

Q. So why would she have asked you why you'd even showed up?

A. She had - she would have gone and talked with John at that point and probably had cancelled the plans she was explaining. Not so much cancelled but he was against it so she had changed her mind or thought it was a bad idea at this point.

Q. Did you have a cell phone at that point?

A. A cell phone at that point, no.

Q. Okay. Did you receive any messages from anybody after this incident happened to suggest that she had called you and said don't bother coming?

A. No.

Q. So even though your mother seems to be so afraid that she's stuttering, you don't leave the property at that point. Is that correct?

A. That's correct.

Q. Because you said that you were talking about an alternate plan, right?

A. Yes.

Q. You and your mother and your brother were going to go out?

A. Yes.

Q. Had anybody gone into the house to tell Daniel that the plans had changed?

A. No, she would have gone back afterwards but not at that point, no. We were still out in the driveway.

Q. So Daniel never comes out to the driveway at any point in time when Mr. Atkinson is there?

A. No.

Q. When you hear the engine of the Ranchero start up, do you turn around and look at it?

A. A glance, yes.

Q. Do you agree with me that you are fairly close to the path of where the Ranchero was going to be driving?

5 A. Close enough but not without space to go around.

Q. Okay, and I understand that. So your position is that there's space to go around you, to continue out the driveway, correct?

10 A. Yes, and in fact, in the position where we were standing, to go straight at us would only send you into a tree and a rock.

Q. Okay. How far away are you from Mr. Atkinson's vehicle? So from the Ranchero, how far are you and your mother standing from there?

15 A. It would be about 30 feet.

Q. Thirty feet?

A. Twenty to 30 feet.

Q. Twenty to 30 feet. Back at the preliminary hearing you said 25 feet, so is that fair?

20 A. Yes.

Q. Can you mark that on the diagram for us as well, please? So you hear the engine rev up. That gets your attention, correct?

25 A. Mm-hmm.

Q. But you don't move out of the way until the vehicle actually starts traveling towards you?

A. Correct.

Q. And it gets within five to seven feet of you before you get out of the way?

30 A. Correct.

Q. Had you at that point in time, when you

heard the vehicle was moving, did you turn around and face it front on?

A. Yes, when it was accelerating, yes.

Q. So, you hear the engine start, that gets your attention, you turn around and face it as it's accelerating?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. And you jump out of the way.

A. Yes.

Q. And your mother had to step out of the way as well?

A. Yes.

Q. But she was closer to the vehicles and was able to step out...

A. Yes.

Q. ...and get out of the way.

A. We had moved ever so slightly as he's walking and with our turnings and noticing the glances and whatnot then.

Q. So you had moved from your original position?

A. Not more than a pivot on my foot, no but she had turned around me as well.

Q. And the vehicle is driving straight at you, correct?

A. Correct.

Q. Not something you could be mistaken about?

A. Not, not at all.

Q. And you see that he's, that Mr. Atkinson is staring at you as he's driving towards you?

A. Yes.

Q. You could see his full face?

A. Yes.

Q. Could you draw please, with the purple marker, the path that the Ranchero takes, and if you could be careful to use two lines for each - so there should be two lines to show the tire marks. And if you could continue it all the way down the driveway. Which - while you're down there, which way on the road does Mr. Atkinson travel?

A. North, I believe. I'm not sure.

Q. You're not sure? How sure are you that that's the direction that he went?

A. Fifty-fifty at best, obviously but yeah, he's more likely to go north than....

Q. So you're saying that based on....

A. Based on what I remember and, you know, the fact that I wouldn't be paying as much attention down at the end of the driveway and there being trees there, that would be where he was going, yes.

MS. HYSLOP: I don't know if Your Honour wishes to see that but....

THE COURT: I see it, thank you. Fine.

MS. HYSLOP: Q. I see from the diagram that you've drawn, there's a bit of a bend in the tracks, correct?

A. Correct.

Q. And that's up in the parking lot area, the parking space area, correct?

A. Yes.

Q. So Mr. Atkinson drove straight at you but had to swerve a little bit in order to get down the rest of the driveway?

A. Yes.

Q. Had he not swerved, he would have gone through the trees?

A. There is one, one maple tree and a boulder there, at the corner.

Q. How close was he to the vehicles that were parked there?

A. Within three feet.

Q. Did Mr. Atkinson hit the brakes at any point in time?

A. No.

Q. Mr. Atkinson didn't hit any of the vehicles, correct?

A. Correct.

Q. After you had jumped out of the way, you're between the vehicles, did you remain on your feet when you jumped out of the way?

A. Yes.

Q. How far did you travel from your original spot to where you landed?

A. Well, I would have moved about three and a half feet in a step or two.

Q. And your mom stayed on her feet as well?

A. Yes.

Q. And you watched the car, or the truck, the Ranchero rather, as it continued on its way down the driveway?

A. Correct.

Q. But you can't say now which direction it went on the road?

A. No.

Q. You have a recollection of it actually

leaving the property?

A. He could have turned left down into the field as well but he didn't go down there with the car

Q. You understood that Mr. Atkinson was working on the Ranchero, right?

A. Yes, in the garage.

Q. In the garage? Did you ever see him work on it such that he would work on a bit, take it out of the garage, drive it down to the back driveway there and come back up?

A. I never saw him go down and back up but I knew he had a trailer worth of tools and things down there.

Q. Okay, so if I understand what you're saying, is that your - it's possible that he didn't actually leave the property, that he went around that driveway there?

A. Yes, it also goes down out of sight quite quickly.

Q. Point is, you didn't see Mr. Atkinson again that day, correct?

A. Correct.

Q. Did you go into the house with your mother that day?

A. Yes.

Q. After this incident had happened? You went into the house and how long did you stay in the house for?

A. Not very long. Under an hour.

Q. About an hour? Did you see Daniel when you were inside?

A. Yes, and then we....

THE COURT: Sorry, did you say about an hour or under an hour?

A. Under an hour or so.

COURT REPORTER: I'm sorry; I'm not getting that either. Under an hour?

A. Under an hour.

COURT REPORTER: Thank you.

5 MS. HYSLOP: Q. And then did you, your mother and Daniel then go out?

A. I believe so.

Q. I imagine you were totally surprised by this incident, correct?

10 A. Correct.

Q. Because you'd never had any inkling in the past that there was any issue with you coming to the house, as far as John was concerned.

A. No, other than being kicked out. Coming back, obviously I hadn't done that that much but this....

15 Q. Well I thought you hadn't come back....

A. Since Christmas, no.

Q. Okay. Did you actually have a discussion at that point in time, so when this incident just happened, about calling the police?

20 A. No. No, they were still pretty much together. It would have caused troubles. So no, not calling the police at that time.

Q. Okay, but did you actually have a discussion about calling the police and you decided not to?

25 A. There was other discussions made about calling the police for other, various incidents, I believe but not with myself involved. I was not told to call the police for something such as this.

30 Q. Okay, on May 14th, 2006 right after this incident happened and maybe within the hour that you were at the house, did you and your mother discuss calling the

police?

A. No.

Q. Not at all?

A. I don't believe so.

Q. It's your position though, that Mr. Atkinson
just tried to drive a vehicle directly at you?

A. Yes.

Q. And you had to jump out of the way because
it would have otherwise hit you? You're nodding; that's
yes?

A. Yes.

Q. But you didn't think that that was something
that you should call the police about?

A. No. He was trying to scare us or
legitimately hit me, I'm not sure but yeah, I had to jump
out of the way.

Q. I think you testified that you snowboard.
Is that right?

A. Correct.

Q. Did you ever have an incident that happened
in Blue Mountain area where a snowboard was stolen?

A. Yes.

Q. Was it your snowboard that was stolen?

A. Yes.

Q. And that was back in 2003?

A. Yes.

Q. And you reported that to the police,
correct?

A. Yes.

Q. So that's a time when you had a snowboard
that's probably worth a few hundred dollars?

A. Mm-hmm.

Q. That's yes?

A. Yes.

Q. And you reported that to the police right away?

A. Yes.

Q. Okay.

A. That's what I was told to do.

Q. You were told to do that?

A. Yes, that's all they said that could be helpful. Guest services won't do anything beyond call the police, so you can file a report.

Q. So you had no problem calling the police back in 2003, a couple of years before, a few years before this happened, to tell them somebody had stolen your skateboard - or sorry, your snowboard but it didn't occur to you to call the police when somebody just tried to run you over with a vehicle?

A. No, there was - he came as close as he could. I wasn't hurt. If he had hit me, obviously it would have been different. He threatened me on other various occasions and it's built up to this now and this is one of the main focuses in the court obviously, as a show of character on his part.

Q. Is it possible that he was simply exiting the garage quickly and came close to you but that wouldn't have actually hit you, if you didn't jump out of the way?

A. He was coming as close as he possibly could and he would have hit me if I didn't move.

Q. Is it possible you're mistaken about that?

A. No.

Q. This is the only time I imagine anybody's ever driven a vehicle at you?

A. Yes.

Q. So this...

A. I've been hit....

Q. ...is something - sorry? Pardon?

5 A. I was hit in Brazil with a vehicle that had backed through an intersection, gone through an intersection in reverse instead of making a left-hand turn and as...

Q. Okay, but this....

A. ...I was crossing the street, I got hit.

10 Q. Okay, but this is the only time somebody intentionally driven a vehicle at you, in your view?

A. Yes.

Q. So it's not something you're going to forget easily.

15 A. No.

Q. The details that you've told us today are accurate?

A. Yes, on that regard there, yes. The details surrounding the before and after....

20 Q. Are a bit fuzzy?

A. It's been five, six years now, so yes.

Q. Fair enough. It's not possible then, that Mr. Atkinson went into reverse at any point in time before, before driving down the driveway?

25 A. No.

Q. That's not possible? You're sort of shaking your head no?

A. No, he - it was in one, one direction.

30 Q. I think you indicated that you weren't necessarily upset when your father was leaving the house, because in your view your parents' marriage was over, correct?

A. Yes, it had ended before and....

Q. Did it appear to you that your father was upset about the fact that he was moving out of the house?

A. They, they had words up at his place, so there was obviously some animosity there.

Q. When - we'll talk about that now then. When your father had words, as you say, with Mr. Atkinson up at Mr. Atkinson's residence, was your dad still living in the house with you?

A. It had been a few days he just moved out.

Q. So you and your father went and confronted Mr. Atkinson at his house?

A. Yes, I believe he picked me up after work one day and it was dark out.

Q. Were you there when their confrontation actually occurred?

A. Yes.

Q. Did you hear what was being said?

A. No.

Q. Did you have an understanding as to why your father was going up there to confront Mr. Atkinson?

A. Yes.

Q. And why is that?

A. Because they were beginning some sort of relationship, with my mother.

Q. While he was still married to your mother?

A. Yes.

Q. So that upset your father but was not something that upset you?

A. I stayed over at a friend's house that night. I was upset by it afterwards. With the whole situation overall, it wasn't overly overwhelming by any

means. That was an upsetting night by all means but....

Q. Even though you moved out of the residence and you feel that it was Mr. Atkinson's sort of decision that you were to leave...

A. Yes.

Q. ...you still saw him on a number of occasions since then, correct?

A. Correct.

Q. Do you recall meeting Mr. Atkinson's mother at Christmas time one year?

A. I believe she came up to the, to the house and joined us for Christmas dinner.

Q. And you and your brothers were there at the time?

A. Yes.

Q. And Mr. Atkinson was there?

A. Yes.

Q. If I say that was in December of 2007, was that about right?

A. Correct.

Q. And Daniel was there as well, correct?

A. Correct.

Q. So this is December 27 - sorry, December of 2007, after Mr. Atkinson had run at you with a vehicle?

A. Yes.

Q. Did you ask him about that during Christmas time?

A. No.

Q. Did you ever bring that up with Mr. Atkinson again?

A. No.

Q. You didn't say please don't drive a vehicle

at me ever again?

A. No.

Q. You and your brothers would have parties at your parents' house when Mr. Atkinson and your mother were up at the cottage, correct?

A. Not while they were away. Not all the time. They were there. They came back, perhaps from the cottage. They were leaving for the weekends occasionally and I suppose that's where they were going and we had a birthday party there one evening and a fall party as well.

Q. Sorry, and the....

A. A party at some point in the fall.

Q. Okay. And you saw Mr. Atkinson in passing on those occasions as well?

A. He came down that evening to the party in the field and drove around and did a few donuts in the field and went back up to the house.

Q. Did Mr. Atkinson also buy you a car in 2007?

A. There was a Cadillac that he offered to me. I don't remember being able to drive it ever. I never functioned. It would have been nice, though.

Q. Pardon me?

A. It would have been a nice Cadillac, if it was able to get on the road but....

Q. Okay. Your mother was in an accident in April of 2010, involving Mr. Atkinson and cutting down a tree, correct?

A. Correct.

Q. And she was injured quite seriously, as we've heard, and was in hospital for about ten days?

A. Yes.

Q. When she was at the hospital, where were you

living?

A. I was living in High Park with my Auntie Pat.

Q. With your dad?

A. With my Auntie Pat.

Q. Oh, Auntie....

A. Aunt Pat and Uncle Scotty.

Q. And you would go to visit her at the hospital?

A. Yes, in Collingwood.

Q. Did you drive with your aunt when you got there? Or, to get there?

A. Yes.

Q. Did you ever go back to your mother's house when she was in the hospital?

A. Yes.

Q. Did you see Mr. Atkinson there?

A. Yes. Or, we had seen him at the hospital.

Q. But you also saw him at the house, right?

A. He was briefly grabbing some things at the house and then I didn't see him there again. He stayed at his mother's.

Q. Was your brother Daniel at the house when you saw Mr. Atkinson there?

A. I believe so, yes.

Q. Did you speak with Mr. Atkinson at the house while the two of you were in his office?

A. We had a few conversations around that time. One of them - final - the one I remember as the final was collecting a few items at his mother's house and the only words that are sticking in my head is that - he made a couple of threats to me. That's about it. They were pretty

simple and basic.

Q. And that was on one occasion when you were at his mother's house picking up...

A. That was....

Q. ...or exchanging property?

A. He had told me that if I wasn't there that night in question, when my father confronted him that he would have been in much worse shape afterwards; they would have had more than just words and if I had - there was another threat that, that we really shouldn't meet again because one of us is going to go to jail and the other one will go to the hospital.

Q. Those threats that you're talking about now....

A. Occurred after my mother's accident.

Q. After your mother's accident but is that at the time that you were doing this property exchange at Mr. Atkinson's mother's?

A. Or right before that, at the house.

Q. Or at the house?

A. Yeah.

Q. These were in-person?

A. Yes.

Q. This wasn't a conversation that you had over the phone?

A. One of them, one of the threats was over the phone and then in person he, there was a few items exchanged and he brushed off some sort of drug dealer that was trying to talk to us in the car, that was standing outside the, the apartment.

Q. Were you aware that your mother was bringing an insurance claim against Mr. Atkinson or his company,

after the accident?

A. Yes.

Q. You understand she was looking, or was claiming a significant amount of money?

A. Yes, for her injuries, yes.

Q. About \$500,000 dollars?

A. Possibly, yeah.

Q. Do you recall having a discussion with Mr. Atkinson about that?

A. He wouldn't speak too much on that. I don't believe we had any detailed conversation about that. I wouldn't be able to do anything with that for them. I did go up there and collect the trailer, or the truck and meet the trailer and make sure the work site was cleaned up.

Q. With respect to the insurance claim though, did you at any point suggest to Mr. Atkinson that he go along with this insurance claim?

A. It would be a very good idea. That would be about as much as I would have said on it. As far as I know about insurance, you put in for insurance and it would, you know, definitely wipe the slate clean as far as all the debt and pain that he had caused at that point. That's what insurance, for me, it's what it's for, so....

Q. That he had caused with respect to your mother just on that incident?

A. On that incident alone, yes.

Q. But also covering sort of some of the expenses she had paid over the years to Mr. Atkinson?

A. Well, on that job specifically and the truck that was in question as well, I suppose.

Q. Did you ever offer or suggest to Mr. Atkinson that if he went along with it, he could also get

some of the money out of the insurance company?

A. No.

Q. You mentioned that you went to collect some of the items from the accident scene and you did that with Daniel and your Aunt Pat?

A. Yes. Yes, we went and cleaned up the job site, retrieved the truck.

Q. You hadn't spoken with Mr. Atkinson about that, correct?

A. No. No, at that point it was time to act on the, the goods and products my mother had left behind there and go and try and clean out the last of that mess. And since he couldn't drive, without hiring himself a proper driver, the truck was out of collection - questionably - it wasn't able to be collected otherwise, unless Daniel and I had gone up there to get it.

Q. You knew that Mr. Atkinson though, had people he employed to drive him around, correct?

A. Yes but there were none available at that time.

Q. Did you call them?

A. I didn't know who they were. I knew that he was using my mother specifically for that job and that they were going through some sort of transition with the other drivers, so at that point I was told to go get the truck and go and park it at the house and when he was ready for it and had a driver available, it would be collected later.

Q. Who told you to go and get the items from the house?

A. From the job site? My aunt told me to go get those.

Q. Was it your aunt that knew where this

property was?

A. Yes.

Q. Nobody told you specifically where this property was up at Wasaga Beach?

5 A. No, I found out about it while I was at the hospital.

Q. You weren't able to take the trailer back, correct?

10 A. No, I didn't hook up the trailer and drive it back. I just...

Q. So you just took...

A. ...moved it...

Q. ...the truck?

A. ...and just disengaged it.

15 Q. Did you ever go to your mother's house between mid-January, 2008 to March 29th, 2008 or the end of March, 2008?

A. Possibly. I'm, I'm not sure. I know the occasion.

20 Q. Did you ever go to your mother's house when you observed the dump truck, sort of off to the side of the driveway? You're...

A. Yes.

Q. ...nodding?

25 A. Yes.

Q. Did you ask anybody, without telling me what anybody said in response to you, but did you ever ask anybody what had happened?

30 A. Yeah, yeah, we had tried to get it off and we were, I asked how it got on there. My brothers and I tried moving it off with a couple of pry bars and some blocks and driving but it was pinned pretty well. My

grandfather managed to get it off a week, a couple weeks later with a bit of good luck and melted snow, I believe.

Q. When you say that your brothers tried, all three of you tried to move this?

A. Yes.

Q. So Daniel was there trying as well?

A. Yes.

Q. And so you were using some pry bars or, and whatnot to try and move...

A. Yeah, some pry...

Q. ...the truck?

A. ...bars and some tow chains. Whatever we tried, it just wasn't - it was pinned right between the axels.

Q. And when you say you were using chains, were you attaching it to anything to try and pull it out?

A. Yeah, I believe so, or just using its own power to try and get it out.

Q. To try and drive it out?

A. Yeah.

Q. And it was facing sort of down the driveway, so you could have just driven it right out?

A. Yes, that was the plan if it could be unpinned from the rock.

Q. Where it was pinned on the rocks, the back end was sort of caught up on the rocks, correct?

A. Basically the front end had jumped over the rock and pinned the back end on there.

Q. Facing....

A. The road.

Q. The truck was facing the road?

A. Yeah, it was....

Q. County road five?

A. Fifty.

Q. Fifty. Sorry, I have another case with a county road five, so I'm getting confused. If you could - do you still have the map up there or the diagram?

A. Yeah.

Q. And you have - but the truck, you indicated, was facing the road?

A. I believe so, yeah.

Q. And that's county road five?

A. Yeah.

Q. And where's county road five on this map?

A. Right here.

Q. So you're pointing to sort of a black dot that's on the map.

A. Yeah, this truck.

Q. That would be the truck?

A. Yeah. I believe it was facing the other way.

Q. Well, that was your first response, correct?

A. Yeah.

Q. Okay, so that's your best recollection?

A. Yeah, best recollection that it was facing the road.

Q. So you could just drive it out down the driveway.

A. Maybe we were trying to put it in reverse. No, it was. There's pictures of it. Like we said, we took one shot at it and didn't really go on from there. We...

Q. They were....

A. ...couldn't get it out.

Q. Sorry, I cut you off there. There are

pictures of it?

A. Yeah, pictures of it pinned on the road, on, on there and then success pictures of when my grandfather managed to, to get it off. I've seen those pictures.

Q. You've seen pictures of the vehicle actually stuck on the rocks?

A. Yes.

Q. Okay. Who took those pictures?

A. My mother.

Q. Your mother did? Were you there when she took those pictures?

A. Not that day, no.

Q. This is the last time I'll go over this area with you. You've already testified that you didn't have a problem with Mr. Atkinson being in a relationship with your mother, correct?

A. Not initially, no.

Q. Initially when she - he moved into the house, even though it was very close to your father moving out, that didn't trouble you?

A. Yeah, it was about as troublesome as it could be but I figured it would be a new beginning for her and it could go, you know, it could go wrong. I had hope, at least and I did my best to try and get to know him and he was what he was.

Q. So you didn't tell your mother that, you know, I don't like this man moving in?

A. He did a number of things that I knew that I would have to probably get used to that, you know, weren't acceptable right off the beginning, such as smoking in the house and setting up a company in the back yard with a lot of heavy materials that I've spent some time trying to get

rid of now. Other than that, it was my opportunity to try and make the best of things, if I could.

Q. Right, you were respecting her decisions.

A. Yes.

Q. Fair?

A. Yes.

Q. And you were only actually living in the house for a little while, right, before...

A. Yeah.

Q. ...you moved out anyway.

A. Yes.

Q. I take it you were taking that approach with your mother that you also took that approach with respect to any discussions you had with Daniel about Mr. Atkinson?

A. We would have, you know, said - in regards to what Daniel and I talk about, it would have been, you know, as little as possible about John but they would have been more negative thoughts, that's for sure.

Q. Okay, so today your evidence is that you do recall having conversations with Daniel about Mr. Atkinson being in the home?

A. Yes.

Q. How many times did you have those conversations?

A. I'm not sure. Just whenever I would see him. Occasionally. We'd try not to bring it up. My Aunt, my Aunt Pat would - it would be a topic of conversation more often with my Aunt Pat and my cousin James and there would, you know, be updates on what he was doing.

Q. Do you recall testifying at the preliminary hearing that, when you were asked a question - and this is at page 62 and I can show you the page but you were asked

the question - well, actually, it's sort of on the back of you having a discussion about whether or not you told your mother you were unhappy with John being there.

A. Yeah.

Q. Right? And then you're asked the question by the defence lawyer at that time:

Q. Did you have any conversation with Daniel about John being in the home?

A. No, Daniel and I didn't talk about that.

A. Yeah, not until this whole thing's come up but not initially. Like I said, we were making the best of it and it - only once it got worse and worse and more apparent that, you know, we still try to talk as little as possible about it because it was bothersome but it was more so with my Aunt Pat giving us updates on how my mother was doing and James and I would have some conversations about it but to no end.

Q. So when your mother and your brother and you were living in the house together, you and Daniel and that - and sorry, and Mr. Atkinson was there as well?

A. Mm-hmm.

Q. So the few weeks that that's happening, you did or did not have any discussions with Daniel about Mr. Atkinson?

A. I didn't, didn't really seem like an imperative thing to do. We're trying to make the best of things and there was nothing to be done but see and hope it would turn out for the better and maybe be a turning point for my mom and she seemed fairly happy about it. With this,

it was something new, that's all.

Q. Thank you. The key box that you talked about, you indicated that the key box was kept in your mother's bedroom?

A. Yes.

Q. That key box contained keys for things related to Mr. Atkinson's business, correct?

A. Yes.

Q. Are you sure that the key box was not kept in Mr. Atkinson's office?

A. That was my mother's bedroom. It could have been turned into an office at one point, if they had their bedroom on the other side of the house, which I believe they did. I wasn't there for long enough to know how they rearranged it.

Q. So the only time you dealt with that key box was when you were living there?

A. No, it was not only how have I - even touching that key box. I didn't go into that. None of my keys were in there. It's not my key box.

Q. All right, so you never went into that key box when you were living at the residence?

A. No.

Q. And you didn't go into that key box when your mom was in the hospital or any time around then?

A. Yes, that would be much, much farther after the initial installation of the key box and if I was told to get one of the extra keys out of there I would have.

Q. Okay, so that's in, sort of April or that...

A. Yeah, years later, yeah.

Q. ...thereabouts in 2010.

A. And now I keep my keys in that key box if I

have spares or anything.

MS. HYSLOP: Your Honour, I'm just going to speak with Mr. Atkinson in the box here, if that's okay?

5 MS. HYSLOP: Q. When you were standing and talking with your mother...

A. Yes.

10 Q. ...is it possible that you were standing - well, let's go - where are you standing in relation to your vehicle?

A. Between five and six feet away from it.

Q. And you had pulled in to your vehicle - or, sorry, pulled in to the parking spot...

A. Yes.

15 Q. ...correct? So you were...

A. Yes, so....

Q. ...five or six feet away from the back end?

A. Yes, that's what I was going to say.

20 MS. HYSLOP: Madam Clerk, do you have the exhibit from the prelim? I think there was one diagram that was left.

A. That would have been my rough drawing, I believe.

25 MS. HYSLOP: Q. We're going to come back to - we may come back to that in just one moment but did you ever use Mr. Atkinson's work materials or his computer in the office?

A. No.

30 Q. No? You never went in to Mr. Atkinson's office and went on his computer?

A. No.

Q. Do you recall drawing this diagram or

Raymond Summerfield - Cr-ex.

Raymond Summerfield - Re-ex.

drawing a diagram at the preliminary hearing?

A. Yes.

Q. And do you remember indicating at one point that you were drawing - or rather, did you draw headlights in the diagram to depict which way the vehicle was facing?

A. I think they had tried to get me to draw some on there, yes.

Q. Is your recollection that you've drawn the vehicle the same way as you did at the preliminary hearing?

A. I believe so. I believe I pulled in.

MS. HYSLOP: This is the last area, Your Honour.

I'm just looking for a specific reference.

Thank you very much. Those are all the questions I have for you.

A. Thank you.

THE COURT: Re-examination?

MR. FAVERI: Thank you.

RE-EXAMINATION BY MR. FAVERI:

Q. Mr. Summerfield, I think when I was asking you questions, you said that after Mr. Atkinson drove towards you in the Ranchero, you jumped out the way, you saw....

MS. HYSLOP: I'm sorry, Your Honour. I have to object about whether or not this is proper re-exam. I think it was quite clear what the witness said in in-chief and then I questioned him further in cross-examination and I think he gave his answer. In my view, clearly he didn't know. It's possible that he went down the road; it's possible he went another direction. I'm not sure if it's something that gets to be

clarified on re-exam.

THE COURT: Is that the question you were going to ask?

MR. FAVERI: Yeah, that's where I was going, yeah.

THE COURT: Any comment on the objection?

MR. FAVERI: I did want to make sure that that's what his evidence was.

THE COURT: Seems to me that there are many different purposes of a re-examination. Some of them are to cover areas that are new in cross-examination that could not have been foreseen. Other areas are to clarify what appeared to be some contradictions and this seems to me to fall into that category so I'll allow the question.

MR. FAVERI: Thank you.

MR. FAVERI: Q. I just want to make sure - I think we all understood what you were saying; I want to make sure you understood what you were saying. So when I was asking you questions...

A. Yes.

Q. ...you said that after Mr. Atkinson drove the Ranchero towards you, you got out of the way and then he went down to county road 50 and turned on to county road 50. You said you remember...

A. Yeah, I remember...

Q. ...the stones being....

A. ...most clearly that he went out onto the road. I think I may have stumbled. I meant that he could have gone down to the fields. He does have things down there. That's not what he did that day. Not from my memory. He did go out north onto the road. He had the

option to obviously go down to the, to the trailer but....

Q. All right, so when defence counsel was asking you the question about if you remembered where he went. I think you said something about there's a 50/50 chance that he went north but you....

A. Yeah, or south. She, she was asking the percentage of how sure you could be. It's, you know, he can only go left or right on that. Then obviously, I know he - in my certainty, from what I saw and remember is that he went north.

Q. Okay. So when you said that he may have gone down that driveway that I think it goes to the barn or something like that?

A. Yes.

Q. What - what were, what were you responding to when you said that?

A. It's - she was trying to get all the options out of me and I was responding that that was one way he could have gone. There were things down there. He wanted to describe what was down in the field but at that point he definitely went out to the north.

Q. One thing - well, defence counsel asked you about, I guess all the occasions you had something to do with Mr. Atkinson. For example, him offering to help you fix your Honda after he drove the Ranchero towards you and so there seemed to be more than one occasion where you two had something to do with one another after that. So my question is, why would you have anything to do with Mr. Atkinson after he drove his Ranchero at you?

A. He didn't manage to hit me. He was, you know, with in between that there was quite a bit of time and my mother presumably and obviously had been able to calm him

down and, you know, you give it another shot. That's about all I could do.

MR. FAVERI: Thank you, sir. His Honour might have a question. He might not.

THE COURT: No, I don't have any questions, thank you. You can stand down.

A. Thank you.

MR. FAVERI: That's all the evidence I have available today.

THE COURT: All right. What, what are we looking forward to in January in terms of witnesses or have you decided that yet?

MR. FAVERI: I think - well, for sure Ms. Campbell will be here for cross-examination.

THE COURT: Right.

MR. FAVERI: It's a little hard for me to tell, without hearing her cross-examination, what's an issue and there's a possibility that I will call her father. There's a possibility I might have to call the officer who took the - responded to her call to the police about the threat, ^{video} although I don't think that's going to become an issue. In any event, all I really expect to have to bring back is Ms. Campbell for cross-examination. There was a fellow you saw in the video, the birthday, Mr. Atkinson's birthday party. I was possibly going to - we've been trying to serve him. Possibly going to bring an application to read in his evidence but I don't think I'm going to do that either.

THE COURT: All right, so it's essentially Ms. Campbell is the lion's share of what the Crown

has left, then?

MR. FAVERI: Yep.

THE COURT: Okay, and I take it, Ms. Hyslop, that that was your understanding that this is the evidence that we would have today as well?

MS. HYSLOP: Yes, Your Honour.

THE COURT: Yes, okay. All right, so then that's all the evidence we can call today so the next step is to set the matter over to January 6th for continuation.

MS. HYSLOP: And the only thing I just wanted to mention for Your Honour, because I don't think I was clear this morning. I didn't want Your Honour to be misled. Just so that Your Honour knows, because we had a lot of discussion and a big issue in this case has been my ability to meet with Mr. Atkinson. I just wanted Your Honour to be aware that I did in fact come down last week and meet with Mr. Atkinson. I know I needed extra time this morning but that was because I wasn't able to make it yesterday to see him. Just so that Your Honour knows, I do have the documents here for my friend and I to sign that should allow us to get Mr. Atkinson back to Bath prior to January 6th, so I can meet with him there. Should there be any issue, would it still be okay if I sent anything to Your Honour in chambers, if we needed something from Your Honour?

THE COURT: Sure, just let Mr. Faveri know but I'd be happy to accommodate that and I appreciate, as I said before, your efforts in

stepping in on this matter.

MS. HYSLOP: Thank you, Your Honour.

MR. FAVERI: Is January 6 in Barrie?

MS. HYSLOP: Yes.

MR. FAVERI: Your Honour, we will try and see if
Richard Conway will - we'll work on that.

THE COURT: Oh, on those notes, yeah. Yeah,
that's probably a good idea. I've actually seen
a copy of his notes in my years as well. All
right, thank you. I guess that's it.

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Certification

FORM 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5 (2))

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Carolyn Hill