

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA

CASE NO.: 2018CF1592A

STATE OF FLORIDA

VS.

DENISE WILLIAMS,

Defendant.

_____ /

VOLUME I - Pages 1 thru 116

PROCEEDINGS: JURY TRIAL
BEFORE: THE HONORABLE JAMES C. HANKINSON
DATE: December 11, 2018
TIME: Commencing at 8:33 a.m.
Concluding at 11:49 a.m.
LOCATION: Leon County Courthouse
Tallahassee, Florida
REPORTED BY: LINDA CUNNINGHAM, RPR
Notary Public in and for the
State of Florida at Large

LINDA CUNNINGHAM, RPR
Official Court Reporter
Leon County Courthouse, Room 341
Tallahassee, FL 32301

LINDA CUNNINGHAM, RPR, OFFICIAL COURT REPORTER

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APPEARANCES

REPRESENTING THE STATE:

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OFFICE OF THE STATE ATTORNEY
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PROCEEDINGS

THE COURT: We are here in State of Florida versus Williams, 2018-1592. Let the record reflect the defendant is present with her attorneys.

I know we have the Dungey deposition to deal with. Any other outstanding motions or issues we need to deal with before we start?

MR. FUCHS: None from the State, Your Honor.

MR. WAY: None from the defense, Your Honor.

THE COURT: Okay. Well, let's -- let's deal with that. It's a little confusing. Let me make sure I understand. This was a deposition taken by the defense, but the State intends to use it. Is that my understanding?

MR. FUCHS: No, Your Honor. This was -- this was something that was done -- it was a perpetuated testimony in which I elicited -- there were two different parts. There was -- the first part was the State doing direct examination of Mr. Dungey the State intends to use in its case in chief, in which I directed the questions, and Mr. way had an opportunity for cross-examination -- and actually I apologize. It was actually Mr. Rogers who conducted the direct examination.

Then there's a second part that was done where the questions were perpetuated by -- Mr. Way did the direct

1 examination, I did the cross examination. And that is
2 intended -- if at all used, it will be used in the
3 defense case-in-chief.

4 THE COURT: Okay. well, I misunderstood because I
5 didn't -- I thought it was all one deposition.

6 MR. FUCHS: No, sir.

7 THE COURT: So, on the direct examination, you
8 intend to present that there -- are there objections in
9 that?

10 MR. FUCHS: There are, Your Honor. As I stated
11 yesterday, I believe there were -- I think there was
12 three objections, at which time Mr. Rogers reasked the
13 question in a different way instead of having the witness
14 answer those questions.

15 THE COURT: Well, let's go through what objections
16 there are. The --

17 MR. FUCHS: I believe the first was on Page 13, Your
18 Honor.

19 THE COURT: The confusing part of it is that the
20 title page has Scott Dungey, perpetuation of testimony
21 commenced at 10:00 a.m., 10:30 on both of these
22 transcripts.

23 MR. FUCHS: The transcript in question that the
24 State is talking about is 26 pages, Your Honor, and it
25 begins with -- on Page 2. It says -- I'm sorry. On

1 Page 3, it identifies Mr. -- Attorney Rogers on Line
2 No. 23 as the direct examination.

3 THE COURT: I mean, I'm with you, but it is --
4 looking at the title page, it says it's both at the same
5 time; so that's kind of -- I'm not sure why the court
6 reporter did that.

7 So, where is the first objection?

8 MR. FUCHS: The questioning starts on Page 13. The
9 actual objection is on 14.

10 THE COURT: Questioning starts on Page 13?

11 MR. FUCHS: At the bottom of 13. It would be --

12 THE COURT: It starts on page -- oh, the objection
13 you are talking about?

14 MR. FUCHS: Yes, sir. On page -- on Line 24 is the
15 question, and the objection is actually on Page 14,
16 Line 3.

17 THE COURT: Okay. Well, there's no answer, so
18 there's nothing for the Court to rule on as to that;
19 correct?

20 MR. FUCHS: That's my understanding, yes, Your
21 Honor.

22 THE COURT: Mr. Way.

23 MR. WAY: As Mr. Fuchs indicated, I think what
24 happened was I made an objection, Your Honor, and part of
25 it was -- is the narrative of the question was getting

1 outside -- started to get outside of the scope. I
2 objected. Mr. Rogers reasked a different question; so it
3 essentially ameliorated the concern.

4 THE COURT: Okay. So, there's no ruling to be made
5 there. Then down -- I guess down at the -- top of the
6 next page, there is an objection too.

7 MR. FUCHS: Yes, Your Honor. And that question
8 starts actually on Page 14, Line 21. And, again, it was
9 restated.

10 THE COURT: All right. So, I really see no
11 objection to rule on there either, Mr. Way.

12 MR. WAY: Again, Your Honor, given the flow of the
13 testimony, once the objection was made, the State
14 promptly addressed the question -- it was getting into an
15 opinion about the condition of the certain items.

16 THE COURT: Well, tell me what -- where there are
17 objections I need to rule on. None of those appear to be
18 objections that need a ruling.

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

20 THE COURT: Okay. Are there any in the
21 cross-examination?

22 MR. FUCHS: The only time is on Page 22, and, again,
23 Mr. Way rephrased the question, Your Honor.

24 THE COURT: So, there are no objections for me to
25 rule on?

1 MR. FUCHS: No. All questions had been re- -- were
2 restated.

3 THE COURT: Okay. So, the long and short of it,
4 there is nothing for me to rule on?

5 MR. FUCHS: Yes, sir, on that part. That is
6 correct.

7 THE COURT: Well, is there some other part that
8 the -- we're going to be attempting to be used?

9 MR. WAY: Your Honor, the defense took a deposition
10 to perpetuate at the same time. I believe you have a
11 copy of that.

12 THE COURT: Right.

13 MR. WAY: I don't know if you want to deal with that
14 now or if you want to deal with it in a couple of days.

15 THE COURT: So, that you're going to wait and try to
16 present in your case-in-chief?

17 MR. WAY: That would be when I would do it, Your
18 Honor. I don't think there is a reason to rule on them
19 now.

20 THE COURT: Okay. Well, if you all will remind me.
21 I have reviewed that portion of it and prepared to rule,
22 but it's just as well to wait and make sure you are going
23 to present it and what the circumstances are at that
24 point in time. Perhaps the Court will be aware of the
25 issues it's not aware of at this point in time. You just

1 need to remind me.

2 MR. WAY: I will, Your Honor.

3 THE COURT: Okay. Does the defense want the
4 instruction on the right to remain silent to be given as
5 part of the preliminary instructions?

6 MR. WAY: Yes, Your Honor.

7 THE COURT: The -- I received a witness list and
8 exhibit list from the State. I assume it's from the
9 State.

10 MR. FUCHS: It is, Your Honor.

11 THE COURT: Does the defense have a witness list and
12 evidence list?

13 MR. WAY: Yes, Your Honor. May I approach?

14 THE COURT: You may. Thank you.

15 And have the exhibits for both sides been marked?

16 MR. FUCHS: They have for the State, Your Honor.

17 THE COURT: Mr. Way, did you mark your exhibits?

18 MR. WAY: I have not marked my exhibits yet, Your
19 Honor, because of ordering and scheduling.

20 THE COURT: Okay. Well, you know, we apparently
21 have a day or so to do, so -- but if you would go ahead
22 and get your exhibits marked, show them to the other
23 side, that will facilitate things.

24 MR. WAY: Absolutely, Your Honor. They will be
25 ready.

1 THE COURT: Have you shown the defense your
2 witnesses, Mr. Fuchs?

3 MR. FUCHS: He does not have my witness list, Your
4 Honor. I will give him my exhibit list, and we will go
5 over the exhibits here momentarily.

6 THE COURT: We will take a quick, quick break before
7 we start with the jury. What I would ask is that you'd
8 show them the marked exhibits. Then the defense can rely
9 upon that what's being shown to a witness so we don't
10 need to go through a big charade of showing it to the
11 other side at the time.

12 If you change anything, Mr. Fuchs, please let the
13 defense know.

14 MR. FUCHS: Yes, sir.

15 THE COURT: I sent you a draft set of jury
16 instructions last night. Unfortunately, for some reason
17 or another, the one to Mr. Way got kicked back. I don't
18 know. I was using an email off of the Bar website, so
19 maybe I had it wrong. Anyway, my judicial assistant has
20 resent them this morning to everybody; so everybody
21 should have a draft set of jury instructions and verdict
22 form.

23 So, at some point in time, you'll need to print
24 those out so we can begin some discussion of that. We
25 will need to do that this morning, but if any of you

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1 don't receive it, please let me know. You should have
2 those this morning.

3 MR. WAY: I received my copy from Ms. Rissinger at
4 8:20, and I sent them to my office to be printed.

5 THE COURT: Okay. All right. And I assume you got
6 yours, Mr. Fuchs?

7 MR. FUCHS: We did, Your Honor.

8 THE COURT: All right. Either side aware of
9 anything unusual or novel you're going to be requesting
10 that I provide as jury instructions?

11 MR. FUCHS: None from the State, Your Honor.

12 MR. PADOVANO: No, sir.

13 THE COURT: If somebody comes up with something new,
14 I would like to have a chance to research it a little
15 bit. Every once in a while somebody will surprise me
16 with something. I want no surprises.

17 MR. WAY: Not yet, Your Honor. But if we have any,
18 we will discuss them among --

19 THE COURT: All right. Please get them to me as
20 early as we can, so I'd have a chance to look at them in
21 advance.

22 MR. WAY: We will, Your Honor.

23 THE COURT: Okay. We've already discussed
24 objections and the handling of -- because of the multiple
25 attorneys. Anybody have a question on that?

1 MR. FUCHS: No, Your Honor.

2 MR. WAY: No, Your Honor.

3 THE COURT: All right. Does the defense intend to
4 concede guilt as to any criminal charges in the case,
5 Mr. Way?

6 MR. WAY: No, Your Honor, we are not going to
7 concede guilt to anything.

8 THE COURT: Okay. Either side wish to invoke the
9 rule of sequestration?

10 MR. WAY: The defense so requests, Your Honor.

11 THE COURT: All right. If we have potential
12 witnesses in the courtroom, please stand. A rule of
13 sequestration has been invoked. That means you need to
14 remain outside of the courtroom, except while you are
15 testifying.

16 while you are waiting to testify and until you have
17 been excused, you are not to discuss the case among
18 yourselves or with any other person. An important
19 exception to that is you are free to talk to the
20 attorneys for either side, just not in the presence of
21 any other witnesses.

22 I admonish counsels, since there are witnesses not
23 present, it's your obligation to make all witnesses aware
24 of the Court's ruling. We will let the witnesses step
25 out.

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1 MR. FUCHS: Thank you, Your Honor.

2 THE COURT: We will just swear them as we go.

3 All right. Anything else from either side?

4 MR. FUCHS: No. The only question I have, and I put
5 it on the exhibit list, is Mr. Dungey's -- the transcript
6 as well as the recording I was going to mark as Court
7 Exhibit No. 1. I want to make sure that's okay with the
8 Court, or do they want me to mark it as a State's
9 exhibit? I just want to make sure I mark it correctly.

10 THE COURT: Court exhibit would be appropriate,
11 because we have to remember that's not something that
12 goes back to the jury during their deliberations. So
13 that distinction would probably be helpful.

14 So, now are you going to present that by video or --

15 MR. FUCHS: Yes, sir.

16 THE COURT: Okay.

17 MR. FUCHS: And I have copies of the transcripts,
18 too, that I would like to be distributed to the jurors.

19 THE COURT: Okay. If you would make the transcript
20 1A so we can have some record of that. And we will just
21 need to remember those don't go back to the jury.

22 MR. FUCHS: Yes, sir.

23 THE COURT: Anything else from either side?

24 MR. FUCHS: Not from the State.

25 MR. WAY: No, Your Honor.

1 THE COURT: Okay. So, I think we're waiting on one
2 juror. It was my intention to take about 10 minutes, let
3 everybody have a break, and then start with the jury. Is
4 that agreeable to everybody?

5 MR. FUCHS: Yes, Your Honor.

6 MR. WAY: Yes, Your Honor.

7 THE COURT: Assuming we have our last juror, we will
8 start back at 8:55 with the Court's preliminary
9 instruction. We will be in recess.

10 (Break taken.)

11 THE COURT: All right. We're here in State versus
12 Williams. We are in chambers at the request of the
13 attorneys. It's my understanding the defense wanted to
14 waive Ms. Williams' presence for this proceeding.

15 MR. WAY: We will, Your Honor.

16 THE COURT: Okay. All right. So, what's the
17 situation?

18 MR. FUCHS: Your Honor, we've come to information
19 regarding one of the jurors that possibly violated one of
20 the Court's rules. I will allow Mr. Newlin to explain.

21 THE COURT: Okay.

22 MR. NEWLIN: We received a call from Colby Cherry
23 this morning. He said he was on Facebook yesterday,
24 posted a comment along the lines of: I hope this jury is
25 smart with this case.

1 He received a reply from a Whitney Johnson who said:
2 Are you calling me dumb? He replied: Are you a juror?
3 And she replied: Shh. And so he called the office with
4 that this morning.

5 THE COURT: Well, what do you all wish to do?

6 MR. NEWLIN: Can I add? I just got more. Whitney
7 told him not to tell anybody.

8 MR. FUCHS: She specifically said: Don't tell
9 anybody?

10 MR. NEWLIN: I can call him.

11 MR. FUCHS: Yeah.

12 MR. WAY: May I ask a question, Your Honor?

13 THE COURT: You may.

14 MR. WAY: Mr. Newlin, does Mr. Chase have any
15 relationship or anything to do with the State?

16 MR. NEWLIN: It's Colby Cherry. I've never heard
17 the name before, no.

18 MR. WAY: She just called out of the blue and --

19 MR. NEWLIN: He did. Colby Cherry --

20 MR. WAY: Colby Cherry called out of the blue?

21 MR. NEWLIN: Yeah.

22 MR. WAY: You don't know who this person is or
23 anything?

24 MR. NEWLIN: No, I do not.

25 MR. WAY: Thank you, Your Honor.

1 THE COURT: Do you all have a position?

2 MR. WAY: She violated. It would appear that she
3 may have violated a court order. I mean, I don't think
4 we probably need to verify it, if it's her or if it's
5 just somebody trolling pretending to be her.

6 Respectfully, I mean, I can be a French model on the
7 internet. That doesn't mean that I'm who that person is,
8 but I think an inquiry is worthwhile.

9 MR. FUCHS: I think that's where I am at, is inquire
10 and then see what the response is and go from there.

11 MR. WAY: Whitney Johnson is a common name, Your
12 Honor. Not being on a jury is, but --

13 THE COURT: Well, what are you asking that I do?

14 MR. WAY: I -- if the Court would be comfortable if
15 we could just inquire of the juror and find out if the
16 juror violated the rules of the Court, and we can go from
17 there. If it's -- it may not even be her. It may be
18 somebody else.

19 THE COURT: Yeah. But my only question would be
20 something like, we received information that a Whitney
21 Johnson may have responded to a jury thing on social
22 media. Obviously, your name is the same. Is it you?
23 And see what she says about it. And then inquire as to
24 what she did, and then we will have to go from there.

25 MR. WAY: The defense would be concerned, Your

1 Honor, that if you are -- if you are out there trolling
2 around on Facebook, given the nature of this case and the
3 publicity, that nothing good will befall the defense. We
4 would want Ms. Johnson removed from the jury.

5 THE COURT: Well, I'm not sure, based on what she
6 said, she's really violated the Court's order. She
7 hasn't commented on the case. It certainly is not what
8 we would prefer.

9 MR. FUCHS: And that's -- I'm sorry. That's what --
10 my intention of the inquiry, and then an admonishment of,
11 Stay away from that kind of stuff. I don't know that
12 she's necessarily violated it, like you said.

13 THE COURT: So, how do you see that she has violated
14 it, Mr. Way? Let's assume this is all accurate.

15 MR. WAY: Well, depending on how -- without knowing
16 the nature of the Facebook post, it would be a situation
17 where the witness or the juror would have been
18 exploring -- it would -- my concern -- it would be a
19 situation, Your Honor, where the juror, against the
20 admonition, went to look up information on the case and
21 would have had to have been conducting an online
22 exploration related to this particular case to even come
23 across the posting of this Colby Chase (sic). So, my
24 concern --

25 THE COURT: Colby Cherry.

1 MR. WAY: I'm sorry, Your Honor.

2 THE COURT: Well --

3 MR. WAY: Colby Cherry. So my concern would be if
4 you have a juror who is out there doing exploration
5 online about the case and then commenting on a posting by
6 someone and then asking that person not to tell anyone
7 that you're doing it, I believe that to be somewhat
8 troubling conduct. Because it's not as if they stumbled
9 upon a newspaper in the lobby. It's -- you have to take
10 affirmative steps online to get to this kind of
11 information, is my understanding of how the Facebook --

12 THE COURT: I'm not a Facebook expert. In fact, I
13 know nothing essentially. But I thought that if this
14 person was on the friend list with the juror, that it --
15 this comment, I hope this jury is smart, would
16 automatically pop up. I'm not -- I'm not certain it
17 takes someone going and trolling for information, as you
18 characterized it, but --

19 MR. ROGERS: Judge, may I add into that conversation
20 a little bit? It could be two ways, and that's what we
21 don't know here. One is Colby Cherry was posting
22 something on his own Facebook page. That would require
23 the juror in question to be a friend and comment to his
24 Facebook page directly. Alternatively, if, say, there's
25 a news article on the *Tallahassee Democrat* or one of the

1 news sources and just open comments, Colby Cherry says --
2 posted the comment, I hope this jury is smart, she could
3 have replied in that thread. But without knowing more
4 information as to what she saw and what she replied to,
5 we can't make that determination.

6 MR. NEWLIN: Do you want me to --

7 THE COURT: Have a seat, Mr. Newlin. If -- let's
8 try to keep some kind of order here. If you want to add
9 to it, let's make it clear that's what we are doing.

10 Mr. Fuchs?

11 MR. FUCHS: Yes, sir.

12 Did you find any information --

13 MR. NEWLIN: Yes. Colby Cherry is a friend of or an
14 acquaintance of Whitney Johnson. It was actually a
15 Snapchat back and forth. He said he was going to attend
16 the Denise Williams trial, hoped the jurors aren't dumb.
17 She replied: Are you calling me dumb or stupid? And
18 then they went back and forth about, Please don't tell
19 anybody I'm on the jury. And so --

20 MR. FUCHS: So they were friends and an automatic
21 pop-up?

22 MR. NEWLIN: Yeah.

23 MR. FUCHS: Okay.

24 THE COURT: And what -- did she make any actual
25 comment about the circumstances of the case other than,

1 I'm a juror and don't tell anyone?

2 MR. NEWLIN: No, sir. And Snapchat is a little
3 different than Facebook. It's not one where you actually
4 research topics. It's -- actually somebody has to put it
5 out there for you to see, so --

6 THE COURT: So, she would have automatically gotten
7 this comment from Mr. Cherry?

8 MR. NEWLIN: Correct.

9 MR. WAY: I will withdraw my objection to any
10 concern then.

11 THE COURT: I just worry a little bit about singling
12 her out and bringing her in for inquiry. That just kind
13 of alienates the juror in some fashion. I think what I
14 would prefer to do is give them further admonition. And
15 if you all want me to even say that, you know, we've
16 received report of a juror, you know, making comment on
17 the internet, fairly innocuous, but jurors should be
18 aware that people are constantly monitoring these types
19 of things, and if they make any comment on the internet,
20 it is likely to be reported to the Court, and they should
21 refrain from doing so.

22 MR. FUCHS: I think you should expand that with,
23 including comments, not just on the internet, but talk
24 about social media comments. Don't have to say
25 Instagram, Facebook and all of that stuff, but call them

1 social media for what they are, because some people won't
2 actually think of those as being the internet. They
3 think of the internet are the things you'd go out and
4 search for; whereas, social media are just kind of
5 conversational.

6 THE COURT: Mr. Way?

7 MR. WAY: I agree, Your Honor.

8 THE COURT: All right. Anything else?

9 MR. WAY: while I have the court reporter here, Your
10 Honor, it would be my duty to advise that yesterday
11 evening, as the Court was adjourned, Mr. Padovano and I
12 were stranded on the first floor with all of the jurors.
13 We removed ourselves to the clerk's office. They all
14 asked us through the glass where the exit was, and we
15 made a signal with our hands that it was P3, to go down.
16 That was the limit of our contact with the jurors.

17 THE COURT: Okay. Thank you for bringing that to my
18 attention.

19 MR. PADOVANO: And one of the jurors kindly told the
20 others that the reason we did that is because we were not
21 permitted to speak with them. So they were kind of let
22 off of the hook a little bit.

23 THE COURT: Okay. I do often make that comment to
24 the jurors. I think maybe I will make that kind of
25 comment, if you all wish.

1 MR. PADOVANO: Yeah.

2 MR. FUCHS: Yeah.

3 MR. WAY: Yes, sir, because depending on how late
4 the trial goes, we're all kind of stuck in the same
5 areas.

6 THE COURT: Okay.

7 MR. FUCHS: Your Honor, and we do have one more
8 procedural thing that we've talked about outside.
9 Mr. Winchester is going to invoke his Fifth Amendment
10 right to remain silent, and we're going to compel his
11 testimony pursuant to the subpoena.

12 The question is whether that needs to be done in
13 front of the jury or outside of the presence of the jury.
14 And it would be the State's position that it's done
15 outside of the presence of the jury, given the case law
16 that talks about calling someone for invoking their Fifth
17 Amendment right to remain silent and along those lines.

18 THE COURT: Does the defense have a different
19 position?

20 MR. WAY: I have a slightly more -- I have a
21 slightly different concern, but it's similar. I know
22 that Mr. Jansen is -- it's the intention of the State to
23 call Mr. Jansen to introduce or to testify as it relates
24 to the proffer agreement. I would think foundationally
25 it would be if Mr. Jansen testifies, says, This is what's

1 going to happen, and his witness -- his client is going
2 to testify pursuant to compel testimony, it may give a
3 clearer picture to the jury. Otherwise, if he's going to
4 stand up, if Mr. Winchester's intention is to invoke the
5 Fifth Amendment in the light of the proffered agreement,
6 I think that that could be relevant for what -- how the
7 jury weighs his testimony.

8 THE COURT: I'm not going to get too involved in all
9 of that. In terms of should he invoke in front of the
10 jury or outside the presence of the jury, I think it's
11 clear it should be done outside the presence of the jury,
12 and we will do so at the appropriate time. When do you
13 expect Mr. Winchester to testify?

14 MR. FUCHS: I believe it will be after lunch, Your
15 Honor. We've already talked to the --

16 THE COURT: Okay. So we have him brought in, you
17 know, before we bring the jury in, and hopefully it's
18 a -- you know, at the end of the lunch break would be
19 ideal. If we could do it at that point in time -- I hope
20 we will do it at that point in time.

21 MR. FUCHS: Yes, sir.

22 THE COURT: Okay. All right. Let's get started.

23 MR. PADOVANO: Thank you.

24 (In chambers conference was concluded.)

25 THE COURT: Are we ready for the jury?

1 MR. FUCHS: Yes, Your Honor.

2 THE COURT: Defense ready?

3 MR. WAY: The defense is ready, Your Honor.

4 THE COURT: All right. Let's have the jury, please.

5 (Jury in.)

6 THE COURT: When you all come in, you can be seated.

7 They are standing for you. All right. Everybody be
8 seated, please.

9 Good morning, folks. Thank you for being back here
10 this morning. I try to run court on time, and I'm going
11 to ask you all to work with me on that. Please be
12 punctual. We have a lot of people waiting. We have a
13 lot of activity going on. If you are not punctual, then
14 everybody is delayed, and, you know, we don't want to be
15 here next week because one of our jurors can't get here
16 on time.

17 I know all of us probably have your friends that are
18 time challenged, so you lie to them about what time to be
19 here to get them there on time. I don't want to do that
20 way with you all. I want to be -- you know, tell you
21 exactly when we need you. If we have a problem with
22 that, then we will just start -- start a half hour before
23 we really need you. That's not what I want to do. So,
24 if you all work with us, let's make time. You know
25 you're time challenged. If you are, then you need to

1 work that out and make sure you get here early.

2 We were also delayed a little bit in getting started
3 because the Court has already received a report of a
4 juror making some comment on the internet about their
5 jury service. In the grand scheme of things, the comment
6 was fairly innocuous. I'm not going to take any action
7 on it at this point in time, but you need to be aware if
8 you comment on social media, people are out there
9 watching, people are out there listening. It will be
10 reported, and then we are going to have a problem.

11 During the course of this trial, you just need to
12 stay off of the social media. You can't be making any
13 kind of comment at all, because the next thing you know,
14 it comes back to the court. Sometimes it comes back a
15 little twisted, and, you know, it's just something we
16 need to avoid.

17 So, I know I've talked about it before, and then we
18 still had a minor problem. Let's not have any problems
19 on that. We went through a lot of trouble yesterday to
20 get a jury that can fairly and impartially hear this case
21 based upon what's presented here in the courtroom. Let's
22 keep it that way, please. So, sorry to start out by
23 chiding you over things, but I don't want, you know, us
24 to get off on the wrong foot in this case.

25 You've now been selected and sworn as the jury to

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1 try the case of State of Florida versus Denise Williams.
2 As we've already discussed, this is a criminal case.
3 Ms. Williams is charged with three charges: Conspiracy
4 to commit first degree murder, first degree murder, and
5 accessory after the fact of first degree murder.

6 Later, during the course of the trial, I will
7 explain to you the exact elements of each of those
8 offenses. The indictment that I read from yesterday is
9 not evidence, and it is not to be considered by you as
10 any proof of guilt.

11 It's my job to explain the law to you. It is your
12 job to decide the facts and to apply facts to the law.
13 That's one of the fundamental principles of our system of
14 justice. I decide the law. You decide the facts. You
15 apply the facts to the law.

16 I know all of you see trials on TV from time to
17 time, but you probably don't see one from begin to end.
18 So it may be helpful if you understand the sequence of
19 events.

20 At the beginning of the trial, the attorneys will
21 have an opportunity to make an opening statement. The
22 opening statement gives the attorneys a chance to tell
23 you what evidence they believe will be presented during
24 the trial. What the lawyers say is not evidence and you
25 are not to consider it as such.

1 Following the opening statements, witnesses will be
2 called to testify under oath. They will be examined and
3 cross-examined by the attorneys. Documents and other
4 exhibits also may be produced as evidence. After the
5 evidence has been presented, I will instruct you on the
6 law. The attorneys will then have an opportunity to make
7 their closing arguments. Following the closing arguments
8 by the attorneys and some brief concluding remarks by the
9 Court, you will retire to consider your verdict.

10 You should not form any definite or fixed opinion on
11 the merits of the case until you have heard all of the
12 evidence, the arguments of the lawyers, and the
13 instructions on the law that I will give you. Until that
14 time, you are not to discuss the case among yourselves.
15 Your verdict must be based solely on the evidence or lack
16 of evidence and the law that I will explain to you.

17 I now instruct you not to communicate with anyone,
18 including your fellow jurors, about this case. No
19 communication includes no emailing, text messaging,
20 Tweeting, blogging, or any other form of communication.
21 You cannot do any research about the case or look up any
22 information about the case. If you become aware of any
23 violation of these rules at all, please notify the Court
24 personnel of the violation.

25 During the course of the trial, we will take

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1 recesses, and you will be permitted to separate and go
2 about your personal affairs. During these recesses, you
3 must not discuss the case with anyone, nor permit anyone
4 to say anything to you or in your presence about the
5 case. If anyone attempts to say anything to you or in
6 your presence about the case, tell them that you are on
7 the jury trying the case and ask them to stop. If they
8 persist, leave them at once and immediately report the
9 matter to the bailiff, who will advise me.

10 The case must be tried by you only on the evidence
11 presented during the trial in your presence and in the
12 presence of the defendant, the attorneys, and myself.
13 Jurors must not conduct any investigation of their own.
14 This includes reading newspaper, watching television, or
15 using a computer or cell phone, the internet, or any
16 electronic device or any other means at all to get
17 information related to the case or the people and places
18 involved in the case. This applies whether you're in the
19 courthouse, at home, or anywhere else. You must not
20 visit places mentioned in the trial or use the internet
21 to look at maps or pictures to see any place discussed
22 during the trial.

23 In every criminal proceeding, a defendant has the
24 absolute right to remain silent. At no time is it the
25 duty of a defendant to prove her innocence. From the

1 exercise of a defendant's right to remain silent, a juror
2 it not permitted to draw any inference of guilt, and the
3 fact that a defendant did not take the witness stand must
4 not influence your verdict in any manner whatsoever.

5 The attorneys are trained in the rules of evidence
6 and trial procedure, and it is their duty to make all
7 objections they feel are proper.

8 when an objection is made, you should not speculate
9 on the reason why it is made. Likewise, when an
10 objection is sustained or upheld by me, you must not
11 speculate on what might have occurred had the objection
12 not been sustained nor what a witness might have said had
13 he or she been permitted to answer.

14 During the trial, it may be necessary to confer with
15 the attorneys out of your hearing to discuss matters that
16 require my consideration alone. It is impossible to
17 predict when such a conference may be required or how
18 long it will last. When such conferences occur, they
19 will be conducted so as to consume as little of your time
20 as is necessary for a fair and orderly trial of the case.

21 If it's going to be something extended, we will
22 generally let you step out. If it's something we can do
23 quickly, we will probably go over here to the side of the
24 room. We call that a sidebar because it's to the side of
25 bar. It will be outside of your presence.

1 Sometimes I worry that juries think something
2 unusual or exciting has happened. That's generally
3 something fairly procedural. It's not anything for you
4 to be concerned about, but that's just a normal part of
5 the trial.

6 Let me comment on one other thing. You might run
7 into the attorneys in the hallway. They are not going to
8 talk to you. That's not because they are rude or aloof
9 people. That's just they understand the rules of the
10 court. You can understand somebody seeing you talk to an
11 attorney, they don't know what's being said, and it could
12 be misconstrued.

13 So, during the course of the trial, just don't have
14 any conversation with them, and they are not going to
15 talk to you, and accept that those are just the rules of
16 the Court.

17 If you would like to take notes during the trial,
18 you may do so. On the other hand, you are not required
19 to. That is entirely up to you. We have given you a
20 notepad and a pen for your use, if you wish to take
21 notes. Any notes that you take will be for your personal
22 use; however, you should not take them with you from the
23 courtroom until you start your deliberations.

24 During recesses, if you'll leave your notes in your
25 seat, the bailiff will ensure they are not tampered with

1 by anyone. After you've completed your deliberations,
2 the bailiff will destroy your notes. No one will ever
3 read your notes. If you take notes, do not get so
4 involved in note-taking that you become distracted from
5 the proceedings.

6 And you may wonder what I mean by that. We've had a
7 rare instance, but occasionally we'll get a juror that
8 kind of tries to be a court reporter and take down every
9 word that's said here in the courtroom. An important
10 part of your job is to observe the witnesses, decide
11 whether you think they're accurate historians or not.
12 Don't get so buried in note-taking that you lose that
13 function.

14 Your notes should be used only as aids to your
15 memory. Whether or not you take notes, you should rely
16 on your memory of the evidence, and you should not be
17 unduly influenced by the notes of other jurors. Notes
18 are not entitled to any greater weight than each juror's
19 memory of the evidence.

20 During the trial, you will be permitted to ask
21 questions of witnesses in case you missed something, you
22 did not understand something, or you need to clarify a
23 pertinent issue. The rules of evidence apply regardless
24 of whether a question is asked by the attorneys, by me,
25 or by you; therefore, there may be a legal reason why I

1 cannot ask your question. If I do not ask your question,
2 you must not hold that against any of the parties, and
3 please do not take it personally.

4 Subject to that understanding, this is how we will
5 proceed. When the attorneys have finished asking their
6 questioning, if you have a question, simply raise your
7 hand. Now, we don't do it in the middle of the witness.
8 We do it at the end of the witness. I'll try to stop and
9 remember to ask you. Occasionally, in my old age, I
10 forget. But if I forget, just raise your hand. I will
11 give you time to write your question on a clean piece of
12 paper. The bailiff will collect your question. I will
13 then confer privately with the attorneys. If I determine
14 that it is a legally appropriate question, I will ask
15 your question, and the attorneys will be allowed to ask
16 follow-up questions. If your question is not asked, you
17 must not discuss it with other jurors or hold it against
18 either party.

19 The questioning of witnesses is the primary
20 responsibility of the attorneys. You are not obligated
21 to ask any questions nor encouraged to ask large numbers
22 of questions; however, if it will help your understanding
23 of the case, you may do so.

24 As I indicated, the next thing to occur is the
25 attorneys will be given an opportunity to make an opening

1 statement. As I've already said, what the attorneys say
2 is not evidence, and you should not consider it as such.
3 However, I do encourage you to give them your careful
4 attention. The opening statements are intended to give
5 you an understanding of the evidence that the attorneys
6 expect to present and the issues in the case.

7 we will start with the State of Florida.

8 MR. FUCHS: Thank you, Your Honor.

9 Good morning, again.

10 THE JURORS: Good morning.

11 MR. FUCHS: The first thing I would like to do is
12 thank you. I know yesterday I thanked you for being
13 potential jurors, but today you are, in fact, the jurors.
14 You were selected to be the jurors because myself and
15 other counsel, as well as Ms. Williams, paid attention
16 throughout the course of jury selection and felt that you
17 were the best to come in and try this particular case and
18 listen to the evidence that is presented before you.

19 And, once again, thank you very much for your civic
20 duty in coming in and doing this. We literally cannot do
21 this without you. You all are in a little bit unique
22 situation because yesterday you heard a little bit about
23 the facts of this case, but now you get to hear what they
24 call "the rest of the story."

25 So, what happened? How did we get here today? What

1 you are going to hear is back on December 16th of 2000,
2 Jerry Michael Williams, he goes as Mike Williams, is an
3 avid duck hunter. He likes to go out and duck hunt on a
4 regular basis. On this particular day, he went out and
5 did that very thing. He went out to go duck hunting.

6 You are going to hear this is also the anniversary
7 with himself -- and at the time he was married to Denise
8 Williams. This is their anniversary day. So, on this
9 particular day, there's a plan where he is going to go
10 out, he is going to duck hunt, he's going to come home,
11 and then afterwards they are going to leave and go to
12 Apalachicola to celebrate their anniversary that evening
13 and stay at the Gibson Inn and have dinner and things
14 along those lines.

15 You are going to hear that on this particular day,
16 one of the places that he typically goes to is Lake
17 Jackson -- or Lake Seminole, excuse me. Lake Seminole is
18 about an hour to the west of Tallahassee, northwest a
19 little bit. It's actually in Jackson County, which is
20 the next county over from Gadsden, and that's where he
21 goes. And actually where he hunts is over here on the
22 west side of Lake Seminole, just around the area of
23 Sneads.

24 What you are going to hear is that he never came
25 back. He disappeared. In the afternoon hours, Florida

1 wildlife Commission are contacted as well as other family
2 members, and they start trying to figure out where he is
3 and they go looking for him. In the landing right off of
4 on the north side -- I mean, on the west side of Lake
5 Jackson -- Lake Seminole they have his Bronco as well as
6 the trailer.

7 You are going to hear that large number of friends,
8 family members, FWC officers, civilians, law enforcement,
9 everybody converges on here and starts to try to find
10 him. You are going to hear -- this right here is a
11 little -- what we call a slide, where you can launch a
12 boat from. And then as you can see, this is an old --
13 Lake Seminole is an old pecan farm that they flooded with
14 a damn; so it's a reservoir. And as you can see, you
15 have a lot of stumps in this particular area.

16 The initial thought, of course, is that he possibly
17 would be running the boat out to go to this duck hunting
18 area, he hit a stump, possibly was thrown overboard, the
19 boat went off, and they were hopeful to find him maybe on
20 this island back in here or something along those lines
21 and move on.

22 You are going to have an opportunity to hear from a
23 couple of the FWC officers that were there, one of which
24 is Alton Renew. Alton Renew comes out there and he's
25 kind of the coordinator of this whole thing, and he kind

1 of takes the lead on it and they conduct a search. And
2 what you are going to hear is it's a very methodical
3 search. They do grid patterns. They have a helicopter
4 up. You have dive teams from Montgomery County, Alabama.
5 You've got Jackson County sheriff officers that are there
6 participating in this. And, as I mentioned, you've also
7 got friends and families that are participating in this
8 search as well.

9 Multiple boats are out there looking for him, trying
10 to find him. As I said, a helicopter from up above,
11 looking around. And, again, keep in mind, this is a
12 Saturday. It's December 16th of 2000. And you are going
13 to hear during the evening hours of that, a cold front
14 came through. And it was actually around 70 degrees, a
15 nice balmy winter day in Florida on the 16th; however, a
16 cold front rolls through that evening, and you are going
17 to hear that there's torrential downpours and, of course,
18 searchers aren't able to search during that particular
19 time, and that there's huge downpours and the temperature
20 drops dramatically. It's in the 20s the next day, in the
21 teens. Everybody is bundled up, lots of fires, trying to
22 stay warm, and things along those lines.

23 But what you are going to hear is the following
24 morning they found Mike's boat. This is Mike's hunting
25 boat, duck hunting boat. As you can see, this is what

1 they call a Gheenoe. It's essentially a canoe that's
2 powered by a motor. It's got a long -- what they call a
3 go-devil, I guess it is. It's got a long shaft there
4 with a propeller on the end to get it to move through,
5 and the idea is it can move through these stump areas and
6 very shallow waters.

7 You are going to find -- you are going to hear that
8 they actually found that boat about 75 yards away from
9 where they found the Bronco. It's in another little cove
10 that's in this particular area as to where they found the
11 boat.

12 As I mentioned, it's an extremely extensive search.
13 This originally started out as a search and rescue. They
14 were hoping to find him. You will hear from Scott
15 Dungey, who is a friend of the family, a friend of
16 Mike's, he goes up in the helicopter with FWC and is
17 looking out, trying to find him hopefully on the islands
18 that are in that area. Maybe he got thrown from the boat
19 and was able to swim to safety and was just waiting to be
20 rescued.

21 As I mentioned, weather was a factor in the multiple
22 ways that they do this search. What you are going to
23 hear is unfortunately during that time period, they were
24 not able to find Mike. Mr. Williams is still missing,
25 and reality sets in that at this point it's become a

1 recovery operation.

2 what you are going to hear is that they bring out
3 search dogs. They are going to have probing poles, and
4 what those are little PVC poles where they take and they
5 push them down and they try and find Mike's body. And
6 they are trying to feel for things that give way a little
7 bit as a body would and not a tree stump, which is
8 obviously much harder. As you are also going to hear,
9 there were divers that were involved in this particular
10 search.

11 The initial search lasted approximately two weeks
12 trying to recover the body, out there every single day,
13 helicopters, dive teams, every single day for two weeks.
14 Scaled back to a degree at that particular time; however,
15 FWC was a constant presence there. They were always
16 looking, did spot checks, as well as friends that were
17 there until -- all the way until February, months later.

18 It's kind of the picture, what we're talking about
19 here, where you've got the Bronco is found, the boat is
20 found, there's a tree stump here, the tree stump here as
21 well as all of the other trees you saw and a ranger's
22 station across the way here.

23 what you are going to hear is that at the beginning
24 of the search, Scott Dungey did the poling thing that
25 we've previously talked about, and he got a little bit of

1 a give way right in this area, right off of that island
2 they thought maybe he had swam to, and you are going to
3 hear they put down bamboo sticks there to try and mark
4 that particular spot. And a great deal of the search
5 actually concentrated in this particular area. There's a
6 hole there, if you will. It's a deeper area. Most of
7 this stuff is about 4 to -- 4- to 8-foot deep is most of
8 this particular area; however, there's a hole here which
9 is much deeper, 12-foot range.

10 That's where he felt that initial give away, and
11 that's where they concentrated the search on. And they
12 marked it initially with bamboo sticks and trees, and
13 eventually that transformed into PVC pipes where they put
14 down for a little bit permanent aspect. So this is where
15 the search concentrated on.

16 After all of those search efforts, all of those
17 people that were out there, the constant searching, the
18 helicopters, they found a hat. That's it. Six months
19 afterwards, you are going to hear from Joe Sheffield, who
20 is a person that goes out there and avidly fishes at that
21 particular time, it's summer months now, and he's out
22 there fishing and he comes across a set of waders. And
23 he is going to describe to you what those waders look
24 like.

25 As a result, the search goes back. You are going to

1 hear from Scott Dungey as well as Alton Renew, who is
2 present. They sent a diver down to that particular
3 location, and, again, they are back at that marker, that
4 hole, that 12-foot hole where they felt the initial push
5 and they mark with the bamboo sticks, ultimately the PVC
6 pipe. And what you are going to hear is not only were
7 there waders found, but there was a jacket found, a
8 flashlight, and a hunting license. That hunting license
9 belonged to Mike Williams.

10 It's an Arkansas hunting license is what was found.
11 These are the items that were found six months later,
12 along with the hunting license. The flashlight that's
13 found, it's one of those Maglites. It was actually still
14 functional.

15 Well, what you are going to hear unfortunately at
16 that point, Mike still has not been recovered and the
17 case goes cold. At this point, this is marked as a
18 missing persons. There has been no evidence of any foul
19 play in any way, shape, or form. It's simply a duck
20 hunting/boat accident. A body was never found. There
21 were even theories of alligators possibly had eaten him.

22 Fast forward to 2003, Brian Winchester. Brian
23 Winchester is a lifelong friend of Mike Williams. What
24 you are going to hear is that Brian Winchester, Denise
25 Williams, a lady name Kathy Winchester, who is now Kathy

1 Thomas, they all went to school together at North Florida
2 Christian. And you are going to hear that over the
3 years, Brian and Kathy got married, Denise and Mike got
4 married.

5 They had a couple -- did a couple of things
6 together. They would go out and they would go to
7 concerts together. They would go over to each other's
8 houses. They even had kids roughly around the same time.
9 Mike and Denise had a little girl. Brian and Kathy had a
10 little boy. But following all of this, in 2003, Brian
11 Winchester and Kathy Winchester are now getting divorced,
12 and now Brian and Denise, Mike's widow, are now starting
13 to date.

14 There are suspicions and law enforcement takes
15 another look. Now, keep in mind, it's not 2018. We're
16 talking about 2000. Okay. We're talking about an
17 investigation, and what we're talking about with records
18 and things along those lines, this is the days of flip
19 phones and Nokia phones. These are the days in which you
20 still got phone calls at your house. You had the
21 answering machine where you had to push the button and
22 listen that you didn't have any messages from all of your
23 friends.

24 Not today. Records back then, people called each
25 other at the house. Home records, the phone records back

1 then consisted of long distance calls only. Any phone
2 records regarding the local calls, you would get the bill
3 and the bill would say local service, but it never gave
4 you the breakdown of calls like we do now with the cell
5 phones. You had to go back, and the only breakdown you
6 actually had were the long distance calls. So, phone
7 records are much different than they are today.

8 So, we go back to 2000, and we are trying to get
9 this information. Also, texting -- texting was back in
10 the day where there's Nokia phones and flip phones, we
11 didn't have the keyboard. They actually had to type out
12 the text message, AAA, BBB, CCC, in order to get the
13 letters in order to get going.

14 But law enforcement tries to get phone records.
15 It's too late. At this point -- keep in mind, this was
16 not a homicide investigation. It wasn't even a missing
17 person or -- it wasn't a suspicious person's
18 investigation. It was simply a boating accident. At the
19 time of the event, nobody realized that we would get to
20 where we are today. This was a missing person
21 investigation. As a result, it was not a homicide
22 investigation.

23 when they realized there were possible suspicious
24 circumstances and they reclassified it from a missing
25 person to a suspicious situation, phone records had been

1 purged. They only keep them for so long.

2 what they were able to do is go back and get life
3 insurance policies and life insurance information on Mike
4 williams, and what they found out is that Denise williams
5 was paid out \$1.75 million as a result of his death. She
6 was the sole beneficiary. No one else.

7 You are then going to hear in 2005, Brian and Denise
8 get married. At this point, there are definitely
9 suspicions going on, but there's no evidence other than
10 what you've heard and the case goes cold again. At this
11 point, it has been reclassified as a suspicious death or
12 a suspicious person's -- a suspicious case, but nothing
13 has developed.

14 The years between 2012 and 2016, Brian and Denise
15 start to get a separation. They buy a house, \$650,000,
16 off of Lake Jackson, but they'd never lived in it. They
17 remain separated for four years. Then 2016, everything
18 changes.

19 In August of 2016, Brian winchester, in the early
20 morning hours, frustrated with the separation, frustrated
21 with the way the marriage is going, frustrated with
22 Denise, crawls into the back of her home at her home. He
23 does so with a firearm, and he orders her to drive
24 somewhere. Denise, you are going to hear, talks him out
25 of going to that particular area and ends up going to a

1 CVS Pharmacy on the north side of town instead. Somehow
2 she's able to do that. And you are going to hear they
3 have a long conversation about multiple things. And you
4 are going to hear from Brian Winchester, and he's going
5 to tell you what they talked about.

6 And what you are going to hear is they separate at
7 that point and Denise talks him into letting her go. And
8 he does, and they are going to talk later on that evening
9 is the plan. The agreement is she is not going to go to
10 law enforcement, but she does.

11 You are actually going to hear that Dave McCranie,
12 who is the brother-in-law of Denise Williams now, is a
13 law enforcement officer at the Tallahassee Police
14 Department, and he gets on the phone with her and talks
15 her through what to do and takes her all the way to the
16 Leon County Sheriff's Department, on the phone with her
17 the whole way.

18 When she gets to the Leon County Sheriff's
19 Department, she reports that she was kidnapped, and now
20 Brian Winchester is charged with kidnapping, aggravated
21 assault with a firearm, and this carries a potential life
22 imprisonment.

23 On October 2017, Brian Winchester gives a statement
24 to law enforcement and confesses to murdering Mike
25 Williams. What he tells us is that prior to the death,

1 in 1997, there's a Sister Hazel concert at the Floyd's
2 Music Shop, which is off of Tennessee Street at the
3 Tennessee Strip, as it's commonly referred to, right
4 there by Florida State University, and there's a Sister
5 Hazel concert. And they were there, and they actually
6 were there with a couple of other people, including Mike,
7 but that's when everything started with them. At that
8 point -- on that day is when they're starting, and the
9 relationship began in 1997, three years prior to Mike's
10 death.

11 He talks about the insurance policies. He tells the
12 law enforcement about these insurance policies.
13 Interestingly enough, one of the insurance polices --
14 there are actually three individual policies, one for \$1
15 million, one for \$500,000, and one for \$250,000.

16 what he tells law enforcement is that the \$1 million
17 policy was actually written by Brian Winchester himself.
18 He was an insurance salesperson by trade. And about six
19 months before his disappearance or his murder, that Brian
20 Winchester and Mike Williams talked about getting this
21 particular policy and the amounts associated with it.
22 And Brian is going to tell you the intention is that he's
23 going to get this \$1 million policy, and what he's going
24 to do then is allow that \$500,000 policy, which was the
25 previous one to lapse, but it doesn't lapse until March

1 of 2001.

2 what he is also going to tell you is that during
3 that time period of writing that policy, there's
4 discussion between him and Denise about how they can be
5 together. Keep in mind at this point, they've been
6 dating two years behind the backs of Mike and Kathy,
7 their respective spouses.

8 So they talk about it for a long time, different
9 scenarios go. Denise didn't want to be a divorcee.
10 Going to North Florida, there are very religious
11 families. Didn't like the stigmatism or the stigma of
12 being a divorcee.

13 They talked about possibly killing both Mike and
14 Kathy. There was a discussion about going out fishing on
15 the boat offshore and that somehow Mike and Kathy would
16 fall overboard and miraculously Denise and Brian would be
17 the ones that were rescued, and, therefore, be together.

18 Brian says no. He says, I don't want to kill the
19 mother of my child. Apparently killing his best friend
20 is okay, but killing the mother of his child was not. So
21 they settled on killing just Mike. Denise likes the
22 sound of being a widow much more than a divorcee. The
23 widow gets sympathy from the community, the center of the
24 attention, and they talk about how to do it.

25 Go back and talking about the insurance policy, time

1 is of the essence -- I'm sorry. That should have been
2 the \$500,000, I guess, expires. At this particular time,
3 you've got the \$1 million policy, the \$500,000 policy,
4 and the \$250,000 policy all in play -- all in play. That
5 \$500,000 policy is going to expire in March. So, if they
6 are going to do it, why not do it at the time when they
7 get the most payout? 1.7 sounds better than 1.25.

8 Had to look like an accident. Obviously, can't be
9 caught with a murder; so they had to make it look like an
10 accident. Just so happens, not long before this, Brian
11 went hunting with Mike -- they go hunting regularly.
12 They went up to Arkansas. Remember, we found the
13 Arkansas license in the waders six months later.

14 At that particular time, one of the things that
15 happened is Mike fell out of the boat. Now, it's an
16 interesting situation. Whenever these duck hunters go
17 out and hunt, they wear waders. Waders are notorious for
18 situations in which the person falls overboard and they
19 fill up the wader with water and you drown. So that's
20 the idea they came up with, that what they're going to do
21 is push him overboard, Mike's going to go -- Brian is
22 going to go hunting with Mike in the morning in the dark,
23 he's going to push him overboard, the waders are going to
24 fill up with water, and he's going to drown.

25 what you hear is that this was actually supposed to

1 happen the week before. Remember, he went missing -- he
2 was murdered on December 16th, 2000. It was actually
3 supposed to happen the week before. Brian gets a call
4 from Denise calling it off, says, No, backing out of it.

5 During that week, they discuss it. Plans are made
6 between Denise and Mike to go to Apalachicola to
7 celebrate their anniversary. There's even conversations
8 possibly of a new baby that Mike wants. Denise secretly
9 is in a relationship with Brian, doesn't want to go on
10 this trip. The pressure is mounting. Insurance policy
11 is expiring. They talk about it throughout the week, and
12 the plan is back on.

13 So, when they start talking about how to do this
14 thing, they limit the conversations between them. They
15 are mindful of records, they are mindful of getting
16 caught, and they set up their alibis. Denise is supposed
17 to stay home, of course. She has got an 18-month-old
18 child at this particular time, so she's supposed to stay
19 home, make phone calls so everybody knows where she's at.

20 Brian sets up an alibi where he is actually supposed
21 to go hunting with Kathy -- his wife's father, his
22 father-in-law, and he's supposed to meet up with him and
23 go hunting with him later on that morning. And what the
24 plan is, is that he will go with Mike hunting, commit the
25 murder, Mike drowns, leave him there, drive back and meet

1 Kathy's father for his alibi.

2 So, after they set up all of this and establish what
3 their alibis are going to be, Brian kills him. He's
4 going to tell you how it happened. That he actually
5 followed him to Lake Seminole. They didn't drive
6 together. They met up at a gas station and then actually
7 followed each other there. That was important because he
8 needed two cars there: One to get away, and, of course,
9 one to leave at -- Mike's Bronco there to make it look
10 like Mike had gone out there hunting solo and had been in
11 an accident.

12 So, they get in the boat together. You are going to
13 hear Brian say that he talked Mike into actually putting
14 the waders on. One of the things that some duck hunters
15 do is they won't wear the waders in the boat because of
16 the dangerous aspect of them. But they conversate and he
17 convinces him to put the waders on before they head out.

18 So now they're heading out and they've got the
19 waders in the boat. Brian pushed him over, but it didn't
20 go as planned. Brian is going to tell you what happened
21 next is he looks over there -- and it's dark. It's
22 4:00 in the morning, and I think they've got a little
23 headlamp on for a light. And what he's able to see is he
24 believes that Mike is able to get out of waders and now
25 he's not drowning like he is supposed to. As a result,

1 Brian picks up a shotgun and shoots him in the head.

2 He is going to tell you at that point he knew that
3 the plan of showing -- of making it look like an accident
4 was certainly out of the equation if he leaves the body
5 there; so he takes him and he drags him to the shoreline
6 and he actually drags him to the area right across --
7 there's another landing right there by where that ranger
8 station is that we looked at earlier, and he drags him to
9 shore and he loads him up in the back of his suburban.
10 At this point, he said he pulled the jacket over his head
11 so that way he doesn't have to look at his friend that he
12 had just killed.

13 At this point, he's taken much longer than he has
14 anticipated and his alibi with his father-in-law was
15 blown. So, instead, he goes all the way home with Mike
16 in the back of his truck and crawls in bed with his wife
17 Kathy, trying to establish an alibi or reestablish an
18 alibi at that point.

19 Later on that day, you are going to hear that he
20 took Mike to Carr Lake and actually buried him. And at
21 this point, October of 2017, we know that Mike is no
22 longer missing. He has been, in fact, been murdered.

23 what you are going to hear, as I said, he took him
24 to Carr Lake. Carr Lake is up here on the north side of
25 Tallahassee, near Ox Bottom, and I think that's

1 Summerbrooke right in that area, Bannerman Road up there
2 on the north side of Tallahassee. And you are going to
3 hear that he drove him down this road. At the end of
4 this road is a little landing and a boat ramp. Behind
5 these trees is where he buried him.

6 At that time, Carr Lake was actually a lot lower.
7 There was not as much water in there, and he was able to
8 walk into this particular area. It was dry, and he dug a
9 hole and he buried him.

10 You are going to hear that over the years, Carr Lake
11 filled back up with water, and you are going to hear
12 following the confession, Brian Winchester took law
13 enforcement out to the location and showed them where he
14 was buried.

15 Law enforcement is in a very unique situation. How
16 do you find the remains that are underneath the lake?
17 They have to cut away all those trees you just saw. They
18 have to build what they call a cofferdam in order to
19 block the water, and they have to pump the water out.
20 And there they found Mike exactly where Brian said he
21 would be. His boots are still on. Amazingly, the boxers
22 are still bright red.

23 An autopsy is conducted, X-rays are taken, and all
24 of these little dots are all of the birdshot, shot in the
25 head just like Brian said. Mike still had his wedding

1 ring on.

2 Now, obviously this renews the investigation. Law
3 enforcement starts working it. They go back. They try
4 and verify and refute the things that Brian said, and you
5 are going to have an opportunity that they are
6 witnesses -- to hear from witnesses that saw Brian and
7 Denise together before this went public, before their
8 relationship went public in 2003. Of course, the body
9 was found exactly where Brian said it was in the manner
10 in which Brian said it would be.

11 You are going to hear that in December of 2017, law
12 enforcement announced that a body had been found. The
13 body had actually been found a month later -- a month
14 earlier. There was an excavation that was done trying to
15 find the body, as we already looked at.

16 what we also know after that time is that law
17 enforcement was able to secure the source. They went and
18 talked to Kathy Winchester, now Kathy Thomas. Now, Kathy
19 has remained friends, very close friends with Denise all
20 of these years. Despite the fact that Denise was now
21 married to her ex-husband, they still remain friends and
22 they talked on a regular basis. But at this point, Kathy
23 agrees to discuss and work with law enforcement.

24 what she tells law enforcement is she actually had
25 sexual relations with Kathy -- I mean, with Denise and

1 Brian together in Panama City prior to Mike's death.
2 Keep in mind what Brian said. Brian said the
3 relationship started three years prior to Mike's death.

4 what she also says is that shortly after Brian's
5 arrest, Denise sent her a message -- told her to send a
6 message. And what Denise told Kathy was tell Marcus --
7 Marcus is Brian Winchester's father, Marcus Winchester,
8 tell Marcus to tell Brian that I didn't say anything to
9 Florida Department of Law Enforcement. Say anything
10 about what? why would that be a message that you would
11 have to send?

12 Law enforcement then works with Kathy to try and
13 record conversations between Kathy Winchester, now Kathy
14 Thomas, and Denise, now Winchester. And you are never
15 going to hear flatout admissions. She never says, yeah,
16 I was involved in the murder. You are never going to
17 hear that. But what you are going to hear is that Kathy
18 confronts Denise about that statement on the recording.
19 And she says, I remember you told me that. Denise says,
20 Yeah. Again, why make that statement unless Brian
21 Winchester and her were involved in this all along?

22 And in the end, you will have an opportunity to hear
23 that. We will play that recording for you. In the end,
24 the State is going to ask you to end the 21 years,
25 3 years, plus the 18 years of those sex, lies, and deceit

1 and find her guilty of these particular crimes. Thank
2 you.

3 THE COURT: Let's take 10 minutes. Let the jury
4 step out.

5 Either side need anything?

6 MR. FUCHS: No, sir.

7 MR. WAY: No, Your Honor.

8 THE COURT: All right. We will take 10 minutes.

9 (Break taken.)

10 THE COURT: I should have done this earlier. I'm
11 sorry. But does either side have an objection to the
12 instructions that I gave to the jury that we had
13 discussed this morning?

14 MR. FUCHS: No, Your Honor.

15 MR. WAY: No, Your Honor.

16 THE COURT: All right.

17 MR. FUCHS: Your Honor, I have handed the clerk a
18 copy of the PowerPoint presentation I just did for the
19 court record purposes. I don't know how you want to mark
20 that, but it is -- she has that.

21 THE COURT: Why don't we just mark it Court
22 Exhibit 2.

23 THE CLERK: Yes, sir.

24 THE COURT: And Court exhibits, you know, do not go
25 to the jury. That's why you are designating them that

1 way.

2 Ready for the jury?

3 MR. FUCHS: Yes, Your Honor.

4 MR. WAY: Yes, Your Honor.

5 THE COURT: Let's have the jury, please.

6 MR. WAY: If you recall, Your Honor, Mr. Padovano

7 will be making the opening for the defense.

8 THE COURT: Okay.

9 (Jury in.)

10 MR. FUCHS: Defense may proceed with opening.

11 MR. PADOVANO: Thank you, Your Honor.

12 And, good morning.

13 THE JURORS: Good morning.

14 MR. PADOVANO: Let me begin by saying that there is
15 no dispute about the fact that Mike Williams was
16 murdered. The evidence is going to show beyond any doubt
17 that he was shot in the face and killed by Brian
18 Winchester, a man he thought was his friend.

19 Brian Winchester is not on trial. In fact, he has
20 never even been charged with the murder. He is going to
21 testify here as a witness, and there's an important part
22 of that that you haven't heard yet that I want -- but
23 that will be in evidence, and I want to tell you about
24 it, and that's the fact that he is going to be testifying
25 under a grant of immunity. And what that means in this

1 particular case, the kind of immunity that was given to
2 him is that he will be able to say -- he will be able to
3 testify as he pleases about this without any fear that
4 the State will be able to use that testimony against him.

5 Now, the immunity agreement is such that the State
6 can't use leads or hints or clues that were developed
7 from that testimony. So, he has not been charged. And I
8 think it's fair from the evidence to conclude that it's
9 not likely he will ever be charged for this murder, but
10 he's here as a witness and he's going to testify that
11 Denise Williams helped him plan the murder.

12 And I will just say right now, I think the fact --
13 the facts that were outlined by Mr. Fuchs about what
14 Mr. Winchester says are fairly accurate. That's what I
15 think he is going to say. That's not the issue you are
16 going to have to decide.

17 The issue you are going to have to decide is whether
18 to believe him. His testimony in this case is -- and I
19 should say also that what -- as -- the facts as Mr. Fuchs
20 related them are pretty much the sum and substance of all
21 of the evidence against Denise Williams. There isn't
22 anything else besides that.

23 Brian Winchester's testimony is totally
24 uncorroborated. In plain English, there isn't anything
25 to back it up. You are not going to hear evidence from a

1 witness who said that he or she saw Denise williams
2 participating in the planning or the execution of this
3 murder. You are not going to hear any witness talk about
4 DNA evidence or fingerprint evidence. There's no
5 tangible evidence or physical evidence to connect Denise
6 williams to this crime. No confession. No admission.
7 Nothing. All you are going to have to go on is the word
8 of a man who actually committed the murder.

9 Now, of course, you're going to hear testimony about
10 Denise williams and her family. Denise williams and Mike
11 williams knew each other from childhood, and they dated
12 each other through junior high and high school and
13 college. And they maintained a longterm relationship
14 with the winchesters, Brian winchester and his wife Kathy
15 winchester, who was then Kathy Thomas. The four of them
16 were classmates together at North Florida Christian, and
17 also they were classmates together at Florida State.

18 Now, Mr. and Mrs. williams got married in 1994, and,
19 by all accounts, they had a happy marriage. The evidence
20 is not going to suggest any reason why Mrs. williams
21 would have been unhappy with her husband. Mike williams
22 was a good husband, he was a good father, and he was most
23 certainly a good provider.

24 You are also going to hear testimony from people who
25 knew Mike williams during this time period: his financial

1 advisors, his friends, his insurance agents. There's not
2 going to be any proof of any kind that -- no evidence
3 that any of these people heard or saw to suggest that
4 Denise Williams was having any sort of marital problem
5 with Mike Williams. You are simply not going to see any
6 evidence of that.

7 Now, Mr. and Mrs. Williams had a daughter, Ainsley,
8 who was born in May of 1999, and a few months after that,
9 Mike Williams ended up wanted to investigate the
10 possibility of increasing his insurance. And so he had
11 some conversations about that with a financial advisor, a
12 man named Williams Dick Ganey. Mr. Ganey advised
13 Mr. Williams that he should have at least a million
14 dollars in life insurance. And so Mr. Williams -- and I
15 should point out that Mr. Williams also had a policy that
16 was written by the Winchesters. And I say the
17 Winchesters. Brian Winchester and his father, Marcus
18 Winchester, were insurance agents, and they had sold Mike
19 Williams a policy before, a smaller policy.

20 So, when Mike Williams got this advice from
21 Mr. Ganey, he went back to the Winchesters to buy an
22 additional policy. And Marcus Winchester did, in fact,
23 sell him a \$1 million life insurance policy. And at that
24 point, he was -- that policy, together with the two that
25 he already had, he had coverage -- insurance coverage in

1 the amount of \$1,750,000. But you are going to hear
2 evidence that this was not too much insurance for a
3 person in Mike Williams' financial situation.

4 Mr. Williams was employed as a real estate appraiser
5 with the Ketchum Agency, and he was earning \$185,000 a
6 year, approximately \$185,000 a year.

7 Denise Williams did not -- there's no evidence that
8 Denise Williams participated in any of these discussions
9 about the insurance, and there's no evidence that she did
10 anything to influence her husband Mike to buy this
11 insurance. The only evidence you are going to hear on
12 this point was that the matter was initiated by Mike
13 Williams himself, with the advice of his advisor,
14 Mr. Ganey, his friends, and with the assistance of two
15 insurance agents, Brian Winchester and his father, Marcus
16 Winchester.

17 At this point, I would like to give you a brief
18 synopsis of what Mr. Brian Winchester's version of the
19 murder is, how it came to be. He is going to tell you
20 that he and Mrs. Williams wanted to be together but that
21 she was opposed to divorce for religious and personal
22 reasons. She was not willing to get a divorce from her
23 husband Mike, and so, according to Mr. Winchester, they
24 decided that the only thing they could do was kill him.
25 This is what he is going to tell you.

1 So, they settled on a plan to have Mr. Winchester go
2 out hunting with Mr. Williams, and Mr. Winchester --
3 Mr. Winchester was going to make sure that Mr. Williams
4 was wearing these bib waders. And I don't know how
5 familiar you might be with that, but it keeps the bottom
6 half of your body dry if you are wading in the water.
7 But he was going to make sure that Mr. Williams was
8 wearing these bib waders while he was in the boat, and he
9 was going to wait for a point in time when Mr. Williams
10 would stand up in the boat and then he was going to push
11 him over. And the idea was that water would fill up in
12 the bib waders and Mr. Williams would not be able to keep
13 his body above the surface to get air. That was the
14 plan.

15 So, Mr. Winchester is going to say that Denise --
16 that Denise Williams' role in the plan was to give her
17 wife -- give her husband, I'm sorry, Mike Williams
18 permission to go hunting. And even by his testimony,
19 that's what he says her role was, to give permission,
20 give Mike permission to go hunting.

21 So, they were supposed to go out hunting on
22 December 9th, 2000. But in my recollection of these
23 facts -- not my recollection, but my expectation about
24 these facts is a little bit different from what Mr. Fuchs
25 presented.

1 I think what you are going to hear is that
2 Mr. Williams called Mr. Winchester and said, I can't make
3 it. And then Mr. Winchester called Denise Williams and
4 said, Hey, what gives? You know, we were supposed to go
5 out on this. We were supposed to do this thing on this
6 occasion. And at the point Mr. -- Mrs. Williams is
7 reported as saying that she had gotten cold feet, told
8 her husband he couldn't go hunting.

9 So, Mr. Winchester then revived the plan for the
10 following week, and what you are going to hear in that
11 interim would be the week between December 9th and
12 December 16th is that there was very little contact
13 between Brian Winchester and Denise Williams. Virtually
14 all of the contact was between Brian Winchester and Mike
15 Williams. They set up the plan where to meet. They were
16 going to meet at a gas station near I-10, and they were
17 going to drive -- Mr. Williams in his truck and boat and
18 trailer and Mr. Winchester in his Suburban -- out to Lake
19 Seminole.

20 When they got out there, they launched the boat, got
21 out into the water, Mr. Winchester waited for a point in
22 time when Mr. Williams would stand up, and he pushed him
23 out of the boat.

24 But the plan didn't work out exactly as
25 Mr. Winchester expected it to. Mr. Williams, as it

1 turned out, was able to get out of the waders and he
2 started swimming back toward the boat. At that point,
3 Mr. winchester picked up his shotgun and he shot
4 Mr. williams in the face. The body started to sink.
5 Mr. winchester grabbed the body and -- by one arm and
6 pulled it up alongside the boat, piloted the boat with
7 his other hand -- this is the story, according to
8 Mr. winchester -- piloted the boat with his other hand
9 back to the shore.

10 Then he picked up Mr. williams and loaded him in the
11 back of his Suburban, went home. Later that day,
12 Mr. winchester went to walmart and he bought a shovel and
13 a tarp, and he took Mr. williams' body out to Carr Lake,
14 just off of Meridian Road, and buried him in a shallow
15 grave. Then he went home and he -- went home and he
16 cleaned out his Suburban with some bleach.

17 I preference this account by saying this was
18 Mr. winchester's version of how this murder occurred. I
19 think when you hear the evidence, you are going to have
20 some questions about whether it happened where it -- he
21 said it happened, whether it happened the way he said it
22 happened. But what I think is not in question is that he
23 did, in fact, shoot and kill Mike williams. And there's
24 no evidence, absolutely no proof that Denise williams had
25 anything to do with that or that she even knew about it.

1 Now, Mr. Fuchs mentioned that when Mr. Winchester
2 was -- was finally, I guess, apprehended, he said that he
3 was having an affair with Denise Williams in the three
4 years before the murder was committed. Well, he is going
5 to say that, but you are also going to hear from law
6 enforcement investigators who will tell you that they
7 were not able to find any evidence of any affair.

8 Two of the main investigators in this case were
9 Tully Sparkman, an investigator for the state attorney's
10 office, and Mike Devaney, who was at that time a special
11 agent for the Florida Department of Law Enforcement.
12 Both of these men worked on this case extensively, and
13 both of them will tell you that they were not aware of
14 any evidence, other than what Brian Winchester says, that
15 Denise Williams was having an affair with Brian
16 Winchester prior to December of 2000.

17 So, you are not going to see any phone records to
18 verify that Denise Williams was calling Brian Winchester
19 or vice versa. You are not going to see any security
20 camera footage of them going in and out of buildings.
21 You are not going to hear from any witnesses that they
22 saw them in a private setting. You are not going to see
23 credit card receipts for dinners or hotel bills. What
24 you are going to hear and all you are going to hear, all
25 you are going to hear, is that Brian Winchester claims

1 that he was having an affair with Denise Williams.

2 Now, Brian Winchester was, of course, a friend of
3 Denise Williams and also with her husband Mike Williams.
4 He and his wife Kathy went out with Brian and Denise on
5 many occasions, and there was some occasions, the
6 evidence will show, where Brian and his wife Kathy and
7 Denise went out, just the three of them.

8 I think if anything, the evidence is going to show
9 that the relationship between these parties, the
10 relationship that Denise Williams had with Kathy
11 Winchester was much closer than the one that she had with
12 her husband Brian. Kathy and Denise were close friends
13 in the years -- well, before and after Mike Williams
14 disappeared, and they continued to be close friends for
15 many years after that.

16 We are going to present some evidence in this case
17 that is going to flatly contradict what Mr. Winchester
18 says, that his claim -- his claim that he was having an
19 affair with Denise Williams and that they cooked up this
20 plan to kill Denise's husband so that they could be
21 together. The evidence to contradict that, two main
22 things -- and I'm going to go through it with you.

23 One of the main things is that there is strong
24 evidence in this case that Brian Winchester tried very
25 hard to stay married to his own wife after the murder,

1 and Denise Williams had a serious relationship with
2 another man after the murder.

3 So, after 2000, I think in -- several years after
4 the disappearance of Mr. Williams -- well, actually,
5 Kathy Winchester and her husband Brian were having some
6 marital trouble all along pretty much, I think starting
7 even before the disappearance of Mike Williams.

8 But, anyway, a few years after that disappearance,
9 they were in more serious marital difficulty. I guess
10 facing a divorce. And you are going to hear evidence
11 that Brian Winchester tried very, very hard to reconcile
12 so that he could stay with his wife, Kathy Winchester.
13 But Kathy Winchester was bent on getting a divorce. And
14 she wanted to go through it -- through with it, and so
15 they got divorced.

16 She's going to tell you that at the final hearing,
17 final divorce hearing, Brian Winchester, the man who was
18 supposed to have done this to be with Denise, was sitting
19 in the back of the room sobbing, begging her, begging her
20 not to go through with the divorce. He wanted to stay
21 married to her. We're going to ask him about that.
22 We're going to ask him to explain that.

23 And the other thing I mentioned is that Denise
24 Williams had a relationship with another man. That's a
25 man named Charles Bunker. You will hear from him too.

1 That started a couple of years after her husband
2 disappeared. Mr. Bunker was a coworker, and that
3 relationship developed, as many do, sort of in more of a
4 friend way to begin with. But then as it went along, it
5 got more serious, and, you know, they had some things in
6 common.

7 Mr. Bunker was a single parent. He was caring for a
8 child and so was Denise. But during the course of this
9 relationship, there were occasions where Brian Winchester
10 threatened Mr. Bunker, and you are going to hear about
11 that.

12 On one occasion, Mr. Bunker went with Denise to
13 Atlanta -- on a trip to Atlanta, and Mr. Winchester
14 showed up unexpectedly at their hotel room and threatened
15 them both. Mr. Williams -- I mean, Denise Williams tried
16 to smooth things out with him to calm him down. But this
17 went on for some time, and eventually the relationship
18 between Charles Bunker and Denise Williams came to an
19 end.

20 Now, Mrs. Williams did eventually marry Brian
21 Winchester, but that was five years later, five years
22 after her husband disappeared, and the evidence that you
23 are going to hear will put this in the proper context.
24 She knew Mr. Winchester from high school and college.
25 They had been friends for many years. Mr. Winchester's

1 son, Stafford, was about the same age as Mrs. Williams'
2 daughter, Ainsley. They were friends.

3 Before that, before the marriage, Denise Williams
4 laid down some very strict rules. Brian Winchester had
5 to be baptized. In fact, he was. Brian Winchester had
6 to go through a yearlong premarital program at
7 Mrs. Winchester's church. These were conditions that
8 Denise Williams insisted on before she married Brian
9 Winchester.

10 Now, that marriage didn't end well. They separated
11 in 2012 at Mrs. Williams' insistence. And in 2015, Mr.
12 -- Denise Williams filed for divorce. There were many,
13 many efforts on the part of Brian Winchester to save his
14 marriage with now Denise Williams. He couldn't do that,
15 and there came a point in time where she wasn't speaking
16 to him. So, in a final desperate attempt to save his
17 marriage, he decided that he would kidnap Mrs. Williams.

18 On the morning of August 15th, 2016, about 2:30 in
19 the morning, he climbed into the back of her SUV, armed
20 with a gun -- I mean, the cargo area of the SUV armed
21 with a gun, waiting for her to get up to go to work. She
22 did eventually get up and go to work, get in the car, and
23 when she realized that he was in the car, she screamed.

24 Now, Mr. Winchester is going to say that he only
25 wanted to talk to Denise Williams. He only wanted to try

1 to reconcile. But he had a handgun, and you should also
2 know that he had a tarp and two containers of bleach in
3 the cargo area. He put them there. They weren't in the
4 suburban. He put them there, but he says he only wanted
5 to talk to her.

6 Now, fortunately, she was able to calm him down with
7 the promise -- I guess that they were going to try to
8 work things out. She had no intention of doing that,
9 none whatsoever. She went straight to the police, and he
10 was arrested for armed kidnapping.

11 And we're going to present evidence in this case to
12 show you that Mr. Winchester has a motive to lie to you,
13 that he has a motive to make up this accusation against
14 Mrs. Williams. He didn't mention anything about her
15 alleged participation in this murder until after he
16 realized that he was facing a life sentence for
17 kidnapping. He didn't mention it until after he realized
18 that Mrs. Williams was going to go into court and ask for
19 a life sentence, and at that point he made an agreement
20 with the state for immunity. And we're going to talk
21 about that, and we're going to give you all of the
22 details about that in the trial.

23 But just a thumbnail sketch of it, the agreement for
24 immunity essentially ensured that Mr. Winchester would
25 not get a life sentence or that the state wouldn't ask

1 for a life sentence on the charge of kidnapping, and it
2 also ensured -- guaranteed that anything he said about
3 the disappearance of Mike Williams could never be used
4 against him. So, that is what he gained by the
5 agreement. In return, of course, he is going to give
6 testimony, and the testimony is going to give -- it's
7 going to be pretty much what Mr. Fuchs outlined about
8 Denise Williams.

9 There's one other -- there's one other aspect of
10 this that goes to his motive, and I want to discuss it
11 with you. It was not only a desire to get a much lighter
12 sentence or to get off of a sentence on the murder case
13 altogether for that matter, but it was also a sense of
14 revenge, and there's evidence of that that you are going
15 to hear.

16 We're going to ask Mr. Williams -- Mr. Winchester,
17 I'm sorry, why he would make a statement like this
18 against Mrs. Williams. And I expect him to say that he
19 felt as though Mrs. Williams threw him under the bus by
20 turning him in for kidnapping and that he should now
21 throw her under the bus. This is what I expect him to
22 tell you.

23 So, that's the case before you. You are going to
24 hear about the multiple investigations in this case. You
25 are going to hear about the lives of all of these

1 witnesses over the last 18 years. What you are not going
2 to hear is any credible evidence that Denise Williams
3 participated in this murder. On that point, you are
4 going to have to rely entirely on the word of a murderer
5 and a convicted felon.

6 Now, we're going to have a chance to come back up
7 and speak to you again at the close of all of the
8 evidence in the case. By then you are going to have more
9 than a reasonable doubt about the guilt of Denise
10 Williams, and we are going to ask you then to find her
11 not guilty. Thank you.

12 THE COURT: Call your first witness, Mr. Fuchs.

13 MR. FUCHS: Yes, Your Honor. The State would call
14 Greg Morris.

15 THE COURT: If you would face the clerk and be sworn
16 please, sir.

17 whereupon,

18 GREG MORRIS
19 was called as a witness, having been first duly sworn, was
20 examined and testified as follows:

21 THE COURT: Have a seat and slide up to the
22 microphone please, sir.

23 You may proceed.

24 MR. FUCHS: Thank you, Your Honor.

25 DIRECT EXAMINATION

LINDA CUNNINGHAM, RPR, OFFICIAL COURT REPORTER

1 BY MR. FUCHS:

2 Q Good morning, sir.

3 A Good morning.

4 Q Can you please introduce yourself to the jurors?

5 A My name is Greg Morris.

6 Q Okay. And, Mr. Morris, are you currently employed?

7 A No. I'm retired.

8 Q Okay. Where are you retired from?

9 A Fish and wildlife.

10 Q What is Fish and wildlife?

11 A Florida Fish and Wildlife Commission.

12 Q Okay. And what does that agency do?

13 A We patrol the woods and waters of the State.

14 Q Okay. When you say you patrol, are you law
15 enforcement?

16 A Yes.

17 Q Or, I guess, law enforcement before you retired?

18 A Yes.

19 Q Okay. How long did you work with FWC?

20 A Twenty-seven years.

21 Q Okay. And when you say you patrolled the woods and
22 waters of the state, what exactly did you do?

23 A We checked for hunting and fishing violations,
24 boating safety issues, anything that occurs on the woods or
25 water that is regulated by the State.

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1 Q Okay. And when you worked with FWC, specifically
2 I'm talking about in December of 2000, where were you
3 assigned?

4 A I was patrolling in the woods areas (sic) of Jackson
5 County on that day, and I received a call from our dispatcher
6 in reference to an overdue duck hunter on Lake Seminole.

7 Q Okay. Do you remember about what time of day it was
8 that you got that call?

9 A It was about 2:30 in the afternoon.

10 Q So, in the afternoon hours?

11 A Yes, sir.

12 Q Okay. Based upon that call -- first of all, let's
13 talk about this. Where is Lake Seminole?

14 A Lake Seminole is in -- north of Sneads, Florida.
15 And this call was in reference to an area that was a little
16 boat launch area north of Sneads on River Road.

17 Q Okay. Is that on the east side or the west side of
18 Lake Seminole?

19 A That would be the west side of Lake Seminole.

20 Q Okay. And when you say Sneads, where is that in
21 relation to Tallahassee?

22 A Sneads is about 60 miles to the west of Tallahassee.

23 Q Okay. And, based upon the call that you received,
24 did you respond to that area?

25 A Yes.

1 Q Okay.

2 A I responded to that area and contacted a Mr. Merrell
3 at that location.

4 Q Okay. And were you given the name of the person
5 that you were -- supposedly who was overdue?

6 A Not by dispatch. Dispatch just advised me to meet a
7 gentleman at the boat launch area north of Sneads.

8 Q Okay. And that would be Mr. Merrell?

9 A That was Mr. Merrell, yes.

10 Q Did you later determine -- or were you able to later
11 determine who it was you were looking for?

12 A Yes. In my conversation with Mr. Merrell, he
13 explained to me that his son-in-law, Mike Williams, had gone
14 duck hunting that morning and had failed to return when he was
15 expected back home.

16 Q Okay. When you arrived at that area where
17 Mr. Merrell was at, did you see anything there? Vehicles,
18 boats, anything like that?

19 A Yes. Besides Mr. Merrell's vehicle, there was a
20 Ford Bronco there with a boat trailer hooked behind it. And
21 Mr. Merrell indicated to me that that was Mike Williams'
22 vehicle.

23 Q Okay. At the time, was there any boat on that
24 trailer?

25 A No.

1 Q Okay. And, based upon finding that, what did you
2 next do?

3 A I got -- I did not have a boat with me at the time,
4 so I got Mr. Merrell to get in my vehicle, my patrol vehicle,
5 and we went around to various vantage points on the lake that
6 we could access by vehicle and did a visual search with
7 binoculars to see if we could see any sign of the missing
8 person.

9 Q Okay. And were you able to find a sign of the
10 missing person?

11 A No, we did not see any sign of him.

12 MR. FUCHS: Okay. May I approach the witness, Your
13 Honor?

14 THE COURT: You may.

15 BY MR. FUCHS:

16 Q I'm showing you what has been previously marked as
17 State's Exhibit 1A through D, Composite. I would ask you to
18 take a look at these without showing it to the jury, please.
19 Do you recognize those items?

20 A I recognize the Ford Bronco and the trailer as the
21 one that was at the scene on that day.

22 Q Okay. And I believe those are the photographs that
23 are depicted in State's Exhibit A and B, 1A and B; correct?

24 A Correct.

25 Q Okay.

1 THE COURT: Before you show them to the jury,
2 though, we need to offer them into evidence.

3 MR. FUCHS: Yes, sir. I was turning it on while I
4 was doing that.

5 Your Honor, at this time, I would move State's
6 Exhibit 1A through D into evidence.

7 THE COURT: Any objection?

8 MR. WAY: No objection, Your Honor.

9 THE COURT: 1A through D will be admitted.

10 (State's Composite/Exhibit Nos. 1A - 1D received in
11 evidence.)

12 MR. FUCHS: And permission to show?

13 THE COURT: You may.

14 MR. FUCHS: There we go.

15 BY MR. FUCHS:

16 Q This is a photograph of the Bronco that you saw on
17 that day?

18 A Yes.

19 Q And is this how you found it on that day?

20 A Excuse me?

21 Q Is this how you found it?

22 A Yes.

23 Q It had not been moved?

24 A No.

25 Q Okay. Same Bronco?

1 A Yes.

2 Q Okay. What did you next do after -- you said you
3 went out and you looked for vantage points to try and find the
4 person. What did you next do?

5 A We -- Mr. Merrell and I returned to the boat launch
6 area, and it was getting late, getting close to dark and the
7 weather was starting to turn bad. Mr. Merrell decided that he
8 would go home and return the next day if he had not heard
9 anything from the missing person during the night.

10 And I called my supervisor, Lieutenant Roger
11 Jackson, and advised him that we had a missing person on Lake
12 Seminole, and a short time later he arrived in the area.

13 Q Okay. You said something about the weather, it
14 turned bad. What do you mean?

15 A There was a cold front coming through, and a really
16 torrential downpour of rain occurred that night while we were
17 there, while Lieutenant Jackson and I were there at the
18 landing, and then it turned off really cold. The wind started
19 blowing and really cold after that.

20 Q Okay. Well, let's back up then, if we can, to
21 December 16th, 2000. So the day that you are notified of the
22 missing person. What was the weather like on that day?

23 A It was probably in the 70s, somewhat overcast. It
24 changed very quickly after that storm came through.

25 Q Okay. And that storm came through over the evening

1 hours?

2 A Correct, right after dark.

3 Q Okay. And what was the weather like after that?

4 A It was windy and turning much colder by the minute
5 and --

6 Q You said something about rain, torrential rain.
7 what do you mean by that?

8 A It was a heavy downpour of rain, similar to what
9 we've had in the last weekend or so.

10 Q Okay. The -- because of the weather, was there any
11 searches that were conducted in that evening -- in that
12 nighttime hour?

13 A Not to my knowledge. Lieutenant Jackson sent me
14 home after he and I discussed what I had done as far as
15 meeting with Mr. Merrell. And I had been on the dayshift that
16 day, and so he sent me home to rest and told me to return the
17 next day. And I don't know, honestly, if he stayed or not.

18 Q Okay. Did you return the next day?

19 A Yes, I did.

20 Q Okay. And the next day, had -- you'd mentioned the
21 weather had changed. What did you do the next day?

22 A It was very cold the next morning, probably in the
23 30s, and the wind was blowing.

24 Q Okay. And did you help conduct any searches?

25 A Yes.

1 Q Okay.

2 A We started launching boats and looking in the area,
3 and I helped on some of the boats.

4 Q Okay. And when you say "we," what do you mean?

5 A Myself and other officers with Fish and wildlife,
6 and there were some sheriff's department people there and some
7 private citizens.

8 Q Okay. And did you -- to your knowledge, while you
9 were there, how long were you on scene searching?

10 A Excuse me?

11 Q How long were you there searching?

12 A The first day I was probably there for maybe six or
13 seven hours. And after that, I was pretty much designated as
14 the officer to handle the county while this was going on
15 because I was on the dayshift. And so I was there back and
16 forth a few days after that during the search, but I was also
17 answering complaints and things throughout the county while
18 the search was going on.

19 Q And while you participated in the search, were you
20 able to find anything?

21 A No.

22 MR. FUCHS: I have no further questions.

23 THE COURT: Cross.

24 CROSS EXAMINATION

25 BY MR. WAY:

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1 Q Good morning, Mr. Morris.

2 A Good morning.

3 Q On December 16th, 2000, what time would you have
4 gone on shift in Jackson County?

5 A Probably around 7:00 a.m.

6 Q And when you went on shift, were you advised or did
7 you learn that there might be inclement weather coming in in
8 the afternoon?

9 A No, I didn't -- I wasn't advised of it, no.

10 Q Did you make any check or anything of that nature?

11 A No.

12 Q Okay. Is it typical sometimes that the weather will
13 change very dramatically up there on Lake Seminole?

14 A Yes.

15 Q In your -- you described River Road, which is on the
16 west side of Lake Seminole. That is a two-lane paved road;
17 correct?

18 A That's correct.

19 Q And the area where you met up with Mr. Merrell is
20 very near a game check station; is that correct?

21 A That is correct.

22 Q What is a game check station?

23 A A game check station -- we have several different
24 types of wildlife management areas in the state, and this
25 particular management area is called Apalachee Management

1 Area. It is a Type 1 Management Area, which means that
2 hunters that come and go from that area must pass through that
3 check station in order to entrance and exit the area. So
4 that's why the check station is there. And they also conduct
5 checks of game. If a person has taken any game, that's where
6 they'd check it in.

7 Q Is that check station manned by a representative of
8 FWC?

9 A Usually by a biologist, yes, sir.

10 Q On December 16th, 2000, there was someone manning
11 that game station. Do you recall that?

12 A Not when I was there, there was not. They do not
13 have a regular schedule. I didn't -- I did not encounter a
14 person. Lieutenant Jackson and I went there to get out of the
15 rain after dark, and there was no one there at that time.

16 Q Do you know if Mr. Merrell had come in contact with
17 a female biologist from that game station?

18 A I do not know. He didn't advise me.

19 Q But it could be possible there would have been
20 someone there?

21 MR. FUCHS: Objection. Speculation.

22 THE WITNESS: It's possible there was someone there
23 earlier in the day, yes, sir.

24 THE COURT: Overruled.

25 BY MR. WAY:

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1 Q The distance from that game station to the location
2 where you and Mr. Merrell discovered the boat and trailer,
3 approximately how far would that be?

4 A About 200-yards.

5 Q Would it have been almost the visual ability to see
6 from one area to the other?

7 A Except for the fact that the boat launch area was in
8 some trees and you couldn't see for the trees. But, you know,
9 you would look down the highway. You could see down the
10 highway that far. But the boat launch area was inside of some
11 trees, and you would not be able to see anything that was
12 parked at that area from the check station because it was
13 hidden by the trees.

14 Q And in December, it would have been the wintertime;
15 correct?

16 A (Nods head.)

17 Q So the foliage would have been less dense than
18 typical?

19 A Right. Mostly pine trees there, though.

20 Q The area where the boat launch was, how far back
21 from River Road were we talking about here, 10, 15 yards,
22 100 --

23 A To the -- to the water's edge?

24 Q Yes, sir.

25 A Probably 20 yards.

1 Q So, not a very far distance from the road?

2 A No.

3 Q The -- when you went on scene and you made contact
4 with Mr. Merrell, you had indicated that he was looking for
5 his son-in-law.

6 A Correct.

7 Q So, you understood that to be -- that Mr. Merrell
8 was Denise Williams' father?

9 A I did not know Denise Williams. All he told me was
10 his son-in-law, Mike Williams. He didn't mention her.

11 Q And was Mr. Merrell concerned?

12 A Yes.

13 Q Was he very concerned?

14 A Yes.

15 MR. WAY: Nothing further, Your Honor.

16 THE COURT: Redirect?

17 MR. FUCHS: No, Your Honor.

18 THE COURT: All right. Any juror have a question of
19 this witness? If so, just raise your hand. All right,
20 good. You can step down.

21 Do we need to keep this witness any further?

22 MR. FUCHS: He could be released, Your Honor.

23 THE COURT: Does the defense need him for any
24 reason?

25 MR. WAY: No, Your Honor. He may be released.

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1 THE COURT: You are excused. Thank you for being
2 here.

3 Call your next witness.

4 MR. FUCHS: Your Honor, at this time, the State
5 would call Scott Dungey. This is the perpetuated
6 testimony we have previously talked about.

7 THE COURT: All right. At this point in time,
8 they're going to present a video of some testimony. This
9 was previously perpetuated by agreement between the
10 parties. You should consider this just like you would
11 any live testimony. We just had a circumstance where it
12 was difficult for the witness to be here; so that's why
13 it's being presented by video.

14 You may proceed, Mr. Fuchs.

15 MR. FUCHS: And, Your Honor, if I could ask the
16 bailiff to distribute the transcripts of this.

17 THE COURT: All right. Have we marked those as
18 Court's Exhibit 1A?

19 MR. FUCHS: I have. I have --

20 THE COURT: Hold on a second. Wait a minute, Jay.
21 Is there an objection to using the transcript with
22 this, Mr. Way?

23 MR. WAY: No, Your Honor.

24 THE COURT: All right, you may.

25 He is going to distribute a transcript to you, but

1 the testimony is what you see and hear on the video. The
2 transcripts are given to you just to assist you in
3 following that, but if there's any difference between
4 what you hear in the witness's testimony and what you see
5 in the transcript, you should rely upon what you see and
6 hear from the witness's testimony.

7 MR. FUCHS: I'm sorry, Your Honor. I'm having --
8 for some reason, it's on my screen but not --

9 THE COURT: Let me -- while he is playing with that,
10 let me -- okay, go ahead.

11 MR. FUCHS: Did you want to --

12 THE COURT: Go ahead.

13 MR. FUCHS: Okay.

14 (Video played in open court as follows:)

15 THE COURT REPORTER: Please raise your right hand.
16 whereupon,

17 SCOTT DUNGEY

18 was called as a witness, having been first duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. ROGERS:

22 Q All right. Sir, can you please state and spell your
23 name for the record?

24 A Scott Dungey, D-U-N-G-E-Y.

25 Q Mr. Dungey, how -- what do you do for a living right

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1 now?

2 A I have a computer consulting business here in town.

3 Q Okay. How long have you been doing that?

4 A Twenty-three years.

5 Q Were you raised up in Tallahassee?

6 A Moved here in 1981; so I have been here the majority
7 of my life.

8 Q I want to take you back to some people that you may
9 or may not know.

10 Do you know who a Jerry Michael Williams is?

11 A I do.

12 Q And how do you know him?

13 A We went to high school together, played football
14 together, and we're -- we're very close friends.

15 Q Which high school did you go to?

16 A North Florida Christian.

17 Q Were you all in the same class or --

18 A Yes.

19 Q All right. Do you know a Brian Winchester?

20 A I do.

21 Q Tell me about the nature of your relationship with
22 Mr. Winchester.

23 A He and Mike and Denise were -- and myself were all
24 in the same, same class together at North Florida. Brian and
25 I and Mike, during high school, would do a lot of waterskiing

1 together. Brian didn't play football and Mike and I did; so,
2 you know, we did -- the things that Brian and I and Mike did
3 were more outdoors related.

4 Q Okay. And you also mentioned Denise. Is that
5 Denise Williams?

6 A Yes.

7 Q And what was her name in high school?

8 A Denise Merrell.

9 Q How well did you know Ms. Williams?

10 A Well, we were, you know -- I think our graduating
11 class only had 80 people; so everybody knew everybody at North
12 Florida. We all started there in ninth grade or earlier and
13 all grew up together.

14 Q Did you continue to hang out with these people after
15 you graduated?

16 A Yes, probably more so after high school than during
17 high school.

18 Q Of the group that we just talked about, who were you
19 closest friends with?

20 A Mike. Mike was one of my closest friends.

21 Q Okay. At some point, Mike Williams went missing?

22 A Uh-huh.

23 Q Can you describe how you became aware of that?

24 A It was early one Sunday morning, a very cold Sunday
25 morning, and I got -- I was -- I got a call --

1 MR. WAY: Objection.

2 BY MR. ROGERS:

3 Q Early on a Sunday morning, you received a phone
4 call?

5 A Yes.

6 Q And you were aware after that that Mike Williams was
7 missing?

8 A Yes.

9 Q Was that in December of 2000?

10 A Yes, it was.

11 Q All right. Once you were aware that Mike Williams
12 was missing, where did you go?

13 A I immediately called my father-in-law, whose brother
14 was the head of Game and Fresh Water Commission. And he
15 called his brother, and we immediately -- my father-in-law and
16 myself immediately got in the car and drove over to the lake.

17 Q Which lake?

18 A Lake Seminole.

19 Q Okay. Where is that?

20 A North of Sneads.

21 Q Okay. So west --

22 A About an hour from here.

23 Q About an hour west from Tallahassee?

24 A Correct.

25 Q Describe what the weather was like that day when you

1 got out to Lake Seminole.

2 A It was -- it had -- the day before it was in the
3 70s, and then that night it had dropped down to 12 degrees. I
4 will never forget it. It was -- it was bitterly cold. The
5 wind was blowing 30, 40 miles an hour. One of the coldest
6 days we've had in Tallahassee in a long time.

7 Q Okay. When you got out to Lake Seminole, what did
8 you see when you got out there?

9 A We got there pretty early. Got there probably about
10 8:00 or 8:30. There was a few folks out there, but within the
11 first 30, 40 minutes, a number of law enforcement, Game and
12 Fresh Commission officers showed up. There was numerous
13 boats. A helicopter was sent out there. There was a
14 pretty -- a pretty large contingent of law enforcement
15 officers as well as friends and family looking as well.

16 Q Do you have an idea of how many -- the number of
17 people that were out there?

18 A The first day through probably the first two weeks
19 there was no less than 20 to 25 people out there every day for
20 two weeks.

21 Q Okay. Was that every day, Monday through Sunday?

22 A Pretty much, yeah, for the first -- you know, up
23 until about Christmas. And then after Christmas, it started
24 tailing off.

25 Q How often were you out there?

1 A I was there every day until roughly February.

2 Q Okay. You never missed a day that you recall?

3 A No.

4 Q Once you got out there, were you aware of a boat
5 that was found?

6 A Yes.

7 Q Okay. Can you describe the circumstances of that?

8 A The -- as I was told, they found the hunting boat
9 that Mike was in, and it had blown up against the, I guess,
10 west shore. They found it pretty quickly when the game
11 wardens had first arrived.

12 Q And were you also aware of a vehicle that was found?

13 A Yes. It was Mike's Bronco.

14 Q Were you aware -- how do you know that it was Mike's
15 Bronco?

16 A I spent a lot of time in it riding with him to go
17 fishing and hunting.

18 Q Mr. Dungey, I'm going to show you four photographs
19 that I have marked 1A, 1B, 1C, and 1D. The question for all
20 of these, are they fair and accurate depictions of both the
21 Bronco and the boat?

22 A Yes, sir.

23 MR. WAY: For the record, defense counsel has
24 reviewed the photographs prior to them being shown to the
25 witness.

1 BY MR. ROGERS:

2 Q I want to talk to you about how the search was
3 conducted. Were you out on the water?

4 A Yes, every day.

5 Q Okay. What did you do? How do you go about
6 searching for someone on water?

7 A Well, the first day, a Game and Fish helicopter was
8 there, and around 10:00 that morning I got in the helicopter
9 and flew around the area just seeing if we could load any --
10 locate anything. You know, my hope was that he had fallen out
11 of the boat and swam to the other side of the island and, you
12 know, maybe got some hyperthermia and was passed out. So we
13 really focused on an island area where, you know, we hoped
14 that he might have -- that he might be still alive.

15 And that's -- as we flew around up -- around the
16 helicopter -- in the helicopter that day, that's when I
17 noticed, you know, all of the helicopters -- or, I'm sorry --
18 all of the alligators that were swimming around, even though
19 it was cold, all around the boats that people couldn't see.
20 After that, I spent all of the time in one of the boats poling
21 for Mike's body with the PVC pipes.

22 Q All right. So, you call that "poling." Can you
23 describe that what means?

24 A The lake had a -- it was a flooded pecan orchard; so
25 most of the lake was -- was only four or five feet deep other

1 than in a couple of spots. There was a solid layer of
2 hydrilla.

3 Q what's hydrilla?

4 A It's a weed that grows in the -- in these lakes, I
5 guess is the best -- not being a -- not being a biologist, I
6 can't even give you an exact answer.

7 Q Sure. So, does the hydrilla make it harder or
8 easier to search?

9 A Next to impossible. It's about two inches below the
10 water. It was a solid layer of hydrilla, so you couldn't see
11 down below. And then below the hydrilla, it has roots. And
12 the best way I could describe it is looks like you are trying
13 to look through a bamboo forest. You just can't -- you can't
14 see anything.

15 Q So you mentioned some PVC poles. what did you use
16 those poles for?

17 A We went and got 20 or 30 PVC poles. We capped them
18 off, and we would very methodically -- we had probably 10 or
19 12 boats on the east side of the lake, and we all started
20 working our way towards the west side. And we would, you
21 know -- I guess in a search grid, we would methodically go up
22 and down each boat and would use the PVC poles to pole to see
23 if we would, you know, hit -- hit Mike's body.

24 Q Okay. Was there one area that the search started to
25 concentrate on?

1 A It was, I believe, the first or second day I was out
2 there. I was in one of the boats with one of the game
3 officers, and I hit something that seemed porous and gave
4 back. It didn't feel like a root or a tree or anything like
5 that. So I just kind of stopped, froze, and asked the game
6 warden to come over and take over, as I just -- I didn't want
7 to be to the one -- if that was Mike's body, I didn't want to
8 go any further.

9 So, he came to the front of the boat and started
10 poling all around the area, thinking maybe I had hit an arm or
11 a leg, and he was trying to hit something bigger. Never,
12 never really hit anything else from there. But this -- this
13 area was a spot that we continued to go back to frequently.

14 Q Can you describe that area? Was it deeper than the
15 rest of the lake?

16 A Yes. The rest of the lake was, you know, probably
17 four or five, at most six feet deep, where if Mike fell out,
18 he was probably standing up. And this was towards the south
19 end of the lake, right before you get to the bigger, the
20 bigger water. And there were a lot of submerged stumps right
21 around this area, and it was probably 8 to 10, 12 feet deep,
22 about the size of this courtroom. And so it -- you know, it
23 made logical sense that if they're -- if he was in that lake,
24 that's where he would be, would be in this hole.

25 Q So further search efforts started to concentrate in

1 that area; is that right?

2 A Yeah. We -- we marked that spot that I had hit
3 something the first day with some bamboo shoots. And then
4 over the next couple of weeks, there was two or three
5 different organizations that had cadaver dogs. We would
6 always take them to that same spot. The dogs would bark, they
7 would make some markings, you know, as if there was something
8 there, but never -- we never could identify anything. We even
9 had an Army Corps of Engineer person that was out there that
10 had a dry suit, and he -- he went down one morning when it
11 was -- you know, the water was probably 40 degrees by that
12 point. He didn't have a mask on because you couldn't see
13 anything. So he flailed around and tried to see if he could
14 hit a body or hit a portion of a body. He didn't hit anything
15 either.

16 Q I wanted to take you back to -- you mentioned all of
17 the people that were out there and the Army Corps of Engineers
18 diver. Did you ever see Brian Winchester at the lake?

19 A I saw Brian, I believe, one time.

20 Q Okay. Did you ever see Denise Williams at the lake?

21 A I -- I don't recall seeing Denise.

22 Q I want to go back. At some point, was anything
23 found in that area that you were concentrating on?

24 A During that initial search?

25 Q Let's start with the initial search.

1 A No.

2 Q Okay. Later was there?

3 A About six months later, I received a call that the
4 waders had popped up basically at the exact same spot that I
5 had marked with the bamboo shoots.

6 Q Okay. Did you come back out to the lake at that
7 point?

8 A Yes. The next day, myself and Lamar English and Kip
9 Bembry went back out there. And Lamar is a diver and has
10 recovered numerous bodies for various organizations, and --

11 MR. WAY: Objection.

12 BY MR. ROGERS:

13 Q So you went back out to the lake. This is now six
14 months after the initial search?

15 A Yes, sir.

16 Q What did you see happen that day?

17 A Lamar put a -- well, first, now being summer, the
18 hydrilla was even worse, much worse, and so Lamar didn't even
19 use a dive mask because you just couldn't see. So he simply
20 put on a small dive tank and we tied a rope to his waist. And
21 it was so thick that we had to use some of the PVC poles from
22 shore and put them three to four feet apart, just so he could
23 pull himself along the bottom. So he just closed his eyes and
24 would feel around on the bottom to see if he could find
25 anything.

1 Q Did you see anything come up from the bottom of the
2 lake?

3 A Within probably five minutes of him going down and
4 within five feet of these bamboo shoot markings, he came up
5 and handed me a camouflage hunting jacket. The sleeve was --
6 one sleeve was turned inside out like if somebody was trying
7 to get it off.

8 MR. WAY: Objection.

9 BY MR. ROGERS:

10 Q Can you also continue to describe the condition of
11 the hunting jacket?

12 A It was in -- surprisingly, it was in great shape.
13 And when I -- I put my hand in the pocket and pulled out his
14 hunting license, and it was -- it said Mike Williams on it.
15 It was very, very clear.

16 At the time, I didn't think anything of it. I knew,
17 you know, the duck hunters have a special laminated license
18 because they are in the cold and wet a lot; so I just didn't
19 think anything of it at the time. But it was very clear that
20 it said Mike Williams.

21 Q Was anything else pulled up from the bottom of the
22 lake that day?

23 A Immediately after that, there was a small -- what
24 they call a mag flashlight that -- that Lamar handed to me as
25 well.

1 Q And what was its condition?

2 A It was excellent. It actually worked. You know, I
3 was -- my first comment was I needed to get one of these. You
4 know, I was thinking it had been six months and for it to
5 continue to work after being in the water six months, you
6 know, it was pretty amazing.

7 Q I want to go back. I showed you some photographs of
8 the boat and Mike's Bronco. Those obviously left the landing
9 at some point. Do you know where they went after that?

10 A I believe, as I was told, the --

11 MR. WAY: Objection.

12 BY MR. ROGERS:

13 Q So, without saying what someone else told you, are
14 you personally aware of where they went?

15 A Yes, I am.

16 Q Where did they go?

17 A Marcus Winchester's house.

18 Q Were they -- either one of them in your possession
19 at any point?

20 A No. I had Mike's offshore boat at my house.

21 Q I want to go back to where the waders and the
22 flashlight and the hunting jacket were pulled out of the lake.
23 Where was that in relationship to the markers, the bamboo
24 markers that you had laid previously?

25 A Within five feet.

1 (Recording stopped.)

2 MR. FUCHS: Your Honor, I apologize. We -- for some
3 reason, this was not transferred over and complete. We
4 had the cross-examination. Can I ask for a five-minute
5 break so we can get that cross-examination?

6 THE COURT: All right. We are about due for a break
7 anyway.

8 MR. FUCHS: Thank you, Your Honor.

9 THE COURT: Why don't we take ten?

10 (Break taken.)

11 THE COURT: Let's have the jury, please.

12 (Jury in.)

13 THE COURT: You may continue, Mr. Fuchs.

14 MR. FUCHS: Thank you, Your Honor.

15 (Recording continued as follows in open court:)

16 BY MR. ROGERS:

17 Q I want to go back to where the wader and the
18 flashlight and the hunting jacket were pulled out of the lake.
19 Where was that in relationship to the markers, the bamboo
20 markers that you had laid previously?

21 A Within five feet.

22 Q Is that the same place that the previous diver from
23 the Army Corps of Engineers had dove?

24 A Yes. Everything was centered around that one area.
25 The very first day that I was using the poles and I hit

1 something that gave back, immediately marked the spot. We
2 always came back to that spot --

3 Q You said "we always." Is that everybody who is out
4 there searching comes back to that spot or just you in
5 particular?

6 A It was probably myself and another person that was
7 involved for the 60 days, Kip Bembry. That was just kind of
8 an area that we always focused on. And if there was any
9 additional searchers with the search and rescue teams or the
10 cadaver dogs, we would always take them to that spot. But,
11 that -- you know, that was where the whole search always kind
12 of seemed to center.

13 When Lamar English finished diving at that one spot
14 where we had marked, about 20 feet away from where the waders
15 came up and we found the jacket, there was a bunch of
16 alligator excrement and where they -- the hydrilla was all
17 turned over as if, you know, they had -- the alligators had
18 been trying to tear something up. And so as I piece it
19 together in my head, I could see where the boat, you know, had
20 possibly hit --

21 Q Right. So, now we're getting into what you put
22 together an idea of what had happened in your mind?

23 A Right.

24 Q Okay. Suffice it to say, that you never found Mike
25 Williams' body in Lake Seminole?

1 A No, never did.

2 MR. ROGERS: I will pass the witness at this time.

3 CROSS EXAMINATION

4 BY MR. WAY:

5 Q Good day, Mr. Dungey.

6 A Hello.

7 Q My name is Ethan Way. I represent Denise Williams.

8 This area that you've described during your direct
9 examination that -- where you indicated that these items were
10 found, this was the deeper area? This is what you referred to
11 as a hole?

12 A Yes.

13 Q And it was approximately 12 feet deep or so?

14 A I would say 8 to 12 feet deep, yes, sir.

15 Q And you described it as the size of this courtroom?

16 A Yes.

17 Q So just ballpark, maybe 50 to 60 feet across?

18 A Yeah.

19 Q All right. But the rest of the area surrounding
20 this, what you described as a hole, was anywhere from four to
21 six feet deep?

22 A Right.

23 Q The area that you described as the hole, what was
24 that near? Was it near an island? Was it near some stumps?
25 Can you describe its location as it relates to the rest of

1 Lake Seminole?

2 A It was on the far side of the landing, closer to an
3 island that was on the other side of the -- this flooded pecan
4 orchard.

5 Q How close to this island?

6 A Maybe 30 yards. You know, that's where we had hoped
7 we might find Mike's bod- -- Mike. I shouldn't say his body
8 at the time. The first day or two we had hoped that that's
9 where he was at, that he had fallen out and possibly crawled
10 up over to that island.

11 Q Had you ever been duck hunting with Mike Williams?

12 A No.

13 Q Had you ever duck hunted out at Lake Seminole
14 before?

15 A No.

16 Q Did you know if the area around this island was an
17 area that was used for duck hunting or that duck hunters had
18 often frequented?

19 A No, I had never been there before.

20 Q When you were out there doing your search every day
21 after December 16th, 2000, did you ever see a lot of ducks in
22 this area?

23 A No, actually, I didn't. No, I -- there may have
24 been. I wasn't looking for them. There was a lot of activity
25 around there, so we would have scared them off.

1 Q Okay. But you don't recall ever seeing them?

2 A No.

3 Q But you did see alligator signs?

4 A I did.

5 Q I'm going to show you what has been marked for
6 these purposes as 1D.

7 MR. WAY: May I approach?

8 BY MR. WAY:

9 Q Sir, if you could have an opportunity to take a look
10 at that, please.

11 A (Witness complies.)

12 Q Mr. Dungey, does -- does that picture depict the
13 boat as you observed it on December 16th, 2000?

14 A Yes.

15 Q Did you have an opportunity to be near that boat or
16 to be right up physically in close proximity to that boat?

17 A Yes.

18 Q Did you observe anything out of the ordinary about
19 the condition of that boat, such as something being broken?

20 A No, not that I recall.

21 Q Do you remember seeing anything that looked like
22 blood on the boat?

23 A No.

24 Q Did you see anything that looked like there had been
25 a struggle inside of the boat?

1 A No.

2 Q And so as you understood it, the boat appeared just
3 to be in normal working condition for a boat of that nature?

4 A Yes.

5 Q You did mention that that boat had gone to Marcus
6 winchester's house and that you at some point in time had
7 taken possession of Mike's offshore boat?

8 A Yes.

9 Q Did you eventually buy that boat?

10 A No. I helped Denise -- I sold it for her to a third
11 party.

12 Q When did you help sell that boat for Ms. Williams?

13 A I would say probably in the March, April timeframe.

14 Q Do you remember how much you sold it for?

15 A No, I don't.

16 Q And I presume after you sold it, you gave her the
17 funds?

18 A Right.

19 Q Were you helping her sell any other items?

20 MR. ROGERS: Objection.

21 THE WITNESS: Do I answer that or --

22 MR. WAY: No. Let's get a -- you can pause here.

23 BY MR. WAY:

24 Q Aside -- you had -- at one point in time, you had
25 indicated that you had been going to the site that you had

1 marked with the bamboo markers. Was that -- did those markers
2 make it visible to -- let me back up.

3 How visible were these bamboo markers to anyone who
4 might have been on the lake?

5 A Not very. They were very thin bamboo shoots
6 basically.

7 Q Do you know if Brian Winchester had ever been out to
8 that location?

9 A I think Brian was only out there -- I saw him one
10 day out of the 60 days that I was there. So I don't -- he
11 didn't go there when I was there.

12 Q But do you know if he was aware of this area?

13 A Everybody was pretty much aware of the area.

14 Q You attended a memorial service for Mike Williams on
15 February 11th, 2001; is that correct?

16 A Yes.

17 Q And, in fact, you participated in a presentation at
18 the church as it related to a video of Mike Williams' life?

19 A Yes.

20 Q Was Cheryl Williams present?

21 A You know, I honestly don't recall if she was or not.
22 There was 12- or 1,400 people there.

23 Q There were a lot of people that attended that
24 service?

25 A Yes.

1 Q At that point in time you attended a memorial
2 service, did you believe that Mike Williams had passed away?

3 MR. ROGERS: Objection.

4 BY MR. WAY:

5 Q The memorial service that was held in response to --
6 or was in the context of an ongoing search that had, as you
7 understood it, had wound down?

8 A Yes.

9 Q You testified that you continued to go out to Lake
10 Seminole every day. But did there come a point in time, based
11 on what you were doing, that you felt that you were no longer
12 looking for Mike Williams either on a island or being
13 somewhere else but perhaps just looking for his body?

14 A The first couple of days, you know, it was a search
15 and rescue operation. After about the third day, it became
16 evident that it was a body recovery.

17 Q When you arrived on the -- at the boat ramp on
18 December 16th, 2000, was Denise Williams' father present,
19 Mr. Merrell?

20 A Yes, he was.

21 Q And did you speak with Mr. Merrell?

22 A I did.

23 Q Had Mr. Merrell been there longer than you had?

24 A I think he might have arrived around -- probably a
25 little before I did.

1 Q Was he with somebody else? were there other people
2 with him when you arrived?

3 A I believe he was there with one of his friends as
4 well.

5 Q Do you also recall seeing a female game warden or a
6 female game officer present with Mr. Merrell?

7 A I don't recall that.

8 Q Do you recall that the boat ramp where the Bronco
9 and the boat were found is across the street from a natural
10 wildlife preserve, on the other side of the road?

11 A Yes.

12 Q Are you aware there is a game station or game shack
13 almost directly across from where the boat ramp is?

14 A I wouldn't say it was directly. It was 100 or 200
15 yards away.

16 Q In the times that you would go out to Lake Seminole
17 and would conduct a search, did you ever see anyone in that
18 game shack?

19 A Not that I can recall.

20 Q Did you -- in terms of the "not that you can
21 recall," is that because you weren't looking or weren't
22 recollecting that there was someone in there, or it just
23 wasn't something that was important to you?

24 A It just wasn't important to me.

25 MR. WAY: Nothing further.

1 MR. ROGERS: Nothing further from the State.

2 (Recording ended.)

3 THE COURT: Call your next witness?

4 MR. ROGERS: The State calls Joe Sheffield.

5 THE COURT: While the witness is coming in, let me
6 comment on one matter. There had been a couple of things
7 that have been put in evidence and we haven't seen much
8 of them. There will be other things put in evidence.
9 You'll have all of the exhibits, with very few
10 exceptions, back in the jury room with you during your
11 deliberations; so you don't need to feel like you have
12 to, you know, memorize them at this point in time. So we
13 will be certain to give you an opportunity to see those
14 items.

15 whereupon,

16 JOSEPH SHEFFIELD

17 was called as a witness, having been first duly sworn, was
18 examined and testified as follows:

19 THE COURT: Have a seat. Slide up to the
20 microphone, please, sir.

21 You may proceed.

22 DIRECT EXAMINATION

23 BY MR. ROGERS:

24 Q Sir, can you please state and spell your name for
25 the record?

LINDA CUNNINGHAM, RPR, OFFICIAL COURT REPORTER

1 A You said state and spell it?

2 Q Yes, sir.

3 A My name is Joseph Sheffield. J-O-S-E-P-H,
4 S-H-E-F-F-I-E-L-D.

5 Q Okay. Mr. Sheffield, where are you from?

6 A I'm from Sneads, Florida.

7 Q Okay. Where is that in relation to Tallahassee?

8 A Due west, about 50 miles.

9 Q Okay. You lived there most of your life?

10 A About all of my life.

11 Q All right. Are you familiar with Lake Seminole?

12 A I have fished Lake Seminole since I was six years
13 old, and I'm 66 years old now. All of my life.

14 Q Are you an avid fisherman?

15 A I love it with a passion.

16 Q Okay. I want to take you back to what brought you
17 here today. Did you recover something in Lake Seminole --

18 A Yes, sir.

19 Q -- related to this case?

20 A Yes, I did. Yes, I did.

21 Q Okay. Can you give me the time of year when you
22 were on Lake Seminole for this?

23 A This was about June, along June when I found these.

24 Q So this would be June of 2001?

25 A 2002, I believe -- no, 2000. I'm sorry. 2000.

1 Q of 2000. Okay.

2 A Roughly about five, six months after.

3 Q So you were aware that a duck hunter had gone
4 missing on Lake Seminole?

5 A Very much so. Very much so.

6 Q All right. Well, what were you fishing for that
7 day. So it was in June?

8 A June. I fish for speckled perch. In that
9 particular area -- for years I've fished for speckled perch in
10 that area. Along that time of the year, May, June, the
11 fish -- that particular fish moves into the shallower waters.
12 So I'd go up in there and fish the shallower waters for them.

13 Q Okay.

14 A In the cooler months, I fish the deeper water in the
15 same area.

16 Q All right. So, when you are fishing for the
17 speckled perch, at this point do you come across something
18 that catches your eye as being out of place?

19 A The first time I saw these waders, it really
20 didn't -- it didn't strike me too much. I thought it was a
21 stump underwater.

22 Q Can you describe the first time you saw them? Like,
23 how deep were they?

24 A Roughly about two foot under the water. The water
25 had fairly cleared up -- pretty clear at that point. It had a

1 dinge look to them, a yellowish dinge look to them, and it
2 appeared to be a pretty good-sized stump that maybe a boat --
3 a boat motor or something had hit and run over and roughed up
4 or whatever. So I kind of veered away from it when I saw it
5 because of that.

6 The next day I went back fishing again, same area.
7 This time when I came by these waders, they were roughly about
8 six inches under the water, and immediately, I says, The water
9 has not fell out this much. The stump has not swolled up this
10 much. So I stopped to see what it was.

11 Q Once you stopped to see, what did you see?

12 A At this point, it appeared to be something -- a life
13 jacket or something of that nature, is what I thought in my
14 mind, or something of that nature.

15 Q Well --

16 A Needless to say, I reached down and pulled the
17 waders up on the side of my boat, and at that point, I could
18 see it was waders, actual waders. It had been there a little
19 while. They had some algae and settlements or whatever on
20 these waders at that point. Needless to say, it had a pouch
21 or a pack or whatever, a waist pouch, something of that
22 nature. And these waders were turned down to about the waist.
23 A pretty good turndown on them.

24 Q Can you describe how you wear waders? Does it go up
25 over your shoulders, like with some suspenders?

1 A The waders -- well, they do have suspenders, but
2 more or less they are just kind of like -- they are like
3 pants, a man's jeans that come up above -- up to his waist
4 with suspenders over them.

5 Q Okay. So when you say that they were turned down,
6 can you describe that a little more in detail for the jury?

7 A Can I stand up?

8 Q Yes, sir.

9 THE COURT: You can, yes.

10 THE WITNESS: The waders were folded over and pulled
11 down to the waist, like wrong side upwards, up to that
12 point.

13 BY MR. ROGERS:

14 Q Up to the waist?

15 A Up to the waist.

16 Q And you said you saw algae and some settlements on
17 them. Can you describe that a little bit more?

18 A Well, it's -- obviously they had been there a little
19 while. Now, I don't -- I can't give you a date as to when or
20 what have you. I'm not certain of that. I know they had been
21 there long enough there was sediment on them and a growth,
22 more or less, and the heat obviously had caused the air to
23 form underneath the pocket where they were folded down, enough
24 to rise these up or make them float up. It took a right smart
25 for them to float up in the pocket within itself, this is with

1 the waders, had gun shells, and these shells are -- they are
2 steel shot shells, and it took a right smart to float them up
3 to that point.

4 Q Okay. So you are saying they would have been
5 weighted down, so they had to have something that brought them
6 to the surface?

7 A More or less.

8 Q Okay. Once you found out what they were, did you
9 contact any law enforcement?

10 A At this point when I realized that these belonged to
11 this Williams fellow --

12 Q How did you realize that?

13 A The pouch within itself that was with it, it did
14 have a nametag, license, whatever was in there, in that pouch.
15 I didn't go all through this thing. I just -- up to that
16 point, I realized this was the duck hunter's obviously. So I
17 eased these back into the water, made a run all the way back
18 down to the first bridge, what we call the first bridge, and
19 it is the first bridge off the River Road where I put in.

20 At that point, I called Mr. Alton Renew, and I
21 reported that I had found these waders and that -- it's --
22 obviously it was his waders and it was in the general area
23 where he went missing at that time. Mr. Renew informed me
24 that I needed to stay at the landing, that he would get
25 another party and he would come up with his boat.

1 Q Did you eventually take Mr. Renew to where you found
2 these?

3 A At that point, I took him to the waders, where they
4 were at.

5 MR. ROGERS: Okay. One moment. I will pass the
6 witness.

7 THE COURT: Cross.

8 CROSS EXAMINATION

9 BY MR. WAY:

10 Q Good morning, Mr. Sheffield.

11 A Good morning.

12 Q You ever hunt with waders?

13 A No. I'm not a hunter with waders.

14 Q You ever fish with waders?

15 A I tried a little bit. I'm not real wild about it.

16 Q Yes, sir. Waders, they come in a couple different
17 types of materials. You can have -- are you familiar with
18 what type of wader material it might be, like, neoprene or
19 rubber or canvas?

20 A Well, I would say rubber maybe.

21 Q All right. And these -- these waders that you found
22 at Lake Seminole, these waders were kind of floating, based on
23 what you indicated, by growth, but they were being held down
24 by a fanny pack full of shot shells?

25 A No, sir. I didn't say that at all.

1 Q Okay.

2 A I said these waders were floating up because of the
3 air volume that was building up under the pocket where they
4 were folded under.

5 Q Did it --

6 A They had floated up to this 2-foot point when I saw
7 them the first day. The second day they floated up higher.
8 And, like I said, during this time of the year, the water
9 begins to warm up, and I -- pretty obvious to me it wasn't a
10 stump floating up.

11 Q I understand. But help me understand the waders
12 with the shot shells. There was a fanny pack or there was a
13 fanny pack attached to the waders?

14 A I guess that's what you'd call it. I don't -- there
15 was a pack or a pouch --

16 Q A pouch?

17 A -- with a strap or whatever on it. I don't --
18 fanny -- fanny pack suits me fine.

19 Q Yeah. I mean, no one uses them anymore, but it was
20 something around the waist?

21 A More or less.

22 Q Okay. And did you indicate there were shot shells
23 in it or steel shells in that?

24 A Yes. This is the packet that I opened up, the pouch
25 that I'd opened up.

1 Q Was -- and how heavy was that?

2 A I -- I don't know. Three, four pounds maybe or
3 less. I didn't -- kind of hard to state with the weight of
4 the water or whatever. It's not the same when you put it in
5 the water as it is on the hill.

6 Q Yes, sir. But it was attached around the waders?

7 A It was attached with it, with the waders.

8 Q All right. And you live in Sneads?

9 A Yes, I do.

10 Q And you drove in from Sneads today?

11 A Yes, I did.

12 Q This road we're talking about, River Road on the
13 west side, that is a north, south road on the west side of
14 Lake Seminole?

15 A Well, it's not due north, but give or take, yes, it
16 runs north from Sneads.

17 Q And it's just west of ACI, the prison?

18 A Yes.

19 Q And the prison, that's Apalachee Correctional
20 Institution?

21 A Yes, it is.

22 Q It's a pretty large prison over there in Sneads?

23 A Pretty good sized.

24 Q And it's in the town of Sneads?

25 A Not the prison.

1 Q Just where River Road is?

2 A River Road leads from Sneads.

3 Q And across the bridge is the Florida State Hospital
4 in Chattahoochee?

5 A That's correct.

6 Q When you drove in this morning, did you drive
7 through any of these towns, or do you just go straight down to
8 the interstate?

9 A I went straight to the interstate.

10 Q And how long of a drive on the interstate was it
11 about?

12 A Forty-five minutes.

13 MR. WAY: Nothing further, Your Honor.

14 THE COURT: Redirect.

15 MR. ROGERS: Nothing further.

16 THE COURT: All right. Any juror have a question of
17 this witness?

18 All right. You can step down.

19 Do we need to keep Mr. Sheffield any further?

20 MR. ROGERS: No, Judge.

21 MR. WAY: No, Your Honor.

22 THE COURT: All right. You are excused. Thank you
23 for being here.

24 Call your next witness.

25 MR. FUCHS: Your Honor, can we approach real

1 quickly?

2 (Discussion held off the record.)

3 THE COURT: So that was just a long-winded request
4 to take a lunch break before we start the next witness.
5 So I'd tell you our sidebars are not very exciting; so
6 that's what it was about.

7 We will take a break. Don't discuss the case with
8 anyone. Don't let anyone discuss the case with you.
9 Let's be back and ready to go at 1:00. All right. That
10 will give you a little over an hour.

11 Either side need anything?

12 MR. FUCHS: No, Your Honor.

13 MR. WAY: No, Your Honor.

14 THE COURT: We were going to have a little hearing
15 outside of the presence of the jury. Do we need to do
16 that later this afternoon?

17 MR. FUCHS: Yes, sir.

18 (Jury out.)

19 THE COURT: Okay. All right 1:00. I did send you
20 all a revised version of the jury instructions. You
21 should have them.

22 (Lunch recess taken and proceedings continued in
23 volume II.)

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CERTIFICATE

STATE OF FLORIDA:

COUNTY OF LEON:

I, LINDA CUNNINGHAM, RPR, Official Court Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED this 8th day of March, 2019.



LINDA CUNNINGHAM, RPR
OFFICIAL COURT REPORTER
LEON COUNTY COURTHOUSE
TALLAHASSEE, FLORIDA 32301

LINDA CUNNINGHAM, RPR, OFFICIAL COURT REPORTER