

W2020-01208-CCA-K3-CD

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

10 -----
11 JURY TRIAL

12 SEPTEMBER 9, 2017 - SEPTEMBER 23, 2017

13 VOLUME XVI 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.

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Appellate Courts

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ERIN ANGEL
Court Reporter

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1 VOLUME XVI

2 DAY 10

3 WEDNESDAY, SEPTEMBER 20, 2017

4
5 CROSS-EXAMINATION OF JOHN REEVES

6 QUESTIONS BY GENERAL HAGERMAN:

7 Q. If we could resume your PowerPoint. Do you
8 have some control over that?

9 A. Well, it's got to be plugged in.

10 Q. It's your computer, right?

11 A. Yeah.

12 MS. THOMPSON: It's not plugged in. I --

13 THE WITNESS: Would you like me to plug
14 it in or?

15 THE COURT: You can step down. Might be
16 the quickest way.

17 BY GENERAL HAGERMAN:

18 Q. I think you'd probably be better at it than
19 me. I don't really think I'm going to keep you that
20 long, okay?

21 A. Thank you.

22 Q. Can you advance it to slide 7 for me?

23 A. I believe that's slide 7.

24 Q. Before we get to the questions I'm going to
25 ask you -- before we get to the questions I'm going

1 to ask you, just -- let's just take one of these --
2 one of these towers. I'm not even asking which one
3 it is. So just let's take this one, okay?

4 Our diagram here has these three pie things,
5 like you said like a pizza, right?

6 A. Correct.

7 Q. And this -- I assume this is an attempt to
8 provide some sort of understanding to everybody about
9 how these towers work and how they're separated?

10 A. Correct.

11 Q. Doesn't it --

12 A. To --

13 Q. -- correspond -- go ahead.

14 A. To be clear though, it's more -- in the
15 previous match you've seen, you've seen it just
16 divided up into one -- 120 degrees, just three
17 individual lines around the tower. This is -- the
18 information showing here is more indicative of the
19 actual antennas themselves and the characteristics of
20 the antennas on the tower.

21 Q. Of the antennas on the tower versus the area
22 that it covers?

23 A. Correct.

24 Q. Okay. Because I understood what you were
25 saying then. I'm not -- this is not any sort of type

1 of trick. I'm just -- if I'm looking at this as a
2 layperson for the first time -- well, I mean this man
3 right here has no cell phone coverage? That's not
4 right?

5 A. That's correct. It -- what it does mean is
6 the -- to get technical on it, the areas that are
7 shown, the lines that are shown up there are the
8 areas of the maximum power on those antennas.

9 Q. Okay. So --

10 A. So it's not that there isn't power between
11 those two antennas or in that gap area, if you will,
12 where you're pointing here. So there's still power
13 that comes out from this sector over here. It's just
14 that there's not as much of it as there would be in
15 the main beam of that antenna.

16 Q. I still got my cell phone service if I'm in
17 this gap-looking area?

18 A. For the most part, correct, yes.

19 Q. I mean we do -- hope I do, right?

20 A. If you can hear me now, yes.

21 Q. If I can hear you -- if I can hear you now.

22 And in reality, the coverage isn't a pie
23 piece slice; is that right?

24 A. From the individual cell sites?

25 Q. Well, this is what I'm asking. These are

1 straight lines out here, and then there's a border
2 right here. So it looks like -- if I was unfamiliar
3 with this stuff and if I'm going to stand -- I've got
4 the laser. If I'm standing -- can you see? If I'm
5 standing out here outside of my boundaries here, I
6 may not have any service from that tower, but that's
7 not -- that's not true?

8 A. Correct. Those pie slices that are showing
9 are not trying to be indicative of coverage.

10 Q. Absolutely. And that's all I'm trying to do.

11 A. Yes, sir.

12 Q. This isn't a trick. This is to help us
13 represent things, but in reality, my actual coverage
14 areas are going to extend here, and they're going to
15 extend outside here; isn't that true?

16 A. Further away from the towers, correct.

17 Q. And even beyond that -- let's say look at
18 this here. If you shaded this like light blue let's
19 say, whatever color that is, okay? Do you see that?

20 A. Yes.

21 Q. And you shaded this one dark blue?

22 A. Yes.

23 Q. But if I looked at like -- and I think
24 there's one in evidence. And I'm going to call it
25 the wrong word. That overlay map or that propagation

1 map, you know what I'm talking about?

2 A. Yes, we discussed the predicted best server
3 map.

4 Q. Absolutely. What I would actually see is I'd
5 see dark blue stuff up here. I'd see light blue
6 stuff spursed in? There's overlap?

7 A. Actually, no.

8 Q. You're talking about this tower?

9 A. Well, I'm talking about between the sectors
10 of the tower.

11 Q. Okay.

12 A. And I'm glad you asked that because I want to
13 make sure this is clear. I know when Agent Frizzell
14 got up here and he did his example of, you know,
15 let's assume or pretend like these cell site -- sorry
16 -- these chandeliers are individual cell sites, and
17 he made the analogy that, you know, where -- when he
18 was standing here, he could get service from that
19 chandelier or that chandelier or that chandelier, and
20 that's all completely accurate. But when we're
21 talking about the sectors now, in each case for those
22 sectors, the signal is going to be coming from that
23 same location at the tower. And the antenna that's
24 pointing towards you will always have stronger signal
25 than the antenna pointing away from you just by the

1 nature of the physics of it.

2 So when you start walking away -- let's say
3 you walked around that in a -- oh. Yeah, so if
4 walked like this, you would by necessity as you went
5 into each sector --

6 Q. You would be on it.

7 A. -- you would always be onto the sector that
8 you are in the main beam of.

9 Q. Okay.

10 A. Now, the exception would be is if you
11 traveled out of this sector around into the next one,
12 you would have some area in here where you would be
13 still on this one, but this sector would be getting
14 stronger.

15 And there was actually a reference made
16 Agent Frizzell to side lobes or back lobes and
17 indicating that it's possible to get on a sector
18 that's pointing away from you. The reality is is in
19 this scenario that would -- I'd say never. I'm going
20 to say 99.999 percent of the times, engineering term,
21 never happen. The reason for that is is that all of
22 this signal -- all -- the vast majority of the signal
23 is coming out here, and any signal from this antenna
24 that would be in the back lobe would be so weak that
25 the signal on the main lobes of the other antennas

1 would be much, much stronger.

2 Q. So with regard to -- I think I got you. With
3 regard to if we look at the light blue area, if I'm
4 in this light blue area -- and of course it may
5 extend out. But if I'm in this light blue area, then
6 that's the sector I'm going to be in?

7 A. As opposed to the other sector of that same
8 site, absolutely.

9 Q. But if I'm in one in these -- I'm going to
10 use the wrong word -- overlap or transition, whatever
11 you want to say. If I'm in one of these areas then
12 not so much?

13 A. There will be some potential to be between
14 those two sectors, one or the other.

15 Q. Creating possibilities and probabilities
16 about where I am?

17 A. Correct.

18 Q. All right. I'm looking behind you and Bobo
19 residence. You made a -- the comment while you were
20 testifying that the question was asked of
21 Agent Frizzell about the time of the abduction, and
22 generally you made that comment, right?

23 Let's say the abduction, for purpose of our
24 testimony here, takes place at 7:45 a.m. at the Bobo
25 residence, okay?

1 A. Okay.

2 Q. And these are her -- like some of her towers
3 that you're showing on the left and the right of the
4 Bobo residence?

5 A. Correct.

6 Q. And actually I think there's another one
7 probably down here. Her phone --

8 A. There's a couple more further south that her
9 phone used.

10 Q. Even though she's has her house -- at her
11 house that whole morning, it utilized different
12 towers?

13 A. Correct.

14 Q. And that's not uncommon, you said, in rural
15 areas?

16 A. Well, specifically in areas where you
17 don't -- it's very rugged and mountainous. So
18 there's certainly the possibility that -- and let's
19 go back to Agent Frizzell's example again. You know,
20 using these individual chandeliers as cell sites.
21 You know, as I sit here, I can see every chandelier.
22 Frankly, they all look about the same brightness to
23 me. And I'm -- but as -- you know, as I look
24 underneath the desk here where the lights being
25 blocked, I get shadowing. So, you know, there's no

1 light from these chandeliers making it down here.
2 Whereas if this chandelier was on, this chandelier
3 would have a better view down to, you know, this
4 area.

5 So ultimately what happens in these areas
6 where they're kind of between all these cell sites
7 and not right in the main beams and they're not right
8 in the main coverage of it, is you can have that
9 scenario pick up where you end up on some sites that
10 may be further away but have a better view to that
11 particular location.

12 Q. Various variables could interplay, and I may
13 go to that one versus that one over there?

14 A. Correct.

15 Q. But that's still -- and my phone is still in
16 my house?

17 A. Correct.

18 Q. The phone is still at her house until 7:45
19 when she is abducted. 7:45, can you tell me where
20 Shane Austin's phone is?

21 A. I cannot render any opinion on that based on
22 his call records or the data available.

23 Q. You can't at all; can you?

24 A. I cannot.

25 Q. Because we don't see any activity on

1 Shane Austin's phone at all until 9:23?

2 A. That sounds correct, but I will verify that.
3 That's correct.

4 Q. Okay. 7:45 we don't know where
5 Shane Austin's phone is?

6 A. Would you prefer that I go to the slide that
7 has Shane Austin's records on it?

8 Q. Let's just stay at this one.

9 Shane Austin's phone 7:45, we have no idea
10 where he is, correct?

11 A. Correct.

12 Q. Could even be turned off, correct?

13 A. Correct. I would have no way of knowing that
14 based on these records.

15 Q. 7:45, can you tell me where Dylan Adams'
16 phone is?

17 A. No, I cannot for the same reasons. There's
18 no --

19 THE COURT: Can y'all hear?

20 BY GENERAL HAGERMAN:

21 Q. Could even be turned off --

22 THE COURT: Raise your voice a little
23 bit. They're having problems picking you up all the
24 way at the back. I'm having a lot of problems --

25 THE WITNESS: My apologies.

1 THE COURT: -- and you're faced away from
2 me but --

3 BY GENERAL HAGERMAN:

4 Q. Could even be turned off, right?

5 A. That's certainly a possibility, yes.

6 Q. Shane Austin and Dylan Adams' phones could
7 both be turned off in the pockets as their right
8 outside the Bobo residence at 7:45 abducting
9 Holly Bobo, correct?

10 A. That is certainly --

11 MS. THOMPSON: Your Honor, this is
12 calling for speculation.

13 THE COURT: No, he's asking -- he's
14 stating the phones could be. It's his area of
15 expertise. He can express an opinion on it.

16 THE WITNESS: That's correct.

17 BY GENERAL HAGERMAN:

18 Q. Then we see her phone, if I understand it, I
19 think traveling north?

20 A. Correct.

21 Q. Generally?

22 A. (Nodded head affirmatively.)

23 Q. And that's what the blue here indicates,
24 correct?

25 A. That's the sector that she used.

1 Q. That's the sector she used. Can you tell me
2 when she uses this sector where Shane Austin's phone
3 is?

4 A. No, I can't. There's -- she uses those
5 sectors at 8:17 a.m. and 8:26 a.m. -- sorry, her
6 device uses those sectors at 8:17 a.m. and 8:26 a.m.

7 Q. Can you tell me where Dylan --

8 A. And Shane Austin doesn't have any records as
9 we discussed until 9:23.

10 Q. Can you tell me where Dylan Adams' phone is
11 when she hits this northern tower?

12 A. No, there were no records for Dylan's phone
13 during that time.

14 Q. So Shane Austin's phone could be in his front
15 pocket, Dylan Adams' phone could be in his front
16 pocket, they could have Holly Bobo in the truck at
17 the time of this north tower ping or whatever it is?

18 A. I would have -- I have no information on
19 their devices during that time.

20 Q. So they could be?

21 A. Yes.

22 Q. Then her phone -- and I may get those -- the
23 word wrong -- but transitions to this other side of
24 the Shiloh tower, correct?

25 A. Correct.

1 Q. And as we said before, this is here, this is
2 the overlap or whatever we want to say about the area
3 between the two sectors here on the Shiloh tower,
4 correct?

5 A. Correct. There's a transition between the
6 two.

7 Q. So first -- the first here and the second
8 here. And this is again, these lines should be going
9 on further, right?

10 A. I -- yes, I would refer you to that predicted
11 best server map.

12 Q. Absolutely. You're familiar with what this
13 area is here?

14 A. It's pretty rural but...

15 Q. It's rural --

16 A. Yeah.

17 Q. -- absolutely. It's called Yellow Springs.
18 Have you -- did you go to the area?

19 A. I've been through the area, yes.

20 Q. Were you aware that Mr. Austin's house was in
21 Yellow Springs?

22 A. Yes.

23 Q. And you're aware that Mr. Austin's
24 grandmother's house is right around the corner in
25 Yellow Springs?

1 A. I had heard that, yes.

2 Q. Were you aware that they're both in a very
3 rural area?

4 A. Yes.

5 Q. Now, you've testified about Mr. Adams' phone,
6 and I believe the first activity we see on it is
7 around 8:19; is that correct?

8 A. That's correct.

9 Q. It actually had activity earlier that day,
10 like at 4:50 or something in the a.m.?

11 A. Very early, yes.

12 Q. Okay. But between 4:50 in the a.m. and until
13 8:19, it doesn't have activity on it?

14 A. That's correct.

15 Q. And can you tell me between those two times,
16 okay, do you know where his phone is?

17 A. No, I do not.

18 Q. Could be off?

19 A. Could be off.

20 Q. Could be on with no activity?

21 A. Correct.

22 Q. And basically could be anywhere as long as
23 that gives him enough time to get back to this
24 general area at 8:19?

25 A. Correct.

1 Q. Is that correct?

2 A. Correct.

3 Q. And in fact, during the time period, okay,

4 during the time period that we have these pings and

5 this activity of Holly's phone in the Yellow Springs

6 area, we do see Mr. Adams' phone transition to this

7 sector here, correct?

8 A. Correct.

9 Q. And that's the sector that includes

10 Mr. Austin's residence, correct?

11 A. Correct.

12 Q. And that's the sector that includes

13 Mr. Austin's grandmother's residence?

14 A. Correct.

15 Q. And then we also see on Mr. Adams' phone

16 during the same general time period, I believe a time

17 gap of around 20 minutes of inactivity; is that

18 correct?

19 A. You're making me do math in my head. I'm

20 sorry.

21 Q. I'm sorry.

22 A. I believe it's closer to 15 if I'm doing the

23 math correct.

24 Q. If it's 8:38 to 8:53?

25 A. Correct.

1 Q. Okay. Well, that's my -- you did math better
2 than me. 8:58 -- I'm sorry. 8:38 to 8:53. And in
3 those 15 minutes his phone could be on or off, and it
4 could also be anywhere on him, correct?

5 A. Well, obviously within the travel time.

6 Q. So I could get back to --

7 A. Correct.

8 Q. Right. When we're talking about getting back
9 to, we're talking about the difference between this
10 sector right here, which again there's transition and
11 everything and these lines should keep on forward,
12 and this sector right here, which there's transition
13 and everything and these lines should keep on going
14 forward?

15 A. Correct.

16 Q. And then we even see after that her phone,
17 Holly's, transition into his home -- what we're going
18 to call his home sector?

19 A. Correct.

20 Q. Is that right? But -- I'm fine calling it
21 his home sector, but actually if we look at it, he's
22 in this other sort of area that whatever we want to
23 call it?

24 A. Well, and one of the reasons I do call it his
25 home sector is because historically looking at the

1 data when we have every reason to believe him being
2 there, like at 4:00 a.m., that is the sector that is
3 utilized. So it's based on historical evidence as
4 well as, you know, what we're analyzing here.

5 Q. If we look at it on the diagram again and
6 whatever we want to call this area between two
7 sectors?

8 A. Correct.

9 Q. And then after her phone travels through that
10 home sector we see her phone again, right?

11 A. Correct.

12 Q. Her last ping?

13 A. Her last locate, yes.

14 Q. And that's going to be -- I don't think -- is
15 this it?

16 A. Yes.

17 Q. Okay. We see it way down south; is that
18 correct?

19 A. Well, we see it served off that cell,
20 correct.

21 Q. Served off that --

22 A. Yeah.

23 Q. -- southern --

24 A. That Parson northwest sector.

25 Q. And at that time of that ping down south,

1 after he's traveled north, after it's gone through
2 Yellow Springs, after the time gaps and everything we
3 talked about, when we see it for the last time down
4 south, where is Dylan Adams' phone?

5 A. We don't have any call records for that
6 timeframe.

7 Q. You don't know?

8 A. No.

9 Q. Could be in his front pocket and her phone
10 could be in his truck?

11 A. We have no way of knowing.

12 Q. At the same time, if I understand it right,
13 Jason Autry's phone and Zach's phone go onto this
14 Birdsong tower, right?

15 A. Correct. In the general timeframe, correct.

16 Q. The general. And each of them -- I think you
17 said before. The phones may even be with each other
18 based on some of your observations?

19 A. It's possible, yes.

20 Q. Okay. So off to the river together or to the
21 area of the river, the Birdsong tower --

22 A. Correct.

23 Q. -- area together, and then back together?

24 A. Correct.

25 Q. And you were asked before about there was

1 another little map that had like a light green line.
2 It wasn't part of your PowerPoint, I don't -- I don't
3 believe. But you were asked about sort of a timing
4 issue about when one of Zach's calls was and what
5 tower it was on or what sector of the tower it was
6 on?

7 A. Specifically related to Birdsong --

8 Q. Birdsong.

9 A. -- and the return trip.

10 Q. Exactly.

11 A. Yes.

12 Q. The return trip. So you were asked a
13 question about Zach's return trip?

14 A. Correct.

15 Q. And you pointed out, if I understood it, that
16 he was on a certain sector of that tower at a certain
17 time?

18 A. Correct.

19 Q. And then six or seven minutes later -- seven
20 or eight, six or seven.

21 A. If you're going to ask me the times, I'm
22 going to have to look at the map.

23 Q. I think it's 32 or 38, but I don't know if
24 that's six or seven because of the way things are
25 counting.

1 A. I believe that's the one you are referring
2 to.
3 Q. 32? 38; is that right?
4 A. Well, no. So the information that you're
5 seeing here, this is that northeast sector,
6 everything purple --
7 Q. Okay.
8 A. -- is that northeast sector of Birdsong.
9 Q. Yes.
10 A. Everything in brown is that west sector of
11 Birdsong.
12 Q. Yes.
13 A. And this is the sector that I think you're
14 referring to that was missing. So there was no -- if
15 the route back was down south and then west, we would
16 have expected -- if there was activity during that
17 time, we would have expected to see activity on that
18 south sector, 39078. As you --
19 Q. This tower, right?
20 A. That's the tower location, yes.
21 Q. This is the river?
22 A. Well, that's the interstate. That's the
23 river.
24 Q. Yes, the river is in blue?
25 A. Yes, more so.

1 Q. Is the blue, right?

2 A. Correct.

3 Q. And this is the tower? It's the purple one,

4 right?

5 A. That's the sector that's the purple one.

6 Q. Sector is purple. So it starts out in that

7 sector at 10:32, correct?

8 A. His last record in that was sector is 10:32

9 a.m.

10 Q. Is 10:32 a.m. And that sector includes an

11 area south of that tower, correct?

12 A. Yes.

13 Q. It's not the southern sector, if you want to

14 say that?

15 A. Well, no. I mean it's --

16 Q. But it includes an area south of that?

17 A. It's exactly what we discussed before.

18 Q. Yeah.

19 A. It's that there is a transition as you go

20 between those sectors.

21 Q. And then he transitions to this sector; is

22 that correct?

23 A. Correct.

24 Q. All right. And at the time -- this is

25 only -- this is the only -- I just don't want it to

1 be confusing, okay? You're not testifying that at
2 10:32 a.m., okay, that Zach Adams is standing as far
3 as he can over here next to the river bridge before
4 he starts his trip back?

5 A. No.

6 Q. He could be anywhere as far as that goes?

7 A. Anywhere that's being served by that sector,
8 correct.

9 Q. Including any sort of over --

10 A. The interesting thing here, though, is if you
11 look at it, it is 10:32 he's on that sector. Within
12 three minutes, he's on this west side. And having
13 been through this area, that's not a quick drive
14 through that.

15 Q. Yeah, but --

16 A. So to me personally, three minutes does seem
17 odd if there was activity for all the rest of that.
18 Those three minutes, I don't necessarily --

19 Q. But you don't --

20 A. -- jump to the conclusion that it would be
21 enough time to pass through that sector.

22 Q. Do you know when it is a quick drive? When
23 you're driving really quick.

24 And so he goes through this western sector?

25 A. Correct.

1 Q. On the way back to the home sector?

2 A. Correct.

3 Q. And actually on the way back to the yellow
4 sector?

5 A. Correct.

6 Q. You know where the Yellow Springs Church is?

7 A. Right up the road from Shane Austin's
8 residence.

9 Q. Right. In that yellow section?

10 A. Correct.

11 GENERAL HAGERMAN: That's it, Judge.

12 THE COURT: Further direct.

13 MS. THOMPSON: Yes, sir. First thing I
14 want to do is get this cover -- my greatest fear is
15 I'm going to fall.

16 THE COURT: You realize you have not
17 authenticated that exhibit?

18 MS. THOMPSON: This exhibit? Okay.

19

20 **REDIRECT EXAMINATION**

21 **QUESTIONS BY MS. THOMPSON:**

22 Q. I would like to at this time authenticate
23 this exhibit. Do you recognize that as something
24 that you've used in this case; is that right?

25 A. That's correct.

1 Q. And then the other one --

2 MS. THOMPSON: Where did the other one
3 go? Your Honor, I'd like --

4 BY MS. THOMPSON:

5 Q. And that's an AT&T overlay coverage map?
6 You've seen those before?

7 A. That's correct.

8 MS. THOMPSON: Your Honor, at this time
9 I'd like to move --

10 THE COURT: Be moved into evidence. What
11 did we say? 217? 219.

12 (WHEREUPON, the above-mentioned document
13 was moved into evidence as Exhibit Number 219.)

14 BY MS. THOMPSON:

15 Q. And you recognize this map also? That's a
16 map of coverage as you drive around different roads
17 and which tower is actually being used. So it's also
18 an overlay map, but it's just specific as to
19 roadways?

20 A. This is actually a -- there's a significant
21 difference between this map and that map. Not just
22 because it's the roads that are drawn out, but this
23 map is actual collected data from a device that drove
24 these roads and showed what cell sites served through
25 these areas. Whereas that map is produced based on

1 predicted physics modeling and calculations.

2 Q. Okay.

3 A. So this is what I would call real world data.
4 This is what was actually in place when they drove
5 it. Whereas --

6 Q. Okay.

7 A. -- that other map is a prediction that tries
8 to model real world data.

9 Q. Okay.

10 MS. THOMPSON: And so, Your Honor, I
11 would like to move this second item, and it is 218,
12 into evidence at this time.

13 THE COURT: Moved into evidence as 218.

14 (WHEREUPON, the above-mentioned document
15 was moved into evidence as Exhibit Number 218.)

16 BY MS. THOMPSON:

17 Q. So we'll look at this map 217 -- 219 right
18 here. And would you agree with me that this area
19 right here is the Shiloh Road tower?

20 A. Shiloh Road or Natchez Trace tower. I think
21 we've called them by both names.

22 Q. Okay. But Shiloh Road tower and it's -- will
23 you read the number for the record off as to what the
24 number here is?

25 A. So the tower number is 1096, and the sector

1 numbers are 10961, 10962, and 10963.

2 Q. Okay. And right here, what color is the
3 sector three of the Shiloh tower?

4 A. I believe you're actually pointing to sector
5 one, right?

6 Q. Okay. Is that sector one?

7 A. Yeah.

8 Q. Okay. Sorry.

9 A. Sector one, sector two, sector three.

10 Q. Okay. So sector one, what color is that
11 sector one?

12 A. Well, there's lots of blue on there, so I'll
13 call it blue, but it's a medium/dark blue.

14 Q. Okay. And what is this green color right
15 here that bleeds into it?

16 A. It's an olive green I guess.

17 Q. Okay. I meant what -- I meant what sector
18 number is that?

19 A. Oh, that sector number is 31523.

20 Q. And is that what we were calling Cox 3?

21 A. Correct. Cox Road southwest sector.

22 Q. Okay. And so this Shiloh tower sector,
23 that's a fairly weak sector as you compare it to
24 other sectors; is that accurate?

25 A. Yeah, there are other sectors on here that

1 you can see. Even the south sector -- even the south
2 sector here reaches out much further than that one
3 does. You can do the -- kind of the similar analysis
4 even on like the Parsons sector just as far as how
5 much area it covers.

6 Q. Okay. And you at some point actually were --
7 overlaid this map with a road map; isn't that right?

8 A. That's correct.

9 Q. And that Yellow Springs Road where
10 Shane Austin's house is and Yellow Springs Church is
11 and where his grandmother's barn is, those all showed
12 up in Cox 2 sector clearly; didn't they?

13 A. That's correct.

14 Q. They were not in that small Shiloh Road
15 sector?

16 A. That's correct.

17 Q. Okay. Okay. I want to ask you about a spoof
18 card. If somebody had a card that they could call
19 up -- well, first of all you're familiar with people
20 being able to spoof other people's telephone numbers
21 on caller ID; aren't you?

22 A. Yes, I know that it's possible. Sorry. Yes,
23 I know it's possible. I'm not going to claim I know
24 everything about the availability or how to get them,
25 but I know that it is possible, yes.

1 Q. But even if you were to try to send out a
2 different caller ID number, these call records that
3 you reviewed would still show that a call was made
4 from that particular device?

5 A. That's correct.

6 Q. Because in fact, as we look at the call
7 records --

8 MS. THOMPSON: Let me see one. I'll just
9 pick up one of the last little exhibits I just put
10 in.

11 BY MS. THOMPSON:

12 Q. This is the subscriber information right
13 here. This column, it's call IMSI?

14 A. That's correct.

15 Q. That's the subscriber information?

16 A. It's the subscriber information.

17 Q. So it records what telephone number is in the
18 SIM card itself for an AT&T phone or the identifying
19 number, the --

20 A. Correct.

21 Q. -- identification number for that AT&T phone?

22 A. Correct. It's -- it is a subscriber
23 identity. Rather than trying to link a number to a
24 subscriber, this is the actual identity for the
25 subscriber. Nobody knows what their IMSI is. They

1 just know what their phone number is. The IMSI is
2 how the networks actually manage that internally.

3 Q. Okay. So that's not something that a spoof
4 card would be able to change? This is -- this is
5 what it is regardless?

6 A. That's correct. As far as any aware -- any
7 knowledge that I have, I've never seen a way to spoof
8 the IMSI.

9 Q. Okay. So any call made with this subscriber
10 information -- and then this other column, and it's
11 the IMEI, that's the equipment identifier?

12 A. That's correct.

13 Q. That also doesn't change even if you're using
14 some kind of dial in spoof card -- spoof calling card
15 information?

16 A. No, the IMEI is specific to the device that
17 you're using. So some of you may be familiar with
18 it, but you can actually have a SIM card in your
19 phone, and you can take that little chip out and put
20 it in another phone. So the IMEI will follow the
21 actual handset itself. Whereas the chip that you
22 pulled out, would have the IMSI information on it.
23 So the IMEI, equipment identifier, is unique to each
24 handset. Whereas the IMSI is the information on that
25 chip. The brain of it if you will.

1 Q. And based on Zach Adams' phone, his IMEI, you
2 actually were able to cross reference that with what
3 kind of handset he was using on that particular day;
4 weren't you?

5 A. Correct.

6 Q. And it was a flip phone handset?

7 A. That's correct.

8 Q. It wasn't a smart phone?

9 A. No.

10 Q. So as far as Shane Austin --

11 MS. THOMPSON: Let me pull these records
12 back up again. I didn't see -- where did his report
13 go?

14 GENERAL HAGERMAN: It's here.

15 MS. THOMPSON: Okay. Page 12.

16 BY MS. THOMPSON:

17 Q. Okay. So Shane Austin's telephone -- I'm
18 looking at page 13 of your report. You can go ahead
19 and --

20 A. Would you like me to plug that back in again?

21 Q. What?

22 A. Would you like me to plug that back in again?

23 Q. With it upside down. I've gotten it. This
24 one is upside down. That one's right side up. You
25 have to -- there.

1 So if you go back to page 13 where you were
2 looking at Shane Austin's records. That's it right
3 there. Okay. So Shane Austin's telephone is on the
4 Cox 2 -- Cox 3 tower at 9:23 a.m.?

5 A. That's correct.

6 Q. Okay. Holly Bobo's cell phone is down on the
7 Parsons tower at 9:25 a.m.?

8 A. That's correct.

9 Q. So two minutes later, she's down on the
10 Parsons tower?

11 A. That's correct.

12 Q. And then 20 minutes later, Shane Austin is on
13 the -- on his home tower still, the Cox Road home
14 tower, Cox 3?

15 A. Yes, at 9:45 a.m. he's on cell 31523.

16 Q. Okay. And going back to the information
17 about Zach Adams and Jason Autry being over by the
18 Birdsong Road exit off of Interstate 40. And that's
19 page 16, yes? Oh, you're there.

20 Had they gone down -- do you see -- it's kind
21 of hard on your map. But right below where you have
22 the number 39078 in that sector, the Birdsong eight
23 sector right there, there's that little jig of water
24 that sticks out from the Tennessee River, which is
25 kind of hard to see on the --

1 A. You're talking about this area over here?

2 Q. Yes. I'm talking about that kind of slough,
3 little area of water. So if somebody were driving
4 along the edge of the Tennessee River and then across
5 the top northern section of that slough of water and
6 they were on the telephone, they would have to be in
7 that 39078 sector? If they're on the telephone while
8 they're driving along there, they would have to be in
9 that sector; wouldn't they?

10 A. That is the sector that serves that area,
11 correct.

12 Q. Okay. So on cross-examination the prosecutor
13 was asking you a lot of questions about the phone
14 could possibly be in somebody's pocket. All the
15 times the phone is silent, such as at 7:45 that
16 morning, 7:40 that morning, it's just as likely that
17 phone could be on the nightstand next to somebody's
18 bed that's sleeping?

19 A. That's correct.

20 Q. If the phone's not speaking, then there's no
21 information to be gained from that? You don't know?

22 A. That's correct.

23 Q. Okay. And the portion of time going back to
24 Zach Adams, which I think is probably page 10, if you
25 go back to his page 10. Is he that page? No, that's

1 Jason Autry. So he must be page 7. So if we look at
2 Zachary Adams' records on page 7, that morning at
3 8:38 he's on his home sector, which is the Cox 2
4 sector; is that right? Can you point to that record
5 up there, at 8:38? Yes.

6 A. That's correct.

7 Q. Okay. And then at 8:53 he's on Cox 2 sector,
8 but it is possible that he didn't even leave his home
9 that morning? He could still be at his home --

10 A. I'm sorry, I just want to make sure I'm clear
11 on something. You said at 8:53 he's on the Cox?

12 Q. 2.

13 A. Well, he --

14 Q. Cox 3, I'm sorry.

15 A. Yeah, sorry. So at 8:53 a.m. he has a voice
16 call out to Jason Autry, and it is on the third
17 sector of Cox Road, the southwest sector of Cox Road,
18 31523.

19 Q. But it's just as possible that he could still
20 be on his -- he could still be at his home at that
21 point?

22 A. It's a possibility.

23 Q. Okay. And then at 8:58 -- or 8:59, he's on
24 his home sector, Cox 2?

25 A. You said 8:59?

1 Q. Yes.

2 A. That's correct.

3 Q. And at 9:10, he's still on his home sector,
4 Cox 2?

5 A. That's correct.

6 Q. And at 9:12 he's still on his home sector,
7 Cox 2?

8 A. That's correct.

9 MS. THOMPSON: No further questions.

10 THE COURT: Further cross.

11

12 **RECROSS EXAMINATION**

13 **QUESTIONS BY GENERAL HAGERMAN:**

14 Q. That's actually --

15 MS. THOMPSON: Here, you need this back
16 to -- I think there's a --

17 GENERAL HAGERMAN: Sure.

18 MS. THOMPSON: -- typo that you wanted
19 to --

20 GENERAL HAGERMAN: I'll correct that with
21 him. Thank you.

22 MS. THOMPSON: -- correct him. It's on
23 page 12.

24 BY GENERAL HAGERMAN:

25 Q. And this actually -- and I was doing bad math

1 before. Now, I see what my problem was. 8:38 -- at
2 8:38, we're on the orange, correct?

3 A. Correct. You're on cell 31522.

4 Q. But we're not back to the orange until 20
5 minutes later, right?

6 A. Correct.

7 Q. So there's 20 minutes in which the phone is
8 in yellow?

9 A. There's 20 minutes between the two call
10 records that place him onto that Cox Road southeast
11 sector.

12 Q. And I think as you just answered, is it
13 possible that if he's been in the yellow that he was
14 actually in his house. I think your answer said it
15 was possible, right?

16 A. It's possible. It's not the most likely
17 scenario, but it is --

18 Q. Possible?

19 A. -- certainly possible.

20 Q. And equally possible that if he was shown in
21 the orange, that he was actually in the yellow, just
22 the reverse of what we just said?

23 A. Well, not -- if you say "in the yellow",
24 that's not very specific. If the question is: Was
25 he over at Shane Austin's residence and it showed up

1 in orange, that's not likely.

2 Q. At all?

3 A. It's not likely at all. Just because
4 you're --

5 Q. Not likely or not possible?

6 A. Anything's possible. It's very, very
7 unlikely.

8 Q. And you mentioned something earlier, a good
9 way to get real world data to see what's actually
10 happening in the real world, right?

11 A. Right.

12 Q. Would it be a drive test stuff?

13 A. Correct.

14 Q. When you were asked about the Birdsong River
15 (sic) and his route, this is a very hilly, very
16 mountainous, very rural area, right?

17 A. Correct.

18 Q. Well, did you drive test that?

19 A. Well, number one, drive testing today with
20 whatever the network is today wouldn't be indicative
21 of what would it was back in 2011. Certainly in the
22 last six years AT&T could have, and most likely did,
23 modify their cell sites. The drive test data that we
24 were looking at earlier was actually done by AT&T
25 back in that timeframe. It was my understanding that

1 they drove the areas that they were specifically
2 concerned with, which did not include the area out by
3 Birdsong.

4 Q. Exactly. So this wasn't drive tested in
5 2011; is that correct?

6 A. That's correct.

7 Q. And isn't that -- isn't it true that limits
8 your confidence with regard to whether or not a route
9 passing through -- what color is that? Green? Olive
10 green?

11 A. Teal.

12 Q. Does that limit your confidence when we're
13 talking about a 2011, an un-drive-tested route
14 through a hilly mountainous area and your answer
15 about the route?

16 A. It doesn't limit my confidence, because what
17 we're looking at here is still the predictions for
18 the -- between the sectors. So we know that there's
19 no other -- there's no other service that would cover
20 through that area.

21 Q. Predictions?

22 A. Predictions, that's correct.

23 Q. But the drive test you described to us in
24 your own testimony as getting information from the
25 real world?

1 A. That's correct.

2 GENERAL HAGERMAN: That's it, Judge. Oh,
3 wait one second. I just want to correct a typo with
4 him.

5 THE WITNESS: Did I miss one?

6 BY GENERAL HAGERMAN:

7 Q. There is.

8 A. Or two or ten?

9 Q. Page 12, I think I asked you to write that
10 page number down.

11 A. Yes.

12 GENERAL HAGERMAN: Can I just -- can I
13 approach with his --

14 THE COURT: You may.

15 GENERAL HAGERMAN: -- exhibit, Judge?

16 It's just -- not trying to trick anybody or
17 anything like that.

18 (WHEREUPON, the attorney and witness
19 whispered at the witness stand.)

20 GENERAL HAGERMAN: I'm going to -- with
21 Your Honor's permission, there's just -- all it is is
22 a typo. It's not intentional or anything like that.
23 At the type -- at the top of page 12 of this exhibit,
24 I'd like for the witness just to change the time to
25 what's actually correct.

1 THE COURT: Okay.

2 THE WITNESS: Yes, I incorrectly wrote
3 8:23 a.m. instead of 9:23 a.m.

4 BY GENERAL HAGERMAN:

5 Q. And when you were just talking about the
6 route and wasn't drive tested back in 2011 --

7 A. Yes.

8 Q. -- you said something about a predictive map;
9 is that right?

10 A. The predictive best server map?

11 Q. Uh-huh.

12 A. Yeah, that was a map that we were just
13 looking at on the screen.

14 Q. Is that a map from April of 2011?

15 A. I don't know if it was prepared in April, but
16 I know it was prepared in conjunction with their
17 analysis.

18 GENERAL HAGERMAN: If I could have that
19 exhibit? The overlay map. That crazy one right
20 there.

21 BY GENERAL HAGERMAN:

22 Q. I'm looking at Exhibit 219. This is that
23 predictive map?

24 A. Correct.

25 Q. And it's crazy to look at it, but I'm looking

1 at it. I don't see a river on it, and I don't see
2 that tower on it?

3 A. That's correct. It's not on that map.

4 Q. Okay.

5 GENERAL HAGERMAN: That's all the
6 questions, Judge.

7 THE COURT: All right.

8

9 **REDIRECT EXAMINATION**

10 **QUESTIONS BY MS. THOMPSON:**

11 Q. Mr. Reeves, you build cellular telephone
12 networks based on your physics prediction about
13 coverage areas; don't you?

14 A. I do.

15 Q. So when you call it a predictive map, it's
16 accurate enough that you build entire networks based
17 on those calculations; don't you?

18 A. That's correct.

19 Q. Okay. And I know that the government's
20 attorney has asked you a lot of questions here today.
21 Is there anything about any of these questions that
22 would make you change your original conclusion that
23 Zachary Adams' device and Holly Bobo's devices were
24 not together -- or not moving together on the morning
25 of April the 13th?

1 A. No, my opinion remains the same.

2 Q. Okay.

3 MS. THOMPSON: No further questions.

4 GENERAL HAGERMAN: No further questions.

5 THE COURT: Okay. All right. You can
6 step down. You're free to go.

7 (WHEREUPON, the witness was excused from
8 the stand and left the courtroom.)

9 THE COURT: You want to call your next?

10 MS. THOMPSON: Yes. We'd like to call
11 Mr. Garret -- Garnett.

12 THE COURT: Is this the one we said
13 should be very brief?

14 MS. THOMPSON: Yes, Your Honor.

15 THE COURT: Okay. Raise your right hand,
16 please.

17 (The witness was sworn.)

18 THE COURT: Be seated. State your first
19 and last name, spell them for the benefit of the
20 court reporter.

21 THE WITNESS: James Garnett. J-A-M-E-S
22 G-A-R-N-E-T-T.

23 GENERAL NICHOLS: Judge, we've agreed --
24 stipulated to something amongst ourselves. If you'll
25 just give us a minute. We're going to redact

1 something, and then before it is published to the
2 jury, we'll substitute it.

3 THE COURT: Okay.

4 MS. THOMPSON: Yes, Your Honor. We're
5 agreeing on something, Your Honor.

6

7 * * *

8 JAMES GARNETT,
9 was called as a witness and having first been duly
10 sworn testified as follows:

11

12 DIRECT EXAMINATION

13 QUESTIONS BY MS. THOMPSON:

14 Q. And how are you -- how are you employed in
15 April and the spring of -- in -- I'm sorry -- in
16 January, February of 2012?

17 A. I was a Special Agent with the Tennessee
18 Bureau of Investigation.

19 Q. Okay. And you remained with that department;
20 is that right?

21 A. Yes, ma'am.

22 Q. Okay. And --

23 GENERAL NICHOLS: If it -- if it helps, I
24 will stipulate to his credentials, his computer
25 search of the computer at interest.

1 THE COURT: Okay.

2 GENERAL NICHOLS: I mean, no objection.

3 BY MS. THOMPSON:

4 Q. Mr. Garnett, you did an analysis on
5 Terry Britt's computer in the winter of 2012; is that
6 right?

7 A. Yes, ma'am.

8 Q. Okay. And you were able to determine some
9 search terms that Mr. Britt had been using?

10 A. I was, yes.

11 Q. Okay. And if -- I will come up here. I'd
12 like to pass this document to you first. Do you
13 recognize this document?

14 A. Yes, ma'am.

15 Q. And is this kind of a brief report of some of
16 the search terms that you found on Mr. Britt's
17 computer?

18 A. Yes, ma'am.

19 Q. Okay.

20 MS. THOMPSON: Your Honor, at this time
21 I'd like to put this into evidence, but we're going
22 to swap out one without a Sharpie on it.

23 THE COURT: Okay. Be --

24 MS. THOMPSON: As an exhibit.

25 THE COURT: -- Exhibit 248.

1 (WHEREUPON, the above-mentioned document
2 was marked as Exhibit Number 248.)

3 MS. THOMPSON: Okay. I'm going to put
4 this up here. I got it marked up and plus -- it's
5 under my Sharpie.

6 BY MS. THOMPSON:

7 Q. Can you explain to the jury, please -- and
8 I'll see if I can do a little zoom here. Can you
9 explain to the jury what -- how we know what search
10 terms are being used here? So such in this top line,
11 what search terms are we seeing that Mr. Britt has
12 used on his computer?

13 A. That would be a web history for the website
14 xnxx.com. In the search bar at the top of that
15 website he would have typed abducted.

16 Q. Okay. And what's the next line show us?

17 A. Web history again for nudevista.com, and the
18 search box at the top of that, the user typed rape
19 and scene. The plus --

20 Q. Now, he didn't type the plus? He just typed
21 those two separate words; is that right?

22 A. No, ma'am. The plus is put there by the
23 code -- the computer.

24 Q. Okay. And then what's the next search that
25 he did?

1 A. Another search of the same website,
2 nudevista.com.

3 GENERAL NICHOLS: Can we get the dates
4 for all of these, please?

5 MS. THOMPSON: Sure.

6 BY MS. THOMPSON:

7 Q. Can read the date along with it then?

8 A. Yes. This first one is a little bit
9 confusing for going back to the xnxx.com and the
10 abducted line at the very top. They -- the program,
11 the tool that I used switched the day and the month
12 in that line. So it's still in January, but it is
13 January 8th of 2011, is when that search was
14 conducted.

15 Q. Okay.

16 A. The next one, the rape scene, that one was
17 conducted on January 6th of 2012.

18 Q. Okay.

19 A. The next one, the nudevista and the search
20 term was rape and anal, that one was conducted on
21 January 12th of 2012.

22 Q. Okay.

23 A. The next line was conducted again on January
24 12th of 2012 on 8:27 a.m., and that was nudevista.com
25 again, and anal rape was the term typed into the box.

1 Q. Okay.

2 A. All three of these next ones are actually the
3 same search term. It would have been typed by the
4 user one time, but these are referring to -- on the
5 results, when they're presented in a gallery form on
6 the web page, they'll be more than one page. So if
7 they click next -- for instance, if they're presented
8 with 20 various images or videos on that page, they
9 click next to get the next 20 images or videos on the
10 next page.

11 So when you see ones like the next three,
12 they're all three done -- the same results, just
13 different start. It says "start equals 144", "start
14 equals 96", "start equals 48". That's just another
15 page. They've -- they -- the user has essentially
16 clicked next and got the new page of results. Same
17 search term, same instance where they typed it in the
18 box, just another page of results.

19 So on these, it was nudevista.com, and the
20 user typed anal rape into the search box. That was
21 conducted on January 12th of 2012, at 8:27 a.m. And
22 the different dates on 8:26 versus 8:27 is just,
23 again, hitting that next. That was the time the next
24 page actually loaded.

25 Q. Okay.

1 A. The next one, nudevista.com anal rape
2 conducted on 1/12/2012 at 8:26. That one is the
3 initial one. So that's where the user typed that the
4 first time, and that's the first search for it that
5 led to the previous three above it.

6 Q. Okay.

7 A. Underneath that we have conducted on January
8 12th of 2012, at 8:18 a.m. nudevista.com abducted.
9 That was just a plain term, abducted right there.

10 Below that we have January 12th of 2012, at
11 8:18 again, that was the initial search nudevista.com
12 abducted.

13 Below that we have January 12th of 2012, 8:18
14 nudevista.com. The term typed in was kidnapped.

15 Below that, January 12th, 2012, at 8:18 a.m.,
16 again nudevista.com. The term was kidnapped and
17 rape.

18 Q. And he actually typed the "and" there?

19 A. That one, yes, ma'am, he actually typed the
20 "and".

21 Below that, January 12th of 2012, at 8:17
22 a.m. nudevista.com. The term at the top was
23 kidnapped.

24 And the last one, January 12th of 2012, at
25 8:17 a.m., the site was nudevista.com. The term was

1 kidnapped.

2 MS. THOMPSON: No further questions, Your
3 Honor.

4 THE COURT: Cross.

5 GENERAL NICHOLS: Very briefly.

6

7 **CROSS-EXAMINATION**

8 **QUESTIONS BY GENERAL NICHOLS:**

9 Q. If I'm correct you were asked to do an
10 analysis on this computer using, I guess, a history
11 associated with like S&M type things; is that
12 correct?

13 A. Yes, ma'am.

14 Q. And for what period of time did you look at
15 this computer for?

16 A. The entire history of the computer. I didn't
17 limit it to any particular period.

18 Q. All right. And so the search warrant was
19 got -- was conducted on January the 17th, 2012?

20 A. Yes, ma'am.

21 Q. And you looked at the entire history of the
22 computer?

23 A. Prior to it being seized.

24 Q. And then in the end -- it's been taken down
25 now, but I'm assuming it's still an exhibit. In the

1 end, there was a search done on January the 8th of
2 2011, January the 6th, 2012, and then the remainder
3 were all one -- I don't know -- I don't know what to
4 call it -- one period of time between 8:17 in the
5 morning and 8:59 when he looked -- browsed, or
6 whoever was using that computer, a number of
7 different sites?

8 A. Yes, ma'am. That was all one grouping at the
9 end.

10 Q. All right. Thank you.

11 GENERAL NICHOLS: I don't have anything
12 else.

13 THE COURT: Done? Done with this
14 witness?

15 MS. THOMPSON: Yes, Your Honor.

16 THE COURT: All right. You can be
17 excused.

18 THE WITNESS: Thank you.

19 (WHEREUPON, the witness was excused from
20 the stand and left the courtroom.)

21 MS. THOMPSON: That's the end of our
22 proof, Your Honor. The defense rests.

23 THE COURT: Let's take a recess, about 15
24 minutes.

25 (WHEREUPON, the jury left the courtroom,

1 after which the following proceedings were had:)

2 (Short break.)

3 THE COURT: Be seated. All right.

4 Mr. Adams, have your attorneys advised that I want to
5 discuss with you your decision whether or not to give
6 testimony?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Stand up. Raise
9 your right hand.

10

11 * * *

12 **ZACHARY ADAMS,**
13 **was called as a witness and having first been duly**
14 **sworn testified as follows:**

15

16 **EXAMINATION**

17 **QUESTIONS BY THE COURT:**

18 Q. By virtue of the Constitution we all have
19 certain rights. One of those rights is you can't be
20 compelled to give testimony. You were present when I
21 read that to the jury at the outset. Said if you do
22 not take the stand to testify that they can draw
23 nothing from that, that that's Constitutional right.
24 Also, you have a Constitutional right to give
25 testimony if you wish or desire. You can take the

1 stand. If you do, you would be subjected to
2 cross-examination, and your credibility would be
3 judged by the jury by the same standards I've already
4 charged them.

5 This is your decision, okay? You can make it
6 having consulted with your attorneys. I would expect
7 you to consult with your attorneys, but this is not
8 their decision. This is your decision. You're
9 standing there between two of your attorneys.
10 Mr. Gonzalez came on the case late, but you've had
11 ample opportunity to discuss it with Mr. Simmons and
12 Ms. Thompson; is that correct?

13 A. Yes, sir.

14 Q. Having said all of that, is it your election
15 not to give testimony?

16 A. Yes, sir, that's right. Correct.

17 Q. Are you doing this freely and voluntarily?

18 A. Yes, sir.

19 Q. You don't feel you've been pressured either
20 way?

21 A. No, sir.

22 Q. To give or not to give?

23 A. No, sir.

24 Q. This is your decision?

25 A. Yes, sir.

1 Q. All right.

2 THE COURT: Want to address anything
3 further?

4 MS. THOMPSON: No, Your Honor.

5 MR. SIMMONS: No, Your Honor.

6 THE COURT: All right. You can be
7 seated.

8 There's no reason the attorneys have to feel
9 that Mr. Adams can't make an informed decision? Like
10 no type of mental illness or disease or anything that
11 has arisen during the course of this entire time that
12 you feel like would make him unable to make that
13 decision?

14 MR. SIMMONS: No, Your Honor.

15 THE COURT: All right. Thank you. All
16 right. The other thing, you want to renew your
17 motion?

18 MR. SIMMONS: Your Honor, at this time,
19 Mr. Adams would renew his motion for judgment of
20 acquittal pursuant to Tennessee Rules of Procedure
21 29. Would simply indicate that the State has failed
22 to carry their burden of proof as to all counts.

23 THE COURT: All right. Thank you. We
24 went into more detail at the conclusion of the
25 State's proof concerning corroboration of an

1 accomplice and some other things. But those factors
2 still apply and the Court feels it's a jury question,
3 okay?

4 Earlier there were pretrial motions to
5 dismiss certain counts. By this Court's actions,
6 obviously, I'm not dismissing any counts. You
7 understand that?

8 MR. SIMMONS: Yes, Your Honor.

9 THE COURT: All right. The State has
10 indicated that they do wish to present rebuttal. So
11 I'm going to -- let's get our jury in. And I've told
12 counsel that a trial is a search for truth, and
13 rebuttal testimony should be confined to rebuttal.
14 It's not just an attempt to see who can hit at the
15 ball last. I think that's the analogy I gave
16 earlier, but I expect you to confine your proof to
17 rebuttal or surrebuttal as it might be. All right.

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

21 THE COURT: All right. Be seated. State
22 earlier rested their case in chief. The defense has
23 now rested. So at this time I told the parties if
24 there's any rebuttal proof, you'll be confined to
25 rebuttal, but you may call your first rebuttal

1 witness on behalf of the State.

2 GENERAL HAGERMAN: Before we start the
3 short rebuttal, Your Honor, we announced earlier in
4 the trial with the defense that there's going to be a
5 stipulation with regard to some phone records and a
6 list of numbers associated with people. We just both
7 neglected to do this at the end of the proof. So I
8 have this marked as the next numbered exhibit, Your
9 Honor.

10 THE COURT: Be 249.

11 (WHEREUPON, the above-mentioned document
12 was marked as Exhibit Number 249.)

13 GENERAL HAGERMAN: Thank you, Your Honor.

14 GENERAL NICHOLS: Dana Bobo.

15 THE COURT: He's been put under oath.
16 I'm going to put him -- it's been awhile. I'm going
17 to go ahead and place him back under oath.

18

19 * * *

20 DANA BOBO,
21 was called as a witness and having first been duly
22 sworn testified as follows:

23

24 DIRECT EXAMINATION

25 QUESTIONS BY GENERAL NICHOLS:

1 Q. Mr. Bobo, I'm not going to ask you but a
2 couple of questions. In particular, do you recall
3 two or three days after Holly was abducted on April
4 the 13th of 2011, so that Friday or that Saturday, do
5 you recall going to several different locations with
6 your cousin, who's in the courtroom, sheriff's
7 department?

8 A. Yeah.

9 Q. Was one of those locations the trailer -- the
10 property surrounding the trailer that belonged to
11 Shane Austin?

12 A. Yes.

13 Q. Do you recall and can you tell the jury
14 whether or not you noticed a burn barrel?

15 A. Yes, there was a burn barrel.

16 Q. Did you walk around the property?

17 A. Yes, I did.

18 Q. What else did you notice?

19 A. There was a -- I couldn't tell you what --
20 it's a black truck sitting behind the trailer. I
21 didn't know if was a Chevrolet, Ford, what it was.
22 Black truck sitting behind the trailer.

23 Q. All right. Now, you were in the courtroom
24 earlier when your wife, Karen, testified. I'm not
25 asking you -- this was a different occasion to go to

1 his trailer than the time that you went and actually
2 spoke to him; is that correct?

3 A. Yes. Yes.

4 Q. On the day that you and your cousin, Anthony,
5 went there, did you speak to anyone there at the
6 trailer that day?

7 A. Not that day, no, ma'am.

8 Q. And do you remember whether it was Friday the
9 15th or Saturday the 16th?

10 A. It was one of the two, and I'm pretty sure it
11 was Friday the 15th, two days after she was abducted.

12 Q. Is there any doubt in your mind that there
13 was a burn barrel?

14 A. No, there's no doubt in my mind.

15 Q. Tell the jury where it was.

16 A. It was on the right-hand side of the trailer.

17 Q. Front or back?

18 A. It was kind of toward the front.

19 Q. Thank you.

20 GENERAL NICHOLS: Nothing else, Your
21 Honor.

22 THE COURT: Cross.

23 MS. THOMPSON: No questions, Your Honor.

24 THE COURT: All right. Step down. Next.

25 GENERAL NICHOLS: Jack Vanhooser.

1 THE COURT: Raise your right hand,
2 please.

3 (The witness was sworn.)

4 THE COURT: Be seated. State first and
5 last name and spell both, please.

6 THE WITNESS: Jack Vanhooser. J-A-C-K
7 V-A-N-H-O-O-S-E-R.

8

9 * * *

10 **JACK VANHOOSER,**
11 **was called as a witness and having first been duly**
12 **sworn testified as follows:**

13

14 **DIRECT EXAMINATION**

15 **QUESTIONS BY GENERAL NICHOLS:**

16 Q. Mr. Vanhooser, can you tell me if you're
17 currently employed?

18 A. I am.

19 Q. All right. And where do you work?

20 A. The National Center For Missing and Exploited
21 Children.

22 Q. All right. And prior to your current
23 position, did you work for the Tennessee Bureau of
24 Investigation?

25 A. I did, yes, ma'am.

1 Q. Okay. For how long?

2 A. Little over 30 years.

3 Q. Okay. And did you retire from that

4 organization?

5 A. Yes, ma'am.

6 Q. In what year?

7 A. June of -- late June, early July of 2015.

8 Q. All right. Prior to your retirement from TBI

9 the summer of 2015, what office were you assigned to

10 and what was your position within the office?

11 A. Immediately prior, I was the special agent in

12 charge of the West Tennessee Criminal Investigation

13 Division.

14 Q. Okay. And as -- so they would call you the

15 SAC, right?

16 A. That's right.

17 Q. All right. As the SAC, did you supervise a

18 person by the name of Terry Dicus?

19 A. Yes, ma'am.

20 Q. Did you supervise a person by the name of

21 Brent Booth?

22 A. Yes, ma'am.

23 Q. Joe Walker?

24 A. Yes, ma'am.

25 Q. Anybody assigned to the -- one of the two --

1 two different offices in West Tennessee?

2 A. Yes, ma'am, that's correct.

3 Q. Both Memphis and Jackson?

4 A. Correct.

5 Q. Okay. Tell me when you got that position.

6 A. That would have been August, September of
7 2012.

8 Q. All right. So when you came to that office,
9 the investigation of Holly Bobo was well underway?

10 A. Yes, ma'am.

11 Q. Would -- had you previously been involved in
12 that investigation?

13 A. I was the Regional Crime Lab Supervisor prior
14 to that. I know evidence came and went from the
15 crime lab. As far as my personal involvement in the
16 investigation, no, ma'am, I had not.

17 Q. Okay. So when you became the SAC of that
18 office, would you agree with me that you were sort of
19 a fresh set of eyes on the investigation?

20 A. Yes, ma'am, that's correct.

21 Q. And did there come a time pretty soon after
22 you took over the position of SAC that you felt a
23 change needed to be made?

24 A. Yes, ma'am.

25 Q. Okay. What change was it?

1 A. The case agent on the case needed to be
2 benched. He needed to be put on an administrative
3 duty as opposed to following leads. So I --

4 Q. Who was the case agent?

5 A. Terry Dicus.

6 Q. Okay. And what did that mean as the case
7 agent?

8 A. The case agent leads the investigation. He
9 should have the big picture view of the
10 investigation, and he should be leading things from
11 that objective position.

12 Q. Okay. In the 30 years that you were a
13 special agent with TBI, had you ever made that sort
14 of decision before?

15 A. No, ma'am.

16 Q. Okay. And when he was -- why was he benched?

17 A. In my opinion, based on statements he made as
18 well as statements other agents made to me, he had
19 lost his objectivity. He had tunnel vision on a
20 particular suspect and was not objective about all of
21 the facts coming into the case.

22 Q. And who did you select to take over as lead
23 or case agent for the Holly Bobo investigation?

24 A. Special Agent Joe Walker.

25 Q. Okay. And to your knowledge, did Joe Walker

1 remain in that position as case agent until the
2 conclusion of the case or at least until you retired?

3 A. To my knowledge, yes, ma'am. He -- certainly
4 until I retired. To my knowledge, 'til today.

5 GENERAL NICHOLS: I don't have anything
6 further. Thank you.

7 (WHEREUPON, the witness was excused from
8 the stand and left the courtroom.)

9 THE COURT: Cross.

10 MS. THOMPSON: Yes.

11
12 **CROSS-EXAMINATION**

13 **QUESTIONS BY MS. THOMPSON:**

14 Q. Now, when did -- exactly did you say you took
15 over the case or you came?

16 A. I'm sorry?

17 Q. When is it that you came in to your
18 leadership role?

19 A. August, September of 2012.

20 Q. Okay. And at that very time, that's the time
21 that the TBI had determined they were going to focus
22 on Clint Bobo; isn't it?

23 GENERAL NICHOLS: Your Honor, I'm going
24 to object to being outside the scope.

25 THE COURT: She can ask.

1 THE WITNESS: I don't recall it being
2 exactly at that time, no, ma'am.

3 BY MS. THOMPSON:

4 Q. Okay. It's at that time that you gave
5 Clint Bobo -- you brought him in for some additional
6 questioning; didn't you?

7 A. He was brought in some time after that for
8 additional questioning.

9 Q. And a matter of fact, there was a letter that
10 was written about -- to the Bobo family about how
11 many times Clint Bobo had lied; wasn't there?

12 A. I recall the letter. I don't recall any
13 details. I didn't write the letter.

14 Q. But you recall that it was -- it outlined all
15 the times that the TBI thought that Clint Bobo had
16 lied or changed his story?

17 A. His story had changed over time, yes, ma'am.

18 Q. Okay. And also, you-all were -- at the time,
19 the TBI was very focused on the fact that they
20 thought that Clint Bobo was somehow involved in his
21 sister's abduction?

22 THE COURT: We're kind of getting outside
23 the area of rebuttal.

24 GENERAL NICHOLS: Which is why I
25 objected.

1 MS. THOMPSON: Your Honor, if she --

2 GENERAL NICHOLS: If we're going to
3 outside, I have a whole lot more questions that I
4 would have asked. I tried to keep it narrow and
5 focused on --

6 MS. THOMPSON: It's not narrow. It's --
7 they're saying that they've taken Terry Dicus off
8 because he had tunnel vision. I say that the TBI at
9 that time had tunnel vision in another inappropriate
10 area, and that was the Bobo family.

11 THE COURT: You're outside the area of
12 rebuttal.

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

15 THE COURT: Done?

16 GENERAL NICHOLS: Done.

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

19 THE WITNESS: Thank you, sir.

20 (WHEREUPON, the witness was excused from
21 the stand and left the courtroom.)

22 GENERAL NICHOLS: And we don't have any
23 further proof, Your Honor.

24 THE COURT: Any surrebuttal?

25 MS. THOMPSON: No, Your Honor.

1 THE COURT: All right. I kind of mapped
2 out a schedule for you folks earlier. I think
3 everyone's good with that. I think it's unfair if I
4 were to continue to go today. We're going to let you
5 folks out early. If we don't, I promise you it would
6 be very late. We will bring you in as close to 8:30
7 as we can in the morning. We've got to get you fed
8 and through the school zones and everything. The
9 order that we will then proceed in is you will be
10 handed additional materials for your notebooks that
11 will go behind the next -- the next divider.

12 Unfortunately, it's a lot of material. It's
13 a very long charge. It will take me perhaps close to
14 an hour to read that to you. We will then take a
15 recess, because I don't like to break up closing
16 argument if I can keep from it. I'd rather it be
17 some continuity and some flow. So we'll take a break
18 after that charge that I read to you. Sometimes --
19 you've got that in front of you, but still it can be
20 somewhat dry. It's very important, but it can be
21 somewhat dry, and I can't read it like Richard Burton
22 or somebody. That's the old days. I can't think of
23 who it would be now.

24 I can't make it any more interesting, okay?
25 I can't sing it. I can't do anything to make it

1 anything other than pretty tedious and dry, but it's
2 very important. But you will have that material with
3 you so that you can refer to it later.

4 Once we've taken that recess, the attorneys
5 will have an opportunity to speak to you in their
6 closing statements. The State goes first because
7 they have the burden of proof, followed by the
8 defense counsel, and then the State can speak last in
9 their rebuttal argument. At that time, I will mix
10 these up. If you're all still healthy, everything's
11 good, I'll draw three names and then the remainder of
12 you will then start your deliberations.

13 You've heard the proof, so there's kind of a
14 danger, but I'm telling you, don't form any opinion
15 in this case. Wait until you go back with your
16 fellow jurors to deliberate toward reaching an
17 agreement in this case. So don't form or express any
18 opinion. Don't talk with anyone, not even among
19 yourselves. Don't allow anyone to discuss the case
20 with you. Remain in the presence of the officers any
21 time you have outside conversations with family or
22 anything else. Do you have any questions? If
23 everything goes well, you should get this case --
24 yes, sir.

25 A JUROR: Yes, when the alternates are

1 chosen, will they be just sent like back to the
2 thing? They won't be released?

3 THE COURT: They actually -- once you
4 start your deliberations, I can't substitute an
5 alternate in. So I'm -- yeah, the lady that assists
6 me. We're going to keep the alternates.

7 A JUROR: Okay.

8 THE COURT: So don't get too happy.

9 A JUROR: No, what I'm saying is like
10 will they -- even though they really don't have no
11 put in, I guess they'll need to hear this
12 information, right, in case something happens to one
13 of the others? Or will they be kept separate?

14 THE COURT: It -- I'll have to deal with
15 that.

16 A JUROR: Okay.

17 THE COURT: They'll be kept separate
18 though.

19 A JUROR: Okay.

20 THE COURT: Okay?

21 A JUROR: Okay.

22 THE COURT: In the event that there's a
23 sentencing hearing, they might can be put in at that
24 time because that's kind of like a mini trial, but
25 this is all way ahead. It's theoretical. So don't

1 hold me to anything yet, but that's a pretty good
2 question.

3 All right. Anything else? So everybody
4 understands? As much as I'd like to go forward,
5 forward, forward, I don't think it would be fair to
6 these people. Matter of fact, they're going to stay
7 with me a few minutes to further discuss some details
8 that will make tomorrow flow pretty good, okay? So
9 you folks at this time can be discharged.

10 (WHEREUPON, the jury left the courtroom,
11 after which the following proceedings were had:)

12 THE COURT: Early morning charge
13 conference I told the parties what I was charging, so
14 I don't see anything changing on that. I'm going to
15 go get the charge ready to be placed into the
16 notebooks. If somebody notices something
17 overnight -- and don't start looking for stuff,
18 because it becomes very difficult to substitute it
19 in. We ran into that earlier. So if it's something
20 material -- yes?

21 GENERAL NICHOLS: You indicated that you
22 were -- you left open the -- actually, may we
23 approach, because we had that conference back in
24 chambers today, but there was one that left open in
25 case something changed, but I don't believe it has.

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

3 THE COURT: We'll be adding where I
4 define what a stipulation is.

5 GENERAL NICHOLS: Okay. You indicated
6 this morning that you were not inclined to charge
7 alibi but left it open in case they put something
8 else in the proof, but there's been nothing else.

9 THE COURT: The only alibi evidence was
10 supposedly the three codefendants. You can certainly
11 argue that he wasn't there, but I'm not going to give
12 an alibi charge, okay?

13 MR. SIMMONS: Note our objection.

14 THE COURT: Okay. All right. We'll be
15 in recess.

16 (End of Day 10.)

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