

1 STATE OF MINNESOTA DISTRICT COURT
2 COUNTY OF WASHINGTON TENTH JUDICIAL DISTRICT

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4 State of Minnesota **JURY TRIAL**
5 Plaintiff, **VOLUME XVI**

6 vs. **Court File No 82-CR-17-242**

7 Stephen Carl Allwine,
8 Defendant.

9 - - - - -

10 The above-entitled matter came duly on for
11 Jury Trial before the Honorable B. William Ekstrum,
12 one of the Judges of the above-named Court, on the
13 30th day of January, 2018, at the Washington County
14 Judicial Center, City of Stillwater, County of
15 Washington, State of Minnesota.

16 * * *
17 A P P E A R A N C E S

18 Jamie Kreuser and Fred A. Fink, Jr.,
19 Assistant Washington County Attorneys, appeared as
20 counsel for and on behalf of the State.

21 Kevin DeVore, Esq., appeared as counsel
22 for and on behalf of the defendant, who was
23 personally present.

24
25

1 (Whereupon, the following proceedings were
2 duly had of record:)

3 THE COURT: Please be seated. Had
4 discussions with the attorneys on two subjects. One
5 is logistical issues involving timing and other
6 matters for this trial.

7 The other is regarding the problem we had
8 yesterday with the tape that was admitted into
9 evidence, or I should say, the series of tapes that
10 were admitted into evidence as Exhibit 107. There
11 appeared to be a flaw, and an inability to continue
12 toward the end of day yesterday. So county
13 attorney's office, I understand, has been working to
14 correct that. And we might have two exhibits, and I
15 understand the defense attorney is in agreement with
16 that. Let's get things on the record regarding
17 that.

18 MS. KREUSER: Sure. Of course, Your
19 Honor. So when we went back to the office
20 yesterday, what we had originally asked Cottage
21 Grove to do, because the original statement was on
22 two separate discs. For the ease of playing it to
23 the jury, we had asked that the police department
24 put all pieces of the audio onto one disc. In doing
25 that, there was a glitch in moving from the second

1 to last part, to the last part. We lost about a
2 minute of audio there that we could not get back.

3 So what I talked to Mr. DeVore about this
4 morning, and he is amenable to do, is stipulate to
5 withdraw the previous disc, Exhibit 107, and
6 substitute that with the original two discs that, in
7 its entirety, comprise the entire BCA statement of
8 the defendant. They would be Exhibits 107A and
9 107B.

10 Special Agent Frascone came to our office
11 last night. She retrieved these discs. She
12 reviewed them in their entirety. She said that
13 everything plays. There is no problem with the
14 audio or video. She signed and dated them. And I
15 have Exhibit 107B cued up to begin exactly where we
16 left off yesterday.

17 THE COURT: Is that your understanding,
18 Mr. DeVore?

19 MR. DEVORE: That is correct, Your Honor.

20 THE COURT: Okay. Then I assume you are
21 offering, then, 107A and 107B into evidence?

22 MS. KREUSER: That is correct, Your Honor.

23 THE COURT: And I am assuming there's no
24 objection.

25 MR. DEVORE: No objection.

1 THE COURT: I will receive, and now have
2 received Exhibits 107A and 107B. I will instruct
3 the jury as to that. We will proceed as indicated,
4 which means 107B will be cued up to the place where
5 we left yesterday. Exhibit 107 was received into
6 evidence, so that still is an exhibit, but it will
7 now go along with 107A and 107B.

8 Okay. I think there was one juror that
9 may have come in a little late. Do we have any
10 information on that? I will step down. Please
11 inform me.

12 (A short recess was taken.)

13 DEPUTY: All rise for the jury.

14 (The jury returned to the courtroom.)

15 THE COURT: Everyone please be seated.

16 What I say next, I just say it in context. I
17 understand someone was late. I have certainly been
18 in the Army. I have certainly been in a courtroom
19 waiting for a judge. I have certainly been in a lot
20 of places where I was required to be on time, and
21 then had to wait. So I appreciate that those of you
22 who were on time and had to wait. Let's get going
23 as soon as we can right now.

24 Now, there is an issue that I have to
25 explain to you regarding Exhibit Number 107 which

1 was the playing of the interview. The video and
2 audio. There was a glitch yesterday afternoon.
3 That problem, I believe, has been solved.

4 The particular disc is still flawed, and
5 that has been entered into evidence as Exhibit 107.
6 We have now Exhibit 107A and 107B. 107A is the
7 first half of the interview. You heard all of it
8 yesterday afternoon. 107B is the second half of the
9 interview. This has been received. Both of those
10 have been received into evidence. And we have cued
11 up -- or I have not. The attorneys have cued up the
12 tape to be starting right where we left off. So you
13 will be seeing the information.

14 Ms. Frascone, I understand, has verified
15 that it is accurate and is the same tape.

16 Ms. Frascone has been on the stand, so let's have
17 her return to the stand.

18 Ms. Frascone, you may have a seat. I know
19 you have been there a long time, but remember you
20 are still under oath. We are not starting with
21 questions of this witness, but we are having you on
22 the stand, ma'am, while we do the rest of the tape.
23 And you may proceed.

24 MS. KREUSER: Thank you, Your Honor. For
25 the record, I believe we are picking up about one

1 third of the way down on page 27.

2 (Whereupon, the audio/video was played for
3 the jury. After the audio/video was
4 completed, the following proceedings were
5 had.)

6 MS. KREUSER: May I inquire of the
7 witness, Your Honor?

8 THE COURT: You may. Proceed.

9 BY MS. KREUSER:

10 Q Good morning, Special Agent Frascone.

11 A Good morning.

12 Q Special Agent Frascone, did you have the
13 occasion to attend Amy Allwine's autopsy?

14 A I did.

15 Q Now, did you share investigative
16 information with the medical examiner?

17 A I did.

18 Q Is this normal in the course of your
19 training, experience, and occupation to do that?

20 A Yes, it is.

21 Q Did you ask that any test outside of those
22 normal toxicology tests be done in this case?

23 A I did.

24 Q What did you ask, specifically, for?

25 A I requested that the Ramsey County Medical

1 Examiner do a specialized test for scopolamine.

2 Q Why did you ask for that test?

3 A I was made aware of some Internet searches
4 that involved dogdayGod looking for scopolamine.

5 MS. KREUSER: Nothing further from this
6 witness. Thank you.

7 THE COURT: Cross examine.

8 MR. DEVORE: Thank you.

9 CROSS-EXAMINATION

10 BY MR. DEVORE:

11 Q Good morning.

12 A Good morning.

13 Q Special Agent Frascone, I just want to
14 confirm a few things that we heard in that
15 interview, if you will.

16 So in that interview, Steve Allwine told
17 you that as he was coming into the house, Joe, his
18 son, was already coming back down the hallway; is
19 that correct?

20 A That's correct.

21 Q And then he asked about his mom, and
22 Mr. Allwine said he sounded concerned; is that
23 right?

24 A That's correct.

25 Q Then Mr. Allwine told his son, Joe, to go

1 to the bathroom, or go get washed up?

2 A Yes, that's correct.

3 Q And then his son went into the bathroom;
4 is that right?

5 A Yes.

6 Q Then at some point, he said that he was
7 unsure of all of the events, because it was somewhat
8 of a blur; is that right?

9 A That's correct.

10 Q Then he indicated that he called
11 Mr. Charles Zutz a couple of times that evening; is
12 that right?

13 A Yes.

14 Q Once to let him know he was on his way.
15 And once to say he was going to be a little bit late
16 to get gas?

17 A Yes.

18 Q Then when you guys talked about the 911
19 call, Mr. Allwine said that 911 instructed him to go
20 check on her; is that right?

21 A That's correct.

22 Q And to see if she was breathing; is that
23 right?

24 A That's correct.

25 Q Or to see if she was alive, correct?

1 A Correct.

2 Q And Mr. Allwine told you in this interview
3 that a Kristin Elmquist helped Amy set up her
4 network for her business; is that right?

5 A I believe he said Kristin, correct.

6 Q He also indicated that this Kristin and
7 Amy would barter with one another. Sometimes if
8 somebody was going out of town, they would watch
9 each other's dogs, or do stuff like that; is that
10 right?

11 A Yes.

12 Q Mr. Allwine also advised you that on
13 Saturday, the 12th of November, that his family had
14 been away from the home until about 10:00 p.m; is
15 that right?

16 A That's correct.

17 Q And then when asked about the clothes that
18 they were wearing, he said that he thought that they
19 washed the clothes because Joe, his son, had peed
20 his pants over the whole ordeal; is that right?

21 A That's what he said, correct.

22 Q Did you ever test those clothes?

23 A I believe that the shoes were tested. I
24 don't know if the other clothing was tested.

25 Q Then you had a conversation about the

1 sliding glass door. That was not connected to the
2 security system; is that correct?

3 A That's correct.

4 Q And the latch, or the locking mechanism on
5 the door did not work; is that correct?

6 A That's correct.

7 Q Now, you know, we can see it with our own
8 eyes, but in your determination, was Mr. Allwine
9 cooperative during this interview?

10 A Yes, he was.

11 Q I believe you at one point asked him to
12 give you a combination to the safe, and he did that
13 voluntarily; is that correct?

14 A Yes, he did.

15 Q Are you aware of any time that Mr. Allwine
16 did not voluntarily give you the information that
17 you were looking for?

18 A No, he was -- he provided answers to each
19 question.

20 Q Now, in the pictures that we have seen,
21 there appears to be -- when you guys luminol -- were
22 you there when they sprayed the luminol in the
23 house?

24 A Yes, I was.

25 Q So you were there when agent Garfield,

1 Lindsey Garfield?

2 A Scientist, yes.

3 Q Scientist. Okay. Was she the one that
4 sprayed the luminol throughout the house?

5 A She was.

6 Q What were you doing, were you just
7 observing?

8 A Yes, I was observing at that time.

9 Q Okay. Who took the pictures of all of the
10 luminol?

11 A Special Agent Mike Kaneko.

12 Q Okay. Then I assume you take notes, and
13 stuff like that, of your own?

14 A I do a crime scene report. But the notes
15 are taken by the scientists, as well as what we call
16 SOD. So the officer who is on scene is the one
17 taking photographs.

18 Q And it appeared to me in the photograph
19 with the luminol, that there is this area with a lot
20 of bright luminol reflection on the hardwood floor
21 outside the bedroom, correct?

22 A That's correct.

23 Q And then, obviously, where Amy Allwine was
24 found by her bed in the bedroom, there is a pool of
25 blood?

1 A That's correct.

2 Q But it also appears that there is sort of
3 a -- is there any luminol that reacted to any blood
4 in between those two areas?

5 A No. There is a void area.

6 Q Okay. How big is that void area are we
7 talking about?

8 A I wouldn't know the specific measurements.

9 Q Well, just an idea. I mean, are we
10 talking ten feet, or two feet, three feet?

11 A It would be speculation on my part, but I
12 would say it's under ten feet.

13 Q Okay. I just want to see if --

14 MR. DEVORE: May I approach, Your Honor?

15 THE COURT: You may.

16 BY MR. DEVORE:

17 Q I just want to make sure we are talking
18 about the right thing. I want to show you a
19 picture. Get the pictures that we have. If I can
20 find them.

21 MR. DEVORE: May I approach the witness?

22 THE COURT: You may.

23 BY MR. DEVORE:

24 Q Special Agent Frascione, I am going to show
25 you a few photographs that have already been

1 admitted, just to make sure we are talking about the
2 same area. Showing you Exhibit 59. Is that the
3 area that we were just talking about?

4 A Yes. That's correct.

5 Q And that's without the luminol picture and
6 all that stuff, right?

7 A That's correct.

8 Q And then showing you Exhibit 67, is that
9 the same area but it shows --

10 A Yep, I'm sorry.

11 Q But it shows after the lights are turned
12 off, and after the luminol has been sprayed on the
13 area?

14 A Yes, it shows the luminescence.

15 Q Okay. And on the Exhibit 59, it looks
16 like, I think it was agent -- Scientist Garfield
17 that put some markings on the floor with a marker;
18 is that correct?

19 A I have seen her do that before, so yes.

20 Q Then this void of any blood indicated is
21 on Exhibit 59, is between that marked area, and then
22 it looks like the carpet is fairly clean between
23 that and where the bloodstain was in the bedroom; is
24 that correct?

25 A That's correct. And you would like me to

1 estimate that distance.

2 Q Well, yeah, I was curious. I don't know
3 if you can -- now looking at it, do you have a
4 better idea of how far away it was?

5 A I stand quite a bit under ten feet. Three
6 -- two, three feet.

7 Q Two, three feet?

8 A Sure.

9 Q I won't hold you to it.

10 A Okay. Perfect.

11 Q Then I am going to show you Exhibit 77.
12 That's already been admitted. That's a picture of
13 the laundry room, or the mudroom; is that right?

14 A Yes.

15 Q And then down here towards the left side
16 of the photograph, that's where that service door
17 that goes out to the garage; is that right?

18 A That's correct.

19 Q Then I am going to show you Exhibit 78. I
20 believe that also is the laundry room; is that
21 correct?

22 A That's correct.

23 Q And it appears that there is like two
24 markings where the luminol was reacting, but those
25 are in the middle of the floor; is that correct?

1 A That's correct.

2 Q And then finally I am going to show you
3 Exhibit 53. I know you testified about that the
4 other day when you were on the stand. That's your
5 footprint?

6 A Yes, sir.

7 Q Do you know if that footprint was left
8 before or after you sprayed the luminol down?

9 A That print, it was lifted before the
10 luminol was sprayed.

11 Q What did you do to lift the print; how
12 does that happen?

13 A Lindsey does a gel reaction. I am not
14 sure scientifically how she does it, but that's the
15 process that's done. Luminol is the last step in
16 the process.

17 Q Why is luminol the last step in the
18 process?

19 A Because it's water based.

20 Q What does that do?

21 A It can dilute or -- dilution is the
22 biggest issue with it. So it's typically the last
23 thing that's done after photographs, after testing,
24 after footprints, after shoe prints. Luminol is our
25 last step in processing.

1 Q Okay. Now, did you luminol the bedroom as
2 well?

3 A Yes.

4 Q Were there any results that were
5 significant with respect to that?

6 A I guess significant is an open word, but
7 as far as results, the visible blood was the visible
8 blood.

9 Q Sure. Mostly the pooling of the blood
10 under Amy's head; is that fair to say?

11 A Yes. That's correct.

12 Q Were there any footprints that you picked
13 up in the bedroom?

14 A No, there was not.

15 Q Did you find any evidence of scopolamine
16 at all in the house?

17 A No, we did not.

18 Q Now, you guys examined the tennis shoes
19 that Steve Allwine was wearing?

20 A Yes, that's correct.

21 Q Was there any blood spatter that you
22 noticed, or that you could detect on the outside of
23 the shoe?

24 A Not that I could visually see.

25 Q And I know we heard testimony about the

1 testing on the inside of the shoe. Was there any
2 testing that was done on the outside of the shoe?

3 A Not that I am aware of.

4 Q Did you find any -- strike that.

5 MR. DEVORE: I don't have any further
6 questions. Thank you.

7 THE COURT: Redirect.

8 MS. KREUSER: Just briefly. Thank you.

9 REDIRECT EXAMINATION

10 BY MS. KREUSER:

11 Q Special Agent Frascone, now about your
12 footprint again, what was it about the substance
13 with that footprint that permitted Agent Garfield to
14 actually lift it?

15 A It was the dust that was present.

16 Q And now the luminol was the last step in
17 the process because the luminol, then essentially,
18 contaminates the scene. Am I understanding that
19 correctly?

20 A That's correct.

21 Q And the defendant told you in his
22 statement that it was habit for him to take off his
23 shoes when he entered the home?

24 A Yes, he did say that.

25 MS. KREUSER: No further questions.

1 MR. DEVORE: Just briefly, Your Honor.

2 THE COURT: Go ahead.

3 BY MR. DEVORE:

4 Q I am more curious. The dusting when
5 lifting a print, when you say "lifting", you are
6 actually lifting the print off onto something, or
7 what do you do?

8 A Into a gel base so that you can get that
9 chevron pattern.

10 Q Explain how that works, so I know what
11 we're talking about.

12 A It would be far better explained by a
13 scientist. But it's a gel base system that allows
14 the lifting of a substance off the floor that will
15 give us that pattern that could then be given to
16 trace evidence. So that specific pattern could then
17 be matched up against a shoe, such as mine.

18 Q So you put -- so you'd put a dusting down,
19 fair, first?

20 A Yeah. It's more of a gel substance, but
21 yeah.

22 Q Oh, so you -- so it's a gel substance that
23 goes down. Then do you press something down on that
24 to pick it up?

25 A It's far fancier than that. But yes, in

1 layman terms, that's what it looks like.

2 Q Okay. Then it creates an imprint onto
3 whatever you push down on it, and you've got a
4 pattern?

5 A Yes, sir.

6 MR. DEVORE: I have no further questions.

7 THE COURT: You may step down. We need to
8 collect the transcripts as well.

9 MR. FINK: That's been done, Your Honor.

10 THE COURT: That's been done. Okay.
11 Thank you.

12 MR. DEVORE: All right. Thank you.

13 MS. KREUSER: Your Honor, may I approach
14 the exhibit table with the audio recordings?

15 THE COURT: You may. All right. Next
16 witness.

17 MR. FINK: State calls Dr. Kelly Mills.

18 THE COURT: Please come to the witness
19 chair. Doctor, before you sit down, please raise
20 your right hand to be sworn.

21 DR. KELLY MILLS,
22 having been first duly sworn, was examined
23 and testified on her oath as follows:

24 THE CLERK: Please be seated. State your
25 full name and spell your last name.

1 THE WITNESS: Kelly Marie Mills,
2 K-E-L-L-Y, M-I-L-L-S.

3 THE COURT: You may proceed.

4 MR. FINK: Thank you.

5 BY MR. FINK:

6 Q Good morning.

7 A Good morning.

8 Q How are you employed?

9 A I am the principle assistant medical
10 examiner down at the Ramsey County Medical
11 Examiner's office in St. Paul.

12 Q And you do the autopsies from Washington
13 County as well; is that right?

14 A That is correct, yes.

15 Q What education do you have that qualifies
16 you for your position?

17 A I have Bachelors of Science Degree in
18 Biomedical Sciences. I earned my medical degree at
19 Wayne State University. I then went on to do
20 Anatomic residency at the Detroit Medical Center. I
21 completed the Forensic Pathology sub-fellowship, or
22 fellowship, at the Wayne County Medical Examiner's
23 Office. I am board certified in forensic and
24 anatomic pathology.

25 Q Other than Ramsey and Washington County,

1 is your office the medical examiner for other
2 jurisdictions?

3 A Yes, we are.

4 Q About how many, do you know?

5 A Around 14 or 15.

6 Q Okay. And you're a licensed medical
7 doctor?

8 A Yes, I am.

9 Q In what states?

10 A Michigan, Minnesota, and Wisconsin.

11 Q You indicated that you have licensure in
12 anatomical and forensic pathology. Can you tell the
13 jury what anatomic pathology is?

14 A Anatomic pathology is your basic hospital
15 pathology. So the primary one is surgical
16 pathology. So when someone goes in to have a
17 surgery, something gets removed, it gets sent down
18 to the lab for the pathologist to examine to help
19 diagnose disease. Primarily tumors, help gauge
20 chemotherapy treatment potentially. That's the
21 basis -- the foundation for anatomic pathology.
22 That's just one sliver, though. And then forensic
23 pathology is the study of disease and trauma as it
24 pertains to death.

25 Q And you're board certified in both?

1 A Yes, I am.

2 Q Could you describe that process for the
3 jury, please?

4 A After completing accredited residency
5 programs for the anatomic pathology, and then for
6 the fellowship for forensic pathology you sit for
7 individual boards for each part. The anatomic
8 pathology is first. That's a two day test. I
9 passed that, so I am certified. Then for forensic
10 pathology, that's a day and a half test. I passed
11 that and I am certified for that as well.

12 Q Is that a national certification?

13 A Yes, it is.

14 Q Do you belong to any professional
15 societies?

16 A I do.

17 Q Which ones?

18 A The National Association of Medical
19 Examiners. The International Association of
20 Coroners and Medical Examiners. And off and on,
21 depending on what year it is the Minnesota Medical
22 Examiners and Coroners. I always forget their full
23 title.

24 Q Have you participated in continuing
25 medical education as faculty?

1 A I do to law enforcement, yes.

2 Q So that's your post-credit then, the law
3 enforcement continuing education?

4 A Not in that. I don't know if they get
5 actual credits, but we do lecture them. So I am not
6 sure about their post-grad credits or
7 certifications.

8 Q Okay. Have you qualified as an expert in
9 forensic pathology?

10 A Yes, I have.

11 Q About how many times?

12 A A few hundred, at least.

13 Q In what state jurisdictions?

14 A Wisconsin, Minnesota, North Dakota, South
15 Dakota and Michigan.

16 Q Could you explain for the jury what an
17 autopsy is?

18 A An autopsy is comprised of a few
19 components. The first is an external exam, and
20 that's when you look, obviously, on the outside of
21 someone and describe their characteristics. So
22 their height, their weight, their race, their
23 gender, their hair color, their eye color, scars or
24 tattoos. If they are missing any body parts, you
25 are looking for injuries as well. That's the

1 external examination. At that point, if there is
2 something to collect for trace evidence, that's when
3 you would take something along that line.

4 During that process, photographs are
5 taken. After that, we start going to the internal
6 part of the autopsy, and that's evaluating all of
7 the organs. My process, you take all of the organs
8 out from the tongue all the way down to the bowel.
9 I systematically separate all the organs, weigh
10 them, evaluate them for both trauma and natural
11 disease. Record them and take biological specimens
12 for potential toxicology or drug testing. And then
13 we also take pieces and place them in form if we
14 want to look at them under the microscope later.

15 After all that's done, everything is
16 placed back in to the individual, and then I render
17 a report.

18 Q Now, excuse me, did you have the occasion
19 to perform an autopsy on Amy Louise Allwine on
20 November 14th, 2016?

21 A Yes, I did.

22 Q About what time of day did you begin doing
23 that?

24 A 10:05 in the morning.

25 Q What did you observe in your external

1 exam?

2 A Ms. Allwine was fully clothed. She had a
3 bloody red sweatshirt on. Her hands were bagged.
4 Which is part of the custom when someone has been
5 shot, either in any way, shape, or form, their hands
6 are bagged. So her hands were bagged.

7 She had kind of washed out black jeans on
8 that were open exposing her underlying underwear.
9 She had blood on her face and hair. She had a
10 gunshot wound, which was difficult to see, until she
11 was cleaned up.

12 Q And did you remove the bags from the
13 hands?

14 A Yes, I did.

15 Q Could you describe for the jury why you
16 have the hands bagged?

17 A We bag the hands to preserve what is
18 called gunshot residue if there is any on the hands.
19 It can be lost during transport and upon handling of
20 the hands or the moving of the body. So we put the
21 bags on the hands, so that when I get to take a look
22 at them, there is no external transfer of surfaces
23 onto the hand, or there is no transfer from her
24 hands to something else.

25 Q When you remove the bags, did it reveal

1 any soot or gun powder stippling on her hands?

2 A Nothing under gross observation, no.

3 Q Or blood either?

4 A That would be correct.

5 Q But you ultimately received a report that
6 indicates that there were two particles of gunshot
7 residue on each of her hands; is that right?

8 A I believe there were particles on both
9 hands. The quantity I would have to look at.

10 Q Was there any evidence of therapeutic
11 intervention?

12 A No.

13 Q Were there any transdermal patches on her
14 body?

15 A No.

16 Q Was there any evidence of any adhesive
17 from a transdermal patch?

18 A No.

19 Q You indicated that she was shot. Where
20 was she shot?

21 A In the right ear.

22 Q Could you explain that further, please,
23 what you observed?

24 A After I removed the blood to a certain
25 point close to the actual gunshot wound in the right

1 ear, I could see some soot. Which is part of the
2 expulsion of the elements of gun powder coming out.
3 It's the combusted portion of the gun powder that
4 had came out. On the exterior surface of the skin
5 there were some slight tears, or little tiny tears
6 going out of the gunshot wound. That's roughly
7 about it.

8 Q What did all of that, taken together, say
9 to you in terms of the distance of the muzzle of the
10 weapon to the right ear?

11 A That it would be a contact wound.

12 Q And a contact wound means it's right up
13 against it, right?

14 A Yes.

15 Q Was there an exit wound?

16 A No, there was not.

17 Q Were you able to find the wound track
18 within Ms. Allwine's brain?

19 A Yes, I was.

20 Q How did that -- what did that look like?

21 A The bullet went from the outside of the
22 ear, traveled within the internal aspect of the
23 skull, the thickest part the petrous part of
24 temporal bone. It damaged the brain on the right
25 side, hitting some vital structures called the right

1 basal ganglia, the right hippocampus. It crossed
2 over to the left side, damaging the left caudate
3 nucleus and the left internal capsule.

4 During it's course inside the brain and
5 skull, the bullet had fragmented. So the jacket
6 lodged within what's called the maxillary sinus
7 which is behind your nose. And other parts of the
8 fragments of the bullet were found in the left side
9 of the brain and skull.

10 Q And correct me if I'm wrong on this, but
11 it severed the brain stem; is that right?

12 A There were lacerations of the midbrain and
13 there were also lacerations of the cerebellum which
14 is associated with the brain stem.

15 Q When that happens to somebody, are they
16 capable of movement?

17 A They would not be capable of movement.
18 The brain stem is the most primitive aspect of the
19 brain that keeps someone technically alive. So
20 regulating their heart rate, their breathing rate,
21 without the brain stem you cannot function without
22 those two organs, the heart and the lungs. So it
23 would alter those systems. They would fail. So
24 therefore, you would not be moving.

25 Q Now, was there anything notable in your

1 internal examination of Amy Allwine?

2 A Aside from the gunshot wound?

3 Q Yes.

4 A She had some minor natural disease
5 processes. Slight blockage in the heart, left
6 anterior descending artery. A benign cyst in her
7 kidney. A common benign tumor in her uterus called
8 a fibroid or a leiomyoma. And she had some yellow
9 streaking of her gall bladder called
10 cholesterolosis. Nothing significant.

11 Q What did you collect from Ms. Allwine for
12 testing?

13 A We collect blood, vitreous fluid from the
14 eyes, liver, bile and urine.

15 Q Did you collect gastric contents, too?

16 A Yes, I did.

17 Q About how much, in terms of volume, were
18 the gastric contents?

19 A 500 milliliters, which is approximately
20 two pop cans.

21 Q Now, did the toxicology come back, the
22 regular toxicology?

23 A Yes, it did.

24 Q That was negative?

25 A Alcohol was negative. The urine drug

1 screen was positive for a drug called scopolamine.
2 And then further testing showed that scopolamine was
3 located in her blood at a level of 16 nanograms per
4 milliliter. And on further testing of the gastric
5 contents, scopolamine was present at a level of
6 140,000 nanograms per milliliter.

7 Q What's scopolamine used for in the United
8 States?

9 A Most commonly it's for to prevent motion
10 sickness. So a lot of people on cruises have a
11 little round beige colored transdermal patch behind
12 their ear. It's also used as preanesthesia. It can
13 be used for GI disturbances and some treatments of
14 Parkinson's Disease.

15 Q What's the normal therapeutic dose?

16 A For the patch behind the ear, it would be
17 under 0.24 nanograms per M-L.

18 Q Are you familiar with any adverse effects
19 that scopolamine might have?

20 A Yes, I am.

21 Q What are they?

22 A You could display blurred vision, a dry
23 mouth and throat, confusion, hallucinations, dilated
24 pupils, flushing of the skin, drowsiness, insomnia.

25 Q Did you examine Ms. Allwine's medical

1 records?

2 A Yes, I did.

3 Q Did she ever have a prescription for
4 scopolamine?

5 A No.

6 Q How long does it take for the scopolamine
7 to absorb into the blood stream or urinary tract?

8 A In an oral absorption, so consuming it,
9 would take about an hour.

10 Q And you said taking it orally. Are you
11 concluding that that's how the scopolamine was
12 delivered in this case?

13 A Based on the level and the gastric
14 contents, yes.

15 MR. FINK: May I approach?

16 THE COURT: You may.

17 BY MR. FINK:

18 Q Dr. Mills, I would like to show you what's
19 marked as Exhibit 140, and ask if you know what that
20 is.

21 A I do.

22 Q What is it?

23 A It's a Power Point presentation that I
24 made for Ms. Allwine.

25 Q While we are doing that, I would like to

1 show you Exhibits 140, and 140A through N, and ask
2 if this is the contents of your Power Point.

3 A Yes, it is.

4 MR. FINK: I move the admission of Exhibit
5 140, and 140 A through N, Your Honor.

6 MR. DEVORE: No objection.

7 THE COURT: They are received.

8 MR. FINK: May I publish?

9 THE COURT: You may.

10 BY MR. FINK:

11 Q This is Exhibit 140A; could you describe
12 what we see here?

13 A This is how Ms. Allwine was found at the
14 scene, at her death scene in the bedroom lying face
15 up on the floor, with her hands out to her sides.
16 And you can see bloody purge coming out of her mouth
17 and nose. And you can see blood pooled under her
18 head, extending down towards her shoulder and arms.
19 You can see some spattered blood off to the left
20 side of that big pool.

21 Q Okay. In terms of the blood that's
22 running down the left side of her face, can you draw
23 any conclusions from that observation?

24 A Well, the blood going off to the left
25 side, as we all can see, her head is upright and

1 straight. There is no left or right deviation of
2 the head. It's not a normal way for blood to drain
3 out of the nose or mouth from this cavity. The
4 blood would be internal at this point, so unless
5 you're moving the body, you're not going to be
6 having blood coming out, and going to an angle of a
7 side, like on the left side was at one point in
8 time, her head was to the left side.

9 Q So it suggests she was moved?

10 A Yes.

11 Q And you indicated, I am not sure how you I
12 think you said a drip stain off to the side?

13 A Yes.

14 Q Could you point that out for the jury,
15 please?

16 A Can I get up from my chair?

17 THE COURT: You may.

18 THE WITNESS: You can see those here all
19 along this other smaller cluster of blood. So all
20 of these drip stains are coming from the left side
21 (indicating).

22 BY MR. FINK:

23 Q Was that significant at all?

24 A That's not typical in a suicide gunshot
25 wound scene.

1 Q This is 140B; what are we seeing here?

2 A This is a closeup of Ms. Allwine from the
3 right side showing her bloody right ear. You can
4 see hairline. And what you are seeing on her cheek
5 in front of her right ear is smeared blood above the
6 level of where the gunshot wound is, which you can't
7 see the gunshot wound here. But it's in her actual
8 ear, so it's above the level of an injury, which
9 does not occur unless someone has been moved.

10 Q This is 140C.

11 A This is Ms. Allwine as I saw her in her
12 body bag. Again, you can see that her right hand is
13 bagged. A paper sack around her head. This is to
14 show that during transport -- if I may get up to
15 show something on the --

16 THE COURT: You may.

17 THE WITNESS: Here's what I was talking
18 about in the first one of the pictures. You see a
19 dry area of blood. Her gunshot is well below that
20 so the blood is not going to pour against gravity
21 going towards her face. This blood that's smeared,
22 that's from us transporting her. So blood, again,
23 does smear and transfer upon movement after someone
24 has been dead for a while.

25 Q I'll show you 140D; what can we appreciate

1 here?

2 A The photo on the left is showing
3 Ms. Allwine from straight on. And again, you're
4 seeing that the blood emanating from her nose and
5 mouth are going off to the left-side exclusively.
6 And then on the other photo, on the right side,
7 you're seeing Ms. Allwine's left side of her face.
8 And you are seeing the angling of the blood from
9 both her nose and her mouth pooling down to not only
10 towards her left ear, but above her left ear as
11 well.

12 Q Indicating, perhaps, that her head was
13 back like that?

14 A Back and to the left. Some variation to
15 the left, yes.

16 Q Okay. Showing you 140E.

17 A These photos depict Ms. Allwine's hands --
18 her left-hand specifically. The photo on the right
19 is the bag hand. And the other two are showing her
20 hands are free of any blood or gunshot residue,
21 again with the naked eye.

22 Q That's on both hands; is that right?

23 A This is just exclusively her left hand.

24 Q Left hand, okay. Showing you 140F; what
25 do we see here?

1 A This is Ms. Allwine's right hand again.
2 The left one is showing that her hand was bagged.
3 And upon removal of the bag it shows that her
4 exposed hand does not have any blood or any gunshot
5 residue particles that are seen with the naked eye.

6 Q You have presided over autopsies of
7 handgun suicides in the past?

8 A Yes, I have.

9 Q And based upon your observations on
10 those -- excuse me -- and your observations here, is
11 it normal not to have blood and soot on the shooting
12 hand, if you will?

13 A Many times you will have blood. You may
14 or may not see soot or gun powder residue on
15 someone's hands from a suicide.

16 Q How common is it to see blood?

17 A I would say it's more common than not.

18 Q Okay. 140G; what do we see here?

19 A We do what we call a layer by layer
20 undressing of a person, and photograph as we go.
21 What I have done so far, at this point, is just
22 taken off the red sweatshirt. And you can see a
23 blue t-shirt that is pulled up above the level of
24 the bra, which is an abnormal way of wearing it
25 under your clothing. And again, we started to pull

1 down the jeans on the right side there, and you can
2 see her underwear. So she has a brassiere and
3 undergarments on.

4 Q 140H.

5 A This is what the gunshot wound looks like
6 after all the blood has been cleaned up on
7 Ms. Allwine. You can see it's right in the dead
8 part of the ear, what we call the external auditory
9 meatus, so the ear canal itself. At the 12 o'clock
10 you see a laceration coming up. That's part of the
11 extending lacerations of a contact wound. You see a
12 couple -- you see a little bit of ear cartilage as
13 well, but that's really all you're going to
14 appreciate from this distance.

15 Q Can you explain to the jury what causes
16 that tear at the 12 o'clock?

17 A On a contact wound, the gases that are
18 expelled at the outside of a bullet being discharged
19 from the muzzle get embedded into the skin. They
20 enter the skin. They cause it to expand and then it
21 will contract again. Those forces cause the tearing
22 in the skin.

23 Q This is 140I; what can we appreciate here?

24 A This is a closeup of the gunshot wound to
25 the right ear. And I've already labeled that there

1 is some black discoloration on the edges of the
2 skin. So that's soot. So that's gunshot residue
3 there for our contact wound. The one on the right
4 is me pulling with tweezers, so you can kind of see
5 it a little bit better. On the left side it's a
6 little bit more difficult to see. You can see some
7 abrasions or little friction rubs from the end of
8 the muzzle as well, but they are not
9 distinguishable.

10 Q This is 140J; what are we seeing here?

11 A The one on the left is how we get to the
12 brain itself, as you make what we call an ear to ear
13 incised wound. So you go across the top of the
14 head. You reflect all of the skin back, so that's
15 what's happening on the one on the left. Where the
16 arrow is pointing, that's actually a bone fragment,
17 and you can see a little black or gray, depending on
18 how you can see it from your angle of where you are
19 sitting. That's soot. So soot entered the wound
20 track. So again, that goes along with it being a
21 contact gunshot wound.

22 When you see fragmentation a little bit of
23 that hemorrhage on the right side of the back of the
24 scalp there is called subfilio hemorrhage.

25 And then the photo on the right side is a

1 section of Ms. Allwine's brain. And along the left
2 side of her brain, you see a bullet fragment lodged
3 in what we call a vital area.

4 Q Showing you 140K, and ask what we see
5 here.

6 A Now, this is looking from the top of Ms.
7 Allwine's head. The skull -- the top part of the
8 skull and the brain have both been removed. And we
9 are seeing the base of the skull and there's
10 defects.

11 The arrows going through where the bullet
12 had gone through on the right ear, and you're seeing
13 fragmentation. All of that red kind of junky stuff
14 is fragmented bone through the wound tract
15 trajectory of the projectile going into what is the
16 right sphenoid bone there.

17 Q And the trajectory, once again, of that?

18 A This trajectory would be going slightly
19 back to front, right to left, and slightly downward.

20 Q Showing you what's marked 140L; ask if you
21 can explain that for us?

22 A This is the same photo from the other
23 side, except I'm using forceps to remove the
24 fragmented bone. And you can see very difficult --
25 if I may get up, Your Honor?

1 THE COURT: You may.

2 THE WITNESS: Here, between these parts,
3 this is actually the jacket. The outer copper
4 covering of the projectile that fragmented off and
5 took a slightly different path.

6 BY MR. FINK:

7 Q The jacket as opposed to the casing,
8 right?

9 A Yep. The casing harbors all the gun
10 powder and the projectile itself. The jacket is the
11 copper part that covers the lead core bullet.

12 Q And that fragmented off?

13 A Yes, it did.

14 Q Show you 140M; what do we see here?

15 A These are the fragments of the bullets --
16 excuse me, singular, that I extracted from
17 Ms. Allwine. The ones on the left, are the lead
18 core fragment. And the one on the bottom right,
19 that is the separate jacket.

20 Q Those were all retrieved from her brain?

21 A Yes, they were.

22 Q This is 140N; what is this?

23 A This is just a synopsis of the drug
24 testing that I had performed on Ms. Allwine. So
25 explaining what was tested for. The volatile screen

1 test for alcohol, which is ethanol, and other types
2 of alcohol related entities; acetone, isopropanol,
3 and methanol. The urine screen was positive for
4 scopolamine, but we also tested for acetaminophen,
5 amphetamine, barbiturates, benzodiazepines, opiates,
6 oxycodone, fentanyl, LSD, methadone, PCP,
7 propoxyphene, and salicylic acid.

8 Then the blood, this is what came up. The
9 scopolamine at a level of 16 nanograms per M-L. And
10 in the stomach or gastric contents the level of
11 scopolamine 140,000 nanograms per M-L.

12 Q Now, are you familiar with the dustings
13 that -- were there contact or near contact gunshot
14 wounds to the head?

15 A Am I familiar with dustings of those types
16 of injuries?

17 Q Yes.

18 A Yes.

19 Q And you viewed the pictures of this scene?

20 A Yes, I did.

21 Q And with Ms. Allwine's positioning, would
22 you have expected to see blood spatter on the
23 bedspread and the nightstand?

24 A You would expect see some degree of
25 spatter at a level of where she was. Wherever her

1 head was, you would expect to see something from
2 that level and a little bit lower, but there was
3 none.

4 Q And that drip pattern that you saw before,
5 is that consistent or inconsistent with a suicide?

6 A It's inconsistent, because it's separate
7 from the main pool of blood. So it's a separate
8 entity in and of itself.

9 Q Are you aware that luminol fluoresced in
10 the hallway, and down the hall indicating blood.
11 And then it was tested, and it was Amy Allwine's
12 blood?

13 A Yes. I was made aware of that.

14 Q Can you draw any conclusions from the
15 overall scene?

16 A Ms. Allwine would not have been able, or
17 capable of shooting herself and cleaning up her own
18 death scene. That would have rendered me to lead to
19 a manner of death of being homicide not suicide. So
20 the cause of death is gunshot wound to the right
21 ear. Manner, homicide.

22 Q And that's based on your training and
23 experience in your opinion to a reasonable degree of
24 medical certainty?

25 A Yes, it is.

1 Q Now, calculating time of death. It's not
2 like on television, is it?

3 A That is correct. It is not.

4 Q Can you sometimes tell, at least within
5 certain time parameters, what the time of death may
6 have been?

7 A Sometimes you can.

8 Q Were you able to in this case?

9 A Well, I saw her, Ms. Allwine, at 10:10.
10 She was found dead at 1900 the day before. So I saw
11 her significantly different than when she was first
12 observed dead. My findings of when I rated rigor
13 and livor are not inconsistent with a short time
14 frame of what they found at the 1900. If that makes
15 any sense.

16 Q Okay. Mixing in the scopolamine into your
17 analysis, can you determine how many hours after her
18 last meal she may have been killed?

19 A Well, what I can say is, that it would
20 take at least an hour to get to what we call a peak
21 level, a high level, of the drug after you've
22 consumed it. So she would have to live at least an
23 hour after consuming that drug in some form.

24 After that, if she had survived for any
25 significant time, there would be some digestion.

1 But she died fairly recently after consuming. I
2 can't give you a more definite timeframe. But it
3 wasn't inconsistent from what they were saying. I
4 would have to look at my notes, if you need me to
5 answer something more specifically.

6 Q Did you bring your notes with you?

7 A I did. Yes.

8 THE COURT: You certainly may look at your
9 notes to refresh your memory. Obviously, you
10 understand from your testimony so far, that I don't
11 want you simply reading your report. But you can
12 certainly look at your notes to refresh your memory.

13 THE WITNESS: Thank you, Your Honor. I
14 found what I was looking for.

15 BY MR. FINK:

16 Q Okay. Based upon the police
17 investigation, your autopsy results, the scene
18 pictures, medical records, and the level of
19 scopolamine in Amy Allwine's blood and gastric
20 contents, can you give us a timeframe of when she
21 was killed, assuming she last ate at 12:15?

22 A She last ate at 12:15. I believe there is
23 more factors that were involved. I know she was
24 last reportedly seen alive, supposedly, at 5:30.
25 But if she would have consumed at 12:15, let's say

1 an hour to absorb the drug. Roughly in that time
2 frame, that would put you at 1:15, 1:30. From 1:30
3 on is when the likelihood of her being shot was then
4 able to be determined, because of the level of
5 gastric -- of scopolamine in her gastric fluid.

6 However, when our investigator went out to
7 the scene, Ms. Allwine was still cool to the touch.
8 Rigor was just beginning to develop, so she had just
9 recently been killed. When someone is cool to the
10 touch, generally stating you have about four or six
11 hours before that is appreciated by someone like
12 myself saying they are cool to the touch, and no
13 longer warm. So it wasn't just a recent time. And
14 that would have been at -- I have to see what time
15 he was there. I don't have a record in what our
16 investigator's notes are for that exact time that
17 that was evaluated upon himself, Jonathan Banks. So
18 what that means, at that time, which would have been
19 roughly --

20 MR. DEVORE: Objection, nonresponsive.

21 THE COURT: It is responsive. It's
22 explanatory. I am going to allow the answer. It's
23 overruled. You may continue.

24 THE WITNESS: Thank you. At 7 p.m. when
25 our investigator, at some point in time thereafter

1 was summoned, she was still cool to the touch. If
2 she had just died at, let's say, even an hour before
3 7 p.m. she would be warm to the touch with him being
4 out there. So you have to kind of backtrack from
5 there. It's all time dependent on when people are
6 out to the scene.

7 MR. FINK: That's all Your Honor.

8 THE COURT: Cross examine.

9 MR. DEVORE: Thank you.

10 CROSS EXAMINATION

11 BY MR. DEVORE:

12 Q Good morning, Doctor.

13 A Good morning.

14 Q You are going to have to explain that last
15 part to me. Because we had testimony in this case
16 that the first responder said that Ms. Allwine was
17 warm to the touch, and that would have been 7,
18 7:15ish on the 13th. And I believe you said that
19 somebody was out there around 7:00 said she was cool
20 to the touch.

21 A It's all based on context. People that
22 care for living patients explain it in a warm
23 fashion. They can't appreciate the flections of
24 feeling warm to cool. And I've had this between
25 myself when I've evaluated someone near. They feel

1 cool, meaning they don't feel normally alive, let's
2 put it that way. Everyone I evaluate is dead. So
3 my spectrum of observation is for dead people only.
4 I don't see live people anymore. So we are both
5 coming from different perspectives. Yes, they are
6 warm to a degree, but it's two different
7 perspectives on that same plane.

8 Q I didn't mean to interrupt. I was going
9 to ask you, what time was the person, the
10 investigator that you are talking about out at this
11 scene?

12 A I believe he was there some -- a few hours
13 later. I don't have a time in here, unfortunately.
14 So I can't answer that question.

15 Q So did you ever come up with an estimated
16 time of death?

17 A Again, it's -- I can't. Once you're --
18 unless it's right there at the exact time, you
19 really have a difficult time with pinpointing an
20 exact time of death. What we do is a window of
21 death, and yes, on my evaluation of Ms. Allwine is
22 conclusive with her dying some point on the 13th of
23 November in the afternoon.

24 Q So just afternoon, that's what it is, the
25 window of death?

1 A The window of death can't be made any
2 shorter.

3 Q So somebody testified previously that
4 their time of death was 3:00 to 3:15, you wouldn't
5 be able to narrow it down to that level?

6 A It depends on what that was based off of.
7 If you want to elaborate.

8 Q It's just what was testified to. I was
9 just asking you if you could agree or not agree with
10 it?

11 A Still in the afternoon, so I can agree
12 with that.

13 Q All right. So let's talk about the
14 scopolamine. This is a drug that you haven't
15 necessarily worked with; is that correct?

16 A That is correct.

17 Q How did you educate yourself about this
18 drug? Did you read stuff on it, or did you talk to
19 people, or what did you do?

20 A By the toxicology books that we use for
21 reference.

22 Q Okay. And if I understand you correctly,
23 you cannot tell how actually the drug was
24 administered; is that correct?

25 A I believe she consumed it in an oral way.

1 An oral fashion based on the concentration of her
2 gastric contents.

3 Q Through her mouth?

4 A Through her mouth, yes.

5 Q Can you tell whether that was like in a
6 liquid form, pill form, powder form; can you tell
7 what that was?

8 A That I can't determine, no.

9 Q Can you tell how it was consumed. Like
10 was it consumed all at once, or consumed over a
11 period of time; can you tell that?

12 A I can't differentiate between the two, no.

13 Q All right. Now, can you tell me about
14 after a death, what's the normal -- how does the
15 body cool after somebody is dead?

16 A It's a sigmoidal scope. So it has a
17 elongated kind of S curve to it. But initially, it
18 will peak or rise a little bit after death. Then it
19 will start -- it will plateau and start losing
20 temperature in a very long fashion. Then you will
21 hit a part where it is going to slope and curve down
22 and start losing many degrees in a quick fashion
23 over a shorter period of time. And then when you
24 get down towards more room temperature, it's going
25 to start leveling out and parallelling that of the

1 ambient temperature around. That again, takes a
2 little more time.

3 So the two plateaus take a while. Then
4 you've got the sharper curve in the middle where you
5 are getting significant droppage of body
6 temperature.

7 Q And can you put any kind of a time frame
8 on any of the differences that you just described?

9 A They are all different for each
10 individual, so I would not be able to, no.

11 Q Are we talking hours or days?

12 A It's hours.

13 Q How about rigor mortis? What is that and
14 explain how that sets in?

15 A Rigor mortis is the stiffening of the
16 muscles in the body. When you're alive, your cells
17 make energy and the energy is what allows your
18 muscles to move.

19 You've got two different muscle groups.
20 One to contract and the other to be opposing to
21 that. They both contract, but you got your biceps
22 and triceps working opposing fashions. So one is
23 going to bring your hand towards your shoulder, one
24 is going to pull it away. They both contract,
25 shortening.

1 When you are not producing energy anymore,
2 as you die, whatever position you are in is where your
3 muscles are going to harden and stiffen. You can
4 alter that by moving bodies and keeping their
5 muscles as rigor mortis starts to develop, you can
6 break that rigor and kind of alter things. But
7 rigor, in general, takes about 12 hours to get
8 stiff. It will stick around for another 12 hours
9 and then over the next -- the third set of 12 hours
10 it will start to dissipate.

11 Q So in that -- in the 12 hours it takes for
12 a body to get stiff, are you talking about like
13 stiff where you would have difficulty moving limbs
14 and things like that?

15 A 12 hours for the firm stiff, yes.

16 Q Is there a process, then, over that 12
17 hours that a body starts to stiffen, or -- it
18 doesn't just happen all at once?

19 A Right. It's what we call them developing
20 rigor, yes.

21 Q Okay. So slowly over time, the body
22 starts to stiffen; is that correct?

23 A That's correct, yes.

24 Q When does the initial stiffening of the
25 body begin?

1 A Well, everything begins the moment of
2 death.

3 Q Well, when would it be observed by
4 somebody that was touching the body? When would
5 that start to happen that you could feel that
6 stiffness?

7 A It's kind of interdependent again. But it
8 could be a few hours.

9 Q What effect, if any, would this
10 scopolamine have on, say, the cooling of
11 Ms. Allwine's body, if you know?

12 A I am trying to think of how it would
13 react. Well, there would be many factors that
14 scopolamine possibly could have affected it, but her
15 clothing could affect it as well, as she was in
16 layers of clothes.

17 Q So you can't really give an opinion as to
18 whether or not the scopolamine affected the body
19 temperature?

20 A That's correct.

21 Q How about the rigor mortis, can you give
22 an opinion of how scopolamine might have affected
23 that, if any?

24 A That would not affect that.

25 Q You mention the clothing. Was there any

1 evidence that suggested that somebody tried to
2 change Ms. Allwine's clothes?

3 A Well, there is evidence that her clothes
4 were not worn correctly. So what that person was
5 doing, I can't speculate. So there is evidence of
6 her clothes being altered, yes.

7 Q In what way?

8 A Her jeans were unbuttoned, and unzipped,
9 and pulled down slightly off her hips. And her
10 underlying shirt was up around her brassiere.

11 Q Now, you said that you had tests done on
12 the GSR on Amy Allwine's hands?

13 A That's correct.

14 Q Where did you have that done at?

15 A I think the group was RJ Lee, if I recall
16 correctly.

17 Q Did you get a report from them?

18 A Yes, I did.

19 Q Do you have it with you?

20 A I do.

21 Q Can you tell me what level of GSR was
22 discovered on her hands, if any? And if you need to
23 look at your report to refresh your recollection,
24 please do.

25 A Let me find the report first. According

1 to their report, on the right hand there were 34
2 particles characteristic of gunshot residue. And 15
3 two component particles of gunshot residue. On
4 Ms. Allwine's left hand, there were two total
5 particles characteristic of gunshot residue, and
6 three two component particles of gunshot residue.

7 MR. DEVORE: Your Honor, may I approach
8 the witness?

9 THE COURT: You may.

10 BY MR. DEVORE:

11 Q Dr. Mills, may I see that report? I won't
12 look at any of your handwritten notes.

13 Okay. Thank you. And is that why you had
14 Ms. Allwine's hands bagged so you could get a test
15 like that?

16 A That's what we do standard for all gunshot
17 wound, yes.

18 Q Now, you said you didn't observe any
19 gunshot GSR, or gunshot residue on Ms. Allwine's
20 hand with your naked eye; is that correct?

21 A That is correct.

22 Q And you said you didn't observe any blood
23 spatter or anything like that on her hands; correct?

24 A That is correct.

25 Q But you said that on a normal suicide, you

1 said that it's more times than not, that you would
2 be able to observe both blood and GSR?

3 A Just blood.

4 Q Just blood? How often are you able to
5 observe gunshot residue on a person's hand?

6 A I would say that's pretty uncommon. It's
7 not very common that you would see it.

8 Q It's small, in general.

9 A That's correct.

10 Q And you would more or less see a pattern
11 on a hand; is that what you would be looking for?

12 A Depending on the type of weapon, what I
13 have seen is actual soot on the fingers holding,
14 like let's say it's a shotgun the end of the barrel,
15 you would see it around the outer ring of their the
16 hand. Extremely rarely just saw gun powder
17 stippling off of like a revolver.

18 Q Now, you testified that, in your opinion,
19 the body was, I think you said, manipulated; is that
20 the right word that you used?

21 A I believe that's correct.

22 Q What do you mean by that?

23 A Moved.

24 Q Can you explain it further?

25 A No. She's just been moved.

1 Q Her head has been altered to some degree,
2 how?

3 A With her head going back and to a degree
4 to her left, I can't tell you the exact amount, of
5 course, or angle. The hair on the right side of her
6 face had been pushed up above the level of her ear
7 onto her cheek. That's how that blood got there in
8 the first place, because it was one continual
9 smeared pattern going up to her face that we saw on
10 that right side.

11 Q Okay. Did you get a body weight from
12 Ms. Amy Allwine?

13 A Yes, I did.

14 Q What was that?

15 A 239 pounds.

16 Q Did you find any marks on her body
17 suggesting that she had been grabbed or anything
18 like that?

19 A She had some insignificant bruises on her
20 left antecubital fossa, her left thigh, right knee,
21 and back of her right hand. But nothing that I
22 would be able to draw a conclusion with that of what
23 you are asking.

24 Q Can a body still show bruising or signs
25 like bruising after a person is dead?

1 A You do see that in witness deaths where
2 resuscitation comes. If people grab them, you can
3 see that. It has got to be very close to that time
4 of death for them to be able to see. But it's not
5 100 percent. You can see it. Have I seen it, yes.

6 Q Okay. And you indicated that, like when
7 you brought the body back to your clinic, you
8 indicated that there were there was some smearing of
9 the blood, I think it was on the right side of her
10 face, and that was caused by transport.

11 A That was the triangular shape, more
12 anterior on her right cheek, yes.

13 Q So and that -- you moved the body when --
14 or when was the body moved that would have caused
15 that?

16 A She arrived at our office at 12:30 in the
17 morning on the 14th. So it would be roughly around
18 a half hour before that time is when she would have
19 been placed in a body bag.

20 Q Okay. So even at that time, there is
21 still the ability to smear or transfer blood in some
22 capacity, correct?

23 A Whenever you move a body, and there is
24 blood inside, and there is an exit -- there's an
25 injury for it to escape when you are moving, yes,

1 blood can come out.

2 Q Now, you're aware that the photograph that
3 you had in your Power Point where it showed Amy
4 Allwine on the floor, you're aware that that gun had
5 been moved prior to that photograph being taken,
6 correct?

7 A Yes, I was made aware of that.

8 Q You would agree, then, the scene that we
9 are seeing isn't the actual scene before it had been
10 contaminated, correct?

11 A I could agree with that.

12 MR. DEVORE: Just one minute, Your Honor,
13 to review my notes.

14 I have no further confession. Thank you,
15 Dr. Mills.

16 THE COURT: Redirect?

17 MR. FINK: Thank you.

18 REDIRECT EXAMINATION

19 BY MR. FINK:

20 Q You indicated to Mr. DeVore that she died
21 in the afternoon. She was killed in the afternoon
22 of November 13th.

23 A That is correct.

24 Q And you indicated that you would agree
25 that death would have occurred at 3:15 or earlier?

1 A Yes.

2 Q The scopolamine was delivered orally
3 through the mouth you indicated. Can you tell us
4 how you can come to that conclusion?

5 A The gastric contents had the largest
6 quantity of the drug scopolamine. When you
7 administer something, wherever it is taken -- so if
8 there was an injection, you would get a high level
9 there. You can kind of correlate backwards.

10 The stomach does not absorb from the blood
11 into the gastric contents. We absorb our gastric
12 contents into our blood. It's not a reverse process
13 because that's how we get our nutrients. Our
14 stomach doesn't extract our nutrients from our blood
15 and then put it into the stomach. It goes opposite
16 way. So it's a one-way system of delivery.

17 So that being a higher level indicates
18 that she had consumed it orally, and then it was
19 being absorbed from her gastric contents into her
20 blood system.

21 Q Okay. Now, the scene as you saw it, as
22 well as the nature of her upper body clothing when
23 you received her, is that consistent with her being
24 dragged or carried to the location she was found in?

25 A It can be, yes.

1 MR. FINK: That's all.

2 THE COURT: Any recross.

3 MR. DEVORE: No.

4 THE COURT: You may step down.

5 MR. FINK: The state, Your Honor, would
6 provisionally rest dependent upon the verification
7 that all the exhibits have been received.

8 THE COURT: All right. We will take a
9 break. We will resume at five minutes to eleven. I
10 think that amount of time is necessary. Go with the
11 deputy, please.

12 (The jury exited the courtroom.)

13 THE COURT: Please have a seat.

14 The first thing I am going to do right now
15 is talk to you directly, Mr. Allwine. You have the
16 right to testify. You also have the right not to
17 testify. From comments earlier made by your
18 attorney, I have no doubt you have discussed that.

19 Having said that, I want you to discuss it
20 again, because I want to make a record about that.
21 So you have the right testify. You have the right
22 not to testify. You have the right to request a no
23 adverse inference instruction, also referred by your
24 attorney. So have that discussion. And when we
25 return from break, I will ask a question or two

1 about that.

2 Now, I assume you can do whatever is
3 necessary to verify exhibits, and that we can put
4 that on the record when we come back from break.

5 In the meantime, counsel, approach.

6 (Whereupon, court and counsel had a
7 discussion off the record, at the bench,
8 after which, a recess was taken.)

9 THE COURT: All right. Several things to
10 deal with at this point. One is that Mr. Fink, you
11 said that the state provisionally rests subject to
12 verifying the exhibits. Have you had an opportunity
13 to do that?

14 MR. FINK: We have, Your Honor, and we
15 rest.

16 THE COURT: All right. With that, I
17 understood from what was stated before, there may be
18 a motion from defense.

19 MR. DEVORE: Yes, Your Honor. Pursuant to
20 Rule 26.03 Subd. 18 of the Rules of Criminal
21 Procedure, we move for a Judgment of Acquittal. The
22 state failed to sufficiently prove its case. We
23 believe that you would be in a position as the judge
24 in this case to be able to determine that it should
25 not go forward to the jury and dismiss it outright.

1 THE COURT: All right. I have listened to
2 the evidence. I certainly have read the rule. I am
3 aware of what has been put into evidence and I deny
4 the motion.

5 Next, Mr. Allwine have you had the
6 opportunity to once again speak with your attorney
7 about testifying or not testifying?

8 THE DEFENDANT: Yes, sir I have.

9 THE COURT: And you understand your
10 options?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: What is your decision?

13 THE DEFENDANT: I choose not to testify.

14 THE COURT: Are you asking for a no
15 adverse instruction to be given? No adverse
16 inference instruction to be given to the jury?

17 THE DEFENDANT: Yes, please.

18 THE COURT: All right. And you know that
19 I ask you these questions, not your attorney because
20 this is a very personal matter, and those are your
21 choices; you understand that.

22 THE DEFENDANT: Understood.

23 THE COURT: All right. Speaking of jury
24 instructions, I believe we are at, or very close, to
25 the final instructions. I think attorneys have been

1 given those instructions. My law clerk is open to
2 meeting with you to go over errors or questions.
3 And if there are questions that need to be put on
4 the record, we can certainly do that.

5 Having said that, Mr. DeVore, I understand
6 from what you have told me off the record that you
7 do have some witnesses, but they are not available
8 right now. So they would be available after lunch;
9 is that correct?

10 MR. DEVORE: That's correct.

11 THE COURT: Okay. And does it make a
12 difference to you in terms of when we start this
13 afternoon?

14 MR. DEVORE: I told them to be here at
15 12:30.

16 THE COURT: All right. I want to make
17 sure you have the opportunity to talk with them. I
18 want to make sure they have the opportunity to be
19 here if they are late. So we will start at 1:15.
20 Pass that onto the jury as well.

21 Anything else that we need to take up at
22 this point from the prosecution?

23 MR. FINK: No, Your Honor.

24 THE COURT: Anything else the defense?

25 MR. DEVORE: No, Your Honor.

1 THE COURT: Thank you.

2 (The lunch recess was taken, after which
3 the following was heard outside the
4 presence of the jury.)

5 THE COURT: Now, I understand jury
6 instructions have been provided and that there is no
7 disagreement at this point; is that correct?

8 MR. DEVORE: That's correct.

9 MS. KREUSER: That's correct.

10 THE COURT: Okay.

11 (The jury returned to the courtroom.)

12 DEPUTY: All rise for the jury.

13 THE COURT: Everyone please be seated.

14 Members of the Jury: Before we recessed,
15 you heard the statement that the state rests subject
16 to -- or provisionally subject to looking at the
17 exhibits to verify their presence, and location, and
18 that they are all in order. That process has been
19 done.

20 So I have been informed on the record, in
21 your absence, that the state now rests. Is that
22 correct, Mr. Fink?

23 MR. FINK: It is.

24 THE COURT: Okay. With that, we move to
25 the defense. Mr. DeVore.

1 MR. DEVORE: Thank you, Your Honor. We
2 call Gayle Hunter.

3 THE COURT: Please come forward to the
4 witness chair. All the way up there. Before you
5 sit down, raise your right hand to be sworn.

6 GAYLE HUNTER,
7 having been first duly sworn, was examined
8 and testified on her oath as follows:

9 THE CLERK: Please be seated, and state
10 your full name and spell your last name.

11 THE WITNESS: Gayle Hunter, H-U-N-T-E-R.

12 THE COURT: Mr. DeVore, you may proceed.

13 MR. DEVORE: Thank you.

14 DIRECT EXAMINATION

15 BY MR. DEVORE:

16 Q Good afternoon, Ms. Hunter. Did you have
17 occasion to be at Amy Allwine's house on
18 November 13th, 2016?

19 A Yes.

20 Q Okay. And can you tell me what you were
21 there for?

22 A I had two dog training classes that I was
23 teaching.

24 Q So you're a dog trainer?

25 A Yes.

1 Q And on the 13th of November 2016, what
2 time did you arrive at the Allwine property?

3 A At about 8:30 in the morning.

4 Q Is that located at 7624 110th Street South
5 in Cottage Grove?

6 A Yes.

7 Q Now, when you arrived there at 8:30 a.m.
8 is that what you said?

9 A Yes.

10 Q When you arrived there on the 13th of
11 November, where did you park?

12 A There is a parking lot right in front of
13 the door to go in the building.

14 Q Okay.

15 MR. DEVORE: May I approach, Your Honor?

16 THE COURT: You may.

17 BY MR. DEVORE:

18 Q Ms. Hunter, we have --

19 A Yep.

20 Q -- an aerial photo, do you want to walk up
21 here and maybe show the jury where you parked?

22 THE COURT: And you certainly may do that.

23 THE WITNESS: So the student and
24 instructors always parked out there. That's
25 (indicating) --

1 THE COURT: Ma'am, you have to speak so
2 that I can hear you and also the court reporter. We
3 are taking it down, so say what you just said again
4 a little more loudly and clearly.

5 THE WITNESS: Sure. I said, I parked in
6 the lot that was designated for the instructors and
7 students. It's between the agility ring and the
8 school.

9 THE COURT: Thank you.

10 BY MR. DEVORE:

11 Q So this area here (indicating).

12 A Yes.

13 Q And then this is the agility area right
14 here (indicating).

15 A Mm-hmm.

16 Q And is that the arena that --

17 A Yes, that's the building.

18 Q Do you know where the entrance for the
19 arena was that you go into?

20 A Right there (indicating).

21 Q Right in here (indicating)?

22 A Yes.

23 Q Okay. You can have a seat.

24 Now, Ms. Hunter, where you parked that
25 particular day, is that normally where you parked?

1 A Yes.

2 Q Is that normally where most people park
3 when they come there to train their dogs?

4 A Yes.

5 Q And you arrived about 8:30. What was the
6 temperature that day, or the weather like?

7 A It was colder.

8 Q Did you happen to see Stephen Allwine at
9 any time during the time that you were on the
10 property?

11 A At some point during the morning, I think
12 it was between the 8:30 lesson I did, and the
13 11 a.m. lesson I did, I saw him at their wood
14 burner.

15 Q Okay. Do you know what he was doing?

16 A He looked like he was putting wood in the
17 wood burner.

18 Q Okay. Now, your class that you were at,
19 was that indoor or outdoor?

20 A Most of it was indoor. I did have some
21 hides set out on the concrete pad at the back of the
22 building.

23 Q What time did you finish up there that
24 particular day?

25 A About 10 a.m.

1 Q 10 o'clock?

2 A The first class at 10 o'clock. I didn't
3 leave until about 12:30.

4 Q So that whole time that you were on the
5 Allwine property was between about 8:30 a.m. and
6 12:30 p.m.

7 A Yes, sir.

8 Q Now, at any time during that time period,
9 was there anything that you observed that you found
10 to be unusual or out of place?

11 A Not really.

12 Q Do you know who else was on the property
13 in the arena at the time that you were there?

14 A Just the two students that I had.

15 Q Do you know where they parked?

16 A Right next to me.

17 MR. DEVORE: I have no further questions.

18 Thank you, ma'am.

19 THE COURT: Any cross?

20 MS. KREUSER: Nothing from the state, Your
21 Honor.

22 THE COURT: You may step down.

23 Mr. DeVore, call your next witness.

24 MR. DEVORE: Thank you. We call Dean
25 Cranston, Your Honor.

1 THE COURT: Come all the way up to the
2 front sir to the witness chair. All right. Before
3 you sit down, please raise your right hand to be
4 sworn.

5 DEAN CRANSTON,
6 having been first duly sworn, was examined
7 and testified on his oath as follows:

8 THE CLERK: Please be seated and state
9 your full name and spell your last name.

10 THE WITNESS: Full name is Dean Robert
11 Cranston, C-R-A-N-S-T-O-N.

12 THE COURT: You may proceed.

13 MR. DEVORE: Thank you.

14 DIRECT EXAMINATION

15 BY MR. DEVORE:

16 Q Good afternoon, Mr. Cranston. Can you
17 tell us where you live?

18 A 7645 110th Street South.

19 Q Was that in Cottage Grove?

20 A That's in Cottage Grove, yep.

21 Q Now, are you familiar with Stephen and Amy
22 Allwine?

23 A Yes.

24 Q Can you tell me where you live in relation
25 to where they -- where their residence was?

1 A Right across the street.

2 Q Okay. There is an exhibit here that is on
3 the board.

4 MR. DEVORE: Your Honor, may he approach
5 the exhibit to indicate where he lives.

6 THE COURT: You may do that, sir. Make
7 sure you speak clearly when you are there, so we can
8 get it for the court reporter and the jury and that
9 you don't block the juror's view of what you are
10 pointing at, but go right ahead.

11 MR. DEVORE: May I walk up here, too, Your
12 Honor?

13 THE COURT: You may.

14 BY MR. DEVORE:

15 Q Mr. Cranston, do you recognize the aerial
16 photo?

17 A Oh, yeah. Seen it many times, I guess.

18 Q That's Exhibit 121.

19 A Well, this is where I live, right here
20 (indicating).

21 Q Where do you see the Allwine property?

22 A Right here (indicating).

23 Q All right. You can have a seat. So
24 Mr. Cranston, I am going to direct your attention to
25 the November 13th, 2016. Do you have a memory of

1 what you were doing on that particular day?

2 A On that particular day I was out in my
3 yard chopping leaves and mowing the grass, I was.

4 Q Was that a Sunday?

5 A It was a Sunday, yep.

6 Q Now, what do you do for a living?

7 A I am a refinery shift manager out at Flint
8 Hills.

9 Q Okay. So you said you were doing mowing
10 and yard work that day?

11 A Yep.

12 Q Do you know what time you started doing
13 the yard work?

14 A Yeah, probably about 11:00 in the morning.

15 Q Do you know what time you finished up that
16 day?

17 A I am thinking it was about 5:00, 5:30.

18 I've got a 5-acre yard, so when I am chopping
19 leaves, it's a fairly long day.

20 Q Now, you remember having a conversation
21 with a couple of police officers around the 14th of
22 November, 2016; is that right?

23 A Yes.

24 Q And on the 13th, so the Sunday, is there
25 anything that you observed that sticks in your mind

1 that has to do with the Allwines.

2 A Well, I did observe Amy in the garage at
3 some point in the afternoon. Back of her van was
4 open. Looked like she was moving some boxes around.

5 Q Where were you at when you were making
6 these observations?

7 A Well, most likely in the northwest corner
8 of the yard, there in that treed area.

9 Q And you say that Amy Allwine was moving
10 some stuff around in her garage?

11 A Yep.

12 Q Did you see other cars in her garage?

13 A Yeah, I saw a little red car in there at
14 that point.

15 Q Was she alone or was anybody with her?

16 A She was alone.

17 Q Okay. Now, what time of the day was this
18 that you made these observations?

19 A I was thinking it was later in the
20 afternoon, maybe 3 to 5. I wasn't wearing a watch
21 that day. Normally, when I am home and I don't have
22 to be anyplace, I really don't care about the time.
23 So I didn't take notice, particularly, of the time.
24 I am just estimating it I guess.

25 Q Sure. And I don't want you to guess. I

1 just want to make a clarification. Back on
2 November 14th, you do recall believing that it was
3 maybe closer to 5:00 or 5:30; is that fair to say?

4 A Again, I am guessing. As me and my wife
5 talked with the officers, you know, my wife says
6 well, you know, it would have been dark at that
7 time. I remember the sun going behind the trees,
8 which I thought was about 3:00. Usually gets dark a
9 couple hours after that.

10 You know, after talking with the officers,
11 and you know, they were trying to nail down closer
12 to the time, too. I just went with 3 to 5, I guess,
13 and left it at that. That's as close as I could
14 get.

15 Q Sure. I understand. Now, is there
16 anything else on that particular day that you
17 observed that you indicated to the police officers
18 that was noteworthy?

19 A Well, I did at one point, I thought did
20 notice a blue van in the driveway for a while. I
21 guess with her dog training business, it wasn't
22 uncommon for cars to be going in and out of there
23 all day long.

24 Q Sure. Now, my understanding is that you
25 and your wife observed a particular van drive by

1 that you made note of; is that correct?

2 A Well, just the color. That was about it.

3 Q Do you remember what color it was?

4 A If I remember right, I believe it was like
5 a dark blue.

6 Q And do you recall when that was, when that
7 car drove by?

8 A No, not really. I just remember the car.
9 Didn't take note of the time at all.

10 Q Okay. Do you remember what type of car it
11 was?

12 A Just a minivan.

13 Q Was that a -- do you remember if it was
14 the type of minivan that you had ever seen before at
15 the Allwine property?

16 A That I couldn't tell you. So many
17 different vehicles in and out of there. I don't
18 know.

19 Q Okay. Now, when you saw Amy Allwine in
20 the back in her garage, did it appear that she was
21 moving around on her own.

22 A Yes. She was moving around on her own.
23 Like I said, I thought she was moving boxes around.

24 Q Did it appear she had any difficulty
25 moving boxes around?

1 A No.

2 Q Now, you were a ways away, but that's the
3 observations that you made?

4 A Yes.

5 MR. DEVORE: I have no further questions.
6 Thank you very much.

7 THE COURT: Cross?

8 MR. FINK: Just a couple.

9 CROSS EXAMINATION

10 BY MR. FINK:

11 Q Good afternoon, Mr. Cranston. Are you
12 aware that Amy Allwine's father drives a blue van?

13 A Yes, I believe I saw them in a blue van.
14 I know he drives a pickup too, he does.

15 Q Now, you indicated that you are really not
16 sure of the time because you weren't wearing a
17 watch, right?

18 A Right. I am just guessing.

19 Q And it's dark at 5:30 that time of year,
20 isn't it?

21 A I think so. Like I say, I am a shift
22 worker. I work a rotating shift. A lot of times I
23 don't take note of what time it gets dark, because
24 sometimes I'm up for 24 hours a day. Sometimes I am
25 up for 12 hours a day. When you are a shift worker,

1 half the time you don't know what day it is. And
2 the only time you wear a watch is so you know you
3 make it to work on time, pretty much.

4 Q Right. Right.

5 MR. FINK: That's all, Your Honor.

6 THE COURT: Any redirect.

7 MR. DEVORE: Yes.

8 REDIRECT EXAMINATION

9 BY MR. DEVORE:

10 Q Mr. Cranston, sounds like you have a
11 pretty big yard to mow if it takes you that many
12 hours to clear the yard, did you say?

13 A Mm-hmm. Yep.

14 Q When you typically mow, where do you
15 typically end up, you know, at the end of the mowing
16 cycle? What part of your yard?

17 A I usually end up in that northeast corner.
18 I'll start in the center circle where the driveway
19 is.

20 Q Okay.

21 A Work on the east side, depending on which
22 direction I'm mowing, I might cut a border along the
23 west side to the front, then back along the garage
24 and then back to the back. Then finish up the back
25 and then I'll finish up in the treed area.

1 Q The treed area is where?

2 A In the northwest corner of the yard there.

3 Q So usually you finish up in the northwest
4 corner?

5 A Yep.

6 Q And I believe you said before, that's
7 where you were located at when you observed Amy
8 Allwine; is that right?

9 A Yep.

10 MR. DEVORE: I don't have any further
11 questions. Thank you.

12 MR. FINK: Nothing.

13 THE COURT: You may step down.

14 Next witness.

15 MR. DEVORE: Your Honor, we call Denise
16 Reuter.

17 DENISE REUTER,

18 having been first duly sworn, was examined

19 and testified on her oath as follows:

20 THE CLERK: Please be seated. State your
21 full name and spell your last name.

22 THE WITNESS: Denise Reuter, R-E-U-T-E-R.

23 THE COURT: You may proceed.

24 MR. DEVORE: Thank you.

25 DIRECT EXAMINATION

1 BY MR. DEVORE:

2 Q Ms. Reuter, are you familiar with the --
3 where Amy Allwine lived at -- I'm sorry -- 7624
4 110th Street South in Cottage Grove?

5 A I am.

6 Q And now on November 13th, 2016, did you
7 have an occasion to be at that property?

8 A Yes, I did.

9 Q Okay. Can you tell me why you were there?

10 A I was part of one of Amy's Nosework
11 classes, so I was there to train my dog.

12 Q What time were you at the Allwine
13 property?

14 A Our class went from 4:45 to 5:45. I got
15 there a little early, so I probably got there around
16 4:40.

17 Q Okay. Do you recall who else was on the
18 property when you were there?

19 A I am trying to remember who was in my
20 class. I have been in many classes. I believe
21 Gayle was in the class. I believe Jennifer was,
22 Jennifer Waters. Sheila and Mike were in the class.
23 There might have been one other person that I am
24 forgetting. Then Barb -- I can't remember Barb's
25 last name right now -- was teaching that night.

1 Q When you say in the class, was that inside
2 or outside?

3 A We were inside. We were in the arena
4 working.

5 MR. DEVORE: Your Honor, may she approach
6 the board and explain where she parked?

7 THE COURT: Yes. Absolutely. You may go
8 to the board and demonstrate or point to the board.
9 Make sure you speak loudly enough for both the jury
10 and court reporter to hear you, but go ahead.

11 BY MR. DEVORE:

12 Q You recognize the layout of the photograph
13 that's here?

14 A No, I need a minute, please. Okay. Yep.

15 Q Do you recognize where the Allwine
16 property would be located?

17 A This would be their house, and this is the
18 arena we worked in. This is the agility area
19 (indicating).

20 Q Where did you park on that day?

21 A We usually park across from the building
22 over there (indicating).

23 Q Okay. So is that where you typically park
24 when you go there?

25 A I did. Yes.

1 Q Did you ever make an observation that's
2 where people normally parked, or they were parked
3 all over the place?

4 A Well, not all over the place. Just
5 depends on who is there. But sometimes we have to
6 go out, depending on how many vehicles were there.
7 People sometimes would come and go, because one
8 class might overlap another.

9 Q Thank you. You may have a seat.
10 Now, on the 13th of November, 2016 did you
11 have the occasion to walk around the property a
12 little bit?

13 A Just where we had parked. I stayed right
14 near the building.

15 Q Did you make any observations about the
16 cars that were parked in that area?

17 A Not at that time. When I was driving up
18 to the building, I saw another vehicle that was
19 parked by the arena.

20 Q Did that seem significant to you in any
21 way?

22 A I actually thought that it was purposeful,
23 and that we were going to have a vehicle search as
24 our first hide for the dogs because it was light
25 enough at that time. That was the only thing that

1 drew my attention to that vehicle.

2 Q And then during the time that you were in
3 the class, did anything happen that struck your
4 attention?

5 A Yes. There was a vehicle that sped
6 through the parking lot and kicked up gravel, loud
7 enough that those of us that were in the building
8 could hear that. It was very unusual.

9 Q Do you recall what time that was?

10 A It would have been between -- I would say
11 between 5:10 and 5:40.

12 Q Okay. Fair to say you probably look at
13 your watch or check the time when it exactly
14 happened?

15 A I did not.

16 Q But was it one vehicle, more than one
17 vehicle? Could you tell?

18 A One vehicle.

19 Q Could you tell where the sound was coming
20 from?

21 A It was right outside our building where we
22 were working.

23 Q Do you know which side of the building
24 that it came from?

25 A Well, in between where it appeared to me

1 it would have been where we parked and then where
2 the building was, so that driveway there.

3 Q Where you demonstrated where you had
4 parked in that area?

5 A Yes.

6 Q Okay. Did you ever see the vehicle?

7 A I did not see it.

8 Q Did you ever say anything to anybody about
9 that?

10 A I might have either looked at the teacher
11 and gave her a puzzled look or asked her what was
12 that.

13 Q Okay. That would be Barb?

14 A That would be Barb, yep.

15 MR. DEVORE: I have no further questions.

16 Thank you.

17 THE COURT: Any cross?

18 MR. FINK: Just a couple.

19 CROSS EXAMINATION

20 BY MR. DEVORE:

21 Q Good afternoon.

22 A Hi.

23 Q Now, you have been taking dog classes with
24 Amy for about three to four years; is that right?

25 A Yes.

1 Q Had a good relationship with her?

2 A Yes.

3 Q Describe her?

4 A Friendly, warm, passionate, great teacher.

5 Q Now, the class you said was 4:45 to 5:45?

6 A Yes, that night it was.

7 Q When you got out after class, it was
8 really dark, wasn't it?

9 A It was very dark.

10 Q There are no windows, are there, on the
11 west side of the building that you were in?

12 A You know, I am not really good with
13 directions. The only window that I can remember is
14 where we come into the building by the door. I
15 don't believe there are windows on any of the other
16 sides.

17 MR. FINK: Okay. That's all the questions
18 I have, Your Honor.

19 THE COURT: Any redirect?

20 MR. DEVORE: No, Your Honor. Thank you.

21 THE COURT: You may step down.

22 Next witness.

23 MR. DEVORE: Your Honor, we call Jennifer
24 Watters.

25 THE COURT: Come all the way to the front,

1 to the witness chair. Before you sit down, please
2 raise your right hand to be sworn.

3 JENNIFER MARIE WATTERS,
4 having been first duly sworn, was examined
5 and testified on her oath as follows:

6 THE CLERK: Please be seated. State your
7 full name and spell your last name.

8 THE WITNESS: Jennifer Marie Watters,
9 W-A-T-T-E-R-S.

10 THE COURT: You may proceed.

11 MR. DEVORE: Thank you.

12 DIRECT EXAMINATION

13 BY MR. DEVORE:

14 Q Good afternoon, Ms. Watters.

15 A Good afternoon.

16 Q Are you familiar with the property owned
17 by Steve and Amy Allwine at 7624 110th Street South
18 in Cottage Grove?

19 A Yes.

20 Q And on November 13th, 2016 did you have
21 occasion to be at that property?

22 A Yes. I was there for a class.

23 Q What time did you arrive for the class?

24 A Probably about 4:35, 4:40.

25 Q Can you say that one more time, I didn't

1 hear that.

2 A 4:35 or 4:40.

3 Q What were you at the property for?

4 A A nosework class that started at 4:45.

5 Q What time did the class go to?

6 A 5:45.

7 Q Now --

8 MR. DEVORE: Your Honor, may she approach
9 the board?

10 THE COURT: She may. Since we are taking
11 all of this down, you're going to need to speak in a
12 way that we can hear you in back of you. The court
13 reporter needs to take it down. Then don't block
14 the view of the jurors. But absolutely approach the
15 board and then respond to counsel's questions.

16 BY MR. DEVORE:

17 Q Ms. Watters, do you recognize the layout
18 here?

19 A I do.

20 Q Can you demonstrate on this Exhibit 121
21 where you see the dog arena that you went to?

22 A Right here (indicating).

23 Q And can you show the jury where you parked
24 on that November 13th date?

25 A Right here (indicating).

1 Q Is that where you typically park when you
2 go there?

3 A Yes, somewhere along that line. This line
4 here (indicating).

5 Q And is that -- did you notice that other
6 cars were parked there as well?

7 A Yes.

8 Q Thank you. Now, when you were there on
9 the 13th of November, who else was there also on the
10 property that you saw?

11 A Sheila and Mike and their dogs, and Gayle,
12 and Denise, and Barb the teacher.

13 Q Okay. Now, at some point during the time
14 that you were there, did you make an observation or
15 hear anything that was -- that caught your
16 attention?

17 A Some time in the last half of the class, I
18 heard what sounded like tires accelerating or
19 spinning on the gravel really close to the building.

20 Q Okay. Was this one vehicle, more than one
21 vehicle, or could you tell?

22 A It just sounded like one vehicle.

23 Q Did it sound like the vehicle was
24 accelerating or skidding, or what?

25 A Accelerating. Not stopping.

1 Q Did you happen to look out the window and
2 see a vehicle?

3 A No.

4 Q Do you know what direction, or where about
5 the vehicle was when you heard it?

6 A I don't. It was just very close to the
7 building.

8 Q Was that an unusual thing to hear?

9 A Yes.

10 Q Did you happen to say anything, or look at
11 anyone when that happened?

12 A Yes. I was inside with Denise. We just
13 both kind of looked at each other, because it was
14 odd. We didn't typically hear that kind of noise.

15 Q How long have you been going there for
16 training classes?

17 A At that time, about two years.

18 Q Did you get a chance to know Amy Allwine?

19 A Yes.

20 Q Were you friends with her?

21 A She was my teacher. I wouldn't say we
22 were friends.

23 Q Was she out there in the arena on the 13th
24 of November when you were there?

25 A I did not see her, no.

1 MR. DEVORE: I have no further questions.

2 Thank you.

3 THE COURT: Any cross.

4 MS. KREUSER: Thank you. Just briefly.

5 CROSS EXAMINATION

6 BY MS. KREUSER:

7 Q Ms. Watters, do you own a dog?

8 A I do.

9 Q What kind of dog is it?

10 A Jack Russell.

11 Q Okay. And you just attended that one
12 class that day; is that right?

13 A Yes.

14 Q And when you got out of class, is it fair
15 to say that it was very dark that night?

16 A Yes, it was.

17 MS. KREUSER: We have nothing further.

18 Thank you.

19 THE COURT: Any redirect?

20 MR. DEVORE: No, Your Honor.

21 THE COURT: You may step down.

22 Mr. DeVore, next witness.

23 MR. DEVORE: We have no more witnesses,

24 Your Honor. Defense rests.

25 THE COURT: Defense rests. Any rebuttal

1 witnesses from the state?

2 MR. FINK: No, Your Honor.

3 THE COURT: Both the prosecution and the
4 defense have rested. So that means we have heard
5 all of the evidence in this case, members of the
6 jury, but work still needs to be done.

7 The parts that remain include the final
8 arguments by the attorneys and my final instructions
9 to you regarding the law and the process for your
10 deliberation.

11 I need to tell you about what we call
12 sequestration. The deputies will be sworn to follow
13 the correct procedures during those deliberations
14 that you are going to have. And from the point that
15 they are sworn, you will be sequestered together
16 until the verdict is reached. This may involve
17 planning for you staying in hotel rooms. If there
18 is an emergency, we can get a message through to
19 you, but otherwise there will be no messages in or
20 out.

21 You are not to bring any electronic
22 equipment with you to the jury deliberations. You
23 are not to have any electronic equipment or any
24 ability to review material relating to this case
25 while you are either in a hotel or in deliberations.

1 So be prepared to stay as long as it takes to reach
2 a verdict.

3 This isn't fun at all. I understand what
4 I have just said. We are going to have closing
5 arguments tomorrow morning. As always, do not let
6 outsiders influence you. This includes family
7 members and friends, and anyone else who is not
8 actually involved in the trial.

9 Do not discuss the cases with other jury
10 members, even now. Not until you get to
11 deliberations. You will have plenty of time to do
12 this when I have sent you with the proper
13 instructions.

14 Do not talk to anyone involved in this
15 case; the defendant, the lawyers, or the witnesses.

16 I repeat my instruction that if anyone
17 tries to discuss this case with you outside of the
18 courtroom, report it to me. You will be going home
19 tonight. So do not talk to your family, friends, or
20 others about the case. As always, you may tell them
21 that you are a juror in a criminal case. That is
22 all.

23 Do not report your experiences. Do not
24 use any electronic means to communicate about the
25 case. Do not read or listen to any news reports of

1 any kind, no matter how they come in. Do not do
2 your own investigation. Do not create your own
3 demonstrations. You cannot consider anything that
4 you hear or learn about this case outside the
5 courtroom.

6 For a variety of reasons, that's all we
7 are doing today. The closing arguments are tomorrow
8 morning. Please be here at 8:30 so we can have the
9 closing arguments starting at 9:00.

10 Thank you very much. You may go.

11 (The jury exited the courtroom, and the
12 following took place outside the presence
13 of the jury.)

14 THE COURT: Please be seated. Anything
15 else to take up before we break for the day and get
16 ready for closing arguments tomorrow? From the
17 prosecution?

18 MR. FINK: No, Your Honor.

19 THE COURT: From the defense?

20 MR. DEVORE: No, Your Honor.

21 THE COURT: Thank you.

22 (Court was in recess for the day.)

23 (Proceedings concluded.)

24

25

1 STATE OF MINNESOTA)
) ss:
2 COUNTY OF WASHINGTON)

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REPORTER'S CERTIFICATE

I, DEBORAH L. FOSTER, do hereby certify that the above and foregoing transcript, consisting of the preceding pages, is a correct transcript of my stenographic notes and is a full, true, and complete transcript of the proceedings to the best of my ability.

Dated: August 6, 2018

DEBORAH L. FOSTER
Official Reporter
Washington County District Court
(651) 430-6354

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