

W2020-01208-CCA-R3-CO

1 IN THE CIRCUIT COURT OF TENNESSEE AT SAVANNAH

2 THE TWENTY-FOURTH JUDICIAL DISTRICT

3 -----
4 STATE OF TENNESSEE,

5 Plaintiff,

6 vs.

Case No. 17-CR-10

7 ZACHARY ADAMS,

8 Defendant.
9

ORIGINAL

10 -----
11 JURY TRIAL

12 SEPTEMBER 9, 2017 - SEPTEMBER 23, 2017

13 VOLUME XV OF XVII
14 -----

15 This cause came to be heard and was heard on
16 the 9th - 23rd days of September, 2017, before the
17 Honorable C. Creed McGinley, Judge, holding the
18 Circuit Court for Hardin County, at Savannah,
19 Tennessee.
20

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1 **VOLUME XV**

2 **DAY 10**

3 **WEDNESDAY, SEPTEMBER 20, 2017**

4
5 (WHEREUPON, the following conference was
6 held in chambers.)

7 THE COURT: We'll go on the record. I
8 will tell you a capital case attorney has prepared
9 the charge. I basically cut and pasted portions I
10 might have deleted that I did not think were
11 appropriate. I don't think I supplemented anything.
12 She's very thorough. There's a lot of things that
13 are raised in there out of abundance of caution that
14 I'm charging.

15 This charge will be the longest charge I've
16 ever given in my entire career. The charge, I will
17 say, is somewhat confusing, but the adversarial
18 nature, it's up to you folks to argue to the jury,
19 highlight what you submit the law says, okay? In
20 other words, it's up to y'all to straighten some of
21 this out.

22 Been two special requests filed by the
23 defendant. One of them, special request number one,
24 evidence which merely cast a suspicion on the accused
25 is inadequate to corroborate an accomplice's

1 testimony. I have no problem giving that. And then
2 the other one is special request number two, I will
3 give that with the exception that it will read a
4 promise of leniency or other favorable agreement is a
5 factor you may consider.

6 GENERAL RAGLAND: Your Honor, the State
7 would suggest that further on in that instruction,
8 about middle way, witnesses testifying against the
9 defendant on behalf of the State of Tennessee have
10 been granted or offered immunity from prosecution.

11 THE COURT: Rather than granted?

12 GENERAL RAGLAND: Because Jason Autry
13 does not have -- well Mr. Dinsmore --

14 THE COURT: All right. Let's --

15 GENERAL NICHOLS: He didn't sign it,
16 didn't have it.

17 THE COURT: Let's do offered slash
18 granted, okay?

19 GENERAL NICHOLS: There was also --

20 THE COURT: Y'all can argue that.

21 GENERAL NICHOLS: There was also talk by
22 Ms. Austin that Shane was granted immunity, but then
23 it was pulled back, so --

24 GENERAL RAGLAND: He's not a witness,
25 though.

1 THE COURT: Yeah, that has --

2 GENERAL NICHOLS: I get it. There's just
3 testimony.

4 THE COURT: And I'll never understand why
5 he was offered -- but that was the prior prosecutor.

6 GENERAL HAGERMAN: With regard to
7 instruction request number one, Your Honor, it says,
8 evidence which merely cast a suspicion of the accused
9 is inadequate to corroborate an accomplice's
10 testimony --

11 THE COURT: Yes.

12 GENERAL HAGERMAN: -- I'd ask that it
13 additionally be charged evidence of an admission by
14 the defendant is adequate to corroborate an
15 accomplice's testimony.

16 MS. JONES: I would say evidence which
17 merely cast a suspicion on the accused is inadequate
18 alone to corroborate --

19 THE COURT: Yeah, put alone in there.

20 MR. HOPKINS: That quote is actually
21 directly quoted from the case that's cited. That's
22 the reason it's written that way. It's not modified
23 in any way.

24 THE COURT: Well, I'm going to put alone,
25 because you'd have to get into contextual to get the

1 entire thing. I haven't read the case, but we'll put
2 alone, and then we'll add the slash there.

3 All right. And I'm going to call this
4 preliminary because this is not yet cast in stone.
5 Prior to final arguments, we will finalize things. I
6 think we're pretty close to where we're going, but I
7 wanted you folks to have the opportunity. I will say
8 on the record that the State has somewhat of a
9 quarrel with the order of the lesser-included. I
10 recognize what they're saying. They're saying that
11 facilitation -- like let's just take first degree
12 murder. They're saying that it should be murder one,
13 murder two, facilitation of murder one, so forth and
14 so on. To me, that is illogical. Their argument, I
15 understand, is because facilitation, the
16 percentage -- or at least classification percentage
17 would make it much less time to actually be served.
18 But we actually, the jury is not to be concerned with
19 punishment, and I think in grading lesser-included,
20 the Court should not be guided by that either.

21 GENERAL NICHOLS: If I can just add, it's
22 not just the percentage, the percentage itself makes
23 it a less serious crime and --

24 THE COURT: As far as punishment.

25 GENERAL NICHOLS: As far as anything. I

1 mean, punishment is what makes it less serious.

2 THE COURT: But if we go by pure
3 definition. I'm --

4 GENERAL NICHOLS: It just --

5 THE COURT: I didn't --

6 GENERAL NICHOLS: And case law is pretty
7 set on it.

8 THE COURT: I will say, I consulted -- we
9 can talk among judges. I talked with several, and
10 they're in agreement with me. I didn't call the
11 right judges in Shelby. I even had one of the
12 Shelbys said, I think you're right on that. But
13 Judge Sexton -- I called Judge Watson, because I knew
14 that facilitation would have to have been charged in
15 the quote "Vanderbilt rape case", and he was in
16 agreement. Judge Morgan. You know, I wanted to make
17 sure that I was basically being fair, and I'm
18 comfortable with what I'm doing.

19 MR. SIMMONS: Which way are you planning
20 to charge it then, first degree murder then not
21 guilty of first degree murder then facilitation?

22 THE COURT: Yes, yes, yes.

23 MR. SIMMONS: That's what we're asking
24 for.

25 GENERAL NICHOLS: Of course you're asking

1 for it that way.

2 MS. THOMPSON: No.

3 MR. SIMMONS: I don't know.

4 MR. HOPKINS: I don't understand what --

5 MS. THOMPSON: We have a -- that's a
6 different issue, though, about what I wanted versus
7 what they were -- the order. One of the things I
8 wanted on the verdict form, because the jury
9 instructions say they're supposed to at each charge,
10 each -- they are to look at it and decide if the
11 person is guilty or not guilty. If they decide the
12 person is not guilty, they go to the next lower
13 charge.

14 THE COURT: That's charged in there.

15 MS. THOMPSON: So what I want on the
16 verdict form is to reflect guilty, not guilty of each
17 charge.

18 THE COURT: No.

19 MS. THOMPSON: And I think --

20 THE COURT: It lends itself to confusion.
21 I'm comfortable with this jury.

22 MS. THOMPSON: I really am going to
23 strongly object to that, because that way, Your
24 Honor, if they get halfway down, you know, I mean,
25 maybe they get hung on a lesser-included, but they've

1 already decided guilty/not guilty of some of the top
2 ones.

3 THE COURT: Okay. You can note your
4 objection. I intend to charge as indicated here.

5 GENERAL RAGLAND: Your Honor, there were
6 a couple of knits I shared with Ms. Jones earlier
7 this morning. I will put on those on the record. We
8 also talked about accomplice, there's still some
9 language I guess we'll address later on about which
10 language to use.

11 THE COURT: Do what?

12 MS. JONES: Like for example, just to
13 point out to them that the things that have been
14 previously highlighted under criminal responsibility
15 you left in.

16 THE COURT: Yes.

17 GENERAL RAGLAND: Then --

18 THE COURT: I think it's without question
19 Jason Autry is an accomplice, and I think that that
20 can be charged. That second paragraph there, rather
21 than make the jury find that he's an accomplice.

22 MS. JONES: This is one that's still
23 highlighted in the event the defendant were to
24 testify.

25 MR. SIMMONS: What page is that?

1 MS. JONES: Page 39.

2 THE COURT: Well, they're going to have
3 to call the EMT if he does, because I'll pass out.
4 She'll pass out.

5 MS. THOMPSON: I'll pass out.

6 MS. JONES: He's just indicating when he
7 was commenting, these things still need to be --

8 THE COURT: I'm going -- I told her
9 yesterday -- to charge the second paragraph rather
10 than have the jury making a finding on accomplice.

11 MR. SIMMONS: What page?

12 MS. JONES: 40.

13 GENERAL RAGLAND: Last paragraph?

14 THE COURT: Yes.

15 GENERAL RAGLAND: Not the one before?

16 THE COURT: Right.

17 GENERAL RAGLAND: On page 43, alibi,
18 there's been no evidence of an alibi, at least yet.

19 GENERAL NICHOLS: None.

20 MS. THOMPSON: Well, there's going to
21 be -- I mean as far as our cell phone expert, he's
22 going to talk about where these phones are located
23 and things like that.

24 GENERAL NICHOLS: That's not an alibi, I
25 mean --

1 THE COURT: I debated --

2 GENERAL NICHOLS: I mean, there is no --

3 GENERAL RAGLAND: Cell phone is not an
4 alibi.

5 THE COURT: There is discussion that
6 through Dicus that Autry -- that Zach was alibied by
7 John Dylan and by --

8 GENERAL NICHOLS: Shane.

9 THE COURT: -- Shane.

10 GENERAL NICHOLS: But he hasn't given an
11 alibi. He may.

12 MS. THOMPSON: Dick Adams.

13 GENERAL NICHOLS: Dick Adams didn't
14 alibi. He said he saw him at 10:00 or 11:00.

15 THE COURT: No, he didn't -- like 10:00
16 at the Shell station and doubt was cast upon that.
17 I'm still open on that.

18 GENERAL NICHOLS: So we can discuss that
19 one later?

20 THE COURT: Yes. I'm not begging
21 trouble.

22 MS. JONES: And you said you wanted to
23 take this one out?

24 THE COURT: Yeah, she -- she had one
25 cause of death. There's no question cause of death,

1 so that doesn't go in.

2 MS. JONES: That's page 44.

3 GENERAL RAGLAND: The duty to preserve
4 evidence on 47, there's been no evidence that the
5 State has failed to gather, preserve evidence.

6 THE COURT: The only reason, and it's
7 very collateral and peripheral was --

8 MS. JONES: Dana.

9 THE COURT: -- Dana, I was trying to
10 think of the daddy's name. Said he had to put up
11 purple tape.

12 GENERAL NICHOLS: That wasn't the
13 preservation of evidence, people were already around.

14 THE COURT: Take -- take that out.

15 GENERAL NICHOLS: He's simply -- he's
16 simply --

17 THE COURT: Y'all can argue the scene was
18 contaminated. There's no evidence --

19 GENERAL NICHOLS: I think it was.

20 MS. THOMPSON: What about the sock in
21 Shane Austin's trailer?

22 GENERAL NICHOLS: What evidence is that
23 other than he masturbated?

24 MS. THOMPSON: Well, you all raised the
25 question that it might have been something else and

1 then --

2 THE COURT: Then it was clarified that it
3 wasn't.

4 GENERAL NICHOLS: Yeah.

5 MS. THOMPSON: Okay.

6 THE COURT: No, I'm not going to charge
7 that.

8 MS. THOMPSON: What about painting the
9 trailer with lead paint?

10 GENERAL RAGLAND: The State didn't do
11 that.

12 GENERAL NICHOLS: How do we preserve
13 that? What was preserved? That doesn't have
14 anything to do with this.

15 MS. THOMPSON: The scene, whatever the
16 State was implying had been covered up by the lead
17 paint wasn't preserved.

18 THE COURT: I'm not charging it.

19 GENERAL NICHOLS: No.

20 THE COURT: I don't -- matter of fact
21 there's gobs and gobs and gobs of evidence that was
22 preserved. There wasn't any concerted effort to hide
23 or not collect or anything. Matter of fact, it kind
24 of was overboard, so we're not going to charge that.

25 And if y'all can agree to leave out anything

1 else, I'd be happy to.

2 GENERAL NICHOLS: Well, I think all of us
3 would probably like to talk, but I think there'll be
4 some time after all the proof has come in and before
5 you charge and before closing that we can --

6 THE COURT: Okay.

7 GENERAL NICHOLS: -- round up and see if
8 there's anything anybody agrees to.

9 MS. THOMPSON: Are we going to charge the
10 jury before closing?

11 THE COURT: Yes. I think that's very
12 important because you --

13 MS. THOMPSON: I agree.

14 THE COURT: -- if you don't, they don't
15 know what the elements are, they don't know what the
16 lesser-includeds are. I would liked to have charged
17 it all the way on the front end, but that couldn't be
18 done in this case.

19 MS. THOMPSON: Right.

20 THE COURT: I made a stab, and then I
21 recognized it can't be done.

22 GENERAL NICHOLS: At least the State is
23 going to need some time anyway before opening --
24 excuse me, before closing.

25 THE COURT: Before opening/closing.

1 GENERAL NICHOLS: Before first closing.
2 So we'll make time for that as well to see if there's
3 anything else we can agree on.

4 THE COURT: Okay.

5 GENERAL NICHOLS: While we're here and on
6 the record, we do want to address our Motion in
7 Limine regarding keeping out the pornography that was
8 pulled off of Mr. Britt's computer. I think Mr.
9 Christensen is going to argue it. In a nutshell, he
10 admitted there was pornography on his computer,
11 didn't deny any of it. It's not relevant. The only
12 purpose for offering it would be just trying to make
13 him look bad. He already does. So we're not
14 finished.

15 THE COURT: Can you demonstrate that
16 viewing pornography of any type, whether it's quote
17 "good or bad" as I said earlier --

18 GENERAL NICHOLS: That didn't come out --

19 THE COURT: -- makes one less or more
20 likely to commit a crime? Can you --

21 MS. THOMPSON: We can argue this. We're
22 not arguing it now, right? We're going to argue --

23 GENERAL NICHOLS: I want to argue it now,
24 because there's no point putting it out there.

25 MS. THOMPSON: Well, I need a minute to

1 get together my materials on that.

2 THE COURT: Okay. Well, before we
3 call --

4 GENERAL NICHOLS: They have a witness
5 here for that purpose.

6 THE COURT: Well, before we call any
7 witness, we'll need to take that up.

8 MS. THOMPSON: Was that a State's Motion
9 in Limine about pornography on Mr. Britt's
10 computer --

11 GENERAL NICHOLS: Doesn't matter whether
12 it was or not, we can make one at any given time. So
13 now we have information that there's a witness here.
14 The purpose of his being called is to put on a stack
15 of horrific S&M --

16 THE COURT: He's already admitted.

17 GENERAL NICHOLS: -- pictures.

18 MS. THOMPSON: Well, he denied that he
19 was doing searches on --

20 GENERAL NICHOLS: No, he didn't. He just
21 said --

22 MS. THOMPSON: -- kidnapping.

23 GENERAL NICHOLS: He said you open it and
24 you can look at --

25 GENERAL RAGLAND: It all comes up.

1 MS. THOMPSON: But he denied specifically
2 that he was doing a search for kidnapping, rape,
3 abduction, and we can show that he was --

4 THE COURT: I don't know that he did deny
5 that.

6 MS. THOMPSON: He did deny it.

7 GENERAL NICHOLS: That's different than
8 introducing the pornography. If we can find in the
9 record that he denied it, then I think you can ask
10 this person if it appeared to them that he did those
11 searches. But that is no reason to introduce the
12 porn itself.

13 MS. THOMPSON: Let me get my materials
14 together on that.

15 THE COURT: Okay.

16 GENERAL NICHOLS: But I would like to go
17 back in the record and see if we can find whether he
18 actually did deny it, because I don't remember one
19 way or the other.

20 THE COURT: Well, he said he got a lot of
21 things that popped up.

22 GENERAL NICHOLS: Pop-ups, pops up.

23 THE COURT: That's different than someone
24 typing in a Google search or some other type of
25 search.

1 GENERAL NICHOLS: Right. If he did and
2 this guy knows it --

3 THE COURT: Okay.

4 GENERAL NICHOLS: -- no objection.

5 MR. SIMMONS: So you're objecting to
6 actually introducing the pornography itself?

7 THE COURT: Yeah.

8 GENERAL NICHOLS: Absolutely.

9 THE COURT: Yes.

10 MR. SIMMONS: Not the fact that he was
11 looking for it?

12 THE COURT: Yes, yes, yes.

13 GENERAL NICHOLS: Or -- or -- or a
14 description of it. Here's a picture of a woman with
15 this or a that.

16 THE COURT: Okay. You got five minutes.
17 Okay.

18 (End of conference in chambers.)

19 (WHEREUPON, the jury returned to the
20 courtroom, after which the following proceedings were
21 had:)

22 THE COURT: Okay. Good morning. Ready
23 to continue with the defense. You want to call your
24 next witness?

25 MS. THOMPSON: Yes, Your Honor, we'd like

1 to call John Walker.

2 THE COURT: Raise your right hand.

3 (The witness was sworn.)

4 THE COURT: Be seated. State your name,
5 first and last, and spell it for the benefit of the
6 court reporter.

7 THE WITNESS: My name is John Walker.
8 J-O-H-N W-A-L-K-E-R.

9 THE COURT: All right. Proceed.

10

11 * * *

12 JOHN WALKER,
13 was called as a witness and having first been duly
14 sworn testified as follows:

15

16 DIRECT EXAMINATION

17 QUESTIONS BY MS. THOMPSON:

18 Q. Mr. Walker, how are you currently employed?

19 A. I'm a Senior Inspector with the United States
20 Marshals.

21 Q. Can you move the microphone maybe a little
22 closer just?

23 A. (Complied.)

24 Q. Thank you. And on April the 13th, 2011, how
25 were you employed?

1 A. As a Senior Inspector with the United States
2 Marshals.

3 Q. And were you called in to do some work
4 regarding the disappearance of Holly Bobo?

5 A. Yes. At that time I was on the FBI's Joint
6 Terrorism Task Force, and they sent many people over
7 to assist the Tennessee Bureau of Investigation in
8 the location of Holly Bobo.

9 Q. Okay. So tell us just -- give us some
10 general background information as to what are some of
11 the tasks that you were asked to do regarding the
12 investigation.

13 A. We followed numerous leads. We interviewed
14 numerous individuals that were potential suspects on
15 calls that we had gotten in, and we followed leads of
16 that nature for quite some time, for several weeks.

17 Q. And did you, in fact, actually find some
18 evidence in this case?

19 A. Yes, I did.

20 Q. And what was that regarding? What evidence
21 was that?

22 A. I found Holly's notebook.

23 Q. And how did you come to find Holly's
24 notebook?

25 A. I had looked at some initial cell phone

1 information, and it looked like the termination was
2 near the creek on Gooch Road.

3 Q. When you say termination, what do you mean by
4 termination?

5 A. The end of the -- the end where the phone had
6 traveled.

7 Q. Okay.

8 A. End of where the phone had traveled. And I
9 was thinking, I said the person might have thrown
10 more items in that area. I was -- I was -- I had
11 learned that her lunchbox was found in the creek. It
12 had -- the strap of it had hung on a stick that was
13 sticking out of the culvert. It's a big four foot
14 culvert, corrugated culvert, and there was a stick
15 sticking out, and the lunchbox strap had caught on
16 that. And I thought there may be more large items,
17 and I asked TBI if I could go look in that creek.

18 Q. Okay.

19 A. Myself and Senior Inspector Tom Bach went
20 down to that area, and within probably 20 minutes, I
21 found her notebook. It was about 75 yards down the
22 creek around about the -- about two bends. It was
23 about three quarters of the way up on -- three
24 quarters of the way up, it had -- where there had
25 been a large rain and it washed up into the -- into

1 kind of like the brush on the side of the creek. And
2 I noticed it was hers, because it was black and in
3 the brush and it had -- it had Holly on it.

4 And I called -- at that moment I called TBI.
5 I didn't touch it. Called TBI and they came over and
6 collected it.

7 Q. Okay. And did the TBI -- you mentioned that
8 you had been -- done some preliminary cell phone
9 work?

10 A. Yes.

11 Q. Will you tell the jury how is it that you
12 came to do preliminary cell phone work?

13 A. During the first parts of the investigation,
14 we know from her mother that her phone's with her.
15 Her mother said it was in her -- probably in her back
16 pocket. And John Mehr, he was a former supervisor,
17 now retired with TBI, asked us if we could look at
18 her cell records and map her phone.

19 Q. Okay. And who was it that asked you to do
20 that?

21 A. John Mehr.

22 Q. And what was John Mehr's role in the TBI
23 investigation?

24 A. He's the -- he was the supervisor.

25 Q. Okay. And supervisor, do you know whose

1 supervisor he was specifically?

2 A. Over Terry Dicus, over the investigation. I
3 didn't really know Terry Dicus at that time.

4 Q. Okay. And so just -- will you please give us
5 some background? I know that the Marshal Service has
6 some secrets about how they use cell phone, but give
7 us some background, just some of your general
8 training with cellular telephones and what you -- and
9 what your experience is with them.

10 A. I worked with cell phones for a number of
11 years, and I understand how cell phone technology
12 works, especially on like a -- this type of system.
13 I can't really get into the details of that so.

14 Q. Okay. And your training, you've had your
15 training all through the Marshal Service; is that
16 right?

17 A. Cell phone usage, since probably about '99.

18 Q. Since '99?

19 A. Yeah.

20 Q. Okay. And that's something you use on a very
21 regular basis?

22 A. I used to. In the last few years, we do
23 tracking data, but I was -- I was...

24 Q. So -- but in 2011 --

25 A. I'm not authorized to answer that kind of

1 question. Sorry.

2 Q. Okay. Right. But in 2011, you were using
3 cellular telephone on a regular basis, cellular
4 telephone technology; is that right?

5 A. Most of my experience was from '99 through
6 about 2007.

7 Q. Okay.

8 A. But I -- but it's the same kind of
9 information.

10 GENERAL NICHOLS: I'm sorry. I'm having
11 trouble hearing you.

12 THE WITNESS: It's the same kind of
13 information.

14 BY MS. THOMPSON:

15 Q. Okay. And the cellular telephone network
16 that we were talking about, can you tell us what kind
17 of level or generation in 2011 the Decatur area
18 cellular telephone network was?

19 A. It's a 2G network.

20 Q. It was a what?

21 A. 2G. 2G network.

22 Q. Okay. So 2G network.

23 GENERAL NICHOLS: Your Honor, if defense
24 is going to try and use him as an expert in cell
25 phones, I think we need to hear that before and we'd

1 like to voir dire if that's her intention.

2 MS. THOMPSON: Okay. Yes, I'd like to
3 use him as a cell phone expert, Your Honor.

4 THE COURT: All right. Voir dire.

5

6 **VOIR DIRE**

7 **QUESTIONS BY GENERAL NICHOLS:**

8 Q. And what kind of training have you had
9 specifically?

10 A. A little training back -- we didn't really
11 have an official course back when I started. It was
12 more of like we would have classes from time to time
13 that we learned.

14 Q. That everybody would go to?

15 A. No.

16 Q. Just you would go to?

17 A. I did this for the Eastern District of Texas
18 for about six years.

19 Q. Okay. So what training specifically --

20 A. Mostly on-job training.

21 Q. I'm sorry?

22 A. On-job training.

23 Q. Okay. And when was that?

24 A. From '99 to 2006.

25 Q. '99 to?

1 A. 1999 to 2006.

2 Q. You had on-the-job training?

3 A. Yes.

4 Q. Is that a yes?

5 A. Yes.

6 Q. Okay. Have you ever been tendered as an

7 expert and testified in court --

8 A. No, I have not.

9 Q. -- as a phone expert?

10 A. No.

11 Q. Marshal Service does an incredible job of

12 finding people, and that's your -- right? I mean, if

13 you had to put a big umbrella, I know you do other

14 things. That's what you do, correct?

15 A. Yes.

16 Q. Okay. And I'm sure you're very good at your

17 job, but you don't consider yourself to be an expert

18 in phone analysis; do you?

19 A. That is a very complicated subject.

20 Q. Sure.

21 A. It's much more complicated than a 2G subject.

22 Q. Okay. And so my question is that would be a

23 yes? You're not used by the Marshal Service --

24 A. No, I'm not.

25 Q. -- as an expert in phone?

1 GENERAL NICHOLS: Your Honor, based on
2 that --

3 MS. THOMPSON: Well, I'd like a chance to
4 voir dire him also.

5 THE COURT: All right. Go ahead.

6

7 VOIR DIRE

8 QUESTIONS BY MS. THOMPSON:

9 Q. So part of your job that they hired you to do
10 as part of what the Marshal Service does is the
11 Marshal Service is tasked with finding fugitives.
12 Isn't that one of the things that the United States
13 Marshal Service does?

14 A. Yes.

15 Q. Okay. And in order to find fugitives, the
16 United States Marshal Service uses numerous resources
17 to hunt down people; don't they?

18 A. Yes, that is correct.

19 Q. Okay. And these fugitives might be people
20 that have escaped from prisons?

21 GENERAL HAGERMAN: Your Honor, I don't
22 see how this goes at all to his expertise. That's
23 the issue before the Court.

24 THE COURT: Let her go.

25 BY MS. THOMPSON:

1 Q. People that have escaped from prison; isn't
2 that correct?

3 A. Yes, that's correct.

4 Q. Or it might be people that are wanted on
5 warrants to be arrested?

6 A. Correct.

7 Q. And so at one point you were living in
8 Eastern District of Texas; is that right?

9 A. Yes.

10 Q. Okay. And there you were assigned to the
11 Fugitive Unit; is that fair to say?

12 A. Yes, I was the Warrant Coordinator for the
13 district, and I ran the Fugitive Task Force.

14 Q. And so on a day-to-day basis it was part of
15 your job requirement to find people that were trying
16 to hide?

17 A. Correct.

18 Q. And one of the ways that you would do this on
19 a regular basis --

20 GENERAL NICHOLS: And I object to the
21 leading. She's doing a great job of it, but she
22 needs --

23 MS. THOMPSON: I'm voir diring, Your
24 Honor.

25 GENERAL NICHOLS: Voir dire, you need to

1 still ask an open-ended question.

2 MS. THOMPSON: Okay. So is the Court
3 going to rule on that?

4 THE COURT: You can ask.

5 MS. THOMPSON: Okay.

6 BY MS. THOMPSON:

7 Q. So one of the ways that you would -- one of
8 the ways you would do this, you had technical
9 information that you would use to track people's cell
10 phones; isn't that correct?

11 A. Yes.

12 Q. Okay. And the Marshal Service, how do they
13 feel about letting out their technical secrets to the
14 world as to how it is they track people on their cell
15 phones?

16 A. I'm not allowed.

17 Q. You're not allowed to tell that. But that
18 was still part of what you did on a regular basis?

19 A. Correct.

20 Q. Okay. And so you -- and you maintained that
21 job for several years, right? Fugitive?

22 A. Yes, I was a Warrant Coordinator for about
23 six years.

24 Q. And were you good or bad at your job?

25 A. I was very good at my job.

1 Q. Very good?

2 A. Yes.

3 Q. Okay. And so while you might not be an
4 expert in studying up cellular telephone networks or
5 how networks work, you were an expert in finding
6 people using their phones; weren't you?

7 A. Yes.

8 Q. Okay. And you had training in that area.
9 You said on-the-job training. What does it mean to
10 get on-the-job training?

11 A. You would work with somebody that's an
12 electronic surveillance person.

13 Q. Okay. And so what would they do to give you
14 on-the-job training, like specifically? Are they
15 showing --

16 A. Yes.

17 Q. -- how to use maps?

18 A. Explain systems, how to read systems, how to
19 understand the technology.

20 Q. And then at some point you transferred to the
21 Western District of Tennessee; is that right?

22 A. I actually worked for the US Tactical
23 Operations Division. I actually work for
24 headquarters. I don't work for Western Tennessee.

25 Q. I just can't hear you. I'm sorry.

1 A. Oh, I'm sorry. I actually for the Tactical
2 Operations Division with US Marshals. I don't -- I
3 don't work for the Western District of Tennessee.
4 Q. Okay. So you don't work -- you work for the
5 Tactical Operations Division?
6 A. Yes, I work for headquarters.
7 Q. Okay. But you live in western Tennessee?
8 A. I live in western Tennessee.
9 Q. Okay. And so what is your job description as
10 Tactical Operations?
11 A. I work for the Strategic National Stockpile
12 Program and a liaison to the CDC. I spent nine years
13 in the Joint Terrorism Task Force.
14 Q. Okay.
15 A. That's the Center for Disease Control so.
16 Q. And so you even gave advice to the TBI agents
17 in this case as to how to use the cellular phone and
18 how to track --
19 A. That's correct.
20 Q. And if the TBI, and more specifically
21 John Mehr you said, that asked you to come in and
22 provide your expertise to help them track this cell
23 phone; isn't that right?
24 A. That's correct.
25 Q. You didn't volunteer. They said, hey, listen

1 we want to send you some data and see what you can
2 tell us back?

3 A. Correct.

4 Q. Isn't that right?

5 A. Yes.

6 Q. So --

7 A. They gave us the cell tower dumps as they
8 call them. That's all the AT&T and Verizon cell
9 information on Excel spreadsheets.

10 Q. So that tells you -- so what -- one of the
11 things they give you when you say cell tower dumps,
12 that means they take all the information, like where
13 a tower is located, how strong the signal is, which
14 direction the different -- the three little antennas
15 are pointing, they gave you all that information; is
16 that right?

17 A. Correct.

18 Q. And then they provided you with information
19 about Holly Bobo's cellular telephone --

20 GENERAL HAGERMAN: Are we still voir
21 diring --

22 MS. THOMPSON: Yes.

23 GENERAL HAGERMAN: -- his expertise, Your
24 Honor? I think we're talking about the case.

25 MS. THOMPSON: We are because this is

1 actually a State's witness, Your Honor. The State is
2 the one that chose this person to come in --

3 THE COURT: I think you called him.

4 MS. THOMPSON: No. But the State's the
5 one that in the investigation --

6 THE COURT: It makes no difference, okay?

7 GENERAL NICHOLS: Witnesses are
8 witnesses. But when she's finished with her voir
9 dire, I have a few more very important pointed
10 questions about his --

11 THE COURT: Okay.

12 BY MS. THOMPSON:

13 Q. And so based on all of your experience, you
14 were able to come in and look at the cellular
15 telephone information they gave you; weren't you?

16 A. I did that, but I also would ask questions to
17 people in my agency with the FBI also and with AT&T
18 if I had any follow-up questions.

19 Q. Okay.

20 GENERAL NICHOLS: In other words, Judge,
21 he was asking questions of the experts.

22 THE WITNESS: I wanted to verify what I
23 knew.

24 GENERAL NICHOLS: Okay.

25 THE COURT: Okay.

1 GENERAL NICHOLS: Are we still -- are we
2 still voir diring?

3 MS. THOMPSON: Your Honor, at this
4 point --

5 GENERAL NICHOLS: I have some more
6 questions.

7 THE COURT: Wait. Go.

8 GENERAL NICHOLS: All right.

9
10 **FURTHER VOIR DIRE**

11 **QUESTIONS BY GENERAL NICHOLS:**

12 Q. Actually, the US Marshals Service has a task
13 force for phones and you're not part of it? Never
14 have been; have you?

15 A. I've never been a part of that group. I did
16 that for the Eastern District of Texas during those
17 years --

18 Q. Okay. I'm sorry, is --

19 A. -- because we didn't have an electronic --

20 Q. -- the answer to my question --

21 A. -- surveillance person.

22 Q. The answer to my question is yes?

23 A. Yes, I'm not a part of the --

24 Q. Right.

25 A. -- of the --

1 Q. And were not a part of that in 2011?

2 A. No, I was not.

3 Q. In fact, the last on-the-job training that

4 you had would have been in 2006, correct?

5 A. Correct.

6 Q. And you have to agree with me surely that

7 between 2006 and 2011, there has -- there were vast

8 changes with cell phone technology?

9 A. This is a 2G network. There was no changes.

10 Q. So you would not agree with me --

11 A. Oh, there's vast changes absolutely, but not

12 on these -- not in this -- these towers.

13 Q. And I appreciate you adding, because you want

14 to testify as an expert today; don't you?

15 A. No, I just want to explain to you what I

16 know.

17 Q. Okay. So would you consider -- do you call

18 yourself an expert in phones?

19 A. No, I do not.

20 Q. Okay.

21 GENERAL NICHOLS: Judge, even he

22 doesn't --

23 THE COURT: Wait.

24 GENERAL NICHOLS: -- he knows he's --

25 THE COURT: Wait.

1 GENERAL NICHOLS: -- not an expert.

2 MS. THOMPSON: First of all, Your

3 Honor --

4 THE COURT: You're offering him as an

5 expert?

6 MS. THOMPSON: He doesn't even have to be

7 an expert to testify what he did.

8 THE COURT: The Court is declining --

9 MS. THOMPSON: Okay. So he doesn't --

10 THE COURT: -- your offer as an expert.

11 He can testify generally --

12 MS. THOMPSON: Yes, as --

13 THE COURT: -- as to what he did in this

14 case --

15 MS. THOMPSON: Okay.

16 THE COURT: -- such as finding the

17 notebook or whatever. But by his own admission, he

18 is not a cellular phone expert.

19 MS. THOMPSON: He can testify, though, as

20 to what he did in the investigation as far as looking

21 at the phone data. That's something that he did.

22 He's a fact witness. He doesn't have to give an

23 opinion. He can just state --

24 THE COURT: He can explain what he did --

25 MS. THOMPSON: He did.

1 THE COURT: -- in response to what he
2 found.

3 MS. THOMPSON: And what he was asked to
4 do by the TBI, Your Honor.

5 THE COURT: He will not be allowed to
6 express an opinion.

7 MS. THOMPSON: Okay. No opinion.

8 THE COURT: I found he's not an expert in
9 this area. He's certainly an expert in some areas,
10 but not this area.

11 MS. THOMPSON: You know, it's ironic that
12 the TBI called him in to do cell phones --

13 THE COURT: Let's not argue --

14 MS. THOMPSON: -- and now --

15 THE COURT: -- in front of the jury,
16 please, okay?

17 MS. THOMPSON: Yes.

18 THE COURT: All right. Ask him
19 questions.

20

21 **CONTINUING DIRECT EXAMINATION**

22 **QUESTIONS BY MS. THOMPSON:**

23 Q. So at some point did the TBI ask you to look
24 at the cellular information or phone records of
25 Holly Bobo?

1 A. Yes, they did.

2 Q. And did you look at that information?

3 A. Yes, I did.

4 Q. Okay. And then at some point did you work
5 with Terry Dicus on that?

6 A. Yes, I did.

7 Q. Okay. And together with other people you
8 developed a map, did you not, of Holly's cellular
9 telephone?

10 A. Yes.

11 GENERAL NICHOLS: I think, Judge, this
12 would be --

13 THE COURT: All right.

14 GENERAL NICHOLS: -- conclusions of
15 opinions.

16 THE COURT: This is outside his area.
17 Let's go.

18 MS. THOMPSON: Well, Your Honor, at this
19 point then, I would like to make an offer of proof.

20 THE COURT: All right. Take the jury
21 out, please. Just go ahead and take them to the jury
22 room. We'll send for them.

23 THE DEPUTY: Yes, sir.

24 (WHEREUPON, the jury left the courtroom,
25 after which the following proceedings were had:)

1 THE COURT: All right. So that we can --
2 be seated. So that we can be clear, anybody can say
3 they followed a map. But he doesn't have the
4 expertise to say that cell towers dictated that the
5 phone was here, here, here, or here, okay?

6 MS. THOMPSON: I'm going to have him
7 testify to that, because that's what he did for the
8 TBI. The TBI asked him to come in and --

9 THE COURT: Do your offer of proof.

10 MS. THOMPSON: -- give his opinion.

11 So --

12 THE COURT: Let's --

13

14 **OFFER OF PROOF EXAMINATION**

15 **QUESTIONS BY MS. THOMPSON:**

16 Q. So what is it that -- what information did
17 you start with when you were working for the TBI
18 regarding the cellular telephone?

19 A. The overlay map that AT&T provided and the
20 cell tower information off of the Excel spreadsheets,
21 it showed terminating phone number, Holly's number,
22 and the location -- tower location. These are four
23 numbered towers. Fifth number is the cell section of
24 the three sections. These are three section towers
25 in this area.

1 Q. Okay. And so with that information then,
2 what did you do next?

3 A. I plotted out on a map where these towers
4 were, the cell sections with the overlay map and a
5 general idea of where her phone was at specific times
6 in these cell sections. Like take -- because you can
7 look on the Excel spreadsheet. It will tell you
8 terminating number, her phone number, and AT&T can
9 tell you which column to look in to the location.

10 Q. Okay.

11 A. And you just follow that location, and you
12 plot out on a map and you plot out where her phone
13 was at 8:00, 8:11, 8:16, 8:26. And then the ping
14 data overlaps on top that that AT&T did, and you can
15 get a general idea how her phone traveled through the
16 northwestern part of Decatur County.

17 Q. Okay. And so do you have a map that you did?

18 A. Yes, I did this map and it was done in 2012.

19 Q. Okay. I'd like to see the map.

20 MS. THOMPSON: I'd like to show it to the
21 State, because I want to put this in as an offer of
22 proof also. The State has this map in smaller form.
23 Okay. And I'd like to have this map marked as an
24 exhibit.

25 THE COURT: All right. Be Exhibit 239.

1 Not to be passed to the jury because it's offer of
2 proof.

3 (WHEREUPON, the previously mentioned
4 document was marked for as Offer of Proof Exhibit
5 Number 239.)

6 BY MS. THOMPSON:

7 Q. I'm going to pass the map back up to you.
8 And there's handwritten points on this map. Let's
9 see. I think at some point you have reported where
10 Terry Britt's house is. Can you point that out?

11 A. It's right here.

12 Q. Okay. How about I do this? I'll -- so the
13 prosecutor can see at the same time, if I put it up
14 over here, then the prosecutors can see.

15 A. Y'all can look at it. I know the map so.

16 Q. We can what?

17 A. I said you can show them the map. I know the
18 map if you ask questions.

19 Q. Okay.

20 A. I don't have to look at it.

21 Q. So I'll point it out to here and here, and we
22 can all see it at the same.

23 So here is Terry Britt's house? That's where
24 you marked his home; isn't that right?

25 A. Yes, that's correct.

1 Q. Okay. And so when you were doing this
2 route -- let's just start down here. This is the
3 Bobo home?
4 A. Yes, that's the Bobo home on Swan Johnson
5 Road.
6 Q. Okay. And so from the Bobo home then
7 which -- how did you determine which direction
8 Holly's phone traveled?
9 A. You can look in -- the way the cell towers
10 hit, she hits on the northern side of the Darden Road
11 Tower at --
12 Q. Okay.
13 A. -- at 8:00 and 8:11.
14 Q. Yes.
15 A. At 8:16 she's on the south side of the Shiloh
16 Road tower.
17 Q. Now, where is the Shiloh Road tower? Is
18 that up here?
19 A. You can see the 8:16 -- the 8:16 hit right
20 there.
21 Q. So the Shiloh Road tower --
22 A. Yes.
23 Q. -- is right over --
24 A. Right there.
25 Q. -- here.

1 A. And that's where Shiloh Road Tower is, but it
2 comes into that cell section at 8:16.

3 Q. Okay. So --

4 A. So you know -- you know that the information
5 is going forward. I also -- AT&T also provided
6 information that I worked with them on using Holly's
7 phone. Instead of just an overlay map, we used
8 Holly's phone to kind of get an idea of what towers
9 it would be talking to at any one time.

10 Q. Okay.

11 A. So AT&T provided that information.

12 Q. Now, tell me how did you do that? What do
13 mean about what towers you would be talking to at any
14 one time?

15 A. It's just like they take Holly's phone and
16 they -- we drove around and kind of mapped which
17 towers it would communicate with.

18 Q. Okay. Let me find for you then a drive map
19 that I had. I had it marked for identification
20 purposes yesterday. So this is 218. So when you say
21 that you had it, you drove around with the phone, is
22 this what you're talking about?

23 A. Yes, that's it.

24 Q. Now, were you with them when they drove
25 around and did this?

1 A. Yes.

2 Q. So you were actually in the car as this map
3 was --

4 A. I was in the back --

5 Q. -- being created?

6 A. I was in the backseat taking notes.

7 Q. Okay. And you were invited by the TBI to do
8 that?

9 A. Yes, I was.

10 Q. Okay. So using that map, and then did you
11 also use this?

12 A. Yeah, that's the overlay map that AT&T
13 provided.

14 Q. Okay. So you used --

15 A. That shows -- that shows cell towers and cell
16 sections in different colors is what that is.
17 Three-sided towers.

18 Q. Okay. And so using those materials, how did
19 you then make your determination as to -- so you knew
20 from --

21 A. You take the Excel spreadsheets provided by
22 AT&T, and you look at the terminating the number, her
23 number, that was -- the number that was called, and
24 in the column you compare it to the column where the
25 cell tower is, such as the Darden Road tower. If you

1 will go on down to the bottom of the map, it goes
2 from Darden Road tower section one into the south
3 side of Shiloh Road section two. And then it goes
4 into -- up into this area, it goes into the number
5 one section of Shiloh Road tower.

6 Q. So this is the number one section of the
7 Shiloh Road tower up here?

8 A. Yes, that's one, two, and three is over here.
9 That's the number one section.

10 Q. So at first she's hitting --

11 A. And if you look at --

12 Q. -- down here?

13 A. Yes.

14 Q. And then you know if she's hitting up here,
15 she had to have traveled on some road --

16 A. Well, the phone -- the phone hits three times
17 headed that direction. Ping data is in that area.

18 Q. Okay.

19 A. Ping data is different than a cell phone hit.

20 Q. Okay. And so explain to us how the ping data
21 is different.

22 A. That's when the -- AT&T sends out a signal to
23 the -- to the tower to talk to the phone.

24 Q. Okay. And the ping data, is it simply a dot
25 with a circle drawn around it, or is it something

1 more than that? Does it relate to a sector?

2 A. I don't know if I can answer that. I don't
3 know if I'm authorized to answer that, how that
4 works.

5 Q. Well, we can ask for author -- we can --

6 A. Okay.

7 Q. Yes, you're authorized to answer that.

8 A. Yeah --

9 GENERAL NICHOLS: I'm sorry. She just
10 answered, yes, you're authorized to answer.

11 THE WITNESS: He gave me the nod. I have
12 an AUSA --

13 MR. BRACKSTONE: Yes, we can --

14 THE WITNESS: I have an AUSA that's
15 monitoring my conversation.

16 GENERAL NICHOLS: Yeah, I just didn't see
17 that he was apparently motioning from behind me.

18 BY MS. THOMPSON:

19 Q. So you have an attorney here today; is that
20 right?

21 A. That's Assistant United States Attorney
22 sitting --

23 Q. Okay.

24 A. -- behind.

25 Q. And he's here to guide you on what you're

1 authorized to answer --

2 A. Yes.

3 Q. -- and not answer?

4 A. Yes.

5 Q. Okay. So the ping data, it has --

6 THE COURT: What he's saying is he

7 doesn't want to breach some --

8 GENERAL NICHOLS: I understand.

9 THE COURT: -- pledge of confidentiality.

10 THE WITNESS: Exactly.

11 THE COURT: All right.

12 BY MS. THOMPSON:

13 Q. So this -- the ping data, how is it that you

14 interpret the ping data then?

15 A. A ping data is a distance off of the tower.

16 Q. Yes.

17 A. It's by signal strength. It can be anywhere.

18 It's not necessary a circled spot. It's actually a

19 spot that's a distance off of the tower based on

20 signal strength, and AT&T can tell you that. But

21 it's more of an arch around distance off of the tower

22 in that section. It's anywhere in that section a

23 certain distance off all the way around.

24 Q. Okay.

25 A. And you have to -- and it depends on the

1 quality and number of towers and that to how wide
2 that margin of error is in that -- in that kind of a
3 band that runs around.

4 Q. Okay.

5 A. Because it can -- it can be narrow and it can
6 be a quarter mile wide so...

7 Q. So at some point there's a ping. Do you know
8 what time the ping was that was -- you say there's a
9 ping that was in this --

10 A. It's some time around 8:52, 8:53. I don't
11 know exact --

12 Q. Okay.

13 A. -- I'd have to look at my notes to know for
14 sure.

15 Q. Okay. So there's ping, and that ping isn't
16 just anywhere with a circle driven -- drawn around
17 it. You're saying that ping is coming off of this
18 particular quadrant --

19 A. Yes.

20 Q. -- of the -- and this is the Shiloh tower; is
21 that right?

22 A. Shiloh Road tower section one.

23 Q. Now, that's not the same tower where her body
24 is found over here; is it?

25 A. No, that's where her body was found.

1 Q. Okay. Her body is found -- what tower was
2 her body near?

3 A. Shiloh Road tower section one.

4 Q. No, where was her body found, not what was it
5 hitting off of.

6 A. Oh, no. See that dot where your finger is?

7 Q. Yes.

8 A. It's right in that area right there.

9 Q. Okay.

10 A. There's is a Verizon tower just -- there's --
11 see that bottom, that X -- the other one, X? That's
12 a Verizon tower. She was found just north of that
13 tower.

14 Q. But that tower wasn't a factor in the
15 towers --

16 A. No, it was not.

17 Q. -- you were looking -- okay. Okay. So then
18 how did you get -- how do you then start moving this
19 direction? Why did you decide that her phone moved
20 this direction?

21 A. It's because it goes into that area, and it
22 stays about 25 minutes.

23 Q. Which area does it stay 25 minutes?

24 A. Into this Shiloh Road cell section one. It
25 goes in there and stays about 25 minutes.

1 Q. This section one right here?

2 A. The one -- yes, that section right there.

3 Q. Okay.

4 A. It goes into that section and stays about 25

5 minutes.

6 Q. Yes.

7 A. And then it starts moving east, because it

8 starts pinging off of the Cox Road tower at 9:02,

9 9:06.

10 Q. Now, the Cox Road tower --

11 A. If you'll go --

12 Q. -- it is --

13 A. -- slide it over --

14 Q. -- over -- it's over right here --

15 A. Right.

16 Q. -- isn't that right?

17 A. Yes.

18 Q. Okay.

19 A. Right. It has a couple of pings over there.

20 The 9:02 is further away than the 9:06 hit. So it

21 shows that the phone is moving toward the tower.

22 Q. Okay. Okay. So you have the phone moving

23 towards the tower. And then how do you get this

24 little trail down here?

25 A. There is another hit off of the Cox Road

1 tower. Not that -- I think it's the second sector.
2 I'd have to look at it for sure, but it's off of the
3 other section. You can see that line right there by
4 your finger.

5 Q. Yes.

6 A. That's where the two sections break, and that
7 is on another section of the Cox Road tower.

8 Q. So this is where the Cox Road tower breaks
9 right here, right?

10 A. Yes, that line right through there it breaks.

11 Q. Right along this line?

12 A. Right.

13 Q. Okay.

14 A. And that -- there is a margin of error in
15 there. A little distance between -- sections are not
16 exactly on the money. There is an overlay a little
17 bit.

18 Q. So you're saying that you could be hitting on
19 both -- either Cox Road two section or Cox Road three
20 and still be right in the middle where --

21 A. Right.

22 Q. -- where it bleeds together?

23 A. Right. Exactly.

24 Q. Okay. And so --

25 A. And then there's a Parsons section. I

1 believe it's section three. There's a hit. There's
2 a ping off of that one, and then it goes -- that's
3 more down toward where I believe to be at the creek
4 at Gooch Road.

5 Q. And you have that the Parsons tower is
6 actually off of your map in this direction?

7 A. Yes.

8 Q. Okay. Okay. So --

9 A. That's also a ping.

10 Q. -- what is this right here, this mark?

11 A. That's the creek at Gooch Road.

12 Q. Okay.

13 A. That -- and I have that in there -- that
14 little area in there, because when you do the drive
15 time, that's about where you at. You're in between
16 that -- you're right in that area when you do a drive
17 time --

18 Q. Okay.

19 A. -- on this map.

20 Q. So what you did is you looked at where her
21 pings were and then you looked at as you're driving
22 what towers you're hitting?

23 A. Yes, because it was originally thought that
24 her phone had went west, but if you -- if you drive
25 west, 8:16 you're either going to be on the Darden

1 Road or the Yuma tower. So it's very clear that her
2 phone went straight north.

3 Q. So --

4 A. And if you were to -- and if you were to go
5 east at any point, you would be on the Parsons tower
6 at 8:16. So it's a -- it becomes very clear that at
7 8:00 her phone is Darden Road, 8:11 Darden Road, and
8 8:16 it's in the Shiloh Road section. And the Shiloh
9 Road section, there's a lot of other -- two other
10 towers that kind of cover the east and west. So when
11 -- you know it goes straight north.

12 Q. So you know it goes straight north because if
13 it had gone any this direction, you'd be hitting this
14 Darden Road tower right here --

15 A. Yes --

16 Q. -- which is this green color?

17 A. And actually, there's another tower over
18 there that's called the Yuma tower. It's a very
19 powerful tower. That you can't --

20 Q. Where's the Yuma tower? Is it actually --

21 A. It's in the -- it's in the north or west
22 area.

23 Q. So it's further west from --

24 A. Yeah, it's on the freeway. It's further
25 northwest. That's a very powerful tower that if you

1 get anywhere near that, it picks you up.

2 Q. Okay. So you know she's not going west

3 because she doesn't hit the Darden tower and she

4 doesn't hit the Yuma tower?

5 A. Exactly.

6 Q. And so --

7 A. Yuma.

8 Q. -- that's how you know she's going mostly

9 north --

10 A. Yes.

11 Q. -- on her phone?

12 And then based on this, did you actually tell

13 the -- did you advise the TBI as where to be looking

14 for her body?

15 A. Yes.

16 Q. And where did you advise the TBI to be

17 looking for her body?

18 A. Near the freeway.

19 Q. Near the free --

20 A. This is in 2000 -- late 2011, 2012. I asked

21 numerous times to Agent Dicus how well did you search

22 north of the freeway --

23 Q. And you --

24 A. -- numerous times.

25 Q. Specifically north of the freeway?

1 A. Absolutely.

2 Q. Because that's where her phone had popped,
3 had --

4 A. Yes.

5 Q. And then when it turns out -- and these red
6 dots here that you have outlined on this map, what do
7 these red dots represent?

8 A. Those red dots I put on there because I
9 didn't have a way to kind of overlay it. That's just
10 areas you should search. Those are roads. And I put
11 primary, first, second area in 2012, and I made this
12 map that's -- this is where you should search --

13 Q. And you --

14 A. -- off of these -- off of these roads.

15 Q. You made this map before they found her body?

16 A. Yes, a couple of years before.

17 Q. Well, obviously. But the red marks and
18 everything, I mean, you didn't go back and put down
19 this was --

20 A. I added two things to the map from the
21 original creation. I added Terry Britt's home
22 sometime in 2013, and I added a dot where you pointed
23 your finger where her remains were found, I added
24 that in October of 2014.

25 Q. Okay. But these red marks and stuff, this

1 advice of where you said to search for her body --

2 A. Yes.

3 Q. -- all of that was --

4 A. I put this on a map in 2012 on a map about
5 three foot square --

6 Q. Yes.

7 A. -- for Terry Dicus, and it was in the file as
8 far as I knew.

9 Q. Okay. And said, search along this red dots
10 for her --

11 A. Yes.

12 Q. -- body. That's where her body most likely
13 is going to be, okay.

14 MS. THOMPSON: Your Honor, that's all for
15 my --

16 THE COURT: All right. Go ahead.

17 GENERAL NICHOLS: Just a couple.

18

19 **OFFER OF PROOF CROSS-EXAMINATION**

20 **QUESTIONS BY GENERAL NICHOLS:**

21 Q. You would agree with me that the drive test
22 that you guys did -- or when you jumped in the
23 backseat of the AT&T, that was an incomplete drive
24 test? Y'all didn't drive all the roads?

25 A. I had one follow -- I didn't -- I had one

1 follow-up, but yes, I drove the roads that matched
2 the cell phone information off of the Excel
3 spreadsheet.

4 Q. So that's a yes, the drive test was
5 incomplete? You guys didn't drive all the --

6 A. No, it was not incomplete.

7 Q. All right. And the next thing I have is
8 that --

9 THE COURT: Did you say, no, it was not
10 incomplete or --

11 THE WITNESS: No --

12 THE COURT: -- no, it was not complete?

13 THE WITNESS: -- I was satisfied with the
14 drive test.

15 THE COURT: Okay.

16 GENERAL NICHOLS: So he does not agree
17 with that --

18 THE COURT: Okay.

19 GENERAL NICHOLS: -- that the drive test
20 was incomplete.

21 BY GENERAL NICHOLS:

22 Q. And I know --

23 A. I did have one follow-up but...

24 Q. I'm going on to my next question --

25 A. Okay.

1 Q. -- because the judge has ruled you're not an
2 expert.

3 I think I know what you were talking about,
4 but it sounded as though you were implying that you
5 drove around with Holly's phone?

6 A. No.

7 Q. Right. When you said "we drove around with
8 the phone", that -- you weren't driving around with
9 Holly's phone? We didn't, correct?

10 THE WITNESS: Can I answer that? There
11 was four exact copies of Holly's phone based on cell
12 wattage, model, make.

13 BY GENERAL NICHOLS:

14 Q. I understand. But you weren't driving around
15 with Holly's phone? That's all --

16 A. No.

17 Q. -- I was trying to clear up.

18 A. Not Holly's phone.

19 GENERAL NICHOLS: That's all I have,
20 Judge.

21 BY GENERAL NICHOLS:

22 Q. Oh, well, except for this report that we all
23 have now of your findings regarding the phones. You
24 did not make that report until after Holly's remains
25 were found?

1 A. What are --what are you saying?

2 Q. Okay. We have a report from you, and it says
3 "abduction investigation of Holly Bobo".

4 A. Okay.

5 Q. It's your report that talks about cell
6 towers. And even though you said, let's see, "the
7 following information was provided to TBI during the
8 first two years of the abduction investigation.
9 Descriptive maps were provided". So that makes it
10 sound like that this report was turned over in the
11 first two years.

12 A. The map was given to TBI, yes.

13 Q. So my questions was: You didn't do this big
14 report -- I know you turned over a map you said.

15 MS. THOMPSON: Can she pass him the
16 report?

17 GENERAL NICHOLS: He said he's familiar
18 with it.

19 THE WITNESS: I'm familiar with it. I
20 reminded TBI that there was a map in that file.

21 BY GENERAL NICHOLS:

22 Q. Okay. My questions is: You didn't do this
23 report until after Holly was found?

24 A. After remains were found, yes.

25 Q. And then you went --

1 A. Because I was concerned about there is a map
2 in the file that shows where her remains should be
3 located.

4 Q. Okay.

5 A. I was concerned about that.

6 Q. So my questions was: You didn't do this
7 report until after her remains were found?

8 A. Right.

9 Q. Okay.

10 A. Because I was reminding TBI where her remains
11 were found. There's a map in the file.

12 Q. And of course, you weren't the only one --
13 you know that Special Agent Frizzell was also telling
14 TBI to look in the same area, correct?

15 A. I didn't know that.

16 Q. Okay. But you relied heavily upon FBI
17 behavioral role analyst who said two or three
18 different things and y'all were sort of going off of
19 that information?

20 A. I didn't really believe that in the
21 beginning, but it matched the phone tracking.

22 Q. You didn't believe it in the beginning?

23 A. No, because the FBI person said that she was
24 killed within the first hour within five miles of the
25 house, and I didn't understand that --

1 Q. Okay.

2 A. -- at the time.

3 Q. Got you. Thank you.

4

5 **OFFER OF PROOF REDIRECT EXAMINATION**

6 **QUESTIONS BY MS. THOMPSON:**

7 Q. When you said -- just regarding Holly's
8 phone, there were four phones that were the identical
9 model as Holly's phone that you were in the car using
10 to see which tower they hit off of as you drove all
11 the back roads?

12 A. Yes.

13 Q. Okay. And then --

14 A. I did -- AT&T set that up. I just
15 assisted --

16 Q. Right.

17 A. -- went with AT&T.

18 Q. Okay.

19 MS. THOMPSON: Also, for the record, Your
20 Honor, as we were going through that, I was referring
21 to -- was it 218? The 218, the little drive time
22 map, and then the newest map that he provided -- that
23 Mr. Walker provided as I was pointing to different
24 areas.

25 THE COURT: That's 239.

1 MS. THOMPSON: 239.

2 THE COURT: Okay.

3 MS. THOMPSON: At this time, Your Honor,
4 I would like for the Court to reconsider admitting
5 him or authorizing him as an expert witness after
6 he's testified and I've made my offer of proof.

7 THE COURT: He has, by his own admission,
8 said he is not an expert in cellular phone as far as
9 testifying. He can testify generally what he did as
10 far as his work on this case, but he is not qualified
11 as a cell phone expert. So he won't offer evidence
12 along those lines.

13 MS. THOMPSON: So he cannot testify --

14 THE COURT: He can't express his opinion
15 on that.

16 MS. THOMPSON: -- before the jury as to
17 what he's just testified to?

18 THE COURT: No.

19 MS. THOMPSON: Okay.

20 THE COURT: All right. Let's bring the
21 jury back in.

22 She just told me the verdict forms, she had
23 saved it both ways as far as order. She gave you the
24 wrong ones. I told you expressly how it would be
25 charging the order, so you've actually got the wrong

1 form.

2 (WHEREUPON, the jury returned to the
3 courtroom, after which the following proceedings were
4 had:)

5 THE COURT: Okay. Ms. Thompson, further
6 questions.

7 MS. THOMPSON: Yes.

8

9 **CONTINUED DIRECT EXAMINATION**

10 **QUESTIONS BY MS. THOMPSON:**

11 Q. Mr. Walker, at some point did -- were you
12 asked to go interview Terry Britt?

13 A. Yes, I was.

14 Q. Okay. And can you tell us when that
15 occurred?

16 A. I believe it was in March of 2013.

17 Q. Okay. And will you tell the jury then who
18 asked you and kind of what happened from there?

19 A. In March of 2013, Agent Dicus called me. I
20 had not worked on the case for a few months. He had
21 called me and said -- he asked me if I could do a
22 favor. He asked if I could go and interview
23 Terry Britt in jail. He was in jail over near Fort
24 Pillow. I think it's Western Tennessee Penitentiary.
25 And he said that I could --

1 GENERAL NICHOLS: I'm going object to
2 hearsay as to what Agent Dicus told him.

3 THE COURT: All right.

4 THE WITNESS: Okay.

5 BY MS. THOMPSON:

6 Q. After that, what did you do next then?

7 A. After I was asked?

8 Q. Yeah.

9 A. I went and interviewed him in jail.

10 Q. Okay. So tell us about that, how that
11 conversation went. What happened then?

12 A. We went into an interview room, and I was --
13 just to give context, I was there just to ask if he
14 wanted to talk about where Holly's remains were and
15 kind of maybe some type of deal about where her --
16 where her body was. And they put us in a room,
17 probably a ten foot wide by twenty foot wide room.
18 Had a big window on one end with a door going in.

19 I went in. Mr. Britt was already in there.
20 And I said immediately to him, I'm here to talk about
21 -- I'm John Walker with the US Marshals. He knows
22 who I am. I've spoke with him before, and told him
23 who I was and said I'm here to talk about Holly Bobo.
24 He made the comment I don't know who that is. And I
25 said well, you don't know her, but you know her

1 cousin Natalie, and he sat down at the table.

2 There was a table between us and I sat down
3 on this side. I said I was sent over here by Agent
4 Dicus to see if you wanted to work out some kind of
5 possibly deal about locating her remains, because the
6 family needs some kind of closure in this case. They
7 need to know what happened to their daughter. He
8 started complaining about that his wife, Jan, that he
9 wasn't able to talk to her, that they had had -- TBI
10 had had where he couldn't communicate with his wife,
11 and I said, well, I thought that was unusual, that I
12 would talk to TBI about it.

13 We discussed -- I didn't ask him anything
14 about what he's in custody for other than I said I
15 know there's some charges on you. One of them can
16 carry a lot of time. We didn't discuss a
17 penitentiary-type times. What was discussed is that
18 he was concerned about his wife being charged in one
19 of the cases, because I thought there was pending
20 charges coming on her, and he was concerned about he
21 wanted to be in a different jail. He did not like
22 the jail over there. He said there was a lot of
23 young black guys that were very loud, and he wanted
24 to be over in -- near Nashville in an older white
25 jail. He didn't seem to mind being in jail.

1 So I said, well, I said I want to tell you
2 what we know in the case from beginning to end, what
3 the evidence has kind of shown, and I went to explain
4 that to him. I said I know you're a sociopath, and I
5 know you have an issue with women. There's no doubt
6 about it, and I understand why you would find
7 Holly Bobo attractive and want her. He just sat
8 there and kind of nodded. I then went into -- I
9 said, I'm going to tell you what we believe happened.
10 I said we think that you saw Holly at the dollar
11 store with Natalie probably about three weeks before
12 you started following her. We know you followed
13 other women. And I think -- what we -- what we
14 think, that you started figuring out her timeline and
15 followed her home, started paying attention to the
16 vehicles, that you got there probably around 7:30
17 that morning, and you know all the back roads very
18 well. We know that, and that you were in the woods.

19 Q. And how did you -- how did you know that
20 about the back roads?

21 A. A friend -- a friend of his told me that
22 that's what he -- all he ever did was drive around.
23 A friend of Terry Britt's.

24 Q. Okay.

25 GENERAL NICHOLS: And, Your Honor --

1 BY MS. THOMPSON:

2 Q. Well, what about --

3 GENERAL NICHOLS: -- it's too late
4 because she asked for a question calling for hearsay,
5 but I object to anything a friend or anybody else --

6 THE COURT: All right. All right.

7 GENERAL NICHOLS: -- other than Mr. Britt
8 told him.

9 THE WITNESS: Yes, ma'am.

10 MS. THOMPSON: I wasn't trying to get
11 hearsay.

12 GENERAL NICHOLS: Sure.

13 MS. THOMPSON: I just said how did you
14 know about him knowing the back roads. That's all.

15 GENERAL NICHOLS: Go ahead.

16 THE COURT: Let's --

17 THE WITNESS: Okay. And I said what you
18 did was you got in the woods around 7:30 that
19 morning. You noticed that the -- her mother's car
20 was gone. You noticed her father's car was gone, and
21 you thought Clint Bobo's car was gone, but it was
22 actually in a garage out back. I said you know Holly
23 comes out at 7:45. I said you positioned yourself to
24 grab her when she came out. She fought with you for
25 about 45 seconds because Mr. Barnes, the next door

1 neighbor, heard you fighting for about 45 seconds.
2 And he heard you -- he heard it.

3 So -- and I said then you squatted down
4 underneath the patio with her. After fighting with
5 her, you probably hit her because there was blood on
6 the patio. You squatted down with her and was
7 waiting on her to recover I guess from that. Because
8 Clint Bobo at that time looked out the window and saw
9 you -- seeing -- with Holly. And I said you
10 waited -- and he called his mother that time.
11 There's a -- there's a record where he called his
12 mother at that time, talking to her about who's
13 outside. And I said you waited until about 8:56
14 before you're walking away with -- because there's
15 another cell record where Clint Bobo --

16 GENERAL NICHOLS: Your Honor --

17 THE WITNESS: Clint Bobo --

18 GENERAL NICHOLS: Talking about cell
19 records.

20 MS. THOMPSON: Well, what time calls are
21 made is layperson.

22 THE COURT: He's speak generally. This
23 isn't being offered as an expert on location. Go.

24 THE WITNESS: And I said Clint Bobo told
25 me that he saw you walking in the woods with his

1 sister.

2 GENERAL NICHOLS: And I'm going to
3 object.

4 MS. THOMPSON: Well, that's something --

5 THE COURT: All right.

6 MS. THOMPSON: -- that's in evidence,
7 Your Honor, that Clint Bobo's on the phone with his
8 mother --

9 THE COURT: It's hearsay nevertheless.

10 MS. THOMPSON: Okay.

11 THE WITNESS: Okay.

12 BY MS. THOMPSON:

13 Q. So regardless of what Clint said.

14 A. Okay.

15 Q. Just what you knew.

16 A. And I said -- and I got a description from --

17 GENERAL NICHOLS: And I'm going to object
18 to that. This is what he told Terry Britt he knew.
19 Okay.

20 MS. THOMPSON: Okay.

21 BY MS. THOMPSON:

22 Q. This is what you told Terry Britt you knew?

23 THE COURT: He's still on the
24 narrative --

25 MS. THOMPSON: Yes.

1 THE COURT: -- of what he told Terry
2 Britt is --

3 THE WITNESS: Yes.

4 THE COURT: -- my understanding. Okay.

5 THE WITNESS: Yes, I am. And I said her
6 brother describes you as being 5'10 to 5'11, 200
7 pounds, barrel-chested, skinny legs, black hair that
8 went over your collar, probably wearing a baseball
9 cap with camouflage jacket, blue jeans, and some type
10 of work boots. And when I said that to him, he
11 replied to me that boy don't know what he saw. And I
12 said you got in your car around 8:00, you drove north
13 using the least traveled roads or with the fewest
14 houses. You got to the freeway around 8:30. You
15 spent about 25 minutes near the freeway.

16 And I said when you left that area, you
17 started throwing things of Holly's out along Yellow
18 Springs Road, such as a receipt, a wadded up piece of
19 paper, dollar bill. And I said you stopped when you
20 got near your house and you headed down and threw the
21 rest of the items, the larger items, into the creek
22 on Gooch Road. That's around 9:25. And I said you
23 would know that creek on Gooch Road, because you
24 drive down that road to go home.

25 And I said when you came out of that, you got

1 home probably around 9:35, and your wife awoke -- Jan
2 awoke when the dogs were barking. And before I
3 finished saying that final word, he interrupted me
4 and looked at me very straightforward and said -- he
5 said sounds like you have it all figured out, I'll
6 plead to it and you can close the case.

7 I was very surprised by his comment. I
8 didn't expect him to say that. I thought for a
9 moment. I said, well, you got to do better than
10 that, you got to give us her body. And he made a
11 comment that I didn't understand at the time. His
12 comment was I can't give you something I don't have.

13 I said, well, I need TBI here to finish this
14 up. I do not want to take a statement from him. I
15 was not there to get testimonial evidence. I said
16 TBI needs to be here. I got to leave. I got up from
17 the chair, walked to the door, waved to the guard to
18 let me out. He got up and walked up behind me, and
19 he said if I need to show you something, how long
20 will you take me to get you out of here -- get me out
21 of here. And I said it would take me a couple of
22 days. I would have to get a writ to get him out of
23 jail. And then he made some comment about
24 Terry Dicus getting him out of jail, and that's the
25 last I talked to him.

1 BY MS. THOMPSON:

2 Q. And did you relay all of this information to
3 the TBI?

4 A. Yes, I did.

5 Q. And as far as you know, did they go --

6 A. I put it in -- I put it in our US -- Report
7 USM 11 and gave it to TBI.

8 Q. Okay. And as far as you know, did the TBI go
9 back to follow-up with an interview?

10 A. Myself and Dicus tried much later, but he was
11 not in the mood then. He wanted to be -- he was --
12 they didn't follow up the next few days like I told
13 him that they were probably going to do. That did
14 not happen.

15 Q. Okay. But you notified them right away --

16 A. Yes.

17 Q. -- is that right?

18 A. Yes, I did.

19 Q. Okay. And so did you think he was kidding
20 with you when he said --

21 GENERAL NICHOLS: Your Honor, I object --

22 THE COURT: All right.

23 GENERAL NICHOLS: -- to relevance.

24 THE COURT: His opinion as to what he
25 thought.

1 MS. THOMPSON: Well, he can testify --

2 THE COURT: Don't argue in front of the
3 jury. If you feel like you need to add something, we
4 can send them back out. I've made a ruling.

5 MS. THOMPSON: Okay.

6 THE COURT: He -- a witness can't say
7 whether he thought someone was serious or telling the
8 truth or things like that.

9 BY MS. THOMPSON:

10 Q. Now, you're a trained law enforcement
11 officer; is that right?

12 A. Yes.

13 Q. Okay. You have your entire career been
14 dealing with criminal defendants and kind of the
15 criminal side of human nature; is that right?

16 A. Yes.

17 Q. And you have lots of experience and training
18 in interviewing suspects?

19 A. Yes.

20 Q. Is that true?

21 A. Yes, I do.

22 Q. And you've been around when people have --
23 you made a report in this matter. I think the US
24 Marshall Service calls it -- what do you-all call
25 your report?

1 A. The USM 11.

2 Q. The US 11?

3 A. Yes, USM 11.

4 Q. And that's kind of the equivalent of a FBI
5 302; is that right?

6 A. Correct.

7 Q. Okay. And you certainly -- when you make
8 reports, you put down things that you take seriously
9 and that are important to -- put down important facts
10 in your reports; is that right?

11 A. Yes.

12 Q. Okay. And these are all facts that you
13 included in your report?

14 A. Yes.

15 Q. Okay. And you shared that report with the
16 TBI at that time?

17 A. Yes.

18 Q. Okay.

19 MS. THOMPSON: No further questions.

20 THE COURT: Cross-examination.

21 GENERAL NICHOLS: Yes, sir.

22

23 **CROSS-EXAMINATION**

24 **QUESTIONS BY GENERAL NICHOLS:**

25 Q. You're friends with Terry Dicus? That's my

1 understanding.

2 A. I got to know Terry Dicus, yes. I've never
3 spent any evenings or weekends with him, but yes, I
4 am friends.

5 Q. I didn't ask about spending the night.
6 You're friends with him?

7 A. Yes.

8 Q. Okay. And you became friends with him during
9 the course of the investigation, or were you friends
10 before?

11 A. During the course of the investigation.

12 Q. Okay. And the friendship continued
13 afterwards, correct?

14 A. Yes.

15 Q. Still friends with him today?

16 A. Yes.

17 Q. So you were aware when Terry Dicus called you
18 and asked for a favor that he had been advised by his
19 supervisor to stand down, leave Terry Britt alone?

20 A. I did not know that.

21 MS. THOMPSON: (Stood up.)

22 THE COURT: He can ask.

23 BY GENERAL NICHOLS:

24 Q. And you didn't find it odd that the case
25 agent had to call you and ask for a favor to go to

1 talk someone?

2 A. No, he explained why he was asking me.

3 Q. So you go in to talk to Mr. Britt --

4 A. Yes.

5 Q. -- right?

6 A. Yes.

7 Q. Put you in a room. And you, according to
8 your report -- and your report -- let me back up.

9 You testified in great detail today for 10 or
10 15 minutes about all the things that you told Mr.
11 Britt about how you know what he did and this is what
12 I know about the case. None of that's included your
13 report?

14 A. No, the report's very general.

15 Q. Yeah. So all of that stuff that you say
16 today that you told him back in 2013, you just left
17 all that out? Yes?

18 A. Yes, I was -- I just --

19 Q. Right.

20 A. -- put the -- I put the --

21 Q. Let's start --

22 A. -- main facts.

23 Q. -- at that. Let's assume that you told him
24 all that. So you're talking to a guy that's doing
25 time, correct?

1 A. Yes.

2 Q. He's looking at potential federal gun
3 charges, correct?

4 A. I guess so.

5 Q. Well, now --

6 A. I believe -- yes --

7 Q. -- you knew?

8 A. I believe he was having an abduction charge
9 and a gun charge.

10 Q. Did you make the statement to him, I told
11 Mr. Britt that he was possibly also being indicted
12 for federal firearms violations and one case could
13 carry a 30-year sentence?

14 A. Yes.

15 Q. So that helps you remember what you actually
16 told him?

17 A. Yes.

18 Q. Okay. And if that is actually -- let me just
19 pass this report up to you. So if that statement is
20 actually the first full paragraph of your 20-line
21 report, that doesn't mean -- does that mean that
22 that's how you started your talk with him?

23 A. No.

24 Q. Telling him that he's looking at 30 more
25 years?

1 A. No.

2 Q. Okay.

3 A. That doesn't mean it's --

4 Q. You just put it at the top? Because it
5 actually says "I initially". "I initially", meaning
6 in the beginning, right? That's what that word
7 means. In the beginning, I questioned Mr. Britt if
8 he had been federally charged?

9 A. Yes.

10 Q. Okay. He said no but his wife had. And then
11 you told him, buddy, it's coming. Something that's
12 going to carry 30 years?

13 A. Okay.

14 Q. Not okay. Yes or no?

15 A. Yes.

16 Q. Because if you put in the report, that's what
17 happened?

18 A. Yes, that's what happened.

19 Q. And if you didn't put it in the report --

20 MS. THOMPSON: That's a
21 mischaracterization, Your Honor. He doesn't say that
22 it is coming. He says it is possible that he would
23 be charged. So she's mischaracterizing the report as
24 she questions the witness.

25 THE COURT: Go ahead.

1 GENERAL NICHOLS: Thank you, Your Honor.

2 BY GENERAL NICHOLS:

3 Q. Right?

4 A. What's your question again?

5 Q. That's what you told him initially, as in in
6 the beginning?

7 A. We discussed many things when I went in.
8 More about Holly and her family --

9 Q. But --

10 A. -- before I actually talked about --

11 Q. -- everything's not initially. In report it
12 says "initially"?

13 A. Yeah, before I got into the story about what
14 we thought.

15 Q. Okay. So before you got into the story about
16 what you thought, you told him, hey, you may be
17 looking at 30 more years?

18 A. Yes.

19 Q. So the way this report runs, if it's in the
20 report it happened, but stuff that's not in the
21 report could also have happened?

22 A. Yes.

23 Q. Okay. You didn't Mirandize the man?

24 A. I was not looking for testimonial evidence.

25 Q. Excuse me?

1 A. I was not looking for testimonial evidence.

2 Q. So even though you're not looking for

3 testimonial evidence, you started with tell us what

4 you know about where Holly is and I can get you a

5 deal?

6 A. I didn't --

7 Q. Let me finish.

8 A. I didn't do it that way.

9 Q. Let me finish.

10 A. That's not the way it went.

11 Q. Let me finish. If you made -- you made

12 statements to the man about warning him to come forth

13 with where Holly's remains were, and you're telling

14 us that you don't consider that to be testimonial?

15 Just yes or no and then you can explain.

16 A. I was not there to get testimonial evidence.

17 Q. Yes or no and then explain.

18 A. (No response.)

19 Q. Let's not --

20 A. Ask your --

21 Q. -- rely on technicalities.

22 A. Ask your question again.

23 Q. Don't rely on technicalities. You asked the

24 man tell us where the dead girl is. That's your

25 question, right?

1 A. Yes.

2 Q. And you're saying -- you're telling the jury
3 that you don't consider that testimonial evidence?

4 A. I was not there to get testimonial evidence.

5 Q. Okay. Is that like some buzz words that --

6 A. No --

7 Q. -- you've been told to --

8 A. -- it's just true. I was not there to get
9 testimonial evidence.

10 Q. So in other words --

11 A. It was TBI's responsibilities.

12 Q. In other words, if he had said she's under my
13 driveway?

14 A. I would have advised TBI of that, and they
15 could go talk to him about it.

16 Q. Because you didn't Mirandize him?

17 MS. THOMPSON: Your Honor, whether or not
18 he Mirandized him, he doesn't necessarily have to
19 Mirandize him.

20 THE COURT: Let's --

21 GENERAL NICHOLS: That's not an
22 objection.

23 MS. THOMPSON: That is an objection.
24 Your Honor.

25 THE COURT: That's a statement, okay?

1 MS. THOMPSON: So my objection is, I
2 object to the way --

3 THE COURT: The question is --

4 MS. THOMPSON: -- she's forming the
5 question.

6 THE COURT: -- did you Mirandize him?
7 No, I didn't. Okay?

8 BY GENERAL NICHOLS:

9 Q. So according to your testimony today, even
10 though it's not in your 20-line report, is that you
11 went through your case theory about what had happened
12 to Holly?

13 A. It was also --

14 Q. You think?

15 A. It was also TBI's.

16 Q. I'm sorry. If you can just answer the
17 question first, and then if you want to add
18 something, which you tend to want to do, or explain,
19 then do it.

20 A. This wasn't mine. It was TBI's.

21 Q. So that's a yes?

22 A. Yeah.

23 Q. You explained to him your theory, not anybody
24 else's up here, correct?

25 A. Yes.

1 Q. Okay.

2 A. Okay. Yeah.

3 Q. And you told him, according to what you said
4 today, this is what we know, Mr. Britt, and then you
5 went through a litany of facts, right?

6 A. Correct.

7 Q. Okay. And then he responded, sounds like you
8 got it all figured out?

9 A. Correct.

10 Q. Did you tell him, Mr. Britt, we know, we know
11 that Shane, Dylan, and Jason alibied one another on
12 the morning it happened? Did you tell him that?

13 A. No.

14 Q. Did you tell him, Mr. Britt, we know that
15 Zachary Adams said, I couldn't have picked a prettier
16 bitch? Did you tell him that?

17 A. No.

18 Q. Did you tell him, Mr. Britt, we know, we know
19 that Zach Adams said, I can't clear my name because
20 I'm too far into it?

21 A. No, I did not tell him that.

22 Q. Did you tell him, Mr. Britt, I'm here asking
23 you to tell me where Holly Bobo's body is, but we
24 know that Zach Adams said I did it?

25 A. No, I didn't tell him that.

1 Q. Did you tell him, I'm here asking you to tell
2 me where Holly Bobo's body is, but Zach Adams has
3 said on more than one occasion, I let Shane hit it?
4 Did you tell him that?

5 A. No, I did not.

6 Q. Did you tell him despite the fact that I'm
7 here asking you where Holly is, Mr. Britt, the man
8 that was with Zach Adams when he shot her in the head
9 has confessed to being with him?

10 A. No, I didn't tell him that.

11 Q. Did you tell him, Mr. Britt, I'm here asking
12 about Holly and for you to tell me where she is, but
13 the man who purchased or traded for dope the murder
14 weapon --

15 A. It would be impossible for me to tell him
16 these comments.

17 Q. -- has told us where it is?

18 A. This all happened after I interviewed him.

19 Q. Is that a no, you didn't tell him?

20 A. No, it's not possible.

21 Q. Did you tell him that that man who told us
22 where the murder -- that he purchased the murder
23 weapon or traded the murder weapon and told us where
24 it is and went out there and found it?

25 A. No.

1 Q. Okay. You would agree with me you didn't
2 have all the facts when you went to do a favor for
3 Terry Dicus that day?

4 A. I would not agree to that.

5 Q. You would not?

6 A. No, I would not.

7 Q. You talked -- so --

8 A. When I talked -- that happened --

9 Q. I'm sorry.

10 A. -- after me talking --

11 Q. I'm sorry. Let me ask the question.

12 MS. THOMPSON: No, he's trying to
13 explain, Your Honor.

14 THE COURT: Wait. Wait. Wait. Is that
15 an explanation? He can make an explanation. Give
16 him the opportunity.

17 THE WITNESS: Now, you're asking me stuff
18 that happened after I spoke with Terry Britt. So I
19 don't know how I could tell him about something that
20 happened afterwards. I mean...

21 BY GENERAL NICHOLS:

22 Q. So my question --

23 A. Yeah, so...

24 Q. -- was: You didn't know the full facts?

25 A. At the time I talked to Terry Britt, I knew

1 the full facts.

2 Q. If these are the facts, can you not -- can
3 you not just look at those people --

4 A. Oh, yeah, sure.

5 Q. -- and tell them I don't know what happened
6 after 2013, I didn't know all the facts? Can you not
7 agree to that?

8 A. I can't comment on that. I'm not allowed.

9 Q. Not allowed by who?

10 A. US Attorney's Office.

11 GENERAL NICHOLS: Is he allowed Mr. US
12 Attorney?

13 MR. BRACKSTONE: May I --

14 GENERAL NICHOLS: Is that a yes?

15 MR. BRACKSTONE: -- approach, Your Honor?

16 GENERAL NICHOLS: Sure. Let's approach.

17 (WHEREUPON, a conference was held at the
18 bench between counsel and the Court.)

19 MR. BRACKSTONE: Just in the interest of
20 not yelling in front of the jury, if -- if --

21 GENERAL NICHOLS: Let me ask a question.

22 MR. BRACKSTONE: Hold on. Hold on.

23 GENERAL NICHOLS: Stop for just a second.

24 THE COURT: Wait a minute. First of --

25 GENERAL NICHOLS: He's not supposed to be

1 privy to this yet.

2 THE COURT: No. Just a minute.

3 GENERAL NICHOLS: That's all I was trying
4 to say.

5 THE COURT: You need to identify yourself
6 first of all. She doesn't have that.

7 MR. BRACKSTONE: David Brackstone.
8 That's D-A-V-I-D B-R-A-C-K-S-T-O-N-E. Assistant
9 United States Attorney in the Western District of
10 Tennessee.

11 THE COURT: All right.

12 MR. BRACKSTONE: If the question is
13 whether he was a part of the investigation in 2013 or
14 later, then he can answer that question.

15 THE COURT: Okay. I think that's what
16 the question was.

17 MR. BRACKSTONE: If the question is, you
18 know, have you heard rumblings through your time just
19 working in the department, then that would be off
20 limits. So to --

21 GENERAL NICHOLS: That wasn't my
22 question.

23 MR. BRACKSTONE: So I understand the
24 confusion of your question. Just were you on the
25 case? That's totally fine.

1 THE COURT: Okay.

2 MR. BRACKSTONE: But if it's getting
3 into, you know, what were people talking about then,
4 that would not be a --

5 THE COURT: Okay. We're good.

6 MS. THOMPSON: Can he explain that to his
7 client then?

8 THE COURT: Yes. I think rather than
9 client, it's supervisory capacity. All right.

10 (WHEREUPON, the following proceedings
11 continued within the hearing of the jury:)

12 BY GENERAL NICHOLS:

13 Q. Can you answer the question now?

14 A. Ask it again, please.

15 Q. You would agree with me, would you not, that
16 after 2013 you don't know what happened in this case?
17 You weren't a part of the investigation?

18 A. I was not a part of the investigation.

19 Q. And despite the innuendo that maybe perhaps
20 you're wanting to leave with the jury, when
21 Terry Britt was listening to you talk about potential
22 deals that you might be able to get for him --

23 A. That wasn't me. I wasn't getting deals.

24 Q. I'm sorry. Do you need to read your report?

25 A. I had no authority to make a deal. That's up

1 the up to the --

2 Q. Right.

3 A. -- TBI and the US -- and the attorney,
4 prosecutor. That's not me.

5 Q. You weren't acting on behalf of the District
6 Attorney's Office; were you?

7 A. No, I was not.

8 Q. And you were not acting on behalf of the US
9 Attorney's Office, the federal --

10 A. No, I was not.

11 Q. -- prosecutors?

12 A. No, I was not.

13 Q. You were not asked by anyone other than
14 Terry Dicus to go to that location; were you?

15 A. Correct.

16 Q. And nobody in TBI, no one asked you to try
17 and reach a deal with him other than Terry Dicus?

18 A. I was not there to get a deal. I was asked
19 if he wanted to talk.

20 Q. You were not there to get a deal?

21 A. No, I was ask -- I was asked to go speak with
22 Terry Britt to see if he wanted to talk about
23 possibly making an arrangement, some type of deal
24 with TBI. I wasn't the person making the deal.

25 Q. What's different about what I said and what

1 you just did?

2 A. Is it -- you're trying to act like I'm the
3 one making the deal. I'm not. I'm just the person
4 out there. All I'm out there with is to find out if
5 he wanted to talk to TBI and he did. That's all I
6 was there for.

7 Q. That's not what you asked him. You asked him
8 to give you information about Holly Bobo.

9 A. I asked him to give TBI information about
10 Holly Bobo.

11 Q. And if -- I'm going to pass this. Show me
12 where that's how you reported it. Review that for
13 me.

14 A. That's --

15 Q. That's your report.

16 A. I testified to it.

17 Q. Tell me where it is in your report.

18 A. That is a very general report about some
19 things that occurred in that interview.

20 Q. So it's not in there; is it?

21 A. To let TBI know -- to let TBI know that he's
22 wanting to talk, they should go speak with him.
23 That's what the report's about.

24 Q. It's not --

25 A. The report --

1 Q. It's not in there; is it?

2 A. Say again what you think is not in there.

3 Q. Did you forget my question for adding --

4 A. No, I just want -- I just want to make sure

5 I'm clear.

6 Q. It's not in there that --

7 MS. THOMPSON: Your Honor --

8 BY GENERAL NICHOLS:

9 Q. -- the TBI was the one --

10 MS. THOMPSON: -- I don't understand the

11 question --

12 BY GENERAL NICHOLS:

13 Q. -- making the deal?

14 MS. THOMPSON: -- at this point.

15 THE COURT: You can say is it in there.

16 MS. THOMPSON: Is what in there, Your

17 Honor?

18 THE WITNESS: No, it's not. I don't

19 understand the question.

20 GENERAL NICHOLS: The witness understood

21 it.

22 BY GENERAL NICHOLS:

23 Q. You don't understand the question?

24 Nowhere in your report did you tell

25 Terry Britt that I am here just as a mouthpiece for

1 Terry Dicus, I can't really offer you a deal, but I
2 want to work one out for you so that I can go back to
3 them and tell them what you're willing to do?

4 MS. THOMPSON: Your Honor, he has not
5 testified that he's a mouthpiece for Terry Dicus.
6 That's a mischaracterization.

7 GENERAL NICHOLS: It's not.

8 MS. THOMPSON: It is.

9 THE COURT: She can describe it any way
10 she wants to, okay? It's up to the jury.

11 BY GENERAL NICHOLS:

12 Q. Mr. Britt was -- seemed very suspicious of
13 your interview; didn't he?

14 A. No, he did not. Well, I --

15 Q. I --

16 A. Let me explain. Okay. Go ahead.

17 THE COURT: All right.

18 BY GENERAL NICHOLS:

19 Q. Let me do a follow-up. Did you literally
20 just say, no, he did not?

21 MS. THOMPSON: He was still --

22 THE COURT: No. He said no, and if he
23 wants to make explanation.

24 THE WITNESS: You said suspicious of his
25 interview.

1 BY GENERAL NICHOLS:

2 Q. Read along with me, and tell me if I read it

3 wrong. "Mr. Britt seemed suspicious of the

4 interview."

5 A. That's --

6 Q. Did I -- did I read it wrong?

7 A. No, you read it right.

8 Q. Now, you want to explain?

9 A. Yes, I'll explain.

10 Q. Have at it.

11 A. Okay. He seemed suspicious that I was there

12 talking to him initially, but once we -- I laid out,

13 hey, TBI wants to know where her remains are, if

14 you're willing to talk about it, maybe you can keep

15 your wife from being charged. He was very concerned

16 about that. He kind of changed his tone during the

17 interview, okay?

18 Q. Okay. I want you to -- I want you to read

19 your report, and then tell me where you reported that

20 he changed his tone.

21 A. It's not in there. I'm just telling you --

22 Q. Sorry. Sorry.

23 A. -- what happened.

24 Q. So you reported that he was suspicious?

25 A. Yeah.

1 Q. And at some point in your 20-line report, he
2 changed his tone, but you didn't put that in here,
3 right?

4 A. No.

5 Q. Okay. So this is just one more example of if
6 you wrote it down, it happened, but there are a lot
7 of things that happened that you didn't write down?

8 A. Yes.

9 GENERAL NICHOLS: Nothing else.

10 THE COURT: Redirect.

11

12 **REDIRECT EXAMINATION**

13 **QUESTIONS BY MS. THOMPSON:**

14 Q. Now, to be clear, a report is not a
15 transcript of what happens; is it?

16 GENERAL HAGERMAN: Object to the leading,
17 Judge.

18 BY MS. THOMPSON:

19 Q. Is a report a transcript --

20 THE COURT: You can ask him is this a
21 transcript.

22 BY MS. THOMPSON:

23 Q. Is this a transcript of what happened that
24 day?

25 A. No.

1 Q. Okay. When you write reports, do you usually
2 go back and write word-for-word everything people
3 said?

4 A. No.

5 Q. Do you usually make -- are they usually
6 generalized when you write a report?

7 A. Yes.

8 Q. Okay. Now, to be clear, before a federal
9 employee is allowed to come testify, what kind of
10 request needs to be made? Like any federal employee,
11 before they come to testify in court, what type of
12 request has to be made?

13 A. Touhy Request.

14 Q. A Touhy Request?

15 A. Touhy Request, yes.

16 THE COURT: A what?

17 THE WITNESS: A Touhy.

18 BY MS. THOMPSON:

19 Q. Touhy Request.

20 A. Touhy Request.

21 THE COURT: You want to spell that?

22 THE WITNESS: I do not know how to spell
23 it. It's an odd name. It's a Touhy Request.

24 THE COURT: Anybody know?

25 GENERAL HAGERMAN: T-O-U --

1 THE COURT: The only Touhy I know is
2 from --

3 MS. THOMPSON: T-O-U-T-H --

4 THE COURT: -- Blindsides.

5 GENERAL HAGERMAN: T-O-U-H-Y.

6 THE COURT: Okay.

7 BY MS. THOMPSON:

8 Q. And so in order -- so the purpose of that is
9 that the United States Attorney knows -- what is the
10 purpose? You just tell us.

11 A. The purpose is that my testimony before I was
12 a federal officer -- agent, my testimony has to be
13 approved through the United States State Attorney's
14 Office. It's to protect against me talking outside
15 of my scope, not giving up trade secrets, things of
16 that nature.

17 Q. Now, did the State of Tennessee make a
18 request that you testify about the notebook in this
19 case that you found?

20 A. Yes.

21 Q. Okay. Did the defense make a request that
22 you testify about cellular telephone records in this
23 case?

24 A. Yes.

25 Q. Did the defense make a request that you

1 testify about your interview with Mr. Britt?

2 A. Yes.

3 Q. Now, you performed a lot of other activities
4 in this case; is that right?

5 A. Yes, I did.

6 Q. Interviews?

7 A. Yes.

8 Q. Analysis? But those things, those items were
9 not requested that you testify about them?

10 A. No, they were not.

11 Q. So you're not authorized to say what else you
12 knew about the case or what else you did in the case,
13 right?

14 A. That is correct.

15 Q. Had that been requested --

16 GENERAL NICHOLS: Your Honor, I'm going
17 to object to relevance.

18 THE COURT: It wasn't requested, and the
19 last bench conference, we covered some things.

20 MS. THOMPSON: I know but --

21 THE COURT: You don't need to open the
22 door to what we covered in that bench conference with
23 his superior.

24 MS. THOMPSON: Right. But my point, Your
25 Honor is --

1 GENERAL NICHOLS: I'm going to object to
2 relevance to anything he hasn't testified about. How
3 can anything that he was asked to do or did if it's
4 not being testified to be relevant?

5 MS. THOMPSON: She just went through such
6 a long fuss with him about what did he know about the
7 investigation, what did he do about the
8 investigation. I can't cross-examine him about all
9 the rest of the investigation, because he's not been
10 authorized to testify to it, Your Honor.

11 THE COURT: Let's move on.

12 MS. THOMPSON: Okay. No further
13 questions.

14 THE COURT: Done?

15 GENERAL NICHOLS: Nothing.

16 THE COURT: All right. Step down.
17 You're free to go.

18 MR. SIMMONS: Your Honor, could we
19 approach before he's excused, a break?

20 THE COURT: Hold on, Mr. Walker.

21 THE WITNESS: Yes, sir.

22 (WHEREUPON, a conference was held at the
23 bench between counsel and the Court.)

24 MS. THOMPSON: Did his attorney leave?
25 Can we grab -- can we grab his attorney out in the

1 hall?

2 THE COURT: Wait a minute. Yeah.

3 MR. SIMMONS: Jim Simmons. Your Honor,
4 for the record in this case to be clear, right now it
5 is he -- it is clear he has knowledge of other areas
6 that he would have been asked about, but his attorney
7 or the Department of Justice has advised him it's
8 outside the scope of the Touhy letter. I would like
9 for the record to be clear in an in-camera discussion
10 or hearing as to exactly what is being excluded from
11 this record and why.

12 I want the record to definitely be clear
13 about an agent who has additional knowledge and is
14 being precluded about testifying to that knowledge.
15 Just for the record.

16 GENERAL NICHOLS: He's testifying within
17 the scope of what the defense requested. So it's not
18 being excluded. Perhaps he would have been approved
19 to talk about other things. He's testifying within
20 the scope, and she -- we rested. I don't care if
21 something is put in-camera, but not in front of the
22 jury.

23 MR. SIMMONS: That's exactly what I'm
24 going to ask for, to be in-camera on the record. We
25 don't know the interpret -- the interpretation of the

1 Toughy request. The record needs to be clear in this
2 case.

3 GENERAL NICHOLS: (Indiscernible) Touhy
4 letter filed it and have it filed. We can
5 (indiscernible) do Touhy letters.

6 MR. SIMMONS: I think we need his
7 testimony to be clear, the reason that it's being
8 excluded.

9 THE COURT: It's not being excluded by
10 me. He's been prohibited.

11 MR. SIMMONS: That's correct, and that's
12 why we need the record to be clear about what's going
13 on.

14 GENERAL NICHOLS: Can we do that later?

15 MR. SIMMONS: Yeah, that's what I said.
16 We can do it later.

17 GENERAL NICHOLS: He doesn't need to be
18 here, the US Attorney.

19 MR. SIMMONS: I think we may need him to
20 be here.

21 THE COURT: Do what?

22 MR. SIMMONS: I think he made the
23 witness -- the witness may need to be here.

24 GENERAL NICHOLS: The US Attorney.

25 THE COURT: Needs to be in-camera.

1 MR. SIMMONS: It does. I agree with
2 that.

3 MR. BRACKSTONE: Your Honor, David
4 Brackstone again. I'm happy to consult with
5 Mr. Walker again, but my understanding is that the
6 information that he may have would not otherwise be
7 admissible. It is not (indiscernible) came out, but
8 what he was concerned about discussing and not came
9 up as pertinent in the investigation --

10 (WHEREUPON, the following proceedings
11 continued within the hearing of the jury:)

12 THE COURT: Let's take a recess. Y'all
13 stay. Let him discuss with him, and then we can put
14 that on the record. Take 15 minutes.

15 (WHEREUPON, the jury left the courtroom,
16 after which the following proceedings were had:)

17 THE COURT: All right. 15 minutes.

18 (Short break.)

19 THE COURT: Before the jury comes back,
20 we're going to put some matters on the record during
21 the lunch hour concerning the US Attorney and the
22 Touhy issues. So we'll do that so that we can keep
23 moving with the jury, but US Attorney did tell me,
24 he's present, that the witness, Mr. Walker, has
25 testified as far as he can testify and he -- we'll

1 cover the other issues in chambers, okay? Stay with
2 us. I apologize.

3 All right. Let's bring our jury. Did we
4 have our 11:00 person yet?

5 MS. THOMPSON: She's checking again to
6 see if Mr. Garrett is here.

7 THE COURT: That sure would be good.

8 MS. THOMPSON: Garnett. I said Garrett.
9 It's Garnett.

10 THE COURT: This is one that's got a very
11 short timeframe.

12 MS. THOMPSON: Yes.

13 (WHEREUPON, the jury returned to the
14 courtroom, after which the following proceedings were
15 had:)

16 THE COURT: Be seated. All right. Call
17 your next witness.

18 MS. THOMPSON: Kristie Gutgsell.

19 THE COURT: Do what?

20 MS. THOMPSON: Kristie Gutgsell.

21 GENERAL NICHOLS: She'll have to spell
22 that.

23 THE COURT: C-H-R-I-S-T --

24 MS. THOMPSON: Yeah.

25 THE COURT: -- I-E or Y? I can spell it.

1 GENERAL NICHOLS: Did you say Dunstell or
2 Gunstell?

3 MS. THOMPSON: It's Gutgsell. It's
4 G-U-T-G-S-E-L-L, I think.

5 GENERAL NICHOLS: First name?

6 MS. THOMPSON: Kristie.

7 THE COURT: We'll get her to spell. I've
8 been doing it with every witness. Raise your right
9 hand.

10 (The witness was sworn.)

11 THE COURT: Be seated. State your name,
12 first and last, and spell for the court reporter,
13 please.

14 THE WITNESS: It's Kristie,
15 K-R-I-S-T-I-E. Last name is Gutgsell,
16 G-U-T-G-S-E-L-L.

17

18 * * *

19 **KRISTIE GUTGSELL,**
20 **was called as a witness and having first been duly**
21 **sworn testified as follows:**

22

23 **DIRECT EXAMINATION**

24 **QUESTIONS BY MS. THOMPSON:**

25 Q. Would you --

1 THE COURT: All right. On the Kristie,
2 is it I-E or Y? I missed that.

3 THE WITNESS: I'm sorry. I-E.

4 THE COURT: Okay. All right. You can
5 proceed.

6 BY MS. THOMPSON:

7 Q. So how is it that you are employed currently?

8 A. Currently?

9 Q. Yes.

10 A. I work at a medical clinic currently.

11 Q. Okay. And what were you doing in April of
12 2011?

13 A. I was a bail bondsman.

14 Q. Okay. And what company were you with?

15 A. Professional Bonding.

16 Q. Okay. And in April of 2011, did you have
17 happen to bond out Zach Adams?

18 A. I did.

19 Q. Okay. Can you please tell the jury what
20 happened and what that was about?

21 A. I believe it was April the 4th I bonded Zach
22 out. It was when he was at Natchez Trace, and he got
23 several charges -- drug charges and evading arrest,
24 and I got him out on those charges that day.

25 Q. Okay. And so when you bonded him out, did

1 you happen to observe him and his physical
2 appearance?

3 A. I did. After I bonded him out and he was
4 released from jail, that's when we do our paperwork
5 and talk and go through what I expect from him while
6 he's out on bond.

7 Q. And what did you observe?

8 A. I observed basically he had scratches all
9 over him like he had ran through the woods basically,
10 and he also had like old scars on his arms.

11 Q. And what were the old car scars on his arms
12 from?

13 GENERAL NICHOLS: Objection, Your Honor.
14 Calls for speculation.

15 THE COURT: If she knows.

16 BY MS. THOMPSON:

17 Q. If you know?

18 GENERAL NICHOLS: Unless she was there, I
19 don't see how she could know.

20 MS. THOMPSON: We'll strike it, Your
21 Honor.

22 THE COURT: All right.

23 MS. THOMPSON: Okay.

24 BY MS. THOMPSON:

25 Q. And what about his legs?

1 A. He had scratches all over his legs, his arms,
2 his neck.

3 Q. His neck also?

4 A. Absolutely.

5 Q. Okay.

6 MS. THOMPSON: No further questions.

7 THE COURT: Cross.

8 GENERAL NICHOLS: No questions.

9 THE COURT: All right. Step down.
10 You're free to go.

11 THE WITNESS: Yes, sir.

12 (WHEREUPON, the witness was excused from
13 the stand and left the courtroom.)

14 MS. THOMPSON: Okay. If our special --
15 our time-restricted witness is not here, I'd like one
16 more time just to see if he's here.

17 THE COURT: All right.

18 MS. THOMPSON: Mr. Garnett. If you can
19 just check and see if Mr. Garnett is outside.

20 THE COURT: This is a person I understand
21 that's military on leave, very short window of time
22 that he has.

23 MS. THOMPSON: Yes. And our next witness
24 is going to be fairly lengthy, so if he's
25 available -- no, okay. Then we'd like to call

1 John Reeves.

2 THE COURT: Raise your right hand.

3 (The witness was sworn.)

4 THE COURT: Be seated. State your name,
5 first and last, and spell it for the court reporter.

6 THE WITNESS: My name is Jonathan Reeves,
7 J-O-N-A-T-H-A-N R-E-E-V-E-S.

8

9 * * *

10 JONATHAN REEVES,
11 was called as a witness and having first been duly
12 sworn testified as follows:

13

14 DIRECT EXAMINATION

15 QUESTIONS BY MS. THOMPSON:

16 Q. And can you speak up, please? You're voice
17 is -- can you move the microphone closer to you?

18 A. Am I that tall? Is that better?

19 Q. Yes. And, Mr. Reeves, how is that you're
20 currently employed?

21 A. I am president of JDR Telecom Solutions. I
22 consult for wireless carriers throughout the US
23 designing cell phone networks and troubleshooting,
24 optimizing, and essentially making sure that they
25 work. When you hear the guy say can you hear me now,

1 I'm one of those guys.

2 Q. Okay. And so let's go back to the beginning.
3 What's your training to design cellular telephone
4 networks?

5 A. Initially I have a Bachelors of Science of
6 Engineering from Grove City College in Pennsylvania.
7 Since then, I've been trained throughout the process
8 of -- with different companies on how to design the
9 art of engineering, the implementations of cell
10 sites. Been trained on the actual individual vendor
11 equipment, the different technologies.

12 Q. Can you go into detail on some of the
13 training that you've had, the vendor equipment, the
14 technologies?

15 . GENERAL HAGERMAN: And if this helps,
16 Judge, I had the chance to speak with Mr. Reeves
17 quickly this morning, and I'll stipulate with regard
18 to his expertise.

19 THE COURT: All right. They're willing
20 to stipulate. You can still go into some if you feel
21 it's important, but he's stipulated to be an expert
22 in cellular phone technology. Would that be the
23 appropriate --

24 MS. THOMPSON: Yes, Your Honor.

25 THE COURT: Okay.

1 BY MS. THOMPSON:

2 Q. Okay. And so in this case, did you have an
3 opportunity to review materials regarding
4 Holly Bobo's telephone and the telephones of
5 different persons in this case?

6 A. I have, yes.

7 Q. And did you prepare a report?

8 A. I have, yes.

9 Q. Okay.

10 MS. THOMPSON: And I would like to -- at
11 this time, I would like to ask that this report be
12 put into evidence, Your Honor?

13 Let me pass it up to you.

14 THE COURT: Be 240.

15 BY MS. THOMPSON:

16 Q. See if you recognize this? It's --

17 A. Just making sure it's here. Yes.

18 Q. Okay.

19 THE COURT: Be 240.

20 (WHEREUPON, the above-mentioned document
21 was marked as Exhibit Number 240.)

22 BY MS. THOMPSON:

23 Q. And have you prepared a PowerPoint
24 demonstration?

25 A. Yes. This report has essentially just been

1 presented in PowerPoint on the board behind me. And
2 if I could request -- the clicker is right next to my
3 laptop. Just --

4 THE COURT: Clicker is right next to his
5 laptop he said.

6 THE WITNESS: Thank you.

7 BY MS. THOMPSON:

8 Q. So which telephone numbers did you review?

9 A. The numbers that I reviewed are listed on the
10 screen here.

11 Q. Okay.

12 A. They include Holly Bobo's, Zach Adams.

13 Q. Well, let's --

14 A. I'm sorry.

15 Q. Just go in order. So the first one is --
16 belongs to?

17 A. Zach Adams.

18 Q. Okay. And the next one?

19 A. I'm going from memory on these, but I believe
20 the next one is Jason Autry.

21 Q. Yes. And the next one?

22 A. The next one is Holly Bobo.

23 Q. Yes.

24 A. The third one is Shane Austin.

25 Q. The fourth one?

1 A. I'm sorry. The fourth one is Shane Austin.

2 Q. Yes. Okay. So --

3 A. I reviewed them through --

4 THE COURT: Let me get that order again.

5 Holly?

6 THE WITNESS: No, sorry.

7 MS. THOMPSON: It's Zach --

8 THE WITNESS: The order is Zach Adams.

9 THE COURT: Zach, okay.

10 THE WITNESS: Jason Autry, Holly Bobo,
11 and Shane Austin.

12 THE COURT: Okay. Thank you.

13 THE WITNESS: So the information I
14 reviewed was the information that was provided to me
15 that -- my understanding was provided to law
16 enforcement as part of this proceeding, including the
17 locates that were performed on Holly Bobo's phone the
18 day of her disappearance.

19 BY MS. THOMPSON:

20 Q. Okay. So what is the locate information that
21 you have?

22 A. So there's two general sources of
23 information. I know you guys have already heard
24 about some of this, and that's great because it makes
25 my job a little bit easier. You guys have already

1 been -- gotten the brief crash course on this.

2 But the information I have is both call
3 records, and those are the call detail reports that
4 you've seen Agent Frizzell last week present to you,
5 as well as the locate records. And the locate
6 records were the queries that were sent out looking
7 for Holly Bobo's phone on the day of her abduction.

8 The difference between those two pieces of
9 information are pretty stark. Meaning the call
10 records are all historic. So we can go back to those
11 at any point in the past and pull up the call records
12 in order to see what activity was done on a phone at
13 any given date and time. That includes text
14 messages, voice calls, even data sessions in some
15 cases depending on the device. So we have the
16 ability to look back in history to find that
17 information.

18 The locate records on the other hand are one
19 of those realtime things. You have to do it at that
20 moment that you're looking for that device, and if
21 you do it an hour later, it's going to be different
22 information, because that device may either be off or
23 moved or somewhere else. They're the two general
24 categories of information that I had.

25 The interesting thing about the locates was,

1 you know, at the time that they were performed, they
2 were performed in order to try and find the missing
3 person in this case, Holly Bobo. The information
4 that comes back from those locates, you know, in an
5 ideal world would be here's a dot on a map that says
6 where the device is. Unfortunately, that's not
7 possible in this case.

8 Q. And why is that?

9 A. There's a number of reasons for that. The
10 primary one is just the technology at that time
11 didn't support it. We are talking about 2011. The
12 technology, in addition to that, isn't a technology
13 that specifically supports that as well. The phone
14 and the devices that were all used for all four of
15 those numbers that were provided are actually GSM
16 technology, Global System for Mobile Communications.
17 It's an older technology at this point. Even for
18 2011, it was a little bit older at that point, but
19 the networks were still evolving and upgrading at
20 that point. So that was probably the most common
21 technology back in 2011.

22 Specifically though, GSM doesn't have --
23 typically, GSM doesn't have GPS embedded in the
24 phone. If you have a CDMA phone, like if you're on
25 Sprint or Verizon, those phones are based on

1 different technology. So each one of those phones
2 has its own GPS receiver in the phone that allows you
3 to, you know, see your location on a map, to actually
4 go out in some cases query that device to find out
5 where it is. That's not what we're talking about
6 here, though, and I want to make that clear.

7 The GSM device that Holly Bobo had the day
8 that she disappeared didn't have any of that GPS
9 technology associated with it. So the best thing
10 that they could do was go to AT&T, who was the
11 service provider, and say can you do your best case
12 to find out where this device is in the network, and
13 that's what these locates are.

14 I guess contrary to Agent Frizzell's
15 assertion of what these locates are, I have the
16 slightly more nuanced and more detailed approach to
17 what these locates are knowing how the networks
18 actually operate.

19 Q. And have you ever done locates personally?

20 A. Yes, I have.

21 Q. And when you say -- when I said "done", what
22 does that mean, if you --

23 A. I mean in some cases literally just typing
24 the command into the computer that says locate this
25 device, enter, and it will come back and give you the

1 information on where that device is. You know, the
2 specific raw data on that device.

3 Q. So you're saying -- like, have you done
4 locates as a service provider for other people
5 wanting to know where a phone is?

6 A. Yes.

7 Q. Okay.

8 A. I've done it -- I've done it both internally
9 for testing verification. We'll do it on technicians
10 that are out in the network so we can find out where
11 technicians are and make sure the right information's
12 coming back. But I've also done it in previous cases
13 where they're trying to find a missing person.

14 Q. So you've been the -- actually the person
15 that gives the locate information to someone that's
16 requesting on it?

17 A. On occasion, yes.

18 Q. Okay.

19 A. So the important thing to understand here is
20 when law enforcement or anyone goes to AT&T and says
21 I have a phone number, I want to know where this
22 device is, AT&T ideally would come back with
23 coordinates and say the phone's right here, but
24 that's not possible in this case as we just covered.

25 So instead, AT&T provides the best

1 information that they have available. Now, if AT&T
2 comes across and says, hey, we have this cell site,
3 it's at this address and it's got these antennas on
4 it and you're in the middle of trying to track down
5 someone, that information doesn't do you any good
6 because you don't know what that cell site is, what
7 the antennas are, the sectors are that are on that
8 cell site.

9 So what happens instead is they try to take
10 that raw information and put it into more -- we'll
11 say generally understandable format.

12 In this case, they're actually providing a
13 pinpoint coordinates, and a -- they describe it as an
14 uncertainty radius. So they essentially put in a dot
15 and a circle around that dot and say this is the area
16 that the device could be in. But the reality is is
17 that because of how rural these sites are, the only
18 information they really have is just what serving
19 cell -- and by serving cell I mean the sector. If
20 you recall Agent Frizzell last week, he discussed how
21 individual cell sites are divided up into thirds
22 essentially. He used the clock as an example. I
23 like to -- maybe I like my food too much. I like to
24 use the analogy of a pizza or a pie. You cut the
25 pizza into thirds and each third of that pizza is

1 where that sector serves if you're looking down, you
2 know, from the sky at the cell site.

3 Q. And do you have a slide that demonstrates
4 this?

5 A. So in this case, this is the raw information
6 that was provided to law enforcement at the time of
7 Holly Bobo's disappearance, and they're marked as
8 locate and the time. And the pink center point in
9 each one of these cases is the location of the
10 coordinates, and the yellow shaded area is the radius
11 or the uncertainty that went along with those
12 coordinates.

13 The -- when I first saw this information, I
14 thought perhaps this actually was based on -- we'll
15 say some sort of network-based location-based
16 services. I think you guys might recall
17 Agent Frizzell using that tagline on Saturday,
18 location-based services. But as I looked at this --
19 let me back up actually. Location-based services and
20 what he's talking about is the ability for the
21 network to do some extra -- I hate to say magic --
22 but just some extra processing to try to find more
23 information about where that cell -- or that device
24 is at the time of that locate.

25 Based on this information, though, it became

1 pretty clear to me that there was no location-based
2 services associated with this data. The thing that's
3 most obvious is in each one of these case -- cases,
4 the center points are just the same -- the center
5 beam of that individual antenna for that sector. In
6 addition --

7 Q. So what do you mean by that?

8 A. Okay. So each -- we talked about dividing
9 the pizza up into thirds. So in this case, the
10 sectors are made up by individual antennas on each
11 one of those faces that essentially serves that slice
12 of the pizza. In this case --

13 THE WITNESS: May I stand, Your Honor?

14 THE COURT: You may.

15 THE WITNESS: So what I'm showing here is
16 the actual predicted sector location for that
17 antenna. And the actual bearing -- I think you heard
18 Agent Frizzell describe it as an azimuth. The actual
19 main focus point of that antenna points right out at
20 60 degrees in this case, and when we draw a line at
21 60 degrees, it comes right on the center point of
22 that locate that was returned.

23 In addition, every single other one of them
24 does the same thing with their respective sectors.
25 It's -- in each case it's within half a degree, if

1 not right on the degree, of the azimuth of the
2 antenna. In addition, as you look --

3 Q. So you're saying it's right in -- dead in the
4 center of that sector's antenna, the locates are?

5 A. It's in exactly the azimuth that that antenna
6 is pointed at.

7 Q. Okay.

8 A. And I will get to why this is important in
9 just a second as we cover the radius as well. If you
10 look at the radius of each one of these circles, in
11 each case the radius from the center point that they
12 provided is essentially just enough to get it back to
13 the cell site with a little bit more to spare. So it
14 goes around the back side of the cell site.

15 So in this case, it's 108 percent of the
16 distance. It's 104 percent of the distance. It's
17 105 percent and 105 percent. That's important
18 because those numbers aren't random. Specifically,
19 I've been responsible for many of my customers to
20 actually fill out the data that goes into the systems
21 for 911 services. And you specifically enter in for
22 these -- for these locations. You specifically enter
23 in all the antenna information, the azimuth of the
24 antenna, and the serving distance. This information
25 up here as I see it is strictly just -- it's just

1 saying this is the sector that the device is on, and
2 this is our best approximation of where that sector
3 serves.

4 So let's take it back for a second. At the
5 point where law enforcement requests a locate on the
6 device, AT&T -- someone at AT&T goes in, types in the
7 command locate this number. They get information
8 back. Now, if they just came back and said it comes
9 back on cell 10961 -- which these are the labels for
10 the individual cells in the sector. If they say it
11 comes back on 10961, that doesn't mean anything to
12 anybody. I wouldn't know what 10961 is, and I'm an
13 expert.

14 But if they provide the location information
15 you see up there with a dot and a circle, that's
16 their best attempt at trying to say, hey, look, if
17 you're trying to find somebody right now, we don't
18 have any other information we can hand you easily,
19 here's the best way to try to find it.

20 My statement here is that this is -- it's
21 certainly valid for what it is, but it's not as
22 detailed as actually tying it back to the cells
23 themselves. And the reason for that is is that the
24 previous slide, these are just approximations of the
25 coverage area. We -- this is literally the simplest

1 way that you can try and just say she's somewhere in
2 this area.

3 Now, in the example of the locate at 120
4 degrees from the right side, that's a huge area. And
5 if you look at it, it actually almost leads us to the
6 very next cell site. Realistically, if we were to
7 instead say, you know, we're really only looking at
8 where she's located in these individual sectors, we
9 can narrow that area in significantly.

10 The important thing to note on that as well
11 is the -- during Agent Frizzell's presentation to
12 everybody here, he repeatedly made the statement they
13 were in the same general area at general times, or
14 they were on the same tower at the same general
15 times. The thing that's really unique about this,
16 though, is if you look at these sectors and the way
17 the coverage from the sectors works, there's not
18 going to be a situation where the locate at 9:10 a.m.
19 on cell 31522 would ever overlap with the locate on
20 85710961. They're two distinctly different areas.
21 And even in the scenario where locate 9 and locate --
22 I'm sorry. I think they're mislabeled. It's
23 locate --

24 Q. I think --

25 A. -- yeah, 902 and locate 910 --

1 Q. Can I interrupt you just a second?

2 A. Yeah.

3 Q. Your little controller there has a laser
4 pointer on it, too.

5 A. Oh, it does.

6 Q. Because I'm getting lost just a little
7 about --

8 A. Oh, like that. Okay. So you can see in this
9 sector here, there is a very distinct difference
10 between being in the sector and this -- the area that
11 this covers than being in this sector and the area it
12 covers.

13 Now, there were maps that were provided by
14 AT&T to law enforcement during this time that
15 specifically showed their own internal predictions
16 for where they expected these cells to cover. So now
17 if we -- instead of looking at the big circles, we
18 now come back and look at the individual -- it's
19 what's called a predicted server map. If we look at
20 that, we can now narrow in those areas much further.

21 Q. Can I -- can I pause you just one second?
22 This -- it's not even showing. Let me just bring
23 this up to you. And I think this is Exhibit 219.
24 When you say the overlay map, is that what you're
25 referring to when you talk about an overlay map?

1 A. That's correct. This is a predicted best
2 server map.

3 Q. Okay. Just to -- show that to the jury. I
4 know they've seen it.

5 A. So the key here is that now rather than
6 looking at individual points and a large circle
7 around it, we can now narrow in on specifically where
8 we know these devices were at the time. And
9 certainly the day and the morning of her abduction to
10 try to narrow it back to this and have a predicted
11 server map, it's unfortunately not realistic and it's
12 not available.

13 But after the fact, being able to actually
14 look at the engineering that goes into the system and
15 know where these cells served, we can make a much
16 more educated estimation of where the devices were
17 throughout these times.

18 Q. So rather than have a big blob of where
19 everybody was, you're saying you can -- are you
20 saying you can narrow it down to a specific area?

21 A. That's correct.

22 Q. Okay.

23 A. That's correct. We can use the combination
24 of these individual sectors as well as that best --
25 predicted best server map to be able to narrow in on

1 where these devices were. So rather than saying the
2 devices were on the same tower, they happen to be in
3 the same general area, we can make much more precised
4 estimations as far as where these devices are.

5 Q. Okay. So doing that, what were you able to
6 determine?

7 A. So really the only -- the only key difference
8 here is that rather than putting in locates with the
9 large areas on them, I've now assigned the locates to
10 the individual sector that would have been serving
11 the device at that time that that locate was
12 performed. So you can see on the right side here --
13 well, first let's discuss what this is.

14 This is -- this is call records for
15 Holly Bobo and Zach Adams from 8:19 a.m. to 9:50 a.m.
16 Technically it's 8:17, because that's the first
17 record on here for Holly Bobo's device. But it's
18 8:19 was the first activity we have that morning on
19 Zach Adams' device.

20 I found it a little bit odd that the
21 statement made by Agent Frizzell last week was that
22 there was no activity on Zach Adams' device or
23 Jason Autry's or I believe it was also Shane Austin's
24 device during the abduction. You know, as far as how
25 I'm looking at this, I'm not looking at a timeframe

1 relative to any other event other than just saying we
2 have activity on Holly Bobo's device, be it a call or
3 a locate, all the way up until 8:25 a.m.

4 So wherever there's overlap here, that's what
5 I'm presenting. I'm just presenting where there's
6 overlap between the devices in time.

7 Q. So you're saying there were other calls that
8 were made? Texts, calls that were made on the
9 devices, but you're just picking out the ones that
10 were close in time to Holly's phone?

11 A. Correct.

12 Q. To show where devices were located?

13 A. Right. I'm trying to show if there's any
14 sort of correlation between the devices, the device
15 location and the times.

16 Q. Okay.

17 A. So you can see here at 8:17 a.m. there was a
18 text from -- well, essentially, 1100 was the
19 voicemail notification to Holly Bobo's phone. It was
20 made on 10962. 10962, when I define that, that's the
21 cell, and that's that sector there. The important
22 thing about that event was that was one of the -- I'm
23 sorry. That was the first record on Holly Bobo's
24 device that morning that was not on one of the cells
25 that would otherwise serve her home area. Her home

1 location is marked on here. I know Agent Frizzell
2 covered that as well, but there were several
3 different sectors that would cover her house and
4 that's because she is in a very rural, hilly area,
5 and it's possible that different cell sites down in
6 this area all could see her house at different times
7 in different ways.

8 So prior to 8:17, all of the other activity
9 was still on sectors and cells that are down in that
10 area between Parsons and Darden.

11 Q. So this 8:17 is the first cell signal that
12 shows her phone has moved away from her home
13 location?

14 A. That's correct. The information that was
15 presented here is color-coded with Holly's records in
16 pink lettering, Zach's in black lettering, and then
17 the backfill that you see here is for the individual
18 sectors that it associates with. So where you see
19 this one's in blue, this sector in blue is the one
20 that she was on. So even if you don't want to be
21 able to match up that number, you can just look at
22 the colors to be able to see where each one connects.

23 So you can see at 8:17 a.m. there's activity
24 on Holly's phone on the -- I'm going to say it's the
25 south sector of the Natchez Trace site. But two

1 minutes later there's activity on Zach's phone on the
2 southeast sector of the Cox Road tower. So within
3 two minutes Holly has activity here and Zach has
4 activity over here. They're not in the areas or on
5 sectors that are significantly overlapping. It's not
6 like they're in areas where they're, you know,
7 literally two sectors that are right next to each
8 other, pointing into each other where you could think
9 hey, within two minutes you could be back and forth
10 between these two sectors. Not typically.

11 Once again, at 8:25 a.m. there's activity on
12 Holly's phone also on that same sector. So she's
13 still on the same cell sector of Natchez Trace. And
14 four minutes later there's activity on Zach's phone
15 still on that home sector. I say home sector,
16 because you can see that his house is actually
17 located where that sector would be the one most
18 likely to serve it. Has been consistently shown to
19 be the sector the serves his home location.

20 So within two minutes we have very discreet
21 locations for both devices. And then within four
22 minutes, again, we have that same breakdown of
23 different locations for those same two devices. My
24 conclusion looking at this is that this is not
25 conclusive -- or is not expected to be that the two

1 devices were at the same place at the same times.

2 Certainly there is a two-minute gap between
3 the one and the four-minute gap on the other, but
4 that's not really enough time from looking at the
5 maps to be able to transition those two sectors and
6 move from one sector to the next.

7 Likewise -- so until 8:38 Zach remains on his
8 southeast sector of Cox Road. At 8:53 to 8:55 he
9 then transitions over to the southwest sector. Now,
10 you can see that this actually starts to become at
11 least closer to Holly's device. Holly's device at
12 8:57 has a locate on 10961 up on this sector here,
13 the northeast sector of Natchez Trace.

14 So within three minutes, they're now on two
15 different sectors. And now they are getting closer,
16 but they're still not necessarily in the same exact
17 location.

18 Q. Now, let me ask you this: If Mr. Adams was
19 in his home, let's say he walked over to his
20 grandfather's house -- you say that he's on sector
21 two, that 31522, but he's not actually within that
22 piece of pizza. He's kind of in the middle there.
23 What does that have to do with anything?

24 A. There's a very important distinction. While
25 we can sit here and say that he's here and he's most

1 likely to be on this sector, he's actually in a kind
2 of between area. So any time you're between these
3 two sectors here in that gap, there's a possibility
4 that you could be on one or the other just depending
5 on what your activity utilization movement looks
6 like.

7 So it's not impossible that he would still be
8 at that same home location or at least very close to
9 home, but still have transitioned over to this other
10 sector.

11 So to follow through with the rest of the
12 locates on here, you can see at 8:58 Zach's device --
13 at 8:58 and 8:59 Zach's device transfers back over to
14 that southeast sector of Cox Road. At that same
15 time -- or sorry. Two minutes after that, there's a
16 locate done on Holly's device that then moves it into
17 that southwest sector of Cox Road.

18 At 9:06 there's another activity. There's
19 actually a voice call on Holly's device that was
20 unanswered, still on the same sector. So the 901 --

21 Q. And let me ask you: See right there on that
22 Holly's device at 9:06, that (901)552-9905, is that a
23 voicemail call? That phone number, does that
24 represent a call going to voicemail?

25 A. Yes.

1 Q. Okay.

2 A. Yeah, none of these calls were answered by

3 Holly's device --

4 Q. Right, but --

5 A. -- throughout this period.

6 Q. -- I'm just specifically asking you about

7 that phone number. That 901 number, that's

8 indicative of the voice call --

9 A. Going to voicemail.

10 Q. Okay. Voicemail number. Got it.

11 A. So at 9:10 a.m. -- now granted Zach has been

12 back on the eight -- sorry. From 8:58 and 8:59, he's

13 back on his home sector. At 9:01 and 9:06 Holly's

14 device is still on this other sector to the

15 southwest. And then at 9:10 there's activity on

16 Zach's phone and on Holly's phone in that same

17 sector, and there's also activity again at 9:12 on

18 Zach's phone. So at 9:10 there is an overlap on

19 these sectors. A one for one overlap that they're

20 both using the same sector at the same time.

21 And then to complete the loop -- I'm going to

22 come back to this in a second. To complete the loop,

23 at 9:25 a.m. the final locate that was performed and

24 successful on Holly's phone placed it down off this

25 northwest sector of Parsons. The -- as I review this

1 information and I look at the data for that morning
2 on Holly's device, the general trend is that it
3 starts down in and around her residence. She travels
4 up for an extended period in the south sector of the
5 Natchez Trace site. She then transitions fairly
6 rapidly. Well, I say fairly rapidly. From 8:26 to
7 8:57 there's no data on Holly's device to know where
8 she is or what she's doing. Or where the device is,
9 I'm sorry. So there is a significant gap in there
10 almost of a half hour. More than a half hour. But
11 when she registers on this site for that locate, it
12 fairly rapidly from 8:57 to 9:01, 9:06, 9:10 proceeds
13 to move in this direction. And then ultimately
14 coming back down in order to be on this northwest
15 sector of Parsons.

16 So the general trend is the device spent some
17 time down in this area or even up between these two
18 sectors. But then ultimately completed a loop back
19 down this direction. The -- by contrast, Zach Adams'
20 device stayed either on this home sector or for a
21 brief period was back onto the southwest sector and
22 then returned back to his home sector.

23 Q. Okay. And then the final one, you do have a
24 final one down there at the bottom that's in purple?

25 A. Yes. I included -- it doesn't show up real

1 well for everybody on here, but I included this last
2 record for Zach at 9:50 a.m., because it places him
3 far, you know, well outside of this area into the
4 northeast of the Birdsong tower. And there's going
5 to be some slides that we'll use to cover that period
6 of time as well. I just wanted to show you that
7 there was -- you know, this is the nearest record to
8 9:25 as that 9:50 record for Zach.

9 Q. And that Birdsong tower, is it over there by
10 the Tennessee River?

11 A. It is.

12 Q. Okay.

13 GENERAL HAGERMAN: Excuse me. What page
14 is this? I'm just trying to keep track of your
15 report. Do you know?

16 THE WITNESS: This particular one?

17 GENERAL HAGERMAN: It's the one that --

18 THE WITNESS: Yeah --

19 GENERAL HAGERMAN: -- on the screen.

20 THE WITNESS: I'm sorry. They're not
21 numbered.

22 GENERAL HAGERMAN: Okay.

23 MS. THOMPSON: Seven.

24 BY MS. THOMPSON:

25 Q. Page -- Mr. Reeves, is this page 7? That --

1 where you have that chart? Oh, you're going to
2 count?

3 A. Yes, it's page 7.

4 GENERAL HAGERMAN: Thanks.

5 BY MS. THOMPSON:

6 Q. Can I just make a notation of 7 at the bottom
7 of your report here?

8 A. Certainly. The next pages of my report
9 essentially just summarize what I just went through
10 here as far as the individual call records, the
11 timeframes, where there was activity, who it was by,
12 and it's all color-coded in here with Holly Bobo's
13 records in pink and Zach Adams' records in blue.

14 And then ultimately the conclusion that I
15 just gave you regarding the transitioning of the
16 phone or the movement of the phone is presented as
17 well.

18 So in this slide I essentially covered that
19 same timeframe, but I covered it for Jason Autry.
20 And to be clear, I don't include everybody's records
21 all in one page because frankly there's too many, and
22 it would get too jumbled. So if I tried to include
23 Holly Bobo's, Zach Adams' and Jason Autry's all in
24 one slide, there would be too much information, too
25 many records to actually fit onto the slide to be

1 able to be seen. So there's a couple of slides later
2 on that you'll see where it gets a little bit small,
3 hard to read, and that's why I had to split then out
4 into separate slides.

5 Q. And now we're on page 10 of your report; is
6 that correct?

7 A. Correct.

8 Q. I'll put a 10 on the exhibit if that's okay
9 with you?

10 A. Yes. So in this map it's the same exact map,
11 same locations, same color codes. The only
12 difference here is that we're now looking at
13 Holly Bobo's phone and Jason Autry's phone. We can
14 see the same exact records that we just discussed for
15 Holly Bobo, and now we're looking at Jason Autry's
16 instead of Zach's.

17 We can see that this 8:19 call looks very
18 similar to Zach's because that was actually a call
19 from Jason Autry to Zach Adams. So they both had
20 calls at 8:19. We can see that the Jason Autry
21 calls, all these in the lighter shade of yellow or
22 cream, are actually for this sector up here. I know
23 it's not a real good contrast, but all of these
24 records were on --

25 Q. Can you say out loud for the record what

1 sector you're pointing to with your pointer?

2 A. Yeah, I was going to say the sector that I'm
3 pointing is the cell 31521. That's the north sector
4 of the Cox Road tower. So during this timeframe on
5 Holly Bobo's device is down on the south sector of
6 Natchez Trace, Jason Autry is on the north sector of
7 Cox Road in very discrete and different locations
8 than anything that would be served down here.

9 He remains in that general area until 8:40
10 a.m., and then at 8:52 he transitions into the
11 southeast sector of Cox Road tower, 31522. Up 'til
12 8:55 he remains on that sector, so still in that
13 southeast area. We have these same activity on
14 Holly Bobo's device from 8:57 to 9:25 a.m. with no
15 activity on Jason Autry's device during that same
16 timeframe.

17 Lastly the -- and it's cut off on there. But
18 lastly, I included the record at 9:42 a.m. where
19 Jason Autry's device transitioned to the northeast
20 sector of Birdsong.

21 Q. Is that the last call there --

22 A. Yeah.

23 Q. -- received?

24 A. And we will cover that in a separate slide
25 for that timeframe.

1 Q. Okay.

2 A. I just wanted to include his next record just
3 so you could see the gap in the time when there was
4 activity.

5 So the next page of my report covers
6 essentially exactly what I just discussed, the
7 individual call records, what the activity was, and
8 it does go into a little bit more detail further down
9 the timeframe to 11:40 a.m., but there will be a
10 separate slide that I'll discuss that activity in
11 more detail.

12 So my conclusion on Holly Bobo's device
13 doesn't change from this. Her activity and her
14 records are still the same. So what I discussed
15 before about the movement of the device and the
16 generally clockwise manner remains the same. The
17 only thing that's new on this conclusion is just that
18 Jason Autry's device during the timeframes and the
19 records that were available don't place him in any of
20 those locations at exactly the same times or
21 locations. There's certainly the -- there are
22 records, you know, where he's -- at 8:55 he's on that
23 southeast sector, but Holly Bobo's device does not
24 reach that sector until 9:10 a.m.

25 Q. Now, on that same slide number 10 -- page 10,

1 at any point does Jason -- well, where would you
2 expect Shane Austin's home tower to be?

3 A. So it's labeled on here as the Austin
4 residence, and the sector that we've consistently
5 seen that serves him, as predicted to serve him, is
6 that southwest sector of Cox Road tower.

7 Q. And can you give us a number for the record
8 because she's writing things down?

9 A. Cell 31523.

10 Q. Okay.

11 A. Yeah, 31523. And we'll actually get to
12 Shane Austin's record in the next set of slides.

13 Q. Okay. At any point, though, from these
14 records on page 10, does it appear that Jason Autry
15 is on Shane Austin's home tower?

16 A. There are no records or activity that
17 indicates Jason Austin (sic) used that 31523 sector.

18 Q. Okay.

19 GENERAL HAGERMAN: Can you -- go to the
20 one you just flipped through right there? What page
21 is that?

22 THE WITNESS: 12.

23 MS. THOMPSON: Is that 12? That would
24 that be page --

25 GENERAL HAGERMAN: 12?

1 THE WITNESS: This is 12.

2 MS. THOMPSON: -- 12 if it's two pages
3 down from 10?

4 THE WITNESS: Yeah.

5 GENERAL HAGERMAN: Thank you.

6 THE WITNESS: I think this would be page
7 13.

8 BY MS. THOMPSON:

9 Q. Is it okay if I just go through and number
10 the pages in your report?

11 A. Yes, absolutely.

12 Q. Okay.

13 A. So this map and the information on it depicts
14 essentially the same information that we've been
15 covering, but in this case it's for Holly Bobo's
16 records as well as for Shane Austin's phone records
17 for that morning.

18 In Agent Frizzell's report he didn't include
19 any of the information for Shane Austin. He just
20 said that there was no activity on his phone during
21 that timeframe. And while it's correct, I thought it
22 was important that we at least present what activity
23 there was as it relates to Holly Bobo's device and
24 her timeframe.

25 So specifically Shane Austin's first activity

1 is at 9:23 a.m. So there is some overlap, meaning it
2 does slot between these two locates that we've
3 discussed before on Holly Bobo's device at 9:10 and
4 9:25. But Shane Austin's activity at 9:23 a.m. is on
5 cell 31523, which is the cell that we discussed
6 previously as expecting to serve his home location.
7 You can see then from 9:45 on he continues to have
8 pretty consistent activity all the way up 10:55 a.m.,
9 all the while on cell 31523, that home sector. It
10 isn't until 11:01 a.m. that he actually leaves that
11 cell and transitions on to the southeast sector
12 31522.

13 You can also see based on these two locates
14 that there is a 9:23 a.m. activity on Shane Austin's
15 device, and there's a 9:25 a.m. locate on
16 Holly Bobo's device on to discreetly different
17 sectors, but there could be some -- because they do
18 point into each other, there could be some potential
19 overlap or some areas where they would have -- be
20 adjacent to each other where you handoff from one
21 sector to the next.

22 And then this slide I'm just discussing, you
23 know, the details of what we just looked at on the
24 map for the individual call records. There's very
25 little that we can actually determine from these call

1 records because there are so few of them in the
2 overlapping timeframe. The closest one is the 9:23
3 to 9:25. So I can't come to any definitive
4 conclusion or make any predictions on exactly what
5 was happening with regard to Shane Austin's device
6 during the time where there was no activity.

7 So as we discussed previously, I was going to
8 also cover the timeframe where Zach Adams' and
9 Jason Autry's devices left the Holladay area and
10 traveled to Birdsong. The information in here, it's
11 still color-coded to the individual sector. So we
12 see it in purple, and that's that purple sector at
13 39077 -- for cell 39077. Where it's in brown, that's
14 that northwest sector, 390079. This particular
15 sector, it's color-coded, but it's never actually
16 used in any of the records. So if they were
17 transitioning through this area, it never actually
18 has any activity on that sector during that
19 transitioning.

20 And then you can see these sectors are still
21 color-coded the same, so you can see the -- start
22 from the top at 9:12 a.m., there's activity on
23 Zach Adams' device on his home sector. There's a gap
24 until to 9:42 a.m. where both -- well, 9:42
25 Jason Autry has activity on that northeast sector of

1 Birdsong, 39077. At 9:50 a.m. Zach Adams also has
2 activity on 39077. There's considerable number of
3 calls by Zach Adams during this timeframe all the way
4 up to 10:30 a.m. -- 10:32 a.m. At which point they
5 both started transitioning back into this northwest
6 sector, back into the southeast sector. At which
7 point we don't have any more records for Jason Autry
8 for sometime, but Zach Adams does return to the
9 southwest sector of Cox Road.

10 Q. Okay. Now, let me ask you about this
11 transition. If you look at the last purple row up
12 there. That's a Zach Adams call -- it's a text
13 actually, and it's a text out from his phone; is that
14 right?

15 A. That's correct.

16 Q. At 10:32?

17 A. Yeah, 10:32 a.m. there's a text from
18 Zach Adams' phone to (731)733-1346.

19 Q. Okay. Perhaps a girlfriend's telephone
20 number.

21 Did you -- did you analyze Rebecca Urp's
22 telephone records?

23 A. I did. I don't have it memorized off the top
24 of my head.

25 Q. Okay. So based on this call, he's at the

1 Birdsong 7 tower; is that right?

2 A. He's on the northeast sector of Birdsong.
3 And this is -- there may be some questions on this,
4 so I do want to cover this. As we've discussed in
5 the past, we've always discussed it being three
6 slices of pizza evenly distributed, 120 degrees each.
7 But when you get into the real world in the
8 engineering, sometimes that doesn't actually work
9 that way. So what you can see here is that these two
10 sectors don't actually make up perfect slices of pie.
11 They're actually a little bit more off of their
12 azimuth. That's why you see a larger gap up here.
13 So the actual engineering information that we were
14 provided shows that these sectors were a little bit
15 more east and west to shoot up and down -- east and
16 west down the interstate for that particular site.
17 It's not that it's anything critical, but it is a
18 difference from what's kind of standard and what
19 we've been discussing to this point.

20 Q. And if somebody were over -- okay. I'm sorry
21 scratch that question.

22 So then his next call from the -- and I'm
23 calling it Birdsong, but you're calling it 39077
24 tower?

25 A. Correct. This is the northeast sector of the

1 Birdsong tower.

2 Q. And that's at 10:32. At 10:35 he has a voice
3 call, and that is on the 39079 sector?

4 A. That's correct. That's the west --

5 Q. It's directly west of where he was before?

6 A. That's correct.

7 Q. Okay. And then he has another call at 10:35,
8 another voice call? Does that look right?

9 A. Yes.

10 Q. Okay. And then he has another call at 10:36.
11 Does that look right?

12 A. Yes.

13 Q. Okay. And then he has another call at 10:36.
14 Well, there's a text there and then a call?

15 A. Yes. There's a text message at 10:36, and
16 then there's a phone call.

17 Q. Okay. And then at 10:37 he has a text
18 message?

19 A. Correct.

20 Q. And all of those are in that Bird -- that
21 39079 sector?

22 A. That's correct.

23 Q. And that goes from 10:35 to 10:37?

24 A. Correct.

25 Q. So that's a three-minute -- two-minute gap

1 there?

2 A. Correct.

3 Q. Okay. And then the very next thing, he is --
4 at 10:38 he has a text call, and he's back in Cox
5 two?

6 A. Yeah, he's on the southeast sector of Cox
7 Road, and it's 31522.

8 Q. And we're calling these Cox two because the
9 tower is actually located on Cox Road?

10 A. Yes. There's many different names that even
11 AT&T uses for these --

12 Q. Okay.

13 A. -- individual sites and --

14 Q. But when I said that, what I meant was it's
15 31522?

16 A. That's the correct cell number, yes.

17 Q. Okay. If you'd just indicate where that is
18 for the jury?

19 A. That's the record, and that's the location.

20 Q. Okay. So that is one minute later at 10:38?

21 A. That's correct. And the -- there certainly
22 could be some questions over that, but as you
23 transition from this sector -- sorry. As you drive
24 west from Birdsong towards Cox Road, whether you do
25 it on the highway or you do it on one of the back

1 roads, at some point there's going to be a transition
2 where you go from one sector to the next. And this
3 one seems pretty clear that they transitioned from
4 the one sector on the northwest sector of Birdsong to
5 the southeast sector of Cox Road at right about that
6 point, and it doesn't bounce back after that.

7 Q. And he's made that trip in a total of five
8 minutes from 10:32 until 10:38? Six minutes?

9 A. Yes, that's the difference in time.

10 Q. And he does not on -- during that time hit
11 off of 39078, which would be Birdsong south tower?

12 A. That's correct. There were no records that
13 utilized 39078, that south sector on Birdsong during
14 that time.

15 Q. Okay. And I'd like to show you a map, if I
16 could.

17 Okay. Are you going to be able to switch
18 back and forth?

19 A. Yeah, if you unplug the cable from my laptop,
20 it should.

21 Q. I think that's possible now. I'll never get
22 it back working again.

23 A. There's two ports on the back. It's got to
24 go in the one towards the back.

25 Q. Display out, not computer in. That's

1 helpful.

2 A. There you go.

3 Q. I'd like to show you a map here. You can see
4 this map. So on this --

5 This is Exhibit Number, for the record, 237.
6 So if somebody were at the Tennessee River starting
7 up here and this is I-40 -- can you see that it says
8 I-40 there? I could make it zoom --

9 A. Yes --

10 Q. -- in more.

11 A. -- I can see it. Well, I could.

12 Q. Okay. You see now that it says I-40 up
13 there? Yes? Okay.

14 So if you were over here at the Tennessee
15 River and you traveled straight down until you get to
16 this part of the water that kind of jerks out there
17 around Nick's Landing, and then you were to cut over,
18 would you expect to show up in that Birdsong eight,
19 that lower quadrant cellular tower, if you were on
20 the phone at that time?

21 A. If there was activity during that time where
22 they transitioned in that area, I would expect to see
23 it on that south sector of Birdsong or the 39078
24 cell, yes.

25 Q. Okay. And do you ever see any activity this

1 morning on that Birdsong eight sector?

2 A. No, there was no records of activity on that
3 39078 sector.

4 Q. Okay. So now we're back to your report.

5 A. And before I move on from this particular
6 page, are there any other questions on this page?

7 Q. Not that I can think of.

8 A. Okay.

9 Q. So now we're to page 17.

10 A. So once again, I'm just recapping the
11 discussion that we just had as far as the timeframe,
12 the sectors that were used during those times and the
13 conclusion. It does appear that both devices
14 traveled at that same time through those same areas,
15 because there were records that tied them up in very
16 close -- very close in time as well as on the same
17 sectors. So it will certainly be within the realm of
18 reason that those two devices were together as they
19 made that trip, at least until the point where they
20 returned -- until they returned back onto the
21 southeast sector of Cox Road. At which point, there
22 are no records from Jason Autry, but Zach Adams does
23 continue on to a southwest sector. .

24 Q. Okay.

25 A. And this is the last -- the last map and the

1 last analysis that I have. And specifically the
2 timeframe that we're looking at here is after
3 Zach Adams' device returns from Birdsong. So if you
4 look at that previous slide, the last record was
5 10:49 a.m., and if you look at this next slide, it's
6 10:49 a.m. on the top line.

7 So this map covers a timeframe from when
8 Zach Adams' device returns back to the Cox Road site,
9 and the activity of Zach Adams' device and
10 Shane Austin's device for essentially the next
11 approximately hour and a half. And during that
12 timeframe you can see Zach Adams and Shane Austin are
13 both on that southwest sector of Cox Road, 31523,
14 until 10:55 a.m.

15 Q. So that would be Shane's home sector?

16 A. Correct. That would be the sector that we
17 expect to serve and we -- been noted to serve
18 Shane Austin's home.

19 Q. Okay. So they're there what looks like about
20 six maybe ten minutes?

21 A. Some -- yes, somewhere between six and ten
22 minutes.

23 Q. Okay.

24 A. Because at 11:01 a.m. Shane Austin's device
25 transitions to the southeast sector of Cox Road,

1 31522.

2 Q. Okay. And that would be back by the
3 interstate anywhere --

4 A. Well --

5 Q. -- from --

6 A. Yeah, it could be anywhere down in this --

7 Q. Right.

8 A. -- this area.

9 And then from there -- and the colors don't
10 match up real well, but you can see the color code
11 here. This is red to match up with the red sector,
12 the south sector in Parsons. This pink doesn't match
13 up real well with the pink they chose for there, but
14 this 12571 record would match up with 12571 cell, and
15 then all the rest of these records from 11:15 a.m. to
16 12:10 p.m. are all on that south sector of Parsons.

17 At 12:18, that's the first record we have on
18 12571, that northeast sector of Parsons. Most likely
19 as they start to travel back to the north. And then
20 at 12:35 they're back up on the home sector for
21 Shane Austin.

22 Q. Okay.

23 A. The key -- the key takeaway is that both of
24 these devices were active during that timeframe.
25 They both traveled the same general direction, were

1 active on the same sites. So it may certainly be
2 reasonable to conclude that they were together during
3 that timeframe in those locations.

4 Q. Okay. So reasonable to conclude that
5 Shane Austin and Zach Adams' telephones were together
6 since they seem to be making transitions together; is
7 that right?

8 A. Correct. Based on the activity on the same
9 cells within the same timeframe.

10 Q. Okay.

11 A. Very similar to the analysis that we had just
12 gone through for the Birdsong sectors as well.

13 Q. Okay. Okay. Did you also do some analysis
14 regarding activity on the Birdsong cell tower and
15 different dates?

16 A. Yes. I specifically looked up activity and
17 made some notes of how often both Zach Adams,
18 Jason Autry, Dylan Adams, and to a -- I believe a
19 lesser extent Shane -- I think I said Shane Austin
20 already. Zach Adams, Jason Autry, Dylan Adams and to
21 a lesser extent Shane Austin, their devices were over
22 on that same northeast sector of Birdsong. So --

23 Q. Okay.

24 A. Specifically this sector here.

25 Q. Let me see if I can --

1 MS. THOMPSON: If I can have a minute,
2 Your Honor? Let me see if I can find that --

3 BY MS. THOMPSON:

4 Q. You did a spreadsheet; is that right?

5 A. I did. I don't know if it was printed out
6 or --

7 Q. Okay.

8 A. -- presented in that form.

9 MS. THOMPSON: If I can have a minute to
10 find it? Your Honor, there's a spreadsheet I'm
11 looking for in all these papers. I can't find it
12 right now. But --

13 THE COURT: I think he said he wasn't
14 sure it was published.

15 MS. THOMPSON: No, it --

16 THE WITNESS: I know I have e-mailed --
17 prepared and e-mailed it. I don't know if I ever
18 printed it.

19 THE COURT: Okay.

20 MS. THOMPSON: Okay. I think I need to
21 print it. It's close to lunchtime. Would you it be
22 possible for us to take our lunch break now?

23 THE COURT: We can do that. Usually they
24 bring their food in about this time, so we'll go
25 ahead and take our lunch recess. You folks take

1 about an hour. We'll call for you. So follow the
2 admonitions I gave you at the outset.

3 (WHEREUPON, the jury left the courtroom,
4 after which the following proceedings were had:)

5 THE COURT: Mr. Simmons, you want to take
6 the matter up in there?

7 MR. SIMMONS: Yes, sir.

8 THE COURT: So I'll need the State
9 attorney concerning the Touhy issue.

10 GENERAL NICHOLS: Okay. We going to do
11 that now?

12 THE COURT: I'll need the court reporter.
13 Why don't you just stay put. We'll clear the
14 courtroom and shut the cameras down, and we can just
15 do it here. So let me ask everyone to be excused.
16 Camera down? Cameras down, correct? All right.
17 Thank you.

18 All right. We ready to go?

19 Okay. You can put anything on the record you
20 want, Mr. Simmons.

21 MR. SIMMONS: Your Honor, Jim Simmons.
22 My concern is given the Touhy restrictions by the
23 federal agent that the record in this case is
24 incomplete, I think, in two respects. And the first
25 as to Mr. Walker's -- I believe it was during the

1 out-of-court offer of proof, which he was not allowed
2 to answer, if I remember correctly, certain questions
3 regarding to -- number one was the devices and his
4 training which enabled him to capture the information
5 that he did. And the lack of that information, the
6 training and expertise, I think is the basis for the
7 Court's ruling that he could not be qualified as an
8 expert. So what we -- excuse me. What we have is a
9 ruling by the Court based upon the lack of
10 information or potentially the lack of information,
11 which was precluded by the attorney for the United
12 States advising Mr. Walker that he could not testify
13 as to those areas.

14 THE COURT: Let me -- let me say this.
15 Maybe we can cut to the chase. If the Court had
16 allowed him to testify, is that not the same
17 information we're getting from Mr. Reeves at the
18 present time?

19 MS. THOMPSON: It is similar information,
20 yes, Your Honor.

21 THE COURT: So it would be cumulative at
22 any rate.

23 GENERAL NICHOLS: If I may just add in.
24 It's actually -- the information he gathered is
25 actually almost identical to the information that

1 Frizzell testified to. This guy -- and I forgot his
2 last name.

3 GENERAL RAGLAND: Reeves.

4 THE COURT: Reeves.

5 GENERAL NICHOLS: I'm sorry. Summed it
6 up at the beginning saying he had a more nuance and
7 detailed approach. Unequivocally nobody is going to
8 dispute that even though he's not an expert, Walker
9 did not have this additional information. He had
10 less information. So -- but --

11 THE COURT: But would it not be --

12 GENERAL NICHOLS: -- he's still not an
13 expert.

14 THE COURT: -- at best cumulative?

15 GENERAL NICHOLS: The phone part. Part
16 of the cumulative -- what Reeves is adding now is
17 not -- wouldn't be cumulative because he has more
18 information, but he's an actual expert, and we
19 stipulated to it. Nobody is trying to keep the
20 information --

21 THE COURT: All right.

22 GENERAL NICHOLS: -- from the jury.

23 THE COURT: But a US Attorney's present,
24 and he had made a statement earlier that concerning
25 the other things that were elicited, that they

1 wouldn't be allowed into evidence at any rate if I
2 understood you correctly.

3 MR. BRACKSTONE: Yes. Good morning
4 again, Your Honor. David Brackstone from the US
5 Attorney's Office. I have spoken with Mr. Walker,
6 and beyond very specific details which would be law
7 enforcement privilege and sort of outside the scope
8 of the Touhy discussion, there are two areas of
9 information that Mr. Walker may have that were not
10 covered here. We're not requested by either the
11 prosecution or the defense in their Touhy request.
12 One of those areas of information in my estimation
13 would clearly be impermissible in court, and it's
14 essentially what he heard in the hallways of the
15 Marshall's Office or the FBI Office, just people
16 talking about the case.

17 THE COURT: It would be hearsay.

18 MR. BRACKSTONE: No -- hearsay and lack
19 of personal knowledge and potential -- excuse me --
20 privilege issues.

21 The second area of information that gets to
22 what hasn't been raised yet but was raised at the
23 conclusion of his proof that perhaps he had
24 additional information about the investigation. That
25 information is what Mr. Walker gathered from

1 interviewing other potential parties of interest
2 shall we say. There has been no request, again, for
3 testimony about those interviews. And frankly,
4 without having that request in front of us, the time
5 to discuss that potential testimony with Mr. Walker,
6 with his superiors, look at the underlying records,
7 we're not in a position to determine whether that
8 testimony would be authorized.

9 And so with respect to the technical aspects,
10 you know, there's some details of exactly what was
11 done that Mr. Walker wouldn't be able to testify with
12 the extent -- or to the extent that it is about his
13 knowledge of the investigation. Certainly half of it
14 would be impermissible, and the other half we just
15 haven't had a chance to analyze.

16 GENERAL NICHOLS: And with respect --

17 THE COURT: Well, he was allowed to go
18 into great detail concerning the interview with
19 Terry Britt, and he did so.

20 MR. BRACKSTONE: Correct, Your Honor.
21 But when you bring in semi-random third parties that
22 haven't been made an issue in this case, it does
23 become more complicated.

24 THE COURT: All right. You want to put
25 anything else on the record?

1 MR. SIMMONS: Yes, Your Honor, that's the
2 basis of my request for a hearing was, it does become
3 more complicated and is not on the record. Because
4 for appellate purposes, it's going to be a blank
5 record as to what those issues are and what his
6 knowledge was. And based upon his knowledge of what
7 they were, then you can speculate --

8 THE COURT: But if we bring him back in,
9 he's going to claim privilege.

10 MR. SIMMONS: That's --

11 THE COURT: So we can't get it on the
12 record.

13 MR. SIMMONS: That's the basis of my
14 objection -- or my request for a hearing is the
15 record is going to be incomplete, and without a
16 complete record, the appellate court has no way to
17 review what may or may not have been testified to
18 based upon his inability to answer it because of his
19 position with the United States Government.

20 GENERAL NICHOLS: I would like to add at
21 this point that there has been extensive testimony
22 elicited by Ms. Thompson regarding not just the
23 number of other people that were looked into but also
24 by name. So it is clear to the jury at this point
25 that many, many people were looked at. So that part

1 has come in. And that -- you know, it's not as
2 though the record is silent as to the fact that --

3 THE COURT: Court rules it's --

4 GENERAL NICHOLS: Yeah.

5 THE COURT: -- cumulative. Let me ask
6 you. Do you know who Bob and Leigh Anne Tuohy are?

7 MR. BRACKSTONE: I do not, Your Honor.

8 THE COURT: Do the rest of you know?

9 GENERAL NICHOLS: The Tuohys?

10 THE COURT: Did you see the movie Blind
11 Side --

12 GENERAL NICHOLS: Yeah, I was like I know
13 who the Tuohys are.

14 THE COURT: -- about Michael Oher?

15 GENERAL NICHOLS: Yes.

16 THE COURT: There were the parents.

17 MR. BRACKSTONE: Well, as a Memphian, I
18 feel like I have derelict in my --

19 THE COURT: Well, you need to go --

20 MR. BRACKSTONE: -- in my local
21 knowledge.

22 THE COURT: -- watch the Blind Side.
23 It's a great movie.

24 MS. THOMPSON: It's a great movie, yeah.

25 THE COURT: Great movie. Okay. Let's

1 take our lunch recess.

2 GENERAL NICHOLS: Judge, before we go off
3 the record. I provided -- if I can have my sticky
4 back. I provided the defense with information I got
5 regarding the pornography that they sought to
6 introduce. I found out from the agent that there
7 were three searches, and I'm going to read you what
8 I've given the defense. Britt searched nudevista.com
9 for the term "rape, abducted, and kidnapped" on
10 January the 12th, 2012. The second thing is there is
11 an image file named "abducted" in 2009. An image
12 file. And another search for the term abducted on 8
13 -- it says "abducted videos". I think they're
14 looking for on 8-1-11.

15 So I told the defense that it is the State's
16 position that any search done after the disappearance
17 of Holly Bobo would be irrelevant. The search done
18 -- the image file done before would not be. And that
19 that was our position. Our position --

20 THE COURT: In other words, you have no
21 objection to them asking what he searched for prior
22 to her abduction?

23 GENERAL NICHOLS: Correct.

24 MS. THOMPSON: Well, Your Honor, this is
25 really -- purpose of this information is Mr. Britt

1 got on the stand and said, no, he had never done any
2 searches on these terms, and that's not true, Your
3 Honor. He has done searches on these terms. We're
4 willing to not put in the pornography pictures.

5 THE COURT: We're not going to go into
6 specifics. You can ask as to all of those. You can
7 show a continuing course of conduct or -- in
8 furtherance of covering something up. So I'm going
9 to allow you to ask as to all of them, but we're not
10 going to go into specifics, okay?

11 MS. THOMPSON: Well, I -- okay. I'm
12 sorry. I'm not clear on what --

13 THE COURT: You may ask them --

14 MS. THOMPSON: Did he do a search of --

15 THE COURT: -- what they recovered, and
16 they're going to testify there are three specific
17 things. Two prior to Holly's disappearance, one was
18 after.

19 GENERAL NICHOLS: One prior and two
20 after.

21 THE COURT: Okay. Beg your pardon.

22 GENERAL NICHOLS: It's all right.

23 THE COURT: I had it reversed. But I'm
24 going to allow you to ask as to all three of those.
25 We're just not going to get into images --

1 MS. THOMPSON: That's fine. We don't --

2 THE COURT: -- or anything else. Just
3 the fact that the search was occurred, what was the
4 subject of the search.

5 MS. THOMPSON: Yes, Your Honor.

6 THE COURT: And he's probably heard all
7 this he wants to hear.

8 MR. BRACKSTONE: Your Honor, I -- Your
9 Honor, I was just waiting for you to break and
10 conclude that I --

11 THE COURT: You can be excused. All
12 right. We --

13 MR. BRACKSTONE: And that also Mr. Walker
14 is --

15 THE COURT: Yeah, he can be excused as
16 well.

17 MR. SIMMONS: Your Honor, before --

18 THE COURT: Yes. Yes.

19 MR. SIMMONS: I guess I need to make an
20 objection for the record as to not being allowed to
21 thoroughly examine Mr. Walker and for the reason
22 stated.

23 THE COURT: He's saying that he couldn't
24 testify as to that.

25 MR. SIMMONS: And my objection --

1 THE COURT: Okay.

2 MR. SIMMONS: -- would be overruled
3 because there's --

4 THE COURT: And I'm also saying that
5 based upon what I've heard here, the other witnesses,
6 and other things, it would be cumulative anyway, and
7 you've got -- you've got somebody that is qualified
8 as an expert on cell phone technology that's going
9 through all this material. So it's cumulative. All
10 right. Take your lunch.

11 (Lunch break.)

12 THE COURT: All right. I've sent for the
13 jury.

14 (WHEREUPON, the jury returned to the
15 courtroom, after which the following proceedings were
16 had:)

17 THE COURT: Be seated, please. All
18 right. Let's get Mr. Walker back, the witness that
19 was here.

20 MS. THOMPSON: Reeves.

21 GENERAL HAGERMAN: Mr. Reeves.

22 MS. THOMPSON: Reeves.

23 GENERAL HAGERMAN: John Reeves.

24 THE COURT: Oh, I beg your pardon. I
25 didn't turn my -- I didn't turn my page. I've got

1 lots of pages. Yeah, we got the right one. All
2 right. You remain under oath, Mr. Reeves. Continue
3 your direct.

4 BY MS. THOMPSON:

5 Q. Yes, I was asking you about whether or not
6 you had done some analysis on the Birdsong Road --
7 the Birdsong Road tower. And by that I am referring
8 to the tower that -- number 39077, which is the one
9 that's in the upper quadrant by the Tennessee River.

10 A. This sector here.

11 Q. Yes. And did you pull records from the calls
12 of these men for that sector, that Birdsong seven
13 sector?

14 A. Yes, I did. I pulled the records through the
15 month of April 2011 --

16 Q. Okay.

17 A. -- for Shane Austin, Jason Autry, Zach Adams,
18 and Dylan Adams.

19 Q. Okay. And what did your records show? I
20 know we have quite a few phone calls here, but...

21 A. The briefest synopsis I can give is that
22 the -- all four of them to varying degrees used that
23 sector throughout the month repeatedly on various
24 days, various times, quite a few times.

25 Q. Okay. And do you have a spreadsheet that

1 reflects that?

2 A. I do.

3 Q. Okay. And on the top of that spreadsheet
4 will you just write the Birdsong sector seven at the
5 top of that spreadsheet?

6 A. Okay.

7 MS. THOMPSON: Okay. And, Your Honor,
8 we'd like to have this marked as the next exhibit.

9 THE COURT: Be 241.

10 (WHEREUPON, the above-mentioned document
11 was marked as Exhibit Number 241.)

12 BY MS. THOMPSON:

13 Q. Okay. And let me hand it back to you. In
14 general then, can you just give the jury a general
15 idea of what days -- and those records are
16 color-coded; is that right? They're color-coded?

17 A. That's correct.

18 Q. Okay. So -- okay. So without going into too
19 much detail, when does it look like -- these records
20 are color-coded. Each person has their own color; is
21 that right?

22 A. That's correct. Although I will say looking
23 at this, it doesn't appear that the color difference
24 between Jason Autry and Dylan Adams is all that clear
25 on this particular printing.

1 Q. Okay.

2 A. If you'll look at the second page, you'll see
3 Dylan Adams also is a background of orange. It's
4 just that his text is black instead of white.

5 Q. Okay. So --

6 A. So, yes, the attempt was to color code it,
7 but I think that there was a little bit of
8 discrepancy on how the colors turned out in the
9 printing.

10 Q. Okay. So first of all we have -- just
11 quickly, can you just kind of quickly give us a
12 rundown of when it looks like people are there?

13 A. Sure. Shane Austin used that sector on April
14 2nd. Jason Autry -- sorry. At 11:45 a.m. Jason
15 Autry used that sector on April 6th from 12:13 p.m.
16 all the way through 8:13 p.m. Zach Adams used that
17 sector from --

18 Q. Okay. Wait a minute. That's April 6th and
19 then there's another one there.

20 A. I'm sorry. You're correct. Sorry. April
21 6th from 12:13 p.m. to 1:56 p.m., and then April 9th
22 from 5:03 p.m. to 8:13 p.m.

23 Q. Okay.

24 A. Zach Adams used the sector from April 10th at
25 7:10 p.m. to 8:00 p.m. Dylan Adams used that sector

1 on April 11th from 12:06 a.m. to 12:51 a.m.
2 Zach Adams also used that sector later in the day of
3 April 11th from 8:28 -- sorry, 9:28 a.m. to 9:55 a.m.
4 On the 11th then also Jason Autry. This is the --
5 Q. Is this the same day?
6 A. That's correct. Same day, different time.
7 Jason Autry at 10:13 a.m., and also Zach Adams at
8 10:13 a.m. Jason Autry again at 10:33 a.m. and 10:34
9 a.m. Zach Adams at 11:11 a.m. Now, this is still
10 April 11th. Jason Autry at 12:04 p.m. and 12:05 p.m.
11 on April 11th. All the way from -- and then again
12 12:50 p.m. to 4:53 p.m. on the 11th. Then on the
13 13th --
14 Q. We reviewed the 13th, so we can --
15 A. Yeah.
16 Q. -- skip that.
17 A. Correct.
18 Q. How about on the 14th?
19 A. So on the 14th, Jason Autry has activity on
20 that sector at 6:44 p.m. and 6:46 p.m. Zach Adams
21 likewise has activity at 6:54 p.m.
22 Q. Same day as Jason?
23 A. Same day, yes.
24 Q. And close in time to Jason?
25 A. So nine minutes apart. So -- and I'm going

1 to kind of summarize this, because there's quite a
2 few on the 14th. On the 14th, both Jason Adams --
3 sorry. Jason Autry and Zach Adams have activity on
4 that sector all the way from -- starting at the
5 previous page, 6:44 p.m. all the way up to 10:59 p.m.
6 on the 14th.

7 On the 15th, Jason Autry used that sector
8 from 1:26 p.m. to 1:30 p.m. Again on the 16th,
9 Jason Autry used that sector from 5:43 p.m. -- or
10 just at 5:43 p.m. for three different activities. On
11 the 22nd, Jason Autry and Zach Adams used that sector
12 in close proximity -- or close time at 1:58 for
13 Jason Autry, 2:02 for Zach Adams, and then again for
14 Jason Autry. On the 27th, Jason Autry used that
15 sector from 2:53 p.m. And the last record for
16 Jason Autry was 6:35 p.m., but there are also records
17 for Zach Adams around that same timeframe from
18 5:49 p.m. to 6:41 p.m. on April 27th.

19 Q. Okay.

20 MS. THOMPSON: And I would just like to
21 put that in.

22 BY MS. THOMPSON:

23 Q. Now, we've heard you talk about the fact that
24 you used telephone records to -- with locations in
25 order to decide where the phones were located. I

1 would like to pass some records up to you and see if
2 you recognize these records. First set I'm going to
3 pass up to you. And do you recognize what those
4 records are?

5 A. Yes, these are the call detail records for
6 Zach Adams from AT&T.

7 Q. Okay. Will you write on the top call detail
8 Zach Adams?

9 A. (Complied.)

10 Q. And then what's the second set I passed you?

11 A. Right. So the first set was the call detail
12 for voice records. The second set is the call detail
13 for SMS or text message.

14 Q. Okay. Will you write that, call detail for
15 text message on the second one? I guess go back on
16 the first one and write voice. Second one, call
17 detail for Zach Adams text.

18 A. (Complied.)

19 So the first one is labeled voice call
20 details Zach Adams. Second is text call details
21 Zach Adams.

22 Q. Okay.

23 MS. THOMPSON: I'd like to have these
24 marked as the next exhibits.

25 THE COURT: Be 42 and 43.

1 (WHEREUPON, the above-mentioned documents
2 were marked as Exhibit Numbers 242 and 243.)

3 BY MS. THOMPSON:

4 Q. In Mr. Frizzell's report, he actually has a
5 little section in there about how to read these
6 records. Do you remember that?

7 A. That's correct.

8 Q. Okay. I'm going to pass you the second set,
9 and if you would, just tell the jury if you recognize
10 what they are and then write on the top of the record
11 what it is.

12 A. So the first one is the voice call details
13 for Jason Autry, and then the second one is the text
14 call details for Jason Autry.

15 Q. Okay.

16 MS. THOMPSON: Okay. And like to have
17 these marked as the next two exhibits, Your Honor.

18 THE COURT: Be 44 and 45.

19 (WHEREUPON, the above-mentioned documents
20 were marked as Exhibit Numbers 244 and 245.)

21 BY MS. THOMPSON:

22 Q. Then I'm going to pass you two more. Another
23 set of records. Do you recognize those? Could you
24 tell the jury what they are and then write on the top
25 of them?

1 A. These -- the first page is the voice call
2 detail records for Shane Austin, and the second page
3 is the text call detail records for Shane Austin.

4 MS. THOMPSON: And I'd like to have these
5 marked.

6 THE COURT: Be 246 and 247.

7 (WHEREUPON, the above-mentioned documents
8 were marked as Exhibit Numbers 246 and 247.)

9 BY MS. THOMPSON:

10 Q. So, Mr. Reeves, in your expert opinion, what
11 is your conclusion regarding Zach Adams' and
12 Holly Bobo's devices and whether or not they were
13 together on the morning of April the 13th?

14 A. In very general terms, the devices were not
15 together at the same location at the same time during
16 that morning. There was certainly one occasion that
17 appears as Zach Adams' device was located at his home
18 sector. The Holly Bobo's device transitioned into
19 that same sector at 9:10 a.m. So there are records
20 that show that Holly Bobo's device did travel into
21 that area where Zach Adams' device was, but there was
22 certainly cases prior to that where the devices were
23 not together. Clearly not together based on the call
24 records.

25 Q. And you're saying that her device was

1 traveling towards him at some -- at one point and
2 then moved on?

3 A. Correct. Her device made a general clockwise
4 loop from her home location up north, then to the
5 east into his home sector, southeast sector of
6 Cox Road, and then back down south again towards
7 Parsons.

8 Q. And in your expert opinion, what is your
9 conclusion regarding the devices of Jason Autry and
10 Holly Bobo on the morning of April the 13th?

11 A. There was no correlation between -- that I
12 could determine from the call records between
13 Jason Autry's device and Holly Bobo's device.

14 Q. Okay.

15 MS. THOMPSON: No further questions.

16 THE COURT: Cross.

17 (END OF VOLUME XV.)
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