

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SAN DIEGO

3 HONORABLE EUGENIA EYHERABIDE DEPARTMENT 47
4

5 **THE PEOPLE OF THE STATE**)
6 **OF CALIFORNIA,**)
7 PLAINTIFF,) CD262902
8) DA NO. ADX205
9 VS.)
10) --000--
11 **MATTHEW RYAN TELLECHEA,**) TRIAL TESTIMONY
12 **MICHAEL SAUL TELLECHEA,**) OF D. WARRICK
13 **CALEB LEONARD GUNDERT,**)
14 DEFENDANTS.)

14 -----
15 REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDINGS
16 MAY 17 AND 18, 2016
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27 REPORTED BY:
28 DONNA L. FOSTER, CSR NO. 7698
OFFICIAL COURT REPORTER
220 WEST BROADWAY, DEPT. 47
SAN DIEGO, CALIFORNIA 92101

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5-17-16; TRIAL; PEOPLE V TELLECHEA, ET AL.; D47

PARTIAL TRANSCRIPT OF PROCEEDINGS

TESTIMONY OF DEANNA WARRICK

P R O C E E D I N G S

DEANNA WARRICK,
HAVING BEEN SWORN, TESTIFIES AS FOLLOWS:

THE WITNESS: YES.

THE CLERK: THANK YOU. PLEASE BE SEATED.

THE WITNESS: GOOD AFTERNOON, YOUR HONOR.

THE COURT: GOOD AFTERNOON.

THE CLERK: PLEASE STATE YOUR FULL NAME AND SPELL
YOUR LAST NAME FOR THE RECORD.

THE WITNESS: IT'S DEANNA WARRICK, D-E-A-N-N-A,
WARRICK, W-A-R-R-I-C-K.

THE CLERK: THANK YOU.

D I R E C T E X A M I N A T I O N

BY MR. BROWN:

Q. GOOD AFTERNOON, MA'AM.

A. GOOD AFTERNOON.

Q. HOW ARE YOU EMPLOYED?

A. WITH THE CITY OF SAN DIEGO AS A POLICE OFFICER.

Q. HOW LONG HAVE YOU BEEN A POLICE OFFICER WITH
SAN DIEGO?

1 A. 29 YEARS.

2 Q. WHAT ARE YOUR CURRENT JOB DUTIES?

3 A. CURRENTLY ASSIGNED TO COLD CASE.

4 Q. AND WHAT DIVISION OR WHAT SECTION IS THAT IN?

5 A. IT'S PART OF THE HOMICIDE UNIT.

6 Q. OKAY. DO YOU HAVE TO BE A HOMICIDE DETECTIVE
7 TO BE ASSIGNED TO COLD CASE?

8 A. YES. I WAS IN HOMICIDE ON THE OTHER SIDE FOR
9 20 YEARS, AND THEN MY LAST YEAR I HAVE BEEN IN COLD
10 CASE.

11 Q. OKAY. THAT WAS MY NEXT QUESTION IS HOW LONG
12 HAVE YOU BEEN A HOMICIDE INVESTIGATOR, SO 21 YEARS?

13 A. YES.

14 Q. WHAT ARE THE DUTIES I GUESS OF THE COLD CASE
15 DETECTIVES, WHAT KIND OF CASES DO YOU END UP
16 INVESTIGATING OR CATCHING?

17 A. WELL, PART OF THE COLD CASE UNIT, WE HAVE A
18 MISSING PERSONS UNIT ALSO, WHICH IS PART OF OUR TEAM,
19 AND THEN WE HAVE THE OTHER SIDE, WHICH IS THE HOMICIDE
20 UNIT. WE ASSIST WITH WITNESS INTERVIEWS, WE WILL
21 INVESTIGATE COLD CASES, AND SOMETIMES WE WILL ASSIST
22 WITH MISSING PERSONS.

23 Q. OKAY. DID YOU HAVE OCCASION TO BE INVOLVED IN
24 THE DEATH INVESTIGATION WITH REGARD TO A PERSON BY THE
25 NAME OF VICTORIA ZUBKIS?

26 A. YES.

27 Q. HOW IS IT THAT THAT INVESTIGATION WAS ASSIGNED
28 TO YOU OR CAME TO YOUR ATTENTION, HOW DID YOU GET

1 INVOLVED WITH THIS?

2 A. EVERYBODY HAPPENED TO BE IN TRAINING THAT DAY
3 AND I WAS THE ONLY ONE IN THE OFFICE WHEN I RECEIVED A
4 CALL REGARDING A BODY THAT WAS FOUND IN PACIFIC BEACH.

5 Q. WAS IT PACIFIC OR OCEAN BEACH?

6 A. OCEAN BEACH I MEAN.

7 Q. A BEACH THAT KIND OF CONNECTS ITSELF?

8 A. YEAH.

9 Q. DO YOU RECALL WHAT DAY IT WAS THAT THE BODY WAS
10 FOUND?

11 A. I WANT TO SAY IT WAS THE 28TH.

12 Q. 28TH OF WHAT MONTH?

13 A. I BELIEVE IT WAS MAY.

14 Q. OKAY. SO ALMOST A YEAR AGO?

15 A. YES.

16 Q. UM, WHEN YOU GET THIS NOTIFICATION, WHAT DO YOU
17 DO AS A HOMICIDE INVESTIGATOR, OR A MISSING PERSON'S
18 INVESTIGATOR?

19 A. WELL, AT THAT TIME I WAS INFORMED BY MY
20 SUPERVISOR THAT THEY HAD FOUND A BODY IN THE WATER, AND,
21 UM, I WAS ASKED TO ASSIST HIM IN THE INVESTIGATION, SO
22 HE AND I, UM, STARTED DOING THE RESEARCH AS FAR AS WHO
23 THIS PERSON MAY HAVE BEEN, AND WE FOUND OUT THAT THERE
24 WAS A REPORT FILED BY HER MOTHER, THAT SHE HAD BEEN
25 REPORTED MISSING DAYS PRIOR TO HER BODY BEING FOUND.

26 Q. OKAY. DO YOU RECALL AS YOU SIT HERE TODAY
27 WHAT, WHEN THE MISSING PERSON'S REPORT WAS FILED BY THE
28 MOTHER?

1 A. I BELIEVE THE MOTHER FILED THE MISSING PERSON'S
2 REPORT ON THE 26TH, WHICH WAS A FEW DAYS BEFORE THE BODY
3 WAS FOUND.

4 Q. OKAY. UM, SO WERE YOU ABLE TO IDENTIFY THAT AS
5 THAT'S THIS PERSON WHO WASHED UP IS OUR MISSING PERSON,
6 HOW DO YOU DO THAT?

7 A. YES. BASICALLY THROUGH, UM, FINGERPRINTS, UM,
8 THROUGH DNA, AND THEN ALSO THE FACT THAT THE PARENTS
9 COULD IDENTIFY THE BODY ALSO.

10 Q. OKAY. AND DID YOU RESPOND TO THE ACTUAL
11 LOCATION IN OCEAN BEACH WHERE THE BODY CAME UP, DID YOU
12 GO TO THAT LOCATION?

13 A. NO.

14 Q. OKAY. WHO WAS IT THAT COLLECTS THE BODY FROM
15 THAT LOCATION?

16 A. AT THAT TIME, IT WAS THE LIFEGUARDS THAT HAD
17 FOUND THE BODY. THE POLICE WERE THEN CALLED, A REPORT
18 WAS TAKEN, AND THEN THE BODY WAS TRANSPORTED TO THE
19 MORGUE, WHERE THEY CONDUCTED THEIR IDENTIFICATION.

20 Q. OKAY. AND IS THAT DONE THROUGH THE MEDICAL
21 EXAMINER'S OFFICE?

22 A. YES.

23 Q. UM, NOW, IN YOUR JOB, I IMAGINE YOU PROBABLY
24 WORK WITH THE MEDICAL EXAMINER FROM TIME TO TIME?

25 A. YES.

26 Q. DO YOU TAKE INTO ACCOUNT THE MEDICAL EXAMINER'S
27 FINDINGS AND ANALYSIS IN YOUR JOB?

28 A. YES.

1 Q. OKAY. AND ARE YOU AWARE OF, WAS IT YOU OR WAS
2 IT THE MEDICAL EXAMINER THAT WAS ABLE TO ESTABLISH THE
3 IDENTITY OF THE PERSON AS THAT, AS YOUR MISSING PERSON?
4 DO YOU UNDERSTAND THE QUESTION?

5 A. YES. IT WAS BOTH. THEY IDENTIFIED HER AND
6 THEN WE ALSO VERIFIED THAT.

7 Q. OKAY. WITH THE IDENTIFICATION FROM THE
8 PARENTS?

9 A. YES.

10 Q. OKAY. WAS THERE ANYTHING UNUSUAL ABOUT --
11 WELL, JUST IDENTIFYING WHO IT IS THAT WASHED UP, DOES
12 THAT END YOUR INVESTIGATION OR WHAT DO YOU DO FROM
13 THERE?

14 A. NO, I MEAN WE DETERMINE HOW THAT PERSON DIED OR
15 WHAT WERE THE CIRCUMSTANCES SURROUNDING THAT DEATH,
16 THAT'S IMPORTANT TO KNOW, AND, UM, AFTER THE AUTOPSY WAS
17 CONDUCTED, WE HAD TOLD -- WE HAD BEEN TOLD THAT IT WAS
18 UNDETERMINED AS TO HOW, UM, SHE DIED, UM, SO WE BEGAN A
19 FOLLOW-UP INVESTIGATION WHEN WE GOT AN ANONYMOUS CALL,
20 THAT'S WHAT STARTED US IN INVESTIGATING THIS CASE, AND
21 THEN WE CONTINUED TO INTERVIEW A LOT OF PEOPLE AFTER
22 THAT.

23 Q. WHAT WAS THE BASIC CONTENTS OF THE ANONYMOUS
24 CALL?

25 A. IT WAS AN ANONYMOUS CALL THAT CAME IN ON JUNE
26 1ST. THE BODY WAS FOUND ON THE 28TH, ON JUNE 1ST WE
27 RECEIVED A CALL, ANONYMOUSLY, THAT SAID THAT THEY
28 BELIEVED THAT THE PERSON THAT'S BODY HAD WASHED UP WAS

1 KILLED AT A CERTAIN ADDRESS, AND I BELIEVE THEY GAVE THE
2 ADDRESS OF AN INDIVIDUAL THAT WAS A FRIEND OF HERS, AND
3 SO WE THEN FOLLOWED UP AT THAT ADDRESS, INTERVIEWED THE
4 PEOPLE THAT RESIDED AT THAT RESIDENCE, WHICH THEN LED US
5 TO ABOUT NINE OR 10 OTHER INTERVIEWS, CONTACTING PEOPLE
6 WHO LAST SAW HER, WHAT HER BEHAVIOR WAS AND SO AND SO.

7 Q. OKAY. UM, WERE YOU ABLE TO UNCOVER ANY KIND OF
8 EVIDENCE OF FOUL PLAY, SO FAR, IN YOUR INVESTIGATION?

9 A. NO, THERE WAS NO BLUNT FORCE TRAUMA, THERE
10 WASN'T ANYTHING THAT INDICATED FOUL PLAY. IT LOOKED
11 MORE LIKE A DROWNING.

12 Q. OKAY. NOW I WANT TO GO BACK TO YOU HAD
13 MENTIONED THAT THE MEDICAL EXAMINER SAID THAT IT WAS AN
14 UNDETERMINED CAUSE OF DEATH.

15 A. YES.

16 Q. CAN YOU EXPAND ON THAT A LITTLE BIT FOR THE
17 JURY, WHAT DOES THAT MEAN?

18 A. UNDETERMINED, WELL, IF IT'S A HOMICIDE, A
19 HOMICIDE IS USUALLY DONE BY THE HANDS OF ANOTHER PERSON,
20 THE CAUSE OF THAT DEATH. UNDETERMINED IS DUE TO HER
21 BODY BEING FOUND IN THE OCEAN, IT'S UNDETERMINED HOW SHE
22 DIED, WHETHER IT WAS AN ACCIDENTAL DROWNING OR WHETHER
23 IT WAS A SUICIDE. THE FACT THAT THERE WAS NO BLUNT
24 FORCE TRAUMA OR STAB WOUNDS OR ANYTHING TO INDICATE THAT
25 THERE WAS A HOMICIDE. SO THE FACT THAT THERE WAS WATER
26 IN THE LUNGS, SOME SAND, THAT INDICATED THAT SHE WOULD
27 HAVE TO BE ALIVE TO HAVE THAT HAPPEN.

28 Q. OKAY. UM, NOW DID -- DID THIS INVESTIGATION

1 PROCEED AS IT NORMALLY WOULD, NORMAL INVESTIGATIONS, OR
2 WAS THERE SOMETHING THAT CAUSED SOME INTERFERENCE IN
3 YOUR INVESTIGATING THIS UNDETERMINED DEATH?

4 A. WELL DURING OUR INVESTIGATION WE HAD LEARNED
5 THAT ONE OF THE LAST PERSONS THAT SAW, UM, VICA ALIVE
6 WAS A PERSON BY THE NAME OF JORGE. I HAD RECEIVED A
7 CALL FROM A ROBBERY DETECTIVE TELLING ME THAT A JORGE
8 IBARRA, WHICH IS THE PERSON I WAS LOOKING FOR TO DO AN
9 INTERVIEW WITH, BECAUSE HE WAS THE LAST PERSON THAT SAW
10 HER, THAT HE HAD BEEN KIDNAPPED AND TAKEN DOWN TO MEXICO
11 AND BEATEN.

12 Q. OKAY. WAS THERE OTHER, OTHER THAN THAT, WAS
13 THERE ANY OTHER KIND OF --

14 MR. THORNTON: OBJECTION TO HEARSAY, MOVE TO
15 STRIKE.

16 MS. BAYER: JOIN.

17 MR. BROWN: IT WOULD BE OFFERED FOR THE EFFECT UPON
18 THIS INVESTIGATION, WHAT THE DETECTIVE DID NEXT.

19 THE COURT: OVERRULED.
20 BY MR. BROWN:

21 Q. UM, WAS THERE -- WAS THERE ANY OTHER KIND OF
22 INTERFERENCE OR OTHER PEOPLE INVESTIGATING THIS DEATH
23 THAT YOU BECAME AWARE OF?

24 A. YES. ACTUALLY, THE FATHER, UM, DECIDED TO
25 HIRE, UM, PEOPLE TO INVESTIGATE HIS DAUGHTER'S DEATH AND
26 SOME OF THE PEOPLE THAT HE HAD HIRED, HE WAS ACTUALLY
27 RESIDING IN MEXICO, AND SOME OF THE PEOPLE HE HIRED WERE
28 HERE IN THE UNITED STATES, AND ONE PARTICULAR PERSON IS

1 MI- --

2 MS. BAYER: OBJECTION, CALLS FOR SPECULATION,
3 HEARSAY.

4 MS. BAYER: MICHAEL TELLECHEA.

5 MR. THORNTON: JOIN.

6 THE COURT: LET'S APPROACH SIDEBAR.

7

8 (UNREPORTED SIDE-BAR CONFERENCE HELD)

9

10 THE COURT: SUSTAINED. GO AHEAD, MR. BROWN.

11 BY MR. BROWN:

12 Q. OKAY. WITHOUT GETTING INTO ANY SPECIFIC
13 RELATIONSHIPS, UM, DID YOU BECOME AWARE THAT THERE WAS A
14 REWARD THAT WAS OFFERED BY, UM, VICTORIA ZUBKIS'S FATHER
15 THAT WAS PUT OUT VIA ELECTRONIC FORMAT, FACEBOOK, THAT
16 TYPE OF THING?

17 A. YES, FOR \$1,000,000.

18 Q. AND THAT WAS FOR INFORMATION LEADING TO THE
19 PEOPLE INVOLVED IN HER DEATH, IS THAT ACCURATE?

20 A. YES.

21 Q. UM, DID YOU EVER FIND THIS ALLEGED LOCATION
22 WHERE VICTORIA WAS KILLED, THE -- WHAT YOU INITIALLY GOT
23 FROM YOUR ANONYMOUS CALL LINE, DID YOU EVER CALL THAT,
24 WHICH WAS THE TIP?

25 A. YES.

26 Q. AND WERE YOU ABLE TO MAKE A DETERMINATION AS TO
27 WHETHER OR NOT SOMEBODY WAS KILLED THERE?

28 A. NOBODY WAS KILLED THERE.

1 Q. WHY DO YOU SAY THAT?

2 A. THE PEOPLE THAT I INTERVIEWED WHO MADE THE
3 STATEMENT OF THAT OCCURRING THERE AND SUPPOSEDLY TOOK
4 PHOTOGRAPHS, WHEN I DID INTERVIEW THEM, THEY ADMITTED
5 THAT IT WAS HAIR DYE.

6 MS. BAYER: OBJECTION, CALLS FOR HEARSAY.

7 THE COURT: OVERRULED.

8 BY MR. BROWN:

9 Q. OKAY. AND WHO WAS IT THAT YOU TALKED TO THAT,
10 THAT SAID IT WAS HAIR DYE, IF YOU KNOW?

11 A. I TALKED TO YAWN A AND -- WHO TOOK THE
12 PHOTOGRAPHS.

13 Q. OKAY. WAS THERE ANYTHING ELSE ABOUT IT, OTHER
14 THAN HER SAYING THAT IT WAS HAIR DYE THAT KIND OF
15 DISQUALIFIED THAT AS THE LOCATION OF THE KILLING OF
16 VICTORIA?

17 A. WELL, WHEN SHE SAID THAT SHE SAW, UM, BLOODY
18 TOWELS AND HAIR DYE IN THE SHOWER, SHE SAW THIS ON THE
19 31ST, WHICH WAS A SUNDAY, WELL THE BODY WAS FOUND ON THE
20 28TH, AND THEN THE ANONYMOUS CALL CAME IN ON THE FIRST,
21 SO WHAT THEY SAW WAS NOT A CRIME SCENE, IT WAS SOMETHING
22 DIFFERENT. AND THEY WERE HIGH ON DRUGS THAT DAY.

23 Q. OKAY.

24 MR. THORNTON: OBJECTION, SPECULATION. HEARSAY,
25 FOUNDATION.

26 THE COURT: AS TO THAT LATTER PART, SUSTAINED,
27 GRANTED, UNLESS YOU WANT TO LAY THE FOUNDATION FOR THAT,
28 SUSTAINED.

1 MR. BROWN: WELL, WE WILL HAVE YANA TESTIFY, YOUR
2 HONOR.

3 BY MR. BROWN:

4 Q. OKAY. HAVE YOU BEEN ABLE TO -- IN YOUR
5 INVESTIGATION, HOW MANY PEOPLE WOULD YOU SAY YOU
6 INTERVIEWED, BALLPARK?

7 A. PROBABLY 14, 15 PEOPLE.

8 Q. OKAY. HAVE YOU BEEN ABLE TO FIND ANY EVIDENCE
9 THAT WOULD SUPPORT A SCENARIO WHERE VICTORIA ZUBKIS WAS
10 KILLED AS OPPOSED TO DIED ACCIDENTALLY OR DROWNED?

11 MS. BAYER: OBJECTION, RELEVANCE.

12 THE COURT: OVERRULED.

13 THE WITNESS: THERE IS NO INDICATION THAT SHE WAS
14 MURDERED.

15 BY MR. BROWN:

16 Q. OKAY. AND WHAT WAS THE FINAL CONCLUSION OF
17 YOUR INVESTIGATION WITH REGARD TO THIS MISSING PERSON
18 DEATH INVESTIGATION?

19 A. IT IS OUR BELIEF THAT SHE DROWNED IN THE OCEAN.

20 Q. OKAY. THANK YOU, DETECTIVE. I HAVE NO FURTHER
21 QUESTIONS.

22

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5-18-16; PEOPLE V TELLECHEA, ET AL.; TRIAL

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PARTIAL TRANSCRIPT OF PROCEEDINGS

27

TESTIMONY OF DETECTIVE D. WARRICK

28

1 C R O S S E X A M I N A T I O N

2

3 BY MR. THORNTON:

4 Q. GOOD MORNING, DETECTIVE WARRICK.

5 A. GOOD MORNING.

6 Q. UM, THANK YOU FOR COMING BACK TODAY. THINGS
7 WERE A LITTLE SLOWER YESTERDAY, THAN I THINK WE
8 ANTICIPATED.

9 A. YES.

10 Q. SORRY TO KEEP YOU WAITING.

11 A. NO PROBLEM.

12 Q. UM, SO YOUR CURRENT ASSIGNMENT IS COLD CASE
13 HOMICIDE?

14 A. THAT'S CORRECT.

15 Q. UM, AND WHAT DIFFERENTIATES A COLD CASE FROM A
16 NORMAL HOMICIDE?17 A. WELL, A NORMAL HOMICIDE, THAT'S A CURRENT CASE,
18 THAT YOU GET CALLED OUT TO, UM, A COLD CASE IS SOMETHING
19 THAT, UM, HAS BEEN SITTING ON THE SHELVES FOR A WHILE,
20 UNSOLVED.21 Q. KIND OF IS IT FAIR TO SAY, I MEAN I WATCH A LOT
22 OF I.D. DISCOVERY, YOU GOTTA KIND OF PUT THE PIECES
23 TOGETHER, RIGHT?

24 A. THAT'S CORRECT.

25 Q. UM, AND SO I WANT TO TALK ABOUT, UM, WHEN YOU
26 ARE INVOLVED IN THIS KIND OF WORK, COLD CASE HOMICIDE,
27 IT INVOLVES KIND OF KNOWING THE ACTORS OR PEOPLE
28 INVOLVED, RIGHT? THE -- IN THE ALLEGED INCIDENT OR

1 CRIME?

2 A. IT'S TRYING TO IDENTIFY WHO THE PEOPLE THAT ARE
3 INVOLVED, YES.

4 Q. SO YOU IDENTIFY PEOPLE, AND THEN YOU LOOK AT
5 WHAT KIND OF CORROBORATIVE OR CIRCUMSTANTIAL EVIDENCE
6 MAKES IT, IS THAT FAIR TO SAY?

7 A. YES.

8 Q. LIKE I SAID, DATE LINE, THAT'S WHERE I LEARNED
9 THAT FROM.

10 A. OH.

11 Q. UM, SO IN THIS CASE, UM, ON MAY 28TH, A BODY
12 WASHED ASHORE, RIGHT?

13 A. THAT'S CORRECT.

14 Q. UM, THERE WAS KIND OF THIS PERIOD WHERE IT TOOK
15 TO IDENTIFY EXACTLY WHO THIS PERSON WAS, WHO WASHED
16 ASHORE, RIGHT?

17 A. YES. YES.

18 Q. AND THREE DAYS LATER, ON MAY 31ST, YOU WERE
19 ADVISED THAT AN IDENTIFICATION HAD BEEN MADE, RIGHT?

20 A. IT -- AT SOME POINT WE WERE NOTIFIED, YES. I
21 DON'T REMEMBER THE DATE. CLOSE TO THE TIME THE BODY WAS
22 FOUND.

23 Q. DAYS LATER AS OPPOSED TO WEEKS?

24 A. THAT'S CORRECT.

25 Q. YEAH. CLOSE TO. UM, AND THAT PERSON YOU WERE
26 ADVISED WAS VICTORIA ZUBKIS, RIGHT?

27 A. THAT'S CORRECT.

28 Q. NOW, YOU LEARNED THAT VICTORIA ZUBKIS HAD BEEN

1 REPORTED MISSING ON MAY 26TH, RIGHT?

2 A. CORRECT.

3 Q. AND SHE HAD BEEN REPORTED MISSING BY HER
4 MOTHER?

5 A. CORRECT.

6 Q. NOW, UM, ONE DAY LATER, OR NOT YOU ANOTHER
7 DETECTIVE IN YOUR DEPARTMENT RECEIVED AND NONE
8 MISCELLANEOUS TIP, RIGHT?

9 A. I BELIEVE IT WAS THE MISSING PERSONS DETECTIVE,
10 SHE WILL BEE LUNA, WHO RECEIVED AN ANONYMOUS CALL.

11 Q. AND THAT PERSON STAYED ANONYMOUS FOR ABOUT ONE
12 DAY, RIGHT?

13 A. YES.

14 Q. YOU DETERMINED IT WAS ALEXANDER FLANNIGAN?

15 A. THAT IS CORRECT.

16 Q. AND ALEXANDER FLANNIGAN WAS ALSO PROVIDING
17 INFORMATION ON VICTORIA ZUBKIS, THE WOMAN WHO HAD JUST
18 BEEN IDENTIFIED AS WASHING ASHORE?

19 A. THAT IS CORRECT.

20 Q. UM, NOW, I WANTED TO STOP FOR A SECOND. SO WE
21 HAVE JUNE 1ST, THE NON-MISCELLANEOUS TIP, ALEXANDER
22 FLANNIGAN?

23 A. RIGHT.

24 Q. THE BODY WASHING ASHORE ON THE 26TH, DURING
25 YOUR INVESTIGATION OF THIS, YOU ALSO LEARNED THAT
26 VICTORIA ZUBKIS'S CELL PHONE ACTUALLY HAD ACTIVITY ON
27 MAY 30TH, RIGHT?

28 A. YES. THROUGH THE MOTHER.

1 Q. OKAY. AND, UM, THAT ACTIVITY WAS BELIEVED TO
2 BE LOCATED AT 7130 FORUM STREET IN CLAIREMONT AREA,
3 RIGHT?

4 A. THAT'S CORRECT.

5 Q. NOW, OFFICERS WENT OUT TO FORUM STREET AND YOU
6 WERE ADVISED THERE SEEMED TO BE NO CONNECTION, NOTHING
7 THERE, RIGHT, NO CELL PHONE, NO VICTORIA?

8 A. OFFICERS SEARCHED TO ARE HER, SHE WAS NOT
9 THERE, THEY SEARCHED FOR A PHONE AND THEY DID NOT LOCATE
10 ONE, NO.

11 Q. UM, OKAY. NOW, BACK TO ALEXANDER FLANNIGAN.
12 UM, HER INITIAL CALL WAS KIND OF A MESSAGE THAT SHE LEFT
13 ON THE -- IS IT A TIP LINE?

14 A. YES.

15 Q. OKAY. AND THIS TIP LINE, THIS IDEA OF A TIP
16 LINE, THAT'S NOT SOMETHING THAT'S REALLY UN -- UNCOMMON,
17 RIGHT, IT'S -- WE HAVE SOMETHING CALLED CRIME STOPPERS,
18 RIGHT, WE ACTUALLY SOLICIT THOSE?

19 A. YES, THAT'S CORRECT.

20 Q. AND SOMETIMES IT'S ACTUALLY NOT UNCOMMON FOR
21 THERE TO BE A FINANCIAL REWARD THAT LEADS TO THE, UM,
22 ARREST AND SUCCESSFUL PROSECUTION OF A CRIMINAL?

23 A. CRIME STOPPERS OFFERS A REWARD, YES.

24 Q. SO ALEXANDER FLANNIGAN, UM, LEAVES A TIP,
25 RIGHT?

26 A. YES.

27 Q. AND THAT AT THIS POINT REFERS TO AN INDIVIDUAL
28 NAMED ALEX SCHIRLBAUER, RIGHT?

1 A. THAT'S CORRECT.

2 Q. OKAY. HE IS, YOU LEARNED, GOES BY ANOTHER
3 NAME, "HONDA," RIGHT?

4 A. THAT IS CORRECT.

5 Q. DID YOU EVER FIND OUT WHY HE GOES BY "HONDA"?

6 A. JUST -- JUST THE NICKNAME HE WAS GIVEN ON THE
7 STREETS.

8 Q. JUST SEEN ABOUT HIS NAME ABOUT A THOUSAND
9 TIMES, I COULD NEVER FIGURE IT OUT. UM, SO NOW, UM,
10 MR. SCHIRLBAUER, HE, YOU WERE ADVISED BY ALEXANDER THAT
11 HE WAS ONE OF THE LAST PEOPLE TO HAVE SEEN VICTORIA
12 ALIVE, RIGHT?

13 A. YES.

14 Q. UM, YOU ALSO WERE MADE AWARE THAT HE HAD A
15 ROMANTIC RELATIONSHIP WITH VICTORIA?

16 A. YES.

17 Q. KIND OF CHANGES THROUGHOUT SOME WOULD SAY
18 BOYFRIEND, SOME WOULD SAY KIND OF CASUAL FRIEND, MAYBE
19 WITH, YOU KNOW, A PHYSICAL SIDE TO IT, RIGHT, BUT THEY
20 WERE SLEEPING TOGETHER, WAS YOUR UNDERSTANDING?

21 A. YEAH, IT WAS MY UNDERSTANDING THEY WERE FRIENDS
22 AND SOMETIMES THEY WOULD HOOK UP.

23 Q. UM, NOW, UM, BEING SOMEONE WHO IS KIND OF IN
24 TUNE WITH HOMICIDE INVESTIGATIONS, IT'S NOT UNCOMMON
25 THAT WHEN DECIDING IF SOMETHING IS A HOMICIDE OR A DEATH
26 OCCURRED BECAUSE OF SOMEONE ELSE --

27 A. UM-HUM.

28 Q. YOU TALK TO SIGNIFICANT OTHERS, OR LOVED ONES

1 OR SPOUSES, RIGHT?

2 A. YES.

3 Q. UM, I HAVE HEARD IT KIND OF REFERRED TO AS IF
4 SOMEONE IS KILLED, OR A DEAD BODY IS FOUND YOU GO
5 IMMEDIATELY TO, UM, LIKE WHO WAS SHE DATING, OR WHO WAS
6 HE DATING, WHO WAS SHE SLEEPING WITH, WHO WAS HE
7 SLEEPING WITH SORT OF THING?

8 A. WHO WAS THE LAST PERSON SHE WAS WITH, YES.

9 Q. SO ALEX SCHIRLBAUER, SCHIRLBAUER, EXCUSE ME,
10 WAS SOMEONE YOU BECAME INTERESTED IN?

11 A. OF COURSE.

12 Q. OKAY. IN FACT, SO INTERESTED YOU WENT TO HIS
13 HOUSE, UM, ON JUNE 2ND, RIGHT?

14 A. YES.

15 Q. UM, IT WASN'T JUST YOU, IT WAS WITH ANOTHER
16 DETECTIVE, RIGHT?

17 A. MY SUPERVISOR. SERGEANT PENDLETON.

18 Q. NOW, WAS THIS BEFORE OR AFTER YOU HAD TALKED TO
19 VICTORIA'S FATHER?

20 A. THIS WAS BEFORE WE HAD TALKED TO VICTORIA'S
21 FATHER.

22 Q. OKAY. OKAY. AND YOU -- BECAUSE YOU TALKED TO
23 VICTORIA'S FATHER ON JUNE 2ND, RIGHT?

24 A. IT WAS THROUGH, UM -- YEAH, BRIEFLY, I TALKED
25 TO HIM.

26 Q. UM, THAT'S WHEN HE TOLD YOU ABOUT THE PHONE
27 PINGING OR SOME ELECTRONIC ACTIVITY IN THE FORUM STREET
28 AREA WITH VICTORIA'S'S PHONE?

1 A. YES.

2 Q. OKAY. BACK TO ALEX'S HOUSE. UM, YOU AND YOUR
3 SUPERVISOR, UM, YOU MEET WITH ALEX AND YOU ACTUALLY MEET
4 KIND OF OUTSIDE OF THIS PLACE, RIGHT?

5 A. YES.

6 Q. HE IN FACT IS INTERVIEWED -- IS IT IN YOUR CAR?

7 A. IT'S IN OUR CAR, YES, OUTSIDE, IN FRONT OF THE
8 RESIDENCE.

9 Q. UM, AND SO THE INTERVIEW WAS OUTSIDE, AND OTHER
10 PEOPLE WERE INSIDE THE HOUSE, RIGHT, UM, OTHER, HIS
11 ROOMMATES?

12 A. I BELIEVE, UM, THE ACTUAL PERSON WHO WAS ON THE
13 LEASE, UM, LEE WAS THERE AND SUPPOSEDLY ONE OTHER
14 FRIEND.

15 Q. UM, WHY DID YOU CHOOSE TO DO IT OUTSIDE?

16 A. WE CHOSE TO DO IT OUTSIDE BECAUSE HE WALKED
17 OUTSIDE, AND SAID HE WOULD TALK TO US IN THE CAR AND HE
18 WANTED TO BE PRIVATE, BECAUSE WE WERE GOING TO HAVE A
19 CONVERSATION ABOUT HER.

20 Q. OKAY. UM, NOW, PART OF THIS CONVERSATION WITH
21 HIM INVOLVED, UM, LOOKING AT HIS CELL PHONE, RIGHT?

22 A. THAT'S CORRECT.

23 Q. AND THAT PHONE NUMBER WAS IDENTIFIED AS
24 760-390-1764?

25 A. YES.

26 Q. UM, AND WHEN I SAY IT INVOLVED HIS CELL PHONE,
27 YOU ACTUALLY READ TEXT MESSAGES ON IT, RIGHT?

28 A. YES, I READ THEM AND I PHYSICALLY SAW THEM ON

1 THE PHONE, HE OPENED UP HIS PHONE FOR ME TO LOOK AT IT.

2 Q. AND YOU TOOK PICTURES OF THEM, RIGHT.

3 A. MY SUPERVISOR DID, YES.

4 Q. AND THOSE PICTURES INVOLVED TEXT MESSAGES
5 BETWEEN HE AND VICTORIA'S, CORRECT?

6 A. YES.

7 Q. UM, AND THEY INVOLVED -- THEY -- I THINK IF I
8 REMEMBER CORRECTLY, IT OCCURRED ON MAY 22ND, RIGHT AT
9 LEAST THAT'S WHAT --

10 A. SOME OF THE CONVERSATION WAS ON THE 22ND.

11 Q. UM, AND UM IT INVOLVED GIVING HER RIDES, RIGHT?

12 A. THEY MADE ARRANGEMENTS TO MEET AT A TROLLEY AND
13 THERE WAS TEXT MESSAGES BACK AND FORTH AS TO WHEN SHE
14 GOT THERE, AND WHEN HE WOULD ARRIVE.

15 Q. IT INVOLVED HIM KIND OF REFERENCING THAT SOME
16 PEOPLE, A LOT OF PEOPLE ARE SAYING THAT SHE TOOK SOME
17 MONEY FROM SOMEONE, RIGHT?

18 A. THERE WAS ONE TEXT INVOLVING AFTER THE FACT, IT
19 WAS ONE OF THE LAST TEXT MESSAGES BETWEEN HIM AND HER
20 WHERE HE HAD QUESTIONED HER ABOUT TAKING SOME MONEY
21 BECAUSE HE WAS TOLD THAT BY A GIRL NAMED WHITNEY.

22 Q. AND HE WAS KINDS OF SAYING I DON'T NEED THESE
23 KIND OF PROBLEMS RIGHT NOW IN THAT TEXT MESSAGE?

24 A. RIGHT, IT WAS A FRIEND OF HERTZ AND SHE HAD
25 TAKEN MONEY FROM HER FRIEND.

26 Q. CAUSES DRAMA?

27 A. RIGHT.

28 Q. UM, AND NOW, THOSE PHOTOS OF THE TEXT -- YOU

1 TOOK PHOTOS OF THE TEXT MESSAGE OR YOUR SERGEANT DID?

2 A. THAT'S CORRECT.

3 Q. AM I REFERRING TO HIM CORRECTLY AS YOUR
4 SERGEANT?

5 A. YES.

6 Q. OKAY. UM, THE SERGEANT TOOK THEM, TO PRESERVE
7 THEM, RIGHT?

8 A. YES.

9 Q. OKAY. NOW, WE DON'T HAVE THOSE ANYMORE, RIGHT?

10 A. TO MY KNOWLEDGE, ALL THAT INFORMATION WAS GIVEN
11 TO, UM, THE INVESTIGATOR AND THE D.A.

12 Q. OKAY. UM, THIS WASN'T THE LAST TIME YOU SPOKE
13 WITH ALEX SCHIRLBAUER?

14 A. THERE WAS ANOTHER TIME THAT WE HAD SPOKE TO
15 HIM, YES.

16 Q. RIGHT. UM, DO YOU RECALL A TIME WHEN YOU HAD
17 ACTUALLY ARRANGED TO PICK HIM UP, AND HE, UM, KIND OF
18 DITCHED YOU GUYS, DITCHED THE POLICE THAT WERE GIVING
19 HIM A RIDE?

20 A. YEAH, I THINK HE SAID HE DIDN'T HAVE A RIDE,
21 AND SO WE WERE TRYING TO MAKE ARRANGEMENTS TO GET HIM TO
22 THE POLICE STATION TO TALK TO US.

23 Q. AND THEN HE LEFT BEFORE THOSE, HE WAS ABLE TO
24 -- HE ACTUALLY, POLICE SHOWED UP AT HIS HOUSE TO BRING
25 HIM IN AND HE ACTUALLY WAS NOT THERE ANYMORE, RIGHT?

26 A. YEAH, HE WASN'T PRESENT WHEN THE OFFICERS WENT
27 TO GO GET HIM, YES.

28 Q. OKAY. UM, THERE WAS -- YOU EVENTUALLY DID GET

1 HIM BACK IN THE STATION THOUGH?

2 A. YEAH, WE CALLED HIM BACK UP AND SAID WHERE ARE
3 YOU AND HE CAME BACK LATER THAT DAY I THINK IT WAS.

4 Q. AND YOU KIND OF TOLD HIM IT WASN'T COOL TO HAVE
5 US GO OUT THERE AND THEN LEAVE, RIGHT?

6 A. I DON'T REMEMBER WHAT WAS SAID ABOUT THAT, I
7 JUST.

8 Q. OKAY.

9 A. TOLD HIM THAT HE NEEDED TO JUST SHOW UP TO THE
10 POLICE STATION AND TALK TO US.

11 Q. OKAY. NOW, WHEN YOU NORMALLY MAKE APPOINTMENTS
12 FOR RIDES OR THINGS LIKE THAT, DO YOU USUALLY WAIT FOR
13 THEM OR DO YOU LEAVE AND LEAVE THEM WAITING FOR YOU?

14 A. YOU KNOW SOMETIMES WE, THAT HAPPENS, I MEAN WE
15 WILL MAKE SCHEDULED INTERVIEWS AND WE WILL SHOW UP AND
16 SOMETHING COMES UP OR PEOPLE DON'T SHOW UP AND WE LEAVE,
17 AND THEN WE WILL TRY AND CONTACT THEM THROUGHOUT THE DAY
18 AND HOPEFULLY WE WILL MAKE CONTACT WITH THEM AND IN THIS
19 PARTICULAR CASE WE CALLED HIM, CONTACTED HIM AND HE
20 SHOWED UP.

21 Q. I WAS ASKING IF THAT WAS SOMETHING THAT YOU
22 NORMALLY DO DO YOU NORMALLY SCHEDULE APPOINTMENTS AND
23 RIDES AND THEN LEAVE AND NOT, UM, GO IN?

24 MR. BROWN: I GUESS OBJECTION, VAGUE.

25 THE WITNESS: WHAT ARE YOU --

26 THE COURT: SUSTAINED.

27 BY MR. THORNTON:

28 Q. UM, OKAY. I WILL CLARIFY. YOU DESCRIBING THIS

1 AS SOMEWHAT NORMAL BEHAVIOR, AND I WANTED TO KNOW IN THE
2 COURSE OF YOUR DAILY ACTIVITIES IF THAT'S SOMETHING YOU
3 DO IF IT'S -- IF YOU WILL SCHEDULE APPOINTMENTS FOR
4 RIDES TO GO SOMEWHERE, HAVE SOMEONE SCHEDULE IT FOR YOU,
5 HAVE SOMEONE SHOW UP BUT THEN YOU KIND OF HAVE DITCHED
6 THEM WITHOUT LETTING THEM KNOW?

7 MR. BROWN: OBJECTION, RELEVANCE, ARGUMENTATIVE.

8 THE COURT: SUSTAINED.

9 MR. BROWN: STILL VAGUE.

10 THE COURT: IT'S NOT RELEVANT TO WHAT SHE DOES. IF
11 YOU WANT TO ASK HER IF THIS IS WHAT PEOPLE DO THIS THE
12 LINE OF POLICE WORK, IT'S NOT RELEVANT HERE, WHAT THE
13 OFFICER DOES.

14 BY MR. THORNTON:

15 Q. OKAY. LET'S TALK ABOUT THAT TIME YOU GOT HIM
16 BACK IN THE STATION. UM, YOU RECALL A SECOND DOWNLOAD
17 OF -- OR A DOWNLOAD OF HIS PHONE OCCURRING.

18 A. YOU KNOW, AT SOME POINT WHEN HE WAS BEING
19 INTERVIEWED, I KNOW HE AGREED TO LET US DOWNLOAD HIS
20 PHONE, THAT PHONE WAS GIVEN TO SOMEONE, AND SOMEONE ELSE
21 HAD DOWNLOADED IT WHILE I WAS TALKING TO HIM IN AN
22 INTERVIEW ROOM.

23 Q. AND DO YOU RECALL THAT, UM, MOST OF THE
24 CONTENTS OF THAT PHONE WERE DELETED, CORRECT?

25 A. I -- I DON'T RECALL WHAT WAS DELETED OR NOT
26 DELETED, I DID NOT PERSONALLY SEE THE PHONE RECORDS.

27 Q. OKAY. NOW --

28 A. SO I CAN'T TALK ABOUT THAT.

1 Q. NOW I HAVE A QUESTION FOR YOU. NOW, YOU ARE
2 THE COLD CASE INVESTIGATOR, DETECTIVE ON THIS SUSPICIOUS
3 DEATH?

4 A. UM-HUM. YES.

5 Q. RIGHT?

6 A. YES.

7 Q. UM, AND YOUR LIKE KIND OF THE GO TO PERSON WHEN
8 IT COMES TO HOW DID VICTORIA ZUBKIS DIE AND WAS IT A
9 MURDER?

10 A. WELL I AM NOT THE GO TO PERSON, THERE IS A
11 SUPERVISOR, THERE IS THREE OTHER DETECTIVES, A MISSING
12 PERSONS, EACH PERSON HAS A DIFFERENT ROLE. DEPENDING ON
13 WHO YOU ARE INTERVIEWING. IT IS KIND OF A COLLABORATED,
14 IT'S EVERYBODY TOGETHER.

15 Q. OKAY. UM, SO LET'S TALK ABOUT YOUR ROLE. YOU
16 RESPONDED TO THE SCENE, RIGHT?

17 A. THAT'S CORRECT.

18 Q. UM, YOU TALKED TO THE VICTIM'S FATHER, RIGHT?

19 A. YES.

20 Q. YOU TALKED TO HER MOTHER?

21 A. YES.

22 Q. YOU TALKED TO, I DON'T KNOW, I WANTED TO SAY
23 SEVEN OR EIGHT PEOPLE THAT WERE CONNECTED TO HER IN SOME
24 WAY?

25 A. YEAH, ALL OF -- ALL OF THE DETECTIVES DID. I
26 DID IT WITH A PARTNER, AND THERE WERE OTHER DETECTIVES
27 THAT ALSO DID WITNESS INTERVIEWS ALONG WITH THE
28 SUPERVISOR.

1 Q. OKAY. YOU WROTE THE REPORTS, RIGHT?

2 A. YES.

3 Q. IT'S YOUR NAME ON THOSE REPORTS?

4 A. ON SOME OF THEM.

5 Q. YOU, UM, ALSO, UM, KIND OF TALKED TO POTENTIAL
6 SUSPECTS, RIGHT?

7 A. WELL, AT THAT TIME, UM, WHILE WE ARE
8 INVESTIGATE GO IT, I MEAN THERE WASN'T -- UM, I GUESS
9 YOU COULD SAY THERE WERE SOME POTENTIAL ONES THAT WE
10 WERE LOOKING AT INITIALLY.

11 Q. OKAY. UM, YOU ARE ACTUALLY THE DETECTIVE THAT
12 BRIEFED ANOTHER DETECTIVE ABOUT YOUR INVESTIGATION,
13 RIGHT?

14 A. I BELIEVE IT WAS MYSELF AND SOME OTHER
15 DETECTIVES, BUT I WOULD SAY YEAH, I WAS ONE OF THE ONES,
16 AGAIN WITH MY PARTNER, LAURIE ADAMS.

17 Q. OKAY. AND YOU ARE THE ONE WHO WAS CHOSEN TO
18 COME IN AND TESTIFY ABOUT VICTORIA ZUBKIS'S
19 INVESTIGATION, RIGHT?

20 A. THAT IS CORRECT.

21 Q. OKAY. SO YOU ARE KIND OF THE REPRESENTATIVE
22 FOR THE POLICE DEPARTMENT, HERE ON THAT CASE, IN FRONT
23 OF US TODAY?

24 A. ONE OF FIVE.

25 Q. I DON'T -- NO, I AM TALKING ABOUT THE ONES WHO
26 WERE CALLED TO COURT, JUST YOU, RIGHT?

27 MR. BROWN: OBJECTION, CALLS FOR SPECULATION AS TO
28 WHO IS ON MY WITNESS LIST.

1 THE COURT: WELL, I GUESS SUSTAINED AS TO WHETHER
2 OR NOT SHE KNOWS WHO HE MAY OR MAY NOT CALL.

3 MR. THORNTON: ARE THERE.

4 THE COURT: BUT YOU CAN ASK IN ANOTHER WAY.

5 MR. THORNTON: I WILL ASK IN ANOTHER WAY, ARE THERE
6 OTHER DETECTIVES.

7 A. I HAVE NO IDEA WHO IS ON HIS LIST.

8 Q. HOW ABOUT OUTSIDE, DID YOU SEE ANY TODAY?

9 A. I DIDN'T GO OUTSIDE TO SEE.

10 Q. AND SINCE IT'S SUCH A COLLABORATIVE EFFORTS,
11 UM, DID ANY OF THEM LET YOU KNOW, HEY, I ALSO GOT
12 SUBPOENAED TO GO TALK ON THAT, UM, TELLECHEA, JORGE
13 IBARRA, CALEB GUNDERT CASE, ANY OF THEM LET YOU KNOW
14 THAT?

15 A. I BELIEVE LAURIE ADAMS DID.

16 Q. ALL RIGHT. INTERESTING. UM, LET'S GO BACK TO
17 MORE INVESTIGATION THAT YOU PERSONALLY DID. UM, ON JUNE
18 2ND, IN ADDITION TO TALKING TO ALEX SCHIRLBAUER, YOU
19 INTERVIEWED, UM, LEE SANDICK (PH), RIGHT?

20 A. YEAH, MY SUPERVISOR AND I BOTH DID.

21 Q. OKAY. UM, ALSO ON JUNE 2ND, WE TALKED ABOUT
22 YOU TALKED TO VICTORIA'S FATHER, RIGHT?

23 A. YES.

24 Q. UM, AND THEN YOU RECEIVED AN E-MAIL FROM
25 VICTORIA'S FATHER?

26 A. SEVERAL E-MAILS.

27 Q. I AM TALKING ABOUT THE ONE ON JUNE 2ND, ON JUNE
28 2ND YOU RECEIVED AN E-MAIL FROM VICTORIA'S FATHER?

1 A. YES.

2 Q. UM, I AM SURE IT'S NOT UNCOMMON FOR A PARENT OF
3 SOMEONE WHO'S BEEN IDENTIFIED AS DEAD TO BE INVOLVED IN
4 THE INVESTIGATION, RIGHT?

5 A. YEAH, THEY WOULD LIKE TO KNOW HOW THE PERSON
6 DIED. OF COURSE.

7 Q. THEY ARE CONCERNED?

8 A. OF COURSE.

9 Q. ON JUNE 3RD, YOU SENT AN E-MAIL TO VICTORIA'S
10 FATHER, RIGHT?

11 A. YES.

12 Q. THE NEXT DAY, ON JUNE 4TH, YOU INTERVIEWED AYA,
13 OR AYA ZUBKIS, RIGHT?

14 A. AYA ZUBKIS.

15 Q. AND WHAT IS HER RELATIONSHIP?

16 A. MOTHER.

17 Q. SHE'S THE ONE THAT REPORTED VICTORIA MISSING,
18 RIGHT?

19 A. YES.

20 Q. UM, THAT SAME DAY YOU INTERVIEWED VICTORIA'S
21 SISTER?

22 A. MAXIM, YES.

23 Q. AND ALSO A FRIEND NAMED KATELYNN, RIGHT?

24 A. MY PARTNER LAURIE ADAMS INTERVIEWED HER, AND
25 THE BROTHER.

26 Q. YOU WERE PRESENT FOR THAT?

27 A. I WAS NOT PRESENT FOR THE INTERVIEW OF THE BEST
28 FRIEND, I THINK -- WELL MY PARTNER WAS INTERVIEWING THE

1 BEST FRIEND, I WAS INTERVIEWING MAXIM.

2 Q. WAS IT AT THE SAME HOUSE?

3 A. YES, I WAS IN MAXIM'S CAR AND THEN THE BEST
4 FRIEND WAS IN DETECTIVE ADAMS' CAR, I BELIEVE.

5 Q. OKAY. SO IT'S HAPPENING AT THE SAME LOCATION,
6 YOU ARE JUST NOT SITTING IN THE CAR?

7 A. YEAH, TWO DIFFERENT -- I WAS IN THE DRIVER, SHE
8 WAS OUT IN THE STREET.

9 Q. AND OF COURSE YOU GUYS ARE COLLABORATING SO YOU
10 ARE ADVISED OF EVERYTHING THAT KATELYNN SAID?

11 A. WELL I DON'T KNOW WHAT SHE SAID UNTIL
12 AFTERWARDS, BECAUSE I WAS BUSY TALKING TO MAXIM.

13 Q. RIGHT. THAT'S WHAT I SAID, RIGHT, YOU WERE
14 ADVISED, AFTER, SINCE YOU WEREN'T IN THE CAR, ABOUT WHAT
15 KATELYNN SAID?

16 A. YES.

17 MR. BROWN: OBJECTION, ARGUMENTATIVE.

18 THE COURT: OVERRULED.

19 BY MR. THORNTON:

20 Q. UM, ON JUNE 5TH, YOU GOT ANOTHER E-MAIL FROM
21 VICTORIA'S FATHER, RIGHT?

22 A. YES.

23 Q. UM, AND AGAIN, ON JUNE 8TH, RIGHT?

24 A. I BELIEVE SO, YES.

25 Q. AND ON JUNE 8TH YOU ALSO WERE ADVISED, OR YOU
26 KIND OF NOTICED OR OBSERVED THAT HE HAD ALSO SENT AN
27 E-MAIL TO MEDICAL EXAMINER, AND THE UNION TRIBUNE,
28 RIGHT?

1 A. THAT'S CORRECT.

2 Q. AND THE NEXT DAY YOU CALLED HIM ON JUNE 9TH,
3 RIGHT?

4 A. THAT'S CORRECT.

5 Q. THAT SAME DAY YOU ALSO BRIEFED DETECTIVE BROWN,
6 RIGHT?

7 A. I BELIEVE SO.

8 Q. UM, ON JUNE 9TH, YOU WENT TO GO TALK TO
9 ALEXANDER FLANNIGAN, RIGHT?

10 A. I KNOW THAT THERE WAS A SECOND TIME, YES, I
11 WENT TO GO TALK TO HIM.

12 Q. ALEXANDER FLANNIGAN?

13 A. YES, FEMALE.

14 Q. THE NEXT DAY SHE CALLED YOU AND SHE WAS ABLE TO
15 BE INTERVIEWED BY YOU AND, UM, LAURIE ADAMS, RIGHT?

16 A. THAT'S CORRECT.

17 Q. OKAY. AND THIS IS KIND OF THE PERSON WHO
18 STARTED IT ALL, RIGHT?

19 A. YES, BY MAKING THE ANONYMOUS CALL.

20 Q. RIGHT. UM, AND SHE DESCRIBED THAT SHE KNEW WHO
21 VICTORIA WAS, RIGHT?

22 A. YES.

23 Q. UM, THAT SHE HAD HERSELF SEEN PHOTOGRAPHS OF A,
24 UM, WHAT LOOKED LIKE TO HER A BLOODY BATHROOM, RIGHT?

25 A. THAT'S CORRECT.

26 Q. UM, THAT THIS BATHROOM WAS IN THE HOUSE OF ALEX
27 SCHIRLBAUER, RIGHT?

28 A. THAT'S CORRECT.

1 Q. OKAY. UM, AND THAT, AND SHE ALSO DESCRIBED FOR
2 YOU WHAT HER FRIEND, WHO HAD TAKEN THE PHOTOGRAPHS, KIND
3 OF HER Demeanor WHEN SHE WAS TALKING ABOUT IT, RIGHT?

4 A. YES.

5 Q. THAT SHE WAS KIND OF WHITE AS A GHOST, RIGHT,
6 SCARED?

7 A. SCARED, UPSET.

8 Q. NOW, ON JUNE 10TH, YOU MADE ANOTHER PHONE CALL
9 OR -- TO VICTORIA'S FATHER, VLADISLAW ZUBKIS RIGHT?

10 A. I DON'T KNOW IF HE CALLED ME OR I CALLED HIM,
11 BUT THERE WAS A PHONE CALL BETWEEN US, YES.

12 Q. AND YOU HAD A DISCUSSION WITH HIM ABOUT THIS,
13 HOW THINGS WERE KIND OF PROGRESSING, RIGHT?

14 A. YES, I BELIEVE SO.

15 Q. UM, BECAUSE JUST AS YOU HAD BEEN PREVIOUSLY
16 WERE KEEPING HIM UPDATED ABOUT WHAT YOU WERE DOING WITH
17 THE INVESTIGATION, RIGHT?

18 A. YES.

19 Q. SO HE HAD BEEN ADVISED PREVIOUSLY THAT YOU WERE
20 INTERVIEWING WITNESSES, RIGHT?

21 A. THAT'S CORRECT.

22 Q. TALKING TO MEDICAL EXAMINERS?

23 A. YES.

24 Q. UM, KIND OF GOING TO THE PLACES HE THOUGHT WERE
25 SUSPICIOUS, RIGHT?

26 A. YES.

27 Q. IT'S IMPORTANT TO MAKE SURE THAT THESE FAMILY
28 MEMBERS OR LOVED ONES KNOW THAT YOU ARE RESPONSIVE,

1 RIGHT?

2 A. WELL, STAYING IN CONSTANT CONTACT WITH THE
3 FAMILY MEMBERS, YEAH.

4 Q. YEAH?

5 A. LETTING THEM KNOW WHAT'S GOING ON.

6 Q. RIGHT. UM, ON, UM, JUNE 10TH, YOU ALSO TALKED
7 TO MR. ZUBKIS ABOUT, UM, WHAT HAD HAPPENED IN MEXICO ON
8 JUNE 5TH, RIGHT?

9 A. YES.

10 Q. AND HE HAD ALREADY KIND OF TOLD YOU HE HAD
11 LEARNED INFORMATION ON JUNE 5TH, RIGHT?

12 A. THAT HE WHAT.

13 Q. ALREADY LEARNED INFORMATION ON JUNE 5TH, RIGHT
14 IN THE PREVIOUS E-MAILS HE HAD SENT BETWEEN JUNE 5TH AND
15 JUNE 10TH?

16 A. YES.

17 Q. UM, HE, UM, TOLD YOU THAT CESAR -- WELL HE
18 IDENTIFIED CESAR MENA'S VICTORIA'S BOYFRIEND, RIGHT?

19 A. YES.

20 Q. AND HE TOLD YOU THAT HE HAD AN ARGUMENT WITH
21 CESAR MENA HAD AN ARGUMENT WITH JORGE IBARRA IN MEXICO?

22 A. YES.

23 Q. AND THAT THEY FOUGHT, RIGHT?

24 A. YES.

25 Q. AND THAT, UM, HE AND MR. MENA WERE ACTUALLY
26 ARRESTED BY THE POLICE, RIGHT?

27 A. THAT'S CORRECT.

28 Q. OKAY. AND HE HAD PREVIOUSLY ADVISED,

1 ADVISED YOU THAT CESAR MENA WAS KINDS OF DOING SOME
2 INVESTIGATION FOR HIM INTO HOW, UM, INTO WHAT HAPPENED
3 WITH VICTORIA, RIGHT?

4 A. HE TOLD ME ABOUT SEVERAL PEOPLE THAT WERE DOING
5 INVESTIGATIONS FOR HIM.

6 Q. SO CESAR WAS JUST ONE OF, UM, ?

7 A. ONE OF A COUPLE.

8 Q. OKAY. UM, UM, HE KIND OF EXPLAINED THE
9 ARGUMENT WITH, UM, JORGE IN A LITTLE MORE DETAIL FOR
10 YOU, RIGHT?

11 A. I JUST REMEMBER HIM SAYING THAT THEY WERE
12 TALKING, THERE WAS AN ARGUMENT, AND CESAR HAD GOTTEN
13 UPSET, THAT'S WHAT MY MEMORY OF THAT IS.

14 Q. UM, YOU REMEMBER SPECIFICALLY THAT THEY SAID
15 THEY FOUGHT, RIGHT?

16 A. YEAH, I REMEMBER THAT TOO.

17 Q. AND THAT JORGE CAME TO ROSARITO BEACH TO TALK
18 TO MR. ZUBKIS ABOUT VICTORIA'S DEATH, RIGHT?

19 A. THAT'S WHAT HE SAID.

20 Q. AND THEN HE GAVE YOU THE NAME OF TWO OTHER
21 PEOPLE, AARON AND BRETT?

22 A. YES, SOME NAMES, SOME ADDITIONAL NAMES THAT HE
23 HAD COME UP WITH, WITH SOME PHYSICAL DESCRIPTIONS.

24 Q. OKAY. NOW AARON AND BRETT, UM, HE WASN'T THE
25 ONLY PERSON WHO TALKED TO YOU ABOUT AARON AND BRETT,
26 RIGHT?

27 A. THERE WERE SOME OTHER PEOPLE THAT MENTIONED
28 AARON.

1 Q. UM, ALEX SCHIRLBAUER BEING ONE OF THEM?

2 A. HE MENTIONED AARON, I BELIEVE.

3 Q. UM, ALEX SCHIRLBAUER ALSO TOLD YOU ABOUT THAT
4 FORUM STREET ADDRESS, RIGHT?

5 A. YES.

6 Q. AND HOW HE HAD TAKEN VICTORIA THERE AT SOME
7 POINT, RIGHT?

8 A. HE HAD MENTIONED THAT, OR THE ADDRESS WAS
9 FAMILIAR TO HIM, HE SAID.

10 Q. UM, AND HE SPECIFICALLY TOLD YOU HE HAD ONE
11 TIME HAD TAKEN VICTORIA OVER THERE?

12 A. I BELIEVE HE DID, YES.

13 Q. UM, SO, UM, NOW, I KINDA WANT TO STEP BACK AND
14 I WANT TO TALK ABOUT, UM, THE INVESTIGATION, UM -- WELL,
15 JUST YOUR KNOWLEDGE ABOUT THE INVESTIGATION. UM, A FEW
16 MINUTES AGO I TRIED TO TALK TO YOU ABOUT KIND OF TESTING
17 OLD BLOOD, RIGHT?

18 A. UM-HUM. YES.

19 Q. AND YOU TOLD ME TO TALK TO YOU ON THE STAND,
20 RIGHT?

21 A. THAT'S CORRECT.

22 Q. OKAY. SO WHEN I TRIED TO ASK YOU OUT HERE, SO
23 WE DIDN'T WAIST ANYBODY'S TIME, YOU SAID DO IT IN FRONT
24 OF THE JURY, RIGHT?

25 A. WELL, YEAH, IT'S IMPORTANT FOR THEM TO HEAR IT.

26 Q. ALL RIGHT. SO THE QUESTION I HAVE FOR YOU IS
27 ISN'T IT TRUE THAT, UM, BLOOD CAN BE -- YOU HAVE WAYS OF
28 DETECTING BLOOD, RIGHT?

1 A. WELL WE CAN DETECT BLOOD THROUGH LUMINOL.

2 Q. AND THAT EVEN CAN HAPPEN, AFTER IT'S BEEN
3 CLEANED, RIGHT?

4 A. THAT IS CORRECT.

5 Q. AND THERE IS NO REAL KIND OF TIME STAMP ON
6 BLOOD, RIGHT, AS FAR AS BEING ABLE TO BE DETECTED?

7 A. NO.

8 Q. THERE IS LIKE NO -- WHAT I MEAN IS THERE NO
9 EXPIRATION DATE, OH, THREE MONTHS, NO, LIKE?

10 A. WELL, IT ALL DEPENDS, IT ALL DEPENDS ON WHETHER
11 IT'S BEEN CLEANED UP. DEPENDS ON THE CONDITION, THE
12 WEATHER.

13 Q. RIGHT?

14 A. THERE IS A LOT OF FACTORS THAT PLAY INTO THAT.

15 Q. RIGHT. UM, SO IT'S FAIR TO SAY IT'S ALWAYS
16 WORTHWHILE TEST GO, RIGHT, BECAUSE MAYBE THERE WILL BE A
17 DETECTION?

18 A. WELL, IT ALL DEPENDS.

19 Q. UM, DEPENDS ON WHAT?

20 A. DEPENDS ON THE CIRCUMSTANCES.

21 Q. UM, DO YOU THINK THAT BLOOD EVIDENCE IS
22 RELATIVELY IMPORTANT IN A MURDER INVESTIGATION, A
23 SUSPICIOUS DEATH INVESTIGATION?

24 A. IT COULD BE, DEPENDING ON THE CIRCUMSTANCES AND
25 WHAT THE SITUATION WAS.

26 Q. UM, IF SOMEONE IDENTIFIES BLOOD BEING AT AN
27 EX-BOYFRIEND'S HOUSE, DO YOU THINK THAT'S A PARTICULAR
28 CIRCUMSTANCE THAT WOULD, THAT YOU WOULD BE INTERESTED IN

1 TESTING BLOOD FOR?

2 A. IF IT WAS BLOOD AND THEN LATER EXPLAINED TO SAY
3 IT WAS HAIR DYE, THEN, THEN IT WOULDN'T BE NECESSARY.

4 Q. OKAY. LET'S TALK ABOUT THAT. WE ARE TALKING
5 ABOUT YANA, RIGHT?

6 A. YANA AND JOSH.

7 Q. UM, YOU INTERVIEWED THEM ON THE 12TH, RIGHT?

8 A. YES.

9 Q. OKAY. NOW, HIS BODY WASHED ASHORE ON MAY 28TH,
10 RIGHT?

11 A. YES.

12 Q. SO IF SHE WAS KILLED BY SOMEBODY, I AM
13 PRESUMING, AND I THINK IT'S FAIR TO SAY THAT IT WOULD
14 HAVE BEEN BEFORE MAY 28TH?

15 A. YES.

16 Q. OR ON MAY 28TH?

17 A. YES. WELL WHEN SHE WAS LAST REPORTED SCENE
18 WHICH WOULD HAVE BEEN THE 22ND.

19 Q. YOU WOULD AGREE THOUGH THAT BETWEEN MAY 22ND
20 AND AT SOME POINT BETWEEN HER BODY BEING FOUND SHE WOULD
21 HAVE BEEN ALIVE AND JUST NOT SEEN BY ANYONE, RIGHT?

22 A. WELL, YOU WOULD HAVE TO TALK TO THE PATHOLOGIST
23 ABOUT THAT, BECAUSE I BELIEVE HE DETERMINED HOW LONG THE
24 BODY WAS IN THE WATER, SO YOU WOULD HAVE TO TALK TO HIM
25 ABOUT THAT.

26 Q. AND ONE OF THE WAYS THEY WERE ABLE TO DETERMINE
27 THAT IS BECAUSE THIS BODY WAS INCREDIBLY DECOMPOSED WHEN
28 IT WASHED ASHORE, RIGHT?

1 A. YOU KNOW, I DON'T KNOW HOW DECOMPOSED IT WAS.
2 YOU WOULD HAVE TO TALK TO THE DOCTOR ABOUT THAT.

3 Q. YOU RECALL HIM TELLING YOU IT LOOKED LIKE IT
4 HAD BEEN ACTUALLY EATEN BY ANOTHER ANIMAL IN THE OCEAN?

5 A. I BELIEVE HE SAID THERE WAS MARINE ACTIVITY.

6 Q. UM, AND THAT IT WAS DENTAL RECORDS THAT NEEDED
7 TO BE USED TO IDENTIFY, UM, WHO IT WAS?

8 A. I AM NOT AWARE OF WHAT THE DOCTOR'S FINDINGS
9 WERE.

10 Q. OKAY. SO NOW BACK TO YANA. UM, SHE TOLD YOU
11 THAT SHE WAS ACTUALLY ON -- ON JUNE 12, SHE SAID YOU
12 KNOW I WAS ON LSD WHEN I SAW THOSE, WHEN I SAW THAT AND
13 TOOK THOSE PICTURES, RIGHT?

14 A. OTHER DRUGS ALSO, YES.

15 Q. OKAY. AND ON JUNE 12, UM, SHE TOLD YOU THAT IT
16 WAS HENNA HAIR DYE?

17 A. THAT'S THE BRAND THAT SHE GAVE ME.

18 Q. UM, NOW, SHE ALSO TOLD YOU THAT SHE WAS
19 FAMILIAR WITH ALEX SCHIRLBAUER, RIGHT?

20 A. YES, THAT SHE WAS FRIENDS WITH HIM.

21 Q. IN FACT, THAT IT WAS AT HIS HOUSE WHERE ALL
22 THIS HAPPENED, RIGHT?

23 A. THAT'S CORRECT.

24 Q. UM, AND I AM WONDERING, IF IN YOUR EXPERIENCE
25 BEING AN INVESTIGATOR, IF PERHAPS IF IT'S EVER OCCURRED
26 WHERE OR YOU KNOW IT TO HAVE EXISTED, UM, THAT SOMEONE
27 WHO WAS INVOLVED IN THE DEATH OF SOMEONE MAY INTIMIDATE
28 OR SCARE OTHER WITNESSES?

1 A. WELL, THAT'S HAPPENED.

2 Q. OKAY. UM, AND AT THIS POINT, WHEN EITHER
3 INTERVIEWING YANA, IT'S NOW ROUGHLY TWO WEEKS SINCE
4 VICTORIA'S BODY'S WASHED ASHORE?

5 A. THAT'S CORRECT.

6 Q. AND AT THIS POINT, YOU HAVE ALREADY INTERVIEWED
7 OR TALKED TO ALEX SCHIRLBAUER, HE'S BEEN ON YOUR RADAR,
8 I DON'T KNOW, BETWEEN JUNE 2ND AND JUNE 12, RIGHT?

9 A. THAT'S CORRECT.

10 Q. ABOUT TEN DAYS?

11 A. YES.

12 Q. AND THAT INCLUDES WHEN I SAY ON YOUR RADAR, YOU
13 ARE ACTUALLY DOWNLOADING THE CONTENTS OF HIS PHONE,
14 RIGHT?

15 A. WELL, I WASN'T DOWNLOADING IT, BUT SOMEONE ELSE
16 WAS.

17 Q. WHEN I SAY YOU, I MEAN YOUR TEAM?

18 A. WELL ONE OF THE DETECTIVES, YES.

19 MR. THORNTON: NOTHING FURTHER FOR RIGHT NOW.
20 THANK YOU.

21 THE COURT: MISS BAYER.

22

23

24 C R O S S E X A M I N A T I O N

25

26 BY MS. BAYER:

27 Q. GOOD MORNING, DETECTIVE.

28 A. GOOD MORNING.

1 Q. YOU HAVE TESTIFIED YESTERDAY THAT THE NAME
2 JORGE IBARRA HAD COME UP DURING YOUR INVESTIGATION, DO
3 YOU RECALL THAT?

4 A. YES.

5 Q. AND YOU HAD INDICATED THAT BASED ON YOUR
6 INVESTIGATION, HE WAS SOMEONE, UM, WHO WAS OF INTEREST
7 BECAUSE YOU HAD FEELED HE MAY HAVE BUN ONE OF THE LAST
8 PEOPLE TO HAVE BEEN SEEN WITH MISS ZUBKIS, CORRECT?

9 A. YES, THAT'S WHAT WE HAVE BEEN TOLD.

10 Q. YOU ACTUALLY HAD OTHER INFORMATION THAT THERE
11 WERE ACTUALLY TWO OTHER PEOPLE WHO WERE IN FACT LAST
12 SEEN WITH MISS ZUBKIS, CORRECT?

13 A. YES, TWO OTHER NAMES WERE ALSO GIVEN TO US.

14 Q. THOSE WERE NAMES OF AARON AND BRENT OR BRAD, OR
15 SOMETHING LIKE THAT?

16 A. YES, YES.

17 Q. AND YOU ACTUALLY RECEIVED A PHONE NUMBER, UM,
18 FOR EITHER AARON OR BRENT, CORRECT?

19 A. YES.

20 Q. AND SO IN TERMS OF YOUR OPINION THAT JORGE
21 IBARRA WAS ONE OF THE LAST PEOPLE, THERE IS ACTUALLY A
22 LOT OF PEOPLE THAT HAD SEEN OR AT LEAST SEVERAL PEOPLE
23 WHO HAD SEEN MISS ZUBKIS IN HER LAST FEW DAYS, CORRECT?

24 A. YEAH, THERE WERE CONFLICTING STATEMENTS, YES.

25 Q. BUT IN TERMS OF YOUR INVESTIGATION, YOU WEREN'T
26 FOCUSED ON JORGE IBARRA AS A SUSPECT, CORRECT?

27 A. YOU KNOW WHAT, AT THAT TIME, UM, WE WERE
28 LOOKING TO FIND OUT WHAT HE KNEW, WHETHER HE WAS A

1 FRIEND OF HERS OR NOT, SO HE -- WE WERE TOLD HE WAS ONE
2 OF THE LAST PEOPLE TO SEE HER, SO WE WANTED TO TALK TO
3 HIM ABOUT THAT, I WASN'T QUITE SURE WHAT HIS ROLE WAS AT
4 THAT TIME.

5 Q. YOU TALKED TO A LOT OF DIFFERENT PEOPLE?

6 A. YES.

7 Q. AND DID YOU EVER OFFICIALLY COME TO THE
8 CONCLUSION THAT MR. IBARRA WAS A SUSPECT IN VICTORIA
9 ZUBKIS'S DEATH?

10 A. IN MY INVESTIGATION, HE WAS NOT.

11 Q. AND YOUR INVESTIGATION WAS MORE FOCUSED ON THE
12 ACTUAL PEOPLE THAT WERE WITH HER, OR WOULD HAVE HAD
13 INFORMATION ABOUT WHAT SHE WAS DOING JUST BEFORE SHE
14 WENT INTO THE OCEAN, CORRECT?

15 A. MY INVESTIGATION WAS TO FIND OUT WHO SHE WAS
16 WITH, UM, PRIOR TO THE LAST TIME THE MOTHER TALKED TO
17 HER, WHO SHE WAS WITH DURING THAT TIME, THE MOTHER DID
18 NOT SEE HER AND AFTER THE FACT, YES, WANTED TO GET AS
19 MUCH INFORMATION AS TO WHERE SHE WAS AND WHO SHE WAS
20 HANGING OUT WITH.

21 Q. YOU WERE ASKED ABOUT SOME PHOTOS, UM, THAT YOU
22 TOOK OF MR. SCHIRLBAUER'S PHONE, YOU SAID YOU WERE WITH
23 YOUR SUPERVISOR, WHEN YOU TOOK THOSE PHOTOS?

24 A. YES, SERGEANT PENDLETON.

25 Q. PENDLETON?

26 A. YES.

27 Q. AND THOSE PHOTOS WERE TAKEN WHEN WERE YOU AT
28 MR. SCHIRLBAUER'S HOUSE DURING YOUR FIRST MEETING WITH

1 HIM, CORRECT?

2 A. THAT'S CORRECT.

3 Q. AND WHEN YOU TOOK THOSE PHOTOS, YOU ACTUALLY
4 WERE ABLE TO SEE MR. SCHIRLBAUER'S PHONE, CORRECT?

5 A. I WAS ABLE TO LOOK AT HIS PHONE, SEE THE TEXT
6 MESSAGES, AND I EVEN DOCUMENTED THE STATEMENTS IN MY
7 REPORT.

8 Q. AND YOUR -- SERGEANT PENDLETON?

9 A. YES.

10 Q. HE USED HIS PHONE TO ACTUALLY TAKE PICTURES OF
11 THE TEXT MESSAGES, CORRECT?

12 A. THAT IS CORRECT.

13 Q. AND YOU INDICATED THAT THOSE PHOTOS WERE TURNED
14 OVER TO THE DISTRICT ATTORNEY'S OFFICE?

15 A. A PACKET OF THE INTERVIEW, WHATEVER THE
16 INTERVIEW WAS, WE WOULD HAVE ATTACHED, UM, WHATEVER
17 DOCUMENTS THAT WENT WITH IT, LIKE THE PHOTOS.

18 Q. WHEN YOU TYPICALLY TAKE PHOTOS IN A CASE, DO
19 YOU OFTEN KEEP A COPY AND IMPOUND THOSE AS EVIDENCE IN A
20 PARTICULAR CASE?

21 A. UM, TYPICALLY, I THINK -- I THINK HE DOWNLOADED
22 THEM ON THE COMPUTER AND E-MAILED THEM TO ME AND I HAD
23 PRINTED THEM OUT. I TRIED TO GO BACK AND RETRIEVE THAT
24 INFORMATION, AND I WASN'T ABLE TO GET IT BACK.

25 Q. TYPICALLY, WHEN YOU TAKE PHOTOS AS A HOMICIDE
26 DETECTIVE, DO YOU BURN THEM ON TO A CD?

27 A. YES.

28 Q. AND DO YOU TYPICALLY TAKE THAT CD AND GIVE IT

1 AN IMPOUND NUMBER AND IMPOUND IT INTO EVIDENCE ON ANY
2 PARTICULAR CASE?

3 A. YES.

4 Q. AND DID YOU DO THAT IN THIS CASE?

5 A. I DIDN'T HAVE ANYTHING TO DO WITH THE PHOTOS,
6 SERGEANT PENDLETON DID.

7 Q. YOU WERE THE ASSIGNED DETECTIVE IN TERMS OF THE
8 INVESTIGATION REGARDING MISS ZUBKIS, CORRECT?

9 A. I AM NOT AWARE OF WHETHER THEY DID THAT OR NOT.

10 Q. BUT YOU ARE THE ASSIGNED DETECTIVE, CORRECT?

11 A. I AM ASSIGNED DETECTIVE, BUT HE'S MY
12 SUPERVISOR, AND HE'S THE ONE THAT DEALT WITH THAT, SO HE
13 WOULD HAVE IMPOUNDED IT, IT WAS HIS RESPONSIBILITY, YES.

14 Q. OKAY. DO YOU KNOW WHETHER OR NOT A CD WAS
15 IMPOUNDED WITH THOSE PHOTOS IN THIS CASE?

16 A. I HAVE NOT SEEN ONE.

17 Q. SO YOU -- BUT HAVE YOU LOOKED?

18 A. YES.

19 Q. AND SO YOU LOOKED TO DETERMINE WHETHER OR NOT A
20 CD WITH THOSE PHOTOS WAS ACTUALLY IMPOUNDED AND YOU
21 DETERMINED THAT IT WAS NOT?

22 A. WHEN I LOOK INTO CUSTODY THE FILE, I DID NOT
23 SEE THAT.

24 Q. AND YOU HAVE NOT BEEN ABLE TO LOCATE THE
25 PHOTOS, CORRECT?

26 A. I HAVE NOT.

27 Q. YOU THEN INDICATED THAT YOU MET WITH
28 MR. SCHIRLBAUER AGAIN AFTER THAT INITIAL MEETING THAT IS

1 HOUSED IN THE SAN DIEGO POLICE DEPARTMENT, CORRECT?

2 A. YES.

3 Q. AND THAT WAS IN THE SORT OF AN INTERVIEW ROOM,
4 CORRECT?

5 A. YES, THAT'S CORRECT.

6 Q. AND WHEN YOU WERE MEETING WITH MR. SCHIRLBAUER,
7 UM, YOU SPOKE WITH HIM DURING THE PERIOD OF THE TIME AND
8 DETECTIVE BROWN SPOKE WITH HIM DURING A PERIOD OF TIME,
9 CORRECT?

10 A. YES, I TALKED TO HIM FURTHER ABOUT THE MISSING
11 PERSON AND THEN I THINK AT SOME POINT I LEFT THE
12 INTERVIEW ROOM AND THEN THE OTHER DETECTIVE, UM, TOOK
13 OVER HIS INVESTIGATION.

14 Q. AND AT SOME POINT MR. SCHIRLBAUER GAVE
15 PERMISSION FOR THERE TO BE A SEARCH OF HIS PHONE,
16 CORRECT?

17 A. YES.

18 Q. AND WAS IT YOU THAT WENT OVER THAT CONSENT TO
19 SEARCH HIS PHONE OR WAS IT THE OTHER DETECTIVE?

20 A. YOU KNOW, I AM NOT SURE. I DON'T REMEMBER WHO
21 DID IT.

22 Q. AND IT'S YOUR TESTIMONY THAT YOU NEVER, UM,
23 LOOKED AT THE CONTENTS OF MR. SCHIRLBAUER'S PHONE ONCE
24 THE EXTRACTION WAS DONE, CORRECT?

25 A. YOU KNOW, I -- I WAS THERE WHEN THEY ASKED HIM
26 PERMISSION, AND THEN THE PHONE WAS THEN GIVEN TO A
27 DETECTIVE AND THEY WERE DOWNLOADING IT WHILE WE WERE
28 INTERVIEWING, SO I AM NOT QUITE SURE WHAT HAPPENED WITH

1 THAT INFORMATION. I HAVE NOT SEEN IT.

2 Q. YOU HAVE NEVER GONE BACK AND LOOKED AT THE
3 CONTENTS OF MR. SCHIRLBAUER'S PHONE?

4 A. I HAVE NOT SEEN THAT INFORMATION THAT WAS
5 DOWNLOADED.

6 Q. HAVE YOU RECEIVED INFORMATION THAT THE
7 CONTENTS, UM -- WELL, YOU HAD MENTIONED THAT YOU NO
8 LONGER HAD THE ORIGINAL PHOTOS THAT WERE TAKEN FROM
9 MR. SCHIRLBAUER'S PHONE, CORRECT?

10 A. FROM THE ONES THAT THE SERGEANT PENDLETON TOOK,
11 YES.

12 Q. YES. UM, AND YOU WERE AWARE THAT PEOPLE WERE
13 INTERESTED IN SEEING THOSE PHOTOGRAPHS, CORRECT?

14 A. WELL, YES.

15 Q. DID THE DISTRICT ATTORNEY ASK YOU TO LOOK AND
16 SEE IF YOU COULD FIND THEM?

17 A. YES.

18 Q. AND DID YOU ATTEMPT TO GO BACK TO
19 MR. SCHIRLBAUER'S PHONE, THE EXTRACTION THAT WAS DONE,
20 TO DETERMINE WHETHER OR NOT THOSE TEXT MESSAGES WERE
21 STILL ON THE EXTRACTION MATERIALS?

22 A. I DON'T HAVE ANY INFORMATION REGARDING THE
23 INFORMATION THAT WAS TAKEN FROM HIS PHONE. I AM NOT
24 SURE WHO DOWNLOADED THE PHONE. I CAN TALK ABOUT THE
25 PHOTOGRAPHS THAT SERGEANT PENDLETON TOOK, BECAUSE I SAW
26 HIM, SCHIRLBAUER WOULD POST THE MESSAGE ON THE PHONE AND
27 THEN SERGEANT WOULD JUST TAKE A PHOTOGRAPH FROM HIS
28 PHONE AND JUST SNAP IT.

1 Q. SO YOU HAVE -- YOU CAN'T TALK AT ALL ABOUT
2 WHETHER OR NOT MATERIALS WERE DELETED FROM
3 MR. SCHIRLBAUER'S PHONE?

4 A. YEAH, I DON'T KNOW THAT.

5 Q. OKAY.

6 MS. BAYER: CAN I HAVE A MOMENT, YOUR HONOR?

7 THE COURT: YES.

8 MS. BAYER: I HAVE NO FURTHER QUESTIONS. THANK
9 YOU, DETECTIVE.

10 THE WITNESS: THANK YOU.

11 THE COURT: CROSS ON BEHALF OF MR. GUNDERT.

12 MS. BAYER: OH, I DO HAVE A QUESTION. I AM SO
13 SORRY. SORRY ABOUT THAT.

14 THE COURT: THAT'S ALL RIGHT.

15 BY MS. BAYER:

16 Q. I WANTED TO SHOW YOU A COUPLE OF PHOTOGRAPHS.
17 IS THAT ON?

18 MR. BROWN: YES.

19 BY MS. BAYER:

20 Q. I AM GOING TO --

21 MS. BAYER: MAY I APPROACH, YOUR HONOR?

22 THE COURT: YES.

23 BY MS. BAYER:

24 Q. I AM SHOWING YOU WHAT'S BEEN PREVIOUSLY MARKED
25 AS DEFENSE EXHIBIT D. DO YOU RECOGNIZE THIS? DO YOU
26 RECOGNIZE THE PERSON THAT'S DEPICTED IN THAT PHOTOGRAPH?

27 A. THE PERSON IN THE PHOTOGRAPH, YES, I RECOGNIZE
28 THAT AS ALEX SCHIRLBAUER.

1 Q. AND DOES IT LOOK LIKE ALEX SCHIRLBAUER?

2 A. SCHIRLBAUER, YES.

3 MS. BAYER: PERMISSION TO PUBLISH, YOUR HONOR.

4 THE COURT: ANY OBJECTION?

5 MS. BAYER: NO.

6 MR. MOORE: NO.

7 BY MS. BAYER:

8 Q. AND IF YOU CAN TAKE A LOOK AT THE MONITOR, IS
9 THAT THE SAME THAT IS DEPICTED IN EXHIBIT D IN FRONT OF
10 YOU?

11 A. YES.

12 Q. AND THAT IS MR. SCHIRLBAUER, CORRECT?

13 A. THAT'S CORRECT.

14 Q. I AM GOING TO APPROACH WITH DEFENSE EXHIBIT E.
15 DO YOU RECOGNIZE THE INDIVIDUAL THAT IS DEPICTED IN THIS
16 PHOTOGRAPH?

17 A. THAT LOOKS LIKE JOSH.

18 Q. IS THAT JOSH NEAL?

19 A. YEAH, HIS HAIR IS A LITTLE BIT LONGER THERE.

20 Q. BUT THAT LOOKS LIKE JOSH NEAL, AT LEAST AS FAR
21 AS YOU CAN TELL?

22 A. I WOULD SAY IT LOOKS LIKE HIM BUT I AM NOT 100
23 PERCENT SURE. THE HAIR LOOKS DIFFERENT TO ME.

24 Q. OKAY.

25 A. BUT IT LOOKS LIKE HIM.

26 MS. BAYER: PERMISSION TO PUBLISH.

27 MR. THORNTON: NO OBJECTION.

28 MR. BROWN: NO OBJECTION.

1 MR. MOORE: NO OBJECTION.

2 BY MS. BAYER:

3 Q. AND TAKING A LOOK AT WHAT IS DEPICTED ON THE
4 MONITOR, THAT'S THE SAME INDIVIDUAL THAT YOU HAVE IN THE
5 PHOTO IN FRONT OF YOU ON DEFENSE EXHIBIT E?

6 A. THAT'S CORRECT.

7 Q. I AM SHOWING YOU WHAT'S BEEN MARKED AS DEFENSE
8 EXHIBIT F. DO YOU RECOGNIZE THAT INDIVIDUAL? IF YOU
9 DON'T, THAT'S OKAY?

10 A. I DON'T RECOGNIZE THAT PERSON.

11 Q. BUT IN TERMS OF THE THE OTHER TWO PHOTOS, YOU
12 DID HAVE AN OPPORTUNITY TO RECOGNIZE THEM AS INDIVIDUALS
13 THAT YOU SPOKE WITH DURING YOUR INVESTIGATION, CORRECT?

14 A. UM, ONE OF THEM FOR SURE, ALEX, AND THE OTHER
15 GUY, I AM NOT QUITE SURE.

16 Q. JOSH NEAL THIS MAY OR MAY NOT BE HIM?

17 A. IT LOOKS LIKE HIM.

18 Q. BUT THIS INDIVIDUAL?

19 A. FOR SURE ALEX, YES.

20 Q. YOU RECOGNIZE HIM. THAT WAS ALEX SCHIRLBAUER,
21 THE INDIVIDUAL WHOSE HOUSE YOU WENT TO AND WHO CAME TO
22 THE POLICE STATION, AND THAT WAS THE INDIVIDUAL WHO
23 OWNED THE HOUSE WITH POTENTIALLY SOME BLOODY BATHROOM
24 PICTURES?

25 A. THAT'S CORRECT.

26 MS. BAYER: NO FURTHER QUESTIONS, THANK YOU.

27 THE COURT: ON BEHALF OF MR. GUNDERT.

28 MR. MOORE: THANK YOU. MAY I HAVE MINUTE, YOUR

1 HONOR?

2 THE COURT: YES.

3 MR. MOORE: THANK YOU.

4

5 C R O S S E X A M I N A T I O N

6

7 BY MR. MOORE:

8 Q. GOOD MORNING, DETECTIVE.

9 A. GOOD MORNING.

10 Q. MY NAME IS NICHOLAS MOORE. I THINK WE MET AT
11 PREVIOUS HEARING. DO YOU RECALL THAT HEARING?

12 A. UM, THE PRELIM.

13 Q. YES.

14 A. YES.

15 Q. AND I ASKED YOU A SERIES OF QUESTIONS ABOUT
16 INDIVIDUALS INVOLVED IN, IN THIS CASE, WHETHER OR NOT
17 THEY WERE PEOPLE WHO HAD KNOWN VICTORIA OR WERE
18 INVESTIGATING VICTORIA OR HAD ANYTHING TO DO WITH HER
19 LIFE OR DEATH, OR YOUR INVESTIGATION; CORRECT?

20 A. THAT'S CORRECT.

21 Q. OKAY. AND I HAD ASKED IF CALEB GUNDERT'S NAME
22 EVER CAME UP IN YOUR INVESTIGATION?

23 A. NO, IT DID NOT.

24 Q. DID NOT. SO IT WAS NOT SOMEBODY WHO WAS IN ANY
25 WAY CONNECTED WITH VICTORIA'S DEATH, LIFE, OR
26 INVESTIGATION, CORRECT?

27 A. NO.

28 Q. OKAY. YOU RECENTLY JUST TESTIFIED THAT YOU

1 WERE NOT AWARE WHAT THE DOCTOR'S FINDINGS WERE, AS IN
2 TERMS OF VICTORIA'S DEATH, DID I HEAR THAT CORRECTLY?

3 A. I DON'T BELIEVE THAT -- I WAS AWARE OF SOME OF
4 THE FINDINGS.

5 Q. OKAY.

6 A. THAT HAPPENED, BUT THERE WERE SOME THINGS THAT
7 I WAS NOT AWARE OF.

8 Q. OKAY. ON DIRECT EXAMINATION YOU TESTIFIED THAT
9 YOU BELIEVE IT WAS POSSIBLE OR EVEN PROBABLE THAT HER
10 DEATH WAS A SUICIDE?

11 A. I SAID EITHER ACCIDENTAL DROWNING OR POSSIBLY A
12 SUICIDE.

13 Q. SUICIDE, OKAY.

14 A. ANY ONE OF THOSE.

15 Q. SUICIDE IN THE OCEAN?

16 A. YOU CAN BE UNDER THE INFLUENCE AND JUMP IN THE
17 WATER.

18 Q. THAT'S SUICIDE?

19 A. COULD BE.

20 Q. OKAY. YOU SAID YESTERDAY ON DIRECT EXAMINATION
21 THAT PARENTS IDENTIFIED THE BODY?

22 A. I BELIEVE EITHER THE PARENTS WERE NOTIFIED OR
23 AT SOME POINT KNEW THAT THAT WAS THEIR DAUGHTER.

24 Q. OKAY. BUT DO YOU -- DO YOU HAVE A RECOLLECTION
25 OF HOW THE IDENTIFICATION WAS ACCOMPLISHED?

26 A. I JUST KNOW THAT I WAS NOTIFIED BY THE
27 PATHOLOGIST THAT THE PERSON THAT THEY PULLED OUT OF THE
28 WATER WAS VICTORIA ZUBKIS.

1 Q. OKAY. NOW, AS A CRIMINAL INVESTIGATOR, PART OF
2 YOUR JOB IS TO COMMUNICATE WITH VARIOUS OTHER
3 INDIVIDUALS WHO ARE ALSO SOME WAY RELATED TO THE
4 INVESTIGATION OF THIS DEATH, WHICH WOULD INCLUDE OTHER
5 DETECTIVES, SUPERVISORS, MEDICAL EXAMINERS, AND SO
6 FORTH, CORRECT?

7 A. CORRECT.

8 Q. SO DID YOU ASK THE MEDICAL EXAMINER HOW THEY
9 IDENTIFIED THE BODY?

10 A. I CAN TELL YOU THAT SHE WAS IDENTIFIED.

11 Q. OKAY. YOU SAID THAT YOU WEREN'T PRESENT WHEN
12 THE CONTENTS OF HONDA'S PHONE WERE DOWNLOADED BY
13 INVESTIGATORS. DO YOU KNOW WHO COMPLETED THAT DOWNLOAD
14 OF HIS PHONE -- I AM SORRY. FOR THE RECORD, ALEX
15 SCHIRLBAUER'S PHONE?

16 A. YEAH. I DON'T KNOW.

17 Q. YOU DON'T KNOW WHICH DETECTIVE DID THAT?

18 A. NO.

19 Q. WAS IT SOMEBODY IN YOUR UNIT?

20 A. I DON'T KNOW IF IT WAS IN THE ROBBERY UNIT, OR
21 IF IT WAS OUR UNIT.

22 Q. OKAY. NOW, YOU HAD CAUSED TO INTERACT WITH THE
23 ROBBERY UNIT ON SEVERAL OCCASION, THOUGH, IN YOUR
24 INVESTIGATION, DID YOU NOT?

25 A. MY ONLY CONTACT WITH THE ROBBERY UNIT WAS TO
26 BRIEF THEM, WHAT MY INVESTIGATION, WHAT WAS GOING ON
27 WITH MY INVESTIGATION. WHAT THEY DID IN THEIR
28 INVESTIGATION IS SEPARATE THAN OURS.

1 Q. I UNDERSTAND THAT. BUT YOU ALSO --

2 A. YEAH.

3 Q. YOU DID A LITTLE BIT MORE THAN THAT WITH THE
4 ROBBERY UNIT, WOULDN'T THAT BE FAIR TO SAY, OTHER THAN
5 BRIEF THEM, YOU ACTUALLY INTERVIEWED HONDA
6 CONSECUTIVELY? I AM SORRY, AGAIN, ALEX SCHIRLBAUER.

7 A. UM, I INTERVIEWED HIM A SECOND TIME, UM, FOR
8 THE PURPOSE OF THE ROBBERY DETECTIVES TO INTERVIEW THEM,
9 TO INTERVIEW HIM AFTERWARDS.

10 Q. OKAY. DID YOU RECEIVE INFORMATION OF -- THAT
11 VICTORIA ZUBKIS WAS THE VICTIM OF A SEX CRIME?

12 MR. BROWN: I WOULD OBJECT AS TO RELEVANCE.

13 MR. MOORE: GOES TO HER CONCLUSION THAT THIS WAS A
14 SUICIDE.

15 THE COURT: THAT'S NOT HER CONCLUSION. SHE SAID IT
16 WAS -- I PRESUME THE PATHOLOGIST WILL TESTIFY, WHAT WE
17 HAVE HEARD IS UNDETERMINED, WHICH MEANS IT COULD HAVE
18 BEEN A SUICIDE, IT COULD HAVE BEEN ACCIDENTAL. SHE
19 DIDN'T SAY IT WAS ONE OR THE OTHER, THIS WITNESS HASN'T
20 OPINED WHAT THE CAUSE OF HER DEATH WAS. SHE DOESN'T
21 HAVE THE BACKGROUND TO DO SO. SHE JUST SAID
22 UNDETERMINED, COULD BE A VARIETY OF THINGS, SUICIDE OR
23 ACCIDENTAL. I GUESS WE WILL HEAR FROM THE PATHOLOGIST.

24 MR. MOORE: I AM SIMPLY ASKING IF SHE RECEIVED
25 INFORMATION THAT VICTORIA ZUBKIS WAS THE VICTIM OF A SEX
26 CRIME.

27 THE COURT: LET'S GO SIDEBAR.

28 (UNREPORTED SIDE-BAR CONFERENCE)

1 THE COURT: SUSTAINED.

2 MR. BROWN: MOVE TO STRIKE.

3 THE COURT: GRANTED.

4 MR. BROWN: AND ADMONISH. WILL THE COURT ADMONISH?

5 THE COURT: YES. THE JURY IS NOT TO CONSIDER THE
6 QUESTION, ANYTHING THE ATTORNEYS ASK IS NOT EVIDENCE IN
7 THIS CASE, JUST WHAT THE WITNESSES STATE IS THE ACTUAL
8 EVIDENCE IN THIS CASE.

9 MR. BROWN: THANK YOU.

10 MR. MOORE: SORRY. IF I MAY I HAVE JUST A MOMENT,
11 YOUR HONOR.

12 THE COURT: SURE, OF COURSE.

13 MR. MOORE: THANK YOU.

14 BY MR. MOORE:

15 Q. OKAY. DETECTIVE WARRICK, YESTERDAY YOU
16 TESTIFIED ON DIRECT EXAMINATION THAT THERE WAS NO BLUNT
17 FORCE TRAUMA TO THE BODY OF VICTORIA ZUBKIS AND THERE IS
18 NOTHING TO INDICATE FOUL PLAY, IT LOOKED LIKE A
19 DROWNING; IS THAT CORRECT?

20 A. YES.

21 Q. OKAY. DO YOU RECALL THE CONDITION OF THE BODY,
22 WHEN IT WAS DISCOVERED? YOU WERE ON SCENE WHEN THE BODY
23 WAS DISCOVERED; IS THAT CORRECT?

24 A. NO, I WAS NOT. I WAS TOLD THIS BY THE
25 PATHOLOGIST, HIM AND I HAD A CONVERSATION AS TO THE
26 CAUSE OF DEATH AND IT WAS UNDETERMINED.

27 Q. OKAY. IT WILL BE OVER SHORTLY, I JUST WANT TO
28 GO BACK OVER THE TIMELINE, BECAUSE I THINK WE JUMPED

1 AROUND ON A LOT OF DATES AND I JUST WANT TO NAIL DOWN
2 THE CHRONOLOGY OF WHAT HAPPENED, IF THAT'S OKAY.

3 A. OKAY.

4 Q. ON 5-26, MAY 26, VICTORIA WAS REPORTED MISSING.
5 ON MAY 28TH, THE BODY WAS DISCOVERED. CORRECT?

6 A. CORRECT.

7 Q. OKAY. UM, ON MAY 29TH, THE -- WAS THE LAST DAY
8 THAT HER PHONE WAS REPORTED WORKING BY HER MOTHER,
9 CORRECT?

10 A. I DON'T REMEMBER THE EXACT DAY THAT IT WAS, BUT
11 I KNOW IT WAS AFTER THEY FOUND THE BODY.

12 Q. AND IT WAS CONNECTED TO A WIFI AT AN ADDRESS ON
13 FORUM STREET, CORRECT?

14 A. CORRECT.

15 Q. OKAY. ON MAY 30TH, OFFICERS RESPONDED TO THAT
16 FORUM STREET ADDRESS, SEARCHING FOR VICTORIA, AND HER
17 PHONE, BECAUSE SHE HAD NOT YET BEEN IDENTIFIED AT THAT
18 POINT, RIGHT, THEY DID NOT KNOW AT THAT POINT THAT HER
19 BODY HAD BEEN PULLED OUT OF THE WATER TWO DAYS EARLIER,
20 CORRECT?

21 A. THOSE OFFICERS DID NOT KNOW.

22 Q. CORRECT?

23 A. YES.

24 Q. OKAY. SO THEY CONDUCTED A SEARCH OF THAT
25 RESIDENCE, LOOKING FOR VICTORIA AND HER PHONE?

26 A. YEAH, THAT WAS BASED ON WHAT THE FATHER HAD
27 TOLD COMMUNICATIONS.

28 Q. RIGHT. OKAY. DID THEY TAKE DOWN THE NAMES OF

1 ANY INDIVIDUALS AT THAT RESIDENCE?

2 MR. BROWN: OBJECTION, RELEVANCE, CALLS FOR
3 HEARSAY.

4 THE COURT: SUSTAINED.

5 BY MR. MOORE:

6 Q. OKAY. I WILL MOVE ON.

7 ON JUNE 1ST, YOU RECEIVED THE ANONYMOUS PHONE CALL,
8 WHO YOU LATER DETERMINED TO BE ALEXANDER FLANNIGAN,
9 CORRECT?

10 A. THAT'S CORRECT.

11 Q. AND SHE IDENTIFIED THAT VICTORIA WAS LAST SEEN
12 WITH HONDA AND HER FOUR FRIENDS AT HONDA'S RESIDENCE?

13 A. THAT'S CORRECT.

14 Q. OKAY. AND SO YOU WENT TO HONDA'S RESIDENCE ON
15 THE FOLLOWING DAY, JUNE 2ND?

16 A. THAT'S CORRECT.

17 Q. AND YOU INTERVIEWED ALEX SCHIRLBAUER WHO GOES
18 BY HONDA?

19 A. YES.

20 Q. IN THE CAR OUTSIDE OF HIS HOUSE?

21 A. YES.

22 Q. AND HE INDICATED TO YOU THAT ALSO LIVING IN
23 THAT HOUSE WAS A GENTLEMAN BY THE NAME OF LEE
24 SANVIC(PH)?

25 A. THAT'S CORRECT.

26 Q. AND ANOTHER PERSON NAMED MASCAL?

27 A. YES.

28 Q. AND DURING THIS INTERVIEW, HONDA DESCRIBED HIS

1 LAST DAYS WITH VICTORIA, CORRECT?

2 A. THAT'S CORRECT.

3 Q. AND HE SAID THAT THEY HAD PARTIED THE NIGHT
4 BEFORE, SOMETIME LIKE MAY 22ND, MAY 23RD, HE WASN'T
5 EXACTLY SURE OF THE DATE?

6 A. YES.

7 Q. AND THAT THE FOLLOWING MORNING THEY ALL WENT TO
8 BREAKFAST, THEY ALL BEING EVERYBODY IN THAT HOUSE,
9 HONDA, LEE, MASCAL, WHITNEY, THEY ALL WENT TO BREAKFAST,
10 CORRECT?

11 A. THAT'S CORRECT.

12 Q. OKAY. AND THEN YOU LET HONDA GO BACK INTO THE
13 HOUSE AND YOU TOLD HIM THAT YOU WANTED TO TALK TO THE
14 REST OF THE PEOPLE IN THE HOUSE AND TO SEND OUT LEE,
15 TALK TO LEE NOW, CORRECT?

16 A. I BELIEVE, UM, WHEN WE WERE DONE WITH HIM, LEE
17 WAS WALKING OUTSIDE, AND THEN HE THEN CAME IN OUR CAR
18 AND TALKED TO US.

19 Q. OKAY. BUT YOU TOLD HONDA TO GO BACK IN AND LET
20 MASCAL KNOW THAT YOU ALSO WANTED TO TALK TO HIM AS
21 WELL, CORRECT?

22 A. YES.

23 Q. OKAY. SO THEN YOU TALKED TO LEE, AND LEE HAD A
24 DIFFERENT STORY THAN HONDA, ABOUT GOING TO BREAKFAST,
25 CORRECT?

26 A. YEAH, HE DIDN'T RECALL.

27 Q. HE DIDN'T RECALL GOING TO BREAKFAST?

28 A. HE DIDN'T RECALL -- HE JUST RECALLS SEEING HER

1 IN THE MORNING BUT DOESN'T RECALL GOING TO BREAKFAST.
2 HIMSELF.

3 Q. AND HE ACTUALLY RECALLED THAT HONDA WAS
4 SLEEPING ALL MORNING, CORRECT?

5 A. I DON'T -- I DON'T REMEMBER.

6 Q. OKAY. BUT HE DOESN'T CONFIRM MR. SCHIRLBAUER'S
7 STORY ABOUT GOING TO BREAKFAST?

8 A. HE SAID HE DIDN'T REMEMBER.

9 Q. AND AGAIN, JUST TO CLARIFY, ON JUNE 2ND, BEFORE
10 YOU SEND MR. SCHIRLBAUER BACK INTO HIS HOUSE, YOU TOLD
11 HIM TO TELL MYSTICAL THAT YOU WANTED TO TALK TO HIM AS
12 WELL, CORRECT?

13 A. YES.

14 MR. BROWN: I WOULD OBJECT AS TO RELEVANCE AT THIS
15 POINT.

16 THE COURT: SUSTAINED.

17 BY MR. MOORE:

18 Q. OKAY. YOU CONCLUDED YOUR INTERVIEW WITH
19 MR. SANDVIC (PH)?

20 A. YES.

21 Q. AND TOLD MR. SANVIC TO SEND MESCAL OUT?

22 A. YES.

23 Q. AND MR. SANVIC TOLD YOU THAT MASCAL HAD JUST
24 WALKED BY LIKE FIVE MINUTES AGO, HAD LEFT THE HOUSE?

25 A. THAT HE HAD LEFT, HAD HE HAD TO GO SOMEWHERE.

26 Q. DID YOU EVER INTERVIEW HIM?

27 A. WE MADE ATTEMPTS TO CONTACT HIM AND HE NEVER,
28 UM, GOT A HOLD OF US.

1 Q. OKAY. ON JUNE 2ND, YOU RECEIVED INFORMATION
2 FROM HONDA THAT THE LAST PEOPLE TO SEE, THE LAST PEOPLE
3 HE SAW VICA WITH WAS AARON AND BRENT?

4 A. YES.

5 Q. AND HE GAVE YOU AARON'S PHONE NUMBER?

6 A. YES.

7 Q. AND HE GAVE YOU A DESCRIPTION OF THEM?

8 A. YES.

9 Q. DID YOU EVER TALK TO AARON?

10 A. WE CALLED HIS CELL PHONE, NUMEROUS TIMES AND
11 NEVER RECEIVED A RETURN CALL FROM HIM, AND WE WERE TOLD
12 THAT HE HAD LEFT SAN DIEGO, WENT BACK TO, I BELIEVE,
13 FLORIDA.

14 Q. IS IT FLORIDA OR NORTHERN CALIFORNIA?

15 A. UM, AT SOME POINT I LEARNED SOMEWHERE EITHER
16 FLORIDA, NORTH -- SOMETHING LIKE THAT.

17 Q. WELL THERE IS A GUY NAMED TURN UP THAT CAME UP
18 IF YOUR INVESTIGATION AS WELL, CORRECT?

19 A. YES.

20 Q. TURNIP, A GUY NAMED MIKE, BUT NOT MICHAEL OVER
21 HERE, RIGHT?

22 A. THAT'S CORRECT.

23 Q. OKAY. AND YOU LEARNED THAT TURNIP AT SOME
24 POINT HAD ALSO LEFT TOWN, HAD CONTACT WITH VICTORIA BUT
25 HAD ALSO RECENTLY LEFT TOWN AND HAD GONE TO FLORIDA,
26 RIGHT?

27 A. THAT IS CORRECT.

28 Q. OKAY. AT THIS POINT IN TIME, ARE YOU THINKING

1 THAT IT'S A SUICIDE?

2 A. AT THIS POINT IN TIME, WE ARE JUST TRYING TO
3 GATHER INFORMATION TO DETERMINE WHAT IS GOING ON AND
4 ACCORDING TO THE PATHOLOGIST, IT WAS UNDETERMINED.

5 Q. OKAY. YOU LATER SPOKE TO THE FATHER, WHO
6 COMMUNICATED TO YOU THAT AARON AND BRENT WERE THE LAST
7 PEOPLE TO BE SEEN WITH VICTORIA?

8 A. IT WAS INFORMATION THAT HE HAD RECEIVED THAT
9 THOSE WERE PEOPLE THAT WE SHOULD TALK TO.

10 Q. OKAY. AND THEN YOU ALSO TALKED TO JORGE IBARRA
11 WHO SAID THAT AARON AND BRENT WERE THE LAST PEOPLE SEEN
12 WITH VICTORIA?

13 A. YES.

14 Q. AND YOU NEVER SPOKE WITH AARON OR BRENT?

15 A. WE LOOKED FOR THEM ALSO.

16 Q. BUT YOU NEVER SPOKE WITH THEM?

17 A. NO.

18 Q. AND VICTORIA DISCOVERED IN THE OCEAN WITH SALT
19 WATER IN HER LUNGS AND IT'S A SUICIDE, POSSIBLY?

20 A. OR ACCIDENTAL DROWNING. IT'S UNDETERMINED AT
21 THIS TIME.

22 Q. OKAY.

23 MR. MOORE: I HAVE NO FURTHER QUESTIONS. THANK
24 YOU.

25 THE WITNESS: YOU ARE WELCOME.

26 THE COURT: ANY REDIRECT?

27 MR. BROWN: YES.

28

R E D I R E C T E X A M I N A T I O N

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MR. BROWN: A LITTLE BIT. THANK YOU.

BY MR. BROWN:

Q. UM, LET'S TALK ABOUT THE PHOTOS OF THE TEXTS.

A. YES.

Q. UM, WHY WERE THERE PHOTOS TAKEN OF THE TEXTS WHETHER MR. SCHIRLBAUER WAS BEING INTERVIEWED BY YOU AND YOUR DETECTIVE -- YOUR SERGEANT?

A. WELL, AT THE TIME THAT HE TOLD US THAT, INFORMATION, WE WANTED TO CAPTURE WHAT WAS SAID, THE COMMUNICATION BETWEEN HIM AND VICTORIA AND, UM, I -- MY REPORT WAS BASED ON THOSE PHOTOGRAPHS, AND THEN I ALSO WROTE THE INFORMATION DOWN IN MY REPORT.

Q. OKAY. UM, DID YOU RECORD THIS INTERVIEW WITH MR. SCHIRLBAUER?

A. OF COURSE.

Q. AND DURING THE INTERVIEW WITH MR. SCHIRLBAUER, DID YOU ACTUALLY READ THOSE TEXTS OUT LOUD?

A. YES, I DID.

Q. WERE THOSE CAPTURED WITH THE RECORDATION OF YOUR INTERVIEW?

A. YES.

Q. YOUR RECOLLECTION IS THAT YOUR SERGEANT E-MAILED THOSE PHOTOGRAPHS AND WERE THEY JUST OF TEXTS, WAS THAT ALL THEY WERE PHOTOGRAPHS OF?

A. IT WAS JUST PHOTOGRAPHS OF THE TEXTS, WHICH WE ALREADY HAD ON THE RECORDING, BECAUSE I READ THEM, AND

1 THEN I PHYSICALLY SAW THEM ALSO.

2 Q. SO IT WOULD BE LIKE IF YOU ARE HOLDING YOUR
3 PHONE THAT HAS THE TEXTS ON IT, YOU USED ANOTHER PHONE
4 TO JUST CAPTURED THE PRINT?

5 A. YEAH, THAT'S EXACTLY WHAT WE DID.

6 Q. OKAY. UM, DO YOU KNOW WHO IT WAS THAT YOU
7 ACTUALLY TURNED THE PHYSICAL PRINTED OUT PHOTOGRAPHS TO?

8 A. ALL THAT INFORMATION WAS GIVEN TO, I BELIEVE AN
9 FBI AGENT GUY, UM--

10 Q. DO YOU KNOW A SPECIFIC NAME? IF I SAID A NAME,
11 IT RANG A BELL, WOULD YOU TELL ME?

12 A. YES.

13 Q. ZACHARY WEIGEL?

14 A. YES.

15 Q. IS THAT WHO YOU GAVE THAT PHYSICAL FILE TO?

16 A. YES. I GAVE HIM ALL OF THAT INFORMATION.

17 Q. AND WERE THOSE PHOTOGRAPHS IN THAT FILE?

18 A. YES. WITH THE REPORT.

19 Q. HAVE I ASKED YOU TO TRY TO LOCATE ANOTHER COPY
20 OF THOSE PHOTOGRAPHS?

21 A. YES.

22 Q. AND WHEN DID I ASK YOU TO DO THAT?

23 A. UM, WITHIN THE LAST WEEK OR SO.

24 Q. AND MAYBE ANOTHER QUESTION WOULD BE HOW MANY
25 TIMES HAVE I ASKED FOR THAT?

26 A. SEVERAL TIMES.

27 Q. OKAY. HAVE YOU MADE EFFORTS TO LOCATE A COPY
28 OF THOSE PHOTOGRAPHS ON YOUR SYSTEM, AN ELECTRONIC COPY

1 OF THOSE?

2 A. YES.

3 Q. AND HAVE YOU BEEN ABLE TO DO THAT?

4 A. NO, BECAUSE OUR SYSTEM ERASES AFTER A CERTAIN
5 TIME.

6 Q. OKAY. ARE YOU TALKING ABOUT THE E-MAIL SYSTEM?

7 A. YES.

8 Q. OKAY. OKAY.

9 UM, WHEN YOU WERE RESPONDING TO QUESTIONS, UM, FROM
10 MR. THORNTON, UM, YOU HAD MENTIONED THAT, UM, YOU HAD
11 HEARD FROM VLAD ZUBKIS THAT HE HAD EMPLOYED SEVERAL
12 PEOPLE TO, UM, INVESTIGATE THE DEATH OF VICA.

13 A. YES.

14 Q. AND THOSE -- THE PERSON THAT COUNSEL WAS
15 FOCUSED ON WAS, UM, CESAR MENA, IS THAT CORRECT?

16 A. YES.

17 Q. WHO ELSE DID VLAD ZUBKIS TELL YOU THAT HE HAD
18 EMPLOYED OR HAD INVESTIGATING HIS DEATH -- VICA'S DEATH
19 FOR HIM?

20 A. MICHAEL TELLECHEA.

21 Q. OKAY. DID VLAD ZUBKIS MENTION TO YOU BY NAME
22 MICHAEL TELLECHEA?

23 A. HE SAID MICHAEL AND THEN GAVE ME HIS CELL PHONE
24 NUMBER. AND TOLD ME THAT I SHOULD TALK TO HIM, THAT HE
25 WOULD HAVE INFORMATION FOR ME.

26 Q. AND WITHOUT GETTING INTO ANY SPECIFIC
27 STATEMENTS OR CONVERSATION YOU HAD, DID YOU FOLLOW UP
28 AND TALK WITH MICHAEL TELLECHEA?

1 A. YES, I DID.

2 Q. DID YOU DOCUMENT THE PHONE NUMBER THAT WAS
3 GIVEN TO YOU BY VLAD?

4 A. IT WAS IN THE E-MAIL CORRESPONDENCE AND IT WAS
5 ALSO IN MY REPORT OF MY INTERVIEW WITH MICHAEL
6 TELLECHEA.

7 Q. DO YOU HAVE A COPY OF THAT HERE?

8 A. YES, I DO.

9 MR. THORNTON: OBJECTING TO DOUBLE -- IT'S DOUBLE
10 HEARSAY. FOUNDATION.

11 MR. MOORE: JOIN.

12 MR. BROWN: YOUR HONOR, THESE ARE STATEMENTS FROM
13 AN INDIVIDUAL, MR. ZUBKIS, THAT WERE SOLICITED FROM THIS
14 WITNESS, BY MR. THORNTON HIMSELF. I BELIEVE I AM
15 ENTITLED TO FOLLOW-UP ON WHAT WAS SAID AND SPECIFICALLY
16 IF HE GAVE A PHONE NUMBER FOR SOMEBODY TO CONTACT, AND I
17 THINK THAT'S HIGHLY RELEVANT.

18 MR. THORNTON: WE CAN GO SIDEBAR, YOUR HONOR, I CAN
19 EXPLAIN MY OBJECTION FURTHER, IF THE COURT --

20 THE COURT: ALL RIGHT. WHY DON'T WE TAKE OUR
21 MIDMORNING RECESS. ONCE AGAIN, IT'S YOUR DUTY NOT TO
22 CONVERSE AMONG YOURSELF OR WITH ANYONE ELSE ON ANY
23 SUBJECT CONNECTED WITH THE TRIAL. DO NOT CONDUCT ANY
24 RESEARCH, DISSEMINATE ANY INFORMATION, CONDUCT ANY
25 EXPERIMENTS. YOU ARE NOT TO FORM OR EXPRESS ANY OPINION
26 ON THIS CASE UNTIL THE CASE HAS FINALLY BEEN SUBMITTED
27 TO YOU. WHY DON'T WE RESUME BACK AT 9:45. QUARTER TO
28 10. 9:45, QUARTER TO 10.

1 JUROR: NINE.

2 THE COURT: I MEAN, 10:45. THANK YOU. 10:45. OR
3 QUARTER TO 11.

4 **(JURY EXITS THE COURTROOM AT THIS TIME).**

5 ---000---

6 BY MR. BROWN:

7 Q. I THINK THE LAST QUESTION WAS IF, UM, VLAD
8 ZUBKIS IN YOUR CONVERSATION WITH HIM, IF HE PROVIDED A
9 CONTACT PHONE NUMBER, WHAT MEANS HE PROVIDED FOR YOU TO
10 GET AHOLD OF THIS PERSON, MICHAEL TELLECHEA, THAT HE
11 SAID HAD IMPORTANT INFORMATION FOR YOUR INVESTIGATION.

12 A. HE GAVE ME THE PERSON'S NAME, MICHAEL, AND THEN
13 PROVIDED ME HIS PHONE NUMBER ON HOW TO REACH HIM TO GET
14 THIS INFORMATION.

15 Q. OKAY. AS YOU SIT HERE TODAY, DO YOU RECALL
16 THAT PHONE NUMBER?

17 A. I DON'T REMEMBER THE PHONE NUMBER.

18 Q. DID YOU RECEIVE THIS INFORMATION -- EXCUSE
19 ME -- THIS INFORMATION OVER THE PHONE OR VIA E-MAIL OR
20 WHAT FORM DID IT COME?

21 A. IT WAS IN AN E-MAIL.

22 Q. OKAY. IF I SHOWED YOU THE EMAIL, COULD YOU
23 IDENTIFY IT AS WHETHER OR NOT THAT'S THE E-MAIL THAT WAS
24 SENT TO YOU BY MR. ZUBKIS, AND WHETHER OR NOT THE PHONE
25 NUMBER IS ON THERE?

26 A. YES.

27 MR. BROWN: YOUR HONOR, IF I CAN HAVE THIS MARKED
28 PEOPLE'S NEXT IN LINE.

1 THE COURT: YES.

2 (EXHIBIT 40 IS MARKED FOR IDENTIFICATION).

3 BY MR. BROWN:

4 Q. I HAVE MARKED PEOPLE'S EXHIBIT 40 AS A
5 THREE-PAGE DOCUMENT THAT PURPORTS TO BE AN E-MAIL TO
6 DEANNA WARRICK. I HAVE SHOWN IT TO COUNSEL.

7 MAY I APPROACH?

8 THE COURT: YES.

9 BY MR. BROWN:

10 Q. I SHOW YOU WHAT'S BEEN MARKED AS PEOPLE'S
11 EXHIBIT 40 FOR IDENTIFICATION.

12 DO YOU RECOGNIZE, ASIDE FROM SOME SCRATCHINGS ON
13 THERE FROM ME, DO YOU RECOGNIZE WHAT PEOPLE'S 40 IS?

14 A. YES, THIS IS AN E-MAIL THAT WAS SENT TO ME BY,
15 I REFER TO HIM AS STEVEN ZUBKIS, OR VLADIMIR, THE FATHER
16 OF VICTORIA.

17 Q. OKAY. WAS THAT SENT JUST TO YOU?

18 A. YES.

19 Q. WERE THERE --

20 A. NO, THERE IS OTHER NAMES ON HERE.

21 Q. WERE THERE OTHER RECIPIENTS TO THAT E-MAIL?

22 A. YES.

23 Q. WHO ELSE ARE LISTED AS RECIPIENTS TO THAT
24 E-MAIL, IF YOU CAN TELL?

25 A. SHELLY LUNA.

26 Q. SHE WAS A MISSING PERSON?

27 A. YES.

28 Q. MISSING PERSON'S --

1 A. DETECTIVE.

2 Q. INVESTIGATOR?

3 A. YES, WHO WAS WORKING WITH ME.

4 Q. ANYBODY ELSE?

5 A. AND TO MYSELF AND I BELIEVE TO THE PATHOLOGIST.

6 Q. OKAY. UM, CAN YOU FIND IN THERE WHERE THE
7 PHONE NUMBER WAS THAT YOU WERE GIVEN?

8 A. IN LOOKING AT THIS E-MAIL, ON PAGE 1, ON THE
9 FIRST PAGE, IT SAYS THAT HE HAD RECEIVED A CALL FROM A
10 GUY BY THE NAME OF MIKE AND HIS PHONE NUMBER IS
11 619-577-5321.

12 Q. TWO ONE.

13 DID YOU TRY TO CALL THAT NUMBER?

14 A. YES.

15 Q. DID YOU TRY TO GET AHOLD OF THIS MIKE
16 TELLECHEA?

17 A. YES.

18 Q. DID YOU END UP ACTUALLY GETTING A HOLD OF MIKE
19 TELLECHEA?

20 A. YES, I DID.

21 Q. DID MIKE TELLECHEA HIMSELF PROVIDE YOU WITH HIS
22 PHONE NUMBER?

23 A. YES.

24 Q. DO YOU HAVE -- DID YOU RECORD THAT?

25 A. IT WOULD HAVE BEEN ON THE RECORDING OF OUR
26 INTERVIEW.

27 Q. OKAY. DID YOU WRITE IT DOWN, THOUGH?

28 A. IT WOULD HAVE BEEN IN MY REPORT.

1 Q. OKAY. COULD YOU LOCATE THAT?

2 A. YES.

3 Q. I WANT TO VERIFY IT'S THE SAME NUMBER?

4 MR. THORNTON: YOUR HONOR, I AM OBJECTING. THIS IS
5 FACTS NOT IN EVIDENCE, UM, AS FAR AS THE QUESTIONS BEING
6 POSED BY COUNSEL. THE WITNESS REFERRED TO THIS
7 INDIVIDUAL AS MIKE. NOT MIKE TELLECHEA.

8 THE COURT: OVERRULED, AS FACTS NOT IN EVIDENCE.

9 MR. THORNTON: WELL, IMPROPER LEADING.

10 THE COURT: OVERRULED.

11 BY MR. BROWN:

12 Q. I WILL SEE IF I CAN ASSIST YOU.

13 MR. THORNTON: I AM SORRY, WHAT'S THE QUESTION?

14 BY MR. BROWN:

15 Q. THE QUESTION IS IF SHE WAS PROVIDED A PHONE
16 NUMBER FROM MICHAEL TELLECHEA, AND IF THAT PHONE NUMBER
17 IS THE SAME THAT WAS THERE WAS GIVEN, PROVIDED BY
18 MR. ZUBKIS?

19 A. MAY I REFER TO MY REPORT.

20 Q. PLEASE, UNLESS THERE IS AN OBJECTION?

21 MR. THORNTON: NO.

22 MR. THORNTON: I AM OBJECTING ON BRUTEN GROUNDS,
23 HEARSAY. CONFRONTATION, UNDER BRUTEN, MOTIONS IN
24 LIMINE.

25 THE COURT: OVERRULED. THIS IS TALKING STRICTLY TO
26 THE PHONE NUMBER THAT ALLEGEDLY A PERSON NAMED MICHAEL
27 TELLECHEA SAYS IS.

28 THE WITNESS: OKAY. ON MY REPORT, I HAVE FIVE --

1 MS. BAYER: YOUR HONOR, I AM SORRY, GO AHEAD, I
2 WITHDRAW.

3 THE WITNESS: I HAVE 577-5321.

4 BY MR. BROWN:

5 Q. OKAY. IS THAT THE SAME NUMBER THAT WAS
6 PROVIDED TO BY VLAD ZUBKIS, OR STEVEN ZUBKIS?

7 A. YES.

8 Q. OKAY.

9 THE COURT: AND JUST SO I AM CLEAR, DID MICHAEL
10 TELLECHEA ALSO TELL YOU THAT THIS WAS THE PHONE NUMBER?

11 THE WITNESS: YES. HE CONFIRMED THAT, THAT WAS HIS
12 NUMBER IN MY INTERVIEW.

13 BY MR. BROWN:

14 Q. UM, I THINK THAT YOU ALSO IN RESPONSE TO
15 CROSS-EXAMINATION SAID THAT VLADIMIR PROVIDED YOU WITH A
16 THEORY OF HOW HIS DAUGHTER WAS KILLED?

17 A. YES.

18 Q. WHAT WAS THAT THEORY?

19 A. HE SAID THAT SHE WAS KILLED BY A COUPLE OF
20 PEOPLE IN A BATHTUB INSIDE ALEX'S HOUSE AND THEN THEY
21 CARRIED THE BODY AND DUMPED IT OFF THE PIER.

22 Q. OKAY. OKAY. I WANT TO SKIP SUBJECTS. YOU
23 WERE ASKED ABOUT BLOOD AND TESTING FOR BLOOD AND IS
24 BLOOD IMPORTANT IN HOMICIDE CASES, ALL THOSE QUESTIONS.
25 I WANT TO TALK ABOUT THAT. UM, YOUR RESPONSE WAS, UM,
26 THAT DEPENDING ON THE CIRCUMSTANCES, BLOOD IS IMPORTANT.

27 A. THAT'S CORRECT.

28 Q. UM, CAN YOU THINK OF CIRCUMSTANCES WHERE BLOOD

1 WOULDNT BE IMPORTANT?

2 A. WELL, IF YOU DONT HAVE AN INJURY THAT, LIKE,
3 FOR INSTANCE, A CUT, IF YOU HAD A CUT YOU ARE GOING TO
4 BLEED, IF THERE IS NO CUT, OR NO STAB WOUND OR IF THERE
5 IS NO BLUNT FORCE TRAUMA, WHERE BLOOD CAN THEN BE
6 RELEASED FROM THE BODY, WELL THEN OF COURSE THAT WOULD
7 BE IMPORTANT, IF THAT WAS THE CASE. BUT IN THIS
8 PARTICULAR CASE, THERE WAS NO BLUNT FORCE TRAUMA, THERE
9 WAS NO PETECHIAE, THERE WAS NO ASPHYXIATION, THERE WAS
10 NO SHARP WOUNDS, HER INJURIES WERE POST-MORTEM, WHICH
11 WAS MARINE LIFE FROM AFTER THE FACT, SHARKS.

12 Q. UM, YOU MENTIONED PETECHIAE. JUST FOR THOSE OF
13 US IN THE COURTROOM THAT ARENT FAMILIAR WITH THAT TERM,
14 CAN YOU JUST EXPLAIN TO THE JURY WHAT THAT MEANS?

15 A. WHEN YOU HAVE, FOR INSTANCE, IN STRANGULATION,
16 ITS WHEN YOU BLOCK THE AIR, YOU WILL DEVELOP PETECHIAE,
17 SMALL RED PINPOINTS IN THE EYES, TO INDICATE
18 STRANGULATION.

19 Q. OKAY. UM, AND DID YOU MAKE A DECISION NOT TO
20 TEST THE BATHROOM THAT WAS MENTIONED IN THE -- IN THE
21 TIP LINE FOR ANY KIND OF BLOOD EVIDENCE? DID YOU MAKE
22 THAT DECISION?

23 A. YES.

24 Q. OKAY. AND WHAT WERE THE CIRCUMSTANCES THAT YOU
25 BASED THAT DECISION ON?

26 A. I BASE THAT ON THE AUTOPSY, I BASED THAT ON
27 WITNESS INTERVIEWS THAT WE CONDUCTED, AND OUR
28 FOLLOW-UPS, THERE WAS NOTHING TO INDICATE THAT SHE HAD

1 BEEN KILLED IN THAT RESIDENCE.

2 Q. OKAY. AND YOU WERE ASKED SPECIFICALLY ABOUT
3 WITNESS INTERVIEWS THAT YOU DID TO FOLLOW UP, THAT YOU
4 BASED THAT DECISION ON, ONE OF THEM WAS FROM YANA,
5 WITHOUT GOING INTO YOUR WHOLE ENTIRE INTERVIEW WITH
6 YANA, WHAT DID SHE SAY IN YOUR INTERVIEW THAT WAS OF
7 SIGNIFICANCE FOR YOUR DECISION NOT TO TEST THE BATHROOM
8 FOR BLOOD?

9 A. THE FACT.

10 Q. WHAT EVIDENCE?

11 A. THE FACT THAT SHE SAID SHE LATER, UM, AFTER
12 BEING QUESTIONED REGARDING WHAT SHE HAD SEEN, SHE LATER
13 SAID THAT SHE NOW BELIEVED THAT IT WAS HAIR DYE, THAT IT
14 COULD NOT BE BLOOD, JUST BECAUSE OF HOW BRIGHT IT WAS.

15 Q. OKAY. UM, AND JUST SO WE ARE ALL CLEAR,
16 ALTHOUGH THE TIP CAME FROM A PERSON BY THE NAME OF
17 ALEXANDER FLANNIGAN, THE ACTUAL OBSERVATION, THE PICTURE
18 OF THE BLOOD CAME FROM THIS YANA PERSON?

19 A. YES.

20 Q. OKAY. YOU WERE ALSO ASKED ABOUT YOUR INTERVIEW
21 WITH JOSH MENA, DID YOU SPEAK WITH HIM ABOUT THE SAME
22 THING?

23 A. YES.

24 Q. OKAY. AND WHY WOULD YOU WANT TO TALK TO HIM
25 BEFORE MAKING YOUR DECISION NOT TO TEST FOR BLOOD
26 EVIDENCE IN THE BATHROOM?

27 A. BECAUSE IT WAS RELAYED TO US THAT HE ALSO SAW
28 THE PHOTOGRAPHS, AND POSSIBLY HAD INFORMATION, SO I

1 WANTED TO TALK TO HIM TO SEE WHAT HIS PERSPECTIVE OF
2 WHAT HE SAW, UM, NOT JUST RELY ON WHAT SHE HAD TO SAY.

3 Q. OKAY. AND AGAIN, WITHOUT GOING INTO HIS WHOLE
4 ENTIRE INTERVIEW, WHAT PART OF HIS INTERVIEW WITH YOU
5 WAS SIGNIFICANT TO YOU IN HELPING YOU MAKE YOUR DECISION
6 NOT TO TEST THE BATHROOM FOR BLOOD EVIDENCE?

7 A. I THINK WITH HIM IT WAS HIS LOGIC OF REALIZING
8 THAT THE BLOOD, HOW HE DESCRIBED IT, COULDN'T HAVE -- IT
9 WASN'T BLOOD, IN HIS MIND, DUE TO THE FACT THAT IT WAS
10 BRIGHT AND WET, AND SO BASED ON THAT, WE DID NOT DO
11 THAT.

12 Q. OKAY. YOU WERE PRESENT -- YOU WERE TALKING TO
13 THIS ALEX SCHIRLBAUER AT ONE POINT IN TIME WHEN ANOTHER
14 DETECTIVE -- WHEN HE SURRENDERED HIS PHONE AND ALLOWED
15 OTHER DETECTIVES TO DOWNLOAD; IS THAT CORRECT?

16 A. THAT IS CORRECT.

17 Q. YOU DIDN'T GET THE RESULTS OF THAT DOWNLOAD?

18 A. I HAVE NO INFORMATION REGARDING THAT.

19 Q. BUT WERE YOU PRESENT -- I GUESS THE QUESTION
20 IS, DID YOU HEAR ALEX SCHIRLBAUER CONSENT TO HAVING HIS
21 PHONE ACTUALLY DOWNLOADED BY SAN DIEGO POLICE?

22 A. YES, HE AGREED TO HAVE THAT DONE AND THE PHONE
23 WAS THEN GIVEN TO ANOTHER DETECTIVE WHO WAS THEN
24 DOWNLOADING THE PHONE WHILE WE WERE DOING THE INTERVIEW.

25 Q. OKAY. AND THEN THAT BRINGS ME TO THE NEXT
26 POINT ON CROSS-EXAMINATION, WAS THERE WAS THIS -- THIS
27 KIND OF VAGUE QUESTION ABOUT DID YOU BRIEF ANOTHER
28 DETECTIVE ABOUT YOUR CASE. DO YOU RECALL THAT

1 CROSS-EXAMINATION?

2 A. YES.

3 Q. KIND OF LINE?

4 A. YES.

5 Q. WHO WAS THE OTHER DETECTIVE THAT YOU BRIEFED?

6 A. IT WAS DETECTIVE JAMES BROWN.

7 Q. OKAY. AND WHY DID YOU BRIEF DETECTIVE JAMES
8 BROWN?

9 A. I THINK AT THE TIME, UM, WE WERE GIVEN
10 INFORMATION IN THE MISSING PERSONS UNIT AND COLD CASE
11 THAT, THAT SOMEBODY HAD BEEN KIDNAPPED AND TAKEN DOWN TO
12 MEXICO, IBARRA, SO AT THAT TIME, UM, JB HAD COME INTO
13 OUR CUBICAL AND WAS TALKING ABOUT THAT CASE, AND WHEN HE
14 MENTIONED THE NAME, I HAD THOUGHT, WELL, THAT'S A
15 WITNESS IN OUR CASE, THAT MUST BE CONNECTED. SO I
16 WANTED TO BRIEF HIM ON OUR INVESTIGATION AND WHAT WE
17 HAD, TO GIVE HIM, UM, MORE INFORMATION AS TO WHY
18 POSSIBLY THIS GUY MAY HAVE BEEN TAKEN DOWN THERE.

19 Q. OKAY. BECAUSE THERE MIGHT HAVE BEEN A
20 CONNECTION BETWEEN YOUR SUSPICIOUS UNKNOWN DEATH CASE
21 AND HIS KIDNAPPING CASE, IS THAT ACCURATE?

22 A. YES.

23 Q. WAS JORGE IBARRA EVER A SUSPECT IN YOUR CASE?

24 A. NO.

25 Q. DID YOU EVER DEVELOP ANY SOLID SUSPECT FOR
26 HOMICIDE IN YOUR CASE?

27 A. NO.

28 Q. WHY NOT?

1 A. THERE JUST -- THERE -- IN TALKING TO EVERYBODY
2 THAT WE TALKED TO, THERE WASN'T ANYBODY THAT COULD
3 PROVIDE US ANY ADDITIONAL INFORMATION THAT WOULD LEAD US
4 TO BELIEVE THAT SOMEONE ELSE WAS INVOLVED IN THIS.
5 THERE WERE NAMES GIVEN TO US, UM, THAT WE FOLLOWED UP ON
6 AND THERE WERE NAMES OF PEOPLE THAT WE WERE NOT ABLE TO
7 FIND, BECAUSE THEY HAD LEFT TOWN.

8 Q. OKAY. DID ANY OF THE INTERVIEWS YOU DID AT ANY
9 POINT IN TIME EVER LEAD YOU TO BELIEVE THAT THIS WAS, IN
10 FACT, A HOMICIDE DEATH AT SOMEBODY ELSE'S HANDS?

11 A. NO.

12 Q. OKAY. HAS ANY OF THE CROSS-EXAMINATION THAT
13 YOU HEARD HERE TODAY HAVE ANY, ALL THE COUNTER POINTS
14 BEING BROUGHT UP BY THESE ATTORNEYS, HAS THAT INFORMED
15 YOUR OPINION OR GIVEN YOU A CHANCE TO REFLECT ON YOUR
16 INVESTIGATION AND YOUR CONCLUSIONS AND HAVE YOU ADJUSTED
17 THOSE CONCLUSIONS BECAUSE OF THE, UM, THE QUESTIONS THAT
18 YOU RECEIVED HERE TODAY?

19 A. NO, THIS IS NOT A HOMICIDE.

20 Q. THANK YOU. I HAVE NO FURTHER QUESTIONS.

21 THE COURT: MR. THORNTON.

22

23 R E C R O S S E X A M

24

25 BY MR. THORNTON:

26 Q. YES, PLEASE, JUST REAL BRIEF. DETECTIVE
27 WARRICK, IS IT SIGNIFICANT TO YOU, WOULD IT BE
28 SIGNIFICANT TO YOU TO FIND OUT THAT BEFORE MEETING WITH

1 YOU ON JUNE 12, ALEX SCHIRLBAUER DELETED THE CONTENTS OF
2 HIS TEXT MESSAGES?

3 A. WELL, THAT WOULD DEPEND ON WHAT THE TEXT
4 MESSAGES THAT HE DELETED.

5 Q. SO, ON JUNE 2ND, YOU ARE SITTING IN THE CAR
6 WITH HIM AND YOU ARE TAKING PHOTOGRAPHS OF HIS TEXT
7 MESSAGES, RIGHT?

8 A. YES.

9 Q. AND YOU ARE DOING THIS IN FRONT OF HIM, RIGHT?

10 A. YES.

11 Q. AND YOU ARE ACTUALLY READING THESE TEXT
12 MESSAGES ALLOWED, RIGHT?

13 A. THAT IS CORRECT.

14 Q. UM, AND THEN ON JUNE 12, WHEN YOU WANT TO TALK
15 TO HIM AGAIN, WOULD IT BE SIGNIFICANT IF YOU FOUND OUT
16 HE HAD DELETED ALL OF HIS TEXT MESSAGES?

17 MR. BROWN: I AM GOING TO OBJECT, IT CALLS FOR
18 SPECULATION AS TO WHO MAY OR MAY NOT HAVE DELETED THINGS
19 FROM MR. SCHIRLBAUER'S PHONE. UNLESS THERE IS AN OFFER
20 OF PROOF THAT CAN SHOW THAT WE KNOW WHO DELETED THINGS.

21 THE COURT: SUSTAINED.

22 BY MR. THORNTON:

23 Q. WOULD IT BE SIGNIFICANT TO YOU IF YOU FOUND OUT
24 THAT ALL OF THE TEXT MESSAGES ON ALEX SCHIRLBAUER'S
25 PHONE WERE DELETED, WITHIN THOSE TEN DAYS?

26 A. I HAVE NO IDEA OF WHETHER THAT WAS DONE OR NOT.

27 Q. NO, MY QUESTION IS, WOULD IT BE A SIGNIFICANT
28 FACT TO YOU TO LEARN THAT IN THOSE TEN DAYS THOSE, ALL

1 OF HIS TEXT MESSAGES WERE DELETED?

2 A. BUT I DON'T HAVE THAT INFORMATION. SO I DON'T
3 KNOW THAT.

4 Q. NO, I AM NOT ASKING YOU, I AM NOT ASKING YOU IF
5 YOU HAVE IT, I AM NOT ASKING YOU WHAT YOU WOULD DO WITH
6 IT, I AM ASKING IT IF IT'S SIGNIFICANT WHEN DURING
7 SUSPICIOUS DEATH INVESTIGATION, SOMEONE IS QUESTIONED
8 AND HIS TEXT MESSAGES ARE OBVIOUSLY AT ISSUE AND 10 DAYS
9 LATER WHEN HE'S AT THE POLICE STATION ALL OF HIS TEXT
10 MESSAGES ARE GONE, IF YOU THINK THAT FACT IS AT ALL
11 SIGNIFICANT?

12 A. I THINK THE MERE FACT THAT HE PROVIDED US THE
13 TEXT MESSAGES ON THE DAY THAT I INTERVIEWED HIM AND HE
14 SHOWED US THE TEXT MESSAGES, I FELT HIM TO BE
15 FORTHCOMING THAT DAY, HE WAS A FRIEND OF HERS --

16 Q. SORRY, I MUST HAVE MISSPOKE. I AM ASKING YOU
17 IF YOU THINK THE FACT THAT THESE MESSAGES WERE NO LONGER
18 ON HIS PHONE TEN DAYS LATER OR ANY TEXT MESSAGES FOR
19 EXAMPLE WOULD BE SIGNIFICANT TO YOU?

20 A. NO, NO.

21 Q. OKAY. THANK YOU.

22 UM, ALSO, IF I CAN APPROACH, I NEED TO GRAB THIS
23 EXHIBIT REAL QUICK. THANKS.

24 I DON'T KNOW THE NUMBER.

25 MR. BROWN: 40.

26 MR. THORNTON: THANK YOU. THANK YOU MR. BROWN.

27 BY MR. THORNTON:

28 Q. UM, YOU WERE REFERENCED EXHIBIT 40. UM, WHEN

1 MR. BROWN WAS ASKING YOU QUESTIONS. AND I NOTED WHEN
2 YOU WERE TALKING ABOUT IT, VLADISLAW APPEARS TO
3 REFERENCE THIS GUY MIKE AS THIS GUY MIKE, HAS
4 INFORMATION, RIGHT?

5 A. YES.

6 Q. IT WASN'T MY INVESTIGATOR MIKE, RIGHT, RIGHT?

7 A. HE HAD TALKED ABOUT HIRING A GUY NAMED MIKE.

8 Q. OBJECTION, NONRESPONSIVE.

9 A. IT WAS MY UNDERSTANDING THAT MIKE WAS A GUY HE
10 WAS USING TO HELP HIM INVESTIGATE.

11 Q. OKAY. LET'S TALK ABOUT EXHIBIT 40. WHEN HE
12 TALKS ABOUT MIKE, HE SAYS THIS GUY MIKE, RIGHT?

13 A. THAT'S CORRECT. I SEE THAT.

14 Q. AND EXACTLY, TELL ME IF I AM READING IT WRONG,
15 I WILL READ I HAD TO YOU AND YOU TELL ME IF I READ IT
16 CORRECTLY. I HAVE RECEIVED A CALL FROM A GUY BY THE
17 NAME MIKE. DID I READ THAT CORRECTLY?

18 A. YOU FORGOT HIS NUMBER.

19 Q. WELL, I DIDN'T, THAT'S A NEW SENTENCE, RIGHT?

20 A. WELL IT'S ALL IN THE SAME PARAGRAPH RIGHT
21 THERE.

22 Q. OKAY. LET ME TELL YOU IF I AM READING THIS
23 SENTENCE CORRECTLY. I HAVE RECEIVED A CALL FROM A GUY
24 BY NAMED MIKE, PERIOD. HIS NUMBER, THEN THE PHONE
25 NUMBER. DID I READ THAT CORRECTLY?

26 A. YES YOU DID.

27 Q. OKAY. THANK YOU.

28 SO YOU WOULD AGREE, WHEN HE REFERENCES MIKE, IN

1 THAT E-MAIL, THAT YOU DISCUSSED, WITH THIS DISTRICT
2 ATTORNEY, HE DOESN'T REFER TO "MIKE" AS HIS
3 INVESTIGATOR, RIGHT?

4 A. HE REFERS TO HIM AS "THIS GUY MIKE."

5 Q. THANK YOU. UM --

6 MR. THORNTON: IF I CAN HAVE ONE SECOND, YOUR
7 HONOR.

8 THE COURT: OF COURSE.

9 MR. THORNTON: THANK YOU.

10 BY MR. THORNTON:

11 Q. AT SOME POINT, I MAKE SO MANY NOTES THAT THEY
12 DON'T BECOME USEFUL ANYMORE.

13 UM, YESTERDAY YOU TALKED ABOUT A REWARD, POSTED BY
14 MR. ZUBKIS. RIGHT?

15 A. CORRECT.

16 Q. AND SPECIFICALLY, HE TOLD YOU THAT REWARD WAS
17 FOR THE ARREST AND PROSECUTION OF WHO HE THOUGHT WAS
18 RESPONSIBLE FOR HIS DAUGHTER'S DEATH, RIGHT?

19 A. THAT'S CORRECT.

20 Q. OKAY.

21 MR. THORNTON: NOTHING FURTHER.

22 THE COURT: MISS BAYER.

23

24 R E C R O S S E X A M I N A T I O N

25

26 BY MS. BAYER:

27 Q. YOU HAVE INDICATED -- YOU HAVE INDICATED THAT
28 MR. ZUBKIS HAD REFERENCED INVESTIGATORS, CORRECT?

1 A. YES.

2 Q. INVESTIGATORS THAT HE HAD WORKING FOR HIM,
3 CORRECT?

4 A. THAT'S CORRECT.

5 Q. AND THERE WERE A LOT OF E-MAILS BETWEEN YOU AND
6 MR. ZUBKIS, CORRECT?

7 A. SEVERAL E-MAILS, MAYBE FOUR OR FIVE.

8 Q. MORE THAN ONE?

9 A. YES. FOR SURE.

10 Q. AND DURING ONE OF THE E-MAILS WITH MR. ZUBKIS,
11 HE INDICATES THAT HE HAD A PRIVATE INVESTIGATOR,
12 INVESTIGATOR BY THE NAME OF GRACE DAVIS, CORRECT?

13 A. THAT'S CORRECT.

14 Q. AND HE ACTUALLY REFERS TO THAT INDIVIDUAL AS AN
15 INVESTIGATOR THAT HE HAD WORKING WITH HIM, CORRECT?

16 A. THAT'S CORRECT.

17 Q. YOU HAD MENTIONED JUST A FEW MOMENTS AGO ABOUT
18 MR. ZUBKIS REFERRING TO THE GUY NAMED MIKE, CORRECT?

19 A. YES.

20 Q. MR. ZUBKIS REFERRED TO A LOT OF DIFFERENT
21 PEOPLE'S NAMES, CORRECT?

22 A. YES, HE HAD DIFFERENT PEOPLE'S NAMES.

23 Q. HE WANTED YOU TO TALK TO ALEX, CORRECT?

24 A. YES.

25 Q. HE WANTED YOU TO TALK TO A LOT OF DIFFERENT
26 PEOPLE IN THE OCEAN BEACH COMMUNITY ABOUT WHAT HAPPENED
27 WITH HIS DAUGHTER, CORRECT?

28 A. YES.

1 Q. AND ONE OF THE INDIVIDUALS HE ASKED THAT YOU
2 TALK TO WAS A GUY NAMED MIKE, CORRECT?

3 A. MIKE WHO HAD INFORMATION THAT COULD HELP WITH
4 HIS INVESTIGATION.

5 Q. JUST LIKE ALEX, CORRECT?

6 A. UM, HE WANTED ME TO TALK TO ALEX BECAUSE HE WAS
7 THE LAST PERSON, UM, THAT VICTORIA WAS WITH, SO IT WAS A
8 FRIENDS OF HERS.

9 Q. MR. ZUBKIS WAS ASKING THAT YOU TALK TO VARIOUS
10 DIFFERENT PEOPLE IN OCEAN BEACH, CORRECT?

11 A. THAT'S CORRECT.

12 Q. ONE OF WHICH WAS ALEX, CORRECT?

13 A. CORRECT.

14 Q. AND THERE WERE OTHER PEOPLE THAT YOU SPOKE TO
15 IN THIS CASE, AND YOU HAVE MENTIONED A LOT OF THEM HERE
16 TODAY?

17 A. THAT'S CORRECT.

18 Q. AND ALSO A GUY NAMED MIKE?

19 A. YES.

20 MS. BAYER: NO FURTHER QUESTIONS.

21 THE COURT: ANY FURTHER QUESTIONS, MR. MOORE?

22 MR. MOORE: YES, YOUR HONOR. THANK YOU.

23 MAY I REQUEST A SIDEBAR?

24 THE COURT: YES.

25 MR. MOORE: THANK YOU.

26 (UNREPORTED SIDE-BAR CONFERENCE HELD)

27 MR. MOORE: I JUST HAVE A FEW BRIEF QUESTIONS, YOUR
28 HONOR.

R E C R O S S E X A M

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BY MR. MOORE:

Q. DID YOU SEE THE PICTURES THAT YANA TOOK OF HONDA'S BATHROOM?

A. I DON'T BELIEVE I EVER SAW THE PICTURES, I BELIEVE SHE -- SHE HAD SEEN THE PICTURES, AND THAT SHE WAS GOING TO TRY AND RETRIEVE THEM FROM HER PHONE, BUT HER PHONE WAS BROKEN.

Q. OKAY. BUT YOU DID NOT SEE THE PICTURES, CORRECT?

A. NO.

Q. SO IT'S FAIR TO SAY THAT WHAT ONE PERSON IN YOUR OPINION, WHAT ONE PERSON THINKS IS BLOOD MAY NOT BE BLOOD, IS THAT FAIR TO SAY?

A. WELL, EVERYBODY'S PERCEPTION IS DIFFERENT.

Q. RIGHT. SO WHAT ONE PERSON THINKS MAY BE BLOOD MAY NOT ACTUALLY BE BLOOD?

A. YES, I WOULD SAY THAT.

Q. AND THAT'S PART OF THE REASON WHY YOU DIDN'T GO INTO HONDA'S HOUSE AND TEST THE BATHROOM FOR BLOOD EVIDENCE?

A. THE REASON I -- WE DIDN'T GO IN THERE, THERE WERE SEVERAL -- THERE WERE SEVERAL REASONS.

Q. BUT I ASK, THAT'S PART OF THE REASON WHY YOU DIDN'T GO IN THERE --

MR. BROWN: YOUR HONOR, I WOULD ASK THAT THE WITNESS BE ABLE TO ANSWER THE QUESTION THAT WAS POSED.

1 THE COURT: THERE IS REDIRECT, GO AHEAD.

2 BY MR. MOORE:

3 Q. I ASK THAT'S PARTED OF THE REASON THAT YOU
4 DIDN'T TEST THE BLOOD EVIDENCE, IT'S POSSIBLE THAT ONE
5 REASON SEES AND PERCEIVES AS BLOOD MAY NOT ACTUALLY BE
6 BLOOD?

7 A. THERE ARE A LOT OF FACTORS THAT PLAY IN THAT.

8 Q. I AM GOING TO ASK ONE MORE TIME, BECAUSE I
9 DON'T THINK THAT WAS VERY RESPONSIVE. I AM ASKING IF
10 THE POSSIBILITY THAT WHAT ONE PERSON PERCEIVES MAY BE
11 BLOOD IS NOT, IN FACT, BLOOD, IS ONE OF THE REASONS WHY
12 YOU DID NOT TEST FOR BLOOD EVIDENCE IN HONDA'S BATHROOM?

13 A. I WOULD SAY THERE WAS A LOT OF FACTORS THAT
14 PLAYED INTO THAT. THAT'S MY ANSWER.

15 Q. IN A SUSPICIOUS DEATH INVESTIGATION, HOW
16 IMPORTANT IS IT TO SPEAK TO THE LAST PEOPLE WHO SAW THE
17 PERSON BEFORE THEY DIED?

18 A. IT'S CLEARLY IMPORTANT TO TALK TO THE LAST
19 PERSON THAT LAST SAW HER ALIVE. BUT SOMETIMES YOU DON'T
20 ALWAYS HAVE THOSE OPTIONS. SO I FEEL TALKING TO IBARRA,
21 WHO HAD THE BEST INFORMATION, AND UNFORTUNATELY WE
22 WEREN'T ABLE TO TALK TO EVERYBODY, BECAUSE THEY LEFT
23 TOWN, SO, YES, IT'S IMPORTANT TO TALK TO PEOPLE.

24 Q. SO YOU WERE ABLE TO REACH A CONCLUSION IN YOUR
25 SUSPICIOUS DEATH INVESTIGATION THAT IT WAS NOT A
26 HOMICIDE?

27 A. ABSOLUTELY.

28 Q. BECAUSE THE LAST PEOPLE WHO SAW HER ALIVE LEFT

1 TOWN AND YOU WEREN'T ABLE TO TALK TO THEM?

2 A. THERE WERE OTHER FACTORS THAT PLAYED INTO THIS.

3 MR. MOORE: NO FURTHER QUESTIONS.

4 THE COURT: ANY REDIRECT?

5 R E D I R E C T E X A M

6

7 BY MR. BROWN:

8 Q. WHAT WERE THE OTHER FACTORS THAT PLAYED INTO
9 THIS?

10 A. UM, THERE WERE THE FACTS THAT THE AUTOPSY.

11 MR. THORNTON: OBJECTION, 352.

12 THE WITNESS: YES.

13 MR. THORNTON: THIS HAS ALREADY BEEN TESTIFIED TO.

14 THE COURT: IT WAS REOPENED BY THE LAST
15 CROSS-EXAMINATION, SO OVERRULED.

16 THE WITNESS: SO SOME OF THE OTHER FACTORS THAT
17 PLAYED INTO THIS DETERMINATION OF IT NOT BEING A
18 HOMICIDE WOULD BE THE FACT OF, AGAIN, THE NO BLUNT FORCE
19 TRAUMA, THE NO STAB WOUNDS, THERE WERE NO GUNSHOTS,
20 THERE WAS NO PETECHIAE, THERE WASN'T ANYTHING TO
21 INDICATE THAT IT WAS A HOMICIDE. UM, THIS WAS DEEMED TO
22 BE EITHER AN ACCIDENTAL DROWNING OR IT WAS UNDETERMINED
23 OR IT COULD HAVE BEEN A SUICIDE, EITHER ONE OF THOSE.

24 MR. BROWN: THANK YOU. NO FURTHER QUESTIONS.

25 THE COURT: MR. THORNTON, ANY RECROSS?

26

27 R E C R O S S E X A M

28

1 BY MR. THORNTON:

2 Q. UM, CAN -- IN YOUR EXPERIENCE, CAN BROKEN BONES
3 BE A RESULT OF, UM, SOME KIND OF TRAUMA?

4 A. WELL, WHEN IT'S POST-MORTEM?

5 Q. YEAH.

6 A. WELL, THAT COULD HAPPEN POST-MORTEM IS AFTER
7 THE FACT.

8 Q. SO MY QUESTION IS, IT'S -- I GUESS YOUR ANSWER
9 WOULD BE YES, THE LONG WAY AROUND HERE, THAT IN FACT,
10 BROKEN BONES CAN BE AN EXAMPLE OF, OR A RESULT FROM SOME
11 KIND OF TRAUMATIC INJURY, RIGHT?

12 A. COULD BE. YES.

13 Q. OKAY. UM, ARE YOU AWARE IN THIS CASE THAT
14 VICTORIA ZUBKIS HAD A BROKEN BONE?

15 A. POST-MORTEM, YES.

16 Q. OKAY.

17 A. THAT'S AFTER THE FACT.

18 Q. WELL, WE ONLY HAVE HER BODY NOW THAT IT'S DEAD,
19 RIGHT? THE AUTOPSY WASN'T PERFORMED WHEN SHE WAS
20 LIVING. IT WAS DEAD AND YOU ARE AWARE THAT IT REVEALED
21 A BROKEN LEG, RIGHT?

22 A. WELL THAT'S WHERE THE PATHOLOGIST WOULD COME IN
23 AND HELP YOU OUT WITH THAT.

24 Q. NO, I AM ASKING IF YOU ARE AWARE.

25 A. I WAS AWARE OF THE INJURIES, YES.

26 Q. AND, UM, WERE YOU AWARE THAT ONE ENTIRE LIMB
27 FROM HER ELBOW DOWN WAS MISSING?

28 MR. BROWN: OBJECTION, SCOPE.

1 THE COURT: SUSTAINED. LET'S WAIT FOR THE
2 PATHOLOGIST. THIS IS --

3 MR. THORNTON: I FELT LIKE IT WAS ADDRESSED ON
4 RE-REDIRECT.

5 THE COURT: YES, WE HAVE REHASHED THIS, AND I
6 HAVE -- FROM MY UNDERSTANDING, THE PATHOLOGIST IS GOING
7 TO TESTIFY, CORRECT.

8 MR. BROWN: HE'S WAITING IN THE HALLWAY, YOUR
9 HONOR.

10 THE COURT: ANYWAY, I MEAN --

11 MR. THORNTON: IF THE POINT HAS BEEN MADE, I WILL
12 SIT DOWN. THANK YOU.

13 THE COURT: ALL RIGHT. MISS BAYER, ANYTHING ELSE?

14 MS. BAYER: NO, THANK YOU.

15 THE COURT: MR. MOORE.

16 MR. MOORE: NO, THANK YOU, YOUR HONOR.

17 MR. BROWN: I HAVE NO FURTHER QUESTIONS.

18 THE COURT: ALL RIGHT. MAY DETECTIVE WARRICK BE
19 EXCUSED?

20 MS. BAYER: YES.

21 MR. BROWN: PLEASE.

22 (END OF REQUESTED PORTION)

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