called -- I called Jennifer at her sister's home, I

15:36 1 believe, in Wills Point. And she told me that she was
 15:37 2 angry at Ivan, and she did that because she was angry at
 15:37 3 him.
 15:37 4 Q. Called the police?
 15:37 5 A. Uh-huh. That she had pressed the assault
 15:37 6 charges, but that she would have them dropped when she
 15:37 7 got back to Dallas.
 15:37 8 Q. Did you see her that day?
 15:37 9 A. No. She was in Wills Point.
 15:37 10 Q. Did you see her the next day?
 15:37 11 A. No.
 15:37 12 Q. The time you went over there, after the police
 15:37 13 were called when you talked her into dropping the
 15:37 14 charges, was that the same day that it happened?
 15:37 15 A. No. That weekend she went to Wills Point. Her
 15:37 16 sister came and got her. And when I spoke with her, she
 15:37 17 said that she would be there that weekend. And Ivan
 15:37 18 wanted to move his things out, and she agreed to that.
 15:37 19 And I left her a key with the leasing agent, so there
 15:37 20 wasn't anymore contact.
 15:37 21 Q. Well, after he moved out there was one more
 15:37 22 contact when he came over in January, and he beat her up
 15:37 23 for the last time?
 15:37 24 A. I'm not aware of that.
 15:37 25 Q. Then her parents came and took her away, took

15:37 1 her back to the Marshall Islands where they were living,
 15:38 2 correct?
 15:38 3 A. I knew that they were coming, but I thought
 15:38 4 that was about the same time frame that her sister came
 15:38 5 in from Wills Point. That was the weekend her parents
 15:38 6 were going to come in.
 15:38 7 Q. And they took her to the Marshall Islands?
 15:38 8 A. I'm not sure where they took her. Ivan was no
 15:38 9 longer living there.
 15:38 10 Q. At this point did you know -- had Eric told you
 15:38 11 about Ivan beating up Michelle?
 15:38 12 A. I'm not sure about that time frame. I don't
 15:38 13 remember.
 15:38 14 Q. But you knew Ivan was capable of beating up
 15:38 15 Jennifer just like he did Michelle?
 15:38 16 A. Years later, but I'm not sure when.
 15:38 17 Q. Well, that was 1999. He was arrested the next
 15:38 18 year, so it wasn't years later?
 15:38 19 A. It was later. I just don't know when.
 15:38 20 Q. And, in fact, let's talk about Amy Boettcher a
 15:38 21 little bit. You claimed you didn't like her. I guess
 15:38 22 basically because you said she was lazy, correct?
 15:39 23 A. When someone is partying all night and keeping
 15:39 24 you up in your home.
 15:39 25 Q. She was partying with your son?

15:39 1 A. She was partying.
 15:39 2 Q. With your son?
 15:39 3 A. Yes.
 15:39 4 Q. I mean, he was up all night doing drugs too,
 15:39 5 wasn't he?
 15:39 6 A. I'm not sure what they were doing, but they
 15:39 7 were keeping me up.
 15:39 8 Q. And they were living with you after they got
 15:39 9 kicked out of Brad Bobbitt's apartment, correct?
 15:39 10 A. I'm not sure what the situation was there.
 15:39 11 But, yes, he moved in with me, and he brought Amy and
 15:39 12 her brother with him.
 15:39 13 Q. Okay. And they only lived with you for about a
 15:39 14 week, right?
 15:39 15 A. Yes.
 15:39 16 Q. And that's when you came up with the elaborate
 15:39 17 scheme to say that your ex-husband was kidnapped in
 15:39 18 Mexico, and Ivan was the only one that could go save
 15:39 19 him. Is that your scheme?
 15:39 20 A. No.
 15:39 21 Q. Whose scheme was that?
 15:39 22 A. I asked Ivan to please see that she got back
 15:39 23 home. I'm not sure what the situation was, but she
 15:40 24 needed to go back home to family. They didn't have any
 15:40 25 money, and she definitely had family somewhere that

15:40 1 could take care of her.
 15:40 2 Q. So you are denying coming up with this
 15:40 3 elaborate scheme about your ex-husband being in Mexico
 15:40 4 and needing to be rescued. You were going to have
 15:40 5 Carlos call? Do you remember that? Having Carlos
 15:40 6 Gonzalez involved in -- on the scheme?
 15:40 7 A. I don't remember. I did not come up with
 15:40 8 something like that. I don't go around scheming. If I
 15:40 9 had said something, I would have said, "tell her the
 15:40 10 truth."
 15:40 11 Q. So you are denying that you were part of that
 15:40 12 scheme?
 15:40 13 A. There was no denying about it. I wouldn't have
 15:40 14 made up a scheme.
 15:40 15 Q. If you didn't want Amy Boettcher in your house,
 15:40 16 why didn't you just tell her to move out?
 15:40 17 A. I felt it was my son's place to take care of
 15:40 18 that.
 15:40 19 Q. But actually you saw your son's violence. You
 15:40 20 were pretty worried that he might hurt somebody at that
 15:40 21 point, weren't you?
 15:40 22 A. I had never seen him violent.
 15:40 23 Q. But you were concerned that he might be
 15:40 24 violent, weren't you?
 15:41 25 A. No.

15:41 1 Q. Didn't you call Brad Bobbitt while they were
 15:41 2 living with you and asked him if he had ever seen Ivan
 15:41 3 being violent toward Amy?
 15:41 4 A. No.
 15:41 5 Q. You never said that?
 15:41 6 A. I talked -- I talked to Brad Bobbitt.
 15:41 7 Q. And you talked about whether or not Ivan was
 15:41 8 violent?
 15:41 9 A. No. I was concerned about his moods, his
 15:41 10 changing moods, his demeanor. And maybe he could shed
 15:41 11 some light on this.
 15:41 12 Q. And asked Brad Bobbitt if he thought Ivan would
 15:41 13 ever hurt Amy Boettcher?
 15:41 14 A. No.
 15:41 15 Q. When --
 15:41 16 A. That was never discussed. He did tell me
 15:41 17 that --
 15:41 18 MR. HIGH: I have to object to her hearsay
 15:41 19 response, Your Honor.
 15:41 20 THE COURT: Overruled.
 15:41 21 Q. (BY MS. FALCO) What did he tell you?
 15:41 22 MR. HIGH: Same objection, Judge, what he
 15:41 23 told her.
 15:41 24 THE COURT: Overruled.
 15:41 25 A. He spoke real well of Ivan and hoped that he

15:41 1 did well. That he knew that there was some problems,
 15:41 2 but he couldn't elaborate on anything.
 15:42 3 Q. (BY MS. FALCO) He didn't really speak well of
 15:42 4 Ivan because he kicked Ivan out, and Ivan owed him a
 15:42 5 bunch of money; isn't that correct?
 15:42 6 A. I don't know about that.
 15:42 7 Q. Ivan never paid any rent or paid any bills the
 15:42 8 whole time he was living there?
 15:42 9 A. Brad did not share that with me. I did say to
 15:42 10 him that if he did owe him any money, that I was real
 15:42 11 sorry about that. He never -- he never made that an
 15:42 12 issue. He was quite a gentleman.
 15:42 13 Q. The general nature of your call -- you are the
 15:42 14 one that called him?
 15:42 15 A. Yes.
 15:42 16 Q. Because you were concerned that the defendant
 15:42 17 might be violent?
 15:42 18 A. Never. Never about violence.
 15:42 19 Q. So it was just a call to chat with Brad
 15:42 20 Bobbitt?
 15:42 21 A. Yes. I was just concerned for Ivan.
 15:42 22 Q. That he might be violent?
 15:42 23 A. I don't know anything about the violence.
 15:42 24 THE COURT: Ms. Falco, mark your notes
 15:42 25 with regard to where you are. And we'll take about

15:42 1 a 10- or 15-minute recess. We'll come back and finish
 15:42 2 up for the day.
 15:42 3 THE BAILIFF: All rise.
 15:43 4 (Break.)
 16:03 5 THE COURT: Everybody ready. Let's bring
 16:03 6 them in.
 16:03 7 (Open court, defendant and jury present.)
 16:05 8 THE BAILIFF: All rise.
 16:05 9 THE COURT: Please be seated. Ms. Falco,
 16:05 10 go ahead, please.
 16:05 11 Q. (BY MS. FALCO) All right. Ms. Cantu, I want
 16:05 12 to talk about the year 2000 a little bit. You said at
 16:05 13 that point that your son was having financial
 16:05 14 difficulties. Was that what you testified to?
 16:05 15 A. Yes.
 16:05 16 Q. In 2000? And you said he was having difficulty
 16:05 17 finding work. But that was the time period where he
 16:05 18 worked for James Mosqueda for a little while and then
 16:05 19 the different mortgage companies; is that correct?
 16:05 20 A. Yes.
 16:05 21 Q. And also in the summer of 2000, isn't that when
 16:06 22 he went to Jamaica with Tawny Svihovec and Carlos
 16:06 23 Gonzalez?
 16:06 24 A. Yes.
 16:06 25 Q. You testified that it was in September of 2000

16:06 1 that you thought your son was suicidal, but you would
 16:06 2 not argue if the police testified it was actually August
 16:06 3 29th when you called and they came?
 16:06 4 A. No.
 16:06 5 Q. You wouldn't dispute that?
 16:06 6 A. No.
 16:06 7 Q. They said they came and they took him into
 16:06 8 custody. It was protective custody. Took him to
 16:06 9 Parkland Hospital August 29th of 2000. But that Labor
 16:06 10 Day weekend of 2000 would have been like the next week,
 16:06 11 correct?
 16:06 12 A. Yes.
 16:06 13 Q. And that's when they met Amy Boettcher out at
 16:06 14 the lake?
 16:06 15 A. I'm not sure when they met.
 16:06 16 Q. But you knew he was going out to the lake
 16:06 17 frequently with Brad Bobbitt and others?
 16:06 18 A. I didn't know about his curriculum at that
 16:06 19 time.
 16:06 20 Q. You didn't know that he would go out to the
 16:07 21 lake and go party with Brad Bobbitt and Tawny and --
 16:07 22 A. No.
 16:07 23 Q. You were not familiar with that?
 16:07 24 A. I was not familiar with that.
 16:07 25 Q. Did you know a couple named Melanie and Craig

16:07 1 that he met, that he was going to do a home loan for
 16:07 2 right before the murders? Did you hear about that?
 16:07 3 A. No.
 16:07 4 Q. We talked a little bit about the car incident
 16:07 5 that you talked about where you repossessed Ivan's car.
 16:07 6 The car was actually in your name?
 16:07 7 A. Yes.
 16:07 8 Q. And then the defendant would just give you car
 16:07 9 payments? Was that how that was set up?
 16:07 10 A. Yes.
 16:07 11 Q. And was it approximately September or October
 16:07 12 when he stopped paying you?
 16:07 13 A. It was about three -- three months prior to
 16:07 14 that.
 16:07 15 Q. Okay. Did you let him go a couple months
 16:08 16 without paying you before you decided to repossess it?
 16:08 17 A. Yes.
 16:08 18 Q. When you actually went to repossess it, did you
 16:08 19 go in the middle of the night and drive it off?
 16:08 20 A. Yes.
 16:08 21 Q. Why did you do that?
 16:08 22 A. Because he had left without telling me.
 16:08 23 Q. He left where?
 16:08 24 A. My home.
 16:08 25 Q. Was that when he had been living with you for

16:08 1 that week?
 16:08 2 A. Yes.
 16:08 3 Q. And then he just moved out with Amy and Jeff?
 16:08 4 A. Yes.
 16:08 5 Q. And then you went over in the middle of the
 16:08 6 night and repossessed the car?
 16:08 7 A. Yes.
 16:08 8 Q. Was it because you were afraid of a physical
 16:08 9 confrontation with him when you were taking the car
 16:08 10 away?
 16:08 11 A. No.
 16:08 12 Q. You weren't afraid of that at all?
 16:08 13 A. No.
 16:08 14 Q. So actually, this incident that you were
 16:08 15 talking about where Ivan kicked your doors in, he was
 16:08 16 actually trying to get his stuff back that was in the
 16:08 17 car when you took it in the middle of night? Does that
 16:08 18 sound right?
 16:08 19 A. The following day.
 16:09 20 Q. Okay. And you called James -- first of all,
 16:09 21 you said your sister was with you. That was Penny
 16:09 22 Leeland; is that right?
 16:09 23 A. Yes.
 16:09 24 Q. And you called James. You wanted James to be
 16:09 25 there as well?

16:09 1 A. Yes.
 16:09 2 Q. Because you were afraid to confront the
 16:09 3 defendant alone?
 16:09 4 A. Never.
 16:09 5 Q. Why else would you need James there and your
 16:09 6 sister there and have as many people there as possible
 16:09 7 if you are not afraid of the defendant?
 16:09 8 A. I wanted him to defuse the situation.
 16:09 9 Q. Defuse what? What needed diffusing?
 16:09 10 A. To make it an easy transition. I knew that he
 16:09 11 was going to be upset.
 16:09 12 Q. You were afraid that he might be violent?
 16:09 13 A. No.
 16:09 14 Q. You didn't think you could handle it on your
 16:09 15 own?
 16:09 16 A. (No response.)
 16:09 17 Q. Did you think you could handle it on your own?
 16:09 18 A. Well, I'm not sure why my sister was with me
 16:10 19 that day, but we were in my car. And I just asked James
 16:10 20 there to -- just for support.
 16:10 21 Q. Then when everybody got -- first of all, while
 16:10 22 you were driving, did Ivan try to cut you off, block you
 16:10 23 in while you were on the road?
 16:10 24 A. I don't remember.
 16:10 25 Q. It's possible?

16:10 1 A. I don't recall.
 16:10 2 Q. And then when everyone got stopped and you were
 16:10 3 in the parking lot, James was standing very close to
 16:10 4 you, as to protect you?
 16:10 5 A. No. He was pretty much just with his hands in
 16:10 6 his pocket and just overseeing the situation.
 16:10 7 Q. And a couple of times did he actually have to
 16:10 8 step between you and Ivan because Ivan was getting out
 16:10 9 of the control?
 16:10 10 A. He had mentioned to him that, please not to
 16:10 11 talk to me that way. That I was his mother.
 16:10 12 Q. Did he actually help to step between y'all to
 16:11 13 keep Ivan from getting near you?
 16:11 14 A. He didn't step between us, other than the time
 16:11 15 that he kicked the car.
 16:11 16 Q. And James was trying to protect you, keep you
 16:11 17 safe?
 16:11 18 A. I don't know if he was trying to protect me. I
 16:11 19 just think that he was trying to calm Ivan down.
 16:11 20 Q. That's what he was trying to do by talking to
 16:11 21 him, trying to settle things down?
 16:11 22 A. Yeah.
 16:11 23 Q. He didn't try to fight Ivan or yell at him?
 16:11 24 A. No.
 16:11 25 Q. Just tried to calm him down?

16:11 1 A. Right. He is soft-spoken.
 16:11 2 Q. James was soft-spoken?
 16:11 3 A. Yeah. He didn't raise his voice at him. He
 16:11 4 just calmly talked to him.
 16:11 5 Q. And even despite all that, the defendant still
 16:11 6 started kicking the car?
 16:11 7 A. Yeah. That was afterwards.
 16:11 8 Q. The soft-spoken part was afterwards?
 16:11 9 A. Yes. See, James was at the far end of my car.
 16:11 10 That was the white Accord that I was driving. And as
 16:12 11 Ivan approached, everything happened so quickly. And
 16:12 12 then Ivan -- James moved in, put his arm across Ivan's
 16:12 13 chest. And Ivan took the hint and started backing up,
 16:12 14 and James --
 16:12 15 Q. Across his chest?
 16:12 16 A. -- and James was talking to him.
 16:12 17 Q. As if to say, back off, calm down?
 16:12 18 A. Yeah.
 16:12 19 Q. And was Ivan coming toward you or walking
 16:12 20 toward you when James did that?
 16:12 21 A. I didn't -- I don't think he wanted him to hit
 16:12 22 the car anymore or kick the car anymore.
 16:12 23 Q. Ivan kicked the car hard enough he put dents in
 16:12 24 your door?
 16:12 25 A. Yes.

16:12 1 Q. And he was pretty upset with you?
 16:12 2 A. Yes.
 16:12 3 Q. Screaming vulgarities at you?
 16:12 4 A. Yes.
 16:12 5 Q. Being very disrespectful of you?
 16:12 6 A. Yes.
 16:12 7 Q. Were you thankful that James was there?
 16:12 8 A. Yes.
 16:12 9 Q. A couple days later do you remember having an
 16:13 10 incident with Ivan at your workplace where Ivan showed
 16:13 11 up and again started screaming at you?
 16:13 12 A. Yes.
 16:13 13 Q. And again, was he screaming these vulgarities
 16:13 14 at you?
 16:13 15 A. Yes.
 16:13 16 Q. Being very disrespectful of you?
 16:13 17 A. Yes.
 16:13 18 Q. Very enraged at you?
 16:13 19 A. Yes.
 16:13 20 Q. And Patrick Swann had to actually escort him
 16:13 21 out of the building?
 16:13 22 A. Yes.
 16:13 23 Q. And you were thankful again that day that
 16:13 24 Patrick was there?
 16:13 25 A. Yes.

16:14 1 Q. With regard to this new -- this newfound
 16:14 2 Christianity regarding Ivan, the first step in being a
 16:14 3 Christian or one thing you have to acknowledge is that
 16:14 4 you are a sinner and ask for forgiveness or repentance
 16:14 5 for what you have done?
 16:14 6 A. That's true.
 16:14 7 Q. Have you ever heard Ivan ask for forgiveness or
 16:14 8 having repentance for killing James or Amy?
 16:14 9 A. He couldn't share anything with me.
 16:15 10 MS. FALCO: Your Honor, may I approach the
 16:15 11 witness?
 16:15 12 THE COURT: Yes.
 16:15 13 Q. (BY MS. FALCO) Ms. Cantu, you would recognize
 16:15 14 your son's handwriting; is that correct?
 16:15 15 A. Yes.
 16:15 16 Q. I'll show what's been marked as State's Exhibit
 16:15 17 No. 179. Is that Ivan's handwriting?
 16:15 18 A. Yes, it is.
 16:15 19 Q. And do you recognize that to be Ivan's
 16:15 20 handwriting?
 16:15 21 A. Yes.
 16:15 22 Q. And it's an inmate request form dated since
 16:15 23 February 14th, 2001, since he's been incarcerated in the
 16:15 24 Collin County jail?
 16:15 25 A. Yes.

16:15 1 MS. FALCO: Your Honor, at this time we
 16:15 2 offer State's Exhibit 179 as part of a party-opponent
 16:15 3 admission.
 16:16 4 MR. HIGH: Judge, I'm going to have to
 16:16 5 object to relevance. First of all, I don't believe it's
 16:16 6 an admission to anything. Secondly, that makes it still
 16:16 7 hearsay. Thirdly, there's an improper predicate to
 16:16 8 admission because I'm not really sure where this
 16:16 9 document came from.
 16:16 10 And I believe the district attorney should
 16:16 11 offer some sort of predicate before the jury and lay the
 16:16 12 foundation for admissibility for State's Exhibit 179.
 16:17 13 THE COURT: Could I take a look?
 16:17 14 MS. FALCO: (Complying.)
 16:17 15 THE COURT: Tell me why you are offering
 16:17 16 it, Ms. Falco.
 16:17 17 MS. FALCO: Just a statement in there
 16:17 18 regarding defendant's thoughts of whether or not he's
 16:17 19 guilty or innocent of this offense.
 16:17 20 THE COURT: Overruled. Or rather, I'll
 16:17 21 sustain the objection.
 16:18 22 MS. FALCO: Your Honor, for my purposes,
 16:18 23 under which objection are you sustaining?
 16:18 24 THE COURT: Well, I understood you were
 16:18 25 offering it as an admission of party opponent, right?

16:18 1 MS. FALCO: Yes.
 16:18 2 THE COURT: If that's why you are offering
 16:18 3 it, then I'll sustain the objection.
 16:18 4 MS. FALCO: We're offering it as a
 16:18 5 statement of the defendant who is a party opponent, as
 16:18 6 the fact that it's not hearsay.
 16:18 7 MS. FALCO: Your Honor, at this time could
 16:18 8 we have a hearing outside the presence of the jury?
 16:18 9 THE COURT: Yeah, sure.
 16:18 10 THE BAILIFF: All rise.
 16:19 11 (Open court, defendant present, no jury.)
 16:19 12 THE COURT: Please be seated. All right.
 16:19 13 Also, tell me the relevance.
 16:19 14 MS. FALCO: I asked her about whether or
 16:19 15 not he thought he was guilty. In this statement that I
 16:19 16 intend to offer, 179, he said that even though I have
 16:19 17 not been convicted and I won't be, indicating that he's
 16:19 18 not accepted.
 16:19 19 My question is: If he's this newfound
 16:19 20 Christian, he has not accepted responsibility. No
 16:19 21 repentance, no remorse. He's still stating he didn't do
 16:19 22 it. He's not going to be convicted.
 16:19 23 THE COURT: So you are offering for
 16:19 24 impeachment?
 16:19 25 MS. FALCO: Impeachment as well as

16:19 1 statement of the defendant, Your Honor.
 16:19 2 MR. SCHULTZ: Since the jury is out, would
 16:19 3 the Court allow me to speak since we don't have any?
 16:19 4 THE COURT: Let me just hear from the
 16:19 5 other side. In fact, hey, is everybody going to be
 16:19 6 speaking for everybody or who is on first here?
 16:20 7 MR. HIGH: I'll take a shot at it.
 16:20 8 MR. GOELLER: I'm just standing, Judge.
 16:20 9 MR. HIGH: I'll take a shot at it. As I
 16:20 10 read the hearsay rule under 801(e)2, admission by party
 16:20 11 opponent, I believe that was the first offer. It
 16:20 12 requires that the statements offered against a party and
 16:20 13 is: a) the party's own statement in either an individual
 16:20 14 or representative capacity. The statement of which the
 16:20 15 party has manifested an opinion or belief and it's true.
 16:20 16 A statement by a person authorized by the
 16:20 17 party to make a statement concerning the subject, and a
 16:20 18 statement by the party's agent or servant concerning a
 16:20 19 matter within the scope of the agents here employment
 16:20 20 made during the existence of the relationship, or the
 16:20 21 statement by a coconspirator of a party during the
 16:20 22 course and in furtherance of a conspiracy.
 16:20 23 And this witness is not -- does not fall
 16:20 24 within any of the requirements of 801(e)2 as an
 16:20 25 admission by a party opponent.

16:21 1 THE COURT: No. But the statement is from
 16:21 2 your client, though, right?
 16:21 3 MR. HIGH: I understand that. But the
 16:21 4 party is not on the witness stand. And I think the
 16:21 5 Court understands that typically this is -- this is
 16:21 6 what's offered in an employer/employee-type situation
 16:21 7 where the employee has committed negligence. The
 16:21 8 employer is on the witness stand. And any kind of
 16:21 9 statement that he made is from any of his employers or
 16:21 10 employees under his supervision, he's asked about it. A
 16:21 11 prior statement that's been made, not in a criminal
 16:21 12 proceeding. I mean, to ask his mom about an admission
 16:21 13 that he made. How can she know what's in his mind?
 16:21 14 I think what's contemplated by the
 16:21 15 statement against interest exception under 803.24, which
 16:21 16 would take it outside of the hearsay rule and make it an
 16:21 17 exception.
 16:21 18 In criminal cases they say a statement
 16:21 19 tending to expose the declarant to criminal liability is
 16:21 20 not admissible unless corroborating circumstances
 16:22 21 clearly indicated the trustworthiness of the statement.
 16:22 22 That doesn't even fall within a statement
 16:22 23 against his interest because there's nothing in that
 16:22 24 statement that would expose him to criminal liability.
 16:22 25 None at all. And even if it was, there would have to be

16:22 1 some sort of corroboration, which they clearly don't
16:22 2 have.

16:22 3 So, I don't believe -- I mean, they are
16:22 4 articulating some kind of an offer under the hearsay
16:22 5 rules that don't apply. They don't apply to this
16:22 6 situation.

16:22 7 THE COURT: Tell me what's being -- tell
16:22 8 me what's being -- you are offering the statement as
16:22 9 what?

16:22 10 MS. FALCO: As a statement that is not
16:22 11 hearsay under 801(e)2, admission by a party opponent
16:22 12 doesn't have to be an admission of an offense.
16:22 13 Admission just being a statement. And he is --

16:22 14 THE COURT: And for -- and the relevancy
16:22 15 of the statement?

16:23 16 MS. FALCO: For impeachment purposes or to
16:23 17 cast some doubt on this newfound Christianity. The fact
16:23 18 that he has still not admitted to committing this
16:23 19 offense. He is still not showing any remorse for this
16:23 20 offense. So it's, I guess, of impeachment value.

16:23 21 THE COURT: What's the date on this
16:23 22 statement?

16:23 23 MS. FALCO: February 14th of 2001. Also
16:23 24 it says, state of mind regarding this offense and future
16:23 25 dangerousness, mitigation.

16:23 1 THE COURT: Yeah. Let me see it one more
16:23 2 time.

16:23 3 MS. FALCO: (Complying.)

16:24 4 THE COURT: Yeah. I tell you what, I'll
16:24 5 sustain the relevance objection.

16:24 6 THE COURT: Okay. Is there anything else
16:24 7 from either side? Let's bring the jury in.

16:24 8 THE BAILIFF: Yes, Your Honor.

16:24 9 MS. FALCO: Well, Your Honor, if I may
16:24 10 make one more brief offering? Under mitigation and also
16:24 11 things the jury has to take into consideration to answer
16:24 12 the last mitigation question.

16:24 13 It asks for personal moral culpability,
16:24 14 which is basically the defendant's responsibility, moral
16:24 15 blameworthiness. And if he's not accepting any
16:24 16 responsibility by his written word, I think this is
16:24 17 relevant to go toward that question in helping the jury
16:24 18 answer that question.

16:24 19 THE COURT: All right. Yeah. I'll stay
16:24 20 with the ruling that I had.

16:25 21 THE BAILIFF: All rise.

16:25 22 (Open court, defendant and jury present.)

16:25 23 THE COURT: Please be seated. All right.

16:25 24 Ms. Falco, go ahead.

16:25 25 MS. FALCO: One moment, Your Honor.

16:25 1 THE COURT: All right.

16:26 2 Q. (BY MS. FALCO) Ms. Cantu, still to this date,
16:26 3 you still don't believe that your son killed James and
16:26 4 Amy?

16:26 5 MR. HIGH: Judge, I'm going to have to
16:26 6 object. It's already been asked and answered.

16:26 7 THE COURT: Overruled.

16:26 8 A. No.

16:26 9 Q. (BY MS. FALCO) And why is that?

16:26 10 A. Because I wasn't privy to the information that
16:26 11 you say convicts him.

16:27 12 MS. FALCO: Thank you, Ms. Cantu. Pass
16:27 13 the witness.

16:27 14 MR. HIGH: Your Honor, we don't have any
16:27 15 further questions of this witness.

16:27 16 THE COURT: All right. You may step down
16:27 17 at this time.

16:27 18 MR. HIGH: Judge, this witness can be
16:27 19 released subject to a three-hour recall.

16:27 20 MS. FALCO: Subject to the three-hour
16:27 21 recall, that's fine by the State.

16:27 22 THE COURT: Do you understand that, ma'am?

16:27 23 THE WITNESS: No, I don't. You have to be
16:27 24 available if you are called to come back to testify.
16:27 25 And everybody has your phone number, right?

16:27 1 THE WITNESS: Yes.

16:27 2 (Witness excused.)

16:27 3 THE COURT: All right. Call your next
16:27 4 witness, please.

16:27 5 MR. HIGH: Judge, at this time we'd move
16:27 6 to publish those exhibits we requested to publish
16:27 7 earlier.

16:27 8 THE COURT: Go ahead and hand them to the
16:27 9 jury, and call your next witness, please.

16:27 10 MR. HIGH: Thank you, Judge.

16:27 11 MR. GOELLER: While Mr. High is doing
16:27 12 that, we'll call Imelda Martinez.

16:28 13 THE COURT: I don't suppose she's been
16:28 14 sworn.

16:28 15 MR. GOELLER: I don't believe so, Your
16:28 16 Honor.

16:28 17 THE COURT: Raise your right hand, please.

16:28 18 IMELDA MARTINEZ,
16:28 19 being first duly sworn, testified as follows:

16:28 20 THE COURT: Put your hand down and have a
16:29 21 seat right here, please. Mr. Goeller, go ahead.

16:29 22 MR. GOELLER: Thank you.

16:29 23 DIRECT EXAMINATION

16:29 24 BY MR. GOELLER:

16:29 25 Q. Ma'am, please tell the ladies and gentlemen of

16:29 1 the jury your full name.
 16:29 2 A. Imelda Martinez.
 16:29 3 Q. And where do you live?
 16:29 4 A. 2603 Calvin, Dallas, Texas 75204.
 16:29 5 Q. Ms. Martinez, you go by Melda, correct?
 16:29 6 A. Imelda, yes.
 16:29 7 Q. Who is that?
 16:29 8 A. My nephew.
 16:29 9 Q. Ivan Abner Cantu?
 16:29 10 A. Cantu.
 16:29 11 Q. All right. I just have a few questions for
 16:29 12 you. Okay? And speak loud enough for everybody in the
 16:29 13 courtroom to be able to hear you. Okay, ma'am?
 16:29 14 A. Okay.
 16:29 15 Q. All right. When -- Sylvia Cantu is your
 16:29 16 sister, right?
 16:29 17 A. Yes.
 16:29 18 Q. When Sylvia and Abner and the boys lived down
 16:30 19 in Dallas, where did they live in proximity to where you
 16:30 20 live?
 16:30 21 A. Like a block and a half away.
 16:30 22 Q. Okay. A lot of frequent contact when Sylvia
 16:30 23 and the boys lived down there?
 16:30 24 A. Yes.
 16:30 25 Q. Do you recall the time period leading up to the

16:30 1 divorce?
 16:30 2 A. Yes.
 16:30 3 Q. Okay. Was the Cantu house a happy home or was
 16:30 4 there a lot of fighting and --
 16:30 5 A. A lot of arguing.
 16:30 6 Q. All right. You -- you were privy to a lot of
 16:30 7 things because you were -- you were just a block and a
 16:30 8 half away, right?
 16:30 9 A. Right.
 16:30 10 Q. All right. What were the work schedules? What
 16:30 11 was Abner's work schedule and Sylvia's work schedule
 16:30 12 back then?
 16:30 13 A. Sylvia was a full-time mom. And Abner was a
 16:30 14 full-time waiter and worked a split shift.
 16:30 15 Q. All right. After the divorce, what happened,
 16:31 16 as far as Sylvia and her work hours?
 16:31 17 A. Sylvia had to go to school, and Abner worked a
 16:31 18 split shift.
 16:31 19 Q. Okay. Where did Sylvia and the boys live after
 16:31 20 the divorce?
 16:31 21 A. Plano.
 16:31 22 Q. All right. How many jobs was Sylvia working?
 16:31 23 A. Two.
 16:31 24 Q. Who was the primary caretaker of Eric?
 16:31 25 A. Ivan.

16:31 1 Q. Why was that?
 16:31 2 A. His mom had to work two jobs to make ends meet.
 16:31 3 Q. How did that work out?
 16:31 4 A. It was hard. He was a little boy taking care
 16:31 5 of his baby brother.
 16:31 6 Q. Did he like that much?
 16:31 7 A. No.
 16:31 8 Q. Was he good at that responsibility or --
 16:31 9 A. No, because he was young himself. He didn't
 16:31 10 know how to take care of a baby or a little brother.
 16:32 11 Q. Why -- why did Sylvia want to get the boys away
 16:32 12 or the family away from a more traditional Hispanic
 16:32 13 neighborhood?
 16:32 14 A. She wanted a better neighborhood.
 16:32 15 Q. Okay.
 16:32 16 A. The three of prime, so she chose Plano.
 16:32 17 Q. Are you familiar with a man named Burt and a
 16:32 18 man named Mr. Sanchez?
 16:32 19 A. Vaguely.
 16:32 20 Q. Who were those people?
 16:32 21 A. Burt was an acquaintance of Sylvia's, male
 16:32 22 friend, and Mr. Sanchez was a husband.
 16:32 23 Q. At one time Sylvia sold a house and actually
 16:32 24 made some decent money, didn't she?
 16:32 25 A. After the divorce, yes.

16:32 1 Q. What happened to all that? Not a lot, but the
 16:32 2 proceeds from the sale of that house and that
 16:33 3 Mr. Sanchez guy, what was that all about?
 16:33 4 A. Well, he had nothing to do with that.
 16:33 5 Q. Okay. Do you know what happened to that money?
 16:33 6 A. No.
 16:33 7 Q. Do you know how long she was married to the
 16:33 8 Mr. Sanchez after the Burt gentleman?
 16:33 9 A. No.
 16:33 10 Q. Did anybody really know this guy, Mr. Sanchez?
 16:33 11 A. No. It was just a name.
 16:33 12 Q. Did you have concerns about these two boys
 16:33 13 after the divorce and what was going on with Sylvia's
 16:33 14 work hours and Ivan having to become the caretaker of a
 16:33 15 younger brother?
 16:33 16 A. Yes.
 16:33 17 Q. Why? What were you seeing? What was going on?
 16:33 18 A. Because I knew it was going to be hard. I was
 16:33 19 raising my own family. And it's -- it's a lot of work,
 16:33 20 and then he had to go to school and then take care of
 16:33 21 his younger brother. And that leaves no playtime.
 16:34 22 You can't go outside and play with
 16:34 23 friends. You got to take care of the little brother.
 16:34 24 You got to feed him his dinner. Make sure he does his
 16:34 25 homework. Take his bath. That way when Sylvia came

16:34 1 home from work, you know, everything would be the way
 16:34 2 it's supposed to be.
 16:34 3 Q. And when she would come home from work, would
 16:34 4 it be really bedtime for her?
 16:34 5 A. Oh, yeah. She was tired.
 16:34 6 Q. You knew Abner pretty well?
 16:34 7 A. Yes.
 16:34 8 Q. You've remained on, what, somewhat friendly
 16:34 9 terms with him?
 16:34 10 A. Oh, yeah. We've always been the best of
 16:34 11 friends.
 16:34 12 Q. What were the games that were getting played
 16:34 13 with the child support? You know, child support he owed
 16:34 14 Sylvia for the boys? What was going on with all that?
 16:34 15 A. He never put the child support money through
 16:34 16 the court system.
 16:34 17 Q. Why?
 16:34 18 A. Well, I think Sylvia told him it took too long
 16:34 19 to get the money, and she needed it right then.
 16:34 20 Q. Direct pay?
 16:35 21 A. Yeah.
 16:35 22 Q. Don't pay really through the registry of the
 16:35 23 Court, just --
 16:35 24 A. (Moving head up and down.)
 16:35 25 Q. And then what happened after that? Why did it

16:35 1 get so bad?
 16:35 2 A. She got mad at him for something. I'm not --
 16:35 3 I'm not sure what. But she said she was going to go
 16:35 4 through the court system and get back all the child
 16:35 5 support, back child support. And Abner said, "But it's
 16:35 6 not fair. You know, I have all my receipts." And she
 16:35 7 goes, "Well, consider those a gift."
 16:35 8 Q. So she was working Abner?
 16:35 9 A. Right.
 16:35 10 Q. All right. How many children have you raised,
 16:35 11 ma'am?
 16:35 12 A. Five.
 16:35 13 Q. Did they all turn out pretty good?
 16:35 14 A. Oh, yeah.
 16:35 15 Q. What went wrong with Sylvia's kids? I mean,
 16:35 16 you know Eric's been in trouble, you know?
 16:35 17 A. I would say the divorce because Ivan loved his
 16:35 18 dad a lot. And when that happened, his whole little
 16:35 19 world just tumbled. He was only seven.
 16:36 20 Q. All right.
 16:36 21 MR. GOELLER: Pass the witness.
 16:36 22 THE COURT: All right.
 16:36 23 MR. SCHULTZ: May I proceed, Judge?
 16:36 24 THE COURT: Yes, please.
 16:36 25 CROSS EXAMINATION

16:36 1 BY MR. SCHULTZ:
 16:36 2 Q. Good afternoon, ma'am. My name is Bill
 16:36 3 Schultz. I'm one of the prosecutors assisting the State
 16:36 4 in the prosecution of Mr. Cantu. I have just a few
 16:36 5 questions for you, if I might?
 16:36 6 A. Uh-huh.
 16:36 7 Q. Have you known very many people who have been
 16:36 8 divorced in your life?
 16:36 9 A. No.
 16:36 10 Q. How many -- how many people have you known that
 16:36 11 have been divorced besides the Cantus?
 16:36 12 A. Maybe one or two.
 16:36 13 Q. Okay. All right. Don't you think almost
 16:36 14 everybody would agree that that's not an ideal
 16:36 15 situation, to get divorced?
 16:36 16 A. It's not.
 16:36 17 Q. It's probably often not good for the parties,
 16:36 18 even though they may think it at the time. And it's
 16:37 19 often not good for the children, if not almost always.
 16:37 20 Do you agree with that?
 16:37 21 A. I agree with that.
 16:37 22 Q. Do you understand that divorce is very common
 16:37 23 in our society, right?
 16:37 24 A. Too much so, yes.
 16:37 25 Q. Sure. For starters, do you believe that Ivan

16:37 1 became successful? Notwithstanding whatever you see as
 16:37 2 his problems growing up, did he become successful?
 16:37 3 A. Yes.
 16:37 4 Q. Okay. So whatever difficulties or scars you
 16:37 5 might attribute to the divorce, he overcame those; is
 16:37 6 that right?
 16:37 7 A. I guess so.
 16:37 8 Q. Well, I mean, I'm not trying to put words in
 16:37 9 your mouth. I'm trying to get an understanding for what
 16:37 10 we're saying.
 16:37 11 A. I guess you could say, yes, he overcame it. To
 16:37 12 a certain extent, yeah.
 16:37 13 Q. There's certainly nothing you saw after the
 16:37 14 divorce that would somehow justify him becoming a
 16:38 15 capital murderer. You don't see any connection between
 16:38 16 anything that went on and going out and slaughtering two
 16:38 17 people, right?
 16:38 18 A. No.
 16:38 19 Q. We all understand that divorce can create
 16:38 20 sadness. That it can affect people's lives and how they
 16:38 21 interact with others in their relationships, right?
 16:38 22 A. I believe that, yes.
 16:38 23 Q. But not causing somebody to murder somebody out
 16:38 24 of jealousy or greed or envy, that makes no sense at
 16:38 25 all, does it?

16:38 1 A. I don't know.
 16:38 2 Q. Okay. Are you saying that -- are you telling
 16:38 3 us that the defendant's dad didn't love his son? Is
 16:38 4 that what you are telling us?
 16:38 5 A. No. He loved them a lot.
 16:38 6 Q. I'm talking about Abner loved Ivan?
 16:38 7 A. Yes.
 16:38 8 Q. Okay. So whatever his situation he had a dad
 16:38 9 that loved him?
 16:39 10 A. Yes.
 16:39 11 Q. And you are related to Sylvia, right?
 16:39 12 A. Yes.
 16:39 13 Q. And that's your sister?
 16:39 14 A. Uh-huh.
 16:39 15 Q. Are you telling us that Sylvia didn't love him?
 16:39 16 A. No. She loved them both, both her kids.
 16:39 17 Q. Okay. Are you telling us that, although Abner
 16:39 18 loved his son, he never did anything to show it? Is
 16:39 19 that what you are telling us? He kept it a secret that
 16:39 20 he loved his son, and his son didn't know that? Is that
 16:39 21 what you are telling us?
 16:39 22 A. No. Everybody in the family knew he loved his
 16:39 23 kids.
 16:39 24 Q. Did he do things with his kids?
 16:39 25 A. I don't know. I wasn't -- when they moved to

16:39 1 Plano, I didn't see a lot of them --
 16:39 2 Q. Okay.
 16:39 3 A. -- until Ivan was already grown.
 16:39 4 Q. Okay. When did you see them then?
 16:39 5 A. Just short visits for like Thanksgiving and
 16:39 6 Christmas?
 16:39 7 Q. Yeah. Well, then how do you know how difficult
 16:39 8 it was on the defendant having to care for his brother?
 16:39 9 How do you know about that?
 16:39 10 A. Telephone call.
 16:39 11 Q. By who would you talk with?
 16:39 12 A. Sylvia.
 16:39 13 Q. Now, when we talk about the child support
 16:40 14 issue, Abner was perfectly willing to pay child support,
 16:40 15 right?
 16:40 16 A. Always.
 16:40 17 Q. So it's not like the defendant grew up in
 16:40 18 poverty because his father was out partying with
 16:40 19 somebody else, right?
 16:40 20 A. No.
 16:40 21 Q. Did Abner ever remarry?
 16:40 22 A. No.
 16:40 23 Q. Okay. So it's not like he's all out with
 16:40 24 girlfriends at the expense of his family or his ex-wife?
 16:40 25 None of those things, right?

16:40 1 A. No.
 16:40 2 Q. He never got over the divorce by the way, did
 16:40 3 he, Abner?
 16:40 4 A. No. He loves -- he still loves Sylvia, I
 16:40 5 think.
 16:40 6 Q. Broke his heart, right?
 16:40 7 A. Yeah.
 16:40 8 Q. But he didn't go out and murder anybody, did
 16:40 9 he?
 16:40 10 A. No.
 16:40 11 Q. Let's talk about values, by the way. Abner was
 16:40 12 a policeman, wasn't he? A police officer?
 16:40 13 A. Yeah.
 16:40 14 Q. And did good work and honorable work?
 16:40 15 A. Yes.
 16:40 16 Q. And he was a good man, don't you think?
 16:40 17 A. He is a good man, yes.
 16:40 18 Q. Do you think he's a good role model for kids
 16:40 19 growing up, the way he lived his life?
 16:41 20 A. Except for the alcohol, yeah.
 16:41 21 Q. Tell me about that.
 16:41 22 A. Sylvia said he drank a lot.
 16:41 23 Q. Well, maybe she tells the truth or maybe she
 16:41 24 doesn't. Did you know anything about his drinking?
 16:41 25 A. Just through her.

16:41 1 Q. Okay. But she's the one that was going to
 16:41 2 scheme up a way to make him double pay child support by
 16:41 3 saying no receipts, right?
 16:41 4 A. No. He always had his receipts, but she said
 16:41 5 they were considered a gift.
 16:41 6 Q. So she was going to make him pay twice?
 16:41 7 A. Yes.
 16:41 8 Q. When is the last time you saw Abner?
 16:41 9 A. Maybe a week ago.
 16:41 10 Q. Can you tell me where it was. Up here?
 16:41 11 A. In my home, in Dallas.
 16:41 12 Q. Huh?
 16:41 13 A. In Dallas, my home.
 16:41 14 Q. Okay. Was it like just a family event, or what
 16:41 15 was it exactly?
 16:41 16 A. He was in the neighborhood, stopped by to say
 16:42 17 hi, and that he wasn't feeling too good.
 16:42 18 Q. Physically?
 16:42 19 A. Health problems.
 16:42 20 Q. Okay. And you could see -- you could look at
 16:42 21 him and tell he's not well, can't you?
 16:42 22 A. Oh, yeah.
 16:42 23 Q. He's a -- he's a gentle fellow, isn't he?
 16:42 24 A. Yes.
 16:42 25 Q. He's not a mean man. He's not a brute?

16:42 1 A. No.
 16:42 2 Q. Soft-spoken, isn't he?
 16:42 3 A. That I know of, yes.
 16:42 4 Q. Well, I mean, when you talk with him, is he
 16:42 5 always soft-spoken?
 16:42 6 A. Yes.
 16:42 7 Q. Was he concerned?
 16:42 8 A. Yes.
 16:42 9 Q. And you welcomed him into your home?
 16:42 10 A. Always.
 16:42 11 Q. Sure. And he was concerned about his son?
 16:42 12 A. Yes.
 16:42 13 Q. He's also got a connection to the victim,
 16:42 14 hasn't he?
 16:42 15 A. Yes.
 16:42 16 Q. James, as a relational connection, tell us how
 16:42 17 that works. What's the connection between Abner and
 16:42 18 James?
 16:42 19 A. His sister, Gladys.
 16:42 20 Q. Uh-huh.
 16:42 21 A. Well, that's how -- James is his nephew.
 16:43 22 Q. Okay. Did you know James?
 16:43 23 A. No.
 16:43 24 Q. You never met James?
 16:43 25 A. When he was five.

16:43 1 Q. When is the last time you saw the defendant
 16:43 2 Ivan Cantu before? Before here. When is the last time
 16:43 3 you saw him?
 16:43 4 A. Maybe Thanksgiving and Christmas.
 16:43 5 Q. Of, what, last year?
 16:43 6 A. Uh-huh.
 16:43 7 Q. In other words, before he got arrested then?
 16:43 8 A. Or maybe that summer. I don't remember. I
 16:43 9 don't know. Five kids, you go nuts.
 16:43 10 Q. Sure you do, sure you do. Where was -- where
 16:43 11 do you remember seeing him, or what events do you
 16:43 12 remember?
 16:43 13 A. Oh, it was the summertime.
 16:43 14 Q. Okay.
 16:43 15 A. His mom had gone on vacation with my mom.
 16:43 16 Q. Right.
 16:43 17 A. And Sylvia took Ivan's car because it had air
 16:43 18 conditioning. So they met at my house, and she gave
 16:43 19 Ivan back his car.
 16:44 20 Q. Which car did she give him back? Do you
 16:44 21 remember?
 16:44 22 A. The silver one.
 16:44 23 Q. Okay. And was the defendant -- was Ivan
 16:44 24 Cantu -- was he -- was he fine?
 16:44 25 A. No.

16:44 1 Q. What was the matter with him?
 16:44 2 A. He looked nervous.
 16:44 3 Q. All right.
 16:44 4 A. Jittery, that goes with nervous, pale, thin.
 16:44 5 He looked sick.
 16:44 6 Q. Correct. Did you ask him about what was making
 16:44 7 him sick?
 16:44 8 A. No.
 16:44 9 Q. Any reason that you didn't ask?
 16:44 10 A. I didn't want to pry.
 16:44 11 Q. So you don't know what he -- is it fair to say
 16:44 12 you have no idea what he did in connection with James
 16:44 13 and Amy's death? You don't know about that at all?
 16:44 14 A. No, no.
 16:44 15 Q. Do you know anything about the defendant's drug
 16:44 16 usage?
 16:44 17 A. Just what his mom told me.
 16:44 18 Q. You never -- you were never around him when he
 16:44 19 was doing that?
 16:44 20 A. No.
 16:45 21 Q. Has he ever been -- did you ever see anybody,
 16:45 22 as a child, did you ever see anybody abuse him when he
 16:45 23 was growing up?
 16:45 24 A. No.
 16:45 25 Q. You understand what I'm saying about abuse in

16:45 1 somebody like extreme beatings or cruelty or anything
 16:45 2 like that?
 16:45 3 A. Not in my eyes. Huh-uh, no.
 16:45 4 Q. Did you ever see -- I know you weren't with him
 16:45 5 24 hours and haven't seen him since they moved to Plano,
 16:45 6 but have you ever seen any evidence that anything like
 16:45 7 that even happened?
 16:45 8 A. No.
 16:45 9 Q. The things that you are talking about that you
 16:45 10 say were difficult for the defendant, are they the same
 16:46 11 kinds of things that would be probably difficult for any
 16:46 12 divorce where there are kids involved?
 16:46 13 A. I would say so, yes.
 16:46 14 Q. What I'm trying to understand, is there
 16:46 15 anything that you identified that you think is
 16:46 16 especially bad in this divorce that wouldn't probably be
 16:46 17 true for almost every divorce where children are
 16:46 18 involved?
 16:46 19 A. He was traumatized after they got the divorce.
 16:46 20 Q. Right.
 16:46 21 A. Abner didn't move out right away. He had to
 16:46 22 live in the house for like two months because he was
 16:46 23 upset about it. So Sylvia didn't make him move out
 16:46 24 right away --
 16:46 25 Q. Okay.

16:46 1 A. -- after the divorce.
 16:46 2 Q. Do you -- do you think that was more than the
 16:46 3 average kind of situation, or do you think truly most
 16:46 4 children are very upset by that, if they've got two
 16:46 5 parents that they love and they are separating? Isn't
 16:46 6 that kind of what you would expect from kids with loving
 16:46 7 parents?
 16:46 8 A. Repeat that now?
 16:46 9 Q. Isn't that the kind of thing you would expect
 16:46 10 from a child that loved both his parents and are close
 16:46 11 to both of them?
 16:46 12 A. Yeah.
 16:46 13 Q. That's what I'm getting at. These are -- this
 16:47 14 is probably no harder on him than it would have been on
 16:47 15 any other child of the same circumstances, don't you
 16:47 16 think?
 16:47 17 A. No. I think Ivan took it harder.
 16:47 18 Q. Do you?
 16:47 19 A. He was real close to his dad.
 16:47 20 Q. Okay. Okay. How do you account for the fact
 16:47 21 that he became successful and was making a lot of money?
 16:47 22 Do you have any explanation for that?
 16:47 23 A. Only that he is smart.
 16:47 24 Q. Right.
 16:47 25 A. Intelligent.

16:47 1 Q. Right.
 16:47 2 A. That's about it.
 16:47 3 Q. So whatever the troubles were as he was growing
 16:47 4 up, he was -- he had the ability to overcome them to
 16:47 5 suit himself as he needed to?
 16:47 6 A. I'm not sure if he ever did. All I know is he
 16:47 7 did what he wanted to do. I don't know if he got over
 16:47 8 it. I never asked him.
 16:47 9 Q. Okay. Have you talked with the defendant since
 16:47 10 he was arrested?
 16:47 11 A. No.
 16:47 12 Q. How did you find out you were going to testify
 16:48 13 in this case?
 16:48 14 A. Vincent.
 16:48 15 Q. One of the -- part of the defense team; is that
 16:48 16 right?
 16:48 17 A. Uh-huh.
 16:48 18 Q. And do you remember about when that was?
 16:48 19 A. When did he tell me? He told me Sunday.
 16:48 20 Q. On this -- this last Sunday?
 16:48 21 A. (Moving head up and down.)
 16:48 22 Q. Had you talked with anybody from the defense
 16:48 23 before that time?
 16:48 24 A. No.
 16:48 25 Q. Okay. Were you able to determine how you were

16:48 1 located? Did anybody talk to you maybe from the family
 16:48 2 before Vince came to see you?
 16:48 3 A. Yes.
 16:48 4 Q. Who from the family would have talked to you
 16:48 5 before that time?
 16:48 6 A. Sylvia.
 16:48 7 Q. Okay. Sylvia talked with you. What did Sylvia
 16:48 8 have to say?
 16:48 9 A. That I might be called.
 16:48 10 Q. Did she tell you for what?
 16:48 11 A. The trial.
 16:48 12 Q. Did she tell you what -- what you might be
 16:48 13 testifying about?
 16:48 14 A. No.
 16:48 15 Q. Okay. Because you didn't know anything about
 16:48 16 the murders?
 16:48 17 A. No.
 16:49 18 Q. And you didn't know anything about the
 16:49 19 defendant's behavior other than what Sylvia's been
 16:49 20 telling you; is that right?
 16:49 21 A. Right.
 16:49 22 Q. Did Sylvia tell you whether or not the
 16:49 23 defendant had committed the murders?
 16:49 24 A. No.
 16:49 25 Q. Did you discuss that with her at all?

16:49 1 A. Not in detail, no. Just what I read in the
 16:49 2 paper.
 16:49 3 Q. Okay. I mean, did you discuss that with her or
 16:49 4 that wasn't discussed?
 16:49 5 A. What was in the paper, yes.
 16:49 6 Q. Did she tell you she didn't believe it?
 16:49 7 A. Yes.
 16:49 8 Q. Now, so then did you meet with -- with anybody
 16:49 9 about what your testimony would be?
 16:49 10 A. No.
 16:49 11 Q. Did you get a subpoena or did they just ask you
 16:49 12 to come up?
 16:49 13 A. They just asked me to come.
 16:49 14 Q. Okay. And you are telling the truth, the best
 16:49 15 way you know how to do it, aren't you?
 16:50 16 A. Yes. The best way I know how, yes.
 16:50 17 Q. I understand that.
 16:50 18 MR. SCHULTZ: Pass the witness.
 16:50 19 THE COURT: All right.
 16:50 20 REDIRECT EXAMINATION
 16:50 21 BY MR. GOELLER:
 16:50 22 Q. Ms. Martinez, it was pretty obvious that -- I
 16:50 23 know she's your sister, and I'm sure you love Sylvia,
 16:50 24 right?
 16:50 25 A. Yes.

16:50 1 Q. The way she did the child support, maybe trying
16:50 2 to double dip and keep that -- keep that kid away from
16:50 3 his dad, I mean, when you look back on that, was that
16:50 4 something that you are not proud of your sister doing?

16:50 5 A. No.

16:50 6 Q. I mean, you are not proud?

16:50 7 A. I'm not proud, no.

16:50 8 Q. She did -- she did Abner and that boy wrong?

16:50 9 A. Yes.

16:50 10 Q. At least in that respect?

16:50 11 A. Yes.

16:50 12 Q. If we talk about somebody's moral compass, did
16:51 13 Ivan learn his moral compass from Sylvia?

16:51 14 A. Yes.

16:51 15 MR. GOELLER: That's all I have, Judge.

16:51 16 RECCROSS EXAMINATION

16:51 17 BY MR. SCHULTZ:

16:51 18 Q. But to the best of your knowledge, she never
16:51 19 murdered anybody, right?

16:51 20 A. Sylvia?

16:51 21 Q. Uh-huh.

16:51 22 A. No.

16:51 23 Q. And to the best of your knowledge, she is not
16:51 24 heavily involved in drugging and drug transactions,
16:51 25 buying drugs, that kind of thing, right?

16:51 1 A. No.

16:51 2 Q. And whatever moral values or modeling she may
16:51 3 have done, she's never done anything even close to a
16:51 4 cold-blooded vicious capital murder, has she?

16:51 5 A. No.

16:51 6 MR. SCHULTZ: Pass the witness.

16:51 7 MR. GOELLER: That's all I have, Judge.

16:51 8 THE COURT: All right. Is she excused by
16:51 9 both sides?

16:51 10 MR. SCHULTZ: We'd like to just keep her
16:51 11 on that same recall we're doing with everybody, Judge.

16:51 12 THE COURT: All right. Then I tell you
16:51 13 what, Ms. Martinez, perhaps you will be called back as a
16:52 14 witness. Probably not, but perhaps. So you are
16:52 15 available, I suppose, if you are called, right?

16:52 16 THE WITNESS: Right.

16:52 17 THE COURT: Thank you. At this time you
16:52 18 are excused.

16:52 19 (Witness excused.)

16:52 20 THE COURT: Call your next witness,
16:52 21 please.

16:52 22 MR. HIGH: May we approach the Bench, Your
16:52 23 Honor.

16:52 24 (Bench conference.)

16:54 25 THE COURT: All right. Ladies and

16:54 1 gentlemen, we're going to call it a day. You are
16:54 2 instructed that it is your duty not to converse among
16:54 3 yourselves or with anyone else on any subject connected
16:54 4 with the trial or to form or express any opinion thereon
16:55 5 until the cause is finally submitted to you. And we'll
16:55 6 see you at nine o'clock tomorrow morning.

16:55 7 THE BAILIFF: All rise.

16:55 8 THE COURT: All right. Both sides are
16:55 9 excused.

16:55 10 (Court adjourned.)
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1 REPORTER'S CERTIFICATE

2 THE STATE OF TEXAS

3 COUNTY OF COLLIN

4 I, Barbara L. Tokuz, CSR, RMR, CRR, Deputy Official
5 Court Reporter in and for the 380th Judicial District
6 Court of Collin County, State of Texas, do hereby
7 certify that the above and foregoing contains a true and
8 correct transcription of all portions of evidence and
9 other proceedings requested in writing by counsel for
10 the parties to be included in this volume of the
11 Reporter's Record, in the above-styled and -numbered
12 cause, all of which occurred in open court or in
13 chambers and were reported by me.

14 I further certify that this Reporter's Record of the
15 proceedings truly and correctly reflects the exhibits,
16 if any, offered by the respective parties.

17 WITNESS MY OFFICIAL HAND this the 11th day of
18 February, 2002.

19
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