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JUN 29 2010

JEANNE HICKS, Clerk
BY B. Chamberlain
Deputy

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

THE STATE OF ARIZONA,	)	
Plaintiff,	)	
vs.	)	No. CR 2008-1339
STEVEN CARROLL DEMOCKER,	)	
Defendant.	)	

BEFORE: THE HONORABLE THOMAS B. LINDBERG
JUDGE OF THE SUPERIOR COURT
DIVISION SIX
YAVAPAI COUNTY, ARIZONA

PRESCOTT, ARIZONA
FRIDAY, JUNE 4, 2010
9:11 A.M. - 4:46 P.M.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

ROXANNE E. TARN, CR
Certified Court Reporter
Certificate No. 50808

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1 **APPEARANCES**

2

3 On Behalf of the State:

4 Mr. Joseph Butner and Mr. Jeffrey Paupore
Yavapai County Attorney's Office

5

6 On Behalf of the Defendant:

7 Mr. John Sears
8 P.O. Box 4080
Prescott, AZ 86302

9 Mr. Larry Hammond and Ms. Anne Chapman
10 Osborn Maledon, P.A.
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11 Phoenix, AZ 85012

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1 (Whereupon, the jury enters the courtroom.)
2 THE COURT: Record reflects the presence of
3 the jury, the defendant, his counsel and the prosecutor team,
4 as well.
5 Reminder to anyone in the courtroom to
6 turn off cell phones and any devices that may make noise.
7 Mr. Butner, call the first witness.
8 MR. BUTNER: Thank you, Judge.
9 I would like to call Charlotte DeMocker
10 to the stand.
11 THE CLERK: You do solemnly swear or affirm
12 under the penalty of perjury that the testimony you are about
13 to give will be the truth, the whole truth, and nothing but
14 the truth, so help you God?
15 THE WITNESS: I do.
16 THE COURT: Mr. Butner.
17 MR. BUTNER: Thank you.
18 CHARLOTTE DEMOCKER,
19 called as a witness, having been duly sworn, testified as
20 follows:
21 DIRECT EXAMINATION
22 BY MR. BUTNER:
23 Q. Good morning.
24 A. Good morning.
25 Q. How are you today?

1 A. Doing okay.
2 Q. All right. Good. Please tell us your name?
3 A. Charlotte DeMocker.
4 Q. And how old are you, Charlotte?
5 A. 18 years old.
6 Q. Where do you presently reside?
7 A. In Prescott.
8 Q. And with whom do you presently lived?
9 A. With Renee Girard.
10 Q. How long have you been living with Renee Girard,
11 approximately?
12 A. Approximately a year to a year-and-a-half.
13 Q. Are you living at her residence with her?
14 A. Yes.
15 Q. And your father is whom?
16 A. Steven DeMocker.
17 Q. And your mother was whom?
18 A. Carol Kennedy.
19 Q. Any time you need to take a break, let us know.
20 Okay?
21 A. Thank you.
22 Q. Relax, take a break, you can drink some water.
23 A. Okay.
24 Q. I would like to take you back to the date of July
25 the 2nd of 2008. I am sure you remember that day.

A. I do.

Q. Let's start earlier in the day. Where were you living on July the 2nd of 2008?

A. I was living with my dad.

Q. And at what address is that?

A. 1716 Alpine Meadows.

Q. Is that the address that your -- of the condominium that your father had in the Hassayampa Country Club?

A. Yes.

Q. And how long have you been living with your father at the condominium?

A. Only a few months, since I turned 16.

Q. And what was it that caused you to move into the condominium there with your father?

A. I was angry at my mom because of the divorce.

Q. Was there anything in particular that you were angry with her about?

A. She was unwilling to accept the terms of the divorce that my dad proposed, and she seemed to change her mind every time he offered her what she wanted.

Q. And how was it that you were aware of this controversy about her unwillingness to accept the terms of the divorce?

A. My dad told me.

1 Q. So he told you about the offers he had made to
2 her, her refusal of them?
3 A. Not specific, not specifically the offers, just
4 that she refused to accept the terms of each agreement.
5 Q. And there were multiple offers, so to speak,
6 multiple agreements?
7 A. Yes.
8 Q. Did you want that divorce to be over?
9 A. Yes.
10 Q. So you moved in with your father when you were 16,
11 and so that was in what month?
12 A. About October of 2007.
13 Q. And you were going to school at that point in
14 time; right?
15 A. Yes.
16 Q. What school were you attending?
17 A. Prescott High School.
18 Q. In fact, you just graduated; right?
19 A. I did.
20 Q. Congratulations.
21 A. Thank you.
22 Q. We all saw you wearing your gown around.
23 Let's talk about July the 2nd. Let's go
24 specifically to about lunch time. Do you recall where you
25 had lunch that day?

A. At home.

Q. Was anybody home with you?

A. I don't remember. It was me and Jake, my boyfriend at the time. I don't recall if my dad came home for lunch that day.

Q. So Jake was there with you?

A. Yes.

Q. Was Jake residing at the condominium also?

A. He had just been kicked out of his house, so it is possible. I don't recall exactly.

Q. And so you and Jake had lunch together at the condominium?

A. Yes.

Q. What did you do after lunch?

A. Played video games.

Q. Do you remember what kind of video games you were playing?

A. Racing games.

MR. SEARS: Excuse me, Your Honor.

Could we have Charlotte pull the microphone up a little closer for some of us older people.

THE WITNESS: Is this better?

MR. SEARS: Much better.

BY MR. BUTNER:

Q. You are playing racing video games at the

1 condominium.
2 A. Yes.
3 Q. This is after lunch. Then what did you do?
4 A. We went to the pool around 5:30. I don't recall
5 the exact time, but it was later in the day.
6 Q. Well, had you seen your father any time before you
7 went to the pool at 5:30?
8 A. Yes.
9 Q. Describe for us the circumstances of seeing your
10 father, please.
11 A. We were playing video games, and he came home from
12 work, dropped off his briefcase.
13 Q. Had you seen him earlier in the day before he came
14 home from work?
15 A. I don't recall.
16 Q. Do you recall anything about cookies and your
17 father that day?
18 A. I don't. I'm sorry.
19 Q. So you recall he came home from work about 5:30?
20 A. Or earlier.
21 Q. And you said dropped off his briefcase?
22 A. I assume, yes.
23 Q. And then what did he do?
24 A. Changed into workout clothes.
25 Q. What kind of workout clothes did he change into?

A. I don't remember. I didn't look at him when he left.

Q. So you don't know how he was dressed?

A. No.

Q. Like shirt or long pants or short pants or anything?

A. Typically for a workout, especially during the summer, he would wear workout shorts and a light shirt.

Q. Did he say where he was going to work out?

A. No.

Q. Where did you think he was going to work out?

A. Hassayampa.

Q. Hassayampa what?

A. Workout center.

Q. Is that also called the fitness center?

A. Yes.

Q. And where is that located relative to where the condominium was?

A. Essentially just up the street.

Q. Do you drive out to that main road?

A. Yes.

Q. Take a left, go up the street a little ways, and it is on the right?

A. Yes.

Q. Okay. And did he indicate to you what kind of

1 workout he was going to do?
2 A. I don't recall exactly, but I remember him saying
3 he was going for a bike ride.
4 Q. And approximately what time was this when he left?
5 A. Around five o'clock.
6 Q. And when was the -- when was the next time you
7 heard from your father on July the 2nd?
8 A. Around 10:00 p.m.
9 Q. Let's talk about what took place between five
10 o'clock when you left and 10:00 p.m. when you heard from him.
11 He left around five o'clock to go on a bike ride, you
12 thought; right?
13 A. Yes.
14 Q. And what did you and Jake do?
15 A. Played video games, went to the pool.
16 Q. You indicated that you went to the pool about what
17 time?
18 A. 5:30. Around 5:30.
19 Q. Approximately 5:30. You weren't checking your
20 watch to see what time you went; right?
21 A. Right.
22 Q. Did you even wear a watch back then?
23 A. No.
24 Q. So you go to the pool with Jake about 5:30. Now
25 where is the pool located?

A. Right next to the fitness center.

Q. Okay. And the fitness center -- if you go into the parking lot, the fitness center is on your left; correct?

A. Correct.

Q. It is a kind of -- I haven't been there very often -- but as I recall, it is kind of a brownish building with double doors that go in the entrance; isn't that right?

A. Yes.

Q. Did you guys sign in when you went there?

A. At the pool portion, not through the workout center.

Q. And the pool is off to the right from the main entrance to the fitness center; is that correct?

A. Correct.

Q. And the parking lot kind of stretches along in front of the fitness center?

A. Correct.

Q. And goes back to the back there?

A. Right.

Q. And so, when you are in the pool you can look out and see the parking lot. A lovely view; right?

A. Portions of it, yes.

Q. You can't see the front portion.

A. No.

Q. But you can see the back portion.

1 A. Yes.
2 Q. So you and Jacob went to the pool, which is kind
3 of on the side there to the right of the main building of the
4 fitness center as you're facing the front doors; right?
5 A. Right.
6 Q. And how long did you stay at the pool,
7 approximately?
8 A. Approximately half an hour.
9 Q. And did you see your father while you were there?
10 A. No.
11 Q. Did you see his car?
12 A. I didn't look for it.
13 Q. I understand you might not have looked, but you
14 were in the pool; right?
15 A. Right.
16 Q. And the parking lot is right out there in front of
17 you; right? Is that correct?
18 A. Portions of it.
19 Q. Was there any portion of it that you couldn't see
20 when you were in the pool?
21 A. That I couldn't see?
22 Q. Right.
23 A. The very front portion. Where we were in the
24 pool, we couldn't look and see directly to the front portion.
25 Q. You came right by that?

A. Yes.

Q. You didn't see the car there?

A. No.

Q. You didn't see his car in the back portion either; right?

A. No.

Q. Were you concerned about him at that point in time?

A. No.

Q. What did you think? Where did you think he was?

A. I didn't notice.

Q. You weren't really worried, though?

A. No.

Q. All right. So you were there at the pool for about half an hour, that puts it at about six o'clock, I guess. Is that right?

A. I think so.

Q. Okay. Now, I don't want to lead you through this. I want to ask you questions. You tell me, okay?

A. Yes.

Q. So it is approximately six o'clock. What did you do then?

A. Went home.

Q. And back to the condominium at Alpine Meadows?

A. Yes.

1 Q. And when you guys went to the fitness center, did
2 you drive or walk, or how did you get there?
3 A. Drove.
4 Q. Okay. So you drove back to Alpine Meadows. I
5 mean, that is just a matter of how long a drive?
6 A. Two minutes.
7 Q. Okay. And got back to the condominium. When you
8 got back to the condominium, then what did you do?
9 A. Probably showered.
10 Q. And then what?
11 A. Probably played more video games. It was summer.
12 Q. Right. And you were just kind of hanging out,
13 taking it easy?
14 A. Exactly.
15 Q. So you played video games. What time did you
16 normally eat dinner?
17 A. Late. Around 7:30 to 8:30, sometimes 9:00.
18 Q. Okay. So did you play video games until
19 dinnertime?
20 A. Yes.
21 Q. And was your dad home at that point?
22 A. No.
23 Q. No?
24 A. No.
25 Q. So were you getting concerned at that point?

A. Yes.

Q. And hungry too, probably?

A. Yes.

Q. So what did you do?

A. I think I tried to call him. I don't remember exactly what time that would have been.

Q. And when he -- does he ride his bike very often?

A. I don't really usually ask him what he is doing when he works out, but not to my knowledge, not a lot.

Q. What kind of workout does he usually do, to your knowledge?

A. A run or an upper body workout.

Q. And where does he normally do his run at?

A. Hassayampa.

Q. Hassayampa trail?

A. I assume.

Q. I mean, there is not a formal trail called the Hassayampa trail; right?

A. I don't know.

Q. When you say does his run at the Hassayampa, do you know where he does it?

A. No.

Q. Is it around the golf course somewhere?

A. I don't know.

Q. You just don't have any idea.

A. Wherever he wants.

Q. He just normally runs around that area someplace?

A. Yes.

Q. Then where does he do his upper body workout?

A. At the Hassayampa fitness center.

Q. So he told you he was going to the fitness center when he left; right?

A. No.

Q. He didn't tell you that?

A. He didn't tell me where he was going.

Q. He just said he was going on a bike ride when he left?

A. Yes.

Q. You assumed he was going to the fitness center?

A. Yes.

Q. Is there an order in which he does his workouts? Does he like run, or ride his bike first, and then go workout his upper body, or does he do his upper body first and then run or ride, or do you know?

A. I don't know.

Q. So 7:30 or so arrives. Your father is not home. You are concerned and hungry; right?

A. (Witness nods head up and down.)

Q. Is that correct?

A. Yes.

1 Q. You think you tried to call him?
2 A. Yes.
3 Q. Tried to call his cell phone; right?
4 A. Yes.
5 Q. Does he normally have his cell phone with him?
6 A. Not necessarily during workouts.
7 Q. What does he do with his cell phone normally when
8 he is in a workout?
9 A. If he is doing something like riding a bike, he
10 may leave it in his car.
11 Q. What about when he is running?
12 A. He may leave it in his car. I don't know.
13 Q. Is he normally not reachable when he is working
14 out?
15 A. I don't normally call him when he is working out,
16 because I assume he doesn't have his phone.
17 Q. Have you ever tried to call him when he was
18 working out before?
19 A. I called him before during upper body to ask
20 questions.
21 Q. But not while he is doing running or biking?
22 A. No, not that I can remember.
23 Q. On how many previous occasions can you remember
24 him going for a bike ride as a workout?
25 A. I don't know.

1 Q. Can you remember any besides July the 2nd?
2 A. I know he liked to do a variety of workouts.
3 Q. Right. But do you remember any bike rides before
4 July the 2nd?
5 A. I don't recall.
6 Q. So you don't recall any before July the 2nd; is
7 that correct?
8 A. I don't remember.
9 Q. Where did he usually keep his bike?
10 A. In our garage.
11 Q. So, and that is where you normally keep your car;
12 right?
13 A. Right.
14 Q. Did you happen to notice if his bike was in the
15 garage when you guys left?
16 A. No.
17 Q. You don't know if it was there or not?
18 A. I don't know.
19 Q. So, you tried to call him, but he normally doesn't
20 have his phone with him when he is working out anyway, unless
21 he is doing an upper body workout; right?
22 A. Right.
23 Q. So after trying to call him then, what did you do?
24 A. I don't remember.
25 Q. Did you guys stay at the condominium?

1 A. Yes.
2 Q. And at some point in time did you leave the
3 condominium on July the 2nd?
4 A. Can you repeat the question.
5 Q. At some point in time did you leave the
6 condominium on July the 2nd that evening?
7 A. At some point in time to get groceries, yes.
8 Q. Okay. Where did you go?
9 A. To Safeway.
10 Q. Where is the Safeway store located that you went
11 to?
12 A. Off of Iron Springs.
13 Q. So, basically, you went down Gail Gardner?
14 A. Yes.
15 Q. Until you hit Iron Springs?
16 A. Yes.
17 Q. Which way do you go on Iron Springs to get to the
18 Safeway?
19 A. Off of Gail Gardner you turn right to get into
20 Safeway.
21 Q. Approximately what time did you go to the Safeway?
22 A. Approximately 9:45 or 10:00.
23 Q. Okay. Had you heard from your father up to that
24 point in time?
25 A. No.

1 Q. So were you concerned about him?
2 A. Yes.
3 Q. Worried?
4 A. A little bit.
5 Q. Had you tried to call him again?
6 A. I don't remember.
7 Q. And you normally eat dinner at 7:30 to 8:30;
8 right?
9 A. Right.
10 Q. So you guys went to get -- you guys, I am assuming
11 Jacob went with you; did he?
12 A. Yes.
13 Q. And who drove?
14 A. I did.
15 Q. Your car?
16 A. Yes.
17 Q. What kind of car did you have?
18 A. A white BMW.
19 Q. And you went through the intersection where the
20 Shell station is located there at Gail Gardner and Iron
21 Springs; right?
22 A. Yes.
23 Q. Anything -- did you notice anything of
24 significance when you went through that intersection?
25 A. No.

1 Q. You didn't happen to see anything out of the
2 ordinary, so to speak, when you went through the
3 intersection?
4 A. I didn't notice anything.
5 Q. Okay. Do you recall going through the
6 intersection and thinking you saw somebody you might have
7 recognized or their vehicle?
8 A. I don't recall.
9 Q. Do you remember Jacob saying anything to you about
10 seeing anybody?
11 A. It is possible. I don't remember.
12 Q. You just don't recall?
13 A. Right.
14 Q. Okay. So you went through that intersection, you
15 turned right; is that correct?
16 A. Correct.
17 Q. If you were to go to that intersection and go to
18 your mother's house out on Bridle Path, which way would you
19 turn?
20 A. Well, you could go straight or go left.
21 Q. What was the normal route that you would take?
22 A. Depending on where I was in town, I normally took
23 21 curves, if you know where that is.
24 Q. You like to drive the curves?
25 A. Yes.

1 Q. If you hadn't driven the curves, when you came to
2 that intersection, would you turn left and head out Iron
3 Springs until you got to Williamson Valley?
4 A. Yes.
5 Q. And then you would turn right on Williamson
6 Valley?
7 A. Yes.
8 Q. So, if someone were coming back from Williamson
9 Valley, they would come in on Williamson Valley and turn left
10 on Iron Springs; correct?
11 A. Yes.
12 Q. And then they would come down and turn right at
13 the intersection of Gail Gardner?
14 A. Yes.
15 Q. Is that correct?
16 A. Yes.
17 Q. If they were returning from your mother's house or
18 that area, that neighborhood out there, and you happened to
19 be going through the intersection and turning right to go to
20 the Safeway, they would go right by you; correct?
21 A. Correct.
22 Q. So you went to the Safeway with Jacob, and what
23 did you buy?
24 A. I don't remember.
25 Q. Do you remember what was for dinner that night?

1 A. If I remember correctly it was a stir fry with
2 rice and vegetables.
3 Q. And who fixed dinner?
4 A. I did.
5 Q. Okay. So you went to the Safeway and got stir
6 fry, rice and vegetables, that kind of thing?
7 A. Yes.
8 Q. That is a pretty healthy dinner. And did you hear
9 from anybody while you were at the Safeway?
10 A. I believe I heard from my dad.
11 Q. On your cell phone?
12 A. I think so.
13 Q. Approximately what time did your dad call you on
14 your cell phone at the Safeway?
15 A. Around 10:10.
16 Q. And where did he say he was at?
17 A. At home -- I don't remember, actually. I don't
18 remember the phone call.
19 Q. You remember getting the phone call?
20 A. Right.
21 Q. Did he indicate where he had been working out in
22 that phone call?
23 A. I don't know.
24 Q. Did he tell you where he was working out when he
25 called you?

1 A. I don't remember.
2 Q. Did he tell you where he was calling from when he
3 called you?
4 A. I don't remember.
5 Q. Do you remember saying to Jacob where he was
6 calling from?
7 A. I don't know.
8 Q. Where did you think he was calling from?
9 A. I thought he was calling from home, maybe.
10 Q. What made you think he was calling from home?
11 A. Well, if his phone had been off, maybe he turned
12 it back on.
13 Q. He didn't indicate to you he was calling from the
14 fitness center?
15 A. I don't remember.
16 Q. You remember given an interview to the detectives;
17 right? Actually a couple of them; right?
18 A. Yes.
19 Q. And you remember telling them that your father
20 called about 10:10 or 10:15?
21 MR. SEARS: Might we have a date, page and
22 line number, Your Honor?
23 MR. BUTNER: I am not at that point yet,
24 Mr. Sears, but I will give it to you.
25 Q. You remember that; right?

1 A. Remember what? Sorry.
2 Q. Telling the detectives that your father called you
3 about 10:10 or 10:15.
4 A. Yes.
5 Q. Do you remember the interview with Lieutenant
6 David Rhodes on July the 3rd of 2008?
7 A. I do.
8 MR. SEARS: May we have a moment, Your Honor?
9 THE COURT: You can go ahead, Mr. Butner.
10 MR. BUTNER: Page 16, Line 15.
11 MR. SEARS: Just a moment, Your Honor.
12 Page 16?
13 MR. BUTNER: Yes, sir. Line 15.
14 MR. SEARS: Thank you.
15 THE COURT: Ready?
16 MR. SEARS: Sorry, this can't be.
17 (Whereupon, a discussion was held off the record.)
18 MR. BUTNER: May I proceed, Judge?
19 THE COURT: You may.
20 BY MR. BUTNER:
21 Q. Do you remember the question from Lieutenant
22 Rhodes, "um, okay, so, you don't really know when your dad
23 heard from your grandma?" And then at Line 17, answer --
24 your answer, "probably when he got back in his car and called
25 me from the workout center and then drove back home."

1 Do you remember that now?
2 A. I assumed he was at the workout center that night,
3 so I didn't know.
4 Q. What was it that made you assume he was at the
5 workout center?
6 A. Because that was where he always worked out.
7 Q. Okay. So this night was really unusual; right?
8 A. I don't know.
9 Q. Well, your father is calling you at 10:10 or
10 10:15; right?
11 A. Right.
12 Q. And he's missed dinner from 7:30 to 8:30 or so;
13 right?
14 A. Yes.
15 Q. And you didn't see his car at the workout center
16 when you went there swimming with Jacob; right?
17 A. Right.
18 Q. And you are hearing from him at 10:10 or 10:15,
19 and now he is back at the workout center you think; right?
20 A. I assumed.
21 Q. Okay. So what did he say when he called you?
22 A. I don't remember.
23 Q. You don't remember anything he said?
24 A. It has been about two years, so --
25 Q. Well, you were worried; right?

1 A. I was.
2 Q. Did you ask him what happened to him?
3 A. I don't remember.
4 Q. Do you remember him saying anything to you about
5 what happened to him?
6 A. I don't remember the phone call.
7 Q. Do you remember him saying to you that he got a
8 flat tire?
9 MR. SEARS: Leading.
10 THE COURT: Sustained.
11 BY MR. BUTNER:
12 Q. Do you remember anything that he said to you about
13 his bike ride?
14 A. Not on the phone call. I don't remember.
15 Q. Nothing?
16 A. I don't remember.
17 Q. Did he give you any explanation whatsoever as to
18 why he was so late?
19 A. I don't remember the phone call. It may have been
20 later.
21 Q. So you and Jacob were at the Safeway, you get the
22 phone call from your father about 10:15?
23 A. Right.
24 Q. You can't remember the conversation; is that
25 correct?

A. Correct.

Q. Do you remember how long your conversation was?

A. A minute or two, maybe.

Q. And so did you say anything to Jacob about what your father said?

A. I don't remember.

Q. All right. And then after this telephone call from your father, what did you guys do?

A. Went home and fixed dinner.

Q. Okay. And when you got home, was your father home?

A. Yes.

Q. When you pulled into the garage, was his car in the garage?

A. Yes.

Q. And what was the condition of the lights on his car when you pulled into the garage?

A. I don't remember.

Q. You don't remember if they were on or off?

A. No.

Q. Did you see his bicycle in the garage?

A. I didn't look for it.

Q. So you guys pulled into the garage. Did you close the garage door?

A. Yes.

1 Q. And then what did you do?
2 A. Went upstairs.
3 Q. And I guess we should back up just a little bit.
4 When you went to the Safeway, you, of course, exited the
5 Hassayampa area; right?
6 A. Right.
7 Q. And there is a gate that you have to go through;
8 is that right?
9 A. Correct.
10 Q. Do you have to do anything to actuate the gate
11 when you are leaving the Hassayampa area?
12 A. No. You drive up to it.
13 Q. But when you re-enter -- when I am talking about
14 re-enter, I am talking about the Alpine Meadows area; right?
15 A. Right.
16 Q. Do you have to do anything to actuate the gate to
17 re-enter?
18 A. You have to enter a code.
19 Q. How do you enter the code?
20 A. You can either enter it on a key pad or use a
21 clicker.
22 Q. Did you have a clicker in your car?
23 A. Yes.
24 Q. So you used a clicker to actuate the gate before
25 you went back in?

A. I assume so.

Q. You don't have to tell us the code, but do you give the code out to your friends so they can come and visit you sometime?

A. Yes.

Q. And did your father have a clicker in his vehicle?

A. Yes.

Q. So you went back to the house. You pulled into the garage. You went -- the condominium, you have to go upstairs; right?

A. Right.

Q. Would you describe for us how you get into the condominium from the garage area, please?

A. You walk through the garage door and to the left there is a set of stairs.

Q. And?

A. If you walk up the stairs, that is where the rest of the house is.

Q. You go up the stairs to get to the rest of the house?

A. Correct.

Q. And that is what you and Jacob did?

A. Yes.

Q. And when you got upstairs, where was your father?

A. In the shower.

1 Q. And did you talk to him at all when you came in,
2 or did you wait until he got out of the shower?
3 A. He was in the shower, so I waited.
4 Q. And did you see the clothes he had been wearing
5 anywhere?
6 A. No.
7 Q. Do you know what happened to them?
8 A. I don't know.
9 Q. Okay. Was the washing machine running when you
10 entered the house?
11 A. I don't remember.
12 Q. So what did you do then?
13 A. We fixed dinner.
14 Q. You started fixing dinner?
15 A. Yes.
16 Q. Did Jacob help?
17 A. Yes.
18 Q. What part of fixing dinner did Jacob do?
19 A. I don't remember.
20 Q. Not very much?
21 A. Not very much.
22 Q. So you were the person that was primarily fixing
23 dinner?
24 A. Yes. It wasn't that hard. I didn't ask for much
25 help.

1 Q. Stir fry; right?
2 A. Yes.
3 Q. So you are fixing stir fry, and at some point did
4 you see your father?
5 A. Yes.
6 Q. Would you describe the circumstances under which
7 you first saw your father after you returned to the
8 condominium?
9 A. He came back out after his shower for dinner, to
10 eat dinner.
11 Q. Was he dressed the first time you saw him?
12 A. Yes.
13 Q. Didn't come out in a towel or anything like that?
14 A. No.
15 Q. And did you notice anything unusual about your
16 father's physical person when he came back out after his
17 shower?
18 A. He had scratches on his arms.
19 Q. Anyplace else on him?
20 A. His legs, I believe.
21 Q. And did you ask him about those scratches?
22 A. I did.
23 Q. What did he tell you?
24 A. He explained they were from branches from riding
25 his bike.

1 Q. Just said he got scratched from branches riding
2 along?
3 A. Yes.
4 Q. Did he tell you anything more about his bike ride?
5 A. I -- yes.
6 Q. What did he tell you?
7 A. He may have told me then, or I may have already
8 heard on the phone call that his tire had gone flat, and that
9 is why the ride had taken such a long time.
10 Q. Did he tell you where he had been riding?
11 A. I don't remember.
12 Q. You don't remember him saying where he had been
13 riding?
14 A. No.
15 Q. The detectives asked you where he had been riding;
16 right?
17 A. Yes.
18 Q. What did you tell them?
19 A. I think I told them that he was riding in
20 Hassayampa.
21 Q. Because that is where you thought he was; right?
22 A. Yes.
23 Q. Do you recall your father ever telling you where
24 he was riding?
25 A. Yes. I don't recall when exactly.

1 Q. How about on July the 2nd of 2008, do you recall
2 him ever telling you where he had been riding that day?
3 A. Not on that day.
4 Q. Because you thought, basically, he was just doing
5 what he usually does in terms of his workout?
6 A. I assumed, yes.
7 Q. Assumed he was doing his usual type of workout
8 right there around the Hassayampa?
9 A. Yes.
10 Q. So what time did you guys actually sit down to
11 dinner?
12 A. Approximately 10:35, 10:30. I don't recall
13 exactly.
14 Q. After 10:30 sometime, 10:30 or thereafter?
15 A. Yes.
16 Q. And was that unusual?
17 A. It was a little bit late, yes.
18 Q. Like about two hours?
19 A. Yes.
20 Q. You were really hungry?
21 A. Yes.
22 Q. Was your father really hungry?
23 A. I don't know.
24 Q. Did he eat?
25 A. Yes.

1 Q. Do you recall how much?
2 A. No.
3 Q. When you were at the dinner table -- you normally
4 had sit-down dinner in the evening; right?
5 A. Sometimes, yes.
6 Q. When your father was there and you were there.
7 And had Jacob ever gone to dinner with you at your house?
8 A. Yes.
9 Q. Frequently had he been there for dinner?
10 A. Yes.
11 Q. And were there any rules at dinner, basically, in
12 terms of cell phone usage?
13 A. No.
14 Q. You could talk on the phone at dinner?
15 A. I mean, we didn't, but you could if you needed to.
16 Q. So this particular evening, 10:30 to eleven
17 o'clock when you are eating dinner, you weren't talking on
18 your cell phone; were you?
19 A. I don't recall, but I don't think so.
20 Q. Was your father on his cell phone?
21 A. I don't remember.
22 Q. Did your father say anything about any
23 difficulties with his cell phone?
24 A. Yes. I believe he said his phone battery had
25 died.

1 Q. Was there a reason for him telling you about his
2 phone battery dying?
3 A. I had called him.
4 Q. Right. What time had you called him?
5 A. Anytime between 5:00 and ten o'clock.
6 Q. But he normally had his phone off when he was
7 working out anyway; right?
8 A. Not necessarily off, but he wouldn't always
9 answer.
10 Q. So wasn't any big deal, so to speak, when you
11 weren't able to reach him. That didn't surprise you; did it?
12 A. Well, no.
13 Q. That was normal for you not to be able to reach
14 him when he was working out; correct?
15 A. When he was riding his bike or running, I wouldn't
16 normally call him.
17 Q. So did you think it was unusual for him to say to
18 you by way of explanation that his phone battery had died?
19 A. No, because I had called. I am sure I asked when
20 I couldn't get ahold of him. I assume I left a message, so I
21 probably asked.
22 Q. A voice mail?
23 A. Yes.
24 Q. Your father, did he normally have spare batteries
25 with him?

1 A. Sometimes in his car.
2 Q. Did he carry them in his car and also in his
3 briefcase?
4 A. It is possible. I don't know.
5 Q. Normally he was reachable by way of his cell
6 phone; right?
7 A. Yes.
8 Q. Unless he was working out?
9 A. Yes.
10 Q. Can you think of any other times when you couldn't
11 reach him that he wasn't working out?
12 A. While he was in mediation with my mom during the
13 divorce.
14 Q. Any other times?
15 A. No.
16 Q. So, did your father leave dinner at any point in
17 time before you and Jacob were done?
18 A. I don't remember.
19 Q. You don't recall your father getting up and
20 leaving for any reason?
21 A. I don't remember.
22 Q. Do you recall your father saying anything to you
23 about your mother?
24 A. I think at dinner he asked if I had heard from
25 her.

1 Q. What did you tell him?
2 A. I told him that I had received a few text messages
3 from her around 7:30.
4 Q. What were you and your mother texting about?
5 A. I had just gotten a new job. She asked about how
6 my training was, and she asked about the rain that we had
7 gotten one day previous. She asked about the rain and if I
8 liked the rain storm.
9 Q. What did you tell her?
10 A. I told her I loved it.
11 Q. You love the rain?
12 A. I do.
13 Q. That was the day before; is that correct?
14 A. That was the day before July 2nd that it rained,
15 yes.
16 Q. Where were you when it rained?
17 A. I don't remember.
18 Q. You just remember one of those summer monsoon
19 rains?
20 A. Yes.
21 MR. BUTNER: May I approach, Judge?
22 THE COURT: You may.
23 BY MR. BUTNER:
24 Q. Let me show you what has been marked as Exhibit
25 2292.

1 A. Yes.
2 Q. Do you recognize that?
3 A. I do.
4 Q. What is it?
5 A. It is a text message from me to my mom.
6 Q. And what does it say?
7 A. It says "I love those rains" with a smilely face.
8 Q. You put the little smilely face on the end?
9 A. I did.
10 Q. You sent this to your mom on July the 2nd; right?
11 A. Correct.
12 Q. About what time did you send it to her?
13 A. 7:28 p.m.
14 MR. BUTNER: I'd move for the admission of
15 Exhibit 2292.
16 MR. SEARS: No objection, Your Honor.
17 THE COURT: Exhibit 2292 is admitted.
18 MR. BUTNER: May I publish, Your Honor?
19 THE COURT: You may.
20 MR. BUTNER: Thank you.
21 Q. Do you remember what the last text message you got
22 back from your mother was?
23 A. I do.
24 Q. What was it?
25 A. "I love you" in all capitals.

1 Q. That was at the conclusion of the text
2 conversation about the rains; right?
3 A. Right.
4 MR. SEARS: Your Honor, could we approach for
5 just a second. If I could just confer with Mr. Butner.
6 (Whereupon, a discussion was held off the record.)
7 MR. SEARS: Thank you, Your Honor.
8 THE COURT: No problem.
9 MR. BUTNER: Thank you.
10 Q. So earlier in the day you were texting with your
11 mom?
12 A. Yes.
13 Q. You concluded your conversation 7:30, a little bit
14 before 8:00; right?
15 A. Yes.
16 Q. And then at about sometime between 10:30 and 11:00
17 or so, you were talking with your father about your mother
18 again; correct?
19 A. Yes.
20 Q. What did he say to you?
21 A. I don't recall exactly. He asked me if I had
22 heard from her, and I said I had at around 7:30.
23 Q. Okay. And did he indicate to you why he was
24 asking you if you had heard from your mother?
25 A. Yes. I don't remember exactly what the exchange

1 was, but I remember there being some concern about if she was
2 okay, because I don't know who had called him, but he
3 received a phone call.
4 Q. Was this a phone call he received while he was
5 sitting there at the dinner table?
6 A. I don't remember.
7 Q. But he had received a phone call and somebody was
8 concerned about your mother?
9 A. Yes.
10 Q. Who was that somebody? Did he tell you?
11 A. He didn't tell me. It may have been my
12 grandmother or my mom's brother, John.
13 Q. Why do you say it may have been your grandmother
14 or brother John, so to speak? Uncle John; right?
15 A. Yes.
16 Q. Did your father say that to you?
17 A. I don't remember.
18 Q. Okay. But he received a call from Tennessee
19 concerning your mother?
20 A. Yes.
21 Q. He told you that?
22 A. I don't remember if he told me who it was from. I
23 remember being concerned about her after he brought up the
24 issue.
25 Q. Okay. And your grandmother Ruth; right?

1 A. Yes.
2 Q. Ruth Kennedy, she leaves in Nashville; right?
3 A. Yes.
4 Q. John Kennedy, her son, your mother's brother, he
5 also lives there; right?
6 A. Yes.
7 Q. So your understanding was that your grandmother or
8 your uncle or both of them were concerned about your mother?
9 A. I don't remember exactly who was introduced as
10 being the person that called him. But there was concern
11 about my mom. And I had seen my grandmother come up on
12 caller I.D. earlier that night.
13 Q. I didn't quite get that. You speak so softly.
14 You had seen your grandmother come up on caller I.D.?
15 A. Caller I.D., yes.
16 Q. Where?
17 A. At the townhouse on the phone.
18 Q. On the phone at the townhouse?
19 A. Yes.
20 Q. You saw her come up on caller I.D. about what
21 time?
22 A. I don't remember.
23 Q. And so you didn't answer the phone?
24 A. No.
25 Q. Were you busy?

1 A. We were playing video games. I just didn't think
2 it was important, so I didn't answer.
3 Q. And this was before you had gone to the grocery
4 store?
5 A. Yes.
6 Q. So your father indicates there is concern about
7 your mother and asked you if you had heard from her. And
8 then you got worried about your mother, I take it?
9 A. I did.
10 Q. So what did you do?
11 A. I think I tried to call her, and I texted her.
12 Q. Did she respond to either?
13 A. No.
14 Q. So then what did you do?
15 A. I believe I checked the hospitals around town to
16 see if she had been admitted.
17 Q. You mean, calling the hospitals?
18 A. I think so.
19 Q. Which hospitals did you call?
20 A. I don't remember, but I assume Yavapai Regional
21 Medical Center.
22 Q. Was Jacob helping you?
23 A. Yes.
24 Q. So you guys are calling the hospitals looking for
25 your mom. You are very worried then; is that right?

1 A. Right.
2 Q. And about what time was this now, when you are
3 doing this?
4 A. I don't know. Probably around 11:00.
5 Q. And, so, did you have a discussion with your
6 father about what you should do?
7 A. Yes.
8 Q. What did he say?
9 A. I don't remember what he said. I wanted to go
10 check on her.
11 Q. So you don't remember anything your father said?
12 A. I remember that he was uncomfortable going out
13 with me, because --
14 Q. Did he say, "I am uncomfortable going with you"?
15 A. I don't remember what he said exactly.
16 Q. So did you come up with a plan?
17 A. Yes.
18 Q. What was your plan?
19 A. My plan was to go out to her house and to call him
20 on the way, and if I saw anything unusual or creepy or out of
21 the normal, I was supposed to leave and call the police.
22 Q. Were these the instructions that your father gave
23 you to call him while you were on the way and be in touch
24 with him when you pulled up in front of the house?
25 A. Yes.

1 Q. And so did Jacob go with you?
2 A. Yes.
3 Q. You took your little white Beemer out there?
4 A. Yes.
5 Q. And you drove out to the Bridal Path residence?
6 A. Yes.
7 Q. Approximately what time was this?
8 A. I don't remember. We may have left around 11:20,
9 11:30.
10 Q. Had your father left the condominium at any point
11 in time after he had come home from his workout?
12 A. I don't remember.
13 Q. You don't remember him leaving at all?
14 A. I don't remember.
15 Q. Do you remember your father at some point in time
16 saying he had received a phone call from a co-worker?
17 A. I don't remember.
18 Q. I can't find it. I don't know, maybe it is not
19 there.
20 Okay. So were you on the phone with your
21 father when you pulled up in front of your mother's residence
22 in accordance with his instructions?
23 A. I was.
24 Q. And what did you see when you pulled up in front
25 of your mother's house on Bridle Path?

1 A. I saw police cars.
2 Q. And you are driving; correct?
3 A. Correct.
4 Q. Jacob is in the passenger seat?
5 A. Yes.
6 Q. And you are on the phone with your dad; right?
7 A. Yes.
8 Q. And what happened then?
9 A. I pulled up to one of the police officers.
10 Q. And do you remember which police officer it was?
11 A. It may have been Lieutenant Rhodes.
12 Q. Okay. And did you have a conversation with
13 Lieutenant Rhodes?
14 A. I did.
15 Q. What did you say to him?
16 A. I told him that I was her daughter, that I lived
17 there, and I asked what was going on.
18 Q. Did he tell you what was going on?
19 A. Yes.
20 Q. What did he tell you?
21 A. He told me that my mother had passed away.
22 Q. What did you do?
23 A. I dropped the phone.
24 Q. And did somebody pick up the phone?
25 A. I think Jake did.

1 Q. Your dad was still on the phone; right?
2 A. Right.
3 Q. Jake talk with your dad a little bit?
4 A. I assume so.
5 Q. Did the phone get passed over to the police
6 officer?
7 A. I don't remember.
8 Q. You okay?
9 A. Yes.
10 Q. So after getting that information from Lieutenant
11 Rhodes -- do you want to take a little break?
12 A. Yes, please.
13 Q. All right. Okay?
14 A. Okay.
15 Q. After getting that information from Lieutenant
16 Rhodes, what did you do?
17 A. Started crying.
18 Q. And did you see if the phone was passed on to any
19 of the police officers? Do you know if they talked with your
20 dad?
21 A. I don't know. I was kind of speaking with other
22 people.
23 Q. Okay. Did you then talk with the police officers?
24 A. Yes.
25 Q. What did you tell them?

A. Can you be more specific?

Q. Probably. Probably should.

Did you have a conversation with Lieutenant Rhodes then?

A. I believe so, yes.

Q. Did he talk to you about what had happened with your mother?

A. I don't remember if he did so on the scene or later at the police station.

Q. Do you remember anything that was said to you besides what happened to your mother out at the scene?

A. I was asked about the layout of the house, what doors were unlocked.

Q. Okay. Let's talk about that just a little bit. You can remember that; right?

A. Yes.

Q. First of all, when was the last time that you had been out to the Bridle Path residence before this?

A. A few days before.

Q. What were you out there for a few days before?

A. Some of my sister's clothing.

Q. Some of your sister's clothing?

A. She had just left for a semester abroad, and I like to raid her closet.

Q. So you went out there to steal your sister's

1 clothes?
2 A. I did.
3 Q. Who went with you?
4 A. Jake.
5 Q. You and Jake went out there and raided Katie's
6 closet?
7 A. Yes, we did.
8 Q. Do you remember what day of the week this was,
9 approximately?
10 A. I don't.
11 Q. Was anybody home when you went there?
12 A. I think my mom came home as we were leaving.
13 Q. So you went out there to raid the closet, and had
14 you raided the closet, so to speak, before your mother got
15 home?
16 A. Yes. I had an armful of clothes as I was leaving.
17 Q. And she caught you in the act?
18 A. Yes, she did. She knew I was coming, though.
19 Q. Oh, did she?
20 A. Yes.
21 Q. Okay. What door did you enter through?
22 A. I don't remember.
23 Q. Do you remember if any doors were locked?
24 A. I know which door she kept locked, so I could
25 speculate about which door.

1 Q. I don't want to you speculate. You are not
2 supposed to do that. Which doors were unlocked normally?
3 A. Normally she would leave the door leading to the
4 garage unlocked, because she would park her car there and
5 walk up into the house.
6 Q. And Katie's car was still in that garage; right?
7 A. Right.
8 Q. That was the black BMW X3?
9 A. Yes.
10 Q. And that door that goes out the back there and
11 leads down the steps to the garage, that was usually
12 unlocked? I mean, it was basically unlocked on a constant
13 basis; right?
14 A. Maybe not constantly, but if a door were to be
15 unlocked, it would be that one.
16 Q. Were other doors left unlocked frequently out
17 there, to your knowledge?
18 A. Not to my knowledge. I wasn't as familiar with
19 the house in the months before she was killed.
20 Q. Do you have a key to the house?
21 A. I don't remember. I don't think so.
22 Q. When you went out there with Jake, you didn't
23 think you would have any trouble getting in; right?
24 A. Right.
25 Q. So you raided the closet with Katie -- or you

1 raided Katie's closet, and your mother came home?
2 A. Yes.
3 Q. Do you have any conversation with your mother at
4 that time?
5 A. Yes.
6 Q. What was that about?
7 A. She wanted one of the shirts that I had chosen.
8 Q. So, she had her eye on one of Katie's shirts and
9 you beat her to it?
10 A. Yes, I beat her to it.
11 Q. All right. That is pretty good.
12 And was your mother getting ready to have
13 some sort of a garage sale, to your knowledge?
14 A. I don't really remember her talking to me about
15 it, but she did those all the time.
16 Q. That was kind of a regular thing of hers?
17 A. Yes. If we had old clothes or things we didn't
18 want anymore, we would have a garage sale.
19 Q. Did she have things collected for a garage sale
20 when you were out there?
21 A. I think so, but I don't remember exactly seeing
22 them.
23 Q. Did she have stuff set out in the living room area
24 to take to the art gallery for sale?
25 A. If she were to have stuff set up, it would be in

1 the living room.
2 Q. That was kind of normal, then?
3 A. Yes.
4 Q. That was not out of the ordinary?
5 A. No.
6 Q. Had you had any conversations with your father
7 about any contributions that he was making to your mother's
8 garage sale?
9 A. No.
10 Q. You don't recall him saying anything about stuff
11 that he had taken out there?
12 A. No.
13 MR. SEARS: Leading.
14 THE COURT: Overruled.
15 BY MR. BUTNER:
16 Q. And your answer was?
17 A. No.
18 Q. When you lived at Bridle Path, your bedroom was
19 located where?
20 A. The very last bedroom on the left in the hallway.
21 Q. All the way down the hallway and to the left; is
22 that correct?
23 A. Correct.
24 Q. And since you had left, had your bedroom been
25 changed in some fashion?

A. Yes.

Q. Would you tell us how it had been changed?

A. I don't think my bedroom had a bed in it anymore. It had kind of been turned into my mom's office.

Q. Okay. And what was the state of the office when you were there a few days earlier raiding Katie's closet; do you recall?

A. I had a few of my book shelves which were mostly empty in it, one of my chairs, and a few boxes in the closet, and the desk with my mom's computer on it.

Q. Do you recall where the book shelves were located when you were there? Were they against the wall or were they in some other location?

A. They were near the middle of the room.

Q. What was your understanding as to why they were in the middle of the room?

A. She wanted to sell them, so she emptied them and was going to transport them out of my room somehow.

Q. So she was planning on getting rid of the book shelves, too?

A. Yes.

Q. Was there a ladder in that room?

A. I had a loft, so there was a ladder that went to that room. I don't recall if it was in the room or not.

Q. There was a loft in the room?

A. Yes.

Q. So you walked in the door and then the loft was up above and to the right?

A. Yes.

Q. And whether it was in the room or not, was there a ladder that somehow gave you access to that loft?

A. Yes.

Q. Would you describe that ladder for us, please.

A. It was made of wood, and it was about eight feet tall, I would say.

Q. Where was it kept usually if it was in the room?

A. If it was in the room, it would be up against the far wall by the window.

Q. So, as you entered the room through the door, you would look to the right, and the ladder would be all the way down at the back of the room there by the window?

A. Yes.

Q. In fact, did it have a couple of little like notch things that you could put the ladder into?

A. Yes. It had hooks that held it in place when it was where it was supposed to be.

Q. Was it usually kept in that spot?

A. Not necessarily. It took up more room than was necessary when it was hooked in.

Q. Sometimes where else was it kept?

1 A. It was sometimes kept in the hallway.
2 Q. How was it kept in the hallway?
3 A. Up against the wall, just kind of propped up. We
4 had that loft over the laundry room that we used for storage,
5 so sometimes if we needed to get up there, we used the same
6 ladder.
7 Q. I see. So the normal locations for the ladder
8 were back in your bedroom/office room at the notches back
9 there, or in the hallway for the loft in the hallway over the
10 laundry room?
11 A. Yes.
12 Q. After getting the information about your mother
13 passing away, ultimately did you go down to the Sheriff's
14 office?
15 A. Yes.
16 Q. And when you went to the Sheriff's office, were
17 you interviewed down there?
18 A. Yes.
19 Q. Who interviewed you?
20 A. Lieutenant Rhodes.
21 Q. You basically described the stuff that you have
22 been telling me; is that correct?
23 A. I think so.
24 Q. About where you were, what was going on with you
25 that day; right?

1 A. Yes.
2 Q. And how long did you stay at the Sheriff's office
3 that night?
4 A. Several hours.
5 Q. Was Jacob there with you?
6 A. Yes.
7 Q. And did you also speak with any other people
8 besides Lieutenant Rhodes?
9 A. I believe so. I don't remember who.
10 Q. Other officers?
11 A. Probably.
12 Q. Were you interviewed by any other officers, so to
13 speak, asking you questions about what was going on that day?
14 A. I don't remember.
15 Q. Do you remember an officer named Commander Mascher
16 talking with you?
17 A. I am not familiar with that name, so I don't know.
18 Q. Do you remember talking with a detective that
19 interviewed both you and Jacob kind of at the same time?
20 A. After my initial interview with Lieutenant Rhodes,
21 we were in a conference room for several hours. So it is
22 possible that they came in and talked to us both at the same
23 time.
24 Q. Do you remember being asked what the trail was
25 like at the Hassayampa?

1 A. I don't remember.
2 Q. Do you have knowledge about what the trail was
3 like at the Hassayampa?
4 A. Not really.
5 Q. You had never gone out on it?
6 A. I don't think so.
7 Q. You hadn't ever gone running out on the trail or
8 walking out on the trail with your father?
9 A. If I ran, it would be on the golf course, so I
10 don't think so.
11 Q. On the grass, you mean?
12 A. Yes.
13 Q. You hadn't gone running around the trail outside
14 of the golf course?
15 A. I don't know what exactly the trail would specify.
16 Q. Okay. After being interviewed down at the
17 Sheriff's office, where did you go?
18 A. We weren't allowed to go home, so I went to
19 Renee's house.
20 Q. And who did you go there with?
21 A. Jake and Renee.
22 Q. About what time of day was this when you went to
23 Renee's house?
24 A. May have been approximately 4:00 or 5:00 in the
25 morning.

1 Q. Really early in the morning?
2 A. Yes.
3 Q. Were you tired?
4 A. Yes.
5 Q. What did you do when you got to Renee's house?
6 A. Went to bed.
7 Q. Okay. At some point in time during the day, that
8 following day, July the 3rd, were you allowed to go back to
9 your father's residence?
10 A. I think so. I don't really remember when they
11 finished their searches, but yes, I think so.
12 Q. You were aware that they were executing a search
13 warrant at your father's house?
14 A. Yes.
15 Q. That was in the morning while you were sleeping, I
16 guess?
17 A. I believe so, yes.
18 Q. Do you have any idea about what time you went back
19 to your father's residence at Alpine Meadows?
20 A. I don't remember.
21 Q. Was it afternoon?
22 A. I think so.
23 Q. And while you were there, at some point in time
24 did the Sheriff's officers come back to your father's house?
25 A. Yes.

1 Q. Do you remember approximately what time that was?
2 A. I don't remember what time. It was still light
3 outside.
4 Q. So it was still light, but later in the day than
5 after lunch sometime?
6 A. I think so, yes.
7 Q. Was it closer to the evening hours, do you think?
8 A. I don't know.
9 Q. What were you doing when the Sheriff's officers
10 arrived the second time?
11 A. I think I was eating something.
12 Q. So you were upstairs in the condominium?
13 A. I think so, yes.
14 Q. Eating. So -- there is one dining room table in
15 there; right?
16 A. Yes.
17 Q. It is actually kind of a kitchen table; isn't it,
18 or is it a dining room table?
19 A. It is a dining room table.
20 Q. So you are in there at the dining room table
21 eating. And would you describe for us what it was like when
22 the Sheriff's officers arrived again?
23 A. I don't quite remember, but I remember there being
24 a lot of them.
25 Q. And what did they do?

1 A. They asked us to sit on the stairs.
2 Q. Okay. So did you?
3 A. Yes, we did.
4 Q. Where did they enter from?
5 A. I believe they entered from the front door.
6 Q. The front door being down by the garage?
7 A. Yes. The door to the front door is across from
8 the door to the garage.
9 Q. Okay. Who answered the door when they entered?
10 A. I don't remember.
11 Q. So you sat on the stairs?
12 A. Yes.
13 Q. You and who else?
14 A. Jake and my dad.
15 Q. And did they tell you what they were there for?
16 Do you remember that?
17 A. I don't remember.
18 Q. Did you have any conversation with any of them?
19 A. It's possible that I did later, after they let us
20 go upstairs.
21 Q. While you were sitting on the stairs, did you have
22 any conversation with them?
23 A. I don't remember.
24 Q. So these are the stairs that lead down to the
25 garage and the front door; right?

A. Yes.

Q. You turn left to go to what is called the front door; right?

A. Yes.

Q. And then you turn right to go to the garage?

A. When coming from down the stairs, yes.

Q. And were there deputies searching in the garage?

A. I don't remember.

Q. You don't know?

A. I don't know.

Q. Were there deputies searching up inside the house upstairs?

A. I don't know. I was sitting on the stairs.

Q. Did they go past you?

A. I think so, yes.

Q. Do you remember any deputies coming to you and asking you for anything while you were seated on the stairs?

A. I don't remember.

Q. Saying to you that they were looking for anything?

A. I don't remember specifically.

Q. Were you still kind of in shock at that point in time?

A. Yes.

Q. And Jacob was there with you?

A. Yes.

1 Q. Was he helping take care of you some?
2 A. A little bit.
3 Q. Did Jacob get into it with the deputies at all?
4 A. I don't remember.
5 Q. How long had you and Jacob been going out at that
6 point?
7 A. Somewhere around a year.
8 Q. And how long did you continue your relationship
9 with Jacob?
10 A. After July of 2008?
11 Q. Right.
12 A. About six months.
13 Q. Was Jacob over at your house frequently?
14 A. Yes.
15 Q. Did he frequently eat meals with you?
16 A. Yes.
17 Q. Was he actually kind of residing there for a
18 while?
19 A. I guess.
20 Q. I mean, he stayed over?
21 A. Yes.
22 Q. At some point in time, did your father discuss
23 with you the prospect of his fleeing?
24 A. Yes.
25 Q. When did that occur?

1 A. I don't remember.
2 Q. Was it within six months of your mother's murder?
3 A. Yes.
4 Q. What did your father say to you?
5 A. He was afraid of being framed.
6 Q. Is that what he said?
7 A. Yes.
8 Q. And so what did he say he was going to do?
9 A. I don't remember exactly what he said.
10 Q. But those were the exact words he used, "afraid of
11 being framed"?
12 A. Yes.
13 Q. Did he indicate to you if he was afraid of being
14 arrested?
15 A. He was afraid of being arrested for something he
16 didn't do.
17 Q. Did he say anything to you about the prospect of
18 being in jail or prison?
19 A. Can you be more specific?
20 Q. Not really. Did he say anything to you about the
21 prospect of him spending time in jail or prison?
22 A. I don't remember.
23 Q. You don't remember him using those words, talking
24 about jail or prison?
25 A. I know he was afraid of being arrested.

1 Q. Okay. So did he take any specific steps to get
2 ready to flee?
3 A. Yes.
4 Q. What did he do?
5 A. He bought a motorcycle.
6 Q. Right. A BMW motorcycle?
7 A. Yes.
8 Q. When did he do that?
9 A. It was after the police took his car.
10 Q. When did he buy the motorcycle?
11 A. I don't remember.
12 Q. But during the six months after your mother's
13 murder?
14 A. Yes.
15 Q. And what else did he do in way of preparation to
16 flee?
17 A. I don't remember quite now, but he had money and
18 he had some cash.
19 Q. Gathered some cash together?
20 A. Yes.
21 Q. Okay. And did he gather any technical equipment
22 in preparation for the fleeing?
23 A. I wasn't really included on the technical
24 equipment, but I knew he had clothing.
25 Q. Got special clothing?

A. Maybe not special, just extra clothing.

Q. Where did he have these articles?

A. In a bag.

Q. Okay. What kind of a bag was it?

A. I don't know. I never saw it.

Q. Okay. What did he do with the bag?

A. He had it stored around the Hassayampa golf course.

Q. So you were aware that he had a bag hidden someplace on the golf course?

A. Yes.

Q. And do you remember seeing him in possession of any books on how to disappear or be a fugitive and not get caught?

MR. SEARS: Leading.

THE COURT: Sustained.

BY MR. BUTNER:

Q. Do you remember him being in possession of any books concerning fleeing?

A. I didn't see any.

Q. And you didn't buy any for him; did you?

A. No.

Q. In addition to the money that he had gathered and the extra clothing that he had gathered and the bag that he had hidden out on the golf course, did he gather any

1 navigational aids to assist him?
2 A. I wasn't informed of any.
3 Q. Do you know what a GPS is?
4 A. Yes.
5 Q. Did you ever help him get materials in order to
6 flee?
7 A. I don't think so.
8 Q. Did you ever pick up a GPS for him?
9 A. I did.
10 Q. When was that?
11 A. I don't remember when.
12 Q. But it was in that six months after your mother's
13 death?
14 A. Yes.
15 Q. Where did you get the GPS for him?
16 A. I believe it was REI.
17 Q. REI located where?
18 A. I think in Phoenix.
19 Q. And during that six months after your mother's
20 death, did your father get another residence someplace?
21 A. Another residence?
22 Q. Right.
23 A. My sister was living in Arizona, so she needed an
24 apartment in Phoenix.
25 Q. And so did your father get an apartment in

1 Phoenix?
2 A. Yes, for my sister.
3 Q. For your sister?
4 A. For my sister.
5 Q. Did your father also keep clothing and materials
6 there?
7 A. I don't know.
8 Q. Where did your father keep his motorcycle?
9 A. I don't know.
10 Q. Was it down in Phoenix someplace?
11 A. When he rode it down there, sometimes.
12 Q. Did your father get any other materials by way of
13 survival gear, so to speak, in preparation for fleeing?
14 A. I don't remember. Food.
15 Q. Pardon?
16 A. Food.
17 Q. What kind of food did he get in preparation for
18 fleeing?
19 A. I think Granola bars. I don't know.
20 Q. And dried types of foods?
21 A. Yes.
22 Q. Where did he keep all that stuff?
23 A. I don't really know.
24 Q. Were you with him when he got them?
25 A. The food?

1 Q. Right.
2 A. I don't remember.
3 Q. Were you aware that your father kept a bunch of
4 stuff down at the apartment in Phoenix in preparation for
5 fleeing?
6 A. I wasn't there at the apartment very much. So I
7 don't remember looking at his stuff down there.
8 Q. But you were worried he was going to run?
9 A. I was scared of losing a second parent.
10 Q. And do you recall making a diary entry about being
11 fearful that your father was going to run?
12 A. I do.
13 MR. BUTNER: May I, Judge?
14 THE COURT: You may approach.
15 BY MR. BUTNER:
16 Q. Let me show you what has been marked as Exhibit
17 No. 2293.
18 Do you recognize that?
19 A. Yes.
20 Q. Would you take a look at it, please. What is it?
21 A. It is an entry from my journal.
22 Q. Did the police come and examine your journal?
23 A. I believe they took it.
24 Q. They seized it in a search warrant?
25 A. I think so.

1 Q. At your father's residence?
2 A. Yes.
3 Q. And, basically, in that particular journal entry,
4 what are you talking about?
5 A. How I feel, I think. Multiple things.
6 Q. Right. Is one of the things that you were
7 journaling about, so to speak, the prospect of your father
8 running?
9 A. Yes.
10 Q. This journaling, is this something that you
11 learned from your mother?
12 A. She kept a lot of journals, but I was always more
13 against it, against journaling.
14 Q. Against journaling and yet you were journaling
15 also?
16 A. Well, after my mom's death, I was given four or
17 five journals from family members.
18 Q. So you started journaling, too?
19 A. I did.
20 MR. BUTNER: Move for the admission of
21 exhibit --
22 MR. SEARS: Objection as to date, Your Honor.
23 THE COURT: Can you lay a foundation to
24 establish that?
25 MR. BUTNER: Sure.

1 Q. Do you know approximately when you wrote this
2 journal entry?
3 A. I don't know. I mean, within two months of her
4 death.
5 MR. BUTNER: I would move for its admission.
6 MR. SEARS: No objection.
7 THE COURT: 2293 is admitted.
8 MR. BUTNER: May I publish, Your Honor?
9 THE COURT: You may.
10 How much more do you have, do you think?
11 MR. BUTNER: I have about, I think, 30 more
12 minutes, Judge.
13 THE COURT: After it has been published and
14 passed to all the jurors, we will take a recess.
15 MR. BUTNER: Thank you.
16 THE COURT: In the meantime, if you want to
17 step down, Ms. DeMocker, you may.
18 THE WITNESS: Okay.
19 THE COURT: If you want to just pass it, you
20 can do that.
21 MR. BUTNER: I think I better do that, Judge.
22 THE COURT: Since the exhibit was admitted, is
23 there any objection from either side to letting the jurors
24 take it back to the jury room and review it without
25 discussing it.

1 MR. SEARS: Your Honor, I am not sure.
2 THE COURT: You think that is unsafe. I will
3 take your point. Just pass it around.
4 MR. SEARS: Maybe if we spend a little time
5 during the break with the ELMO, see if we can make it any
6 clearer on the screen. It will take a very long time for
7 everybody to read it.
8 THE COURT: Are you suggesting, then, that we
9 retrieve it and then try and manage it.
10 MR. SEARS: If there is a way that we can get
11 it up, rather than --
12 THE COURT: Why don't I interrupt the process
13 at this point, have the exhibit turned back to the bailiff.
14 We will see if we can manage that to see if it is more
15 legible, and we will put it up on the screen.
16 Remember the admonition, please.
17 (Whereupon, the jury exits the courtroom.)
18 THE COURT: Defendant is present. Mr. Sears
19 is not, but Mr. Hammond and Ms. Chapman are. And Mr. Dupont
20 on behalf of the victims Charlotte and Katie DeMocker. And
21 Mr. Butner and Mr. Paupore.
22 On Exhibit 2292, there is some personal
23 identifying information in terms of a current phone number,
24 apparently, that Mr. Dupont expresses, properly, some concern
25 over having the exhibit, or frankly the media, publish this

1 in a way that could put his client at some risk. Is there
2 any objection to redacting the portions of the phone number,
3 or the portions of Exhibit 2292, so that, at minimum, the
4 last digits, four digits are blacked out, possibly the last
5 seven digits.
6 MR. BUTNER: There is no objection at all,
7 Judge. That publication of that phone number was inadvertent
8 on my part. I didn't think that she still had that phone
9 number, quite frankly.
10 THE COURT: Mr. Dupont advised counsel and the
11 Court off the record that that was the case. Any objection
12 from the defense to redacting 2292, so that the last seven
13 numbers of the phone number --
14 MR. SEARS: We would ask that you do that,
15 Your Honor.
16 MR. DUPONT: Pursuant to 13-4434.
17 THE COURT: I accept your citation. I haven't
18 looked at it, but I accept that that is the proper number,
19 and I will order the media to black out if they have recorded
20 any of this display up on the wall. I'll order that they
21 redact their information to delete the personal identifying
22 identification.
23 MR. DUPONT: So, we will get them personally
24 served, everyone that applies to get feed of this?
25 THE COURT: Yes.

1 MR. DUPONT: We need to get that served
2 immediately to the press in the event that they plan to
3 disseminate or publicize that.
4 THE COURT: Mr. DeMocker is not in the room.
5 Mr. Sears and Ms. Chapman, Mr. Hammond are, and Mr. Butner
6 and -- Mr. Butner is anyway.
7 There was an issue with regard to some
8 personal identifying information in terms of a phone number
9 being on Exhibit No. 2292, and it was properly raised with
10 the Court to redact that. So what I have ordered is that a
11 new substituted 2292 be entered in place of the one that had
12 the personal phone number. And that has been agreed by all
13 the parties to be substituted in for the former 2292.
14 And I am also entering an order that
15 prohibits the media from using any images that they may have
16 developed here in court that would contain that personal
17 identifying information. I am advised and think it is true
18 that the editorial policies, in any event, would have managed
19 the situation in the same way that the Court has, but now
20 there is an order that would also manage the situation and
21 prohibit additional secondary disclosure of the phone number.
22 Is that satisfactory?
23 MR. SEARS: It is, Your Honor. I have one
24 other media issue, if I could raise quickly.
25 THE COURT: By the way, do you waive your

1 client's appearance.
2 MR. SEARS: Could you order Mr. Stukenberg to
3 stop taking pictures of my bald spot and running them in the
4 newspaper? Is there an available PhotoShop image that
5 isn't --
6 THE COURT: There is no possible angle that he
7 will miss yours or mine.
8 MR. SEARS: I thought the light shining off it
9 might stop it.
10 THE BAILIFF: The jury is having trouble
11 hearing Charlotte.
12 THE COURT: Don't be afraid of the microphone.
13 It is something all of us have to get used to. Try to keep
14 your voice up.
15 Any other issues? Mr. Dupont, did you
16 have something else?
17 MR. DUPONT: I do, Your Honor. It is about
18 the issue we addressed yesterday with my brief contacts with
19 Steven DeMocker. I have had brief contacts with him every
20 time I've been up here since my first involvement in this
21 case. It is a necessary function of me doing my job on
22 behalf of his daughters.
23 THE COURT: I don't see that. Tell me how it
24 is a necessary function of your job.
25 MR. DUPONT: One of the things that you had

1 mentioned to me is that somehow it was a jail security issue,
2 but I could be up in front of the bar and, I suppose, sitting
3 at the defense table. It's never been clear to me how I, as
4 an officer of the court, pose any security threat to anyone.
5 Then we started talking about a couple
6 other issues. One are some business dealings that the girls
7 might need advice from their father.
8 THE COURT: Not here in open court, though.
9 MR. DUPONT: They are brief issues, something
10 I can deal with just for two minutes in a conversation with
11 him. And the other part is their emotional well-being as
12 they go through this. The father knows them as well as
13 anyone. That is really the kind of conversations I have been
14 having with him in the past. How do we deal with this? How
15 did you think Charlotte is? How do you think Katie is? What
16 can we talk to her about to get her to feel better?
17 So when we talked about Article 2,
18 Section 2.1.3, that says they have a right to be present when
19 he's got a right to be present. I have got a right to be in
20 front of the bar. I can be sitting at the defense table.
21 THE COURT: I don't know that you have a right
22 to be in front of the bar, other than to advise your clients
23 or to be present for them, in all honesty. This is the
24 defendant's case, and the lawyers that represent him.
25 I hear what you are saying. I understand

1 what you are saying. I think to the extent that there are
2 other issues for support and financial advice and those sorts
3 of things, those aren't necessarily proper for involvement
4 here at the courthouse. Nor do I think that that implicates
5 victim's rights in any way in this setting.
6 I still have under advisement, and
7 frankly one of the issues for the lack of visitation would
8 include your ability to visit with him as well. So I think I
9 will be addressing that.
10 MR. DUPONT: Yes. We would ask you to do
11 that. The sooner the better, Your Honor. This is really
12 getting unworkable for us, for the girls. They are in crisis
13 mode right now, as you can probably notice for yourself.
14 THE COURT: I can. Thank you.
15 Anything else for the record before we
16 get the jury back in?
17 MR. BUTNER: Nothing from the State, Judge.
18 THE COURT: Mr. Sears.
19 MR. SEARS: Your Honor, at some point I know
20 Ms. Chapman is going to want be to heard on some issues that
21 have arisen with regard to the numbering of exhibits. There
22 is a particular problem where we began early on, you can see
23 these dozen of boxes in the back, getting copies of exhibits.
24 And it appears -- and as soon as I say this, I am going to
25 step away, because I am not fully conversant in this,

1 Ms. Chapman is. There are some issues that are caused by
2 some renumbering of exhibits that do not correspond with the
3 numbers that we originally were given. Maybe Mr. Butner and
4 Ms. Chapman can speak to that.
5 MR. BUTNER: I think we will be able to handle
6 your concerns. We have had some issues, but I think that we
7 will be pulling the exhibits from the ones that are numbered,
8 et cetera. We won't be doing that anymore.
9 MS. CHAPMAN: Okay. With that representation,
10 we will be carrying on.
11 THE COURT: I don't understand what he just
12 said, but you do.
13 MS. CHAPMAN: I do. If it remains an issue,
14 we will bring it to your attention. Thank you, Mr. Butner.
15 MR. BUTNER: I understand.
16 MR. SEARS: Thank you, Mr. Butner.
17 THE COURT: Okay.
18 (Whereupon, the jury enters the courtroom.)
19 THE COURT: Record reflects the presence of
20 the jury, the defendant, the three defense counsel and the
21 prosecutors. And if we could have Miss DeMocker back up on
22 the stand, please.
23 The record should also reflect the
24 display of Exhibit 2292 on a blowup in front of the jury so
25 that they can read it. To the extent that somebody needs

1 some help in having it closer, I will have the bailiff move
2 it from side to side, if that is necessary.
3 Does somebody need that? On both ends.
4 That is for the purposes of publishing it
5 as requested.
6 MR. BUTNER: Thank you, Judge. Thank you,
7 too, Phil.
8 Phil, is it okay if I move the easel
9 then?
10 THE BAILIFF: Sure. Thank you.
11 THE COURT: You may proceed.
12 MR. BUTNER: Thank you, Your Honor.
13 DIRECT EXAMINATION RESUMED
14 BY MR. BUTNER:
15 Q. Okay. You all right?
16 A. Yes.
17 Q. Okay. We were talking about the steps that you
18 are aware of in terms of your father making preparations to
19 flee, and how he had bought a BMW motorcycle, gathered some
20 money, cash, got some extra clothing. He had a get-away bag
21 hidden out on the golf course.
22 How did you hear about the get-away bag?
23 A. He told me.
24 Q. What did he say?
25 MR. SEARS: Foundation as to date, time and

1 place.

2 THE COURT: Sustained.

3 BY MR. BUTNER:

4 Q. Your father told you about the get-away bag. Did

5 this conversation with him occur in that -- did it occur

6 prior to the date of your mother's memorial service?

7 A. I don't think so.

8 Q. You think it was after the memorial service?

9 A. Yes.

10 Q. Was it in that first six months after your mother

11 was murdered?

12 A. Yes.

13 Q. And where were you living when you had this

14 conversation with your father?

15 A. With my dad.

16 Q. So you were still living at Alpine Meadows?

17 A. Yes.

18 Q. When did you move out of Alpine Meadows?

19 A. After he was arrested.

20 Q. And he was arrested in October of 2008; right?

21 A. Yes.

22 Q. So within that first six months, sometime you had

23 this conversation with your father about the get-away bag.

24 Was it in the month of August of 2008?

25 A. I don't know the month. I don't know when exactly

1 it was.
2 Q. Was it summertime?
3 A. I don't remember.
4 Q. Was there anybody else present for the
5 conversation?
6 A. I don't remember.
7 Q. But it took place at the condominium at Alpine
8 Meadows?
9 A. I assume so, yes.
10 Q. Do you remember where were you located
11 specifically in the condominium?
12 A. I don't remember.
13 Q. What was it that he said?
14 A. Just that there was a bag with clothing and a
15 little extra money in it.
16 Q. And had you assisted him in gathering stuff to put
17 in that bag?
18 A. To put in the bag? I don't remember. I don't
19 think so.
20 Q. Did he describe what kind of clothing he put in
21 the bag?
22 A. He didn't describe the clothing.
23 Q. Did you actually see the bag?
24 A. No.
25 Q. He just told you, basically, where it was hidden?

1 A. He didn't tell me where it was hidden, just that
2 it was on the golf course.
3 Q. Did you have conversation with anybody else about
4 this get-away bag, besides your father?
5 A. I don't remember. I may have had conversation
6 with Renee Girard about it.
7 Q. Did she tell you about the get-away bag?
8 A. She didn't tell me about it.
9 Q. You just talked with her about it?
10 A. We may have discussed it at some point.
11 Q. Do you remember when this was?
12 A. No.
13 Q. Did you ever go looking for the get-away bag?
14 A. I don't think so.
15 Q. And did he indicate to you whether he had anything
16 else besides clothing and money in the get-away bag, like
17 maybe telephones, GPSs, or any kind of equipment?
18 A. I think he may have had a telephone.
19 Q. Okay. And did you also have a telephone, a
20 special get-away-type telephone so that you could communicate
21 with him?
22 A. I don't know if I would label it a get-away phone,
23 but I did have a phone other than my cell phone.
24 Q. Who else had these other phones, so to speak?
25 A. I think Katie and Renee. Maybe just Katie.

1 Q. And what was the purpose of having these other
2 phones?
3 A. So that he could call us.
4 Q. And it wouldn't be traced?
5 A. I don't know.
6 Q. But you all got special phones?
7 A. Yes.
8 Q. How many of these special phones did you get?
9 A. One.
10 Q. One each?
11 A. Yes.
12 Q. Did you have a name for these kinds of phones?
13 A. Not a name. It was a GoPhone.
14 Q. A GoPhone?
15 A. Which is the title, like, from the phone company.
16 They are called GoPhones.
17 Q. Right. That is the kind of a phone that you pay
18 for the minutes on it?
19 A. Yes.
20 Q. Okay. So it isn't on your regular phone bill?
21 A. Yes.
22 Q. When did you get these GoPhones?
23 A. I don't remember exactly.
24 Q. Within the six months after your mother's murder?
25 A. Yes.

1 Q. And prior to the time of your father's arrest?
2 A. Yes.
3 Q. So within four months?
4 A. Yes.
5 Q. Math isn't my strong point, either.
6 When you picked up the GPS unit in
7 Phoenix, do you remember doing that?
8 A. I do.
9 Q. At REI?
10 A. Yes.
11 Q. Do you remember if anybody was with you when you
12 got that GPS unit?
13 A. I believe Jake was with me.
14 Q. And do you remember what the purpose of your trip
15 to Phoenix was in addition to getting the GPS unit?
16 A. I don't.
17 Q. Do you remember if that trip to Phoenix had
18 anything to do with your mother's memorial service?
19 A. My mom's memorial service was in Sedona, so I
20 don't remember why.
21 Q. Did you have family coming in to go to your
22 mother's memorial service?
23 A. Yes, I believe so.
24 Q. Do you remember going down and picking up family
25 at the airport?

1 A. Yes.
2 Q. Is that when you got the GPS unit?
3 A. I don't remember if that would have been when.
4 Q. Okay. You indicated that you had been living with
5 Renee Girard for approximately a year-and-a-half did I
6 understand?
7 A. About a year to a year-and-a-half. I don't know
8 exactly.
9 Q. And would you describe for us your relationship
10 with Renee Girard?
11 A. It is friendly.
12 Q. And what is her relationship to your father?
13 A. She's his girlfriend.
14 Q. How long has she been his girlfriend?
15 A. I think approximately, maybe a few months prior to
16 my mother's murder. I don't know exactly how long.
17 Q. Okay. And how is it that you came to live with
18 Renee?
19 MR. SEARS: Your Honor, may we approach?
20 THE COURT: Do you have an objection?
21 MR. SEARS: I do, Your Honor. I would like a
22 side bar, please.
23 THE COURT: What is the objection? Relevance?
24 MR. SEARS: I am not able to formulate the
25 objection in open court, Your Honor.

1 THE COURT: See you at side bar.
2 (Whereupon, a discussion was held off the record.)
3 MR. BUTNER: Okay.
4 Q. Let's go back to the conversation that you had
5 with your father about what happened to him that made him so
6 late.
7 A. Okay.
8 Q. Okay. Going back to the dinner table that night,
9 it is about 10:30 or eleven o'clock at night?
10 A. About 10:30, yes.
11 Q. And you are finally seated at the dinner table?
12 A. Yes.
13 Q. Your father has gotten out of the shower?
14 A. Yes.
15 Q. Is that when he explained to you what happened to
16 him and where he was?
17 A. It may have been on the phone when he called me or
18 at the dinner table.
19 Q. And tell us what he told you at that point.
20 A. That he had been for a bike ride and gotten a flat
21 tire, and he walked his bike back to his car.
22 Q. And did he indicate to you why it was so difficult
23 for him, in addition to the flat tire, walking his bike back
24 to the car?
25 A. I think it may have been because of the terrain of

where he was riding his bike.

Q. Did he describe the terrain for you?

A. I don't remember.

Q. Did he tell you where he was riding his bike?

A. No, I don't remember.

Q. So at any point in time that night, did your father ever tell you he was riding his bike out across Williamson Valley Road from where your mother was murdered?

A. Not that night, no.

Q. And you continued to assume that he was riding his bike around the Hassayampa trail?

A. Yes.

MR. BUTNER: No further questions.

CROSS-EXAMINATION

BY MR. SEARS:

Q. Hi, Charlotte.

A. Hi.

Q. I am not sure everybody has been able to hear you, even with the microphone. Can I get you to speak up. You don't need to get any closer than that. Use what my first grade teacher used to call your outside voice.

A. Yes.

Q. We didn't see you here in court yesterday. Where were you?

A. I was at college orientation in Phoenix.

1 Q. First day?
2 A. Yes.
3 Q. Pretty excited?
4 A. Very excited.
5 Q. Did you get all the classes you wanted?
6 A. No.
7 Q. You are a freshman?
8 A. I am.
9 Q. That may change over time.
10 A. I hope so.
11 Q. Are you excited about school?
12 A. I am.
13 Q. When do you start?
14 A. August 19th.
15 Q. What are you going to take?
16 A. So far, intro to sociology, intro to philosophy,
17 which I might drop because I hear it is hard, and a few of
18 the business classes and a math class.
19 Q. That might be hard, too?
20 A. No, math comes pretty easily to me.
21 Q. Okay. Char, the night your mom died, is that the
22 very worse day of your life?
23 A. Yes.
24 Q. Today's not much easier; is it?
25 A. No.

1 Q. You have come to understand over the two years,
2 that, apparently, when the police talked to you and Jake and
3 then talked to your father separately, they got the idea that
4 you and Jake were saying he was riding over by your house?
5 MR. BUTNER: Objection. Leading.
6 MR. SEARS: It's cross-examination.
7 THE COURT: Cross-examination, you may lead.
8 Overruled.
9 MR. SEARS: Let me start over.
10 Q. You have come to understand over this period of
11 time that the police concluded, apparently, that your father
12 was lying about where he said he was riding his bike, because
13 you and Jake said something different?
14 A. Yes.
15 Q. And that is, in part, apparently why you are being
16 called as a prosecution witness in the case against your
17 father?
18 A. Yes.
19 Q. How does that make you feel?
20 A. I mean, I feel bad about it. I didn't really
21 know, and I should have just said that.
22 Q. I listened very carefully, as much as I could
23 hear, of what you said here this morning, and am I right in
24 assuming that as a 16-year-old girl, you were not keeping a
25 close written account of your father's movements in July of

1 2008. Is that fair to say?
2 A. Yes.
3 Q. Do you know what the word oblivious means?
4 A. Yes, I do.
5 Q. Do you think you were a little oblivious to what
6 your dad was doing?
7 A. Yes.
8 Q. Were you more interested in Jake and the video
9 games and the pool?
10 A. Yes.
11 Q. Did you even remember two years later your dad's
12 discussion with you when he came home from work and left? Do
13 you remember that?
14 A. I can't say that I do.
15 Q. I also got the impression that you were not
16 absolutely positive about the time of any of these events
17 that night; is that right?
18 A. That's right.
19 Q. Is that part of being oblivious?
20 A. I would say so.
21 Q. It is the summertime; right?
22 A. Right.
23 Q. You are in high school; right?
24 A. Right.
25 Q. You have got a boyfriend; right?

1 A. Yes.
2 Q. And you are hanging out?
3 A. Yes.
4 Q. Was it important to you -- was it important to you
5 that night that you keep to some schedule. It's 5:30 now, we
6 must go to the pool for 30 minutes, and then do something
7 else? Was that what was going on?
8 A. No.
9 Q. Could the times that you told the police, or even
10 the times that you told Mr. Butner here today, be off a
11 little?
12 A. Yes, they could.
13 Q. Do you even know which way they would be off,
14 whether things happened before or after those times?
15 A. Not really.
16 Q. Okay. How about -- let's try and think about the
17 first part of that evening when your dad comes home. I think
18 you told us that you and Jake were playing the video games.
19 Where in the condo was the T.V. that was hooked up to the
20 video games, or were you playing them on the computer?
21 A. In the living room.
22 Q. You come up the stairs from the garage, and which
23 side of the stair landing is the living room, on the right or
24 the left?
25 A. The right.

1 Q. So your dad came in and came up the stairs. You
2 could hear him come up. Did you hear the garage door close?
3 A. Maybe not close, but open, yes.
4 Q. For him to come in. Okay. You knew he was home;
5 right?
6 A. Yes.
7 Q. And did you leap to your feet and run to him and
8 throw your arms around him and say, oh, Daddy, you're home?
9 A. I did not.
10 Q. Oblivious?
11 A. Yes.
12 Q. Did you even look up?
13 A. Probably not.
14 Q. You are under oath.
15 A. Yes.
16 Q. It is okay. Your dad will understand.
17 A. No, I did not look up.
18 Q. Do you remember even speaking to your father?
19 A. Vaguely.
20 Q. Okay. Are you sure that you were still there when
21 your dad left to go out to do whatever it was that he was
22 going to do?
23 A. Pretty sure.
24 Q. Okay. Do you have any sense of how long he might
25 have been home before he left again? Could it have been an

1 hour?
2 A. Could have been.
3 Q. Could have been. You were just hanging out?
4 A. I was just hanging out.
5 Q. Oblivious?
6 A. Yes.
7 Q. Did your dad, say, Charlotte, darling, I am
8 leaving for a bicycle ride and I shall return in two hours?
9 A. No.
10 Q. Did you say, father, where are you going and when
11 will you be home?
12 A. I did not. I think I was winning the race.
13 Q. Did you look up when he left?
14 A. No.
15 Q. When you told the police that night where your
16 father had been, it was after you learned your mother had
17 died; right?
18 A. Yes.
19 Q. Mr. Butner asked if you were in shock. You said
20 yeah. Do you remember much of what happened after the moment
21 when the police officer said your mother had passed away?
22 A. It is all very muddled.
23 Q. For some period of time afterwards?
24 A. Yes.
25 Q. You couldn't remember all of the interviews. Is

1 that a blur in your mind?
2 A. Yes.
3 Q. As we sit here today for these good folks in the
4 jury, can you say that you absolutely knew on July 2nd where
5 your father was going when he left the condo? Did you know?
6 A. No.
7 Q. Were you just making an assumption --
8 A. Yes.
9 Q. -- that that is where he went? Do you feel bad
10 that you did that?
11 A. I do.
12 Q. Now, moving ahead a little bit. I think you told
13 Mr. Butner in pretty close detail here about the sequence of
14 events. You come home -- let's back up a little bit. Let's
15 talk about going to the Safeway. You and Jake finally at
16 some point think, we are on our own for dinner; right?
17 A. Yes.
18 Q. We can't wait for dad?
19 A. Right.
20 Q. You told Mr. Butner you were worried. Was this
21 pacing the floor, looking at your watch, calling the hospital
22 worried?
23 A. No.
24 Q. Is "worried" even really the right word?
25 A. Not really.

1 Q. Would curious be another word? Just where was
2 your dad?
3 A. I was wondering where he was.
4 Q. Were you upset that he wasn't home?
5 A. Not particularly. It was summer.
6 Q. Were you able to take care of yourself? I mean,
7 you didn't need -- did you need your dad to be home before
8 you ate dinner?
9 A. No.
10 Q. Were you worried that when you called your dad he
11 hadn't called you back?
12 A. No.
13 Q. In fact, you said you didn't necessarily expect
14 him to answer the phone; is that right, because he was
15 working out?
16 A. Yes.
17 Q. Have you ever come to know that your dad had had a
18 cell phone die on him, that the batteries had died? Is that
19 something that you know ever happened to your dad?
20 A. It happens to everyone.
21 Q. So it must have happened to your dad?
22 A. Yeah.
23 Q. If you couldn't get your dad on the phone, did you
24 even really know why the phone was not being answered?
25 A. Did I think the phone was dead? I'm sorry.

1 Q. Do you have some idea what would happen if you
2 called your dad's cell phone and his battery was dead?
3 A. It would go straight to voice mail.
4 Q. Is that what happened?
5 A. Yes.
6 Q. Do you remember leaving him a voice mail?
7 A. Vaguely.
8 Q. Was it, Daddy, Daddy, I am desperately worried.
9 Please call me?
10 A. No.
11 Q. What was it?
12 A. Probably along the lines of, where are you? Give
13 me a call. We are hungry.
14 Q. Two exclamation points after hungry?
15 A. Yes.
16 Q. And a smilely face?
17 A. Probably.
18 Q. So you and Jake at some point say we need to go
19 get dinner. Was there nothing in the fridge that you felt
20 like eating?
21 A. (Coughing) Sorry. Swallowed wrong.
22 Q. Take as long as you need.
23 A. I wanted to make us stir fry.
24 Q. And you didn't have the stuff at home?
25 A. I don't think so.

1 Q. So run out to the Safeway and get stuff for
2 dinner; is that right?
3 A. Right.
4 Q. Is it also something you thought your dad would
5 want for dinner to?
6 A. Yes.
7 Q. You said dinner in the summertime was a little
8 relaxed, and you said, what, 7:30 to 9:00?
9 A. Right.
10 Q. It is getting onto 10:00. Is this a shocking
11 development in your life that your dad was now maybe an hour
12 late for dinner?
13 A. It was not shocking.
14 Q. Mr. Butner described -- asked you whether this was
15 a really unusual night. And we were talking about surely
16 after midnight, it was the most unusual night of your life.
17 But up to the point before you got in the car to go out and
18 check on your mom, was it a particularly unusual night?
19 A. Not that unusual for summertime.
20 Q. And you were just hanging out?
21 A. Yes, I was just hanging out.
22 Q. Oblivious?
23 A. Yes.
24 THE COURT: You have to keep your voice up,
25 too, Mr. Sears.

1 MR. SEARS: Sorry, Your Honor. I kind of get
2 into this interchange. She keeps her voice down. I will try
3 and think about that. Thank you.
4 Q. So you go over the Safeway. And the way you
5 drive -- let's see if we can get the map here.
6 Are your maps up here, Mr. Butner, do you
7 think?
8 MR. BUTNER: They might be.
9 MR. SEARS: May I use one of your exhibits,
10 Mr. Butner?
11 MR. BUTNER: You certainly may.
12 MR. SEARS: Thank you. This one has a
13 disclaimer on it, Your Honor. "Yavapai County assumes no
14 responsibility for errors or omissions or accuracy of this
15 mapping product."
16 THE COURT: But what is the number?
17 MR. SEARS: It is not marked, Your Honor.
18 MR. BUTNER: I don't think it is marked. Why
19 don't we mark it?
20 MR. SEARS: Oh, all right.
21 Q. While we are getting the map up, let's just talk
22 for a second about where you went. When you leave, you come
23 out of Hassayampa, out of Alpine Meadows, through the bump
24 gate; right?
25 A. Yes.

1 Q. You come to Hassayampa Lane, which is the street
2 that cuts through the subdivision; right?
3 A. Yes.
4 Q. You would take a right to head into town, and just
5 go a little ways to Thumb Butte Road; correct?
6 A. Yes.
7 Q. When you get to Thumb Butte Road, if you went left
8 you would go up to Thumb Butte Park; right?
9 A. Right.
10 Q. And if you turned right, you would head into town?
11 A. Correct.
12 Q. And you follow Thumb Butte Road back towards town,
13 and go past your dad's office; right?
14 A. Right.
15 Q. And eventually you come to a traffic light at
16 Thumb Butte Road and Gail Gardner; correct?
17 A. Correct.
18 Q. And you take a left; right? A left; correct?
19 A. Correct.
20 Q. You follow Gail Gardner, and it ends at Iron
21 Springs Road; correct?
22 A. Yes.
23 Q. Then there is a traffic light there?
24 A. Yes.
25 Q. There is a Shell gas station on the left-hand

1 corner?
2 A. Yes.
3 Q. And there is a Big-O tire on the right corner?
4 A. Correct.
5 Q. I am just stalling here.
6 THE COURT: I think you have the number.
7 MR. SEARS: Thank you, Your Honor.
8 Q. Mr. Anderson owns the Big-O tire; is that right?
9 MR. SEARS: This is?
10 THE COURT: 2294.
11 MR. SEARS: Yes, it is, Your Honor. Do you
12 want to offer this, Joe?
13 MR. BUTNER: No, you have got it.
14 MR. SEARS: 2294 for identification,
15 demonstrative purposes only. I don't care.
16 MR. BUTNER: No objection.
17 THE COURT: We will admit 2294 for
18 illustrative purposes.
19 MR. SEARS: Now, if I could come this way,
20 Your Honor. I am going to stick this up here, so we can kind
21 of show these folks on the jury, if I can balance this on
22 this little rail, the way you were heading.
23 THE BAILIFF: Mr. Sears.
24 MR. SEARS: That would be so much easier.
25 THE BAILIFF: Let me lean it right where you

are standing.

MR. SEARS: Thank you.

It is just that I am handling the State's exhibits, Your Honor, and I find it more difficult.

Q. Char, can you see 2294 here? Down in the lower left-hand corner is -- there is a yellow dot here at Alpine Meadows. That is where you started from; right?

A. Right.

Q. And then you go by -- you can't see the tiny streets here, but you get on Gail Gardner here, and you come up and there is a big gas pump. Looks like it is in the middle of the road, but it's not. That is a gas station; right?

A. Right.

Q. That is Iron Springs Road running more or less east-west here?

A. Yes.

Q. And then you turn right and you go down. And the Safeway, here is Willow Creek Road. You know where that is?

A. Yes.

Q. So the Safeway is up in this area right in here; correct?

A. Correct.

Q. And your recollection is that sometime, perhaps when were you inside the Safeway, the cell phone rings and it

1 is your dad?
2 A. Right.
3 Q. Does he say, I got your voice mail?
4 A. Probably.
5 Q. Would he have said something like my phone was
6 dead?
7 A. He could have, yes. I don't remember.
8 Q. And I replaced the battery, maybe?
9 A. Yes, maybe.
10 Q. He may have said, I was out on a ride and I got a
11 flat tire. That may have been during that conversation?
12 A. It may have.
13 Q. Then there was some discussion about I am in the
14 Safeway, I am getting dinner. And then what did he say? I
15 will see you at home?
16 A. I assume so, yes.
17 Q. And so you get the stir fry, and you come out of
18 the Safeway, and you go back down and you backtrack. And you
19 go on Iron Springs, and you get to this light at Gail
20 Gardner; correct?
21 A. Right.
22 Q. Do you remember seeing your dad at that
23 intersection?
24 A. I don't remember it.
25 Q. Do you remember seeing your dad -- when either

1 you're going or coming from the Safeway, do you remember
2 seeing your dad's car?
3 A. It is possible. I don't remember.
4 Q. Okay. And so, apparently, from what you are
5 saying, he got ahead of you, and he was driving the same way,
6 and he got into Alpine Meadows just a little bit ahead of you
7 and Jake; right?
8 A. Maybe.
9 Q. Unless he was at home the whole time. You just
10 don't know?
11 A. I just don't remember.
12 Q. And you come in, and his car is in the garage, and
13 you pull in and park your car, put the garage door down?
14 A. Yes.
15 Q. Is it fair to say that you and your dad used the
16 garage really as the unofficial front door a lot of the time?
17 A. Yes.
18 Q. Because you were coming and going in your car most
19 of the time?
20 A. Yes.
21 Q. There is another front door around the other side;
22 right?
23 A. Right.
24 Q. That comes in that same little area at the bottom
25 of the stairs; correct?

1 A. Yes.
2 Q. There is actually a little elevator in your unit;
3 right?
4 A. Yes.
5 Q. Do you ever use the elevator?
6 A. For fun.
7 Q. On a very slow summer evening?
8 A. Yes.
9 Q. Riding the elevator?
10 A. Yes. Or if we had a lot of luggage to take up.
11 Q. Moving something in or out?
12 A. Yes.
13 Q. Your sister's clothes?
14 A. We didn't have that many of them.
15 Q. You are under oath.
16 A. I had quite the armload.
17 Q. So your recollection is you come in, you and Jake,
18 you got the grocery bag with the stir fry. You can hear the
19 shower running? Is that how you know your dad is in the
20 shower?
21 A. Yes.
22 Q. So, you come in and you go into the little kitchen
23 area. The kitchen is more or less straight ahead. When you
24 come up the stairs, the kitchen is straight ahead; right?
25 A. Yes.

1 Q. Your dad's bedroom and bath and laundry room are
2 off to the left; correct?
3 A. Correct.
4 Q. You didn't go in the laundry room to see if the
5 wash was being done; right?
6 A. Right.
7 Q. You did a lot of laundry that summer, I imagine,
8 between you and your dad?
9 A. Between the two of us, yes.
10 Q. And it wasn't unusual for him to do -- to start a
11 load of laundry at ten o'clock at night?
12 A. He did most of the laundry.
13 Q. Dad's are good for some things?
14 A. Yes.
15 Q. And but he would do your laundry and his; right?
16 A. Yes.
17 Q. So it wasn't out of the ordinary for him to do a
18 load of laundry in the evening late; correct?
19 A. Correct.
20 Q. Would you describe yourself as -- do you know what
21 the expression "night owl" is?
22 A. Yes.
23 Q. What do you think that is?
24 A. Someone that stays up later at night and doesn't
25 really wake up in the morning.

1 Q. Sleeps late?
2 A. Sleeps late.
3 Q. In the summer of 2008, were you a night owl?
4 A. Absolutely.
5 Q. How late would you stay up?
6 A. Sometimes to midnight or 1:00 in the morning.
7 Q. And how late would you sleep, then?
8 A. At least 10:00 or 11:00. Maybe sometimes a little
9 later, a lot later.
10 Q. Until somebody woke you up?
11 A. Yes.
12 Q. So you wouldn't sleep the next day away?
13 A. Yes.
14 Q. Were you working that summer?
15 A. I did have a job.
16 Q. Had you been at work that day?
17 A. The day of July 2nd?
18 Q. The day your mom died.
19 A. I don't believe so.
20 Q. Would you have gone to work the next day?
21 A. I would have.
22 Q. Do you remember having to make some calls that you
23 wouldn't be coming in the next day?
24 A. I did.
25 Q. Where were you working?

A. TNT Fitness and Body.

Q. Where was that?

A. The gym that was right next to Sonic on Iron Springs.

Q. Handing out towels and signing people in?

A. Yes.

Q. And so eventually your dad comes out of the shower. Do you remember what he was wearing when he came out of the shower?

A. I don't remember.

Q. You just can't recall that in your mind?

A. Probably more summery clothes.

Q. Like shorts and a T-shirt, something like that?

A. Shorts and a T-shirt.

Q. Did your dad seem particularly upset when you looked up? I assume you looked up eventually; right?

A. I don't remember.

Q. But at some point you remember him saying, just sort of out of the blue, have you heard from your mom today; is that right?

A. I think so, yes.

Q. And you said that you had been texting her earlier in the evening; is that right?

A. Yes.

Q. And you told the police officers at 2:00 or 3:00

1 or 4:00 in the morning that you thought your dad had said
2 that he had talked to your grandmother Ruth; is that right?
3 A. Yes.
4 Q. Now, do you know that? Do you know that he had
5 talked to your grandmother that night?
6 A. No.
7 Q. Is that another assumption, sort of like where he
8 was riding his bike?
9 A. Yes.
10 Q. Did your dad at some point while were you around
11 the table eating, say that he had gotten a call from somebody
12 about your mother?
13 A. I don't remember.
14 Q. Okay. Is it hard to remember two years later what
15 you knew that night and what you learned since about this?
16 A. Very difficult.
17 Q. People have talked to you, including police
18 officers have talked to you a number of times about further
19 developments, who called whom and those kinds of things; is
20 that right?
21 A. Yes.
22 Q. You don't have a clear recollection of your dad
23 saying, I got a call from somebody and here is what they
24 said?
25 A. I don't have a clear recollection.

1 Q. You did form the impression that people back east,
2 your mom's family, were concerned about her for some reason;
3 right?
4 A. Right.
5 Q. The reason was that they were trying to get ahold
6 of her and they couldn't?
7 A. It is possible, yes.
8 Q. And you told Mr. Butner that you texted and called
9 your mom and you didn't hear back; is that right?
10 A. Right.
11 Q. That was unusual; wasn't it?
12 A. She sometimes wouldn't answer her cell phone, but
13 if you called multiple times on her cell phone and the home
14 phone, you would usually get ahold of her.
15 Q. Did you call her both on her landline and her
16 cell, do you remember?
17 A. I did.
18 Q. Did you send her a text?
19 A. Yes.
20 Q. That text never got answered; did it?
21 A. No.
22 Q. And the calls never got answered either; did they?
23 A. No.
24 Q. Do you remember your dad saying that evening
25 before you left to go out there that someone had asked him to

1 go out?
2 A. It is possible.
3 Q. Do you remember your dad saying that he -- whoever
4 it was that may have said that, he didn't think it was a good
5 idea, because they had just gotten a divorce and he was
6 trying to respectful of her privacy or something like that?
7 A. Yes.
8 Q. Do you remember what he said?
9 A. He thought that if she was not answering the
10 phone -- if she was with a man, then it would be very
11 uncomfortable and awkward for him to go check on her, so he
12 didn't feel comfortable doing it himself.
13 Q. Here is the ex-husband showing up in person to ask
14 why she was not answering phone calls?
15 A. Yes.
16 Q. Did that strike you as unreasonable?
17 A. Not at all.
18 Q. Did you have some idea that your mom was beginning
19 to date?
20 A. Some idea.
21 Q. What was the basis of that?
22 A. Just hearing things, sometimes from my sister. I
23 don't think she ever told me directly, and we visited a man
24 in California.
25 Q. That is Mr. Horowitz?

1 A. Colin.
2 Q. Colin in Malibu?
3 A. Yes
4 Q. That was a boyfriend of your mother's?
5 A. I believe so.
6 Q. This was during the long period of time that your
7 mom and dad were separated?
8 A. Yes.
9 Q. It wasn't, again, just an outlandish idea that
10 your mother might have had a gentleman caller; is that right?
11 A. Right.
12 Q. Did your dad in any way force you to go out and
13 check on your mother, rather than him going? Did you feel
14 like you were being forced?
15 A. I volunteered.
16 Q. Did your dad try to talk you out of it in any way?
17 I don't want you to do that?
18 A. I think so. Not -- well, not talk me out of going
19 there. He was concerned if something was wrong, he was
20 concerned about my safety. I think that is why we decided
21 Jake would go with me.
22 Q. Did you feel like your dad was pushing this
23 responsibility off on you?
24 A. No.
25 Q. It was your idea; is that right?

A. Yes.

Q. Was your dad concerned? Did your dad appear to be concerned about the situation with your mother?

A. Yes.

Q. Was he frantic?

A. Not frantic.

Q. Were you frantic?

A. I was worried, not frantic.

Q. Did you get more worried as more time went on and you weren't hearing from her?

A. Yes.

Q. That is why you decided to go out there?

A. Yes.

Q. Tell us again what your dad wanted you to do. What was the arrangement you had with your dad?

A. I was supposed to drive out with Jake, and as I got to her road, I think the beginning of Single Tree, if I remember the street name, I was supposed to call him as I drove up to the house, so if anything seemed wrong, I could consult him on what to do.

Q. In your mind, what was it that you might see that would be wrong?

A. You know, a strange car, or her car there but all the lights off. I wasn't really sure. I was just scared of finding something wrong.

1 Q. Char, do you remember as you got close to the
2 house being on the phone with your dad?
3 A. Can you say that again?
4 Q. Do you remember as you got close to your mother's
5 house still being on the phone with your dad?
6 A. Yes.
7 Q. Do you remember telling your dad you saw flashing
8 lights?
9 A. Yes.
10 Q. Do you remember what your dad said?
11 A. Not exactly.
12 Q. Do you remember what you said?
13 A. Probably, "oh, my God" or something to that
14 nature.
15 Q. There were police cars in the yard of your
16 mother's house?
17 A. Yeah.
18 Q. Right?
19 A. Right.
20 Q. With flashing lights?
21 A. Right.
22 Q. You knew something very bad had happened; right?
23 A. Right.
24 Q. Did you have a feeling that it was really bad?
25 A. I had feeling. I didn't want to think that it

1 could possibly be that bad.
2 Q. When your dad finally got out there -- you were
3 there for some period of time until your dad could get out
4 there. It must have felt like forever; right?
5 A. Yes.
6 Q. Do you remember seeing your dad get out of his
7 car?
8 A. Yes.
9 Q. What did the two of you do?
10 A. I ran to him and hugged him.
11 Q. Were you crying?
12 A. Yes.
13 Q. Was he crying?
14 A. I think, yes.
15 Q. What did you say?
16 A. What did I say? I don't remember.
17 Q. Do you remember what he said?
18 A. I don't remember.
19 Q. Did you hug for a long time?
20 A. Yes, until we were pulled apart.
21 Q. By who?
22 A. By the police officers that wanted to ask us
23 questions.
24 Q. Did you want to do that?
25 A. No.

1 Q. What did you want to do?
2 A. I wanted to be with my dad. I wanted to go home.
3 Q. You were 16 years old?
4 A. Yeah.
5 Q. This excerpt from your diary, looks like it just
6 starts right in the middle of another entry?
7 A. Yes.
8 Q. Is that right? Okay. There is -- the top part of
9 it is just like the middle of a sentence; is that right?
10 A. Right.
11 Q. If I showed you a page before that, would it help
12 you remember the date? What you saw didn't have a date on
13 it.
14 A. Yes, it would help me remember.
15 MR. SEARS: Your Honor, may I approach?
16 THE COURT: You may.
17 BY MR. SEARS:
18 Q. Take a look at that, and tell me if you recognize
19 that.
20 A. I do.
21 Q. Can you tell me what it is?
22 A. The beginning of my journal entry.
23 Q. And it ends at the bottom of that page in the
24 middle of a sentence; right?
25 A. Yes.

1 Q. Okay. Let me show you, this is a copy of the
2 exhibit. Does the sentence on the page I showed you match up
3 with the sentence on the next page?
4 A. Yes, it does.
5 Q. Would that make you think the page I handed you is
6 the first of two pages?
7 A. Yes.
8 MR. SEARS: I will have this marked.
9 Your Honor, I am perfectly happy to take
10 the break now.
11 THE COURT: Do you want to address that before
12 we take the break?
13 MR. SEARS: I do. I just have one or two
14 questions on the motion, as soon as we get a number on this.
15 Your Honor, I would move what has now
16 been marked as Exhibit 2295.
17 MR. BUTNER: No objection.
18 THE COURT: Exhibit 2295 is admitted.
19 MR. SEARS: Ready to take a break now, if you
20 want, Your Honor.
21 THE COURT: Thank you.
22 It is noon, and this is our second full
23 day, and generally the past juries that I have had have
24 actually complained that I would take an hour and a half,
25 which is why I went back to an hour and 15 minutes for lunch

1 time. So we will resume at 1:15. If that turns out to be
2 too short, I am comfortable with going to 1:30. Let me know
3 in some written form if you would prefer going an hour and a
4 half at lunch, but normally I think an hour and 15 to
5 expedite things is sufficient. All I am saying is I am open
6 to changing that, but we will resume today at 1:15.
7 Remember the admonition.
8 (Whereupon, the jury exits the courtroom.)
9 (Whereupon, a recess was taken at 12:01 p.m.
10 to resume at 1:15 p.m. of the same day.)
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1 JUNE 4, 2010
1:20 P.M.
2
JURY TRIAL
3
4 (Whereupon, the following was held in
5 open court out of the presence of the jury.)
6 THE COURT: The record reflects the presence
7 of the defendant and his counsel, prosecutors.
8 You had something you want to put on the
9 record?
10 MR. BUTNER: I did, Judge.
11 I have been talking with the people that
12 run the jail, so to speak, and they have agreed that
13 visitation for Charlotte and Katie can take place on
14 Saturdays beginning tomorrow.
15 THE COURT: Thank you.
16 Did they give you a time?
17 MR. BUTNER: I didn't ask for a specific time,
18 just the normal kind of Saturday visitation time.
19 MR. HAMMOND: Can you make sure it is the
20 whole family.
21 MR. BUTNER: It is the whole family, not just
22 Katie and Charlotte.
23 MR. HAMMOND: And Renee?
24 MR. BUTNER: It is my understanding that the
25 other people with out-of-state driver's licenses were

1 visiting anyway. They made accommodations in that regard,
2 and I'm like, come on, and they said okay.
3 THE COURT: Thank you. I appreciate that.
4 With regard to the motion then, I will --
5 pending its successful implementation, I will find that it is
6 moot. If it needs to be addressed further, please --
7 MR. HAMMOND: We may file another motion to
8 reconsider the release conditions in any event, but we very
9 much appreciate what the County Attorney has done.
10 THE COURT: As do I.
11 MR. HAMMOND: Thank you, and what the jail has
12 done.
13 THE COURT: I suppose we need Miss DeMocker
14 back up on the stand.
15 MR. HAMMOND: Judge, at some point before the
16 two witnesses -- I understand from Mr. Butner, the next two
17 witnesses are going to be Warnett and Butler. Sometime
18 before we start those, we ought to at least speak for a
19 minute, probably with the Court, about the scope of the
20 examination of those witnesses.
21 THE COURT: Do you want to do that on the
22 record or do you want to have a side bar right now?
23 MR. HAMMOND: Well, actually we have got the
24 court reporter there right now. Our concern, I think, would
25 be --

1 THE COURT: I wouldn't have had Miss DeMocker
2 come up if I knew there was more to do. She can stay there.
3 MR. HAMMOND: In the various interviews and
4 conversations about these two women, who are both friends of
5 Carol's, there have been questioning about their observations
6 of things like the demeanor of the defendant. I don't know
7 if Mr. Butner is going to get into demeanor after the death
8 around times when there have been either encounters or
9 services or family get-togethers. I think we talked about
10 the issue of testimony about demeanor before, and I think we
11 have agreed that it is to be excluded, but I would like to
12 not stand up in front of the Court and talk about that.
13 MR. BUTNER: I didn't really understand that
14 there was some sort of an agreement about demeanor testimony
15 being excluded. I think it is relevant in certain
16 circumstances.
17 MR. HAMMOND: I think, for example, I think
18 the first witness, Miss Warnett is from Atlanta, may say when
19 she came here after the homicide several days later and went
20 to Bridle Path with Steve -- with a few other people, Steve
21 seemed distant and cold. I think that is prejudicial under
22 403. I think it is irrelevant.
23 THE COURT: What is the time frame that you
24 are talking about?
25 MR. HAMMOND: Three or four days after.

1 MR. BUTNER: Three or four days after the
2 murder of Carol Kennedy.
3 THE COURT: Something like the 5th or 7th,
4 thereabouts.
5 MR. BUTNER: Maybe the 4th of July even.
6 Right in that time frame. This was during the time of a
7 visit to the Bridle Path residence, I think is what
8 Mr. Hammond is speaking about.
9 THE COURT: What is the relevance of how he
10 may have appeared to her when visiting Bridle Path, if the
11 testimony is going to be that he was distant or seemed cold?
12 MR. BUTNER: Well, I think that --
13 THE COURT: First of all, you are talking
14 about the perception of somebody about somebody else's
15 emotional state.
16 MR. BUTNER: She is a trained observer in that
17 regard. She is a licensed clinical social worker, and
18 engages in therapy on a regular basis.
19 MR. HAMMOND: Never offered as an expert on
20 that field. This is Joe at his best, Your Honor.
21 MR. BUTNER: I thought that was pretty good.
22 THE BAILIFF: You are on record, gentlemen,
23 one at a time.
24 MR. BUTNER: Secondly, I think it is relevant
25 because we have already touched upon, through one witness,

1 Mr. Sears in examining Charlotte DeMocker, how Mr. DeMocker
2 reacted, his emotional framework, his reaction to the death
3 of his ex-wife, et cetera. It has been made relevant by that
4 kind of testimony.
5 THE COURT: There you are talking about the
6 same date of the event versus talking now three to five days
7 later.
8 MR. BUTNER: In the scene of the brutal
9 murder.
10 THE COURT: I think that's too attenuated and
11 not particularly probative of anything that is at issue in
12 the case.
13 MR. BUTNER: No questions about demeanor?
14 THE COURT: Under 403 -- if that is the
15 context of it, I don't think it is very probative of anything
16 and has a lot of potential for misuse. So under 403, I don't
17 think it would come in.
18 MR. HAMMOND: The other part of this is that
19 there are -- both of these women have things that they have
20 been asked by the cops, and I don't know whether you will ask
21 them today, but things that Carol said to them at various
22 times, like at the time of the divorce, at the time they were
23 going through the divorce. Telephone calls that these women
24 had with Carol clearly are hearsay.
25 THE COURT: If offered for the truth of the

1 matter asserted.
2 MR. BUTNER: That's right. If offered for the
3 truth of the matter asserted.
4 MR. HAMMOND: What could they be offered for?
5 MR. BUTNER: I am not sure, because I don't
6 generally seek to elicit hearsay, and I don't plan on doing
7 that.
8 MR. HAMMOND: Then I am going to sit back down
9 and rest comfortably and say Joe said okay.
10 MR. BUTNER: Rest as comfortably as I rested
11 when you got third-party culpability evidence in that was
12 hearsay.
13 MS. CHAPMAN: Your Honor, there are specific
14 issues with respect to Miss Butler, so we can either take
15 those up before her testimony or now.
16 THE COURT: Is she testifying next?
17 MS. CHAPMAN: She is going to be after Miss
18 Warnett, is my understanding.
19 THE COURT: It will probably be after the
20 break, then.
21 MS. CHAPMAN: Very good. Thank you.
22 MR. BUTNER: Just to clarify, because we are
23 getting into such a time constraint situation, so I am going
24 to be talking very fast. Ms. Butler has a flight that
25 necessitates her leaving at 4:30, so it may be that we're not

1 even going to be able to put Ms. Butler on, given where we
2 are going today.
3 MR. HAMMOND: Why don't you put her on first
4 before Ms. Warnett?
5 MR. BUTNER: Because she has got more
6 flexibility than Ms. Warnett, and Ms. Butler can come back
7 and Ms. Warnett cannot. Did you really want to know?
8 MR. HAMMOND: You stay away from hearsay, she
9 can slide through here like -- well, never mind -- she can
10 slide right through.
11 THE COURT: Glad you avoided the Texas slang.
12 Bring in the jury.
13 (Whereupon, the jury enters the courtroom.)
14 THE COURT: The record reflects the jury is
15 present. The defendant is present, the defense counsel, as
16 well as the prosecutors.
17 Mr. Sears.
18 MR. SEARS: Thank you.
19 CROSS-EXAMINATION RESUMED
20 BY MR. SEARS:
21 Q. Hi, Char.
22 A. Hi.
23 Q. Let's talk for just a minute or two more about
24 your journal entry. Can you read the last sentence on the
25 second page, the last sentence of your entry.

A. Yes.

Q. Can you use that outside voice some more.

A. Yes. I said, "I don't know why I thought this would help."

Q. When you said that, you were writing about the idea that somehow writing this down in a journal would make you feel better?

A. Yes.

Q. After two pages you decided it really didn't?

A. Yes.

Q. Made you feel worse?

A. Yeah, I think so.

Q. Looking at that first page now, do you have a sense of when you wrote this two-page journal entry?

A. Yes. The exact date?

Q. Sure.

A. It was August 18th.

Q. 2008?

A. 2008.

Q. That is a little over six weeks after your mom died; right?

A. Yes.

Q. That was a real low point for you; right?

A. Yes.

Q. You were feeling depressed and pretty much alone;

1 right?
2 A. Yes.
3 Q. That is why you started writing in your journal?
4 A. Yes. I was told to by my family.
5 Q. It didn't work?
6 A. Didn't help that much.
7 Q. This talk with your dad, you told Mr. Butner that
8 your dad was talking about running away because he was afraid
9 that he would be framed for something he didn't do?
10 A. Yes.
11 Q. Is that what you said this morning?
12 A. Yes.
13 Q. That is something your dad said; right?
14 A. Yes.
15 Q. More than once?
16 A. It's possible, yes.
17 Q. You believed him; right?
18 A. Yes.
19 Q. You believe that is the way he felt?
20 A. Yes.
21 Q. And that freaked you out?
22 A. Absolutely.
23 Q. To the point where you wrote down in your two-page
24 journal there, until you lost faith in it, that you were
25 afraid you wouldn't see your dad again; right?

1 A. Right.
2 Q. Now, around the same period of time, apparently,
3 he was sending away for these how-to-run-away books; right?
4 A. Yes. I didn't know about it at the time.
5 Q. And putting this bag full of clothes out on the
6 golf course and other things; right?
7 A. Right.
8 Q. Your dad is a planner; isn't he?
9 A. I would say so, yes.
10 Q. It would be pretty typical, even if your dad had
11 some wild idea, he would have to plan how he was going to do
12 it. Is that the way your dad was?
13 A. Yes.
14 Q. Your dad let that idea go pretty quickly; didn't
15 he?
16 A. Yes.
17 Q. It was in the air for a couple of weeks and then
18 gone; right?
19 A. I would say so, yes.
20 Q. And your dad told you that he would never leave
21 you; right?
22 A. Right.
23 Q. Even after these phones and all of the idea of he
24 would run away but could still be in touch with you, that
25 never happened; did it?

A. No.

Q. And looking back on it now, you just think your dad was afraid that what happened was going to happen; right?

A. Right.

Q. That the police would come for him when he hadn't done anything?

A. Yeah.

Q. When they did come for your dad, he was where?

A. He was at his office working.

Q. Where he was supposed to be?

A. Yes.

Q. Wearing a coat and tie?

A. Yeah.

Q. Let's talk about happier things. Let's talk about your mom. When your sister was here yesterday when you were down becoming educated at college, we saw some pictures of the last time you and your sister and your mom and dad were together. Do you remember when and where that was?

A. I do. It was at the airport in Phoenix sending Katie off to a semester abroad.

Q. This is a pretty big deal for the family; right?

A. Right.

Q. It was a big deal not only Katie, who was the favored older sister, right, but it was also a big deal because it was a chance for all of you to be together after

1 the divorce; right?
2 A. Right.
3 Q. You told Mr. Butner that you had had some pretty
4 stiff arguments with your mom when the divorce was heating
5 up, and you were upset; right?
6 A. Yes.
7 Q. And you said some pretty harsh things to your mom;
8 right?
9 A. I did.
10 Q. But the good news is that before your mom died,
11 you got to make up with her; right?
12 A. Yeah, I did.
13 Q. When did that start?
14 A. It started pretty soon after the divorce. I was
15 talking to her more often, and I went out to dinner with her
16 a couple of times at her house.
17 Q. Even on the day she died, you were sending these
18 silly little texts to her back and forth about the rain and
19 all the other things; right?
20 A. Right.
21 Q. That made you feel good; right?
22 A. Right.
23 Q. The very last thing that your mother ever said to
24 you was "I love you"; right?
25 A. Right.

1 Q. Does that make you feel good?
2 A. Yeah, it does.
3 Q. Can we look at the pictures from the airport.
4 There are just a couple of them. This is Exhibit 1508. We
5 have looked at this before.
6 That is you, your mom and your sister at
7 the airport; right?
8 A. Yes.
9 Q. Okay. The hair club for girls?
10 A. What?
11 Q. That is the hair club for girls, your summer
12 hairdo. That was a very happy time?
13 A. Yes, it is was.
14 Q. Your dad took this picture?
15 A. Yes.
16 Q. And then they handed the camera off, and your mom
17 took this picture; right?
18 A. Right.
19 Q. Are these some of your favorite pictures?
20 A. Yes.
21 Q. Have you sent these around to a lot of your
22 friends?
23 A. A lot of them have seen it, yeah.
24 Q. And then we laughed at this one yesterday. Here
25 is a somewhat less flattering shot of your big sister. The

1 equipment queen; right?
2 A. Yes.
3 Q. She got that from your dad; right? He is kind of
4 an equipment guy; right?
5 A. I think so.
6 Q. He always had bikes and kayaks and golf clubs. It
7 looks like Katie is going off to some big adventure; right?
8 A. Exactly.
9 Q. And she is checking her phone. Is that pretty
10 common?
11 A. Between the two of us, yes.
12 Q. Looking back on that terrible day, on the day your
13 mom died, until you got out there and saw the flashing
14 lights, until you saw those flashing lights, did you think it
15 was all going to be okay?
16 A. I did.
17 Q. And it went horribly wrong; right?
18 A. Yes.
19 Q. And you haven't gotten through that yet two years
20 later; have you?
21 A. Not yet.
22 Q. You haven't had a chance as a family, what is left
23 of your family, which is this picture -- this is the family
24 now; right?
25 A. Right.

1 Q. You haven't had that time to be together and do
2 what you need to do, because of this case; isn't that right?
3 A. Yes, it is.
4 MR. SEARS: Thank you.
5 I don't have any other questions, Your
6 Honor. Thank you.
7 THE COURT: Redirect.
8 REDIRECT EXAMINATION
9 BY MR. BUTNER:
10 Q. Okay. On cross-examination by Mr. Sears, if I
11 understood what you said correctly, you said you really
12 weren't worried about your dad that night on July the 2nd
13 when he was gone for so long; is that correct?
14 A. Yes.
15 Q. Do you remember your interview with Detective
16 Rhodes on July the 3rd, that early morning interview with
17 him?
18 A. Yes.
19 Q. And at Page 18, do you remember Detective Rhodes
20 right at the top asking you, "and he went on a bike ride and
21 you didn't see or hear from him again."
22 And your answer: "Until about ten
23 o'clock."
24 And Rhodes: "Okay, and about 10:07 you
25 were worried?"

1 And you answered: "Yeah."
2 Do you remember that?
3 A. I do.
4 Q. And do you remember Rhodes saying to you: "Cuz
5 you didn't know where he was."
6 And you answered: "Yeah."
7 And Rhodes asked you: "Is that normal
8 for him to be out at that time?"
9 And you answered: "Yeah, he has been
10 going for late night trail runs for a while."
11 And Rhodes is inaudible.
12 And DeMocker is "uh-huh."
13 And then Rhodes said: "So you -- but you
14 were worried about him?" Question.
15 And you say: "Yeah, just cuz it had been
16 so long, like normally he is gone for, like, three hours or
17 so."
18 And Rhodes says: "Yeah."
19 Do you remember you saying: "So, but
20 this time it was, like, five, so I was kind of getting
21 worried."
22 Do you remember all of that?
23 A. I do.
24 Q. So actually you really were worried; weren't you?
25 A. I don't know if "worried" was the correct word to

1 use.
2 Q. But he had been gone for five hours when three was
3 the norm; right?
4 A. Right.
5 Q. On cross-examination when you were speaking with
6 Mr. Sears, you indicated that your father is a planner;
7 right?
8 A. Yes.
9 Q. What did you mean by that?
10 A. He likes to know what he is doing more than most
11 people who take life by a whim and just roll with it.
12 Q. He plans things out carefully in advance?
13 A. Not necessarily carefully, but he likes to know
14 what he is doing.
15 Q. But he plans things?
16 A. He is a planner.
17 Q. He doesn't just do things by accident or on a
18 whim?
19 A. Sometimes.
20 Q. But generally speaking he is a planner?
21 A. I would say.
22 Q. And so when he is out riding his bike for an
23 unusually long period of time at a location that he hasn't
24 even told you about, he's probably planned that out; right?
25 A. I wouldn't say that.

1 MR. BUTNER: No further questions.
2 THE COURT: Members of the jury, before.
3 Miss DeMocker leaves the stand, any questions that you all
4 have?
5 Phil will get any additional ones, if you
6 compose them. We will go over these first.
7 THE BAILIFF: There is a couple more coming.
8 (Whereupon, the following was held in chambers
9 outside the presence of the jury.)
10 THE COURT: Record can reflect we are in
11 chambers outside the presence of the jury. Do you waive the
12 presence of Mr. DeMocker for this purpose?
13 MR. SEARS: Yes.
14 THE COURT: We have for Charlotte DeMocker a
15 number of questions, starting with what we covered already.
16 So there is no objection to the first part about the location
17 of the fitness center compared to where the pool was.
18 The second one pertains advice that I
19 have given the lawyers already, so I don't think I need to
20 cover that one.
21 There was a question -- third question on
22 this particular one that said, "Did Charlotte live with
23 father all the time after mother's death?" That, I think,
24 the State wanted me to ask and the defense wanted me not to
25 ask. I think the reason for the defense wanting me not to

1 ask was having to do with the knowledge of the jury as to
2 whether or not the defendant is in custody, and that question
3 could open the door to evidence that doesn't need to be in
4 front of the jury about the fact that the defendant is in
5 custody presently, which has not been made particularly
6 apparent. Although, I don't think jurors are stupid. There
7 are two detention officers in the room.
8 MR. BUTNER: I was just thinking, it could be
9 asked, did Charlotte continue at -- or did Charlotte live at
10 Alpine Meadows after mother's death?
11 THE COURT: She testified to that, that she
12 lived there until October.
13 MR. BUTNER: I think it is re-asking that
14 question.
15 THE COURT: It is asked and answered in that
16 sense.
17 MR. HAMMOND: The reason that we raised the
18 question about this before, because if you get back into that
19 she moved out in October, somebody could draw the incorrect
20 inference that she moved away from Steve.
21 THE COURT: That is also true.
22 MR. SEARS: Apart from when he was in custody,
23 they were estranged.
24 THE COURT: I don't think it is particularly
25 relevant to anything that is of critical importance in the

1 case. I do think that carries a danger of some unfair
2 prejudice, so I am not going to ask that. Besides, I think
3 it is asked and answered in terms of that she lived at that
4 particular Alpine Meadows address until October.
5 So the critical time frame, I think, is
6 covered already by the answer, and you can argue it based on
7 what is already in the evidence. So I am not going to ask
8 that part of it.
9 The next question had some of the same
10 issues. How did it come about why Charlotte lived with
11 Mr. DeMocker -- why Charlotte lived with Mr. DeMocker after
12 Mr. DeMocker was arrested in October of 2008? This is one
13 that, at least, some of the lawyers and I think there might
14 be a "not" that is missing in there.
15 MR. BUTNER: Yeah.
16 THE COURT: Why Charlotte did not live with
17 Mr. DeMocker after the arrest in October?
18 MR. SEARS: I don't know what the question
19 means.
20 MR. BUTNER: Yeah. I am confused.
21 THE COURT: I think it has the same danger as
22 the previous question. Any objection to my not asking it?
23 MR. BUTNER: No, Judge.
24 MR. HAMMOND: I am now seeing the problem. We
25 certainly don't want to say that he is incarcerated, but we

1 also don't want to leave, by not answering these questions or
2 not saying something, we are going to leave the inference
3 that they are estranged, which is certainly not true.
4 THE COURT: Not by looking at it all. All of
5 her answers and demeanor show otherwise.
6 MS. CHAPMAN: I think that is what that
7 question is sort of getting at.
8 MR. SEARS: I don't understand the question.
9 I understand the question a little bit better if you put a
10 "not" in there, but not all that clearly. It is not the way
11 you would ask the question. The question would be: Why
12 wasn't she leaving with Steve after he was arrested?
13 Could we have a minute? If we could step
14 outside and talk among ourselves about this problem before it
15 goes further.
16 THE COURT: Let me finish going through these
17 first. The first one is scratched out. The question -- two
18 questions left on this third one. Did your father ask you to
19 keep his get-away plan on leaving a secret?
20 MR. BUTNER: Really good question.
21 MR. DUPONT: Your Honor, from my perspective,
22 it is not that good of a question.
23 THE COURT: I don't think you have standing.
24 MR. BUTNER: No standing.
25 MR. DUPONT: I think I do, because I am her

1 attorney.

2 THE COURT: I don't think you have standing,

3 not on this question. Not on the questions.

4 MR. DUPONT: Let me explain. I am going to go

5 up there and talk to her about asserting the Fifth Amendment

6 on this question. I was very uncomfortable with some of the

7 other questions that were asked about her getting a GPS

8 device, and her maybe helping her father make an escape.

9 That is why I think I do have standing and need to consult

10 with Charlotte about it.

11 THE COURT: Okay. I see your point. The

12 defense counsel?

13 MR. HAMMOND: Well, I certainly don't want

14 to -- I understand Mr. Dupont's point, but I certainly don't

15 want this woman at the end of her testimony to have to assert

16 the Fifth Amendment in response to a jury question that no

17 lawyer in direct or cross asked. I think that would be

18 terribly prejudicial.

19 How many people did we see in the last 16

20 days who didn't understand the Fifth Amendment? I would

21 really like us not to ask a question that is going to require

22 her to assert her constitutional rights.

23 MR. DUPONT: I don't think it is appropriate

24 for that to happen in front of the jury.

25 MR. BUTNER: She doesn't have to assert her

1 Fifth Amendment rights if she is given immunity, I guess, on
2 this issue, Judge.
3 MR. SEARS: Perhaps Mr. Dupont could be given
4 an opportunity to confer with his client and determine what
5 her answer to the question might be.
6 MR. DUPONT: Maybe we can do that when they
7 are talking.
8 THE COURT: Okay. I will move on and not
9 address that one yet.
10 On text from mom, did she actually state
11 that it rained that day?
12 MR. SEARS: That is a fair question.
13 THE COURT: I think it is. I think the answer
14 is already there. She was talking about it raining the day
15 before.
16 MR. BUTNER: Right. She said it was raining
17 the day before.
18 MR. SEARS: Nobody said they were always
19 paying attention.
20 THE COURT: Next question: Was she worried in
21 that time frame about Jake being kicked out of his house?
22 Was she worried in the -- they put 7/2/2008 -- was she
23 worried 7/2/2008, in that time frame, about Jake being kicked
24 out of his house?
25 MR. SEARS: I don't think it is relevance.

1 THE COURT: I don't see the relevance of it.
2 MR. PAUPORE: Calls for speculation on her
3 part, anyway.
4 THE COURT: Asks for her mental state about
5 whether she was worried about Jake.
6 MR. SEARS: I don't think it is relevant.
7 MR. BUTNER: I am having trouble with the
8 relevance, too.
9 THE COURT: Regarding your mom, whose idea was
10 it to contact hospitals? Dad's, Jake's or yours? How did
11 that come about?
12 MR. PAUPORE: Fair question.
13 MR. SEARS: I think she may not have answered
14 that precise question. I thought she made it clear that it
15 was her idea.
16 THE COURT: I think that is probably her
17 answer.
18 MR. BUTNER: Just to be clear, we are going to
19 get copies of all of these questions; right?
20 THE COURT: Not this minute. I will let the
21 clerk have the ones -- I will excuse you.
22 MR. SEARS: And we need a minute to talk.
23 THE COURT: Why don't you have Phil, if you
24 can signal her and bring her back to where you can talk to
25 her privately and use the jury room.

1 (Brief break.)
2 MR. SEARS: We have had an opportunity to talk
3 a little bit here. Here is the dilemma that we have. It is
4 caused, in part, by me being a question or two too slow to
5 realize where the questions that Mr. Butner asked took the
6 jury. And now we are in a position where three jurors have
7 questions of varying degree that implicate the question of
8 whether Mr. DeMocker is in custody or not. That puts us in
9 the impossible position of either having to concede he is in
10 custody and finding a way to explain it --
11 THE COURT: Two.
12 MR. SEARS: Two.
13 -- or continuing the idea that he is not
14 in custody, which we think we are entitled to maintain, and
15 having two jurors then drift off into speculation about what
16 this all means.
17 THE COURT: At least they have been instructed
18 about the speculation part.
19 MR. SEARS: But the questions indicate that
20 they are going to speculate, and they already are. We don't
21 know exactly what that means. We don't know -- I think the
22 fair implication of those questions is, in a general way, how
23 is it that this happened, and does it mean that Steve
24 DeMocker is estranged from Charlotte and/or Renee so that
25 they are not all living together, or more particularly, why

she is not living there? That is the concern we have.

THE COURT: Without going to the point of what happened upon his arrest and the fact that he is in custody, the estrangement part, you could at least get them off that. I don't think jurors are stupid. They see detention officers hanging in the courtroom. They may come to a conclusion that he is in custody, but at least it relieves you of the other -- of the burden of having them speculate of some estrangement if you ask the question: Until the point where he is arrested, did you continue to live with him?

MR. SEARS: What if I were allowed to simply ask some questions without objection or follow-up from Mr. Butner that would simply establish that she has had the same relationship with her father consistently from the date of the murder to today, and it has never changed?

MR. BUTNER: That is okay with me.

THE COURT: Do you want to re-open cross or whatever?

MR. BUTNER: I guess -- I mean, I don't have a problem with that. I was thinking maybe you could ask that question, Judge, and then it would be very neutral and kind of put it to rest.

MR. SEARS: I would rather ask the question.

MR. BUTNER: And I don't have a problem with Mr. Sears asking it either.

1 MR. SEARS: Do that in lieu of either of those
2 questions about where --
3 THE COURT: Where she was living, why she was
4 living there?
5 MR. SEARS: -- or why she was living there.
6 THE COURT: Okay. Do you want me to ask a
7 question that modifies theirs to emphasize that she did
8 continue to live at the condo until October?
9 MR. SEARS: No, because I think that begs the
10 question where she lived after he was arrested.
11 THE COURT: That is already in front of them
12 in evidence.
13 MR. SEARS: I think we need to leave that
14 alone and not reemphasize it.
15 THE COURT: Going back then, we had the
16 question that Chris may need to address. Did your father ask
17 you to keep his plan on leaving a secret?
18 MR. DUPONT: Well, I think the question itself
19 has the risk of being a Fifth Amendment violation. I am all
20 right with the question. I am comfortable with it that it is
21 not going to --
22 THE COURT: Implicate Fifth Amendment rights?
23 Okay.
24 MR. SEARS: I hear an answer.
25 MR. PAUPORE: That's all I heard was the

1 answer.
2 THE COURT: Both of the litigant sides okay
3 with asking that question?
4 MR. SEARS: If that is the state of the
5 witness's position, I think we would be fine with that. I
6 agree with Mr. Hammond, we would not want to have to have
7 Charlotte end her testimony by taking the Fifth Amendment on
8 a juror question.
9 THE COURT: Mr. Butner.
10 MR. BUTNER: No objection to where we are
11 going with this, if that is what you are looking for, Judge.
12 THE COURT: Then on the text from mom, did she
13 state --
14 MR. SEARS: Are we clear that neither side is
15 going to have any follow-up with Charlotte if she just
16 hypothetically answered that question "no"?
17 MR. BUTNER: I won't have follow-up to that.
18 I will leave it at that.
19 MR. SEARS: Okay. Us, too.
20 THE COURT: On the text from mom, did she
21 state that it had rained that day? I think the testimony was
22 that mom was stating that it rained the previous day. Do you
23 want me to ask it in the fashion it was written?
24 MR. SEARS: Well, the one text that is in, the
25 one text -- only one text so far is in evidence, and it is

1 the text from Char to her mother, and it says something about
2 how about that rain?
3 MR. BUTNER: No. I love the rain.
4 MR. SEARS: I love the rain. A better way to
5 ask the question is: In your text conversations with your
6 mother, something like that. There are other texts that are
7 not in evidence that answer that question that make it clear
8 they were talking about the rain yesterday. That is how all
9 of us know that.
10 MR. BUTNER: Those aren't coming into
11 evidence, are they, John?
12 MR. SEARS: Not the ones from Carol.
13 MR. BUTNER: I didn't think so.
14 MR. SEARS: The precise answer to that
15 question is that text speaks for itself, and it doesn't
16 answer the question, but that would mislead the jury. The
17 context of the conversation was -- she could say, without
18 regard to the text, when you were talking with your mother,
19 were you talking about the rain that happened the day before?
20 You could ask the question that way. When you were texting
21 with your mother on July 2nd about the rain, were you talking
22 about rain the day before or that day?
23 MR. BUTNER: That's okay, the day before or
24 that day. That makes sense.
25 MR. SEARS: And I see that she will take the

1 Fifth Amendment on that.
2 THE BAILIFF: They are all back in the jury
3 room.
4 THE COURT: Okay. Then we had questions.
5 Regarding your mom, whose idea was it to contact hospitals?
6 I think both sides indicated no objection to asking that.
7 MR. SEARS: Correct.
8 MR. BUTNER: Correct.
9 THE COURT: I think that is all of them.
10 MR. SEARS: The Pia's Place one, is that going
11 to get answered? Where does she work?
12 THE COURT: That wasn't really a question
13 directed -- can the lawyers or yourself please ask the
14 witness to clarify proper names like business relationship,
15 et cetera? I am not from here. At first I thought the
16 mother's job was in a restaurant. Do you want me to ask her
17 that?
18 MR. SEARS: I think it needs an answer.
19 MR. PAUPORE: It won't hurt.
20 THE COURT: They don't know what UBS is. Can
21 you clarify what UBS is?
22 MR. SEARS: It's a restaurant.
23 MR. HAMMOND: A place where you plug your
24 computer in.
25 MS. CHAPMAN: That is USB.

THE COURT: What else do you want to talk about while the jurors are out, if anything; otherwise, we will recess back into the room.

MR. SEARS: At some point are you going to allow me to re-open my cross to ask -- and it will probably take a question or two to get wound up to ask her that question.

MR. BUTNER: I am sure it will.

MR. PAUPORE: Don't get wound up too tight.

THE COURT: I will ask if you have any follow-up to the questions, and if you do, you do. And I will ask you if you have follow-up to the question, and you can ask that.

MR. SEARS: You are not going to; right?

MR. PAUPORE: It depends how long.

MR. BUTNER: That is exactly right.

THE COURT: He has to ask his first.

MR. SEARS: I will see if I can do it in one question.

(Whereupon, the following was held in open court in front of the jury.)

QUESTIONS BY THE JURY

THE COURT: The record reflects the presence of the jury, the defendant, all counsel for both sides, and Charlotte DeMocker is still on the stand.

1 Some jury questions, Miss DeMocker, in no
2 particular order.
3 Did your father ask you to keep his plan
4 or get-away plan on leaving a secret?
5 THE WITNESS: No. I was never given any
6 explicit instruction to keep it a secret.
7 THE COURT: When texting with your mother on
8 July 2nd of 2008, were you talking about rain that day or the
9 day before?
10 THE WITNESS: The day before.
11 THE COURT: Regarding your mom and what you
12 were doing on July 2nd, whose idea was it to contact
13 hospitals? Dad's, Jake's or yours?
14 THE WITNESS: It was mine, or it could
15 possibly have been Jake's. Before going out to the house, we
16 wanted to make sure she wasn't answering her phone because
17 she was in the hospital or she had been in a car accident or
18 something like that.
19 THE COURT: Question: Is the fitness center
20 different from the pool area or the same place?
21 THE WITNESS: It's at the same place.
22 THE COURT: I am not exactly sure how to ask
23 this one. I will try and ask it. Can you clarify the names
24 of the business relationship, et cetera? I think they are
25 talking about your mom's job or business that she was working

1 in. It says, I am not from here, and then it refers to, I
2 thought the mother's job was at a restaurant or something.
3 Can you clarify what your mom was doing in, I think you
4 mentioned, Pia's Place?
5 THE WITNESS: That was probably Katie. But,
6 yes, she worked as a counselor at Pia's Place. I was not all
7 that familiar with her job, since we hadn't talked very much.
8 THE COURT: I think you are right, now that
9 you mention it, that that was your sister.
10 Follow-up questions to the questions
11 asked by the jurors. Mr. Butner.
12 FOLLOW-UP QUESTIONS
13 MR. BUTNER: Charlotte, do you know what the
14 initials UBS stand for?
15 THE WITNESS: Yes.
16 MR. BUTNER: What?
17 THE WITNESS: United Bank of Switzerland. I
18 think so.
19 MR. BUTNER: That is where your father worked;
20 right?
21 THE WITNESS: Yes.
22 MR. BUTNER: What did he do for UBS?
23 THE WITNESS: He was a financial advisor or
24 investment management. I don't know what the exact title
25 would be.

1 MR. BUTNER: And concerning the texting with
2 your mother on the rain, concerning the rain the day before,
3 would you describe for us the rain the day before that you
4 were texting about?
5 THE WITNESS: It was just a storm. It didn't
6 last very long, I remember, because that is what we said in
7 our text. I don't really remember much about the storm.
8 MR. BUTNER: Was this a storm that was out by
9 your mother's place and you two were texting about it?
10 THE WITNESS: I think it was all through town.
11 It may have been a quick rain, monsoons or something.
12 MR. BUTNER: No further follow-up questions,
13 Judge. Thank you.
14 THE COURT: Mr. Sears.
15 FOLLOW-UP QUESTIONS
16 MR. SEARS: Char, if you remember, on July
17 1st, where were you when it was raining? Were you in town?
18 THE WITNESS: I was in town. I believe I was
19 at work. I had just started my new job, so I was probably
20 still doing training.
21 MR. SEARS: Over on Iron Springs Road here in
22 town?
23 THE WITNESS: Yes.
24 MR. SEARS: You weren't out at your mother's
25 house at Bridle Path on July 1st?

1 THE WITNESS: I don't think so.
2 MR. SEARS: I have another question, Char.
3 You told us a lot about your relationship with your dad and
4 your feelings for each other on the night this happened.
5 Over the last 23 months since your mother died, has your
6 relationship with your father changed in any particular way?
7 THE WITNESS: It is difficult to stay as close
8 when you can't hug your dad, but we have remained as close as
9 possible.
10 MR. SEARS: Thank you.
11 THE COURT: May the witness step down and be
12 excused?
13 MR. SEARS: Please, Your Honor.
14 THE COURT: You may step down.
15 THE WITNESS: Thank you.
16 THE COURT: Are you ready with another
17 witness, Mr. Butner?
18 MR. BUTNER: Yes, Your Honor. I would call
19 Katherine Dean Warnett to the stand, please.
20 THE CLERK: You do solemnly swear or affirm
21 under the penalty of perjury that the testimony you are about
22 to give will be the truth, the whole truth, and nothing but
23 the truth, so help you God?
24 THE WITNESS: Yes.
25 THE COURT: Would you spell your first and

1 last name for the court reporter.
2 THE WITNESS: Katherine Dean Warnett,
3 K-A-T-H-E-R-I-N-E, D-E-A-N, W-A-R-N-E-T-T.
4 THE COURT: Thank you.
5 Mr. Butner.
6 KATHERINE DEAN WARNETT,
7 called as a witness, having been duly sworn, testified as
8 follows:
9 DIRECT EXAMINATION
10 BY MR. BUTNER:
11 Q. You just spelled your name. Would you say it
12 outloud for us again, please.
13 A. Katherine Dean Warnett.
14 Q. Where do you reside? What city or town?
15 A. Atlanta, Georgia.
16 Q. How long have you lived in Atlanta, Georgia?
17 A. Four years.
18 Q. And prior to that time, where did you reside?
19 A. In California.
20 Q. How long did you live in California?
21 A. Approximately four years, three years.
22 THE COURT: Would you be sure to keep your
23 voice up.
24 THE WITNESS: Three or four years. Excuse
25 me.

BY MR. BUTNER:

Q. Have you ever lived in Arizona?

A. Yes.

Q. When did you live in Arizona?

A. From 1993 until 2002.

Q. And what brought you to Arizona in 1993?

A. I started at Prescott College. I attended college at Prescott College.

Q. You were a student there?

A. Yes.

Q. And what did you study at Prescott College?

A. Counseling, psychology.

Q. In fact, what is your present occupation?

A. I am a psychotherapist, a licensed clinical social worker.

Q. You perform that back in Atlanta, Georgia, that profession?

A. Yes.

Q. So you studied counseling?

A. Psychology.

Q. Psychology at Prescott College. And when you were attending Prescott College, did you ever become acquainted with Steven DeMocker?

A. Yes.

Q. Did you ever become acquainted with Carol Kennedy?

A. Yes.

Q. Would you describe for us, first of all, how you became acquainted with Steven DeMocker?

A. Steven was the Dean of Prescott College when I first started there, and so I knew him as the Dean of Prescott College.

Q. And how did you become acquainted with Carol Kennedy?

A. Carol was an instructor, a professor of mine for a few different classes. And so she started out as a professor and mentor, and then became over the years a very, very dear friend.

Q. Did she become your friend while you were still a student at Prescott College?

A. No. I mean, we always had that boundary of, you know, she was an instructor. I did baby-sit for the girls, for Katie and Charlotte, when Steve and Carol would go out of town, so I guess there was a little bit more of a personal relationship there.

Q. You became the trusted baby-sitter, so to speak?

A. Yes.

Q. How old were the girls when you baby-sat for them, approximately?

A. I think I probably started baby-sitting for them maybe in '95. Wasn't immediately when I first got to

1 Prescott College.
2 Q. How old were they in 1995? Can you give us
3 estimates?
4 A. Charlotte was, I mean, maybe -- I don't know, 8.
5 Katie, I don't know. I could do the math right now if I
6 wasn't so nervous in my head.
7 Q. In the range of 8 to 12 years of age?
8 A. No. Maybe 5. Younger. Sorry. 5 or 6, I think.
9 Q. 5 to 9 or 10?
10 A. Yeah. Oh, yeah. Yes.
11 Q. Okay. And you graduated from Prescott College; is
12 that correct?
13 A. Yes.
14 Q. And after graduating from Prescott College, where
15 did you go?
16 A. I stayed here, and I worked for approximately two
17 or three years for West Yavapai Guidance Clinic, and then I
18 moved down to Phoenix and started graduate school at Arizona
19 State University.
20 Q. And did you graduate from ASU?
21 A. I did. I got my Master's in social work from ASU
22 in 2002.
23 Q. While you were at ASU, did you remain in contact
24 with Carol Kennedy and Steven DeMocker?
25 A. Yes. We rented a townhouse together in Phoenix

1 that my sister and I lived in while we were down there, and
2 Carol and Steve and the kids would frequently come down.
3 Q. And they rented it with you?
4 A. Yes.
5 Q. What was the arrangement on the rental of that
6 townhouse?
7 A. The arrangement was -- we rented a three bedroom,
8 and I think my name was on the lease along with Steven
9 DeMocker's name. And my sister had a bedroom, I had a
10 bedroom, and Carol and Steve and the girls had the master
11 bedroom and the master bath.
12 Q. So it was a 50-50 deal?
13 A. I don't think so. If my memory serves me correct,
14 I think Steve and Carol paid half, and then possibly my
15 sister and I split the other half. I am not positive. I do
16 believe Steve and Carol paid a little bit more than we did.
17 I am not sure.
18 Q. This townhouse was located where, approximately?
19 A. I think it was 2600 Highland Avenue, actually.
20 Near Camelback and 16th Street, around that area. Highland
21 Avenue in the Biltmore district.
22 Q. Where was Mr. DeMocker working at that time?
23 A. A.G. Edwards.
24 Q. And did he have an office in that vicinity, so to
25 speak, on Camelback someplace?

A. I believe so.

Q. Was that part of the motivation for this rental agreement that you had on the townhouse?

A. Yes. It was that he was with A.G. Edwards, and he was doing traveling some with A.G. Edwards, and it was more convenient to fly in and out of Phoenix and to have kind of a base there, as well.

Q. Did Mr. DeMocker continue to work in Prescott also, to your knowledge?

A. Yes.

Q. And how long did you have this rental arrangement with Mr. DeMocker for the townhouse?

A. I think about two years.

Q. And so this was from the years -- you graduated from ASU in 2002?

A. Yes.

Q. So 2000 to 2002?

A. Yes.

Q. And how often were you at the townhouse?

A. Every day. I slept there. I lived there. It was my home.

Q. And how often did Mr. DeMocker come to the townhouse?

A. You know, it would kind of come in flows. Sometimes if he was traveling more or not, he would be there

more. He would stay overnight. You know, sometimes the girls -- you asked just about Steve?

Q. Right.

A. Just depending on how much travel he had to do or how many business meetings he had in Phoenix.

Q. And how often would Carol Kennedy come to the townhouse?

A. Carol would come with the girls, you know, on a pretty regular basis. I think more so in the first year, just to come down and swim in the pool and shop.

Q. Okay. And at this point in time, what was your relationship with Carol Kennedy while you were sharing this townhouse, so to speak?

A. She was my dear friend.

Q. Any time you need to take a break, and I think now is the time to take a little one. There is the water there and there is Kleenex.

A. We just really had a great time down there.

Q. So, was one or the other more of your friend -- one more a friend to you than the other in terms of Steve and Carol?

A. Yeah. Well, Carol. Carol and I, surely. We had a common interest in psychology and counseling and spirituality, and she was my professor. I never had a class with Steven. So, yeah, surely Carol was my primary

1 friendship there.
2 Q. And how would you describe your friendship with
3 Carol Kennedy?
4 A. It was -- it's just a relationship of heart to
5 heart, and really someone that was -- started out as an
6 amazing role model for me and mentor, and then through that
7 we -- she and I just became very, very dear friends.
8 Q. And when you moved from Arizona, you moved to
9 California from there; is that correct?
10 A. Yes.
11 Q. And did you continue your friendship with Carol?
12 A. Yes, absolutely.
13 Q. Tell us how you did that. How did you manage to
14 maintain that friendship?
15 A. Well, I would come back over to Prescott some, and
16 she would be coming up over to California. At that time I
17 think Katie was looking at colleges, and so they were
18 visiting California pretty regularly. And Carol had other
19 good friends in California up in Ventura, as well. And we
20 would talk on the phone and e-mail and very regularly, very
21 regularly.
22 Q. So you stayed in touch?
23 A. Absolutely.
24 Q. What colleges was Katie looking at in California?
25 A. Occi.

1 Q. You mean Occidental; right?
2 A. Occidental, yes, and I can't remember the others
3 right now. Pomona, I think, maybe was one.
4 Q. When you talked with each other on the telephone
5 and you e-mailed and so forth, what was the subject matter of
6 your conversations, so to speak?
7 MR. HAMMOND: Objection, Your Honor, insofar
8 as it might call for hearsay.
9 THE COURT: Sustained.
10 BY MR. BUTNER:
11 Q. I guess what I am asking you is: This was a
12 non-professional friendship, so to speak; is that correct?
13 A. Absolutely. Absolutely.
14 Q. You didn't communicate back and forth about
15 psychology and things of that nature?
16 A. No, no, no. She was in my wedding party. She did
17 a reading at my wedding. This was a very personal
18 relationship. We shared similar interests in psychology, but
19 we never worked together or anything like that.
20 Q. And going back to the rental of the townhouse, you
21 kept your friendship going then, of course?
22 A. Uh-huh.
23 Q. With Carol?
24 A. Uh-huh.
25 Q. Is that yes?

1 A. Yes.
2 Q. What about your friendship or your relationship,
3 so to speak, with Steven DeMocker? What was that like in
4 terms of the time that you were at the townhouse?
5 A. I mean, it was just normal. Everything was just
6 normal and regular. It was like any other relationship with
7 any other friends that I have, really.
8 Q. And were you able -- during that time frame when
9 you were sharing the rent on the townhouse with Steven
10 DeMocker, were you able to observe the relationship between
11 Steven DeMocker and Carol Kennedy?
12 A. Yes.
13 Q. And how would you describe that relationship?
14 MR. HAMMOND: Objection, Your Honor.
15 Relevance.
16 THE COURT: Sustained.
17 It lacks a particularity of foundation
18 and a relevant time.
19 BY MR. BUTNER:
20 Q. You maintained your contact with Carol Kennedy
21 while you were in California?
22 A. Uh-huh.
23 Q. Is that yes?
24 A. Yes.
25 Q. Did you maintain contact with Steven DeMocker

1 during that time frame?
2 A. Not really. Steve came to my wedding in 2004, but
3 there was not a whole lot of contact outside of that.
4 Q. And did you visit Carol Kennedy in Arizona?
5 A. Yes. I Visited Carol in Arizona with my husband
6 at that time and Steve, and they were still out at the house
7 on Bridle Path.
8 Q. How often did you visit Steve and Carol at the
9 house out on Bridle path?
10 A. From when? After I was living in California?
11 Q. After you were living in California.
12 A. Probably just a few times.
13 Q. And during that time frame, were you able to
14 observe the relationship between Steve and Carol --
15 A. Yeah.
16 Q. -- on your visits to Arizona?
17 A. Yeah. My visits had really decreased at that
18 point, though, and I think that Carol and Steve may have been
19 at that point already separated.
20 Q. In fact, thinking back, when you visited Arizona,
21 were they separated at your initial visits?
22 A. I think -- I don't recall the exact year that they
23 separated, but I know that it was kind of a process.
24 Q. Was there --
25 A. I remember one distinct visit where I came back to

1 Prescott with my husband Joe, and Steve was there at the
2 house, and Carol was there at the house, and we were all
3 there at the house.
4 Q. So they weren't separated at that point in time?
5 A. I think Steve actually may have had the townhouse
6 at the Hassayampa. I am not sure. I cannot remember.
7 Q. Were you able to observe their relationship at
8 that point in time?
9 A. Yes.
10 Q. When was that, approximately?
11 A. It was either 2003 or 2004.
12 Q. And you were living in California at that point?
13 A. Uh-huh, yes.
14 Q. And if I understood what you stated earlier, you
15 were married at that point to Joe?
16 A. In 2004 I married, yeah, in February.
17 Q. Were you married at the time of your visit to
18 Steve and Carol on Bridle Path?
19 A. That is what I just can't remember, if it was
20 before I was married or not.
21 Q. And would you describe for us the nature and
22 circumstances of their relationship at that time, that visit?
23 MR. HAMMOND: Objection, Your Honor.
24 Relevance and foundation.
25 THE COURT: Sustained.

1 BY MR. BUTNER:
2 Q. Do you remember a visit of a specific time frame
3 when you came back to Arizona to visit Carol Kennedy?
4 A. Yes.
5 Q. Can you give us a date, an approximate date?
6 A. Either 2003 or 2004. I do not know exactly. I
7 want to say it was in the Springtime.
8 Q. Of one of those two years?
9 A. Yes.
10 Q. And did you ever visit after that date and time
11 from California to Arizona?
12 A. I do not remember. Well, no, I had been back to
13 Arizona, but not exactly sure if I was in Phoenix visiting a
14 friend down there or something or if I was up here. I can't
15 remember.
16 Q. Were you able to visit with Carol Kennedy when you
17 came back to Arizona?
18 A. Yes, always.
19 Q. When was that?
20 A. Well, it was on that visit that I just talked
21 about out at the house, and I am not sure if I came back
22 after 2004 or not.
23 Q. Do you recall where Steven DeMocker was working at
24 the time of your visit?
25 A. I think he had switched to UBS.

1 Q. And where was his office located? Do you know?
2 A. No.
3 Q. Was he working in Prescott?
4 A. Yes.
5 Q. And what was Carol doing at that point in time?
6 Was she employed?
7 A. I want to say this was the time where she was
8 really doing her art, and she may have been teaching.
9 She was, I think, teaching some classes at Prescott
10 College.
11 Q. Were they separated at this time?
12 A. Yes.
13 Q. And how was Carol doing?
14 MR. HAMMOND: Objection, Your Honor.
15 Relevance, hearsay and foundation.
16 THE COURT: Sustained on the relevance
17 grounds.
18 BY MR. BUTNER:
19 Q. Would you be able to describe what the
20 relationship was like at the time of this visit that you just
21 described between Carol and Steven DeMocker?
22 MR. HAMMOND: Same objection.
23 THE COURT: Sustained.
24 BY MR. BUTNER:
25 Q. Did you make any subsequent visits to Arizona

1 after the one that we have just been talking about to visit
2 with Carol Kennedy?
3 A. I was here for her 50th kind of birthday at the
4 art gallery, where she had 50 pieces on display, and her kind
5 of coming out as an artist celebration.
6 Q. When was that?
7 A. I don't know. I can't remember. It was for her
8 50th birthday, but that was a separate trip than the other
9 trip that I was just speaking of.
10 Q. So, you don't know what her birthday is?
11 A. Do I not know what her birthday is?
12 Q. Do you know what her birthday is?
13 A. Yes.
14 Q. Please tell me the day.
15 A. July 16, I think.
16 Q. She was 50 years old?
17 A. If my memory serves me correctly, she did not have
18 the coming out art celebration that July. I think it was a
19 few months later in the Fall. I remember it was more chilly
20 in Prescott when I was here for the showing.
21 Q. So Carol was 50 years old at the time that she had
22 this coming out party for her artwork?
23 A. Like I said, I can't remember exactly when it was,
24 but it was supposed to be when she was -- she was turning 50,
25 and she had 50 pieces on, but I can't remember the exact date

1 of the art showing. I don't know if she was 50 or 51 in two
2 months.
3 Q. Do you recall approximately what year this was in?
4 A. 2004, I guess.
5 Q. And were Steve and Carol separated at that point
6 in time?
7 A. Yes. He was at the showing.
8 Q. But they were not living together?
9 A. No.
10 Q. That is what you meant; isn't it?
11 A. Yes. I think originally when Steven got the place
12 at the Hassayampa, I don't think it was like a formal
13 separation. There was -- I could be wrong about that, but my
14 understanding was, you know, they were --
15 MR. HAMMOND: Your Honor, excuse me for
16 interrupting, but I don't think there is a question.
17 THE COURT: Pose another question, Mr. Butner.
18 MR. BUTNER: Thank you.
19 Q. Did you have occasion to observe the relationship
20 between Steve and Carol from the time of her 50th birthday
21 coming out celebration to the time of their divorce?
22 A. On very few occasions, like at the art gallery, at
23 the art showing, and out at the house when I would visit.
24 Primarily my observation of their relationship happened when
25 we shared the townhouse in Phoenix, and when I was

1 baby-sitting in between 1995 until 2002.
2 Q. Okay. 1995 and 2002, that is when you were a
3 student in Prescott College, and then you went down to ASU,
4 became a grad student. During that time frame, you also
5 shared the townhouse with them?
6 A. Yes.
7 Q. And then you stayed in contact with Carol after
8 that?
9 A. Yeah. Then I was in contact with Carol very
10 regularly; e-mail, telephone calls, sometimes three times a
11 day, sometimes once a week. Regularly. But I didn't see --
12 Q. But you didn't live in Arizona?
13 A. I lived in California and Atlanta.
14 Q. You didn't live in Arizona during that time frame?
15 A. The time frame of 2002 until now? Is that what
16 you are asking?
17 Q. Right.
18 A. Yes. Correct.
19 Q. So, you were able to observe their relationship,
20 basically, by visitation to Arizona?
21 A. Yes.
22 Q. And did it change from the way that you observed
23 it back in 2002 when you were sharing the townhouse?
24 MR. HAMMOND: Objection, Your Honor.
25 Foundation, relevance, and to the extent she wants to talk

1 about specific communications, hearsay.
2 THE COURT: Sustained, as far as foundation is
3 concerned.
4 BY MR. BUTNER:
5 Q. On an annual basis after the year 2004,
6 approximately how often would you come and visit Arizona?
7 A. It was not on a regular basis. There was maybe,
8 maybe two visits.
9 Q. In that whole time frame?
10 A. Or three visits to Arizona after 2004, yes.
11 Q. And --
12 A. I can say there was two. There may have been
13 three.
14 Q. And would you tell us -- I take it one of the
15 occasions of those visits was the 50th birthday?
16 A. Yes.
17 Q. What was the other occasion of the visits, that
18 you recall?
19 A. The other occasion was I just came to visit here
20 with my husband Joe.
21 Q. Approximately when did that visit occur?
22 A. Two thousand -- late 2003 or 2004.
23 Q. So you haven't visited Arizona, then, since late
24 2003 or '04?
25 A. No, but I have seen Carol on several occasions.

1 Q. Where did you see her?
2 A. In California on several occasions, and also Carol
3 and I spent a week together just three or four months before
4 she died.
5 Q. Where did you spend this week together?
6 A. We were in Santa Barbara, California.
7 Q. What was the occasion of this spending of a week
8 together in Santa Barbara?
9 A. We were attending an inner-bonding retreat.
10 Q. And what is an inner-bonding retreat?
11 A. I knew that was coming. Inner-bonding is -- it's
12 founded by a woman named Dr. Margaret Paul, and basically it
13 is a personal -- or you can also get continuing education
14 units for it -- so Kaiser would send me to get my CEU units.
15 Q. Kaiser is your employer?
16 A. Kaiser is my employer. However, inner-bonding is
17 what you do on a personal level, personal basis, trying to
18 really incorporate becoming whole and healthy and working
19 through any real issues that you have going on with yourself
20 or relationships.
21 So a big part of what Carol was doing
22 there was in regards to her relationship with Steve.
23 Q. And what were you doing there?
24 A. Well, I was getting continuing education credits,
25 and I could spend a week with Carol. It was a small knit

1 group. It is like twelve. There is only twelve people that
2 attend. It is a tight knit group. It is not like a big
3 conference retreat at a big civic center or hotel. It is a
4 private, intimate format.
5 Q. When did this inner-bonding retreat occur?
6 A. It overlapped. It was in 2008 at the end of
7 January, and it crossed over into February.
8 Q. And from your observation of Carol, how was she
9 doing at that time in terms of her relationship with Steve?
10 MR. HAMMOND: Excuse me, Mr. Butner.
11 Objection. Foundation, relevance and 403.
12 THE COURT: Sustained.
13 BY MR. BUTNER:
14 Q. You stayed in close contact with Carol for many
15 years; is that correct?
16 A. Yes.
17 Q. At this conference -- at this conference that you
18 were at with Carol, did you observe any difficulties that she
19 had with Steven DeMocker?
20 A. Yes.
21 Q. What happened at the conference?
22 MR. HAMMOND: Your Honor, objection.
23 Relevance and 403.
24 THE COURT: May I see counsel at side bar.
25 (Whereupon, the following was held in chambers

1 outside the presence of the jury.)
2 THE COURT: We are in chambers outside the
3 presence of the jury. Do you waive Mr. DeMocker's presence?
4 MR. SEARS: Yes, sir.
5 THE COURT: Issues coming up with regard to
6 testimony. The Court had some concerns and met at a side bar
7 that I invited. It sounded like it was getting into 404
8 issues, and so I wanted to address those.
9 I guess I'll turn to Mr. Butner and have
10 you make what record you want of what your expectations are
11 of the witness's testimony, and then see what the defense
12 objections may be.
13 MR. BUTNER: Basically, the testimony from
14 this witness would be -- concerning this issue that we are
15 having examination on -- the testimony would be that she was
16 at this conference in Santa Barbara in January and February
17 of 2008, and this was a time when the defendant and the
18 victim, Carol Kennedy, were separated prior to the time of
19 their divorce.
20 THE COURT: Right. He is working at UBS.
21 MR. BUTNER: He is working at UBS, and he is
22 controlling the money that she is living on, and she is
23 forced to leave the conference because she is not getting
24 money from him and had to get money from her friends in order
25 to stay.

1 MR. PAUPORE: She ran out of money and needed
2 gasoline in order to get back to Arizona.
3 MR. BUTNER: Sorry. Ran out of money and
4 needed gas money to get back to Arizona, and her friends kind
5 of stepped in to help her out.
6 THE COURT: And the point of that is to show
7 relative to his commission of a homicide or --
8 MR. BUTNER: It is part of the controlling
9 nature of the defendant as demonstrated in this case, and --
10 THE COURT: But what does that prove, really?
11 MR. PAUPORE: In addition, it was they had an
12 agreement during the separation that Mr. DeMocker would put
13 money in Carol Kennedy's account on a regular basis, and he
14 didn't do that on a regular basis. And it also goes against
15 what Mr. Sears said, that he was -- when they were separated,
16 everything was fine. He was paying for everything and, you
17 know, Carol was taken care of. That is not exactly what
18 happened.
19 MR. HAMMOND: That is not what Mr. Sears said,
20 either.
21 THE COURT: No. Mr. Hammond, your objection
22 is a general relevancy, and if it is relevant, a 403
23 weighing?
24 MR. HAMMOND: If it's a specific act, it is
25 404, as well, but if they are saying that this is some prior

1 bad act by him, then obviously it is 404.
2 THE COURT: Even if it is another act, it
3 still has to go to something that is relevant.
4 MR. HAMMOND: I don't see the relevance of
5 this at all, and I also think it is based entirely on
6 hearsay. This is all her side of one episode, one story, and
7 all the information that this witness has came from hearsay,
8 and it is being offered to prove the truth of that.
9 THE COURT: I have real problems with the time
10 construct and that it is doing anything other than trying to
11 prove that he is a jerk or controlling, if you want to use
12 more dignified language, but I think the way in which it
13 comes across is much more likely to be prejudicial. He is a
14 jerk, he is a controlling jerk or a bad person, and
15 therefore, more likely to have committed the offense. I
16 don't see it as going to a relevant point.
17 Even if Mr. Sears had said what you are
18 attributing, which I don't think is exactly how it was
19 phrased, I don't think it goes to disproving that he was
20 responsible for the financial obligations, because it, in
21 fact, proves that he was responsible for the financial
22 obligations of getting her back to Arizona, having gone over
23 to Santa Barbara.
24 MR. SEARS: And I think you would find nothing
25 in the divorce court record in which he tried to raise that

1 issue in the divorce and get reimbursement or fees or costs
2 or some sanction against him for reaching some agreement. It
3 is a general proposition through the course of the divorce.
4 There were no discovery motions alleging discovery violations
5 or motions alleging violation of the court order. Nothing.
6 THE COURT: I would find it to be irrelevant,
7 and if not strictly irrelevant, the prejudicial effect, the
8 danger of unfair prejudice outweighs the probative value. I
9 don't think it has a high degree of probative value to prove
10 that, from Carol's perspective in February of 2008, she
11 wasn't happy with him. That doesn't -- I don't think that is
12 probative of what happens in July, or what may have happened
13 between May and July, May 28 and July.
14 MR. HAMMOND: Your Honor, I also said --
15 THE COURT: I would sustain the objection.
16 MR. HAMMOND: I also said when we were at side
17 bar before we came back on the record that on behalf of
18 Mr. DeMocker, I am very concerned about having to stand up in
19 front of the jury and continue to make objections. This is
20 why we raised this issue with the Court. I am not critical
21 of Mr. Butner. I know he is trying to get out what he sees
22 as some history here, but it is -- I think, virtually
23 everything that has been asked -- I believe you sustained
24 every objection, so I am not quarreling about that. But I
25 think the reason these things are done out of the presence of

1 the jury is so that counsel doesn't have to appear to be --
2 THE COURT: Hiding the ball?
3 MR. HAMMOND: -- hiding the ball. And so I
4 would ask that we be told what else Mr. Butner has in store
5 for us.
6 MR. BUTNER: I don't have anymore questions
7 along this line. I am going to be done with this. I
8 obviously got nowhere with this line of questioning with this
9 witness. How is that?
10 MR. HAMMOND: Okay.
11 MS. CHAPMAN: Do you have more to do with her?
12 MR. BUTNER: I do have more to do with her.
13 You bet.
14 THE COURT: She comes over after the homicide,
15 too.
16 MR. BUTNER: Right. She helped arrange the
17 memorial service, and she came to the memorial service. She
18 was there to comfort the girls. You've already knocked out
19 that she will not be able to comment on demeanor, so I am not
20 going to be able to ask that question either.
21 MR. HAMMOND: There is the -- and I know,
22 Mr. Butner, I expect you want to get in the day that Carol
23 died?
24 MR. BUTNER: Right.
25 MR. HAMMOND: There is an exchange of e-mails,

1 one-half of which is clearly hearsay, and a telephone call, I
2 think.
3 MR. BUTNER: Right.
4 MR. HAMMOND: So I don't want to have to stand
5 up and object to hearsay.
6 MR. BUTNER: I am not going to ask her for
7 content on those things, but there was an exchange -- just
8 like you said, there was an exchange of e-mails, and then she
9 was of the understanding that she would be talking to Carol
10 later on, and obviously, that never occurred.
11 MR. HAMMOND: I think if that is all he does,
12 if it establishes time of communication --
13 MR. BUTNER: That is kind of it.
14 THE COURT: That sounds fine.
15 MR. HAMMOND: -- I won't have any objection,
16 but there are things in those communications in that
17 afternoon period.
18 MR. BUTNER: I understand. I am not seeking
19 that information.
20 THE COURT: Okay.
21 MR. SEARS: I think maybe Ms. Chapman might
22 have some ideas about the next witness, Miss Butler, who is
23 also --
24 MR. BUTNER: She is not the next witness,
25 because she had to leave.

1 MR. SEARS: Okay. Next witness is?
2 MR. BUTNER: Jacob, if we ever get to Jacob.
3 MR. HAMMOND: If this goes the way it is going
4 now, I won't have very much cross-examination.
5 THE COURT: Do you want another short break
6 between?
7 MR. BUTNER: In fact, if Ms. Butler is
8 available, we may get her, because we are going to have the
9 same kind of issues.
10 MR. PAUPORE: We cut her loose.
11 MR. BUTNER: She is waiting around.
12 MS. CHAPMAN: We are going to have the same
13 issues and more with Miss Butler, so we are going to have to
14 do some work.
15 THE COURT: Thank you.
16 MS. CHAPMAN: Your Honor --
17 THE COURT: What is the first name of Witness
18 Butler?
19 MS. CHAPMAN: Sally Butler.
20 The State made a proffer with respect to
21 Miss Butler that she would be offered to testify about
22 Miss Kennedy's habits and about her disenchantment with
23 Mr. DeMocker over the course of Miss Kennedy and
24 Mr. DeMocker's relationship.
25 And then late disclosed, as you will

1 recall, was some information about a flower delivery.
2 Taking those in reverse order, I think we
3 already had significant testimony about Miss Kennedy's
4 habits. Miss Butler hadn't been in the house for over a
5 month and didn't have personal familiarity with Ms. Kennedy's
6 habits.
7 I don't know if you want to take these
8 one at a time, but that is the first issue.
9 MR. PAUPORE: Really wasn't going to ask her
10 about the hygiene, that kind of thing.
11 MS. CHAPMAN: About the evening run or her
12 schedule. Miss Butler didn't live there, hadn't been at the
13 house in a month, and I don't think was familiar with
14 Ms. Kennedy's routine. That was what the proffer was.
15 MR. PAUPORE: As far as her daily habits, no.
16 MS. CHAPMAN: So the rest of the proffer was
17 with respect to her disenchantment with Mr. DeMocker during
18 the course of Miss Kennedy and Mr. DeMocker's relationship.
19 THE COURT: Her disenchantment, meaning?
20 MS. CHAPMAN: Miss Butler's.
21 THE COURT: Miss Butler's disenchantment?
22 MS. CHAPMAN: That is how the proffer is
23 written. I don't think it is relevant. I think there is a
24 403 problem and a hearsay problem, because all of that would
25 have come from Miss Kennedy.

1 MR. PAUPORE: Well, in just some late
2 information after I interviewed her last night, Miss Butler
3 and Mr. DeMocker -- back up a little bit. Miss Butler used
4 Mr. DeMocker as her stockbroker for a period of time. She
5 had invested when he was at A.G. Edwards.
6 MS. CHAPMAN: And she ceased that relationship
7 about five or six years ago.
8 MR. PAUPORE: She did. The reasons why she
9 pulled her account was based -- began during a conversation,
10 phone conversation, that she had with Mr. DeMocker, who was
11 at his office, A.G. Edwards, and she was at her office in New
12 Mexico, and they were discussing -- Mr. DeMocker was
13 discussing that they had been in marriage counseling, and
14 that he told her that he had a sex addiction, and he based it
15 upon that when he was young, growing up, he was a first born
16 child. And his mother, I think she had like eight kids, and
17 he felt -- told this to Sally Butler -- that he felt that
18 because of his mother having babies, he was kind of put on
19 the shelf, if you will, and he did not get the nurturing that
20 he felt he needed, and that is why he was out chasing women.
21 MS. CHAPMAN: And that is relevant how?
22 THE COURT: This is interesting information,
23 but are you intending to try to elicit it in court?
24 MR. PAUPORE: I just learned this last night,
25 and I haven't had a chance to really assimilate it. She knew

1 Carol Kennedy very well, and she knew what kind of -- what
2 the stress and the infidelity caused on Carol.
3 THE COURT: And that goes to what?
4 MR. PAUPORE: Mr. DeMocker's way of
5 controlling.
6 THE COURT: That is admissible because of --
7 when they haven't placed his character at issue.
8 MR. PAUPORE: So, it is not admissible for
9 that purpose.
10 But she can --- she did visit and stay
11 with Carol Kennedy the weekend before the divorce, which
12 happened on May 28. She spent the weekend with her, and she
13 can, from her own observation, describe Miss Kennedy's
14 demeanor, happiness with the divorce, getting free of
15 Mr. DeMocker, finally be able to live her life, and that
16 partly goes to the motive of what happened here.
17 State's theory is that it was a money
18 thing, but it was also a controlling thing, and he snapped at
19 some point. Carol's independence of him caused him to go
20 over the edge.
21 THE COURT: I don't think it is allowable. I
22 don't see it under relevancy, weighing 403, I don't see it.
23 We are talking about Carol Kennedy's mental state a month
24 before or a month-and-a-half before she is murdered. I don't
25 see that as relevant. It is all based on hearsay.

1 MR. PAUPORE: Well, it is not really hearsay.
2 It is her observations of Carol Kennedy, and she knew
3 Mr. DeMocker since 1973.
4 MS. CHAPMAN: It is Miss Kennedy reporting to
5 her.
6 THE COURT: In part, it is, apparently,
7 Miss Kennedy reporting, but it is her observations of
8 Ms. Kennedy and how she is reacting to things that are going
9 on in the course of a divorce that goes on in the course of
10 the divorces that I have heard in many situations over the
11 years, and all of those don't result in homicides. I don't
12 see it --
13 MR. PAUPORE: Okay.
14 MS. CHAPMAN: The other issue is --
15 THE COURT: -- as a proper basis for testimony
16 of a witness as to staying with Miss Kennedy and what her
17 demeanor was, unhappiness may have been about the divorce, or
18 the proposals for settlement of the divorce prior to the
19 dissolution action when they did reach a settlement.
20 MS. CHAPMAN: Your Honor, the other issue is
21 do you still intend to try to get in the information about
22 the flowers?
23 MR. PAUPORE: We are at the last leg, I guess,
24 if you want to talk about the flowers.
25 MS. CHAPMAN: The flower event happened in

1 2007, over 18 months before the alleged homicide.
2 THE COURT: Remind me of the flower incident.
3 MS. CHAPMAN: The State late disclosed a
4 receipt about a flower purchase, very incriminating, on
5 Valentine's day. That was in 2008. They then said that
6 Ms. Butler was going to testify about that incident, that she
7 was at Ms. Kennedy's house, and that there were flowers left
8 while Ms. Kennedy was not at home.
9 THE COURT: Oh, yeah.
10 MR. PAUPORE: She was not going to say that
11 exactly, but it involved flowers and Valentine's day of 2008.
12 MS. CHAPMAN: It actually involved Valentine's
13 day of 2007. Ms. Butler sent me an e-mail on April 11,
14 wherein she said that she knew it happened in 2007, because
15 she was with her partner, and his birthday was on Valentine's
16 day. He passed away in May of 2007, thus it couldn't have
17 been 2008.
18 And that time frame, 18 months before the
19 incident, if it would have been relevant at all, is certainly
20 outside any relevant time period. I am not sure it is
21 relevant at all.
22 I don't think that is admissible. I
23 think you had actually held at the time, if it was in that
24 time frame of '07, it was inadmissible.
25 THE COURT: I think I did.

1 MR. BUTNER: That is accurate in regard to the
2 flowers in 2007, but we have found receipts of the purchase
3 of flowers in 2008 for delivery to Carol Kennedy.
4 MR. SEARS: Doesn't show any delivery.
5 MS. CHAPMAN: We have not received any
6 disclosure of any information about delivery.
7 THE COURT: That doesn't pertain to this
8 witness. We need to get going. They are going to get tired
9 of me and side bars if they take this long.
10 MR. SEARS: Are we going to try to put Sally
11 Butler on?
12 MR. PAUPORE: After this conference, I don't
13 think -- we are not going to call her.
14 MR. SEARS: Okay.
15 (Whereupon, the following was held in
16 open court in front of the jury.)
17 THE COURT: You may proceed.
18 MR. BUTNER: Thank you, Your Honor.
19 DIRECT EXAMINATION RESUMED
20 BY MR. BUTNER:
21 Q. As I understand it, you stayed in regular contact
22 with Carol Kennedy throughout the years, all the way up even
23 until the time of her death?
24 A. Yes. Correct.
25 Q. And, basically, on a weekly basis, how often were

1 you in touch with Carol?
2 A. Sometimes it would be five times a week, ten times
3 a week. Sometimes it might be once a week. But over the
4 last several years when we lived apart, we were in
5 communication on an extremely regular basis, weekly if not
6 sometimes daily.
7 Q. And going back to the date of July the 2nd of the
8 year 2008 --
9 A. Yes.
10 Q. -- were you in touch with Carol on that day?
11 A. Yes.
12 Q. How many times?
13 A. Two telephone conversations, and I received one
14 e-mail from her.
15 Q. What time -- now you are living in Atlanta at this
16 time; right?
17 A. Right. Correct.
18 Q. What time, in terms of Atlanta time, were you in
19 touch with Carol?
20 A. It was after she got off work. I can't remember
21 who called who. We had been, I think the day before, playing
22 phone tag.
23 Q. So, she called you or you called her sometime
24 after she got off work?
25 A. Yes. She was leaving work. She was driving in

her car, and she made --

Q. Okay. Here's the thing. We have got this rule called a hearsay rule. So I don't want to get into what she said to you.

A. Okay.

Q. Do you understand what I am saying?

A. What is your question again?

Q. So, you were in contact with her by way of telephone after she got off work?

A. Yes.

Q. And what were you talking to her about?

A. What was I speaking about?

Q. Yes.

A. There were a few different topics in the conversation. One being her -- what was I talking about?

Q. Yes. Do you recall?

A. Yes. I was speaking about -- I was actually getting divorced the next day at 9:00 a.m., and so she and I were -- I was talking about some of that, about the next day, you know.

Q. Were you comparing notes?

A. No. No. My divorce was very, very amicable. There was no -- we didn't even have to do mediation. We hired one attorney that worked with both of us. It was not contested. It was very, very amicable.

1 Q. It was not a long, drawn out type of divorce?
2 A. No.
3 Q. You were talking about your divorce. Anything
4 else that you were talking about with her?
5 A. Uh-huh.
6 Q. What?
7 A. I was talking with her about how it felt -- she,
8 essentially, had gone to Phoenix to see Katie off to South
9 Africa.
10 Q. You are talking about Katie flying off going to
11 school abroad?
12 A. Yes. And the experience of, you know, what that
13 was like for her, and how Katie has grown up so much, and she
14 was off to go do a semester abroad. And her last, kind of,
15 interaction with Katie there at the airport and with Steve
16 and with Charlotte.
17 Q. And what else? What was the other topic, if there
18 was one?
19 A. The other topic was Carol's finances and feelings
20 about the divorce.
21 MR. HAMMOND: Your Honor, I'm sorry to have to
22 keep objecting, but I would like the witness to be careful
23 about the prosecutor's instructions.
24 MR. BUTNER: Thank you.
25 Q. Please do be careful.

1 A. Be careful of what? Sorry.
2 Q. About the hearsay thing that I was talking about.
3 A. I am trying very hard. Can you help me with the
4 language?
5 Q. It is okay. Just relax. We will get there.
6 So you had this conversation talking
7 about you were getting divorced the next day.
8 A. Uh-huh.
9 Q. Is that correct?
10 A. Yes.
11 Q. And that was -- did your divorce proceed the next
12 day?
13 A. Yes.
14 Q. On July the 3rd of 2008?
15 A. Yes.
16 Q. And Katie was going abroad, and you were talking
17 about finances?
18 A. Yes.
19 Q. Okay. And did you make an appointment with her to
20 talk with her later on that evening?
21 A. She -- yes.
22 Q. We are going to get there. When was your
23 appointment to talk with her later on? Did you have a
24 specific time?
25 A. After she stopped -- no. There was not a specific

1 time.
2 Q. Did you have an understanding that she had
3 activities to take care of before you could speak with her?
4 A. She was stopping and running in somewhere and
5 calling me back.
6 Q. And did she call you back?
7 A. Yes.
8 Q. And you said you had e-mail contact, too?
9 A. Yes.
10 Q. When was the e-mail contact?
11 A. 9:15 Eastern time.
12 Q. Do you know what the difference in time was with
13 Arizona?
14 A. I think it was three hours at that time of year.
15 Q. So it was 6:15 Arizona time?
16 A. 6:15.
17 Q. Was she e-mailing you or were you e-mailing her?
18 A. I had e-mailed a few of my friends, and she
19 responded to my e-mail.
20 Q. And she responded back to you about 6:15?
21 A. The e-mail states on my records that it was 9:15
22 EDT, Eastern Daylight Time, I guess.
23 Q. She had responded back to you -- when you said
24 9:15, that was the time that you got a response back?
25 A. Yes.

1 Q. And did you try and get in touch with her after
2 that last phone call?
3 A. No.
4 Q. Did you hear anything further from her after the
5 last phone call?
6 A. The e-mail.
7 Q. The e-mail came after the phone call?
8 A. Yes.
9 Q. And that e-mail that you got from her, was that
10 the last contact that you had with Carol Kennedy?
11 A. Yes.
12 Q. Would you describe for the jury what kind of
13 person Carol Kennedy was for us, please.
14 A. Carol was, I think, first and foremost an amazing
15 mother, who loved her children, her daughters very much. And
16 in many, many ways was my greatest role model, as to what I
17 would aspire to be as a mother, having a five-year-old
18 myself.
19 She really encompassed integrity and a
20 sense of peacefulness about her. She was very light, and a
21 general sense of just an open heart and truly cared for other
22 people and was extremely compassionate, and a real supporter
23 of her family and her friends.
24 Q. To your knowledge, did she have any enemies?
25 A. No.

1 Q. And did she have -- were you familiar with her
2 dating habits during the last year or so of her life?
3 A. Yes.
4 Q. What were those like?
5 A. What were they like? What were they not?
6 Q. Could you describe them for us, please.
7 A. Yeah. She was dating someone, and she was not --
8 she didn't date a lot. It was not like she had lots of
9 suitors or anything like that.
10 Q. Was she dating one?
11 A. She was dating one person at the time of her
12 death.
13 Q. Did you meet him?
14 A. No, I never met David.
15 Q. You knew his name?
16 A. Yes.
17 Q. What was his name?
18 A. David Soule.
19 Q. Do you know how long she had been dating him?
20 A. I don't.
21 Q. And did you help arrange any services for Carol
22 after her death?
23 A. In terms of -- yes.
24 Q. What did you help arrange in that regard?
25 A. I did a lot of coordination with Steve DeMocker

1 around the planning of Carol's Sedona memorial service.
2 Q. And did you do this from Atlanta?
3 A. Yes.
4 Q. So you helped coordinate the memorial service?
5 A. Uh-huh.
6 Q. Is that yes?
7 A. Yes.
8 Q. And where was the memorial service held?
9 A. In Sedona. Well, there was two. There was one
10 here at a church up the road, and --
11 Q. Did you help with that?
12 A. No, actually. No. After she died, I was trying
13 to talk with Katie and Charlotte about kind of the
14 coordination of who will do -- facilitate the service. Where
15 should it be, and when should it be? Should we wait for
16 release of the body or should we go ahead?
17 I can't remember what the original
18 question was.
19 Q. I was asking you about the memorial services, and
20 you indicated that you really didn't help with the church
21 service, but you helped with the memorial service in Sedona?
22 A. Right. The church one was decided, I think, the
23 day before it was had, and --
24 Q. Did you come out to Arizona?
25 A. I came out, yes. I was there for that, and the

1 other one, too.
2 Q. All right. And approximately how long after her
3 death did these services take place?
4 A. Two weeks. We had her birthday that Friday.
5 Q. Which was the 16th?
6 A. Uh-huh.
7 Q. Is that yes?
8 A. Yes.
9 Q. And where in Sedona did the church service take
10 place? I mean the memorial service. I am sorry.
11 A. It is called L'Auberge.
12 Q. L'Auberge?
13 A. Uh-huh.
14 Q. Okay. And when you came out to Arizona -- when
15 did you come out, actually?
16 A. I want to say the service at the church was on a
17 Thursday, and I got my flight the night before. And I came
18 out, and I arrived and went directly from the airport to the
19 service, which was approximately ten days or two weeks after
20 her death.
21 Q. Was it before Carol's birthday?
22 A. One service was, and then the second service in
23 Sedona was after her birthday.
24 Q. So her birthday being the 16th --
25 A. I am not positive. I need to restate that. I am

1 not 100-percent positive that her birthday is the 16th. I
2 don't know the exact date of her birthday. It is before the
3 30th of July.
4 Q. So you came out and you went to the church
5 service, and then you went to the memorial service?
6 A. Correct.
7 Q. And did you speak at the memorial service?
8 A. Yes.
9 Q. And while you were out here in Arizona during
10 that, basically, a ten-day -- well, how long were you in
11 Arizona?
12 A. Not very long. It was a very quick trip. I think
13 I was out here four days, five days.
14 Q. During that four-day visit to Arizona, at some
15 point in time did you go to the Bridle Path residence?
16 A. Yes.
17 Q. Would you describe for us how that came about, the
18 circumstances, please.
19 A. I had wanted to go out to, you know, Carol's home
20 at Bridle Path and just be there. It had been such a
21 wonderful place where I had been frequently. And so, Sally
22 Butler, myself, and my sister, Margaret Goddard, went through
23 some coordinating with Katie to make sure that that was okay,
24 and we met Katie and several of the other family relatives
25 out at the house.

1 Q. Who was there?
2 A. Ruth Kennedy.
3 Q. Carol's mother?
4 A. Uh-huh. Steven DeMocker. Renee Girard. Susan
5 DeMocker.
6 Q. That is Steven's sister?
7 A. Yes.
8 Q. Okay.
9 A. Did I say Katie DeMocker?
10 Q. Yes, you did.
11 A. Katie. And I honestly -- I cannot -- I know what
12 he looks like, but I don't remember his name. It is either
13 Jim or Dan, but one of Steve's brothers was there. I want to
14 say it was Dan DeMocker.
15 Q. All right.
16 A. And Carol's brother, John.
17 Q. John Kennedy?
18 A. John Kennedy was there, and I think his son, and
19 possibly his daughter, Becca -- Becky. I can't remember. A
20 few other people.
21 Q. What was going on at Bridle Path? What was the
22 occasion for going out there?
23 A. There was just a few of us that wanted to be out
24 there, and just to go and be around Carol, where she was and
25 the home. And so, the house was just very open. She had a

1 beautiful, amazing labyrinth in the front yard.
2 Q. Would you describe for us what that labyrinth is?
3 A. Yeah. A labyrinth is a large -- this one at her
4 house is very large that she created, I think with some
5 Prescott College students, made out of rocks. And it is a
6 pattern that you walk, and it is sort of a meditative
7 experience. And it was maybe the size of half of this room,
8 maybe the size of this room, very large, made out of
9 beautiful, you know, rocks.
10 Q. What do you do with a labyrinth?
11 A. You walk the labyrinth, and it leads into the
12 center. There is a center point in the labyrinth. It is a
13 meditative walk, and you walk out the same way.
14 Q. Did you do that?
15 A. I did.
16 Q. Had you done that before when Carol was alive?
17 A. Yes.
18 Q. And then did you go inside the Bridle Path
19 residence?
20 A. Yes, I did.
21 Q. Did you go into the room in which Carol was
22 murdered?
23 A. Yes, I did.
24 Q. Would you describe for us the circumstances under
25 which you went into the room in which she was murdered?

1 A. She was -- the door to the room was closed, and I
2 walked down the hall. And Steve's brother was standing there
3 in the hallway, and I went to go into the room, and I was
4 told by Steve's brother that I couldn't go in there. And I
5 remember I just kind of looked at him. He said it hasn't
6 been cleaned yet. I said, I am aware it has not been cleaned
7 yet. He was very firm that I couldn't go in there. So I
8 walked away.
9 And a few minutes later I saw Katie
10 DeMocker, and I asked Katie if I could go in, and she said,
11 yes, and I went in. I opened the door and left the door open
12 and stayed in there about 15 minutes or so.
13 Q. Was there anybody else in there with you?
14 A. At first, no. I walked in by myself and sat down
15 in the chair that was at her desk there, and then people --
16 Sally Butler came in. Margaret Goddard came in. Katie
17 DeMocker came in, and then Steve's brother. It was Dan
18 DeMocker, I think, was standing outside in the hallway, and
19 at one point Steve was outside in the hallway, and Renee was
20 outside in the hallway.
21 Q. And then what did you do?
22 A. I sat down in the chair, and I sat down at the
23 chair and I just sat there. I just sat there and looked
24 around and it was horrific.
25 Q. And then did you leave the room?

A. Yes. Can you give me one minute?

Q. Sure.

A. It is something -- I just wanted to sit there and be there with her where she last was, you know. No matter how grotesque it was, and how horrific and awful it was.

Q. So you were in there about 15 minutes?

A. Yes.

Q. And then did you leave the room?

A. And then I left the room.

Q. Which way did you leave the room?

A. I walked out of the room, and I walked to the right, and Steve and Katie were standing there, kind of outside the laundry room, other bathroom area. And I just -- do you want me to keep talking?

Q. And what happened then?

A. Steve and I kind of side hugged, and he said, you just want to think it was an accident or that she fell from the loft or something, and it would be much simpler. And Katie looked at her dad, and said, Dad, that wasn't an accident. They ruled it wasn't an accident.

Q. Did you have any further conversation with Mr. DeMocker about how Carol Kennedy had died after that?

A. No. Not after that. Prior I had one and spoke.

Q. Were you familiar -- had you met a gentleman named James Knapp?

1 A. I was familiar with Jim Knapp.
2 Q. You had met him?
3 A. I do not know if I had met him.
4 Q. Your only contact with Mr. Knapp was?
5 A. After Carol's death. I knew of him. It was -- in
6 fact, it was when Carol and I were at our inner-bonding
7 retreat that she got the call from Jim Knapp and agreed that
8 he was going to move into the guesthouse.
9 Q. As far as you knew, he just lived in the
10 guesthouse; is that correct?
11 A. Yes.
12 Q. To your knowledge, did Mr. Knapp have any kind of
13 relationship with Carol Kennedy, beyond being a renter in the
14 guesthouse?
15 A. No. I'm sorry. Let me rephrase that. Jim and
16 Carol had known each other.
17 MR. HAMMOND: Objection. Foundation. I
18 thought she was answering that she did not know.
19 THE COURT: Sustained as to foundation. Ask
20 another question.
21 BY MR. BUTNER:
22 Q. You stayed in touch with Carol Kennedy during the
23 last year of her life?
24 A. Yes.
25 Q. If I understood your earlier testimony, you were

1 aware of her dating habits?
2 A. Yes.
3 Q. Did she have any kind of a romantic relationship,
4 to your knowledge, with James Knapp?
5 A. No, absolutely not.
6 MR. HAMMOND: Objection, Your Honor.
7 Foundation and hearsay as to that question.
8 THE COURT: Overruled.
9 BY MR. BUTNER:
10 Q. And your answer was?
11 A. No, absolutely not.
12 Q. You were familiar with her boyfriend, David Soule?
13 A. Yes.
14 Q. You hadn't met him?
15 A. I had not met him.
16 Q. You were just aware of his existence?
17 A. Yes. Very minimally.
18 Q. Right. I understand.
19 Based upon your long-term relationship
20 with Carol and your familiarity with her dating, so to speak,
21 is it your belief you would have known about any kind of
22 romantic relationship if she had someone other than David
23 Soule?
24 MR. HAMMOND: Objection. Foundation.
25 THE COURT: Overruled. You may answer.

1 THE WITNESS: Yes.
2 BY MR. BUTNER:
3 Q. Were you aware of any other type of romantic
4 relationship that she had besides David Soule?
5 A. No. No one.
6 MR. BUTNER: I don't have any further
7 questions of this witness at this time. Thank you.
8 THE COURT: Cross, Mr. Hammond.
9 MR. HAMMOND: May I have just a moment?
10 THE COURT: You may.
11 MR. HAMMOND: Before I commence my cross, can
12 we have a conference at side bar?
13 THE COURT: Mr. Butner, may I see you and
14 Mr. Paupore.
15 (Whereupon, the following was held in chambers
16 outside the presence of the jury.)
17 THE COURT: Record reflects the presence of
18 counsel in chambers in connection with the side bar.
19 Mr. Hammond.
20 MR. HAMMOND: Your Honor, as I explained when
21 I asked for the side bar and before we came onto the record,
22 before I begin my cross, I want to object to the last couple
23 of questions and the long narrative answer, and based upon
24 what has happened out there, to move for a mistrial. But I
25 want to explain my concern.

1 I said several times both on and off the
2 record that I was concerned about her going into things that
3 might be hearsay and might be inappropriate for 403 purposes.
4 For reasons that I don't understand,
5 Mr. Butner asked her a question about what she did back there
6 and encouraged her to expand on it a couple of times. She
7 then lost control. I don't know if the record will reflect
8 it fully, but she began to sob uncontrollably, and then went
9 into a narrative that I did not feel like, on behalf of our
10 client, I could object to at the time, in which she talked
11 about how horrific things were in the room and ghastly.
12 And then turned around and lunched
13 immediately into what she recalls today differently than she
14 has recalled it before, as a conversation between her and
15 Steve and Katie DeMocker, in which she -- after having been
16 talked to about hearsay, she talked about something that
17 Katie is purported to have said, which she hasn't said
18 before, and then also linked Steve, as if Steve had been
19 suggesting to her that this was an accident.
20 And I think that Mr. Butner knows that
21 that is not what happened, but under the circumstances there
22 is almost -- certainly there is no way I could have prevented
23 it. I think I had done everything I could. And then to have
24 her go into this monologue, is, I think, terribly prejudicial
25 under the circumstances and warrants a mistrial. And

1 frankly, I don't know what can be done about it now.
2 THE COURT: Mr. Butner.
3 MR. BUTNER: Judge, first of all, it was not
4 anticipated by me that she would break down like she did,
5 because I had talked to her about this before, going into
6 that room, and become as emotional as she did. In fact, she
7 was interviewed about this and didn't do that. But, you
8 know, these things do happen in a trial.
9 But in terms of encouraging her to
10 expand, I did not encourage her to expand. I tried to get
11 her out of that room and respond directly to my questions.
12 She didn't do that. She ended up, as Mr. Hammond stated, she
13 ended up starting into a narrative. I asked her for what
14 Mr. DeMocker had said, and she said what Mr. DeMocker said
15 and then she continued, and this is after I had cautioned her
16 about hearsay.
17 And I disagree with Mr. Hammond, as you
18 might expect, in terms of him being able to object to what
19 she said. I was taken aback when she started talking about
20 what Katie was saying, but I thought, I don't think I can
21 object to this, and I was somewhat surprised when I didn't
22 hear an objection from the defense about that hearsay portion
23 of her testimony.
24 The question was definitely and clearly
25 not designed to elicit that kind of a response, and I would

1 ask that the motion be denied.
2 THE COURT: Mr. Hammond.
3 MR. HAMMOND: Your Honor, the Katie comment
4 was not a lengthy comment. Its vice is not in how long it
5 was. It is not like she spent a minute talking about what
6 Katie said. It was a matter of a few seconds. We can play
7 back the transcript.
8 But she jumped right into that at a time
9 when I -- given the emotion of that moment, I could not have
10 stood up and objected. I think that the -- and the way she
11 did it, first of all, it is not what she has said before. I
12 don't think I can cross-examine her effectively about it now
13 without going into what she has already said.
14 THE COURT: Do you have an offer of what that
15 would be?
16 MR. HAMMOND: I can get it for you, Your
17 Honor. I can paraphrase it, but it is in a transcript. She
18 said something like, he put his arm around her, or they put
19 their arms around each other.
20 THE COURT: Who is putting whose arm around
21 whom?
22 MR. HAMMOND: Steve put his arm around her.
23 THE COURT: Around the witness?
24 MR. HAMMOND: The witness. And he said words
25 to the effect of: This would have been a lot easier if it

1 had been an accident, which is, I think, a great deal
2 different than what she said today.
3 THE COURT: I don't know that it is that
4 different, frankly. The quote that I have is Steve, kind of
5 in an aside, said that you would want to think it was an
6 accident, or she just fell from the loft, and it would be
7 much simpler. And she went on to say Katie said that they
8 ruled that it was not an accident.
9 MR. HAMMOND: Katie said to her dad it was not
10 an accident.
11 THE COURT: That they ruled it was not an
12 accident. Right.
13 MR. HAMMOND: Right.
14 THE COURT: I don't find any basis for a
15 mistrial on these circumstances, and I will grant that the
16 witness got emotional at some point. I don't find that that
17 excuses a failure to object, frankly.
18 MR. HAMMOND: Your Honor, may I then belatedly
19 ask the Court to instruct the jury to disregard that
20 statement.
21 THE COURT: The Katie statement? Absolutely,
22 and I will do that and be happy to do that. I don't think,
23 even to the point where you talk about the bell has been
24 rung, how do you un-ring it. I don't find the effect of that
25 statement as significant as you apparently do, from an

1 objective standpoint.

2 The nature of the statement compared to

3 what the witness apparently testified to, even granting that

4 it is a paraphrase and not the direct quote, but based on

5 your paraphrased statement, it seems to me that the statement

6 that she testified about is not different significantly. He

7 is saying that you would like to think that it was an

8 accident, and if she just fell, it would be much simpler.

9 I guess I don't understand the reason why

10 you think it is so prejudicial. I don't find it such based

11 on the nature of the element that was used.

12 MR. SEARS: In sitting here listening to it,

13 Your Honor, my concern is with Katie's statement. The

14 implication of this, I think, that went to the jury was that

15 Katie was calling out her father for misstating the

16 circumstance. And the way in which this witness said it was

17 that Katie immediately corrected him and said it is not an

18 accident. They ruled it not an accident, as if Steve had

19 made some misstatement, so that -- the words actually say

20 that.

21 The import that goes to the jury is --

22 and the only reason that she would blurt this out is that she

23 wants the jury to think that Steve was still saying, against

24 all reason, to her that this was an accident and that Katie

25 corrected him right in front of her.

1 So it shows some disconnect between Katie
2 and Steve that has to be corrected now, and then there has to
3 be further cross-examination unnecessarily about exactly what
4 he said, and you understood, of course, that Steve was just
5 wishing it was an accident, so that there wouldn't have to be
6 a homicide investigation, or are you saying, ma'am, that
7 Steve was suggesting that he hopes there is not a homicide
8 investigation because she thinks he killed her?
9 THE COURT: She can't testify to what is in
10 Steve's mind either way.
11 MR. SEARS: That is the dilemma we have for
12 cross-examination is that the statement is out there now. It
13 can't be tested.
14 THE COURT: But that statement is out there
15 anyway and is a statement of your client that you may have to
16 argue the implications of anyway, with or without Katie's
17 response to it. I think it is equally explainable that Katie
18 misunderstood what her father was saying, and just reacted
19 emotionally.
20 MR. SEARS: You have this witness -- you have
21 to argue with this witness about whether Katie was right or
22 wrong.
23 THE COURT: No, you don't. I don't see that
24 at all.
25 MR. SEARS: You have no other way to get back

1 at it without recalling Katie and asking her to relate some
2 more hearsay.
3 THE COURT: I don't see that. I don't see
4 that implication at all, frankly. The motion for mistrial is
5 denied.
6 I will order the jury -- if you wish, I
7 will order the statement stricken. I will grant that motion.
8 MR. SEARS: Move to strike and an admonition
9 to disregard. They have never had one.
10 THE COURT: They will now. But that strikes
11 Katie's response. It doesn't strike DeMocker's.
12 MR. SEARS: This may be a foreshadowing of a
13 problem as we go with witnesses who really don't have any
14 percipient information about the homicide, like this witness
15 coming forward, who really -- I think all of us would
16 understand, really have something they would like to say of
17 what they think happened here, and bad things about Steve
18 DeMocker. And it is very difficult to control those
19 witnesses, I will grant that to the prosecution.
20 Nonetheless --
21 MR. BUTNER: That is why there aren't a bunch
22 of these witnesses, John. I can help truncate your argument,
23 because we only have a couple of these witnesses, and you
24 knocked out one of them already, and this is, basically, the
25 only other one that we have.

1 And, I agree, you know, there is a
2 problem with putting those kinds of witnesses on. I don't
3 think, and you can correct me if I am wrong, but I don't
4 think we have any other ones like this.
5 THE COURT: How long do you have on Jacob
6 Janusek?
7 MR. BUTNER: Jacob is going to be a long
8 witness, I think.
9 THE COURT: You not going to get done with him
10 in the next hour?
11 MR. BUTNER: You are right. I might get done
12 with him in an hour.
13 THE COURT: So he will be back on Tuesday?
14 MR. BUTNER: Yes, sir.
15 MR. HAMMOND: And I think in light of this, I
16 have about ten minutes of cross that I need to do with this
17 witness.
18 THE COURT: Okay.
19 MR. BUTNER: And I was going to say we could
20 talk about the situation in the jail if we don't want to
21 start with Jacob, because I think I have got more information
22 about that in terms of what you and I spoke briefly about. I
23 have to find out from Captain Rhodes about it. He has more
24 information, but I didn't get a chance to talk with him.
25 MR. SEARS: Captain Rhodes handed me a note.

1 The note said that tomorrow's visit is a one-off. It is six
2 people of the family's choosing from 10:00 to 11:30, and then
3 he told me that jail -- the jail management, whatever they
4 are, the top dogs are going to meet on Monday to discuss how
5 they are possibly going to change Mr. DeMocker's housing
6 situation, moving him to a dorm where the visitation would be
7 on a non-trial -- probably Saturday. I hope that is not what
8 they are thinking.
9 MR. BUTNER: No, that isn't.
10 MR. SEARS: But to do that, and we have to
11 wait and see what that means.
12 THE COURT: I will keep it under advisement,
13 then.
14 MR. SEARS: Right. I think what he was saying
15 was that was an option, but they had not necessarily decided
16 that is what they are going to do.
17 THE COURT: There is something rigged up for
18 tomorrow.
19 MR. SEARS: For tomorrow.
20 THE COURT: Great. Good.
21 (Whereupon, the following was held in
22 open court out of the presence of the jury.)
23 THE COURT: On the record. We have received a
24 question from a juror directed toward this witness. I
25 presented it to both attorneys. Is there an objection to the

1 Court asking that question or --
2 MR. HAMMOND: The question, Your Honor, for
3 the record is: Did you know about, quote, Colin in
4 California, close quote? Katie said Mrs. Kennedy was seeing
5 him.
6 THE COURT: State have an objections to that
7 question being asked?
8 MR. BUTNER: I don't have an objection. If I
9 could follow-up on that, of course, I don't have any
10 objection to that.
11 MR. SEARS: Where will this take us?
12 THE COURT: I don't know.
13 MR. SEARS: Is there a way to find out?
14 MR. HAMMOND: I asked him to find out. I
15 think if Mr. Butner were willing to ask her out of the
16 presence of the jury to find out, so we know what the problem
17 is --
18 THE COURT: I am willing to ask her outside
19 the presence of the jury.
20 THE WITNESS: Ask away.
21 THE COURT: Question is: Did you know about,
22 quote, Colin in California, close quote, that Ms. Kennedy may
23 have been seeing?
24 THE WITNESS: Yeah. I know of Colin, and I
25 know that Carol had a past relationship with him. She was

1 not dating him at the time of her death. He was a past
2 boyfriend, yes.
3 THE COURT: Thank you.
4 You ceased your questioning. You are
5 going on to questioning. If you want to ask it, you are
6 welcome to.
7 MR. BUTNER: I don't think it is appropriate.
8 THE COURT: Do you want me to ask it before we
9 get started? I will do that.
10 MR. BUTNER: I think that is a good idea.
11 THE COURT: There being no objection, I will
12 ask the question before we start cross.
13 THE WITNESS: The question I just answered?
14 THE COURT: Yes.
15 THE BAILIFF: Are you ready, Counsel, for the
16 jury?
17 THE COURT: As a logistical matter, did you
18 want to make your motion after I ask this question, but
19 before we start the cross with regard to the hearsay?
20 MR. HAMMOND: You mean the hearsay nature of
21 her response? If it is not clear on the record --
22 THE COURT: No. The hearsay nature of the
23 previous -- the response to the --
24 MR. HAMMOND: I think that was on the record.
25 You are saying your instruction to the jury?

1 THE COURT: Yes.
2 MR. HAMMOND: I would like you to go ahead and
3 do that before you turn to this.
4 THE COURT: First that, then this.
5 MR. HAMMOND: Please.
6 THE COURT: Thank you. I will do it in that
7 fashion.
8 (Whereupon, the jury enters the courtroom.)
9 THE COURT: Record reflects that we gave the
10 jurors an additional break at this point because of our
11 lengthy discussions. So the jury is back. Mr. DeMocker is
12 present, along with his attorneys, and the prosecution
13 attorneys are present, as well.
14 Probably should note that someone was
15 having trouble hearing some of my rulings, and you need to
16 hear the rulings as well, because of the implications to your
17 decision making and what is and what is not evidence. So I
18 apologize for leaning back and not being loud enough,
19 apparently, in my rulings.
20 Before we start on the cross-examination,
21 there was a reference to a statement made through this
22 witness allegedly by Katie DeMocker at the house, and you are
23 ordered, as I indicated in my preliminary instructions, that
24 the Court from time to time may enter orders in connection
25 with striking evidence. I am going to strike the evidence of

1 any statement by Katie DeMocker at the time that this witness
2 was at the Bridle Path house as was testified to.
3 For sake of clarity, I am not striking
4 any of the rest of the testimony, but just the statement
5 attributed to Katie DeMocker, what was said at the house, you
6 are to disregard that. You are not to have it take any
7 consideration at all in terms of your resolution of the facts
8 of the case.
9 MR. BUTNER: Judge, to clarify, does that mean
10 that the statement attributed to Steven DeMocker stays in the
11 record?
12 THE COURT: That is what I am saying. That
13 the statement attributed to Katie DeMocker is stricken.
14 I had a question from one of the jurors,
15 and I will address this -- before we start cross, I will
16 address this to the witness.
17 QUESTIONS BY THE JURY
18 THE COURT: Did you know about, quote, Colin
19 in California, close quote, where Katie was saying that
20 Ms. Kennedy was seeing?
21 THE WITNESS: Yes. I know of Colin. I met
22 Colin. I spent time with Colin. And Carol was not dating
23 him at the time of her death.
24 THE COURT: All right.
25 I will let the lawyers follow-up with

1 that, because they still have a chance to speak with you.
2 Mr. Hammond first on cross.
3 MR. HAMMOND: Thank you.
4 CROSS-EXAMINATION
5 BY MR. HAMMOND:
6 Q. Good afternoon, again.
7 A. Hi.
8 Q. You and I have met before?
9 A. Yes.
10 Q. We actually met at your home?
11 A. In Atlanta.
12 Q. At a home in Atlanta where you were kind enough to
13 invite us in to visit with you?
14 A. Correct. Yes.
15 Q. We met with you at a time when we were passing
16 through Atlanta, as you may recall, in January of this year.
17 Do you remember that?
18 A. I do remember that. I am not sure if it was
19 passing through. I thought you were coming out specifically
20 to see me, though.
21 Q. Do you remember that there were a number of calls
22 from Ashville, North Carolina to you?
23 A. Yes. I remember also getting a voice mail from
24 you all stating we will be there tomorrow, and me stating, I
25 can't meet you tomorrow, but I can do it in a couple of days.

1 Q. And it was very nice of you to accommodate us so
2 that we could have a conversation with you, and you remember
3 that the "we" in that conversation was me and a person who
4 was involved in the defense team in this case, a woman named
5 Mary Goody?
6 A. Yes.
7 Q. You recall that we wound up having a conversation
8 that also involved an investigator from the County Attorney's
9 office?
10 A. Correct. Yes. I do recall.
11 Q. His name was Michael Sechez?
12 A. Yes.
13 Q. And you recall that you had actually spoken to
14 Mr. Sechez earlier that day?
15 A. Correct. Yes.
16 Q. Do you know, by the way, what day that was?
17 A. No.
18 Q. If I tell you it was the 26th of January of this
19 year.
20 A. That sounds accurate.
21 Q. Does that sound about right?
22 A. Yes. I was going to say the end of January.
23 Q. Good. So you spoke to Mr. Sechez by telephone
24 early that afternoon?
25 A. I think earlier. I don't think it was early

1 afternoon, but I think it was in the afternoon, yes.
2 Q. It is important to remember the three-hour time
3 difference.
4 A. For me, it was late afternoon. For you all, it
5 was early.
6 Q. For Mr. Sechez, it was probably around noon, but
7 it was maybe, like, three o'clock or something for you?
8 A. Yes, exactly.
9 Q. And you know that Mr. Sechez recorded his
10 conversation with you?
11 A. Yes.
12 Q. And then you recall that when Mary Goody and I
13 arrived at the home where you had arranged for us to meet
14 with you, you advised us that Mr. Sechez wanted to be a
15 participant in the phone call?
16 A. Uh-huh.
17 Q. Correct?
18 A. I am not sure that I advised you that he wanted to
19 be, but that it was -- would that be okay.
20 Q. And we said it would be?
21 A. Yes.
22 Q. And so we then got on the telephone with
23 Mr. Sechez, and he was able to participate in and listen to
24 our entire conversation?
25 A. Yes.

1 Q. It may have been some, Hello, pleasantries, before
2 he got on the telephone, but certainly all of our
3 conversation about the matters that we have talked about or
4 that you talked about today, whether it involved this matter
5 at all, he was on the phone with us?
6 A. He was on the phone. I don't think he was on the
7 phone in a participatory way, to that extent, yes.
8 Q. He actually wasn't until the very end?
9 A. Right.
10 Q. And I know you remember the very end, and he
11 participated in a conversation --
12 A. Right.
13 Q. -- at the end --
14 A. Yes.
15 Q. -- that had to do with a statement that you had
16 made in your first conversation with law enforcement after
17 Carol's death?
18 A. Which statement are you referring to?
19 Q. There is a statement, and I want to come back to
20 it.
21 A. Okay. I don't want to say yes, unless I know what
22 statement you are referring to.
23 Q. This is a statement about your love for the
24 family.
25 A. Oh, yes.

1 Q. You remember that statement now. And you remember
2 the back and forth about what you had said and what you meant
3 by it, and that Mr. Sechez was a participant in that?
4 A. He was confirming what -- yes.
5 Q. And I want to come back to that in just a moment,
6 but let me ask you about a couple other things. By the way,
7 I am not going to keep you here very much longer, or the
8 jurors for that matter, on this particular thing.
9 You told us this afternoon about your
10 relationship with the DeMocker family.
11 A. Uh-huh.
12 Q. In fact, your relationship with the family has
13 continued; hasn't it?
14 A. Yes.
15 Q. You have been out to see Katie?
16 A. I have seen Katie in California in March, yes. We
17 had dinner.
18 Q. You have -- have you seen Katie since March when
19 you had dinner with her?
20 A. No.
21 Q. Other than seeing her --
22 A. Right now. Sorry. I saw her in the hallway, when
23 I was waiting in the hallway to come in here.
24 Q. But did you see Katie in March of this year?
25 A. Yes.

1 Q. Had dinner with her?
2 A. Yes.
3 Q. You also wound up having a number of
4 communications with her about graduation, things of that
5 sort?
6 A. Yes.
7 Q. You certainly wished her well and her sister well?
8 A. Yes.
9 Q. You still consider them close and a part of your
10 life?
11 A. Yes.
12 Q. You knew the entire family for a number of years,
13 as you have told us today. You shared an apartment in
14 Phoenix for a while; is that right?
15 A. Yes.
16 Q. You told us about the one event you remember, of
17 the couple of times that you have been out here in the last
18 few years, coming to an opening of an art show?
19 A. Yes.
20 Q. That Carol was showing her art?
21 A. Yes.
22 Q. And you remember that Steve was a sponsor of that
23 art show?
24 A. I am not sure.
25 Q. You don't remember that?

1 A. What do you mean a sponsor? He attended. I was
2 there. I saw him. I don't know what you mean by sponsor.
3 Q. Do you know if at that time they were separated?
4 A. I cannot recall. I think they were. Yes, they
5 were.
6 Q. If you don't recall, just say you don't recall.
7 A. I don't recall. I think they were.
8 Q. You don't recall that Steve had some role in
9 actually sponsoring that show?
10 A. Now that you mention that, something vague, I know
11 there was food there and some drinks, and maybe he paid for
12 that. I can't remember.
13 Q. If you can't remember --
14 A. Yeah, I really can't. Now that you mention that,
15 there is a hazy recollection of something there.
16 Q. And then you told us that you continued to have a
17 personal relationship with Carol that has continued up to the
18 time of her death?
19 A. Yes.
20 Q. You were contacted by Detective Brown and spoken
21 to on the telephone a very few days after Carol's death. Do
22 you remember that?
23 A. Yes.
24 Q. And I think you didn't know at that time that you
25 were being recorded, but you later found out that you were?

A. Correct.

Q. And you asked me when we met together to send you a copy of the transcript?

A. Correct.

Q. And did I?

A. Yes.

Q. Did you read it?

A. Yes.

Q. You also remember that I sent to you an e-mail with the transcript, saying if there was anything that you thought was wrong in it, that I would appreciate it if you would let me know?

A. Uh-huh. Yes.

Q. Did you ever indicate to me that you felt there was something wrong in that transcript?

A. No.

Q. And at the same time that I sent that transcript, we also sent you the transcripts of the conversation in your home that Mr. Sechez recorded?

A. Uh-huh.

Q. So that you actually wound up getting three transcripts?

A. I can't remember exactly how many transcripts I received from you, but you were very helpful in getting the transcripts to me, yes.

1 Q. So you did receive them, and you did have an
2 opportunity to read them?
3 A. Did not completely, fully read them until
4 yesterday.
5 Q. Have you now completely read them?
6 A. Yes.
7 Q. And so you have read all three; Mr. Sechez's
8 conversation with you, Miss Goody and my and Mr. Sechez's
9 conversation, and the one with Detective Brown?
10 A. Yes. Can I --
11 Q. Let's go back then to the conversation that you
12 had with Mr. Butner about coming out here for the memorial
13 service.
14 A. Uh-huh.
15 Q. There were actually two services. I think you
16 said that.
17 A. Yes, there was clearly two services.
18 Q. There was one in Sedona?
19 A. Yes.
20 Q. And one here in Prescott?
21 A. Yes.
22 Q. And you think those were before and after Carol's
23 birthday?
24 A. Carol's birthday was -- we celebrated it here, and
25 it was in between -- yes, yes, yes, absolutely. I flew in.

1 I went to the service at the church. And then, I think,
2 either that night or the next day we had a women's gathering
3 and celebrated Carol's birthday, and then a day or two later
4 was the service in Sedona.
5 Q. And if I told you that her birth date was the 25th
6 of July, would you have any reason to think that is not
7 correct?
8 A. No. It is the 26th, the 25th, the 16th, somewhere
9 around there.
10 Q. So it could have been consistent with your memory.
11 It could have been as much as a little over three weeks after
12 Carol --
13 A. Uh-huh.
14 Q. You told us about going out to the Bridle Path
15 house, and the jury has heard about the house and has heard
16 some things about the layout of it, but you went out there
17 with, sounds like, a fairly large number of people?
18 A. I went out there with two people.
19 Q. Were there not several other people present?
20 A. Yes, but I did not go out there with them. They
21 were already there at the house when I arrived.
22 Q. Do you happen to know why they were already there?
23 I think my question may have been confusing. You went out
24 there knowing that there was going to be a gathering of
25 people out there?

A. No. No. I don't recall that I knew that there was going to be a lot of other people there.

Q. So were you surprised that there were other people?

A. Yes.

Q. And so you went out there thinking that it was just going to be who?

A. Ruth, Katie, Sally, myself, my sister Margaret. I don't know, maybe a few other people, but there were a few others that I was just surprised to see there.

Q. There were some people who you didn't know were going to be there, but certainly more than two or three?

A. That were there that I didn't know were going to be there?

Q. I'm sorry. This may not be important for us to spend time on, but you knew that you were going to be in a group of more than two or three people?

A. There is a difference between two and three. Yeah, because I went out -- there was three of us that went out, so, yes.

Q. You knew there were other people who were going to be there?

A. I knew that Ruth and Katie would be there.

Q. And, so, you knew that there would be at least five people. It may not be important whether you knew or

1 not, but a number of people were there?
2 A. Correct.
3 Q. Seeing the house, being there for, as you say, for
4 what might be the last time for any of those people to
5 actually be in the place where Carol had lived?
6 A. Uh-huh. Correct.
7 Q. And this is something that you talked with
8 Mr. Sechez about when you were interviewed on the telephone
9 by him --
10 A. Yes.
11 Q. -- is that correct?
12 And then when you met -- later that night
13 you spoke with Miss Goody and me and Mr. Sechez about that
14 same occasion?
15 A. Actually, I don't think we -- I can't remember.
16 If you can show it to me, I don't remember exactly. Let me
17 think. Hold on.
18 Q. Are you saying you don't recall talking about this
19 with me and Mary Goody?
20 A. Can I have a moment?
21 Q. Can you have a moment?
22 A. Uh-huh.
23 Q. Certainly.
24 A. I have spoken about that event with various
25 different people from the prosecution, and I think the

1 defense as well. And honestly, right now sitting here, I
2 cannot remember if we spoke about it that night -- if I spoke
3 about it that night with you or not. But I would like to see
4 the verbatim, and I will attest to the verbatim.
5 Q. Let's do it an easier way. If you don't remember
6 the conversation with me, you do remember talking to
7 Mr. Sechez about it?
8 A. Yes.
9 Q. So you are sure about that?
10 A. I am sure about that, yes.
11 Q. Okay. Let's use that.
12 A. Okay.
13 Q. That may make it easier for you.
14 A. Okay.
15 Q. Again, this is a phone call you had with him a
16 couple of hours before you met with Mary Goody and me?
17 A. Yes.
18 Q. And you recall at the time of your conversation
19 with Mr. Sechez, which he recorded, that you talked about
20 being out at the Bridle Path house, eventually going down the
21 hallway, as you said, and going into the room that we have
22 heard was Carol's study?
23 A. Yes.
24 Q. And you recall telling Mr. Sechez that when you
25 came out of the room and came down the hall, you put your arm

1 around Steve DeMocker, and his around yours. Much like you
2 said this afternoon. Sort of, I think you called it, side by
3 side?
4 A. A side hug, yes.
5 Q. And at that time you remembered Mr. DeMocker
6 saying these words to you: You just want to think it was an
7 accident. You just want to believe -- you want to think it
8 was an accident, like she fell from the loft or something.
9 Things would be so much easier if it were an accident.
10 A. Uh-huh.
11 Q. Do you recall saying that?
12 A. Do I recall hearing him say that? Yes.
13 Q. Both hearing him say that and saying that to
14 Mr. Sechez?
15 A. Yes.
16 Q. You don't recall whether you said the same thing?
17 A. I am 90-percent sure I said the same thing to you.
18 Whether it was word-for-word to you, those exact words,
19 probably not, as it was two different times, even in the same
20 day. But getting something exactly word-for-word is highly
21 improbable. There may have been an "is" in there or a "the"
22 in there.
23 Q. Except for an adjective or a "the" or two, you
24 told that same story several times?
25 A. I don't know about several. I want to be really

1 clear, and I think part of it needs to be clear. I am sorry
2 if you are getting frustrated with me.
3 Q. I am not frustrated in the slightest. You talked
4 about it at least three and maybe more times?
5 A. Yes.
6 Q. Including the times here this afternoon?
7 A. Yes.
8 Q. And when you talked about it, the context of this
9 was, as you said today, a very traumatic and emotional time
10 for you?
11 A. The context, the experience of being in the room
12 was traumatic and emotional? I don't know if it was
13 traumatic. I would say it was very emotional.
14 Q. Fair enough. And it was emotional for a lot of
15 other people --
16 A. Yes.
17 Q. -- who were out there at the same time?
18 A. Yes. Correct.
19 Q. Including the other members of Mr. DeMocker's
20 family?
21 A. No. I don't think, I believe, I saw any of the
22 DeMockers emotional about it. Well, Katie. Katie. Excuse
23 me.
24 Q. That was not the question I asked.
25 A. What was the question?

1 Q. Let me do this a little bit differently. When you
2 came out of the room and went down the hallway --
3 A. Yes.
4 Q. -- you and Mr. DeMocker did a side hug?
5 A. Yes.
6 Q. And you said the words that are here in the
7 transcript that I have read to you this afternoon?
8 A. Yes.
9 Q. And you still think that those words are correct
10 and are an accurate memory of what you remember having heard
11 at that time?
12 A. Yes.
13 Q. Okay. You also told Officer Brown the first time
14 that you talked to anybody on the telephone --
15 A. Right after her death.
16 Q. Yes. This is like --
17 A. The day, two or three, four --
18 Q. This is like July 6?
19 A. Okay.
20 Q. -- that you loved the family?
21 A. Uh-huh. Yes. Correct.
22 Q. And that you loved Steve?
23 A. Correct.
24 Q. And when you were interviewed, you were asked if
25 that was still true?

1 A. Correct.
2 Q. And you said it was?
3 A. Correct.
4 Q. And you also said that it was your feeling that
5 all of these people were very important to you, and that you
6 were not wanting or in any position to take any position as
7 to what happened to Carol Kennedy.
8 A. Correct.
9 Q. You said that you thought it was important to you
10 to be neutral and to continue the love that you have for all
11 of them?
12 A. Absolutely, correct.
13 Q. And that is still true today?
14 A. Yes.
15 MR. HAMMOND: Thank you.
16 THE COURT: Mr. Butner.
17 MR. BUTNER: I don't have any further
18 questions of this witness, Judge.
19 THE COURT: Before the witness leaves the
20 stand, any questions that you all may have, if you would pass
21 them to the bailiff. I don't see anybody with their hands
22 up.
23 Thank you.
24 May this witness be excused to go back
25 home?

1 MR. BUTNER: She may be excused to hopefully
2 catch her plane.
3 THE COURT: You are excused, and you may step
4 down. Thank you.
5 THE WITNESS: Thank you.
6 THE COURT: I think rather than starting
7 anybody new on a Friday afternoon at 20 minutes to 5:00, it
8 is probably best to take the break at this point. Any
9 problem with doing that?
10 MR. SEARS: No, Your Honor.
11 MR. BUTNER: I appreciate that, Judge. Thank
12 you.
13 THE COURT: Ladies and gentlemen of the jury,
14 have a wonderful weekend. Drive safely on your way home. I
15 am going to excuse you now.
16 Next week is a four-day week, Tuesday
17 through Friday. We will start at nine o'clock, the common
18 time that I told you about. Nine o'clock on Tuesday. Again,
19 if you would assemble up here in the jury room as promptly as
20 you can, so we don't delay getting started. I will try and
21 keep things moving as well and start promptly, and do the
22 best that we can with regard to that.
23 So, be safe. If there are any particular
24 emergencies, be sure to have your card or take your card with
25 our phone number so that you can contact us.

1 Stand in recess. Remember the
2 admonition.
3 (Whereupon, the jury exits the courtroom.)
4 THE COURT: Any other issues to raise before I
5 send you home, too?
6 MR. SEARS: Do we have the next week's witness
7 list?
8 MR. PAUPORE: It is ready, but it has changed.
9 THE COURT: We know a couple.
10 It appears there aren't any issues to be
11 raised at this point.
12 MR. RHODES: I just need a second with
13 Mr. Butner.
14 THE COURT: Okay. We will stick around.
15 (Brief recess.)
16 THE COURT: Back on the record. The record
17 reflects the defendant is still present, the lawyers and
18 Mr. Butner, Captain Rhodes, Mr. Hammond and Mr. Sears are up
19 here, and Mr. Paupore.
20 MR. BUTNER: Here is what we have worked out,
21 Judge.
22 THE COURT: Do you need this on the record?
23 MR. BUTNER: We don't need to put this on the
24 record, yet.
25 THE COURT: Off record until we need to

1 document something.
2 (Whereupon, a discussion was held off the record.)
3 THE COURT: On the record.
4 The Court is advised that the Sheriff's
5 detention facility will provide visitation tomorrow to six
6 members of the DeMocker family to be identified, I presume,
7 by the DeMocker family with coordination with the Sheriff's
8 office for visitation to occur tomorrow.
9 And, subsequently, my understanding is
10 that the Sheriff's office and the defense are agreeable the
11 visitation hours would take place on Tuesdays, alternating
12 Tuesdays, the Tuesdays that we are not in session.
13 Is that a correct understanding of what
14 the offer is by the detention staff and the Sheriff's office,
15 so long, of course, as inmate discipline is maintained, there
16 are no violations of procedures and policies of the detention
17 facility, which would call into question some other
18 considerations.
19 MR. SEARS: I think, Your Honor, to be
20 perfectly precise, and Captain Rhodes can correct me if I am
21 misstating this, of the six people tomorrow, it could include
22 Renee Girard, who is not technically a member of the DeMocker
23 family.
24 THE COURT: Is that accurate?
25 MR. RHODES: There is the no specification on

1 who. No more than six people.
2 THE COURT: Correct. Six persons.
3 MR. BUTNER: Just to clarify, the time is from
4 10:00 to 11:30 tomorrow.
5 THE COURT: Thank you.
6 MR. SEARS: 12:30 to 3:30 on Tuesdays.
7 MR. RHODES: 12:30 to 3:30 on Tuesdays.
8 THE COURT: That, apparently, is the regular
9 time of visitation for the particular dorm that Mr. DeMocker
10 is in. If there were to be some --
11 MR. BUTNER: It is actually for the other
12 dorm, one of the other dorms.
13 MR. SEARS: They will just put him in with
14 that group.
15 THE COURT: I appreciate the efforts that
16 everyone has made to accommodate visitation. I will find
17 that the question of the request for the Court's intervention
18 at this point is moot without prejudice to future
19 intervention, should that be necessary. But I think that
20 that provides a level of visitation with which the Court is
21 comfortable.
22 Any less than that, the Court, frankly,
23 was uncomfortable. I was totally uncomfortable with the
24 circumstances that called for Mr. DeMocker to have three
25 months' worth of trial with no visitation at all. Well, I

1 will state that I am happy not to have to make any rulings or
2 make any new case law in connection with that.
3 So, I will regard the motion that is on
4 the table as moot, having had this agreement for visitation
5 through the Sheriff's office. I thank the Sheriff and
6 detention staff and Captain Rhodes for their efforts, and the
7 County Attorney's office, Mr. Butner in particular, and
8 Mr. Fields for having tried to gain some resolution of this
9 in a fashion that I regard as reasonable.
10 Stand in recess.
11 (Whereupon, at 4:46 p.m. the case was adjourned
12 to resume at 9:00 a.m. on June 8, 2010.)
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7 C E R T I F I C A T E
8
9 I, ROXANNE E. TARN, CR, a Certified Reporter
10 in the State of Arizona, do hereby certify that the foregoing
11 pages 1 - 238 constitute a full, true, and accurate
12 transcript of the proceedings had in the foregoing matter,
13 all done to the best of my skill and ability.
14 SIGNED and dated this 29th day of June, 2010.
15
16
17
18
19
20
21 ROXANNE E. TARN, CR
Certified Reporter
22 Certificate No. 50808
23
24
25