

R. v. Atkinson
John Atkinson - Cr-ex.

5 asking him questions and now the Crown Attorney, I anticipate where he's going is going to be suggesting to Mr. Atkinson that something else actually happened on that day and not what Mr. Atkinson and Ms. Campbell have been saying.

A. Because I thought we....

THE COURT: Sir, sir.

A. Sorry.

10 THE COURT: Mr. Faveri?

MR. FAVERI: Your Honour, the reason I'm asking the question is this. In-chief, Mr. Atkinson offered as an explanation as to how Deb misunderstood perhaps what Deb thought was a threat to broadside her son, Daniel, he said, yeah, well, I did say PC Vivian - that's probably something Constable Vivian would do, broadside me, and I'm asking about that incident. Ms. Hyslop is quite correct. I don't think that was part of any application, but I'm trying to show that the likelihood of that conversation occurring is unlikely because of - what I want to put to him and what I think really happened and he's going to agree or disagree with it and that's going to be the end of it.

20
25 THE COURT: Ms. Hyslop, when you asked your witness to respond to the allegation of threats, that is in fact the explanation that he gave, that he had mentioned something about Constable Vivian broadsiding him and that being misunderstood or mistaken by Deb. Certainly, the Crown is entitled to explore that, given the fact that that's part of the explanation that he has proffered to his

R. v. Atkinson
John Atkinson - Cr-ex.

behaviour, wouldn't you think?

5 MS. HYSLOP: I guess the issue is, Your Honour, I'm not saying that my friend can't ask about this idea of broadsiding, but I think where he's going with this is he's going to suggest that that's not really what happened, that he wasn't broadsided. But Ms. Campbell testified that there was contact between the vehicles. That was her evidence. I mean, I think Your Honour may see when my friend asks the questions. My concern is that we're now going to be re-litigating what actually happened on that particular day as though Mr. Atkinson is on trial for that particular incident. That's my concern, Your Honour.

15 THE COURT: I understand that concern. I think, though, that the door has been opened and I would expect that maybe we can look through it. I don't think anybody should be marching through, Mr. Faveri.

20 MR. FAVERI: I understand.

MR. FAVERI: Q. I'll go about it this way, sir. We know Constable Vivian pulled you over. You ultimately flee from him; is that right?

25 A. You see, now I don't know whether I should answer that because we're not talking...

THE COURT: Sir, the question is asked and you answer...

A. Okay.

30 THE COURT: ...the question unless someone tells you not to.

A. Okay.

R. v. Atkinson
John Atkinson - Cr-ex.

THE COURT: Okay. Or someone objects.

MR. FAVERI: Q. You flee from Constable Vivian in a car; is that correct?

A. Truck.

Q. A truck?

A. Yes.

Q. Thank you. Sorry. And there's a pursuit, he's chasing you; is that right?

A. Yes.

Q. Okay. And your vehicle and his vehicle do come into contact; correct?

A. If I - if I can say, the front of his cruiser hit the broadside of the back of my truck.

Q. All right. So it's not that you - the two of you were headed towards each other and....

A. I was this way and he came at me this way.

Q. All right. So sort of like a game of chicken, if I can put it that way?

A. No, later on after finding out it was - he was trying a defensive move to roll or tip the truck.

Q. Oh, I see. Okay.

A. Or spin it.

Q. In any event, after that collision, you were able to get away and Vivian couldn't chase you anymore; right?

A. Am I to keep going?

THE COURT: You were being asked a question.

A. Yes.

MR. FAVERI: Q. Okay. And this just comes up in a conversation with Deb after your relationship is over; correct?

A. It's not - it's not - I mean, at what point do you say the relationship is over?

R. v. Atkinson
John Atkinson - Cr-ex.

Q. Well, when I say it's over doesn't matter.
When do you say it was over?

A. When I'm arrested.

Q. When you're arrested in August of 2010?

A. Actually, maybe December when I was told that, well, she - the last time I had spoken to her, she said I'm not allowed to talk to you anymore.

Q. So, all right. So today you've called - the house, it's 509...

A. 1905.

Q. What is it?

A. 1905.

Q. 1905, thank you. So that property, you've called that "my house" two or three times, would you agree with me?

A. Yeah.

Q. You've called the truck, at least the pick-up truck, you've called that your truck; correct?

A. Yes.

Q. Why would you call the house your house?

A. It's not - it's not a house of ownership. We know that I don't own that house. When anyone gets - where do you reside, I live at - if anyone gets stopped, they reside and they live there. Do you live there? Yeah, that's where I live, my house, my apartment, my place. That's - that's how you - that's what I get from it.

Q. All right. I mean, all told, you may have lived there 15 months; would that be about right?

A. Less.

Q. Less than that, okay. Am I correct that you have never had a driver's - an Ontario driver's licence?

R. v. Atkinson
John Atkinson - Cr-ex.

A. Just a 365, that's it.

Q. All right. And am I correct that on all these dates that we're alleging, being from May 2006 up until July 2010, you were a disqualified driver?

A. Correct.

Q. And it's your position that you simply did not drive on a highway any of the times anybody in this trial has said you did; is that right?

A. When you get dates and time, are you talking about those dates?

Q. All right. I'll be more specific.

A. Please.

Q. So I think Raymond Summerfield said he saw you driving on Highway 50 on Mother's Day around May 14th, 2006.

A. I never did.

Q. All right. And certainly Deb says you were driving on your birthday on the 14th of January, 2008?

A. I never did.

Q. On a highway, and you deny that; right?

A. That's right, sir.

Q. So let's talk about - oh, I see the time.

THE COURT: Let's talk about lunch.

MR. FAVERI: Yeah.

R E C E S S

U P O N R E S U M I N G:

THE COURT: Madam Clerk, if I can just ask you, on the Information that is not to be withdrawn...

COURT CLERK: Yes.

THE COURT: ...is that - was there an arraignment

R. v. Atkinson
John Atkinson - Cr-ex.

noted on that Information?

COURT CLERK: Yes.

THE COURT: Okay, thank you.

5 MR. FAVERI: Q. So Mr. Atkinson, I'd like to ask
you now some questions about the charges involving Raymond
Summerfield.

A. Yes.

10 Q. So do you remember it being Mother's Day that
he came over?

A. Yes.

Q. And you were working on the Ranchero in the
garage; right?

A. Yes.

15 Q. You said you were doing a timing test and a
vacuum test?

A. Adjusting the carburetor.

Q. And adjusting the carburetor, thank you. What
was wrong with the carb?

20 A. Just finetuning it because you've got - you
finetune - you've got to remember, the car has been sitting 17
years pretty much.

Q. Yeah.

25 A. So actually when it left my house to Deb's, it
was actually towed. It wasn't driven.

Q. Okay.

A. So just finetuning it, new plugs, oil, just....

Q. All right. So what year is that Ranchero?

A. Seventy-six.

30 Q. Electronic ignition? It didn't have points,
did it?

A. Yeah.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. It did?

A. Yeah.

Q. All right. So the vacuum test....

A. It's not a vacuum test.

Q. It's not a vacuum test?

A. I wasn't doing a vacuum test.

Q. You said you were doing a vacuum test.

A. No, I was doing the timing.

Q. Oh, so there was no vacuum test?

A. There was vacuum hoses hooked up to the carburetor, but no, no vacuum test. No.

Q. Oh, okay. So tell me about the timing, what did you have to do?

A. Okay. So I take the ground from the timing gun, okay. That goes on a ground and I take the yellow wire, that goes onto the distributor, all right, and then I take the red wire, that goes on your spark plug. All right. You start your car up and you put the scope on the counter which is in the front where the flywheel is. It spins and it turns the counter and then you've got markings from 1 to 25 and then you've got - it's a little bar, it's right above where your pulley is, your flywheel, and it's got markings and there is like little alligator teeth and they have to be lined up. When the scope and the light match and all is in sync with number one cylinder, you're good to go.

Q. Okay. So you adjusted the points?

A. No.

Q. No?

A. You don't adjust the points. You move the distributor.

Q. Oh, okay. So you rotate the distributor until

R. v. Atkinson
John Atkinson - Cr-ex.

you get the timing right for cylinder number one; right?

That's what you're hooked up to?

A. That's right.

Q. And adjusting the carb - so this thing had been sitting for 17 years, it had never run?

A. It always run.

Q. I'm sorry?

A. It always run, but I mean, you start it up, you let it run a while, and you shut it down.

Q. Oh, okay. So why didn't you just do that this time, start it up and shut it down?

A. I like playing with cars.

Q. It sounds to me like it didn't need playing with, though.

A. I guess that's a matter of opinion.

Q. Well, your opinion, you said it always started up and then you'd shut it down, because I asked you if - I thought you said it hadn't run in 17 years, but you say - now you're saying you started it up how often? Weekly? Monthly?

A. Yearly.

Q. Yearly?

A. A couple of times a year.

Q. Okay. So you sound like you know something about cars. You know, in a carburetor, there's an idle circuit, a midrange circuit, high speed circuit?

A. What year?

Q. Any car.

A. Well, not in a '76, not that I'm aware of.

Q. Because, you know, your car can idle, it can be midrange, it can be wide open throttle?

A. I think you're talking about an EFI.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. Oh, okay. Well, but the car wasn't - the Ranchero wasn't running very well, that's why it needed a carburetor adjustment?

5 A. The things that I was contending with, because you know, when it sits that long, it can - you know, it accumulates water and the tank accumulates water. When the lines are running, it starts sputtering, you know, it builds up over the years. You get, I call it soot that gets built up inside. You don't get clean gas. It just - I mean, your oil gets stale, your gas gets stale.

Q. The car really needs to get run, doesn't it...

A. Well...

Q. ...when it sits like that?

15 A. Yeah, and you know, if you want to get right to the point, I probably just bought that timing gun so I really wanted to try it out because I was having other problems with the car and I thought, well, maybe it has something to do with the timing. So I bought that and I can't say it really needed it, but it was good to work on that for it.

20 Q. So you weren't really working on the Ranchero because it needed it, you were just monkeying around, doing it for the fun of it?

A. No, no, it needed it.

25 Q. It did need it?

A. Oh, yeah, sure.

Q. Oh, okay. So while you were working on the Ranchero, Raymond arrives; right?

A. Yes.

30 Q. And you weren't expecting him, were you?

A. Well, no, I guess not. I mean, I knew that he was going to be coming up, but expecting at what time, no, but

R. v. Atkinson
John Atkinson - Cr-ex.

I knew he was coming up.

Q. You were upset that he showed up, weren't you?

A. No, I was not.

Q. So you said Deb - you were talking with Deb in the garage while you were working on the Ranchero?

A. Yeah.

Q. She went over to Raymond when he arrived, didn't she?

A. No, she was still standing in the garage when Raymond walked up to the car.

Q. So it sounds to me like if you were doing this work on the Ranchero because it needed it, you would have taken it for a test drive?

A. I wouldn't call it a test drive. I mean, that's the goal of having the timing done, isn't it? Everything is running smoothly once you hook that thing up.

Q. What if you want to see if - you know in a distributor there is a vacuum line; right?

A. Yes, there is.

Q. Do you know what that vacuum line does?

A. It can do many things, actually.

Q. Well, what it does is it advances the ignition as you go faster? It changes the timing. Would you agree with me?

A. Yeah, there's a little - there's a little bit of leeway with the points. You're talking about the points inside the vacuum, it goes up in there. You're not going to be able to use a vacuum to move a distributor cap that is actually bolted down.

Q. It doesn't move the distributor cap, it doesn't even move the distributor housing?

R. v. Atkinson
John Atkinson - Cr-ex.

A. That's right. That's why I said inside there's a little bit of leeway from the vacuum.

Q. Right.

A. That's what I just said.

Q. Right. And it advances the timing?

A. So what, one, two, three degrees, and that's why you have the gun so when you've got the scope, you're like this and you use your ear and you've got your eye and you've got the light and it's just hitting that mark and you're like - and then as soon as you get that, then - then you've got her.

Q. So what I'm going to suggest is, when you use the timing light, the car is at an idle, isn't it?

A. It's in park.

Q. So it's at an idle?

A. Well, I'm just making sure.

Q. Are you going to give me a "yes" or a "no"?
It's at an idle?

A. Yes. It's - yes.

Q. Okay. And so the vacuum changes when you accelerate, doesn't it?

A. Yes.

Q. And it advances the ignition, the timing?

A. Yes.

Q. You'd have to drive the car to see if that was working; right?

A. Well, I mean when you accelerate, it advances the timing, you get more spark, you get more valves moving, you get pistons going like that and you've got combustion. I mean, I don't know if that's where we're going.

Q. Well, the other thing is the carburetor needed to be adjusted and the only way you're going to find out if

R. v. Atkinson
John Atkinson - Cr-ex.

that's adjusted properly is to take it for a drive?

5 A. Uh, no, if you have the car running, you do your timing and your timing says, well, you know what, everything is okay, but the car is still got a "g-g-g-g-g", right, then you realize you've got a couple cracking lines coming from your carburetor, so then you replace those. You've got to replace those every now and then when the car sits because you get little cracks and it sucks air, and you know what, no matter how much you do the timing, you can have it right on, you're still going to have that "g-g-g-g-g-g". So you've got to feel around and...

Q. All right.

A. ...find out where the vacuum is.

15 Q. So I'm just going to advance a simple proposition, sir. You do some work on a car, you're going to take it for a test drive to make sure it's running okay, to make sure you achieved your goal?

20 A. Well, as best as the goal that I'm going to be able to achieve is up and down the driveway, so whatever I get out of that, I'm going to get out of it; right?

Q. Well, you told us you drove up and down the driveway, but that's not the same as taking it for a good run out on the road, is it?

25 A. Well, I beg to differ. I mean, if you're - if you're just doing minor work, then, yeah, but if you're going for a complete safety and overall and stuff like that, yeah, okay.

30 Q. You wanted the car to run right, didn't you? That's why you were working on it?

A. I probably - I probably didn't need it running until probably the next three months I think actually I ended

up getting it certified and it went on the road.

Q. Because you were going to magically get your
licence back?

A. I got the car on the road certified and
insured.

Q. Why? You can't drive it.

A. I didn't drive it.

Q. So why?

A. I like that type of car, truck.

Q. You liked driving it?

A. Are you asking me...

Q. Yes.

A. ...or are you telling me?

Q. I'm suggesting to you, you liked driving it.
That's why you were getting it on the road.

A. Actually, I was going to get it on the road and
just have it the way it is, I restored it. That was the goal,
not to drive it.

Q. So you're going to pay for a safety, pay for
insurance for a car you can't drive?

A. Yes.

Q. Sir, I'm going to suggest to you that you did
drive that car at Raymond. Whether you backed it out or you
drove it straight out, you drove it at him, agree or disagree?

A. Disagree, sir.

Q. Your position is you drove it up and down the
driveway, forward/reverse, forward/reverse; right?

A. That's correct.

Q. I guess you were pretty familiar with the
driveway?

A. Yes, I am.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. No problem backing up the driveway?

A. No, it was a nice, sunny day.

Q. So on your birthday, 14 January 2008...

A. Yes.

Q. ...14th of January is your birthday; right?

A. Yes, it is.

Q. All right. And sorry, I just need a minute.

So do you remember seeing the video that Deb took of you and Carl in Deb's area of the house, the basement?

A. Yeah.

Q. And you were....

A. That was in 2008.

Q. Your position is that was January 2010?

A. That's right.

Q. So Carl would come over - did Carl come over on January 14th, 2008?

A. Yeah.

Q. 2009?

A. No, I was in custody.

Q. All right. Do you remember when you got out of custody?

A. What year?

Q. Well, I'm looking at an entry on your record that November 6th, 2009 in Barrie you got three months.

A. So I think it was just a little after January, wasn't it, January 18th or 14th - or 18th, 19th? I think I just missed my birthday, wasn't it, because he had come over and we had a little get-together.

Q. Well, you probably did just miss your birthday which would mean....

A. Which would mean a belated birthday.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. Oh, so now this video is not on your birthday but a few days after your....

5 A. I was - all I'm saying is, you asked me the dates and I don't have an exact date. You said December and I thought it was a little bit after my birthday, which would be January.

Q. For getting out of custody?

A. Yeah.

10 Q. And you said you probably missed your birthday by a few days?

A. Yeah.

Q. Which means that video was in....

A. That video was on my birthday.

15 Q. That you missed by a few days?

A. Yeah, but the video was still taken, it was still my birthday. I mean, whether it was on that date or not, it was a belated birthday.

20 Q. All right. So I wasn't clear enough in my question when I asked if you were talking about January....

A. No, because I got sentenced for three months. That was an assault charge on a police officer, right? Am I right?

Q. That's right.

25 A. Okay. So it was - I got sentenced in December. I got three months; right?

Q. Yeah.

A. Okay.

Q. In November, you were sentenced.

30 A. Right.

Q. November 6th. All right. Well, I'm going to suggest to you that the video that Deb provided and that we

R. v. Atkinson
John Atkinson - Cr-ex.

played was taken on your birthday in 2008.

A. That's not correct.

Q. Okay. So would I be wrong to suggest you like to drink?

A. Go back about 17 years ago and I would agree with you.

Q. But since 17 years ago, what...

A. I'd say just...

Q. ...you've given it up?

A. ...right around 2003, 14 years, say that.

Q. So on your birthday, let's say your birthday January 14th, 2008, you didn't work that day; right?

A. No.

Q. You stayed at home, you had a good time? I think you said you went snowmobiling...

A. Yeah.

Q. ...ATVing?

A. Yeah.

Q. Carl was over?

A. Yeah.

Q. Right? Carl likes to drink, doesn't he?

A. No, we're not heavy drinkers. We used to be years ago but not - not in the years that have gone by lately, no.

Q. So all you had was three glasses of wine?

A. And they weren't consecutive - or I mean they weren't concurrent. They were over a period of time, yeah.

Q. All right. So what you're telling us is that there was a couple of hours between each drink or something like that; right?

A. No, I'm just saying that I never got drunk.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. Okay. So would you agree with me that on your birthday in 2008, January 14th, would you agree with me then that you were sober the whole day?

A. I would almost feel that way, yeah.

Q. Almost feel that way, what does that mean?

A. Not enough to be drunk, to probably not feel any worse than I feel right now. I mean, wine doesn't do much for you. It just wets your whistle, that's it. There is - I have a condition where I don't drink, okay, I mean heavily.

Q. What condition is that?

A. I've got Hep-C. It makes a big difference, a huge difference.

Q. That prevents you from drinking heavily? I don't know, sir.

A. I don't want to be liver transplant, I don't want to be hooked up on intravenous and walking around with a pole. I don't want to have to have liver transplants. I've looked after myself ever since 2003.

Q. Oh, okay.

A. So I mean I've just had a medical done and my liver is perfect.

Q. Well, that's good to hear. So if you only had three glasses of wine over the period of several hours, would that be fair, I'm going to suggest to you you would have been stone cold sober.

A. That's why I said I would probably feel like the way I feel right now. You don't - I mean, like I said, just wet your whistle. You come in, you're kind of dehydrated, thirsty, whatever, it's your birthday, that's it.

Q. And so the video, whether it was 2010 or 2008, the video of your birthday party, if I can call it that, was

R. v. Atkinson
John Atkinson - Cr-ex.

that like a natural high? You weren't drunk?

A. Right. In this one here, the one in 2010?

Q. Yeah.

5 A. That's just being - that's not really - that's maybe I had a couple more than three or four there, but I mean, I'm enjoying myself. It's a party, I'm having a couple of drinks. I mean, I'm not loaded, I'm not intoxicated, I'm having fun, I'm having a good time, I'm singing.

10 Q. So you would have had - you just said you would have had more than three or four whatever day that was?

A. Probably - you know what, I wouldn't say - I know for sure it wouldn't be more than six.

Q. All right.

15 A. And it wouldn't be wine, it would probably be beer.

Q. Okay.

A. Right?

20 Q. You just finished telling us you're not going to drink a lot because you've got Hep-C and you're worried about what it's going to do...

A. Yeah.

Q. ...for your liver?

A. That's right.

25 Q. But you would have had six beers?

30 A. I'm - I'm - if it doesn't satisfy, I'm just saying, I'm being honest about this time and about that time and what I recollect. It's not about making anything different. It's just what I would - there is a maximum that it would never go over in my entire life no matter where I'm at. If there was 14 cases there, and you said, "John, you can have those," I'd say, "You know, what, six is my limit no matter

R. v. Atkinson
John Atkinson - Cr-ex.

what."

Q. Okay. So would you agree with me that you were drunk on that video?

A. No, I'd say I was just happy.

Q. All right. So if I say zero is stone cold sober and ten is passing out, you're nearly so drunk you're going to pass out, where were you on that scale on that day whenever that video was taken?

A. I can't think - I can't answer something like that.

Q. You're an experienced drinker, aren't you?

A. No, I'm not.

Q. Alcohol used to be a problem for you, didn't you tell us that?

A. Years ago, but I mean, take that type of thing, I just can't answer that. How would I answer?

Q. Well, you've been drunk before; right?

A. It's been so long since I've been drunk, I really don't remember what the effects are like.

Q. Really?

A. I mean, you're asking - you're asking me something I just can't - I don't know how to answer.

Q. So when I - so essentially, sir, I'm asking you, when that video was taken how drunk you were on a scale of one to ten, and you are telling me you cannot answer that?

A. I'm saying that I wasn't drunk. I would - I would say I was having a good time. I wasn't having trouble walking around, I wasn't having - you know, I wasn't doing anything that - I don't know, I mean, I wasn't drunk.

Q. Would you agree - you were happy though; right?

A. Yeah.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. So that's something more than stone cold sober, isn't it?

5 A. Well, you can't - you can see I'm having a good time, I'm happy. I'm singing, I'm dancing, I'm having a good time. I'm singing one of my favourite songs and I love country.

Q. All right. But you are happy because of the alcohol; right?

10 A. No. Yeah, it has a little bit to do with it, but I'm happy with the company I'm around. I'm happy with the music. I'm singing. I don't think drinking makes you want to sing.

15 Q. So, sir, all I'm suggesting is if you are able to tell us that the alcohol played a role in making you happy, that puts you somewhere on a scale?

A. No, because you know what, even without the alcohol, I'm like that. Sorry, I just am. I don't need alcohol to get that happy.

20 Q. Okay. Sir, so is it your position that you had no idea that Deb had made reservations at the Village Inn in Thornton?

25 A. The week prior, yeah, but it was - that was it. It wasn't - it wasn't going to happen. There's no way that I would want to. I'm just not like that. I'm a country and western guy, blue jeans, denim shirt, cowboy boots, once in a while a cowboy hat. I'm not going to anywhere there's tuxedos. No offence, but I'm not throwing a tie and a suit on.

30 Q. Right. Well, I don't know that you'd have to. Did you think you would to go to the Village?

A. The way she explained it, yeah.

Q. Did she also explain to you that if it's a

birthday, one of you gets to eat for free?

A. That's not going to change my mind how I feel about where I want to go.

5 Q. So it was all about you, it didn't matter about what Deb - where Deb wanted to take you for your birthday?

A. Right.

Q. Even though she is the one paying for it?

A. Right. It's not about the money.

10 Q. Well, it was for her.

A. Well, unfortunately, I didn't see it that way. I seen it where I wanted in an environment around people and friends that I have and how I want to have my birthday.

Q. So Deb - I'm just going to suggest this to you, sir.

15 A. I made the suggestion to Deb how I felt and she was good with that and that was the end of it. She said okay if that's how you feel, fine, we won't go.

Q. Oh, so Deb - well, you said she made the reservations a week before for the Village Inn?

20 A. No, she talked about it. I never knew anything about any reservations being made. When she suggested it, I just - I wasn't going.

Q. I suggested to you you didn't know about the reservations and you said, yeah, I did the week before, something like that.

25 A. We spoke about it and I didn't want to go, so she didn't make any reservations. This thing about who made what reservations, when, where, you know what, I'm totally - I've heard so many different things, but I'm telling you, all right?

30 Q. What are you telling me?

R. v. Atkinson
John Atkinson - Cr-ex.

A. That I was not agreeable to reservations whether she made them or not.

Q. So even if she made them, you weren't going to go there, is that what you're saying?

A. We discussed it and she already knew that I wasn't. She says, "If that's how you feel, okay, we won't go."

Q. You were going to go to this place on Highway 9...

A. Yeah.

Q. ...that you don't know the name of?

A. It's - it's - I've been thinking of it. It's on - I've just - I've been thinking about it for a while and....

Q. Well, you keep thinking about it and we'll come back to it, but can you tell me where it is? So I turn left out of Deb's...

A. So, okay, if you're leaving....

Q. ...driveway?

A. If you're parked in the driveway right at the end, okay, and you're facing west, you immediately turn left...

Q. So now...

A. ...onto Highway 50.

Q. Okay.

A. I would believe it's probably a two to three minute drive, depending on who is driving....

Q. So let me interrupt. You're going south now?

A. South.

Q. Towards Highway 9?

A. I was just about to say south to 9.

Q. Okay.

A. And then there's a set of lights, there's a Tim

R. v. Atkinson
John Atkinson - Cr-ex.

5 Hortons at the corner which is gone now. You turn west, which would be right, and you can actually see the restaurant because the road goes like that. You can actually see the restaurant from Highway 50, but it's like a one-minute drive, two-minute drive.

Q. Can you describe for me what it looks like?

10 A. Okay. Now, right now, it's under new management. My friend has actually passed away. So what it looks like then or now?

Q. Then.

15 A. Okay. So back then, it had two garage bays, it was a mechanic's and it served gas, and then there was a gas bar inside and then you've got four flights of steps and then there was the lounge, the restaurant, and then the dinery.

Q. It was a pretty big place?

A. Huge.

20 Q. I think I know the one now that you're talking about.

A. Yeah, he was a good friend of mine, Emilio. He passed away. He died at his wife's wedding on the dance floor.

Q. So are they even open for dinner?

A. At that - are you talking about presently?

Q. Yeah.

25 A. Presently?

Q. No, back then.

A. Oh, back then?

Q. Yeah.

A. Yeah.

30 Q. So you mentioned some names today that I don't think we've heard before. Jason Marsh?

A. Yes.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. Is that the fellow you said is sort of related?

A. Yes.

Q. What's sort of related?

A. He's someone - he's someone in our family.

5 Someone got married - another person got married and then one day he recognized the name on my truck and we started talking and he says, "Are you an Atkinson?" I said, "Yeah," and he started mentioning people. I said, "Oh, yeah" and I said, "You want to work for me? You want a job?" So I put him on as part-time.

Q. And Sean Whittaker?

A. Yes.

Q. Who is that?

A. That's his friend.

Q. Jason's friend?

A. Yes.

Q. So does Sean work for you, too?

A. No.

20 Q. How many people did you have working? You make it sound like you had a lot of....

A. Well, I used to - all the students from Banting, I used to have them come work part-time, so I had a lot of people coming and going, coming and going. I go through the government grant. I always kept students employed.

25 Q. So would this be during the time you were with Deb?

A. No, before Deb.

Q. Oh, okay. Well, let's talk about with Deb.
30 How many employees did you have then?

A. So there would be one, two, three, four, five and a couple of part-timers I usually paid cash, and then the

R. v. Atkinson
John Atkinson - Cr-ex.

5 other ones were - like it was just sort of getting started up because I had just been released from the institution. So I was just processing the company insurance. I was just getting my computer loaded with tax versions and where to put people who are employed and the GST/PST and all their federal taxes and stuff like that. I was just getting all that set up, so I left that with Deb and I was teaching her and we were just going through the process of getting people on the unemployment stuff as it goes through.

10 Q. Okay.

A. So until they were, I was paying them cash until I was all set up with the unemployment agencies.

15 Q. So you had five full-time and two part-time employees all....

20 A. I had - no, I had James Holgan (ph) who was full-time, I had Raymond who was like kind of a casual. If I called him, if he could do it, he would. I had Luke Ritter's (ph) son, and I want to make a correction, too, but nobody knows it, she makes claim that in 2008, Luke was in the army in Afghanistan. She says that. He was with me. He was at home. Then there was Raymond - or not Raymond. Then there was Jason who we were speaking about and then there was a lady I used to have just for a driver and she used to work with a taxi company and then she was working with me part-time, which Josie you've met.

25 Q. Josie who?

30 A. Josie Campbell will verify because she wanted to make sure she had a licence when she got into that truck. Josie would make sure people had....

Q. Josie Campbell? Are you talking about Deb's mom?

R. v. Atkinson
John Atkinson - Cr-ex.

A. Yes.

Q. She worked for you?

A. No, she would verify people who got in vehicles had proper licences. She was just like that.

Q. Did she do that with you?

A. I never drove. She didn't have to.

Q. Okay. So you seem to be running through the list because maybe you weren't so sure, but you said five full-time and two part-time?

A. One full-time. The other ones were casual.

Q. And none of them were on the books, were they, because there weren't any books?

A. Well, there was - no - okay, none were on the books, as I was just getting into the process, yes.

Q. And you know, it's Deb's position that you really didn't have a lot of work. In fact, it cost more money for her than you were ever able to bring in?

A. Well....

Q. Do you agree or disagree with that?

A. I really, really disagree with that, yes. And just to - I don't know how do you put it? Have you ever found a roof that's usually done under \$5,000? It's usually higher; right? Five and up; right? So I did like nine of them, so I was still making a fair bit of money, and the last house I was going to do, which was her boss's, right, and that was estimated it at 58. So I was still bringing in good money.

Q. So I'm sorry, if I understood what you said - tell me if I got it wrong - you would do a roof for 5,000, it would normally cost a lot more?

A. I'm saying usually you won't find anything under 5,000 for a roof.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. Okay.

A. Okay. And usually up, and if anything is really under \$5,000, and depending how many I have with me in a job that's required, either it's worth my while or it's not. But anything over \$5,000 is usually worth my while.

Q. All right. So were you doing the jobs cheaper than other companies might do the jobs for?

A. Yes.

Q. Substantially cheaper?

A. I don't know that.

Q. Did - excuse me. Did you have two Bobcats?

A. One.

Q. You had one burn out the clutch, trade it in, get another one?

A. Yes.

Q. So okay, all together there were two; right? The dump truck was for your business; right?

A. Yes.

Q. And there was also another pick-up truck that was purchased, wasn't there, for \$14,000?

A. Yes.

Q. All right. You know, Deb says when you had some money, you would kick in for the bills?

A. Yes.

Q. But I think I heard you say something about \$30,000 you gave her?

A. That might have been just for one thing.

Q. It was what?

A. For one thing.

Q. For one thing? What thing was that?

A. It wasn't - I mean, it's not that I had \$30,000

R. v. Atkinson
John Atkinson - Cr-ex.

at one lump, okay. I don't know, how you put this. I went in - when I went into the relationship, I had about 20,000.

Q. Cash?

A. Yes.

Q. All right.

A. That's what I started with and, I don't know, she wanted to be involved and I wasn't so big on that, but we would go up north to my friend's cottage and she would look around - and my friend was a real estate agent and she wanted to make - she asked me to make some inquiries. So I made some inquiries. So she had this idea that - she goes, "I'll give you the money, okay, you build it, it's our investment but I pay you." Right? And I say, "Well, what do you pay me?" She goes, "I'll give you \$1,000 a week to build this cottage." That was the agreement; right? I explained to her how we can save cost cuttings, all right, by me doing it instead of us hiring people, and it was working out well and then I was arrested and then that's when you could say that that's - I mean, things just - whatever we planned our budgeting, it just didn't work because the money wasn't coming in to pay for what she took on her line of credit, so she was paying interest while I was sitting in jail because I wasn't making that money and paying it back.

Q. All right. So I think that we started out - I started out this line of questioning by asking you about the \$30,000. You said it wasn't all at once, then you said you brought \$20,000 into the relationship and then you started talking about the land up north and you getting paid \$1,000 a week.

A. Well, I was just trying to show you because I actually heard some of the stuff she said. I was just trying

R. v. Atkinson
John Atkinson - Cr-ex.

to put it into perspective.

Q. All right. Well, maybe you can put this into perspective. Tell me about the \$30,000 you say you gave her.

5 A. I didn't give it to her. I said I came into the relationship with 20. I said 30 by mistake. Twenty thousand is what I came in with.

Q. Okay. So where did it go?

A. I eventually spent it.

10 Q. On?

A. Well, I helped pay for some of the property, I helped pay for - or I did pay for all of digging the well. I paid for the survey and then you're talking the price of gas back and forth. I paid for a lot of the rental of the other equipment until we bought.

15 Q. So do you agree with Deb's assertion that what you guys spent - I'll just say like you two, what you spent to buy equipment far exceeded what you were able to make?

A. No.

20 Q. All right. So were you rolling in money?

A. No, what I'm saying is, had I not been - I was paying - everything was fine. There was no debt crisis until actually I went to jail, then the debt crisis started, then I wasn't able to pay. That's what I'm saying.

25 Q. You don't blame her for selling the property in Wilberforce, do you? That had to be done; right?

A. No, it didn't.

30 Q. Because as you've just said, there's no money coming in when you're in jail. She sold it while you were in jail; right?

A. I was out west. I was making money. I sent her lots of money.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. How did you do that?

A. Through the mail.

Q. Did you, what, mail cash?

A. Yeah.

Q. You did? So there's not going to be any record of all this money you sent; right?

A. Well, I mean - yeah, right, there won't be.

Q. Why would you send cash through the mail?

A. That's what she wanted.

Q. Why did you do it?

A. Well, she wanted the money. I wanted to put it in the bank and she said she didn't want any transactions from Alberta to Ontario.

Q. Did you guys have a joint account?

A. Oh, yeah, sure we did.

Q. So one of the things you could have done was put it in a joint account; right?

A. We weren't using those accounts.

Q. I'm sorry?

A. We didn't touch the accounts.

Q. So back to January 14th, 2008, Deb comes home sometime in the late afternoon, would that be correct?

A. What year, 2008?

Q. 2008.

A. I'd say 4:30, 5 o'clock.

Q. Okay. I think that's around when she says, too. Carl is over, right, and she joins in the festivities with you guys, doesn't she?

A. Yeah.

Q. Right. Everybody seems to be getting along; right?

R. v. Atkinson
John Atkinson - Cr-ex.

A. Yeah.

Q. You say there's these two other fellows
that....

A. Daniel and his friend.

Q. Hmm?

A. Daniel, her son, and a friend, his friend.

Q. Daniel is there?

A. Yeah.

Q. And his friend?

A. Yeah, Daniel actually was - Daniel is a better
player. I can't play. I can only imaginary play, so - he can
play the guitar.

Q. The guitar. You mean on a guitar?

A. Yeah.

Q. Okay. I meant Jason and Sean, they're there
when Deb gets home, or had they gone?

A. They're there before Deb gets home - or they're
gone before Deb gets home.

Q. Oh, okay, because she says it was just Carl
there; right? So....

A. I just - I really don't - I'm not really paying
attention what Deb is saying. I'm just telling you what I
know.

Q. Okay. All right. And, in fact, on that video,
whenever it was taken, it's just you and Carl?

A. Yeah. - no who turns on the light

Q. Right. So when did Jason and Sean reappear?

A. When I phoned them.

Q. Sorry, you phoned them?

A. Yes.

Q. Why did they leave?

R. v. Atkinson
John Atkinson - Cr-ex.

A. Well, I'm sure that they had other things that they had to do and we were going to meet up later at the restaurant.

5 Q. Well, wasn't it because you and Deb were going to go out for dinner just the two of you? Isn't that why they left?

A. No.

10 Q. No? All right. So you were going to meet up at the restaurant later, the restaurant you wanted to go to?

A. Yes.

Q. For a guy who doesn't drink a lot or have a problem drinking, why would you start at 11 o'clock in the morning?

15 A. No particular reason.

Q. One thing that struck me that you said, sir, is you can't recall every detail that was said when Deb came home, right, when you had this disagreement about where you're going to go for dinner? Because that's true, you can't remember everything that was said; right?

20 A. Well, when you say, well, you know what, let's go somewhere, and then you say no, I don't want to go, I can remember that. But if it's something that's not where there's a bit of happiness, I'll remember something, or if there's a bit of a conflict, I'll remember. But if it's just off the cuff, I probably won't remember.

25 Q. So there was a disagreement with Deb about where you're going to go and eat; right?

A. Yeah.

30 Q. And she wanted to go to the Village Inn in Thornton, you wanted to go to Emilio's restaurant; right?

A. Yes.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. And things got heated, didn't they?

A. No.

Q. You hopped into that pick-up truck, went down the driveway and went onto Highway 50, didn't you?

A. Is that what she said? Because I didn't do that.

Q. You do agree that the pick-up truck ended up in the ditch; right?

A. Backwards.

Q. Backwards, meaning it was facing north...

A. West.

Q. ...on the west side of the road? Is that what you mean by "backwards"?

A. No, I mean it was - the back end was facing west, the front facing east.

Q. Okay. And you were in the truck when that happened?

A. Yes.

Q. You were a passenger?

A. A passenger, yes.

Q. Who else was in the truck?

A. Jason.

Q. And I gather it's your position that Jason was driving because...

A. He was driving, yes.

Q. ...you weren't allowed to?

A. No, he was just driving. It's not because I was or I wasn't. I knew that I shouldn't be driving period, so I just don't drive anymore. That's why I hire people or I have friends come over. That's it. I don't drive when I'm not allowed to.

R. v. Atkinson
John Atkinson - Cr-ex.

Q. Right. And so in another car was Sean?

A. Sean Whittaker.

Q. He was in another car?

A. Yeah.

Q. So Jason drove over; right? You called him to come and get you?

A. Yes.

Q. What does he drive? Back then, what was he driving?

A. His black Honda, the type - actually, it was black and it was a Toyota - Honda, Honda - wait, Toyota.

Q. So his car is all nice and warm, right, when he arrives, one would assume, wouldn't one?

A. My truck is nice and warm, too. It's been sitting in the driveway warming up.

Q. You see where I'm going. Why not just get into Jason's car and head off to the restaurant?

A. I hate cars.

Q. You do?

A. Yes.

Q. Well, what have you got against cars?

A. Well, it's like a chunk of steel from an older model coming down the road and then you look at it and it's like a pop can. I just didn't - I just don't find them safe. Cars are made of plastic today.

Q. M'hm.

A. They're just not safe.

Q. So Jason arrives in his car, it's already warm and you're only going for, what, a five-minute drive at most?

A. Yeah.

Q. And you won't get in because it's not safe?

R. v. Atkinson
John Atkinson - Cr-ex.

A. No, that's not the reason at all.

Q. That's what you told us.

A. I was giving you an example of my feelings
towards the vehicle.

Q. Oh, okay.

A. Of a car.

Q. Then why didn't you get in?

A. I didn't. I got into the truck.

Q. Why did you get into the truck and not into
Jason's car?

A. I just explained I don't like cars.

Q. Because they're not safe?

A. I just - if I walked up to two vehicles and one
- I don't care if it was cold or warm, if I looked at two
vehicles, I'd say I'm getting in the truck. If that one is
\$50,000 and that was a \$10, I'd get in the \$10.

Q. All right. So cars, you've never owned one?

A. No.

Q. The Toyota, sir, that you drove back from out
west?

A. Bought that for Daniel.

Q. You drove it back from out west, didn't you?

A. No, I did not.

Q. Did it drive itself?

A. No, I had someone with me.

Q. Who?

A. [indiscernible]

Q. Well, I'm sure you spent a long drive all the
way back from out west. The name should be like that.

A. It was a native guy and the reason why I can't
- I used to call him Big Chief, okay.