

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY  
BRANCH 1

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STATE OF WISCONSIN,

PLAINTIFF,

JURY TRIAL

TRIAL - DAY 2

vs.

Case No. 05 CF 381

STEVEN A. AVERY,

DEFENDANT.

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**DATE:** FEBRUARY 13, 2007

**BEFORE:** Hon. Patrick L. Willis  
Circuit Court Judge

**APPEARANCES:** KENNETH R. KRATZ  
Special Prosecutor  
On behalf of the State of Wisconsin.

THOMAS J. FALLON  
Special Prosecutor  
On behalf of the State of Wisconsin.

DEAN A. STRANG  
Attorney at Law  
On behalf of the Defendant.

JEROME F. BUTING  
Attorney at Law  
On behalf of the Defendant.

STEVEN A. AVERY  
Defendant  
Appeared in person.

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**TRANSCRIPT OF PROCEEDINGS**

Reported by Diane Tesheneck, RPR

Official Court Reporter

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1 THE COURT: At this time the Court calls  
2 State of Wisconsin vs. Steven Avery, Case No. 05 CF  
3 381. Will the parties state their appearances for  
4 the record, please.

5 ATTORNEY KRATZ: State appears by Calumet  
6 County District Attorney Ken Kratz and Assistant  
7 Attorney General Tom Fallon, appearing as special  
8 prosecutors.

9 ATTORNEY STRANG: Steven Avery is here in  
10 person. Jerome Buting and Dean Strang on his  
11 behalf.

12 THE COURT: Very well, we are outside the  
13 presence of the jury at this time. It is my  
14 understanding the State has a matter it wishes to  
15 bring up before we bring the jurors in.

16 ATTORNEY KRATZ: There are several matters,  
17 Judge. One of them is addressing an area of  
18 stipulations, but the other issue is making a record  
19 and expressing our concern regarding Mr. Strang's  
20 opening statement.

21 On three different occasions in  
22 Mr. Strang's opening statement we believe that  
23 Mr. Strang either announced the introduction of  
24 what would otherwise be inadmissible testimony or  
25 either overtly, or at least mistakenly, violated

1 previous rulings of this Court.

2 First, Judge, was on the area of third  
3 party liability. This Court had previously  
4 excluded any mention of a possible third person,  
5 pursuant to the **Denny** analysis that the Court  
6 announced in its ruling, other than that of  
7 Brendan Dassey.

8 During Mr. Strang's opening statement,  
9 Mr. Strang asked the jury to consider the fact  
10 that somebody saw Ms Halbach after she left the  
11 Avery property on the 31st of October.  
12 Mr. Strang had even discussed that she may have  
13 been taking some other photos and may have made  
14 another stop, but invited the jury to believe  
15 that somebody had seen the victim and, at least  
16 by inference, that somebody else was involved in  
17 taking the life of Teresa Halbach; again,  
18 contrary to the Court's ruling as to third party  
19 liability.

20 I do not intend to raise objection and  
21 ask for a curative instruction with the jury, but  
22 should there be testimony, certainly elicited to  
23 that fact, the State would be issuing objection.  
24 And if Mr. Strang would like to respond, that's  
25 fine, but I would ask the Court reiterate its

1 ruling prohibiting any evidence of third party  
2 liability other than that of Mr. Dassey.

3 THE COURT: All right. Before I hear from  
4 Mr. Strang, do I understand there were a couple  
5 other items?

6 ATTORNEY KRATZ: There were, Judge. The  
7 State also -- excuse me -- The Court, also, in  
8 pretrial rulings, dealt with the issue of bias of  
9 witnesses, especially as it related to Manitowoc  
10 County Sheriff's deputies. That bias that the  
11 defense had, in a pre-trial posture, attempted to  
12 elicit, was something that they referred to as  
13 institutional bias; that is, a bias that could be  
14 attributed to the entire department or every member  
15 of the Manitowoc County Sheriff's Department,  
16 irrespective of their involvement in Mr. Avery's  
17 prior investigation or the civil lawsuit that was  
18 filed.

19 This Court specifically rejected that  
20 theory of admissibility, rejected Mr. Strang's  
21 offer at that time of something that he called  
22 institutional bias in a pre-trial manner. I was  
23 astounded yesterday to hear Mr. Strang stand  
24 before this jury and not only talk about the term  
25 institutional bias, talking about the Manitowoc

1 County officers in general rushing to judgment,  
2 inviting this jury to make up, if you will, for  
3 what the last jury did in finding Mr. Avery  
4 guilty before.

5 But when invited or when given the  
6 opportunity to show, well, who are we talking  
7 about with institutional bias, who rushed to  
8 judgment, Mr. Strang played a tape of somebody  
9 named Detective Jacobs and somebody named  
10 Detective Remiker. Nothing about Colborn or  
11 Lenk, each of which this Court had authorized  
12 that by way of bias evidence and, in fact,  
13 specifically limited Mr. Strang to that of  
14 Mr. Lenk and Mr. Colborn.

15 And so, despite the Court's pre-trial  
16 admonitions and rulings, apparently the defense  
17 has, at least to this moment, ignored those  
18 prohibitions and at the very first opportunity;  
19 that is, during their opening statement,  
20 exploited the idea of institutional bias with the  
21 jury.

22 Lastly, Judge, the defense, on a number  
23 of occasions, attributed statements to Mr. Avery.  
24 On one specific occasion, Mr. Strang indicated  
25 that he, meaning Mr. Avery, said that he saw the

1 victim drive down the dirt road and turn left on  
2 to 147, apparently towards Interstate 43.

3 Those statements being attributed to the  
4 defendant are, in fact, hearsay. If Mr. Strang  
5 can tell me today that Mr. Avery is going to  
6 testify, then I will withdraw my objection,  
7 thankfully, or -- or very appropriately.

8 However, to inject or to assert what  
9 Mr. Strang knows or should knows (sic) would  
10 otherwise be hearsay and inadmissible testimony  
11 at an opening statement is, in fact, improper.  
12 I, again, simply alert the Court that if there is  
13 going to be, through this trial, any attempts to  
14 get Mr. Avery's statements in through somebody  
15 other than Mr. Avery, or absent some other  
16 hearsay exception, then the State will be  
17 interposing those objections when necessary.  
18 That's all I have regarding the opening  
19 statements, Judge. Thank you.

20 THE COURT: Mr. Strang.

21 ATTORNEY STRANG: I will take them in the  
22 order that Mr. Kratz has raised his concerns.  
23 First, the matter of third party liability.

24 (A) **Denny** concerns only the situation  
25 which a defendant wishes to offer the specific



1 identified person as the alternate culprit and  
2 try to prove that person's liability. My opening  
3 statement was very, very different than that.

4 What I did was perfectly legitimate,  
5 which was to point out that if he didn't kill  
6 her, but she's dead, then someone else did and we  
7 don't know who did that. That's an entirely  
8 legitimate prediction of where the evidence will  
9 go and an entirely legitimate theory of defense,  
10 if you will, to say, I didn't kill her; if they  
11 prove someone did, then it's someone else and we  
12 don't know who it is.

13 So quite apart from violating the **Denny**  
14 ruling and quite contrary to violating the **Denny**  
15 ruling, I'm entirely outside of **Denny** here and  
16 this was a wholly proper explanation of what we  
17 expect the evidence to show.

18 (B) Yesterday morning the State was  
19 backpedaling away from Brendan Dassey and wants  
20 the opportunity itself to suggest that just  
21 another person, some other person, another out  
22 there, assisted in the killing, or participated  
23 directly in the killing of Ms Halbach and  
24 Mr. Avery aided and abetted.

25 It's beyond irony to hear now, this

1 morning, that while the State has the 5 billion  
2 people on this planet to whom it might point as  
3 possible culprits, the defendant can point only  
4 to Mr. Dassey. I'm squarely within the jury  
5 instruction that the Court gave, at the State's  
6 persuasion and over our objection, yesterday  
7 morning.

8 And (C) nothing I said, I think, would  
9 be inconsistent with Ms Halbach having run into  
10 Brendan Dassey after leaving Mr. Avery's  
11 presence, yesterday. Now, that's not what we're  
12 going to be arguing in closing argument, but as a  
13 matter of opening statement, I'm squarely within  
14 proper balance here both of a good faith  
15 prediction of the evidence and outlining  
16 Mr. Avery's defense that he didn't do it and  
17 doesn't know who did.

18 The second question was institutional  
19 bias. Again, several points (A) I never used the  
20 term institutional bias in my opening statement.  
21 The transcript will show that I used the term  
22 investigative bias; once, twice, or maybe more  
23 than twice.

24 (B) As I argued earlier, the question is  
25 bias. And bias is an issue that's relevant to

1 each and every witness called by the State or,  
2 for that matter, by the defense, if the State  
3 wants to point out that witness' bias.

4 Pattern Instruction 300, Wisconsin  
5 Criminal Jury Instructions, concerns the  
6 assessment of credibility of witnesses. I think  
7 refers specifically to considering bias or  
8 possible reasons or motives to falsify for every  
9 witness. So the question here is bias of each  
10 and every witness, not institutional bias of a  
11 department.

12 And there were a number of Manitowoc  
13 County Sheriff's Department employees involved in  
14 this investigation. The bias of any one of them  
15 who appears as a witness is relevant. It may be  
16 proven by extrinsic evidence because bias is not  
17 a collateral issue. That was settled in  
18 Wisconsin not later than 1978 with the Wisconsin  
19 Supreme Court decision of ***State v. Williams***.

20 (B) Both Dennis Jacobs and David Remiker  
21 are on the witness list. Indeed, Dennis Jacobs  
22 is on the defense witness list. I reasonably  
23 anticipate Detective Remiker and/or Detective  
24 Jacobs will appear as witnesses in this trial.

25 It would be difficult to imagine how the

1 State could prove its case without calling  
2 Detective Remiker. So there's a tone of  
3 tinniness here when Mr. Kratz says, someone named  
4 Detective Remiker. I can't imagine the State  
5 would not be calling him, given his role in the  
6 investigation.

7 And the conversations that I played,  
8 really go to Remiker's bias alone. He knows who  
9 the "he" is that Detective Jacobs is talking  
10 about. So, although I suspect both of them  
11 probably will be witnesses and their bias clearly  
12 an issue, even if Remiker only testified here,  
13 the excerpts I played would be relevant extrinsic  
14 evidence of bias, indeed, through at least one  
15 conversation which Detective Remiker himself was  
16 a party.

17 The third and final issue was statements  
18 of the defendant. It is true that, at least over  
19 objection, one cannot offer the out of court  
20 statements of his own client for the truth of the  
21 matter asserted, because 908.01 (4) ordinarily is  
22 limited to statements of the party opponent.

23 It is also true here that I reasonably  
24 anticipated what the evidence in this trial will  
25 be and that would include some of the statements

1 of Mr. Avery. Indeed, my prediction proved  
2 pretty good, because by the third witness, David  
3 Beach, we had unobjected to testimony  
4 establishing the very statements of Mr. Avery  
5 that I included by reference in my opening  
6 statement.

7 Mr. Beach, according to my notes,  
8 testified without objection from the State, that  
9 when he talked to Mr. Avery, Mr. Avery said he  
10 didn't know where Teresa Halbach was going next  
11 and that when she pulled out she turned left from  
12 the Avery property.

13 That's almost verbatim what he said  
14 about turning left at the end of Avery Road as  
15 she left. Mr. Beach's testimony also included  
16 recitations of Mr. Avery's statements that she  
17 came first at about 2:00 in the afternoon and  
18 then later, approximately then or mid-afternoon,  
19 elicited on cross-examination by Mr. Buting.  
20 Again, all without objection of the State.

21 So, not only was it a fair prediction of  
22 the evidence, the prediction came true. The  
23 statements of the defendant that I suggested the  
24 jury would hear in opening statement, it has  
25 heard admissibly and without objection.

1 THE COURT: Anything else, Mr. Kratz?

2 ATTORNEY KRATZ: No, thank you, Judge.

3 THE COURT: All right. First of all, with  
4 respect to the third party liability issue, there's  
5 a difference between a party introducing extrinsic  
6 evidence that a specific third party is guilty of  
7 the crime versus just saying, my defendant didn't  
8 commit the crime so somebody else might have. I do  
9 not believe that the statements made by the defense  
10 in its opening statement fall into the prohibited  
11 category there.

12 I don't believe there was any reference  
13 to a specific third party who was the responsible  
14 third party. Obviously, if the defendant is  
15 pleading not guilty and saying I didn't do it,  
16 somebody else has to have done it, and I don't  
17 think that the defense went further than that.

18 With respect to the bias suggestion, the  
19 Court's previous rulings in this case have dealt  
20 with the introduction of extrinsic evidence on  
21 the issue of bias. There are specific standards  
22 that apply to the introduction of such evidence.

23 It was my understanding from what I  
24 heard in the defense opening, that essentially  
25 they are relying on not extrinsic evidence, but

1 evidence that is actually part of this case, to  
2 make their argument. And I cannot say at this  
3 stage of the proceedings that that's  
4 objectionable.

5 With respect to the statements of the  
6 defendant, as Mr. Strang indicated, those  
7 statements can become admitted at trial through  
8 means other than the defendant testifying  
9 himself; and, in fact, to this point in the trial  
10 it's pointed out by defense counsel that's  
11 already happened. And so I can't say at this  
12 stage that there was anything prohibited about  
13 the references in the defense opening.

14 Just in general, I would note the  
15 following: The Court instructs the members of  
16 the jury that the opening statements themselves  
17 are not evidence. They will get instructed that  
18 again at the close of the case.

19 If either party makes a representation  
20 in their opening that some evidence will be  
21 introduced and it turns out that the evidence  
22 does not get introduced, the party who made the  
23 statement in the opening statement runs the risk  
24 that the other side will bring it up in closing;  
25 that is, remind the jury that the other side told

1       you they would hear this evidence and this type  
2       of evidence was never introduced.

3               So I think to the extent that anything  
4       mentioned by the defense in its opening was not  
5       from the past, the State will have adequate  
6       opportunity to address that in closing argument.

7               Is there anything else to take up before  
8       we bring the jury back?

9               ATTORNEY KRATZ:  There is, Judge, although  
10      there were no stipulations to note yesterday in our  
11      first testimony, there will be witnesses that are  
12      scheduled to begin today that may be the subject of  
13      agreements between the parties.  I thought, unless  
14      the Court wants to get going, I thought this might  
15      be an opportunity to provide the Court with those  
16      agreements.

17              We alerted the Court that we had made  
18      some agreements regarding stipulations.  And I  
19      wish to take a few minutes to put those on the  
20      record, if I can, at this time.  If Mr. --  
21      Mr. Strang has recommended that perhaps at this  
22      time, since our first witness may not be the  
23      subject of any of these stipulations, but later  
24      witnesses today might, perhaps we can give you  
25      our written list of stipulations.



1                   Some of them just won't be objections by  
2                   the defense and may not need to be in writing.  
3                   And if that satisfies the Court, then perhaps  
4                   after our next break or sometime before the close  
5                   of the day we can put the rest of those on the  
6                   record.

7                   THE COURT: I think that would be helpful.

8                   ATTORNEY STRANG: If we could take just a  
9                   moment to photocopy, this is an email that I sent to  
10                  Mr. Kratz going paragraph by paragraph through  
11                  proposed stipulations. If we could have just a  
12                  moment to let Mr. Kratz photocopy that and we'll  
13                  keep a copy here at our table so that, you know, I  
14                  don't, you know, inadvertently forget --

15                  THE COURT: All right.

16                  ATTORNEY STRANG: -- we agreed not to  
17                  object.

18                  THE COURT: I believe the copying is being  
19                  done as we speak. We'll bring the jury in now and  
20                  then take our first witness today.

21                               (Jury present.)

22                  THE COURT: You may be seated. Good  
23                  morning, members of the jury. Before we get started  
24                  today, I want to apologize for the fact that I  
25                  understand the bus was late yesterday. Doesn't do

1 much good to release you at 4:30 if you have got to  
2 wait for the bus until 5:00. We'll be addressing  
3 that situation to make sure that the bus is here on  
4 a timely basis.

5 THE BAILIFF: The bus was here on time,  
6 your Honor; it was at 4:30.

7 THE COURT: Oh, it was. Because when I  
8 called the courthouse back, they told me it was not.  
9 At any rate, that's good news. I was also told  
10 there was some concern about the temperature on the  
11 bus on the way over; is that being addressed?

12 THE BAILIFF: It was fine last night and it  
13 was fine this morning.

14 THE COURT: Okay. Finally, I note that one  
15 of the jurors in the back row does not appear to be  
16 as tall as the rest of them and I don't think that's  
17 because of your stature. We're having the  
18 courthouse folks address that to put you up on a  
19 riser so that all the jurors in the back row will be  
20 seated on the same level.

21 With that, I believe we're ready to  
22 begin. Mr. Kratz, you may call your first  
23 witness.

24 ATTORNEY KRATZ: Thank you. We'll call  
25 Angela Schuster to the stand.

1 THE CLERK: Please raise your right hand.

2 ANGELA SCHUSTER, called as a witness  
3 herein, having been first duly sworn, was  
4 examined and testified as follows:

5 THE CLERK: Please be seated. Please state  
6 your name and spell your last name for the record.

7 THE WITNESS: Angela Schuster,  
8 S-c-h-u-s-t-e-r.

9 **DIRECT EXAMINATION**

10 BY ATTORNEY KRATZ:

11 Q. Ms Schuster, could you tell the jury how you are  
12 employed, please.

13 A. I'm employed with *Auto Trader Magazine*.

14 Q. You will either have to speak up or perhaps,  
15 Judge, the microphone ...

16 A. *Auto Trader Magazines*.

17 Q. What are your duties with *Auto Trader*?

18 A. Well, right now, I'm the district circulation  
19 manager. At the time, I was the operations.

20 Q. When you talk about "at the time", are you  
21 talking about during the fall of 2005?

22 A. Yes.

23 Q. Ms Schuster, if you could tell the jury, please,  
24 what were your duties during the fall of 2005?

25 A. Took care of the daily office functions,

1           complaints, reports, all office staff, all  
2           photographers.

3       Q.    As a -- You were in a supervisory capacity?

4       A.    Yes.

5       Q.    As a supervisor, did you supervise a young woman  
6           by the name of Teresa Halbach?

7       A.    Yes.

8       Q.    Can you tell the jury, please, how did you know  
9           Ms Halbach?

10      A.    Well, I brought Ms Halbach on as a photographer  
11           through a reference from one of our circulation  
12           outlets. She applied for the job that we had  
13           open into the Green Bay area.

14      Q.    How long had Ms Halbach been working for *Auto*  
15           *Trader*?

16      A.    About a year.

17      Q.    Could you tell the jury, please, how  
18           photographers for *Auto Trader* got compensated for  
19           their work?

20      A.    They were paid per shot. Most of their  
21           appointments were prescheduled. We have a  
22           telemarketing service that telemarkets to get  
23           prospects or what we call leads for our  
24           photographers and otherwise people that schedule  
25           appointments over the internet or phone in the

1 office.

2 Q. You said that Ms Halbach had been working for you  
3 for about a year, did she have a particular  
4 district that she was responsible for?

5 A. When she was brought on, she was responsible for  
6 Green Bay. And then mid-year, 2005, she had  
7 taken over the Manitowoc/Sheboygan area, one day  
8 a week, on Mondays, for us.

9 Q. Now, Ms Schuster, as manager of the *Auto Trader*  
10 office, at least for this region, are you  
11 familiar with the records, the business records  
12 within that office?

13 A. Yes.

14 Q. As a custodian of the business records, were you  
15 also asked to review previous photographs, or  
16 previous images that Teresa Halbach had taken?

17 A. Yes.

18 Q. And were you asked, Ms Schuster, specifically, to  
19 review previous visits or images that Ms Halbach  
20 had taken at a property known as the Avery  
21 Salvage Yard?

22 A. Yes.

23 Q. And have you done that?

24 A. Mm-hmm.

25 Q. I'm going to ask you to look at the six different

1 images that are in front of you. And I believe  
2 -- Ms Schuster, just so that we can get through  
3 these images, I believe they are -- they are  
4 without -- they are without objection.

5 I'm first going to have you look at  
6 Exhibit No. 11. This is an image taken on  
7 June 20th at the Avery Salvage property; do you  
8 see Exhibit No. 11 there?

9 A. Mm-hmm.

10 Q. And, in fact, all of those six exhibits, Exhibits  
11 11 through 16; is it your understanding that all  
12 of them were taken at the Avery salvage property?

13 A. Yes.

14 Q. I'm first going to show you Exhibit No. 11, which  
15 I believe was taken on June 20th at the Avery  
16 salvage property. Please look at the large  
17 screen that is noted to your right; is that a  
18 accurate depiction of Exhibit No. 11, as well?

19 A. Yes.

20 Q. Second image, image No. 12 --

21 ATTORNEY BUTING: Counsel, do you want to  
22 indicate the year, you said June 20th.

23 ATTORNEY KRATZ: I'm sorry, June 20th of  
24 2005.

25 Q. (By Attorney Kratz)~ That's the year that she was

1 taking these photos; is that right?

2 A. Yes.

3 Q. Second image, image No. 12, taken on August 22nd,  
4 once again, I will have you look at the large  
5 screen to your right; is that a true and accurate  
6 depiction of what is noted as Exhibit No. 12?

7 A. Yes.

8 Q. And, again, August 22nd of this year, that's  
9 2005; is that correct?

10 A. Right.

11 Q. Third image, that will be image No. 13, taken on  
12 August 29th, 2005; is that correct?

13 A. Yes.

14 Q. And, again, looking to your right, showing on the  
15 screen, is that a photo taken by Teresa Halbach,  
16 again, at the Avery salvage property on the 29th  
17 of August?

18 A. Yes.

19 Q. Fourth image, that is image No. 14, taken on  
20 September 19th, 2005 at the Avery salvage  
21 property. Again, Exhibit No. 14 on the large  
22 screen; is that a true and accurate depiction of  
23 the image that's in front of you?

24 A. Yes.

25 Q. Image No. 15, again, a photo taken also on

1           September 19th, the Avery salvage property; is  
2           that an image that is that on the large screen, a  
3           true and accurate depiction of image No. 15  
4           that's in front of you?

5   A.   Yes.

6   Q.   And, finally, image No. 16, taken on  
7           October 10th, 2005, again, at the Avery --  
8           actually, Steven Avery's residence, right outside  
9           of his garage. Exhibit No. 16 appear to be a  
10          true and accurate depiction of what's being shown  
11          on the screen to your right?

12  A.   Yes.

13                   ATTORNEY KRATZ: I would, at this time,  
14                   Judge, move the admission of Exhibits 11 through 16.

15                   ATTORNEY BUTING: No objection.

16                   THE COURT: Those exhibits are admitted.

17  Q.   (By Attorney Kratz)~ Ms Schuster, you had  
18          mentioned that Ms Halbach had a territorial  
19          responsibility for up this way. And I'm not sure  
20          if you mentioned the Manitowoc and Sheboygan  
21          area; did you testify about that before?

22  A.   Yes.

23  Q.   All right. Just so we're clear, during late  
24          October of 2005, did Ms Halbach remain  
25          responsible for that particular district?



1 A. Yes.

2 Q. Were you aware that Ms Halbach had outside  
3 photography employment other than for *Auto*  
4 *Trader*?

5 A. Mm-hmm, yes.

6 Q. Is that typical or is that usual for  
7 photographers that you employ?

8 A. To have a second job, yes.

9 Q. They are not discouraged or anything from working  
10 at their own studio, are they?

11 A. No.

12 Q. Ms Schuster, was Ms Halbach provided with any  
13 equipment from *Auto Trader* itself to perform  
14 these shots?

15 A. Yes, she was provided with everything that she  
16 needed to do her business right from her home.

17 Q. Did that include being provided with a camera?

18 A. Yes.

19 Q. Do you know what kind of camera Ms Halbach was  
20 provided by *Auto Trader*?

21 A. I don't recall specifically offhand, but we  
22 usually use Kodak or Canon.

23 Q. All right. Let me ask you, were you asked, Ms  
24 Schuster, to determine in this case what camera  
25 Ms Halbach was given?

1 A. Yes.

2 Q. And as you sit here, can you remember it?

3 A. No.

4 Q. Would there be anything that could refresh your  
5 recollection, perhaps being shown a photograph of  
6 the box that she was given, or something like  
7 that, or what might refresh your memory about  
8 that?

9 A. A box. When we determined, when Mr. Fassbender  
10 came to the office and was going through items,  
11 the camera that we had purchased versus the  
12 camera used to take these pictures, were used on  
13 a camera that we had purchased.

14 Q. All right. Ms Schuster, I'm showing you what has  
15 been marked as Exhibit No. 9 can you tell us what  
16 that is, please?

17 A. It's a Canon PowerShot A310 digital camera.

18 Q. And does that now refresh your recollection as to  
19 the camera provided to her by *Auto Trader*  
20 *Magazine* for her use?

21 A. Yes.

22 Q. In fact, was she provided with --

23 A. Yes.

24 Q. -- that box, that camera?

25 A. Yes.

1 Q. All right. So the jury can see a picture of that  
2 box, I will put that up on the screen; does that  
3 photograph to your right appear to be a  
4 photograph of what's included in Exhibit No. 9?  
5 A. Yes.  
6 Q. Now, Ms Schuster, can you tell the jury, after a  
7 digital image is taken by one of your  
8 photographers, one of your employees, how does  
9 that physically get into the magazine? Can you  
10 just tell us about that process.  
11 A. Sure. The photographers hand in their discs  
12 along with their paperwork. The discs are then  
13 downloaded at the office onto our software system  
14 and then sent over to our production department  
15 that places the ads into the book.  
16 Q. When a photographer like Teresa was scheduled to  
17 take a shot or a photo for *Auto Trader*, how would  
18 that typically be set up?  
19 A. How would the picture be set up?  
20 Q. Yeah, how would the appointment be set up?  
21 A. By phone, by email, mail.  
22 Q. All right. Was there an employee, somebody in  
23 your office, other than you, who would typically  
24 make those appointments or set up those photo  
25 shoots?

1 A. Yes, the staff in the office handle most of the  
2 phone calls that come into the office.

3 Q. Would it be fair that the support staff, the  
4 receptionist or secretaries, would have more  
5 contact with the photographers than you would?

6 A. Yes.

7 Q. Do you know a woman by the name of Dawn Pliszka?

8 A. Yes.

9 Q. Who is Dawn Pliszka?

10 A. Dawn Pliszka was our receptionist in 2005.

11 Q. As custodian of the records for *Auto Trader*, were  
12 you able to determine Ms Halbach's first trip to  
13 the Avery Auto Salvage property?

14 A. No, not by photo. We had the actual appointment  
15 information, but the photo had been purged from  
16 our system.

17 (Court reporter couldn't hear.)

18 A. The photo was purged from our system.

19 Q. I understand that, but what I'm asking is, do you  
20 also keep records, or calendars, or things of  
21 that nature to recreate appointments or things  
22 like that with your photographers?

23 A. Our customer's information is kept in our data  
24 base, by phone number.

25 Q. Were you aware that Steven Avery, or another, or

1           under another name, was one of *Auto Trader's*  
2           customers?

3    A.   Not before this, no.

4    Q.   That's what I'm asking you, after this, were you  
5           asked to find that out?

6    A.   Yes.   Yes.

7    Q.   And did you find that out?

8    A.   Yes.

9    Q.   And could you tell us about Steven Avery's  
10           contacts with *Auto Trader*?

11   A.   Well, he would phone in his requests for the  
12           photographer to come out to his property to take  
13           pictures. All of our customers are given the  
14           option to prepay, or pay with the photographer  
15           when he or she gets there. They would normally  
16           pay when the photographer got to this property.

17   Q.   By the way, how much does each photo shoot cost?

18   A.   We have several different packages, so anywhere  
19           about from twenty-four ninety-five to fifty-nine  
20           ninety-five.

21   Q.   You said Mr. Avery typically paid the  
22           photographer, paid in cash when he was there?

23   A.   Mm-hmm.

24   Q.   You have to say yes or no?

25   A.   Yes.

1 Q. All right. And, again, back to my earlier  
2 question, Ms Schuster, were you able, then, to  
3 determine the first time that Ms Halbach had gone  
4 to the Avery property, through those records, or  
5 is that something that you couldn't recreate?

6 A. Yes, we were.

7 Q. And what was that date?

8 A. In June.

9 Q. Was that the June 20th photo that we saw?

10 A. Yes.

11 Q. Do you know how many times Ms Halbach was asked  
12 to go out to the -- Steven Avery's property?

13 A. With the June, there was five times she was out  
14 there -- four times she was out to his property.

15 Q. That's not counting the 31st of October; is that  
16 right?

17 A. Right.

18 Q. And, again, Exhibits 11 through 16 are the photos  
19 or the product from those trips; is that correct?

20 A. Yes.

21 Q. Now, you said that your photographers generally  
22 would either contact you by phone or perhaps by  
23 fax or email. Do you know, specifically, how Ms  
24 Halbach made her connections or contacts with  
25 *Auto Trader*?

1 A. Through fax and phone.

2 Q. And so if a customer had made an appointment,  
3 even a last minute appointment; how would that  
4 typically be relayed to Ms Halbach?

5 A. If it was a last minute appointment, then the  
6 staff would write up the customer's information  
7 on a -- we have what was called a shoot or  
8 reshoot form, gather as much of the information  
9 from the customer and let the customer know that  
10 the photographer may or may not be out that same  
11 day, depending on his or her schedule.

12 Once they gather the information, then  
13 they call the photographer and ask if they had  
14 been to the area, or if they can possibly fit  
15 that shoot into their day. And, then, depending  
16 on if they get a hold of them or what they say,  
17 either a photographer will call the customer  
18 directly, or the office will call and let them  
19 know if they can make the shoot.

20 Q. Ms Schuster, I have now placed in front of you  
21 what's marked as Exhibit No. 17, you talked about  
22 some shoot or reshoot form. What is Exhibit 17?

23 A. The photo shoot/reshoot form.

24 Q. Now, did you fill out Exhibit No. 17 or did  
25 somebody else do that?

1 A. Somebody else did.

2 Q. And will we hear from that person later on this

3 morning; is that right?

4 A. Yes.

5 Q. Ms Schuster, was their typically a time frame or

6 a amount of time that you, as the manager, and

7 the photographers, specifically wanted by way of

8 lead time before they would go out to shoot any

9 of these photos?

10 A. Typically it's a 24 hour lead time, if the

11 customer wants an appointment. However, we do

12 have areas such as the Manitowoc/Sheboygan that

13 is typically not a busier area for us, so it is

14 open one day per week. So if we do get customers

15 that will call from our shorter service area, so

16 to speak, we will try to get the photographer

17 there that day, if they call on that day that

18 they are there. So ...

19 Q. Do you know, back in late October -- You are

20 talking about this being Teresa's district, back

21 in late October of '05; do you know the one day

22 of the week that *Auto Trader* would service that

23 county?

24 A. Mondays.

25 Q. So if somebody would call on Monday, let's say



1 Monday, October 31st, would it be possible that  
2 if called during that same day that the photo  
3 could be taken that same day?

4 A. Yes.

5 Q. Ms Schuster, when were you first informed or when  
6 were you asked about the whereabouts of Ms  
7 Halbach?

8 A. Thursday evening, her mother had called the  
9 office.

10 Q. And any time after the 31st of October, had you  
11 heard from Teresa Halbach?

12 A. No.

13 Q. Let's talk about the 31st, then, of October. And  
14 I'm going to ask you, specifically, whether you  
15 had any contact with Teresa Halbach, whether you  
16 did, any time that day?

17 A. Yes.

18 Q. Can you tell us when, please?

19 A. Teresa called in shortly after 11:00.

20 Q. 11:00 a.m.?

21 A. 11:00 a.m.

22 Q. What was the purpose of that?

23 A. The purpose was, she was returning Dawn's call  
24 from this morning; Dawn had left her a message to  
25 see if she was able to take a shoot. And Dawn

1           had already left for lunch and I had answered the  
2           phone. And Teresa had said -- asked if Dawn was  
3           there. I said, no, she was at lunch. And she  
4           said, can you just let her know that I will be  
5           able to get that shoot; she can fax the  
6           information over to me.

7   Q.   Verifying that she would be able to take the  
8           photo; is that right?

9   A.   Yes.

10   Q.   Was that the -- Again, based upon your records,  
11           was that the photo shoot that you later  
12           determined to be at the Steven Avery residence?

13   A.   Yes.

14   Q.   Or property. We'll hear from Dawn a little bit  
15           later this morning, but other than that call,  
16           sometime just after 11:00 a.m.; did you have any  
17           other contact with Teresa?

18   A.   No.

19   Q.   Finally, Ms Schuster, after law enforcement  
20           became involved in the search efforts, did you  
21           provide those digital images that we have  
22           referred to, as well as the information regarding  
23           the activities on the 31st and the information  
24           regarding the Canon PowerShot A310?

25   A.   Yes.

1                   ATTORNEY KRATZ: That's all I have of Ms  
2                   Schuster, Judge. Thank you.

3                   THE COURT: Mr. Buting.

4                   ATTORNEY BUTING: Thank you. See if I can  
5                   get this thing working; can you hear me?

6                   THE WITNESS: Yes.

7                   **CROSS-EXAMINATION**

8                   BY ATTORNEY BUTING:

9                   Q. Good morning, ma'am.

10                  A. Good morning.

11                  Q. We haven't actually met before, have we?

12                  A. No, we have not.

13                  Q. I want to step back a little bit and clarify just  
14                  how some of these procedures work, if we may.

15                  *Auto Trader* headquarters is actually in Hales  
16                  Corners, in the Milwaukee area, right?

17                  A. We're a satellite office, yes --

18                  Q. Okay.

19                  A. -- in Hales Corners.

20                  Q. Okay. And out of that office, you run  
21                  photographers all over the state, right?

22                  A. Correct. Yes.

23                  Q. And the state is kind of divided up in regions.  
24                  And one of these regions is the northeastern area  
25                  of Manitowoc, Sheboygan, Brown County area,

1 right?

2 A. Yes.

3 Q. And most of the contact with the photographers in  
4 those more distant regions, not right in the  
5 Milwaukee area, are done by emails, fax and  
6 phone?

7 A. Yes. And they also have overnight packages that  
8 they send.

9 Q. Okay. So in Ms Halbach's case, for instance, did  
10 she come down and interview for the job in Hales  
11 Corners?

12 A. No, I actually went to Green Bay and interviewed  
13 her.

14 Q. Okay. And that was about a year or so before  
15 October, 2005?

16 A. Yes.

17 Q. And was that the only time you actually met her?

18 A. Yes.

19 Q. From that point on, for the next year, to your  
20 knowledge did she ever come down to Hales  
21 Corners?

22 A. No.

23 Q. So all of her -- Well, for instance, let me ask  
24 you this, do you know whether she ever met Dawn  
25 Pliszka, the receptionist?

1 A. Not that I'm aware.

2 Q. Okay. So, really, her communication was with  
3 your office by phone, fax; did she use email with  
4 you?

5 A. She did.

6 Q. Okay. And most of those communications were  
7 fairly brief, I take it?

8 A. Yes.

9 Q. We got -- We got a call for you, or we got a job  
10 for you, here's the information, name, address,  
11 phone number; that's pretty much it?

12 A. I think -- I think the staff had more  
13 conversation with her. How was your weekend,  
14 that sort of thing, but for the most part,  
15 probably brief.

16 Q. Small talk kind of things?

17 A. Mm-hmm, yes.

18 Q. And your communication with Teresa Halbach was  
19 probably less even than the staff who were  
20 answering the phone?

21 A. Yes.

22 Q. Okay. Now, what you would typically do, when  
23 somebody would call in, or when the telemarketers  
24 -- Telemarketers were based in Florida, I think;  
25 is that right?

1 A. Yes, they were at the time.

2 Q. And what they would do is, they would comb  
3 newspapers or other publications for people who  
4 already put ads in and call them and say, hey,  
5 you know, why don't you put an ad in our  
6 publication as well?

7 A. Correct. Yes.

8 Q. Sort of cold calls --

9 A. Yes.

10 Q. -- right? And in fact, that's -- if you know,  
11 isn't that how *Auto Trader* made the contact with  
12 this George Zipperer later the same day, on  
13 October 31st?

14 A. Yes.

15 Q. It was a telemarketing call, right?

16 A. Yes.

17 Q. Okay. Now, so what your office would do is, it  
18 would either get the information from your  
19 telemarketers saying here's an address, phone  
20 number, we want you to go take a photograph of;  
21 or that person -- customer would call in or use  
22 the internet to call in themselves and say, we  
23 want this appointment, right?

24 A. Yes.

25 Q. And then your office -- Someone in your office

1           would prepare some kind of a form to fax to the  
2           photographers their appointments?

3     A.    Yes.

4     Q.    Who did that; was that you?

5     A.    That was Dawn.

6     Q.    So Dawn would do that. Did you bring any of  
7           those records with you today; any of those kind  
8           of appointment sheets?

9     A.    No, I did not.

10    Q.    I'm going to show you one so we know what we're  
11          talking about.

12                    ATTORNEY BUTING: Mark this.

13                    (Exhibit 18 marked for identification.)

14    Q.    Now, this one, if I understand it, is from a  
15          couple months earlier. We'll talk about some  
16          more recent ones in a minute. But if you could  
17          just identify for us what this is?

18    A.    That is the photographer's detailed appointment  
19          report for that day.

20    Q.    And it's been marked as Exhibit 18 now, right?

21    A.    Yes.

22    Q.    Your Honor, could I use the ELMO?

23                    THE COURT: Sure.

24    Q.    (By Attorney Buting)~ A little hard to see  
25          because this is a white sheet, but showing you

1           what's up on the screen now; is -- that's what we  
2           just referred to as Exhibit 18?

3   A.   Yes.

4   Q.   And at the top there is a fax line that says from  
5       *Auto Trader*. It's got the fax number that you  
6       would fax it to the photographer, in this case  
7       Teresa, right?

8   A.   Yes.

9   Q.   And, then, it's also got a faxed back one from  
10       Teresa, correct?

11  A.   Right.

12  Q.   Now, this one has a lot of handwriting on it. It  
13       doesn't come to the photographer, in this case  
14       Teresa, like that, right?

15  A.   No, it does not.

16  Q.   It would initially come with just the typed out  
17       information of date, name, address and phone  
18       number on the right column, right?

19  A.   Correct. Yes.

20  Q.   And, then, over -- You would get these from, not  
21       just Teresa, but from all the photographers, and  
22       you would go through them in terms of figuring  
23       out what to pay them, right?

24  A.   Yes.

25  Q.   So these were regular records that you use in



1           your business to determine how to -- not only  
2           keep track of appointments, but pay the  
3           photographers?

4    A.    Yes.

5    Q.    And what Teresa would do, you became familiar  
6           with her custom and practice, right?

7    A.    Yes.

8    Q.    Which was that she would take these forms and  
9           then in handwriting she would put along the side,  
10          done, done, done, no pay, done pay, those kinds  
11          of things?

12   A.    Yes.

13   Q.    And then at the top, if we could see the very top  
14          of it a little bit. In this instance, she  
15          circled 8 and she put 6 completed and 2 no  
16          payment, right?

17   A.    Yes.

18   Q.    And then she has, plus one hustle?

19   A.    Yes.

20   Q.    And then P form, what's that?

21   A.    The P form is a form that photographers use when  
22          they get a shot that might be a referral, or a  
23          second shot at a customer's home. And so how  
24          they are numbered, it starts with a P; that's why  
25          we call it a P form.

1 Q. Okay. All right. And so from this, then, you  
2 would figure that you would pay her 8 -- for 8  
3 shots plus this hustle one?

4 A. Correct.

5 Q. And we'll talk about the hustle in just a minute.  
6 Now, normally, Teresa's practice, as all of the  
7 photographers' practice would be, that you would  
8 not get this form back from them until after the  
9 day's appointments had been completed; is that  
10 right?

11 A. Correct.

12 Q. So that, for instance, let's take October 31st.  
13 Or, actually, let me clarify something. The  
14 deadline for getting your ads into the magazine,  
15 is what?

16 A. Mondays and Tuesdays.

17 Q. Okay. So Teresa's day for that part of the  
18 state, which was Monday, she would be expected to  
19 get that information to *Auto Trader* by the very  
20 next day in order to make it into the deadline?

21 A. Yes.

22 Q. The way she would do that, in fact, you provided  
23 discs, little digital camera discs for each  
24 photographer, right?

25 A. Yes.

1 Q. And she would -- she would go around, take all  
2 the pictures for that day, collect the paperwork  
3 from the customer, put it all in an overnight Fed  
4 Ex, UPS, something like that, and overnight it to  
5 *Auto Trader* in Milwaukee for the next day?

6 A. Yes.

7 Q. Okay. And along with the money?

8 A. Yes.

9 Q. Okay. So from the customer, Teresa would collect  
10 -- She would take the photograph. She would also  
11 fill out a form that included, what, a copy,  
12 written part, should be the description of the  
13 vehicle?

14 A. Yes.

15 Q. And the money and all of that would go to you,  
16 overnight?

17 A. Yes.

18 Q. But even before that arrived at your office, she  
19 would fax this kind of a sheet to you at the end  
20 of the day?

21 A. Right. Yes.

22 Q. But now, there's something kind of unusual about  
23 October 31st of 2005, and the way that works,  
24 wasn't there?

25 A. Yes. We actually received a fax from Teresa

1 earlier in the day.

2 Q. Okay. And, in fact, you received it, if I

3 recall, it was shortly after midnight on the

4 30th; that is, very early, you know, 12:30 or

5 12:18 a.m., early morning hours of the 31st?

6 A. Right. Yes. Correct.

7 Q. And that was faxed from her?

8 A. Correct.

9 Q. And it involved the shoots for that upcoming day?

10 A. Yes.

11 Q. That hadn't even -- Appointments hadn't even been

12 made yet, or kept yet, right?

13 A. No, if it was faxed back to us, it would be

14 anything that she had completed.

15 Q. Okay. But the one that you received on the 31st,

16 correct me if I'm wrong, actually contained the

17 appointments for the day of the 31st; did it not?

18 A. No. No, we don't print their appointment reports

19 or their actual leads until 7:00 a.m. in the

20 morning. So on the 31st, on that Monday, her

21 leads would not have been printed until after

22 7:00 a.m.

23 Q. Okay.

24 A. So she couldn't have had them at 12:30.

25 Q. So the one that she sent back to you at 12:30

1 a.m. was --

2 A. It was from Friday, or Saturday or Thursday.

3 Q. Okay. But in it, it included some information  
4 about appointments that had been actually  
5 rescheduled for the coming week?

6 A. Yes, photographers do reschedule appointments as  
7 well.

8 Q. Okay. Now, you mentioned that most of the leads  
9 for photographers come from *Auto Trader* itself,  
10 either the telemarketing or customers who called  
11 in?

12 A. Yes.

13 Q. About 90 percent of the shoots that the  
14 photographers do, come from -- from *Auto Trader*  
15 to the photographer?

16 A. Yes.

17 Q. But there's something else where maybe 10 percent  
18 on average of a photographer's shoots are called  
19 hustle shots, right?

20 A. Yes.

21 Q. And those are where leads come, not from *Auto*  
22 *Trader*, but from the photographer him or herself?

23 A. Yes.

24 Q. And there is an incentive for photographers to do  
25 that because they get paid more on hustle shots,

1           don't they?

2   A.   Yes.

3   Q.   What was the pay for a *Auto Trader* lead,

4           typically?

5   A.   Typically, eight seventy-five.

6   Q.   \$8.75 for one photo.

7   A.   One photo.

8   Q.   Okay. And what about a hustle shot?

9   A.   Eighteen seventy-five.

10   Q.   Okay. And when the photographer would -- would

11           schedule a hustle shot, it would not be on your

12           list of appointments that were faxed to the

13           photographer the morning of each day, whatever

14           you said, 7:00 a.m., right?

15   A.   Correct.

16   Q.   In fact, your office would not even know about

17           any hustle shots, unless and until the

18           photographer sent that information back to you at

19           the end of the day; isn't that right?

20   A.   Yes.

21   Q.   And like, for instance, let's take this one

22           that's up there. She specifically says 8 of the

23           appointments that you gave her -- your office

24           gave her, were completed, right?

25   A.   Yes.

1 Q. But there was an additional one that's not listed  
2 anywhere on that sheet, right?

3 A. Right. It's probably handwritten on the bottom.

4 Q. Well, let's look and see. Okay. That would be  
5 considered the hustle, the one that's  
6 handwritten?

7 A. Yes. Actually, we would not have considered that  
8 a hustle, a hustle shot she confirmed with the  
9 office. That was a rescheduled appointment that  
10 she had taken that day.

11 Q. Okay. So the hustle shot is not even on this  
12 form yet?

13 A. It's a three us (phonetic). It does not.

14 Q. Okay. In fact, that was often Teresa's practice,  
15 is that you didn't know -- For instance, you  
16 didn't really care on this particular form, when  
17 you get this back, you didn't care about the  
18 information from those hustle shots yet, right?

19 A. Correct.

20 Q. What you cared about is making sure that when the  
21 Fed Ex came the next day, that's when you needed  
22 to know the information of the name, address,  
23 photo, copy information for these hustle shots,  
24 right?

25 A. We like to have them on the forms, but they don't

1           often write them on there.

2   Q.   Very often, yes.  And in Teresa's case, she often

3       didn't, right?

4   A.   I would have to look at her sheets to be sure if

5       it was often or not.

6   Q.   Okay.  I'm going to let you do that in just a

7       couple minutes, but I wanted to get a few other

8       things about the way this business works down

9       first.  Repeat customers are very common for *Auto*

10      *Trader*, right?

11  A.   Yes.

12  Q.   In fact, you like those kinds of customers,

13      right?

14  A.   Yes.

15  Q.   The first time someone calls in you set up an

16      account for them, right?

17  A.   Yes.

18  Q.   And then, they can either be billed or they pay

19      as you go kind of approach, from that point on,

20      right?

21  A.   Right.  We don't bill.  They will pay when the

22      photographer comes out or they can prepay.

23  Q.   Okay.  And Mr. Avery was one of those repeat

24      customers, was he not?

25  A.   Yes.



1 Q. You mentioned -- It was a little unclear, you  
2 mentioned four times that he had been there, then  
3 you mentioned five. Counting, starting with June  
4 and going up through October 31st, that was  
5 actually six times that he had used your  
6 business; isn't that right?

7 A. October 31st would have been her 5th visit to his  
8 property.

9 Q. Well, let's -- Do you have those exhibits still  
10 up there in front of you, photographs? Exhibit  
11 11, you said was a June 20th shot; do you see  
12 that?

13 A. I have to find 11. Yes, that was June.

14 Q. Exhibit 12 was August 22nd?

15 A. Yes.

16 Q. Exhibit 13 was August 29th?

17 A. Okay.

18 Q. Exhibit 14 and 15 were from the 19th -- I'm  
19 sorry, September 19th; is that right?

20 A. Yes.

21 Q. And then the last one you have up there is  
22 October 10th of '05, that's Exhibit 16?

23 A. Okay.

24 Q. So that's five that you have up there, right?

25 A. Five through -- Yes.

1 Q. So the 31st of October would have been the 6th  
2 visit?

3 A. Okay.

4 Q. Okay. And your records had Mr. Avery's address,  
5 correct, your office records?

6 A. Yes.

7 Q. As an account, an open account that you have,  
8 right?

9 A. Yes.

10 Q. It had his phone number, right?

11 A. Yes.

12 Q. And, in fact, you had more than one phone number  
13 associated with that particular account, correct?

14 A. I do believe so, yes.

15 Q. Now, the name Janda, J-a-n-d-a, that also was a  
16 name that was used on a prior visit to Teresa to  
17 the Avery salvage property was it not?

18 A. I'm not sure.

19 (Exhibit No. 19 marked for identification.)

20 Q. I'm going to show you Exhibit 19, see if you can  
21 identify that.

22 A. Exhibit 19, okay.

23 Q. It's another one of her fax?

24 A. Reports.

25 Q. Appointment sheets?

1 A. Yes.

2 Q. Okay. If you look at the first, very first name  
3 on the list there.

4 (Court reporter couldn't hear.)

5 Q. Say it again.

6 A. Tom Janda.

7 Q. J-a-n-d-a, right?

8 A. Yes.

9 Q. Can everybody see that, the first name there?  
10 And right next to that name is a phone number,  
11 right?

12 A. Yes.

13 Q. And an address, 12930A Avery Road, correct?

14 A. Yes.

15 Q. And that's the very same address and phone number  
16 that was given by Mr. Avery when he called in  
17 your office on October 31st, right?

18 A. Yes.

19 Q. And so your office knew that this Janda, B.  
20 Janda, was associated with the Avery salvage  
21 property?

22 A. I'm not sure if Dawn had recognized that at all.  
23 The phone numbers are different, so that's why  
24 another account was created under B. Janda.

25 Q. But the very name of the road is Avery, correct?

1 A. Correct.

2 Q. So that's a little bit of a hint that it's

3 associated with Mr. Avery, right?

4 A. Sure.

5 Q. Okay. This one by the way is?

6 ATTORNEY BUTING: Maybe you could unzoom

7 it.

8 Q. (By Attorney Buting)~ This is the appointment, I

9 believe, for September 19th. And if you could

10 just read the bottom of that note.

11 ATTORNEY BUTING: Push it up a bit, Dean.

12 Q. (By Attorney Buting)~ It says 9/19 at the top.

13 She says, I also did one hustle shot. It's the

14 first one on the disc, but I forgot to send the

15 sheet with the info. Is that right?

16 A. Yes.

17 Q. Okay. Now, when Mr. -- Mr. Fassbender,

18 Investigator Fassbender from the DCI, met with

19 you, he had you go through a number of the

20 records that you had on Mr. Avery's involvement

21 and Teresa Halbach's entire photo shoot history,

22 correct?

23 A. Yes.

24 Q. And you actually printed out a list of all of

25 these -- or copies of each one of these forms

1           that -- like Exhibit 18 and 19 that we're  
2           referring to here today, right?

3    A.    Yes.  Anything that we had in our files, yes.

4    Q.    Any of these that Teresa had done, you printed  
5           out?

6    A.    Yes.

7    Q.    And you looked through them when you talked with  
8           him, right?

9    A.    We didn't look through everything.

10   Q.    Okay.  Well, would it be fair to say that from  
11          your review of the records, it was clear to you  
12          that Teresa did have a history of these hustle  
13          shots, of using these hustle shots for some extra  
14          income?

15   A.    Sure.  Yes.

16   Q.    And maybe you will need to take a moment to look  
17          at these, but I believe in the last 16 or 17  
18          visits -- I'm sorry, 16 or 17 days that Teresa  
19          did any of these shoots of any kind, she did 12  
20          hustle shots; does that ring a bell?

21   A.    I would have to look.

22   Q.    All right.

23                   ATTORNEY BUTING:  Mark this whole stack of  
24                   reports.

25   Q.    (By Attorney Buting)~ But if you could just take

1           a moment. Just ignore my post-its, but  
2           count through how many days of shoots that is.  
3           It's starting with September 19th of 2005, and  
4           then count up how many actual hustle shots she  
5           reports?  
6    A.    Okay.  
7    Q.    Count the days first.  
8    A.    All right. Fifteen days.  
9    Q.    Fifteen days, okay. Count up how many hustle  
10          shots she did during that 15 day period.  
11   A.    Okay. It appears five.  
12   Q.    Let's look at this again, please. There's one  
13          there, right?  
14   A.    Okay, but listed here, this does not -- this does  
15          not tell me that there's a hustle on this sheet.  
16   Q.    That's right.  
17   A.    So I did not count that.  
18   Q.    Well, she puts down that she did a hustle?  
19   A.    Right. When these sheets would come back, if she  
20          would mark down that there's a hustle shot on  
21          here, before payroll, after they hand in their  
22          papers, I would go through the sheet and if I  
23          wouldn't see a hustle on here, I would have to  
24          call them.  
25   Q.    Right.

1 A. And say on this date you have a hustle; I don't  
2 see anything for a hustle. You know, unless they  
3 would specify, that's how they would be paid for  
4 the hustle.

5 Q. But she wouldn't -- On these forms that she faxes  
6 back to you, she doesn't always put the names of  
7 the hustles, that comes in later?

8 A. Right.

9 Q. But here she's just telling you that she did do  
10 another hustle, it's just not reflected on these  
11 records.

12 A. Right. Yes.

13 Q. So she says she did one hustle on this form,  
14 right?

15 A. Right.

16 Q. Okay.

17 A. And this one she does a hustle.

18 Q. Okay. So that's two.

19 ATTORNEY KRATZ: Judge, could I ask what  
20 the relevance of this is --

21 ATTORNEY BUTING: I will get to that.

22 ATTORNEY KRATZ: -- about this homicide; if  
23 she did 9, or 11, or 13 hustle shots.

24 ATTORNEY BUTING: I will get to that.

25 THE COURT: I will give him a little

1 latitude.

2 Q. (By Attorney Buting)~ So there's 3, you saw that  
3 one there, right?

4 A. Yes.

5 Q. So there's 8 on that one, right? That's 11,  
6 another one there, that's 12; do you agree?

7 A. Yes. If you count what she wrote up on top.

8 ATTORNEY FALLON: I couldn't hear the  
9 witness' response.

10 ATTORNEY BUTING: If you count what she  
11 wrote up top.

12 Q. (By Attorney Buting)~ So what Teresa told you on  
13 these forms, is that she did 12 hustles in these  
14 15 days?

15 A. Correct.

16 Q. And, again, she wouldn't -- you wouldn't know  
17 about those hustles that she did in advance,  
18 correct?

19 A. Correct.

20 Q. And so, on October 31st of 2005, if Teresa  
21 Halbach had done a hustle shot, you would not  
22 have known it in advance, would you?

23 A. No.

24 Q. So if Teresa Halbach, after 3, 3:30, 4, whatever,  
25 later in the day on October 31st, went to do one



1 of these hustle shots, you wouldn't know it?

2 A. Correct.

3 Q. Because you never got a completed fax like this  
4 back after October 31st?

5 A. Correct.

6 Q. Or anything in the mail with the information from  
7 that hustle shot, correct?

8 A. Correct.

9 Q. So the bottom line is, from your records, you  
10 don't know and cannot tell this jury, whether or  
11 not Teresa Halbach left Mr. Avery's property on  
12 October 31st and went somewhere else to do a  
13 hustle shot; isn't that right?

14 A. That's correct.

15 Q. Thank you.

16 THE COURT: Mr. --

17 **REDIRECT EXAMINATION**

18 BY ATTORNEY KRATZ:

19 Q. One follow up question, Ms Schuster, the real  
20 bottom line is, if Ms Halbach was killed by Mr.  
21 Avery, she couldn't have done any hustle shots  
22 after that, could she?

23 A. That would be correct.

24 ATTORNEY KRATZ: That's all.

25 ATTORNEY BUTING: Nothing.

1                   THE COURT: All right. The witness is  
2                   excused.

3                   Members of the jury, we'll take our  
4                   morning break at this time. The attorneys, I  
5                   believe, have something to take up outside the  
6                   presence of the jury, so I can't tell you exactly  
7                   when you will be coming back. But as soon as  
8                   we're ready, we'll call you back.

9                   ATTORNEY BUTING: Judge, I would move  
10                  Exhibit 18 and 19 in.

11                  THE COURT: Any objection?

12                  ATTORNEY KRATZ: No.

13                  THE COURT: Those are admitted.

14                  ATTORNEY KRATZ: When would you like us  
15                  back, Judge.

16                  THE COURT: Let's report back at 25 to 11.

17                  ATTORNEY KRATZ: That's fine. Thank you.

18                               (Recess taken.)

19                               (Jury not present.)

20                  THE COURT: Mr. Kratz, do I understand that  
21                  the State wishes to address a matter outside the  
22                  presence of the jury before the next witness?

23                  ATTORNEY KRATZ: I do, Judge. We do have  
24                  Dawn Pliszka, who is our next witness. The Court  
25                  had previously ruled on an admissibility issue. I

1 believe the Court contemplated a very brief offer of  
2 proof that would require some brief testimony. I'm  
3 prepared to call Ms Pliszka. And I think it  
4 probably best we excuse Ms Pliszka from the  
5 courtroom so that counsel can argue admissibility on  
6 that one.

7 THE COURT: Does the defense agree?

8 ATTORNEY STRANG: Sure.

9 THE COURT: Okay. Very well. You may call  
10 your next witness.

11 ATTORNEY KRATZ: Dawn Pliszka.

12 THE CLERK: Please raise your right hand.

13 **DAWN PLISZKA**, called as a witness  
14 herein, having been first duly sworn, was  
15 examined and testified as follows:

16 THE CLERK: Please be seated. Please state  
17 your name and spell your last name for the record.

18 THE WITNESS: Dawn Pliszka, P-l-i-s-z-k-a.

19 **DIRECT EXAMINATION**

20 BY ATTORNEY KRATZ:

21 Q. Ms Pliszka, this is not your testimony before the  
22 Court, but this is -- excuse me -- before the  
23 jury, but this is simply retrieving from you some  
24 very narrow information about a conversation that  
25 you had with Teresa; do you understand that?

1 A. Yes.

2 Q. You were a receptionist with *Auto Trader* during  
3 the fall of 2005; is that right?

4 A. Yes.

5 Q. And what kind of relationship did you have with  
6 Teresa; in other words, did you and Ms Halbach  
7 have occasion to discuss matters of a more  
8 personal nature?

9 A. Yes, we did.

10 Q. During the course of those discussions, did Ms  
11 Halbach ever describe for you a contact or  
12 incident that she had with the defendant, Steven  
13 Avery?

14 A. Yes.

15 Q. Could you describe, first of all, the words that  
16 she used and then we will describe the  
17 circumstances surrounding that. So first tell us  
18 what she told you.

19 A. After she was out there, around October 10th, it  
20 was like about a week or so after that, she had  
21 stated to me that he had come out in a towel.

22 Q. He meaning whom?

23 A. Steven Avery.

24 Q. Had come out where?

25 A. She didn't specify, she just said that he had

1           come out, just in a towel.

2       Q.   All right. Did Ms Halbach describe for you  
3           anything else about that, any other details about  
4           seeing Mr. Avery in a towel?

5       A.   The only -- I just said, really, and she said,  
6           yeah, and she said, yeah, and she laughed and  
7           just said kind of, ewww, you know.

8       Q.   Okay. You said kind of what?

9       A.   Ewww.

10      Q.   Ewww.

11      A.   Yeah, just that.

12      Q.   I guess not in a positive way?

13      A.   Not in a positive way, no.

14      Q.   Did Ms Halbach -- or was she seeming to describe  
15           a specific event; in other words, was she  
16           remembering that event when she was describing it  
17           for you?

18      A.   Yes.

19                   ATTORNEY KRATZ: At least as far as my  
20           offer of proof, the rest is argument. I don't have  
21           anything further from Ms Pliszka for this offer of  
22           proof.

23                   THE COURT: Mr. Strang.

24                               **CROSS-EXAMINATION**

25           BY ATTORNEY STRANG:

1 Q. Hi. Do you think this was a week or more after  
2 October 10th?

3 A. Yes, that I talked to her. I don't know when the  
4 incident exactly was.

5 Q. Okay. But you're probably talking to Teresa  
6 Halbach October 17, or some time shortly after  
7 that?

8 A. Mm-hmm. Yes.

9 Q. She did not say that this had happened on October  
10 10 or any specific date?

11 A. She did not specify the date, no.

12 Q. She didn't call you to tell you about this  
13 incident?

14 A. Not specifically, no, it just came up in  
15 conversation.

16 Q. You were chitty chatting with her?

17 A. Yeah. Mm-hmm.

18 Q. And the reaction was ewww?

19 A. Yeah, it was unfavorable.

20 Q. Yeah. And then she sort of laughed it off?

21 A. Right.

22 Q. This was 10 -- 10, 15 seconds of conversation?

23 A. I would say, yes.

24 Q. How long was the phone call, roughly?

25 A. Altogether, probably a couple minutes at that

1 time.

2 Q. What sorts of other subjects did you two cover in  
3 that conversation?

4 A. Probably just work related. I don't really  
5 remember all the details of the conversation. I  
6 just remember her saying that.

7 Q. Do you remember whether she called you or you  
8 called her?

9 A. I think that time she called me, probably she had  
10 a question on one of her photos, I think.

11 Q. Okay. So she had some more immediate work  
12 purpose for the call?

13 A. Mm-hmm. Yes.

14 Q. And the two of you got sort of chatting and this  
15 is one of the things she brought up?

16 A. Right.

17 Q. She did not give you any sense of time on when  
18 this had occurred?

19 A. No, she did not.

20 ATTORNEY STRANG: Okay. Thanks. That's  
21 all I have.

22 ATTORNEY KRATZ: Judge, one follow up.

23 **REDIRECT EXAMINATION**

24 BY ATTORNEY KRATZ:

25 Q. In the interim, that is, between October 10th and

1           October 17th, or really around that period of  
2           time, would you have these kinds of conversations  
3           often with Teresa, personal chit chatty  
4           conversations?

5       A.    Pretty much every time she called in.  I talked  
6           to her a couple times a week because I sent out  
7           the photo leads and everything, so we talked  
8           quite a bit.

9                    ATTORNEY KRATZ:  That's all I have.  If we  
10           could excuse Ms Pliszka, Judge, then I'm prepared to  
11           make my argument.

12                   THE COURT:  All right.  I just have a  
13           couple of follow up questions.

14                               **EXAMINATION**

15       BY THE COURT:

16       Q.    You said that the conversation took place a week  
17           or so after October 10th?

18       A.    Yes.

19       Q.    And is it your understanding that October 10th is  
20           the day that she was describing that this  
21           happened?

22       A.    I really can't say for sure.

23       Q.    All right.  So you don't know if she was talking  
24           about a visit to Mr. Avery's property on October  
25           10th or at some previous unspecified visit?



1 A. Yeah, I would not know that for sure.

2 Q. And do you remember how the comment -- or what  
3 prompted the comment, what background  
4 conversation led up to it?

5 A. I don't really remember, no. I just remember --  
6 We used to talk about different things that had  
7 happened during our day that were unusual, or  
8 funny, or different customers and things like  
9 that, so.

10 THE COURT: All right. You are excused  
11 from the courtroom for a few minutes. Mr. Kratz.

12 ATTORNEY KRATZ: Thank you, Judge. As this  
13 Court knows, this statement is being offered  
14 pursuant to the hearsay exception of a statement of  
15 a recent perception. It is important, Judge, to  
16 note the different admissibility standards for  
17 recent perception, compared to present sense  
18 impression, or even excited utterance where time is  
19 important; that being time -- the time sensitive  
20 nature.

21 Because of the nature of this particular  
22 conversation, it's clear that the three factors  
23 that are required for recent perception have been  
24 established. First of all, the issue of whether  
25 or not the event or condition that's being

1 described was recently perceived is a factor, but  
2 recently is in a much, much broader term.

3 1988 Court of Appeals decision of  
4 ***Kluever vs. Evangelical Reform Congregation,***  
5 cited at 143 Wis. 2d, 806, was a 8 to 10 week  
6 period between the event and its description.  
7 The recent perception admissibility theory was  
8 satisfied by that 8 to 10 week period.

9 But here, Judge, I think we can infer  
10 that the -- because it only occurred a short time  
11 after the October 10th meeting, that it was of  
12 recent perception; at least more recent or recent  
13 enough to satisfy that particular prong.

14 Again, Judge, the statement -- or,  
15 secondly, I should say, the statement must be  
16 made where the declarant is recalling something  
17 clearly and that it's not in response to some  
18 litigation or investigation.

19 The second and third prongs aren't  
20 really, I believe, at issue in this case. So I  
21 believe the State has met, through this offer of  
22 proof, the foundation under 908.045 (2) with the  
23 declarant, that is, Ms Halbach, being  
24 unavailable, that this is a statement of recent  
25 perception and would ask the Court allow its

1           admissibility.

2                   THE COURT:   Mr. Strang.

3                   ATTORNEY STRANG:   Thank you, your Honor.   I  
4           agree that if this statement fits anywhere it would  
5           fit under Section 908.045 (2).   Wisconsin's unusual,  
6           I think not taken directly from a uniform rules of  
7           evidence or model rules of evidence, but Wisconsin's  
8           exception for statements of recent perception.

9                   Clear out the under brush first.  
10          There's -- if there's no gainsay in the fact that  
11          Teresa Halbach is unavailable, so the State meets  
12          that threshold requirement.   And I, like  
13          Mr. Kratz, view this statement as not in  
14          contemplation of litigation.

15                   I have no reason to question Teresa  
16          Halbach's recollection being clear at the time.  
17          And this statement was not in response to  
18          instigation of a person who was investigating or  
19          litigating a claim.   So the question does come  
20          down to the recency requirement.

21                   Going to back up just a little bit, if  
22          you think about the basic rationales of hearsay  
23          exceptions, most of them are either because the  
24          out of court statement is of a type that's  
25          extraordinarily reliable and courts have

1 recognized that over the last several centuries.  
2 Or that the hearsay statement is of a type where  
3 we have a high necessity to have something like  
4 that. And, of course, reliability and necessity  
5 are not poles.

6 All of the exceptions, at least where  
7 un -- unavailability are concerned, have both a  
8 necessity component and then some assurances of  
9 reliability. And because we're under the  
10 unavailability exceptions, the necessity interest  
11 presumably would be higher. And that's why we  
12 see a relaxation of the reliability requirement,  
13 with a little bit more expansive tolerance for a  
14 period of time than, for example, under the  
15 excited utterance exception where there's a lower  
16 presumptive necessity showing because the  
17 availability of the declarant doesn't matter.

18 So, with that focus, let's look, first,  
19 at necessity. Very, very low necessity here.  
20 The State originally sought this type of evidence  
21 because it had added a sexual assault allegation  
22 to the Information. That now has been dismissed,  
23 so sexual assault is not in play.

24 And the State conceded, in its opening  
25 statement, that it can't answer the motive

1 question, can't explain for a jury why and won't  
2 attempt to prove motive here. So even where  
3 sexual assaults go into play, the original  
4 reasons the State offered in pursuing this bit of  
5 evidence originally as uncharged misconduct, both  
6 have fallen away and necessity is very low.

7 Reliability, though, also is quite low  
8 here. As -- as my question suggested and I think  
9 the Court's question cemented, we have no way of  
10 knowing here whether this statement related back  
11 as far as June 20 or as recently as October 10,  
12 which itself would have been about a week or  
13 perhaps more after the incident.

14 Mr. Kratz cited **Kluever**, K-l-u-e-v-e-r,  
15 **vs. Evangelical Reformed Immanuel Congregation**.  
16 And it's true that there was an 8 to 10 week  
17 period of time at issue in **Kluever**, but the facts  
18 of **Kluever** are worth noting. The statement was  
19 made while the declarant was in a hospital bed  
20 recovering from a bad fall.

21 And the Court noted, in accepting the 8  
22 to 10 week time period that the statement was one  
23 of his few "islets", i-s-l-e-t-s, of memory in  
24 the time period since his fall. So there was  
25 sort of a compression, or at least an amorphous

1       quality of time for the declarant there, kind of  
2       a foreshortening, if you will, of recency given  
3       the injuries that the man had sustained and was  
4       recovering from in the hospital bed.

5               So, I don't know in the end that **Kluever**  
6       gives a whole lot of help here. I do concede  
7       that we don't need the immediacy or quite the  
8       recency that an excited utterance would require  
9       for the reasons I explained concerning the  
10      underlying rationale for these hearsay  
11      exceptions.

12             But I don't think the State has shown  
13      that this had any real recency. It certainly  
14      wasn't the purpose of the call, no sense of  
15      immediacy, casual chit chat, at least a week and  
16      perhaps four months after the incident at issue.

17             So coupled with a very low necessity for  
18      this, at this point, and a dubious showing of  
19      recency, whether we look just to 908.045 (2) or  
20      the Court also considers the 904.03 analysis,  
21      again, with necessity and how -- how probative  
22      really, is this of any relevant or material  
23      issue; I think for both those reasons this just  
24      ought not be admitted.

25             There is some prejudice to it too. It's

1 got a little bit of a salacious quality. I'm not  
2 saying it couldn't be dealt with on cross, but I  
3 don't think the State has met the threshold to  
4 fit it within this hearsay exception. The State  
5 has offered no other; and, on balance, I also  
6 think that 904.03 would suggest exclusion.

7 THE COURT: Mr. Kratz.

8 ATTORNEY KRATZ: Just very briefly, Judge.  
9 The uniqueness of this statement, that is, the event  
10 of a man of Mr. Avery's stature showing up, or  
11 coming out, as the term is, in just a towel, we can  
12 infer would have drawn some comment if it would have  
13 happened sooner, perhaps as early as June 20th as  
14 counsel may have suggested.

15 But I think the fact that this was in  
16 the course of business chit chat and this  
17 statement comes out of the blue, if you will, as  
18 far as Mr. Avery goes, adds to its reliability  
19 and to its credibility. And for those reasons,  
20 Judge, and for the other reasons that I have  
21 mentioned, we'll ask the Court allow this as  
22 admissible.

23 THE COURT: All right. I'm going to take a  
24 few minutes to check a few things. I will be back,  
25 probably within about 10 minutes with a decision.

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(Recess taken.)

(Jury not present.)

THE COURT: The Court has previously ruled that the statement regarding the brief statement of Teresa Halbach that Mr. Avery had come out in a towel could be admissible subject to appropriate foundation. The appropriate hearsay exception reads in relevant part as follows: The following statements are not excluded, the statement which describes an event or condition recently perceived by the declarant, not in contemplation of pending or anticipated litigation and while the declarant's recollection was clear.

In this case, it's not disputed that the statement was not made in contemplation of any litigation. There does not seem to be a dispute that the statement was made while the declarant's recollection was clear. There is an issue as to whether or not the statement described an event or condition recently perceived.

The situation is complicated somewhat in this case by the fact that, as the Court understands the testimony of the witness, we don't know precisely when the date was that the statement was alleged to have been made.



1           In the Court's opinion, this is a very  
2           close decision. As the parties recognize, the  
3           recency requirement does not, in this case,  
4           necessarily mean a day or two before. But the  
5           Court feels that some specificity is required,  
6           and in this case we don't really know within the  
7           range of weeks or months exactly when the  
8           statement was made. Presumably it could have  
9           been -- or when the observation was made,  
10          presumably it could have been any time from the  
11          middle of June until October 10th.

12           I'm also concerned by the lack of  
13          context in which the decision was made, or it's a  
14          very short one sentence description of an event  
15          or condition, without any qualifiers, or any  
16          solid explanation. And in the Court's opinion,  
17          that makes its relevance and certainly potential  
18          for prejudice -- relevance, less; potential for  
19          prejudice greater.

20           And for that reason, while the decision  
21          is admittedly a close one, the Court is not going  
22          to allow the evidence in for the reasons I gave.  
23          The lack of specificity and the uncertainty as to  
24          exactly when the statement was made and the fact  
25          that different inferences could be drawn from it

1           because there is so little information about its  
2           background.

3                     Anything else before we bring the jury  
4           back in?

5                     ATTORNEY KRATZ:   No.

6                     THE COURT:   Very well, we'll bring in the  
7           jury.

8                             (Jury present.)

9                     THE COURT:   You may be seated.   Mr. Kratz,  
10          at this time the State may call its next witness.

11                     ATTORNEY KRATZ:   State will call Dawn  
12          Pliszka, Judge.

13                     THE CLERK:   Raise your right hand.

14                     **DAWN PLISZKA**, called as a witness  
15          herein, having been first duly sworn, was  
16          examined and testified as follows:

17                     THE CLERK:   Please be seated.   Please state  
18          your name and spell your last name for the record.

19                     THE WITNESS:   Dawn Pliszka, P-l-i-s-z-k-a.

20                             **DIRECT EXAMINATION**

21          BY ATTORNEY KRATZ:

22          Q.   Ms Pliszka, I want to direct your attention to  
23               the fall of 2005 and ask if you can tell the jury  
24               how you were employed at that time?

25          A.   I was a receptionist at *Auto Trader*.

1 Q. And what were your duties as a receptionist?

2 A. I sent out the photography leads. I took

3 incoming phone calls. Sent out t-shirts. Mailed

4 out catalogs.

5 Q. As part of that employment, did you have the

6 privilege of knowing a young woman named Teresa

7 Halbach?

8 A. Yes, I did.

9 Q. Could you tell the jury, please, how you knew Ms

10 Halbach?

11 A. She was one of our photographers. She started

12 just a little after I did, so we were fairly

13 close.

14 Q. Ms Pliszka, I'm going to direct your attention,

15 specifically, to October 31st of 2005, ask if you

16 were working on that day?

17 A. Yes, I was.

18 Q. Do you remember about what time you started work?

19 A. I started at 7:00.

20 Q. Seven in the morning?

21 A. Mm-hmm. Yes.

22 Q. At or about 8:12 a.m., do you recall receiving a

23 call that day?

24 A. Yes, I do.

25 Q. And could you tell the jury about that call,

1           please.

2       A.    It was from a man.  He said that he wanted the  
3           photographer who had been out there before.  He  
4           was selling a mini van and he needed her to take  
5           photos.

6       Q.    Did this man identify what name the photography  
7           job would be under?

8       A.    I couldn't quite make him out because he was very  
9           hard to understand.  The closest I got was the  
10          initial B. Janda.

11      Q.    This man said that he wanted the photographer who  
12          had been out there before; did he identify by  
13          name that person?

14      A.    No, he did not.

15      Q.    Did he provide you an address where he wanted  
16          this photo to be taken?

17      A.    Yes, he did.

18      Q.    Do you remember what that was?

19      A.    I don't remember the exact number, but it was  
20          something B Avery Road.

21      Q.    If I showed you a document from that morning,  
22          would that help refresh your recollection of  
23          that?

24      A.    Yes.

25                   ATTORNEY KRATZ:  Exhibit 17, Janet, do you

1           have that?

2       Q.    (By Attorney Kratz)~ I have now handed you what  
3           has been marked for identification as Exhibit  
4           No. 17. Tell the jury, first of all, what is  
5           that?

6       A.    This is a photo shoot lead. It's for a same day  
7           appointment, which we don't normally do. But if  
8           the photographer is able to, we could have  
9           written them up and sent them to them.

10      Q.    Whose handwriting is on that form?

11      A.    That's mine.

12      Q.    Would that form have been filled out at the same  
13           time that you received this call from this  
14           person?

15      A.    It was actually filled out later on, after I had  
16           left a message for Teresa to see if she could  
17           make it out there that day.

18      Q.    But does that sheet help refresh your  
19           recollection as to the information provided by  
20           this man?

21      A.    Yes.

22      Q.    What was the address that was given for the photo  
23           shoot?

24      A.    12930A Avery Road.

25      Q.    Now, when this man said that he -- Let me start

1           again. Remind me of the language, the specific  
2           language the man used in requesting the  
3           photographer?

4    A.    He had wanted the photographer that had been out  
5           there before.

6    Q.    Did he say why he wanted that same photographer?

7    A.    Because he had a mini van for sale.

8    Q.    Was a phone number provided?

9    A.    Yes, it was.

10   Q.    Could you tell us what that phone number was,  
11           please.

12   A.    It is 920-755-8715.

13   Q.    Now, did you know the district or the area from  
14           whom this call had come; in other words, what  
15           photographer you were going to assign to do this  
16           shoot?

17   A.    Yes.

18   Q.    How did you know that?

19   A.    They were assigned by location. When you would  
20           type it in the system, it would automatically pop  
21           up the photographer's next available date.

22   Q.    Who was the photographer that had that district?

23   A.    Teresa Halbach.

24   Q.    I think that you had said that same day  
25           appointments were unusual; is that right?

1 A. Yes.

2 Q. Can you tell the jury about that, please.

3 A. Normally, we had a 24 hour notice for photos, but  
4 sometimes if someone wanted to make a deadline  
5 and the photographer was in the area, we would  
6 leave a message for them and then they would go  
7 out to that person's residence, if they could  
8 make it.

9 Q. Ms Pliszka, I'm now going to direct your  
10 attention to approximately 9:46 a.m. and ask if  
11 you tried to call Teresa Halbach at that time?

12 A. Yes, I did.

13 Q. Could you tell the jury about that call, please.

14 A. I wasn't able to get a hold of her, so I left her  
15 a message saying that someone said -- I'm sorry  
16 -- that she had been out there before. I  
17 couldn't find a record of him in the system, but  
18 if she could make it today, that would be fine,  
19 otherwise I had scheduled it for the following  
20 Monday, which would have been her next available  
21 appointment.

22 Q. Were you notified, Ms Pliszka, any time later  
23 that day that Ms Halbach was able to make that  
24 appointment?

25 A. When I came back from lunch, there was a note

1           from Angie Schuster that -- it was said that she  
2           had wanted me to fill out one of these lead  
3           sheets and fax it to her because she would be  
4           able to make it that same day.

5   Q.    She, meaning Ms Halbach?

6   A.    Ms Halbach, yes.

7   Q.    Finally, Ms Pliszka, were you able to and did  
8           you, in fact, speak with Teresa Halbach later  
9           that day?

10  A.    Yes, she called me at 2:27 and we talked --

11  Q.    Who?

12  A.    Teresa.   Called me at 2:27 and we talked for a  
13           little while and she said, yeah, I'm able to go  
14           get that photo.   By the way, it was the Avery  
15           brothers and I'm on my way out there right now.

16  Q.    So 2:27 p.m. she told you she was on her way to  
17           the Avery property?

18  A.    Yes.

19  Q.    Let me ask you this, Ms Pliszka, how do you  
20           remember that call?

21  A.    I remember because I looked at the time, because  
22           she didn't normally work, I think, past 1:00 and  
23           I thought it was kind of late for her to be going  
24           out there.   So I happened to look at the clock at  
25           that time, so.



1 Q. All right. Just as an aside, do you remember  
2 what else you guys talked about at that time?

3 A. She needed UPS labels and then I was telling her  
4 about my son going trick or treating.

5 Q. So you remember that being Halloween?

6 A. Yes.

7 Q. Finally, Ms Pliszka, after that call, after you  
8 hung up and concluded that call with Teresa, did  
9 you ever have occasion to talk with her again?

10 A. We tried to get a hold of her, on I think  
11 Thursday morning, but we weren't able to.

12 Q. Let me ask that again, did you ever talk to  
13 Teresa Halbach again after that time?

14 A. No, I did not.

15 ATTORNEY KRATZ: I would move the admission  
16 of Exhibit 17, Judge, and that's all the questions I  
17 have for this witness.

18 THE COURT: Any objection to the exhibit?

19 ATTORNEY BUTING: No objection.

20 THE COURT: Exhibit 17 is admitted. Who  
21 will be doing cross?

22 ATTORNEY BUTING: I will, Judge.

23 THE COURT: Mr. Buting.

24 **CROSS-EXAMINATION**

25 BY ATTORNEY BUTING:

1 Q. Good morning.

2 A. Good morning.

3 Q. Is it Ms Pliszka?

4 A. Pliszka.

5 Q. Pliszka, okay.

6 ATTORNEY BUTING: Judge, could you maybe  
7 explain to the jury that it's your request that we  
8 wear these mikes when we move around?

9 THE COURT: That's right, the attorneys who  
10 stand, we require the attorneys to use these mikes  
11 so everybody can hear.

12 ATTORNEY BUTING: So forgive me if I fumble  
13 with them a little bit.

14 Q. (By Attorney Buting)~ All right. Now, you still  
15 have Exhibit 17 up in front of you, do you not?

16 A. Yes.

17 Q. All right. Now, I will refer to that in just a  
18 minute. But, you mentioned that your duties are  
19 answering incoming phone calls?

20 A. Yes.

21 Q. Calling out to photographers and assignments?

22 A. Yes.

23 Q. Also faxing out these appointment sheets?

24 A. Yes.

25 Q. You actually prepare them sometimes yourself,

1           too?

2    A.    Yes.

3    Q.    And how many photographers -- And you work in the

4           Hales Corners office, right?

5    A.    I'm no longer employed there.

6    Q.    I'm sorry, back in October of 2005 --

7    A.    Yes.

8    Q.    -- you were -- Will you wait till I answer --

9           finish the question so that the reporter is not

10          tripping over us here.  October of 2005, you

11          worked in Hales Corners?

12   A.    Yes.

13   Q.    And how many photographers did you deal with at

14          that time, around the state?

15   A.    Probably around six.

16   Q.    Okay.  And most of your communication with them

17          was by email, or fax, or phone?

18   A.    Mostly by fax and phone.

19   Q.    Mostly fax and phone, okay.

20   A.    Yes.

21   Q.    In fact, did you ever meet Teresa Halbach?

22   A.    No, I did not.

23   Q.    You never met her face to face at all?

24   A.    No.

25   Q.    So your relationship with her, when you say you

1           were close, it was just from phone conversations?

2    A.    From phone conversations, yes.

3    Q.    And these phone conversations were usually just a

4           couple of minutes or so as you would -- because

5           you had other duties, other calls coming in and

6           all of that?

7    A.    Yes.

8    Q.    Okay.  So you didn't really know much,

9           personally, about her, other than what would be

10          transmitted in these very brief phone calls?

11   A.    Yes.

12   Q.    All right.  Now, this phone call that you got on

13          October 31st, you knew the name -- you recognized

14          the name Janda, J-a-n-d-a, right?

15   A.    That's what I could make out --

16   Q.    Okay.

17   A.    -- from what he had said.

18   Q.    And in fact, you know, then the man gave you the

19          address and it was on Avery Road, right?

20   A.    Yes.

21   Q.    And you knew that the Jandas and the Averys were

22          basically the same people, same area, right?

23   A.    No, I did not.

24   Q.    You didn't?

25   A.    No.

1 Q. Were you interviewed by an Investigator Wiegert  
2 of the Calumet County Sheriff's Department about  
3 this incident?

4 A. I'm not sure. I believe so.

5 Q. Okay. Let's say at about 8:00 or 9:00 on  
6 November 3rd, that would be Thursday, do you  
7 remember getting a call from an investigator at  
8 the Sheriff's Department?

9 A. Yes.

10 Q. Yes?

11 A. Yes.

12 Q. And he asked you some questions of what you knew  
13 about this phone call on the 31st of October?

14 A. Yes.

15 Q. And did you tell him that you knew that the  
16 Jandas are basically the Avery brothers, that you  
17 have done -- they have done work for them before,  
18 but does not know why they give the name B.  
19 Janda; did you tell him that?

20 A. No, I did not.

21 Q. So if he wrote that in his report, he was just  
22 making it up?

23 A. I did not know that it was -- she told me --  
24 Teresa told me it was the Avery brothers. At the  
25 time I took the call, I had no idea who it was.

1 Q. Okay. Exhibit 17, in front of you there, has an  
2 account number, right?

3 A. Yes.

4 Q. That's the Avery's account, isn't it?

5 A. I believe that was one that I had just created  
6 for this lead.

7 Q. So you created this as a whole new account?

8 A. Because I couldn't find it in the records. I  
9 checked by phone number and the last name and I  
10 couldn't find the person in there -- or him in  
11 there.

12 Q. I'm going to show you Exhibit 19, see if maybe  
13 this refreshes your recollection a little bit.  
14 Is that one of the appointment sheets that you,  
15 or somebody in your office, prepares and faxes to  
16 the photographers?

17 A. Yes.

18 Q. And at the very, very top, there's a little code  
19 that says run by?

20 A. Yes.

21 Q. And it says D. Plisz -- D. P-l-i-s-z-k, (sic)  
22 that would be you, right?

23 A. Yes.

24 Q. So you actually ran this report yourself?

25 A. Yes.

1 Q. On --In this particular instance, September 19th,  
2 2005, right?

3 A. Yes.

4 Q. And the very first name listed there is Tom  
5 Janda, is it not?

6 A. Yes, it is.

7 Q. And the address there, would you read that off,  
8 please?

9 A. It's -- I'm sorry I can't see.

10 Q. I'm sorry.

11 A. 12930A Avery Road.

12 Q. Is that the same address that you have here on  
13 Exhibit 17, the photo shoot that you filled out  
14 on October 31st?

15 A. Yes.

16 Q. So, on October 31st, you did, in fact, know -- or  
17 those were records that you had taken an  
18 appointment for the Janda's on a prior date?

19 A. That's not necessarily from me. There were three  
20 or four of us that would run appointment photos.  
21 It would depend. I ran the reports in the  
22 morning. I didn't necessarily read them  
23 thoroughly; I just would fax them out to the  
24 photographer.

25 Q. (By Attorney Buting)~ If you would look at the

1 screen right there; I'm showing you a zoomed in  
2 picture of this Exhibit 19. The date is  
3 September 19 of 2005, right?

4 A. Yes.

5 Q. And that is -- It does indicate that you ran  
6 that?

7 A. I ran the report, but that does not mean that I  
8 had taken the original lead.

9 Q. Sure. But you ran the report and the report  
10 included Tom Janda, the very first one, very same  
11 phone number, very same address, that you have in  
12 front of you on the October 31st exhibit,  
13 correct?

14 A. No, the phone number is different.

15 Q. All right. But the address is the same?

16 A. Yes, but I didn't search by address in the  
17 system.

18 Q. You just searched by phone?

19 A. Right, because we had tried to get people off the  
20 phone as quickly as possible. So if I couldn't  
21 find it by phone number and last name, and for  
22 some reason it didn't come up in the system.

23 Q. For some reason, but it should have because you  
24 did have a record of Janda's, correct?

25 A. From what that is, yes.



1 Q. Okay. And I realize it's been a long time, so  
2 you may not remember everything as well 15 months  
3 later, but the record speaks for itself.

4 ATTORNEY KRATZ: I'm going to object to  
5 this, it's argumentative. It says Tom Janda, not B.  
6 Janda, not the phone number. She's answered this.  
7 It's argumentative.

8 THE COURT: I don't know if it's  
9 argumentative, but the last thing the attorney said  
10 was a statement, not a question.

11 ATTORNEY BUTING: I will move on, Judge,  
12 sorry.

13 Q. (By Attorney Buting)~ Now, you said that the same  
14 day appointments that would be called in, were  
15 unusual?

16 A. Yes.

17 Q. Not that unusual, though, they happened, right?

18 A. Yes, they did.

19 Q. You have a form that's made for that purpose?

20 A. Or for reshoots, if someone had already had a  
21 photo, the same --

22 Q. So particularly repeat customers who knew the  
23 photographer's route, knew what day they would be  
24 in the area; those are the kind of people that  
25 would call the same day. They knew they could

1           still get in before the deadline?

2   A.   Sometimes.  Sometimes people just weren't aware  
3       of the deadlines and they would see.  We could  
4       have also ran it for a week, without a photo, and  
5       just extended his ad as well.

6   Q.   Okay.  So, when you got this phone call, though,  
7       that morning, there was nothing that unusual  
8       about it, about getting this call from this  
9       gentleman saying he wanted a photograph taken of  
10      the car, was there?

11  A.   No.

12  Q.   Okay.  And you just followed your regular  
13      routine, which is to call, in this case Teresa,  
14      leave a message with the name, address, see if  
15      she was available, right?

16  A.   I left the name and the phone number and the  
17      addresses, yeah; if she could make it that would  
18      be great, if not, we could always call the  
19      customer back and he was scheduled for the next  
20      week after.

21  Q.   And that's something that she had done before,  
22      right?

23  A.   Yes.

24  Q.   You had done same day ones with her, right?

25  A.   Yes.

1 Q. And in your experience, it also would not be  
2 unusual that the person calling may not be the  
3 person who actually owned and selling the  
4 vehicle, right?

5 A. Yes.

6 Q. In fact, that very day, October 31st, there was a  
7 gentleman that called in, left the name, Sippel,  
8 I believe; does that ring a bell?

9 A. No, it does not.

10 Q. Well, you sent out --

11 ATTORNEY BUTING: Let me do this, let me  
12 mark this as an exhibit.

13 (Exhibit No. 20 marked for identification.)

14 Q. (By Attorney Buting)~ Can you identify Exhibit 20  
15 for us, please.

16 A. This is one of the leads that would have printed  
17 because it was done before 24 hours. That would  
18 have been one of her normally scheduled leads for  
19 the day of the 31st.

20 Q. Okay. And that was run by you?

21 A. Yes.

22 Q. Once again.

23 (Exhibit No. 21 marked for identification.)

24 Q. And could you exhibit -- or identify Exhibit 21  
25 also, please?

1 A. That is also another lead; it appears to be the  
2 29th of October.

3 Q. And at the very top there is a fax date and time;  
4 do you see that?

5 A. Yes.

6 Q. What is it?

7 A. It says 10/31, 2005, 0093 (sic).

8 Q. So like 12:13 a.m.?

9 A. Yes, this appears -- I think this is from Teresa  
10 because it says rescheduled for Monday.

11 Q. Right. The handwriting. Let me just put these  
12 up on the screen for a minute, so we know what  
13 we're talking about. Exhibit 20 is the report  
14 that you did -- that you ran at 7:08 a.m. on  
15 Monday, October 31st, right?

16 A. Yes.

17 Q. And that's what you would have then faxed to  
18 Teresa for her schedule for the day, right?

19 A. Yes.

20 Q. And that only has one appointment on it, a  
21 Mr. George Zipperer, right?

22 A. Yes.

23 Q. But, in fact, you knew she had more than one  
24 appointment on that day, right?

25 A. Yes.

1 Q. And Exhibit No. 21, which I'm showing you now, is  
2 the report that you indicated she faxed on  
3 October 31st at 0013 hours, right?

4 A. Yes.

5 Q. And on that, this is actually an appointment  
6 scheduled for a previous day, Saturday, the 29th,  
7 I think, right?

8 A. Yes.

9 Q. On that, she wrote another appointment that was  
10 to be rescheduled for Monday, right?

11 A. Yes.

12 Q. And the name of that individual, can you read --  
13 I don't know if you can read the first name, but  
14 the last name is Sippel, right?

15 A. Yes.

16 Q. So I have one other one I want to show you. I  
17 haven't marked this yet, but maybe you can tell  
18 me from looking at this; do you know what kind of  
19 a form this is?

20 A. This is the actual lead form that prints along  
21 with their schedule.

22 Q. So this is something that you prepare?

23 A. Yes, or I edit it.

24 ATTORNEY BUTING: I better mark this  
25 actually.

1           (Exhibit No. 22 marked for identification.)

2   Q.   And this is Exhibit 22?

3   A.   Yes.   This was the one I had originally done.  
4       And I believe I changed it for the Monday, the  
5       same day appointment for the 31st.   I was  
6       originally going to schedule it for the following  
7       week.

8   Q.   Okay.   But what's the difference between  
9       Exhibit 22 and Exhibit 17?

10  A.   She -- That wouldn't print until the next day.  
11       This one here, Exhibit 22, would not have printed  
12       until Tuesday.

13  Q.   Okay.

14  A.   Because that's why we usually don't do same day  
15       appointments, because they don't print until the  
16       following day.

17  Q.   Okay.   So by print, you mean enter the  
18       information in your computer and do what?   You  
19       fax within -- that's not what you fax to the  
20       photographers usually, is it?

21  A.   Yes.

22  Q.   It is?

23  A.   It is, yes.

24  Q.   Okay.

25  A.   They got that actually, as well too, so they

1           could put information on there pertaining to the  
2           ad and then photo number and everything so it  
3           would match up.

4       Q.    Okay.  And this, specifically, is for B. Janda,  
5           right?

6       A.    Yes.

7       Q.    Is that the address, 12930A Avery Road?

8       A.    Yes.

9       Q.    It's got phone numbers over there on the right,  
10          correct?

11      A.    Yes.

12      Q.    Even got information about the vehicle, 1989  
13          Dodge mini van?

14      A.    Yes.

15      Q.    And that is to be -- What is it, run --

16      A.    Run till sold.

17      Q.    What does that mean?

18      A.    The ad will run until -- it will run as long as  
19          the person needs to, as long as they would have  
20          called every three weeks to renew it.

21      Q.    Okay.  So, all of this information was given to  
22          you by the caller on October 31st at 8:12 a.m.,  
23          right?

24      A.    Yes, it was.

25      Q.    Now, did you know that Mr. Avery had -- You did

1 know that Mr. Avery had Teresa's direct phone  
2 number, right?

3 A. No, I did not.

4 Q. Were you aware that he had done a privately  
5 arranged shoot with her on October 10th?

6 A. I wasn't -- Those are called hustle shots and I  
7 didn't have any information about those, so I  
8 wouldn't have known.

9 Q. Well, let me show you a couple more exhibits.  
10 (Exhibit No. 23 & 24 marked for identification.)

11 Q. (By Attorney Buting)~ I'm showing you Exhibit 23;  
12 can you identify that, please.

13 A. It's another -- It's one of her lead sheets. And  
14 it looks like it has -- I think that's her  
15 writing on there. This is when she was done with  
16 photos.

17 Q. Right.

18 A. She would fax them in so she could get paid for  
19 them.

20 Q. Sure. I understand. And this one also was  
21 prepared by you?

22 A. Yes.

23 Q. Okay. And the date of this one is?

24 A. 10/10/2005.

25 Q. Okay. And what this does is this lists -- Well,



1           let me put it up on the screen once and we'll  
2           talk about what it says. Can you also identify  
3           Exhibit 24?

4   A.   This appears to be one of the logs that the  
5           photographers did on their own, like a hustle  
6           shot, or maybe a call in or something that they  
7           would have written up themselves. So this is  
8           Teresa's writing.

9   Q.   That's looks like Teresa's writing?

10  A.   That looks like Teresa's writing, yeah.

11  Q.   And can you tell what date this is at all or  
12           where it came from or if it's in anyway  
13           associated with Exhibit 23?

14  A.   I really can't be certain.

15  Q.   Okay. Well, let me -- let me put them up on the  
16           bigger screen and we'll talk about them from  
17           there, please. All right. First, Exhibit 23,  
18           let's see here. This is the exhibit you  
19           mentioned you prepared on October 10th, right?

20  A.   Yes.

21  Q.   It's a little bit hard to see there, but there  
22           you go, October 10th. And this was a list of  
23           Teresa's scheduled appointments that had been  
24           made through *Auto Trader* on that day, right?

25  A.   Yes.

1 Q. And there are just three -- Actually, looks to me  
2 like the second one is crossed off; it's a Robert  
3 Beaudry?

4 A. Yes.

5 Q. First one is Robert Beaudry; second one is Roger  
6 Pooegle, or something like that.

7 A. Yes.

8 Q. But Mr. Avery is not on here, correct? He was  
9 not a scheduled appointment that day?

10 A. No, he was not.

11 Q. Yet down below she has written Steve Avery,  
12 right?

13 A. Yes.

14 Q. And done, next to it, right?

15 A. Right.

16 Q. And, in fact, in your records, you are aware  
17 that -- that there's actually a photograph that  
18 she took, on that date, of a Pontiac Grand Prix,  
19 from Mr. Avery; are you aware of that?

20 A. I wasn't certain of the vehicle; I did know she  
21 had an appointment on the 10th, but I wasn't sure  
22 of what the vehicle was.

23 Q. Okay. So that was an appointment that she --  
24 that Mr. Avery apparently arranged privately with  
25 her, rather than through your office, correct?

1 A. It appears to be, yes.

2 Q. And the hustle shot document that you are

3 referring to -- let me zoom out first so the jury

4 can see -- these are forms that the photographers

5 have that they fill out or they may fill out if

6 they are doing hustle shots?

7 A. Yes.

8 Q. Privately arranged shots, right?

9 A. Yes.

10 Q. In fact, it says at the top, private party, photo

11 log, right?

12 A. Yes.

13 Q. I'm sorry, little hard to see. And in this she

14 has got Steve Avery's name?

15 A. Yes.

16 Q. You recognize this to be her handwriting?

17 A. Yes.

18 Q. Because you have seen it many times. And then

19 she also says Steve Avery, \$45, paid cash, right?

20 A. That looks like the account number 45800.

21 Q. Oh, okay.

22 A. That's the account number.

23 Q. I'm sorry. Just says paid cash?

24 A. Right.

25 Q. And it lists the 1984 Pontiac Grand Prix, T-tops,

1           and Oldsmobile engine, 5.0, make offer? And it  
2           has got a phone number, right?

3       A.    Yes.

4       Q.    So, would it be fair to say, then, that the  
5           records show Mr. Avery must have had some phone  
6           number for Teresa in order to make this private  
7           arrangement with her on that date?

8                   ATTORNEY KRATZ:  Objection, speculative,  
9           Judge.

10                   THE COURT:  I'm going to sustain the  
11           objection.

12                   ATTORNEY BUTING:  All right.

13       Q.    (By Attorney Buting)~ This is an example of these  
14           hustle shots that are made privately between the  
15           photographer and the customer, right?

16       A.    Yes.

17       Q.    And you know that that does happen frequently  
18           with photographers, correct?

19       A.    Yes, it does.

20       Q.    And that it did happen with Teresa?

21       A.    Yes.

22       Q.    In fact, more than just this one time we  
23           mentioned with Mr. Avery; there were many hustle  
24           shots she did, correct?

25       A.    Yes.

1 Q. And when she would do those, you would have no  
2 way of knowing that she had gone to one of these  
3 private party hustle shots until she faxed back  
4 the report at the end of the day; isn't that  
5 right?

6 A. Yes.

7 Q. And, unfortunately, though, on October 31st, you  
8 never got a form back that said where she had  
9 gone, right?

10 A. No.

11 Q. So you don't know whether or not Teresa had any  
12 hustle shots, privately arranged shots on  
13 October 31st, do you?

14 A. No, I do not.

15 Q. And this phone conversation that you had with her  
16 at 2:27 p.m. you had some brief discussion and  
17 she said that she was on her way to the Avery's?

18 A. Yes, she did.

19 Q. She said the Avery brothers; is that what she  
20 said?

21 A. She said the Avery brothers, yes.

22 Q. She seemed very familiar with them?

23 A. Yes, she did.

24 Q. You don't know whether she meant she was on her  
25 way directly or whether she intended to make

1 another stop before she got there?

2 A. No, I do not. I just assumed -- She said she was  
3 on her way there right now, so, I assumed.

4 Q. Okay. So, if she was not there for another hour,  
5 you don't know whether she would have made  
6 another stop, get a bite to eat, something like  
7 that?

8 A. No, I would not.

9 Q. Or if she had another hustle shot in between?

10 A. No, I would not.

11 Q. More importantly, you don't know whether after  
12 Mr. Avery, Teresa had a private hustle shot where  
13 she was going, where she was planning to go to,  
14 do you?

15 A. She didn't mention it but, no, I did not.

16 Q. And she wasn't in the habit of mentioning when  
17 her hustle shots were with you, right?

18 A. Sometimes she would, sometimes she wouldn't, so.

19 Q. Okay. Now, these hustle shots, by the way,  
20 sometimes they would be where she would go to a  
21 customer for one car and she would hustle a  
22 second one while she's there, right?

23 A. Yes.

24 Q. And, in fact, that happened in this Tom Janda  
25 case where she got two photos on the same date;

1           September 19, right?

2   A.    I'm not certain.

3   Q.    All right. Well, that was something that  
4           happened and those were considered hustle shots  
5           too, right?

6   A.    Yes.

7   Q.    So, you don't know whether somebody hailed her as  
8           she was leaving Steven Avery's residence,  
9           somebody else on the Avery salvage property, a  
10          brother, customer, whatever, who hailed her and  
11          said, hey, let's take a picture, private hustle  
12          shot of another vehicle, do you?

13                ATTORNEY KRATZ: Judge, objection, that  
14                does calls for speculation.

15                ATTORNEY STRANG: My question was, she  
16                doesn't know, I'm trying to establish.

17                THE COURT: That objection is overruled.

18   Q.    (By Attorney Buting)~ Is that correct?

19   A.    I would not know.

20   Q.    All right. Now, just a couple of final -- one  
21          other point I want to make here. Since it  
22          appears that Mr. Avery had made a private hustle  
23          arrangement with Teresa Halbach in the past, you  
24          don't know of any reason why he couldn't have  
25          also done that on October 31st, do you?

1 A. Unless he would have lost her phone number, no.

2 Q. Okay. And, of course, if he was going to do that  
3 -- put it this way, if he had wanted to kill  
4 Teresa Halbach, he could have simply called her  
5 directly instead of calling your office and  
6 leaving a red trail -- easy trail right to his  
7 house, couldn't he?

8 A. Yes.

9 ATTORNEY BUTING: Thank you. I have  
10 nothing further.

11 THE COURT: Mr. Kratz, any other questions?

12 ATTORNEY KRATZ: No.

13 THE COURT: Very well, you are excused.

14 Members of the jury, that takes us to  
15 noon, so we'll take our lunch break at this time  
16 and resume at 1:00. I will remind you, again, do  
17 not discuss the case or any of the testimony you  
18 have heard this morning or anything else about  
19 this case during the noon hour.

20 (Jury not present.)

21 THE COURT: All right. Counsel, are there  
22 going to be any other outside the presence of the  
23 jury matters to address this afternoon that you are  
24 aware of?

25 ATTORNEY BUTING: No, Judge.



1                   ATTORNEY KRATZ: Not that I can think of.

2                   ATTORNEY BUTING: I would and I should  
3 have, I move the admission of all those exhibits  
4 that I referred to, which are -- looks like 20, 21,  
5 22, 23, 24.

6                   ATTORNEY KRATZ: Well, 24 she said she  
7 couldn't identify, so we'll object to that. Doesn't  
8 seem that he posted it to the jury when she said she  
9 couldn't identify it, but it should not be received;  
10 it was not identified.

11                  ATTORNEY BUTING: She did identify it as  
12 Teresa's handwriting. She identified it as a  
13 private party log that's used in their business.  
14 The only thing she couldn't identify was the date,  
15 but that will be linked up by the prior witness who  
16 testified that, on October 10th, 2005, a photograph  
17 was taken of that very car that's listed there --

18                  THE COURT: Mr. Kratz.

19                  ATTORNEY BUTING: -- which is Exhibit 16.

20                  ATTORNEY KRATZ: I don't object to the  
21 relevance in that it appears to link up, but she  
22 couldn't identify it.

23                  THE COURT: I think she identified some  
24 elements of it. The date, she couldn't identify,  
25 but that's by the nature of the exhibit; though,

1           actually, I think the date's repeated again a little  
2           higher where it's easier to see. At any rate, I'm  
3           going to move all the exhibits.

4           ATTORNEY KRATZ: Thank you.

5           THE COURT: See you at 1:00.

6           ATTORNEY BUTING: At 1:00, you said?

7           THE COURT: Yes.

8                       (Noon recess taken.)

9           THE COURT: At this time we are back on the  
10          record. Mr. Kratz, you may call your next witness.

11          ATTORNEY KRATZ: State would call Curt  
12          Drumm, your Honor.

13          THE CLERK: Raise your right hand.

14          **CURTIS DRUMM**, called as a witness  
15          herein, having been first duly sworn, was  
16          examined and testified as follows:

17          THE CLERK: Please be seated. Please state  
18          your name and spell your last name for the record.

19          THE WITNESS: Curtis W. Drumm, D-r-u-m-m.

20                       **DIRECT EXAMINATION**

21          BY ATTORNEY KRATZ:

22          Q. Mr. Drumm, if you could sit back just a little  
23          bit, you are a little loud. Tell the jury,  
24          please, where are you from?

25          A. I live in Manitowoc.

1 Q. And were you asked, on the 4th of November, of  
2 2005, to assist law enforcement officers in  
3 search efforts for Teresa Halbach?

4 A. Yes, I was.

5 Q. And what were you asked to help with?

6 A. At that point I didn't know the name or anything  
7 else, just that I was asked to help search for a  
8 missing person.

9 Q. Sometime on the 4th, then, of November,  
10 Mr. Drumm, did you assist law enforcement?

11 A. Yes, we went up that afternoon for about two and  
12 a half hours.

13 Q. You probably might want to tell the jury what you  
14 mean by we went up?

15 A. I'm sorry, we -- they had called and asked if we  
16 had an aircraft available. I operate the pilot  
17 services at the Manitowoc airport. And our run  
18 was called the fix base operator. We rent  
19 airplanes, provide flight instruction, things  
20 like that.

21 The Sheriff's Department called and  
22 noted that they had a missing person and would we  
23 have an airplane and pilot available to go up and  
24 search several locations that they thought she  
25 might have been at. And I said, yes, and we set

1 up a time. They came out in the afternoon.

2 We went up for about two and a half  
3 hours starting around 1:30, 2:00 and flew until  
4 sometime around 5:00. Went to two different  
5 locations in the Manitowoc County area. And then  
6 followed a path that took us up toward Green Bay  
7 and then back down toward this area here where  
8 the home was and then back over to the Manitowoc  
9 area.

10 Q. One of the first witnesses that answered all my  
11 questions before I even asked them, so.

12 A. I'm sorry, I didn't know what order you wanted  
13 it.

14 Q. Trust me, it's pleasant this way, Mr. Drumm. I'm  
15 going to have to go back, though. The  
16 investigators that you went up with, did those  
17 include Sheriff Jerry Pagel from the Calumet  
18 County Sheriff's Department, as well as  
19 Investigator Wendy Baldwin from the Sheriff's  
20 Department?

21 A. Yes, sir.

22 Q. Were you told where to fly; in other words, were  
23 you told what locations they were interested in?

24 A. They gave me, I think some latitude longitudes,  
25 which I programmed into a GPS. And, of course, I

1           knew nothing of the nature of the investigation.  
2           They just told me to go there, that they were  
3           looking for a possible car or a person. The  
4           first location was relatively near the airport.  
5           Am I getting ahead of myself?

6   Q.   No, you are doing great. Why don't you tell us  
7           that first location -- By the way, do you know  
8           whose home, or whose residence, or where that was  
9           located?

10   A.   They did not tell me, no. It was the vicinity of  
11           Highway 310 and Q I believe, about a mile and a  
12           half from the airport. We circled over that  
13           property and a radius of a couple miles around  
14           that area.

15   Q.   Let me stop you there, Mr. Drumm. The residence  
16           around Highway 310 and Q, was that the first  
17           location that they instructed you to look at?

18   A.   Yes, sir.

19   Q.   Are you familiar, Mr. Drumm, with the Avery Auto  
20           Salvage property?

21   A.   I was not until following, everything had  
22           happened.

23   Q.   But are you now, familiar?

24   A.   Oh, yes, sir.

25   Q.   And was that the first property that they asked

1           you to go search around?

2   A.   No, that was the second.

3   Q.   All right.  So Avery's wasn't even the first  
4       place that they asked you to look?

5   A.   No, sir.

6   Q.   All right.  After that first residence, then you  
7       were asked to search a second property; is that  
8       right?

9   A.   That's affirmative.  That ended up being the  
10      Avery property.  We followed roads.  Again, they  
11      weren't sure why she was missing, so we followed  
12      roads and the smaller county highways to see if  
13      she had maybe gone off the road or into the ditch  
14      or had an accident that wasn't reported or  
15      otherwise found.  Eventually worked our way up to  
16      what's the Avery property.

17   Q.   When you say that we were searching, what's all  
18      included in an aerial search or a search with an  
19      airplane?

20   A.   You know, they were the investigators, so they  
21      knew what they were looking for.  As a pilot, I'm  
22      more used to looking at things from the air, so  
23      they gave me a description of the vehicle we were  
24      looking for, the color and the make and model.

25                   And we tried to see if there was any

1 place where that car might have been in a ditch,  
2 or an area where it may have been involved in an  
3 accident, or if it had been hidden some place, or  
4 behind a garage or in front of some trees, or  
5 whatever.

6 From above, you have got a lot better  
7 perspective of areas, being able to look down  
8 through the trees and through different areas.  
9 So we tried to find the car.

10 Q. Mr. Drumm, then, not just residences, but you  
11 also searched roadways and ditches.

12 A. Roadways, ditches, area farms, behind barns, any  
13 place that, you know, she may have gone either on  
14 purpose or otherwise. We just tried to identify  
15 any places we might assist in finding the car.

16 Q. There's an exhibit in front of you, Exhibit  
17 No. 25. I'm going to have the jury look at this  
18 at the same time you are. Why don't you tell us  
19 what this is, what are we looking at?

20 A. Looks like the salvage yard.

21 Q. And, again, does Exhibit 25, at least from an  
22 aerial view, which are views that you are  
23 familiar with, does this look the same or similar  
24 as it did on or about the 4th of November, of  
25 2005?

1 A. Yes, it does. Yeah, there was several adjacent  
2 gravel pits to it, forest areas, farm areas.  
3 This appears to be the private property we looked  
4 at.

5 Q. Okay. Now, I assume, Mr. Drumm, that as we zoom  
6 in a little bit on this photograph, is it fair  
7 that it would be difficult to pick out a specific  
8 car in that location?

9 A. We tried to fly over different aisles and the  
10 size of the yard was -- was so expansive and so  
11 many vehicles there, it was difficult really to  
12 pick out anything of any detail. We were at  
13 about 500 feet, which is the FAA minimum for a  
14 flight over unpopulated areas. But even from  
15 500 feet, it's tough to pick out a specific car.

16 Q. All right. Did you find any vehicle that looked  
17 like a blue, or teal, or greenish Toyota RAV4.

18 A. Not that I'm aware of. If the investigators saw  
19 something, they didn't tell me.

20 Q. After the Avery property was searched, you said  
21 that you went someplace else, could you describe  
22 that.

23 A. They had indicated that she might have had some  
24 friends up in Green Bay that she might have been  
25 meeting with. And we followed primarily the



1 county roads east of I-43, because that's where  
2 she would have been coming from, from this, if  
3 this had been her last stop. And worked our way  
4 up toward Green Bay, again, looking to see if  
5 there was anything in ditches or side roads or  
6 anything.

7 I questioned why, they said, well, maybe  
8 she had an accident, or something hadn't been  
9 reported, or was at the side of the road. So we  
10 followed the roads all the way up, almost to  
11 Green Bay, then turned around and followed the  
12 roads on the west side back toward her residence.  
13 And, again, searching all the side roads and  
14 looking for anything that might have been out of  
15 the ordinary.

16 Q. So you were told that the area on or adjacent to  
17 the Halbach, that is, the Teresa Halbach  
18 residence was also searched; is that right?

19 A. Yes, we spent a fair amount of time in that  
20 vicinity, again, looking to see if the car was  
21 around, if we could find anything that might help  
22 them find the girl.

23 Q. Was there also another property; that is, another  
24 residence in Calumet County that you were asked  
25 to search around? Do you remember?

1 A. We may have gone -- They may have -- We flew over  
2 a lot of areas. Basically, I just flew the  
3 airplane and the investigators asked me to go  
4 left or go right, to different areas. I didn't  
5 question where exactly they were looking, but we  
6 spent a fair amount of time in this area  
7 looking -- looking at different areas, just  
8 points of interest of theirs.

9 Q. And to get right to the question, Mr. Drumm, at  
10 least based upon what the investigators told you,  
11 was the Avery salvage property the focal point,  
12 or the only place that you were looking for  
13 Teresa's car?

14 A. No. We spent substantial time looking at other  
15 locations.

16 ATTORNEY KRATZ: I would move the admission  
17 of Exhibit 25. That's all the questions I have.

18 ATTORNEY STRANG: No objection.

19 THE COURT: Very well. The exhibit is  
20 admitted. Mr. Strang.

21 **CROSS-EXAMINATION**

22 BY ATTORNEY STRANG:

23 Q. Good afternoon, Mr. Drumm.

24 A. Hi.

25 Q. Do you know now what the first place was that you

1           flew over near the intersection of 310 and Q?

2    A.    They mentioned a name and I don't really recall.

3           They just said that these were locations where

4           she had appointments.

5    Q.    Okay.  There was a residence?

6    A.    There was a residence and several outbuildings,

7           several trees.

8    Q.    Rural sort of residences?

9    A.    Pardon me?

10   Q.    Rural sort of residences?

11   A.    Yes.

12   Q.    Okay.  So you went there, then you flew

13           essentially north to the Mishicot area, to the

14           Avery property?

15   A.    Correct.

16   Q.    From there, continued north to the Green Bay

17           area?

18   A.    Correct.  We didn't do the city of Green Bay, we

19           got to the southern outskirts.

20   Q.    Following what, 42 or 57?

21   A.    We basically followed the east side of I-43.

22   Q.    Okay.  Back down along the lakeshore?

23   A.    No.  We came back down on the west side of I-43

24           back toward --

25   Q.    Toward Chilton.

1 A. -- toward Chilton.

2 Q. Past Hilbert, St. John?

3 A. Again, kind of zigzagged around from an airplane

4 at 500 to a thousand feet, clear day, you have

5 pretty good visibility.

6 Q. This was on November 4?

7 A. Yes, correct.

8 Q. The plane wasn't equipped with aerial photography

9 equipment?

10 A. No, sir.

11 Q. And, obviously, you were piloting the plane?

12 A. Yes.

13 Q. So, someone else in the plane was taking photos?

14 A. I believe one of the investigators was taking

15 pictures.

16 Q. I mean, not you?

17 A. No.

18 Q. And were these just sort of regular snapshot kind

19 of cameras out the window as you banked?

20 A. Yes.

21 Q. Any videotaping going on on November 4th?

22 A. I'm sorry, I don't recall that.

23 Q. Fair enough.

24 A. I was looking out the front window.

25 Q. I understood that. And, then, as you flew back

1 from Chilton, Hilbert, and the area north of  
2 here, back to Manitowoc; was it back to the Avery  
3 Auto Salvage, or back to the airport?

4 A. Back to the airport.

5 Q. Okay. Now, the photograph that we have up here  
6 is Exhibit 25. As it is set up now, that's a  
7 view from substantially above 500 feet above  
8 ground level, true?

9 A. From that perspective we would have been -- that  
10 looks like higher than 500 feet.

11 Q. Fifteen hundred feet above ground level, probably  
12 something like that?

13 A. Depends on the angle of the lens you use, that  
14 could have been much lower, if you use a wide  
15 enough lens and made it look like that.

16 Q. I'm --

17 A. It's hard to tell.

18 Q. I'm just -- I'm just looking at the size of the  
19 buildings and the size of cars. You -- you've  
20 been flying for how long?

21 A. Fifteen, twenty years.

22 Q. Okay. Familiar with something called pattern  
23 altitude?

24 A. Yes.

25 Q. Ordinarily that's a thousand feet above ground

1 level?

2 A. Correct.

3 Q. Okay. Pattern meaning when you are in a pattern

4 over the airport?

5 A. Right.

6 Q. You have done a lot of flying in the pattern, as

7 they say, at a thousand feet above ground level?

8 A. Correct.

9 Q. You are familiar with the general view of terrain

10 at approximately that altitude?

11 A. Correct.

12 Q. This looks a little bit higher than that?

13 A. If you were at a thousand looking with the naked

14 eye, that -- that's -- that's higher.

15 Q. Okay.

16 ATTORNEY STRANG: Now, maybe with

17 Mr. Kratz's help, we can zoom in just a little bit.

18 ATTORNEY KRATZ: Where would you like me to

19 zoom in?

20 ATTORNEY STRANG: Let's -- Let's go up to

21 the pond. Can we go to -- a little further or do we

22 lose resolution? Okay. Let's work with that.

23 Q. (By Attorney Strang)~ Just give us a perspective

24 of about 500 feet above ground level?

25 A. That's approximately 500.

1 Q. Okay. Which is considered the minimum safe  
2 altitude for flying over sparsely populated  
3 areas.

4 A. Correct.

5 Q. Now, if -- if -- if -- I realize the window is in  
6 the photograph, but this area here, can you see  
7 me and see it?

8 A. Yes.

9 Q. Why don't you tell our jurors what you recall  
10 this area as being, if you do?

11 A. I don't exactly recall if that's a gravel pit  
12 area. There were a lot of gravel pit areas,  
13 either active or abandoned. I don't recall what  
14 that area was.

15 Q. Just for orientation, though, you recall this as  
16 being south; that is, the right edge of this  
17 photo as being south?

18 A. I believe so.

19 Q. Okay. What you do remember is there were a lot  
20 of gravel pits around the Avery Auto Salvage?

21 A. That's correct.

22 Q. Or quarries?

23 A. Correct.

24 Q. Okay. And whether that's one of them or not, you  
25 just don't remember?

1 A. Again, I don't know what I was looking for, so,  
2 other than a car.

3 Q. You went up again on November 5 -- or no, on  
4 Saturday, November 5, or no?

5 A. Not with law enforcement.

6 Q. Not with law enforcement?

7 A. No, I made other flights, subsequent, once it  
8 became apparent what was going on, but not with  
9 any law enforcement.

10 Q. With whom did you make other flights over the  
11 Avery Auto Salvage property?

12 A. I don't recall.

13 Q. But, I mean, just as a matter of interest while  
14 the search for Teresa Halbach was going on?

15 A. The area north of the airport, in that vicinity,  
16 is a regular practice area we use with students.  
17 It's off the airways. It's not near the airport.  
18 It's -- It's an area we use for practicing flying  
19 over unpopulated areas.

20 Q. Okay.

21 A. So that wouldn't be in the path of going to some  
22 place on a training flight.

23 Q. And, in other words, the flights you did later,  
24 to the extent they took you over the Avery Auto  
25 Salvage, were unrelated to the search for Teresa



1 Halbach?

2 A. Right, they had nothing to do with it.

3 Q. How much time did you spend in the general  
4 vicinity of the Avery Auto Salvage Yard?

5 A. Oh, I would say maybe 15 minutes, 20 minutes.

6 Q. How much time, roughly, over the first residence,  
7 Highway 310 and Highway Q?

8 A. Five or ten.

9 Q. And mostly, then, transit time, other than some  
10 time circling over Hilbert, St. Johns, that area?

11 A. Correct. And when we did our transit, they  
12 weren't straight lines necessarily, we flew  
13 around again surveying the side roads trying to  
14 see if we could see anything.

15 ATTORNEY STRANG: That's all I have. Oh,  
16 I'm sorry, just a moment. That's it. Thank you.

17 THE COURT: Mr. Kratz, any redirect?

18 ATTORNEY KRATZ: No, Judge. Thank you.

19 THE COURT: Very well, the witness is  
20 excused.

21 ATTORNEY KRATZ: Steve Schmitz, please.

22 THE COURT: Please raise your right hand.

23 **STEVEN SCHMITZ**, called as a witness  
24 herein, having been first duly sworn, was  
25 examined and testified as follows:

1 THE CLERK: Please be seated. Please state  
2 your name and spell your last name for the record.

3 THE WITNESS: Steven Schmitz,  
4 S-c-h-m-i-t-z.

5 **DIRECT EXAMINATION**

6 BY ATTORNEY KRATZ:

7 Q. Mr. Schmitz, where are you from, sir?

8 A. New Holstein, Wisconsin.

9 Q. I'm going to direct your attention to the 31st of  
10 October, 2005, ask if you remember that day?

11 A. Yes, I do.

12 Q. And did you make any contact that day with a  
13 young woman that you later learned was Teresa  
14 Halbach?

15 A. Yes, I did.

16 Q. Tell the jury, please, how it was that you made  
17 contact with Ms Halbach?

18 A. I had a car for sale. She contacted me that day.  
19 She was going to be here about 1:30. She showed  
20 up. She did a photograph of my car. I gave her  
21 a check. She gave me a receipt with a bag with  
22 information in it and then she left.

23 Q. I'm going to show you what's been received as  
24 Exhibit No. 5, ask you if you can direct your  
25 attention to the large screen; is this the woman

1           that you made contact with the afternoon of the  
2           31st?

3    A.    Yes, it is.

4    Q.    Mr. Schmitz, how long was it that this  
5           transaction occurred; in other words, how long  
6           did it take for Ms Halbach to take the  
7           photographs, get paid, give you the information  
8           and be on her way?

9    A.    Ten to fifteen minutes, max.

10   Q.    Where did this transaction take place?

11   A.    In my driveway.

12   Q.    In New Holstein?

13   A.    Yeah.

14   Q.    You're quite sure it was around 1:30 p.m.?

15   A.    Yes, I am.

16   Q.    The vehicle that's depicted here in Exhibit No.  
17           5, the bluish green SUV, was that the vehicle  
18           that Ms Halbach was driving, if you remember?

19   A.    Yes.

20   Q.    Can you tell the jury, please, how Ms Halbach was  
21           dressed that day, if you remember?

22   A.    She had blue jeans on, button up white blouse and  
23           a spring jacket, waist length. I believe it was  
24           blue in color.

25   Q.    I don't expect you to know this, Mr. Schmitz, but

1 I will ask it any way. Do you know what kind or  
2 what brand of blue jeans she was wearing?

3 A. No.

4 Q. How long did you say the jacket was that she had  
5 on?

6 A. I would say about waist length. It was like a  
7 summer jacket.

8 Q. How was she paid, if you remember?

9 A. I gave her a check.

10 Q. After Ms Halbach concluded her transaction with  
11 you, do you know which way she left, which way  
12 she drove?

13 A. She headed north on Highway A.

14 Q. And for those of us not familiar with the New  
15 Holstein area, does going north on Highway A  
16 intersect with any large roads that we would  
17 know?

18 A. It was formerly Highway 149, now I believe it's  
19 HH.

20 Q. What's north of that, is what I'm asking?

21 A. 151, if you keep going north.

22 Q. 151 would be the main road or the main trunk road  
23 between would be Chilton and the Calumet County  
24 area and Manitowoc; is that right?

25 A. Yes.

1 Q. Ms Halbach appear upset to you when you met with  
2 her?

3 A. No. Very friendly and very polite.

4 Q. The information or the papers that she left with  
5 you; do you recall those? Can you describe them?

6 A. Yeah, one was a for sale sign. There was a book  
7 that was the *Auto Trader* and then there was like  
8 a contract, if you were to sell your vehicle, how  
9 to fill it out properly, like a sales receipt.

10 Q. So a receipt and an *Auto Trader Magazine*; is that  
11 right?

12 A. Right.

13 Q. Do you recall what this receipt looked like?

14 A. It was a larger white thing probably 6 by 8  
15 square, just a common receipt.

16 Q. Do you know what it was called? You didn't keep  
17 it, did you?

18 A. No. No.

19 ATTORNEY KRATZ: I think that's all I have  
20 of Mr. Schmitz. Thank you, Judge.

21 THE COURT: Mr. Strang.

22 **CROSS-EXAMINATION**

23 BY ATTORNEY STRANG:

24 Q. Mr. Schmitz, just generally, where is New  
25 Holstein in relation to, let's say the city of

1           Manitowoc?

2    A.    Oh, quite a ways away, I would say probably

3           35 miles.

4    Q.    Is it west, southwest?

5    A.    West, yeah, southwest.

6    Q.    That is, New Holstein is west and a little south

7           of Manitowoc?

8    A.    I'm actually south of New Holstein.

9    Q.    Okay. Fair enough. The car you had was at your

10           house, as you said?

11   A.    Yes.

12   Q.    But you owned that jointly with another

13           gentleman?

14   A.    Yes, I did.

15   Q.    His name is Craig Sippel?

16   A.    Yes.

17   Q.    Mr. Sippel is the one who actually called and

18           made the appointment with Auto Trader?

19   A.    Yes.

20   Q.    And gave your address presumably --

21   A.    Yes.

22   Q.    -- as the place for the photo shoot?

23   A.    Right.

24                   (Court Reporter couldn't hear.)

25   A.    The car is stored in my shed.

1 Q. In your shed?

2 A. Yes.

3 Q. You may need to swing your mike a little closer  
4 to you, or you a little closer to it. If you get  
5 too close it gets too loud, a delicate balance.  
6 Mr. Sippel is a friend of yours?

7 A. Yes.

8 Q. You know him well?

9 A. Yes.

10 Q. He wasn't trying to lure a photographer to your  
11 house by using his name when he called *Auto*  
12 *Trader* asking for someone to come to your  
13 residence?

14 A. No.

15 Q. Thanks.

16 ATTORNEY STRANG: That's all I have got.

17 THE COURT: Very well.

18 ATTORNEY KRATZ: Judge, if I could ask one  
19 follow up question.

20 THE COURT: Yes.

21 **REDIRECT EXAMINATION**

22 BY ATTORNEY KRATZ:

23 Q. Mr. Schmitz, do you recall the date that law  
24 enforcement came and asked you questions  
25 regarding your contact with Ms Halbach?

1 A. Like a day or so after. I'm not positive. They  
2 contacted me to make sure that she was there and  
3 I said, yes, she was.

4 ATTORNEY KRATZ: That's all I have. Thank  
5 you, sir.

6 THE COURT: You are excused.

7 THE WITNESS: Thank you.

8 ATTORNEY KRATZ: State will call JoEllen  
9 Zipperer to the stand.

10 THE CLERK: Please remain standing, raise  
11 your right hand.

12 **JOELLEN ZIPPERER**, called as a witness  
13 herein, having been first duly sworn, was  
14 examined and testified as follows:

15 THE CLERK: Please be seated. Please state  
16 your name and spell your last name for the record.

17 THE WITNESS: My name is JoEllen Zipperer,  
18 Z-i-p-p-e-r-e-r.

19 **DIRECT EXAMINATION**

20 BY ATTORNEY KRATZ:

21 Q. Good afternoon, Mrs. Zipperer. The questions  
22 that I have for you relate to incidents that  
23 occurred on the 31st of October of last year,  
24 2005. Let me first ask you, Mrs. Zipperer, where  
25 do you live?



1 A. 4433 County Trunk B in Manitowoc.

2 Q. Is that residence near any intersections, any

3 major roads?

4 A. Near 310 and B.

5 Q. So your residence is near Highway 310; is that

6 right?

7 A. Yes.

8 Q. Who do you live there with, Mrs. Zipperer?

9 A. My husband and my daughter and my grandson.

10 Q. If we all promise not to call you, Mrs. Zipperer,

11 could you give us your home telephone number,

12 please?

13 A. 682-5719.

14 Q. Thank you. On the 31st of October, 2005, do you

15 remember having contact with a young lady at your

16 residence?

17 A. Yes, I do.

18 Q. First of all, could you tell the jury about what

19 time you had contact with this young lady?

20 A. Mid-afternoon.

21 Q. Do you know any closer time to that, anything

22 more specific, or do you not recall?

23 A. Not exactly, I think it was maybe around 3:00.

24 I'm not sure exactly. I was outside working, so.

25 Q. Do you know for sure, or are you guessing, Mrs.

1           Zipperer?

2   A.    I'm just estimating that it was around

3           mid-afternoon.

4   Q.    Okay.  Could you tell me what this young lady

5           looked like?

6   A.    She was shorter than I am.  She was slender,

7           petite, young.

8   Q.    Did you have any conversation with this young

9           lady?

10  A.    Yes, I did.

11  Q.    Do you know why she was there or can you tell the

12           jury why she was there?

13  A.    She was taking a picture of a car that we had for

14           sale.

15  Q.    Did this young lady identify herself; did she

16           tell you what her name was?

17  A.    I don't remember that she told me her name.

18  Q.    After watching the news, or a couple days after

19           having contact with this young woman, did you

20           find out or figure out who it was that was at

21           your residence?

22  A.    Yes.

23  Q.    And do you remember who that was?

24  A.    Yes.

25  Q.    Who was that?

1 A. It was Teresa Halbach.

2 Q. I show you a picture which has been received as

3 Exhibit No. 5, just so that we're all sure, if

4 you look to your right, is that the young lady

5 that was at your residence on the 31st?

6 A. Yes, it was.

7 Q. Mrs. Zipperer, can you tell the jury if you

8 remember what this young lady was wearing?

9 A. She was wearing a dark jacket, waist length. I

10 think she had jeans and she had brown hiking

11 boots. Hiking shoes, not boots. They were

12 shoes.

13 Q. All right. When you had contact with this young

14 lady, how long was it that you spoke with her?

15 A. About 15 minutes she was there.

16 Q. After taking the pictures or after finishing her

17 business there, can you tell me what she did?

18 A. She came to talk to me, with some papers. She

19 told me that I should give them to my husband and

20 he should look them over and decide if he wanted

21 to go ahead and put the car in the magazine. And

22 if he did, the picture would be already taken and

23 then all he had to do was call her the next day

24 or whenever he decided to put it in the paper,

25 the magazine.

1           (Exhibit No. 26 marked for identification.)

2   Q.   Mrs. Zipperer, I have handed you what's been

3       marked for identification as Exhibit No. 26.

4       It's a bag full of materials; do you recognize

5       that bag?

6   A.   Yes.

7   Q.   And do you recognize the materials or the papers

8       that are inside of it?

9   A.   Yes.

10  Q.   Were those the materials or the papers that

11       Teresa Halbach left for you or gave to you after

12       you had your transaction with her?

13  A.   Yes.

14  Q.   You can just kind of pick one of those things up.

15       First of all, let's start with the *Auto Trader*

16       *Magazine*; is there a magazine in there? Is that

17       right?

18  A.   Mm-hmm.

19  Q.   Would you show that to the jury, please.

20               (Witness shows the jury.)

21  Q.   Is there something in those papers called a bill

22       of sale?

23  A.   Yes.

24  Q.   Would you show that to the jury, please.

25               (Witness shows the jury.)

1 Q. And is there also a for sale sign in there?

2 A. Yes.

3 Q. Could you show us that, please.

4 (Witness shows the jury.)

5 (Exhibit No. 27 marked for identification.)

6 Q. You can put them back into the bag, if you will.

7 I have now given you what's been marked as  
8 Exhibit No. 27. It's a photograph, but it may be  
9 a little easier for the jury to see what we're  
10 talking about. Can you tell us what Exhibit 27  
11 is, please.

12 A. I'm not sure what this is.

13 Q. You don't know what that's a photograph of?

14 ATTORNEY STRANG: I don't have any quarrel  
15 that it's a photograph of the items in Exhibit 26.

16 Q. (By Attorney Kratz)~ You were just holding those  
17 items, weren't you, in Exhibit 26; isn't this a  
18 picture of the things that are in Exhibit 26?

19 A. Oh, yes.

20 Q. A for sale sign, a bill of sale and an *Auto*  
21 *Trader Magazine*?

22 A. Yes.

23 ATTORNEY KRATZ: Thank you, counsel.

24 Q. (By Attorney Kratz)~ Mrs. Zipperer, after  
25 speaking with this young woman, did she tell you

1           where she was going, where she was heading next?

2   A.   No, she didn't.

3   Q.   How long was she there?

4   A.   About 15 minutes.

5   Q.   This young lady seem upset to you?

6   A.   No.

7   Q.   How was her demeanor; in other words, how did she  
8       act towards you?

9   A.   She was very nice. She was pleasant and  
10       friendly. She smiled, a couple things we talked  
11       about, she smiled.

12   Q.   Now, prior to her arrival, Mrs. Zipperer, do you  
13       recall receiving a phone call from this young  
14       lady?

15   A.   That day?

16   Q.   Yes.

17   A.   She left a message that she was having trouble  
18       finding our house, but I was outside so I didn't  
19       hear it until later, after she was gone. But she  
20       found the place. She just told me that she was  
21       having trouble finding it. And then she asked me  
22       if that was the right house. I said, yes. And  
23       she asked me if it was okay if we took a picture  
24       of the car. And then I showed her how to get to  
25       it. And then she went by herself to take the

1 picture.

2 Q. When she told you that she found the place or  
3 when she indicated that she had been lost before  
4 she got there; did she indicate how long she was  
5 looking for your residence or how long she had  
6 called you before she got there, anything like  
7 that?

8 A. No, she didn't.

9 Q. Now, was this a vehicle that you were selling or  
10 somebody else?

11 A. My grandson was selling it.

12 Q. So you didn't have anything to do with the sale  
13 of this car; is that right?

14 A. No.

15 Q. You were just the one that spoke with Ms Halbach;  
16 is that right?

17 A. Yes.

18 Q. Did you see her leave?

19 A. No, I did not see her leave.

20 Q. Mrs. Zipperer, after your brief contact with Ms  
21 Halbach, did you have any further discussion with  
22 her or did you ever talk to this young lady  
23 again?

24 A. No, I did not.

25 ATTORNEY KRATZ: I think that's all I have,

1           then, Judge. I would move 26 and 27 at this time.

2           THE COURT: Any objection?

3           ATTORNEY STRANG: No objection, your Honor.

4           THE COURT: Twenty-six and twenty-seven are  
5 admitted. Mr. Strang.

6           ATTORNEY STRANG: Thank you.

7                           **CROSS-EXAMINATION**

8 BY ATTORNEY STRANG:

9 Q. Mrs. Zipperer, I have several questions for you,  
10 too. You were out working in the yard so you  
11 weren't clear on the passage of time that  
12 afternoon, as I understood you?

13 A. When she came?

14 Q. Right.

15 A. Not exactly, no, I was outside and it was  
16 estimated mid-afternoon.

17 Q. Sure. And by mid-afternoon, possibly it could  
18 have been as early as say 2:30 or something like  
19 that?

20 A. Could have been. She -- She had a time that she  
21 was trying to find our house on our message --  
22 our answering machine.

23 Q. Right. But you heard that message only later,  
24 correct?

25 A. Right.



1 Q. I'm sorry. This is a strange place, nods of  
2 heads don't work as well here as they do outside.  
3 So you didn't hear the message until sometime  
4 later, after she left?

5 A. In the evening I heard it.

6 Q. So I guess mid-afternoon could have been 2, 2:30  
7 possibly?

8 A. Could have been.

9 Q. Could have been 3:00?

10 A. Could have been.

11 Q. Could have been 3:30 or a little after that,  
12 something like that, but sometime in the middle  
13 of the afternoon?

14 A. Yes.

15 Q. That's the best you can do for us today?

16 A. Yes.

17 Q. Okay. Fair enough. And what sort of yard work  
18 was keeping you busy that afternoon?

19 A. I was outside raking.

20 Q. So it's the kind of thing where either you  
21 weren't wearing a watch or you weren't worrying  
22 about the time?

23 A. No, I don't wear a watch.

24 Q. Now, you folks are -- your address is actually on  
25 County Highway B?

1 A. Right.

2 Q. County road B. Okay. Mr. Kratz may have asked

3 you this and I was jotting a note and maybe

4 didn't hear it, but if you continue going north

5 on county road B; do you come to Highway 147?

6 A. Right.

7 Q. Not too far away, right?

8 A. It's about 10 minutes from our house.

9 Q. To the north of B, right?

10 A. Yes.

11 Q. And if you go left on 147, before too long, do

12 you come to the Avery Auto Salvage on your left?

13 A. I don't know where that is. I was never there.

14 Q. Okay. All right. Are you -- At county road B

15 and Highway 147; is that roughly the Mishicot

16 area?

17 A. Right.

18 Q. And you are pretty much due north of the City of

19 Manitowoc?

20 A. Right.

21 Q. All right. Now, you didn't see from which

22 direction this young woman came to your house?

23 A. No, I didn't.

24 Q. You didn't see which direction she left your

25 house from?

1 A. I did not.

2 Q. Okay. You came in for supper time?

3 A. I did?

4 Q. Yes, back to the house.

5 A. Yes.

6 Q. And your husband, George, came home?

7 A. Yes.

8 Q. Your grandson, this was his car?

9 A. Yes.

10 Q. His name is Jason?

11 A. Yes.

12 Q. He was home too?

13 A. I'm not sure when he came home.

14 Q. Sometime that evening, or in any event he stays

15 with you?

16 A. Yes.

17 Q. Okay. Were you -- Were you there, nearby, on the

18 evening of November 3, 3 days after this,

19 Thursday, November 3, sometime shortly after

20 supper when your husband, George, got a telephone

21 call from a sheriff's detective?

22 A. I could have been.

23 Q. Do you remember that call?

24 A. I think so.

25 Q. Actually -- And then later on in the evening,

1           pretty late, about 9:40 at night, a second call  
2           came in from a sheriff's detective?

3    A.    Yes.

4    Q.    Someone in Calumet County both times?  Do you  
5           remember that?

6    A.    I don't remember which one it was.

7    Q.    But George was on the phone both times?

8    A.    Yes.

9    Q.    And the first one, do you remember George raising  
10          his voice and getting angry?

11   A.    At the first one?

12   Q.    Yes.

13   A.    He could have.

14   Q.    When you say he could have, I'm wondering whether  
15          you remember that or that just sounds like  
16          something George might do on a bad day?

17   A.    Yes, he does raise his voice sometimes.

18   Q.    Do you remember that occasion when the sheriff's  
19          detective called from Calumet and George raised  
20          his voice on the phone?

21                 ATTORNEY KRATZ:  Judge, I'm sorry, I didn't  
22                 know that Mrs. Zipperer was involved in this call.  
23                 Did she testify that she knew who was on the phone?

24                 ATTORNEY STRANG:  Yes.

25                 THE COURT:  I believe she did.

1                   ATTORNEY STRANG: Right.

2   Q.    (By Attorney Strang)~ And Mrs. Zipperer, you

3           weren't on the phone yourself?

4   A.    No.

5   Q.    But you were near George on his end, I mean, you

6           were in the room or near George while he was on

7           the phone?

8   A.    I could have been in the house. I don't remember

9           exactly which call. I don't listen always to

10          what he talks to.

11   Q.    Mm-hmm. But do you remember a time when there

12          was a great deal of news about Teresa Halbach

13          being missing?

14   A.    Yes.

15   Q.    All right. So this would have been that very

16          night that it first made the news, three days

17          after she was to your home, that Thursday; do you

18          have that --

19   A.    Yes.

20   Q.    -- evening in mind?

21   A.    Yes.

22   Q.    And I take it it's not often that a detective

23          calls from the sheriff's department to your home?

24   A.    No.

25   Q.    Do you remember hearing your husband, George,

1 after he raised his voice into the telephone,  
2 threatening that he was going to call his  
3 attorney?

4 ATTORNEY KRATZ: I'm going to object; this  
5 is clearly hearsay.

6 THE COURT: Let's -- Mr. Strang.

7 ATTORNEY STRANG: I'm not offering it for  
8 the truth; I'm offering it for the fact that it was  
9 said.

10 THE COURT: I'm not sure I discern the  
11 difference. You are offering it for -- because of  
12 the fact it was said.

13 ATTORNEY STRANG: Yeah, the verbal acts.  
14 In fact, I intend to show these were not the truth  
15 -- were not being offered for the truth.

16 THE COURT: Well, let's -- I'm not -- Let's  
17 step back a second. Foundationally, I know the  
18 witness testified about being aware of some calls,  
19 but I'm not sure if I'm tracking that she remembers  
20 a specific caller being there. So why don't you  
21 step back.

22 ATTORNEY STRANG: Sure. That's fair  
23 enough.

24 Q. (By Attorney Strang)~ And I understand this is  
25 the better part of a year and a half ago, but do

1           you remember your husband receiving a call on  
2           Thursday evening, November 3, 2005, which was the  
3           night that the news first reported Teresa Halbach  
4           missing?

5       A.    I don't remember a specific date, no.

6       Q.    Do you remember the phone call that I'm  
7           describing?

8       A.    I remember him talking to someone, but I don't  
9           know when.

10      Q.    Okay.

11           (Court reporter couldn't hear answer.)

12      A.    I don't know if I know who he was talking to.

13      Q.    Okay.  And I'm not asking for the name of the  
14           other person.  I understand you weren't on the  
15           phone.  But this was the night that he would have  
16           received two phone calls, two separate phone  
17           calls from an investigator --

18           ATTORNEY KRATZ:  Judge, I'm going to  
19           object.  I want to be heard outside the presence of  
20           the jury.  Counsel is testifying.

21           THE COURT:  All right.  We'll excuse the  
22           jury for a few minutes.

23           (Jury not present.)

24           THE COURT:  All right.  Mr. Kratz.

25           ATTORNEY KRATZ:  Thank you, Judge.  This is

1 clearly a hearsay. And counsel injecting the facts  
2 in front of this jury, making comments like this is  
3 the night that the two investigators called you, not  
4 only calls for a hearsay response, but Mr. Strang is  
5 offering the testimony in lieu of this witness.

6 I don't see any exception to the hearsay  
7 rule. It is for the truth of the matter  
8 asserted, even if Mr. Strang's relevancy, if  
9 there is any, is the fact that an investigator  
10 called suggesting the fact that it was an  
11 investigator on the phone, elicits that hearsay  
12 response. It is improper, Judge.

13 THE COURT: Mr. Strang.

14 ATTORNEY STRANG: Why don't we excuse the  
15 witness so that we're not tainting her testimony by  
16 my response.

17 THE COURT: All right. Mrs. Zipperer, can  
18 you step out in the hall for a minute.

19 (Witness leaves the courtroom.)

20 THE COURT: Mr. Strang.

21 ATTORNEY STRANG: Thank you. First of all,  
22 I am leading the witness, this being  
23 cross-examination I'm suggesting to her the answer.  
24 The basis, a good faith basis, for the questions is  
25 indisputable.



1                   I have one report from Corporal Lemieux  
2                   of the Calumet County Sheriff's Department  
3                   documenting her phone call. She doesn't give a  
4                   time of the actual call; she only tells us that  
5                   about 5:00 on Thursday, November 3, 2005, is when  
6                   she begins working on the missing person  
7                   investigation and then writes a report that sort  
8                   of logs her activities that -- that evening. One  
9                   of them being a call with Mr. Zipperer in which  
10                  he becomes belligerent on the telephone.

11                  And then I have the report of  
12                  Investigator John Dederling of the Calumet County  
13                  Sheriff's Department documenting his call later  
14                  that same evening. He places the call at  
15                  approximately 9:40 p.m. on Thursday, November 3,  
16                  2005, and describes, verbatim. His report says  
17                  George was extremely belligerent initially and  
18                  goes on from there.

19                  I don't intend to offer Mr. Zipperer's  
20                  comments for their truth. Indeed, the intent is  
21                  to show that Mr. Zipperer told, first, Corporal  
22                  Lemieux and, then, Investigator Dederling, a  
23                  series of lies about his own activities; about  
24                  Jason's activities; about whether the *Auto Trader*  
25                  photographer was a trespasser on the property.

1           Threatened to have the dog eat anyone who would  
2           come on the property; wanting Teresa Halbach  
3           arrested even after being told that she was a  
4           missing person; denying that he had contacted  
5           *Auto Trader* or arranged for photographs of the  
6           car.

7                       So what I'm interested in is eliciting,  
8           not for the truth, but as relevant verbal acts,  
9           these statements that I believe she would have  
10          overheard.

11                   THE COURT:   Mr. Kratz.

12                   ATTORNEY KRATZ:   Judge, the fact that  
13          Mr. -- Well, first of all, the fact that Mr. Strang  
14          has to ask this witness who she was talking to, that  
15          alone calls for a hearsay response, so there isn't  
16          any foundation.   But the relevance, even if there  
17          was a hearsay exception, to the fact that  
18          Mr. Zipperer flies off the handle or indicates that  
19          Ms Halbach was a trespasser, or some other reason, I  
20          fail to see.   And for both of those reasons, would  
21          ask that this question be excluded.

22                   ATTORNEY STRANG:   Now, she herself meets  
23          with Investigator Dederling later that evening at  
24          what he marks as 9:53 p.m.   So he physically, then,  
25          comes to the residence, Investigator Dederling does.

1 He talks with her, as well as her husband. So,  
2 again, that's why I believe she's there. And that's  
3 the background.

4 THE COURT: I think I understand the --  
5 your objection to the hearsay exception being that  
6 you are not offering the statements for the truth of  
7 the matter asserted. But what's the relevance?

8 ATTORNEY STRANG: The issue here is whether  
9 the people investigating Teresa's death investigated  
10 without bias, investigated objectively, sort of  
11 followed the evidence where it led them.

12 When somebody who was, essentially,  
13 evenly placed with Mr. Avery, that is, both known  
14 to be appointments on the afternoon that Teresa  
15 Halbach is last seen; when that person becomes  
16 belligerent and uncooperative with the police,  
17 continues to be bellicose and uncooperative when  
18 told that this is a missing person and that the  
19 police need help; and then tells the police a  
20 series -- not one, not two, but a whole series of  
21 lies; it's relevant to whether the police, then,  
22 pursued that and said, gosh, we have somebody who  
23 would have been one of the last people to see her  
24 and he's lying to us about just about everything  
25 that's coming out of his mouth.

1                   He is hostile. He is uncooperative.  
2           Perhaps he is worthy of some further  
3           investigation. I intend to show later that, in  
4           fact, Mr. Zipperer got little or no further  
5           investigation.

6                   THE COURT: Mr. Kratz.

7                   ATTORNEY KRATZ: He can ask the police  
8           that, Judge. It shouldn't come in through  
9           Mrs. Zipperer, or call George Zipperer.

10                  ATTORNEY STRANG: I don't know that I --  
11           that I need to call witnesses to do this. Now, if  
12           he would rather I ask the police -- and, obviously,  
13           if Mrs. Zipperer really does not remember her  
14           husband's end of the conversation, then I will do  
15           it, with Investigator Dederling. I mean, I'm not --

16                  THE COURT: Is the investigator going to be  
17           testifying for the State?

18                  ATTORNEY KRATZ: He's right outside the  
19           door, Judge. He is probably going to be my next  
20           witness, with this line of questioning.

21                  THE COURT: Given how little the witness  
22           appears to remember about the conversation, I'm not  
23           sure that it's necessary for the Court to rule on  
24           the objection. And if we have got other people here  
25           who are firsthand, maybe, Mr. Strang, if they say

1 something that you feel this witness somehow might  
2 be in a position to clear up, you can consider  
3 bringing her back. But I don't see at this stage,  
4 based on what I have heard so far, that she  
5 remembers enough about it to offer anything  
6 probative.

7 ATTORNEY STRANG: And I will understand  
8 completely and entirely accept Mr. Kratz's polite  
9 refusal to answer this question, but I will ask -- I  
10 will put it to the Court and the Court can require  
11 Mr. Kratz, if it wishes, whether the State expects  
12 to call Corporal Lemieux.

13 ATTORNEY KRATZ: I don't know.  
14 Mrs. Zipperer is not done and I have some questions  
15 as well, so.

16 THE COURT: Is Mr. Zipperer scheduled to be  
17 testifying?

18 ATTORNEY KRATZ: He's on the witness list;  
19 I don't intend to call him. It would be cumulative  
20 for what Mrs. Zipperer is saying.

21 THE COURT: Well, at any rate, at this  
22 stage, Mrs. Zipperer doesn't seem to remember enough  
23 about the conversation. I think it's time to move  
24 on.

25 ATTORNEY STRANG: And that's fair and I

1           understand I can do this through Investigator  
2           Dedering. I didn't have anything else for  
3           Mrs. Zipperer, so I can pass this back to redirect  
4           when the jury --

5                   THE COURT: Very well.

6                   ATTORNEY STRANG: -- is called back.

7                   THE COURT: Mr. Kratz, you do have a few  
8           questions?

9                   ATTORNEY KRATZ: Just since Mr. Strang  
10          brought up her memory about the time, she does have  
11          a written statement about that.

12                  THE COURT: All right. We'll bring the  
13          jury back in. We can bring the witness back in.  
14          Mr. Strang, I will ask you, for the record when the  
15          jury comes back in, if you have any further  
16          questions.

17                  ATTORNEY STRANG: Sure.

18                               (Jury present.)

19                  THE COURT: You may be seated. Mr. Strang,  
20          do you have any further questions for this witness.

21                  ATTORNEY STRANG: I do not have any further  
22          questions on cross-examination. Thank you, your  
23          Honor.

24                  THE COURT: Mr. Kratz.

25                  ATTORNEY KRATZ: Just briefly.

**REDIRECT EXAMINATION**

BY ATTORNEY KRATZ:

Q. Mrs. Zipperer, after Teresa Halbach went missing, do you recall being interviewed yourself by an investigator with the Calumet County Sheriff's Department whose name was John Dederling?

A. I don't remember his name, but I was interviewed.

Q. A bald fellow, remember being interviewed by?

A. I can't remember if he was bald.

Q. All right. Mr. Strang asked you if today you recall the approximate time that Teresa was at your residence. And I believe, with Mr. Strang, you indicated that it was sometime in the afternoon, sometime in the later afternoon. Is that what you told him today?

A. Mid-afternoon.

Q. Do you recall providing Investigator Dederling with a written statement wherein you indicated the time that Teresa was out to your property?

A. I remember that day, yes.

Q. Do you remember what you wrote in that statement?

A. Not everything.

Q. If I showed you that statement, would that help refresh your memory about the time that she was there?

1 A. Right. I think I have to have my other glasses,  
2 though.

3 Q. I'm sorry?

4 A. Julie has my reading glasses.

5 ATTORNEY KRATZ: We'll get those. In come  
6 the reading glasses.

7 THE WITNESS: I'm sorry.

8 Q. (By Attorney Kratz)~ Now, Mrs. Zipperer, I don't  
9 want you to say anything, but I want you to just  
10 look at your written statement, that's Exhibit  
11 No. 28 that's been put in front of you. I want  
12 you to just read it to yourself.

13 Mrs. Zipperer, my associate is going to  
14 take that exhibit from you, going to take that  
15 away from you. And now I'm going to ask you, if  
16 after reading that statement if that refreshes  
17 your recollection about when Teresa was out to  
18 visit you that day?

19 A. Yes, it does.

20 Q. And what time, then, was she out to see you that  
21 day?

22 A. Between 2 and 2:30.

23 ATTORNEY KRATZ: That's all I have got,  
24 Judge. Thank you.

25 THE COURT: Mr. Strang, anything on



1 recross?

2 ATTORNEY STRANG: I do.

3 **RECROSS-EXAMINATION**

4 BY ATTORNEY STRANG:

5 Q. The piece of paper that the prosecution just  
6 showed you, that actually was something written  
7 by the police officer, correct?

8 A. Right. I just told him and he wrote it down.

9 Q. He wrote it down and then you signed it at the  
10 bottom?

11 A. Yes.

12 Q. And you wrote the date on it?

13 A. Yes.

14 Q. And that was, oh, six days or so after the young  
15 woman had come to your house?

16 A. I don't remember the date that was on there.

17 Q. Okay. It says November 6th, you don't have any  
18 reason to doubt that, do you?

19 A. No.

20 Q. Okay. And when the police officer asked you  
21 about time, were you doing what you were doing  
22 today, which is giving your best estimate of when  
23 this young woman showed up while you were raking  
24 leaves in the yard?

25 A. No, I probably -- I was -- That was right because

1 I was -- I just couldn't remember right today  
2 what exactly time it was.

3 Q. Okay. But as I understood, you don't wear a  
4 watch?

5 A. No, I don't.

6 Q. You weren't wearing a watch on Halloween, 2005?

7 A. No.

8 Q. You were out in the yard raking leaves?

9 A. Right.

10 Q. And at that time, do you remember whether he  
11 suggested 2 to 2:30 or do you know why he wrote  
12 that down?

13 A. That's what I thought it was on that day.

14 Q. And as you sit here today, is that your best  
15 recollection, or mid-afternoon?

16 A. What was on the paper, 2 to 2:30.

17 Q. Okay. You are going to go with the paper?

18 A. Right.

19 Q. Okay. Thank you.

20 ATTORNEY KRATZ: Thank you.

21 THE COURT: All right. Mrs. Zipperer, you  
22 are excused.

23 ATTORNEY KRATZ: May we approach, Judge.

24 THE COURT: Yes.

25 (Side bar taken.)

1                   ATTORNEY KRATZ: State will call Ryan  
2 Hillegas, your Honor.

3                   Janet, has 27 been received?

4                   THE CLERK: Yes.

5                   ATTORNEY KRATZ: I move 28, Judge, although  
6 I'm quite certain it won't be received in its  
7 entirety, but to complete the record I think that it  
8 needs to be.

9                   THE COURT: That is the last witness'  
10 written statement?

11                  ATTORNEY STRANG: Yeah, it was just used to  
12 refresh recollection.

13                  ATTORNEY KRATZ: Just -- Just for the  
14 purposes that it was used, Judge.

15                  ATTORNEY STRANG: I don't think it gets  
16 admitted, but the record is clear that is was used;  
17 it was Exhibit 28.

18                  THE COURT: So I'm not being asked to admit  
19 it, correct?

20                  ATTORNEY KRATZ: Not -- No, not in its  
21 entirety, you are asked to receive it not to admit.

22                  THE COURT: Very well, I will receive it.

23                  THE CLERK: Please raise your right hand.

24                  **RYAN HILLEGAS**, called as a witness  
25 herein, having been first duly sworn, was

1 examined and testified as follows:

2 THE CLERK: Please be seated. Please state  
3 your name and spell your last name for the record.

4 THE WITNESS: Ryan Hillegas, last name is  
5 H-i-l-l-e-g-a-s.

6 ATTORNEY KRATZ: You can back up just a  
7 little bit, Mr. Hillegas, since the microphone is  
8 certainly loud enough for you.

9 **DIRECT EXAMINATION**

10 BY ATTORNEY KRATZ:

11 Q. Mr. Hillegas, did you know a woman by the name of  
12 Teresa Halbach?

13 A. Yes.

14 Q. How did you know Teresa?

15 A. I guess she was a long time friend. We had dated  
16 for five years or so, end of high school and  
17 early part of college.

18 Q. At some point, did you and Ms Halbach stop being  
19 boyfriend/girlfriend?

20 A. Yes.

21 Q. Did you remain on friendly terms with her?

22 A. Yes.

23 Q. How often would you speak with her?

24 A. Maybe once every week, sometimes every couple,  
25 but definitely kept in touch every week or two.

1 Q. During the time period of October, 2005, were you  
2 aware of Ms Halbach's living arrangements?  
3 A. Yes.  
4 Q. And what were they, if you recall?  
5 A. She lived in a house with a friend of ours, Scott  
6 Bloedorn.  
7 Q. Scott was also a friend of yours; is that right?  
8 A. Yes.  
9 Q. And was it your understanding that Scott and  
10 Teresa had any kind of a romantic relationship?  
11 A. No, no romantic relationship.  
12 Q. Just roommates?  
13 A. Just roommates.  
14 Q. Mr. Hillegas, are you familiar with how close the  
15 residence that Teresa lived in was to her  
16 parents' house?  
17 A. Yes.  
18 Q. Where was it?  
19 A. Her parents lived roughly a quarter mile down the  
20 road.  
21 Q. And are you also familiar with the vehicle that  
22 Teresa drove at the time?  
23 A. Yes.  
24 Q. Could you tell us about that vehicle, please?  
25 A. It was a Toyota RAV4, a blue-green color,

1 combination blue-green.

2 Q. I show you what's been received as Exhibit No. 5;  
3 it's on the large screen. Is that the -- both  
4 the photograph of Teresa Halbach and also her  
5 RAV4?

6 A. Yes.

7 Q. Mr. Hillegas, when was the first time that you  
8 heard that your friend, Teresa, had gone missing?

9 A. It was Thursday, after Halloween, which would  
10 have made it the 3rd, I believe, of November,  
11 then.

12 Q. And on November 3rd, can you tell the jury what  
13 you did, please?

14 A. Yeah, in the afternoon, I believe it was, I'm  
15 going to say around 3:00 or so, Scott had called  
16 me and said that Teresa's dad had went over and  
17 asked if he had seen Teresa. And Scott called me  
18 and I went over to the house that afternoon.

19 Basically, tried digging up any  
20 information on where she might be. We started  
21 calling her friends. We found a list of her  
22 friends on her computer with all their numbers.  
23 So we started calling all them to see if anybody  
24 had whereabouts. And then after that we printed  
25 off her cell phone records off the internet, just

1           to see what calls she had made, or other numbers  
2           of friends we could find on there.

3   Q.   Let me just stop you at that point.

4           Mr. Hillegas, finding her cell phone records, how  
5           does something like that occur? How did you do  
6           that?

7   A.   Well, there were a couple of us that tried  
8           figuring it out. Basically figured out her  
9           password and made up a user name that worked and  
10          got into her phone records and printed it right  
11          off.

12   Q.   Had you known at that time that she hadn't been  
13          seen since the 31st of October?

14   A.   Basically, I knew that she was missing. I didn't  
15          know she hadn't been seen by anybody. But I knew  
16          that -- knew that she was missing or decided that  
17          she was missing at that point.

18   Q.   After printing off or getting access to her cell  
19          phone records, I assume to her account, through  
20          her cell phone provider; were you able to provide  
21          that information to law enforcement authorities?

22   A.   Yes.

23   Q.   You said that you had called some people; what  
24          kind of calls were you making?

25   A.   Well, the -- I mean, we called all her friends

1           and basically just said that, you know, we  
2           haven't seen her, and wondering whereabouts.  
3           None of those people really turned anything up  
4           for us. And, then, we had called a good list of,  
5           like, the last numbers she had called and numbers  
6           on her phone.

7   Q.   Now, on the 3rd -- By the way, that would be the  
8           first day that she had been reported missing; is  
9           that your understanding?

10  A.   Yes.

11  Q.   On the 3rd, were there other friends or other  
12           family members who were assisting you in the  
13           search effort?

14  A.   Yes. Yeah, it was me, Scott Bloedorn, one of her  
15           girlfriends, Kelly Bitsen (phonetic) came over.  
16           I believe a little later another friend, named  
17           Lisa, was over as well.

18  Q.   About how long that evening did you work on this  
19           project?

20  A.   Well, for the good portion of the night,  
21           probably, I guess, until midnight, 1:00. We were  
22           calling friends and other people we didn't get a  
23           hold of and people that were finally returning  
24           calls later. Better portion of the night.

25  Q.   The next day, the 4th, Friday, the 4th of



1           November; did you become, again, actively  
2           involved in the search for Teresa?

3   A.    Yes.

4   Q.    Tell the jury what you did, please.

5   A.    Yeah, that afternoon, you know, it was probably  
6           late morning, but I had talked to the family.  
7           And they had arranged with the missing persons  
8           organization out of Appleton; they were printing  
9           up fliers, missing person fliers. And they just  
10          asked me if I could pick them up and arrange, you  
11          know, how we would get them out.

12                 That was kind of the afternoon. I went  
13           and picked up the posters, probably early  
14           afternoon, noon, 1:00. And when I had gotten  
15           back, then, to Teresa's house, there was a good  
16           number of family members and friends who were  
17           waiting to, basically, find out what they can do  
18           and go pass the fliers out.

19   Q.    I will show you what's been received as Exhibit  
20           No. 10; are these the missing person posters that  
21           you are talking about?

22   A.    Yes.

23   Q.    About how many of those posters did you assist in  
24           not only having produced, but in distributing?

25   A.    I'm going to estimate, but probably, geez,

1           somewhere -- I don't know, probably between a  
2           thousand and 2,000, maybe 3,000. They were all  
3           over the place, I guess.

4       Q.   Did you receive assistance from her employer, or  
5           at least one of her employers, *Auto Trader*  
6           *Magazine*?

7       A.   To handle the fliers?

8       Q.   Just to get information from them.

9       A.   I never spoke with anybody from *Auto Trader*.

10      Q.   Okay. An organization that did help you, though,  
11           and it's up in the top left hand corner of this  
12           exhibit, is something called YES, Youth Educated  
13           in Safety; is that right?

14      A.   Yes.

15      Q.   This missing persons search organization, did  
16           they provide you with some technical and other  
17           assistance?

18      A.   Yes.

19      Q.   The distribution efforts, that is, getting these  
20           posters out; who was in charge of that?

21      A.   I guess I was kind of the unofficial leader,  
22           coordinator, of the effort, if you could call it  
23           that.

24      Q.   How many people did you have to help?

25      A.   Well, when I got back to the house that day,

1           there were -- I'm estimating here, but probably  
2           between 30 and 45 people. That was on just the  
3           first afternoon, when we handed them out. But  
4           then we had contacted truck stops and faxed  
5           fliers.

6                       We had people just stopping by  
7           throughout the day to pick up fliers. Just to  
8           put them out anywhere we could. I know there  
9           were people out pretty late on Friday night and  
10          still putting up fliers and driving city to city.

11   Q.   Did your efforts, Mr. Hillegas, include the  
12        media?

13   A.   A little bit, yes.

14   Q.   And this information -- information about the  
15        missing person, where she was last seen and those  
16        kind of things, was that distributed to the  
17        media, as far as you know?

18   A.   Yeah. And they had fliers too, so ...

19   Q.   Now, with you being the -- whether you want to  
20        call it official or unofficial, being the  
21        coordinator of this citizen search effort on that  
22        Friday, that is, the day after Teresa was  
23        reported missing; what other efforts were being  
24        developed to try to find Teresa?

25   A.   Well, after Friday and we had got the posters out

1 basically kind of through the instruction of the  
2 YES Foundation and their recommendations, first  
3 they wanted us to get fliers out and make as many  
4 people aware as we could, all about Teresa and  
5 that she was missing. After that, it was kind of  
6 to go a little more and basically to search.

7 Friday night after the posters were done  
8 being handed out, we had gotten back and me and  
9 Scott, for most of the night decided -- we kind  
10 of planned a road search, I guess you could call  
11 it, where everybody got in their vehicles and  
12 drove certain parts of roads and maps that we had  
13 plotted out for them, just to make sure we  
14 covered everything, but ... So Friday night we  
15 pretty much planned on an all day road search  
16 that went on Saturday, with volunteers again.

17 Q. Well, Friday night you said that you were making  
18 some maps; how was that done?

19 A. Satellite imagery off the internet mostly,  
20 otherwise just Map Quest.

21 Q. Maps of what?

22 A. Maps of, you know, the areas we wanted to search.  
23 We kind of blew up smaller portions so you could  
24 see the roads better and county highways out in  
25 the Manitowoc area near the Averys, any kind of

1 county highway. Basically, we tried to cover  
2 anything from Hilbert to Green Bay, all the way  
3 to the lake. Pretty much covering as much land  
4 as we could.

5 Q. Well, this was a citizen search effort; is that  
6 right?

7 A. Yes.

8 Q. In other words, family members and friends and  
9 very -- very much so just a citizen effort  
10 coordinated by you; is that right?

11 A. Yes.

12 Q. Let me ask you something, Mr. Hillegas, why would  
13 you center or why would you direct some of your  
14 search efforts around the Avery property?

15 A. Well, mostly for the fact that, you know, the  
16 media had covered so much of it. You know, all  
17 you heard about was around the Avery property.  
18 And I believe at that point we had known that,  
19 you know, her last kind of whereabouts were in  
20 that neck of the woods.

21 Q. So even as an untrained law enforcement officer,  
22 you knew to look for the last place she was seen  
23 alive; is that right?

24 A. Yes.

25 Q. Okay. It didn't strike you as being unfair to

1           Mr. Steven Avery, did it?

2       A.    No.

3       Q.    All right.  Now, these physical searches, you  
4           said the road searches and things like that; how  
5           many people were involved in that effort?

6       A.    Well, throughout the day on Saturday there were  
7           people kind of coming and going, people getting  
8           up, work late in the morning, still wanted to  
9           help.  Estimate, say probably Saturday's effort  
10          was a little bigger than Friday, probably between  
11          80 and 110 people, I would guess.

12      Q.    All right.  So over 100 of Teresa's friends and  
13          family and relatives were gathered to look for  
14          her Saturday morning; is that right?

15      A.    Yes.

16      Q.    What time did you all convene and where did this  
17          happen?

18      A.    Everybody met at Teresa's house.  I believe  
19          everybody was there early, probably 6, 6:30, a  
20          good portion of them were there by about that.  I  
21          would say between 6 and 7 is when everybody got  
22          there.

23      Q.    Tell us about that morning; what happened that  
24          morning.

25      A.    Well, everybody pretty much met in the driveway.

1 Me and Scott, by that point in the morning, had  
2 all the maps arranged. But we had a large map  
3 that we printed out with kind of smaller  
4 sectioned areas that we had printed smaller maps  
5 out for everybody to use.

6 Basically had everybody line up and come  
7 in the back of the house. And they were to walk  
8 through, once they got in the kitchen, we kind of  
9 gave them an assignment, groups of one car or  
10 two, we would give the same map to and have them  
11 all cover the same area to make sure all the  
12 roads were all covered.

13 But everybody had an assignment. When  
14 they were done with their assignment, pretty much  
15 instructed to call back and we would give them a  
16 new assigned area to cover, one that hadn't  
17 been -- that we hadn't sent any people to yet.

18 Q. Just kind of a grid search?

19 A. Basically, yes.

20 Q. All right. Do you know Pam Sturm or her  
21 daughter, Nikole Sturm?

22 A. Yes.

23 Q. How do you know Pam and Nikole?

24 A. I had met them Saturday morning. They showed up  
25 after the good majority of everybody else had

1 left. But that was the first time I had met  
2 them.

3 Q. After, then, the first wave, if you will, of  
4 citizens got their maps and they went off to do  
5 their search; what did you and Pam Sturm discuss?

6 A. Well, Pam had showed up after pretty much the  
7 whole group of everybody had already left to  
8 search in the morning. And we had a good -- you  
9 know, so many people, we had a good portion of  
10 everything that we had divvied up. Good portion  
11 of that was already handed out to other people.  
12 Wasn't much area left to search yet.

13 And she just asked, basically came out  
14 and said, had anybody gone to the car yard yet,  
15 the Avery Salvage Yard. We just said, no, that  
16 we hadn't been sending anybody in there and she  
17 offered to and said she would be willing to  
18 and --

19 ATTORNEY BUTING: Objection, your Honor,  
20 hearsay.

21 THE COURT: Mr. Kratz.

22 ATTORNEY KRATZ: Not offered for the truth,  
23 Judge. It's where Pam eventually goes. I can  
24 certainly go on to another question. I'm not  
25 inquiring any further into conversations.



1                   THE COURT: Assuming that witness is going  
2                   to be testifying later, I will agree; I will allow  
3                   it.

4       Q.     (By Attorney Kratz)~ Before Pam left, then, to  
5                   travel to the Avery Salvage Yard, was she  
6                   provided a map or any other information?

7       A.     Yes. Yes, I gave her a map.

8       Q.     What other information was she provided, if you  
9                   know?

10      A.     I gave her a map about the area out there and how  
11                   to get out there. Scott had borrowed her his  
12                   camera just in case they were to find something.

13      Q.     Do you know what kind of camera it was?

14      A.     A digital camera, I don't know what brand.

15      Q.     When you say provided them, who was with Pam?

16      A.     Pam and her daughter.

17      Q.     Nikole?

18      A.     Nikole, yes.

19      Q.     All right. Do you know about what time Pam and  
20                   Nikole left, then, for the Avery property?

21      A.     I'm going to estimate, but I would probably say  
22                   somewhere between quarter to 8 and 8:00 maybe.

23      Q.     Sometime later that day, without telling us the  
24                   words or what you heard, but did you hear some  
25                   results of what Pam and Nikole Sturm had found

1 out at the location?

2 A. Yes.

3 Q. Even after Pam and Nikole's discovery, later on  
4 the 5th, did you and other citizens remain  
5 involved in search efforts?

6 A. Yes.

7 Q. Can you describe those for the jury, please.

8 A. Well, the car search on Saturday went all day,  
9 pretty much into the night again. And Saturday  
10 night, then, once everybody was done searching,  
11 we met back at the house and started planning our  
12 next endeavor to go on, I guess you could say.

13 Q. Let me -- Let me just stop you. After the car --  
14 After the SUV was found, in this case; you kept  
15 searching, you kept your search efforts going?

16 A. Yes.

17 Q. Why?

18 A. Well, we hadn't found Teresa.

19 Q. Do you remember what locations your citizens  
20 searched for Teresa?

21 A. Yeah. You know, we went through all the cities,  
22 neighboring cities around Manitowoc County.  
23 Sunday, we had started doing fields and parks and  
24 ditches next to the highways, any place that, I  
25 guess, something could or somebody could be put

1           and, you know, not be visibly seen. But Sunday  
2           we started doing actual walk-throughs of land and  
3           property near the Averys.

4       Q.    It's a hard question, Ryan, but you were looking  
5           for Teresa's body; is that right?

6       A.    Yes.

7       Q.    Did you continue to receive technical assistance  
8           in assigning citizens to this effort?

9       A.    Yes.

10      Q.    Who did you get assistance from?

11      A.    Well, basically, the YES Foundation, again. We  
12           took any advice from them that we could, since  
13           Jay Breyer, who was, I guess, the leader of it,  
14           or the guy who runs it, he had seemed to have a  
15           lot of experience in missing person cases.

16      Q.    Did you personally proceed near the Avery salvage  
17           property and did you engage in searches of that  
18           area?

19      A.    Yes.

20      Q.    Do you remember where you -- where you looked  
21           around there --

22      A.    Yes.

23      Q.    -- just briefly.

24      A.    Yeah, we -- we did, like Maribel County Park is  
25           near there. We did some private -- or public

1 land that was pretty much adjacent to Avery  
2 property, but behind it all. Any field somewhere  
3 around there that were outside the police bounds  
4 that we could get to, basically we searched.

5 Q. Mr. Hillegas, was this all before human remains  
6 were found on the Avery property itself?

7 A. I believe so, yes.

8 Q. After you learned -- I assume you learned at some  
9 point that human bones and human remains were  
10 found; is that right?

11 A. Yes.

12 Q. After that point, did you continue with your  
13 search efforts or did you call them off?

14 A. No, we called the search off then.

15 ATTORNEY KRATZ: That's all I have of  
16 Mr. Hillegas, Judge. Thank you.

17 THE COURT: All right. I think at this  
18 time we will take our afternoon break. We'll come  
19 back in 15 minutes.

20 Members of the jury, I will remind you,  
21 again, not to discuss the case during the break.  
22 We'll see you in 15 minutes.

23 (Jury not present.)

24 THE COURT: Ten to three, counsel.

25 ATTORNEY KRATZ: Thank you, Judge.

1 (Recess taken.)

2 (Jury present.)

3 THE COURT: Mr. Buting, at this time you  
4 may begin your cross-examination of the witness.

5 ATTORNEY BUTING: Thank you, your Honor.

6 **CROSS-EXAMINATION**

7 BY ATTORNEY BUTING:

8 Q. Mr. Hillegas, can you give me a little bit of  
9 background on how long you knew Teresa?

10 A. Sure. I met Teresa, I believe, when I was a  
11 freshmen in high school and I have known her ever  
12 since.

13 Q. And did you grow up in the same general town,  
14 then, I take it?

15 A. She lived in St. John; I lived in Hilbert. We  
16 went to the same high school.

17 Q. And then you went off -- How are you employed by  
18 the way?

19 A. I'm a registered nurse.

20 Q. And where are you working right now?

21 A. In Milwaukee.

22 Q. At various hospitals?

23 A. At Froedert Hospital.

24 Q. Okay. And back in October of 2005, where were  
25 you working?

1 A. I was currently unemployed. I had just finished  
2 school.

3 Q. Okay. So on October 31st, you were not working  
4 at all?

5 A. That's correct.

6 Q. And where were you living?

7 A. At home with my parents.

8 Q. Which is?

9 A. In Hilbert.

10 Q. In Hilbert, okay. Now, you said that you used to  
11 date Teresa kind of on and off, or for how long  
12 were you on and how long were you off?

13 A. Well, we dated for a total of five years, I  
14 think. We broke up two or three times in the  
15 middle for short periods, maybe for a month at a  
16 time.

17 Q. So when was the last time you would say when you  
18 broke up?

19 A. 2001, I believe.

20 Q. Was that your initiative or hers?

21 A. Just kind of a general understanding, kind of  
22 both of us. We were just going separate ways,  
23 so.

24 Q. Okay. And after that time, did you have any  
25 interest in renewing that nature of that kind of

1           a relationship with her?

2   A.    No.

3   Q.    Now, Scott Bloedorn, was also a friend of yours,

4           right?

5   A.    Yes.

6   Q.    Was he, back in October of 2005, your best

7           friend?

8   A.    One of them, yes.

9   Q.    Okay.  Would you -- When did he move in with

10          Teresa?

11   A.    I don't know that.

12   Q.    Well, was it less than a year?

13   A.    It was less than a year before that Halloween.

14   Q.    Eight or nine months sound about right?

15   A.    It might be.  I guess I'm not sure.

16   Q.    Okay.  You have been over to that house before I

17          take it, right?

18   A.    Yes.

19   Q.    What's the layout of the house?  How is it set

20          up?  How was it set up back then?

21   A.    Well, Scott had -- Scott's room was upstairs.

22          Teresa's was downstairs.  It was kind of an --

23          almost an understanding; all Scott's stuff was

24          upstairs and Teresa's was downstairs.  They kind

25          of had it split, shared a kitchen and the

1 bathroom.

2 Q. So they had sort of their own floors and separate  
3 bedroom on each floor?

4 A. Yes.

5 Q. But they shared the kitchen and you said the  
6 bathroom, there was one bathroom they shared?

7 A. Yes.

8 Q. So they would see each other frequently,  
9 presumably, during the day? Is that a yes?

10 A. Sure. Yes.

11 Q. Okay. And did you come over and visit Scott  
12 various times while he was living with Teresa?

13 A. Yes.

14 Q. And did you spend time over there; dinner,  
15 watching TV, or a movie or something?

16 A. Occasionally, yes.

17 Q. Was it -- Well, I take it, then, from -- when you  
18 say that you talked with her at least every other  
19 week, or every week even?

20 A. Yes.

21 Q. On the phone, or would you actually get together  
22 with her, or what?

23 A. Either on the phone, or I would see her at the  
24 house when I would go visit Scott.

25 Q. Okay. So you were over there quite a bit during



1           that last six months or so?

2   A.    I wouldn't say quite a bit.

3   Q.    Once a week?

4   A.    Occasionally, once a week, maybe.

5   Q.    Okay. Okay. Over that time, would it be fair to

6           say that you became accustomed with Teresa's

7           habits and routines, generally?

8   A.    No, I wouldn't say that.

9   Q.    Well, did you know, for instance, was she a

10          homebody; did she like to go out?

11   A.    She kind of did what she wanted. Sometimes I

12          would go over there and, you know, not see her

13          the three times that I stopped that week. And

14          the following week I could go there and I would

15          be there three nights in a row when she would be

16          there every night, just depended.

17   Q.    Were you familiar with her circle of friends?

18   A.    Most of them, yes.

19   Q.    For instance, she went to UW Green Bay, right?

20   A.    Yes.

21   Q.    And she worked in Green Bay?

22   A.    Yes.

23   Q.    So she had a lot of friends in Green Bay?

24   A.    Yes.

25   Q.    And would she go out, socializing with those

1 friends, if you know?

2 A. Yes.

3 Q. Did you ever go with her when she would socialize

4 with that group of friends?

5 A. When we were dating, yeah. She was in Green Bay

6 the first -- the last two years when we were

7 dating, so, occasionally, then, I would go out

8 with her and her friends, but other than that,

9 not really.

10 Q. Would you say she was a sociable person,

11 generally?

12 A. Yes.

13 Q. She liked to be around people?

14 A. Yes.

15 Q. She liked to go to parties?

16 A. Yes.

17 Q. Liked to go to bars?

18 A. Yes.

19 Q. Particularly karaoke bars, I think, was one of

20 her favorites?

21 A. I believe so, yes.

22 Q. Okay. And in 2005, were there times when you

23 would also go out with her to those kinds of

24 places, either parties or bars?

25 A. I don't think I -- I think the only bar -- I

1           maybe only went out with her once that whole  
2           year, probably just didn't share that with her.

3       Q.   And do you know whether Scott ever went out with  
4           her to bars or parties?

5       A.   A few times. I don't believe it was too often.

6       Q.   Okay. And when she would be home, do you know  
7           whether she would have dinner there or whether  
8           she would eat out? You know, what did she do at  
9           home?

10      A.   Occasionally she did both.

11      Q.   Did she and Scott have dinner together?

12      A.   Not that I'm aware. I mean, maybe they sat down  
13           and ate a meal together, but.

14      Q.   So you are not that familiar with what the  
15           evening routine was; is what you're saying?

16      A.   No.

17      Q.   Okay. Do you know whether it was unusual for her  
18           to be out overnight during those last six months  
19           or so?

20      A.   Occasionally she would. I know she would go to  
21           Green Bay and stay at a friend's house overnight.

22      Q.   Okay. Let me ask you about the weekend of  
23           October 29th and 30th, 29th being Saturday; did  
24           you see her or talk with her that day?

25      A.   I don't believe I talked to her on Saturday. I

1           don't think so.

2   Q.    Okay. Did you talk with her or see her on

3           Sunday?

4   A.    Yes.

5   Q.    And where was that?

6   A.    At her house.

7   Q.    And how did that come about?

8   A.    I had just stopped briefly. I was dropping

9           something off for Scott and she was sitting there

10          at her computer.

11   Q.    Do you know about what time that was?

12   A.    I don't know.

13   Q.    I mean, are we talking morning, afternoon, night?

14   A.    I don't know.

15   Q.    You don't remember at all?

16   A.    No.

17   Q.    And she was just sitting at the computer?

18   A.    Yes.

19   Q.    Did you talk to her at all?

20   A.    A little bit, yes.

21   Q.    Now, the night before, Saturday night, was sort

22          of Halloween weekend; there would be parties, bar

23          parties, house parties, whatever. Did you chit

24          chat at all, talk about that?

25   A.    On Sunday we had just talked and she had

1           mentioned that she had a cowgirl hat and she was  
2           going to dress up like a cowgirl. And that was  
3           pretty much the extent of it.

4   Q.   This was, I'm sorry, Saturday or Sunday?

5   A.   Sunday.

6   Q.   Okay. Did she talk about having gone out the  
7           night before, Saturday night at all?

8   A.   No.

9   Q.   Do you know from any other information whether  
10          she did go out Saturday night?

11  A.   I don't know.

12  Q.   Or Sunday night?

13  A.   I don't know that either.

14  Q.   You said that you distributed 1,000 to 3,000  
15          posters?

16  A.   Roughly.

17  Q.   And that she had all these friends and helping  
18          out, including friends in Green Bay calling. You  
19          called some friends; is that right?

20  A.   Yes.

21  Q.   This was on November 3rd, when you called the  
22          friends, right?

23  A.   That was Thursday, yes.

24  Q.   Yeah, Thursday. But you said none of those  
25          people were particularly helpful, giving you any

1 information about her. Most of them hadn't seen  
2 her for awhile?

3 A. That's correct.

4 Q. With all those posters out, all that publicity,  
5 did anybody ever come forward and talk to you,  
6 tell you where Teresa was on Saturday night?

7 A. No.

8 Q. October 29th?

9 A. Not that I remember.

10 Q. So that night is an unknown in her life; is that  
11 right?

12 A. I don't know of what happened that night with  
13 her.

14 Q. Be fair to say that Teresa had a private side as  
15 well, that you didn't know about?

16 A. No, I don't think so. I don't think she had a  
17 private side that I didn't know about. We were  
18 pretty open with each other. We talked a lot.

19 Q. Well, if she had gone out Saturday night with  
20 somebody, or some place, and you know nothing  
21 about it, would that surprise you?

22 ATTORNEY KRATZ: Objection relevance,  
23 Judge.

24 THE COURT: Mr. Buting.

25 ATTORNEY BUTING: I will withdraw it.

1 THE COURT: Very well.

2 Q. (By Attorney Buting)~ So the last time you  
3 actually saw Teresa was Sunday?

4 A. Yes.

5 Q. You never talked with her on the phone after  
6 that?

7 A. No.

8 Q. Monday, Tuesday, Wednesday, Thursday, you never  
9 called her?

10 A. No. Well, that's not correct. I did call her  
11 somewhere in the middle of the week and I did not  
12 get an answer and her voice mailbox had said that  
13 it was full.

14 Q. Okay. Do you remember what day that was?

15 A. No, I don't.

16 Q. Thursday, Wednesday?

17 A. I called her on Thursday when I realized she was  
18 missing, but I believe I called her once earlier  
19 in the week.

20 Q. Okay. So when you first learned, you said it was  
21 Scott that came over; did he come over, or call  
22 you, or what did he?

23 A. He called me.

24 Q. Called you and said that -- he said that he  
25 wanted your assistance, or what?

1 A. He just called and said that Teresa's dad had  
2 came over to his work site and asked him if he  
3 had seen her recently. And Scott had called me  
4 on his way home just asking if I had talked to  
5 her. Asking if I could come over and help.

6 Q. Now, you said that -- Scott's work site? What is  
7 that?

8 A. Scott worked construction. I don't know where  
9 his work site was, but usually they did kind of  
10 local house work.

11 Q. Okay. Did you ask Scott if he had tried to call  
12 Teresa at all during the Monday, Tuesday,  
13 Wednesday, Thursday?

14 A. I don't know.

15 Q. May have called, is that what you are saying?

16 A. I don't know.

17 Q. Did you think that it was odd that three or four  
18 days had gone by without Scott coming forward and  
19 saying, where is she?

20 A. No.

21 Q. That didn't strike you as odd at all?

22 A. No.

23 Q. Why not?

24 A. Well, they were kind of on differing schedules.  
25 Teresa worked for herself and Scott worked



1 construction. So he would be up and out of the  
2 house by 5:30, 6 in the morning. A lot of times  
3 I know Teresa didn't get up and go to work until  
4 9 or 10.

5 Q. So did you know Scott's schedule?

6 A. Fairly well, yes.

7 Q. But you didn't know where he was working, is what  
8 you are saying?

9 A. I didn't know what site they were on that day.

10 Q. On any given day?

11 A. On any given day, for that matter. Occasionally  
12 I would know, just from driving by and seeing him  
13 on the side of the road working on a house, but.

14 Q. Okay. What kind of construction did he do?

15 A. Rough work, rough framing.

16 Q. Rough carpenter?

17 A. Yeah.

18 Q. Now, when you went over there, to her house, on  
19 Thursday; you said Scott had already found some  
20 kind of information or no?

21 A. No.

22 Q. What did you do first; how did you start to  
23 gather information about who to call?

24 A. I just started looking through all her records.  
25 She had filing cabinets set next to her computer.

1 Kind of her business workstation, I guess. Just  
2 started looking through the files. Turned her  
3 computer on and there was actually a -- She had  
4 an icon that was named Teresa's friends. Clicked  
5 on that and her friend's basically popped right  
6 up with phone numbers.

7 Q. Was this a laptop?

8 A. It was.

9 Q. Okay. And what did you do first? You talked  
10 about going online with her phone records, or did  
11 you call friends first?

12 A. Well, we got the phone list of her friends and  
13 started calling them. And I guess you could  
14 probably say it kind of all went down at the same  
15 time. We were calling friends; it was me and  
16 Scott, and Kelly Bitsen was calling friends as  
17 well. And we were kind of working on getting her  
18 phone records at the same time.

19 Q. How soon did Kelly Bitsen arrive? How long were  
20 you and Scott there together before she arrived?

21 A. I'm going to estimate and say between --

22 Q. Six, something like that?

23 A. What's that?

24 Q. She arrived like 6 or 7, something like that?

25 A. Yeah, she was there a few hours after I got

1           there, I believe. She was one of the first  
2           people --

3   Q.    Okay.

4   A.    -- that we called of her friends.

5   Q.    Now, tell me about this online search. You tried  
6           calling her phone and it was full, right?

7   A.    Yes.

8   Q.    Did you know her voice mail password?

9   A.    No.

10  Q.    Did you ever -- So you didn't call and listen to  
11          her voice mail at all?

12  A.    No.

13  Q.    Never?

14  A.    No.

15  Q.    Never did that day, or before?

16  A.    No.

17  Q.    Or since? Okay. And she had never shared her  
18          password with you for the online records either?

19  A.    No.

20  Q.    So you just went online to Cingular Wireless, or  
21          whatever, .com and just guessed her password.

22  A.    Well, we -- me and Kelly Bitsen had just kind of  
23          figured that it would fairly be something  
24          relating to her sisters. I believe -- I think it  
25          was their birthdays that got into it for us. I'm

1 not exactly sure about what the password was.

2 Q. But you didn't know what her user name was.

3 A. No, I believe that automatically came up when you  
4 entered her phone number in, you just need the  
5 password.

6 Q. Okay. And that's the first time you ever tried  
7 to search her phone record or use that password?

8 A. Yeah.

9 Q. Do you know if -- if anybody else knew her voice  
10 mail password?

11 A. I don't know that.

12 Q. Or if anybody else listened to her voice mails?

13 A. I don't know that either.

14 Q. All right. By the time that Calumet county  
15 investigators arrived, I take it you guys were  
16 pretty concerned about Teresa's well being, where  
17 she was?

18 A. Yes.

19 Q. And you knew that it was important that you  
20 provide as much information, as accurate  
21 information as you could?

22 A. Yes.

23 Q. Did the police interview you and Scott together,  
24 or did they put you in separate rooms when they  
25 talked to you, or how did they do that?

1 A. I believe we were -- I believe we were in the  
2 same room.

3 Q. Okay. Now, did the investigators ask you any  
4 questions about the nature of your relationship  
5 with Teresa?

6 A. Yeah.

7 Q. And they learned that you were a former  
8 boyfriend, stayed good friends with her?

9 A. Well, I believe I just said that I was a friend  
10 of hers. I don't think I mentioned that I was an  
11 ex-boyfriend.

12 Q. Okay. And they didn't pursue that and ask if you  
13 had ever had anything more than a friendship is  
14 that what you are saying?

15 A. I believe so. It came out eventually, I just  
16 didn't feel that it mattered.

17 (Court reporter coughing, asked him to repeat.)

18 Q. Let me try again.

19 A. Ask it again, please.

20 Q. Did the police ever probe further and ask if you  
21 had -- the nature of your relationship with her  
22 beyond whether there was ever anything more than  
23 friendship?

24 A. I don't think they really probed into that. I  
25 mean, I don't remember when it came out or who

1           was the one that mentioned that we used to date.

2       Q.    Okay.  But it wasn't talked about that night?

3       A.    I don't believe so.

4       Q.    When they were trying to find out what was  
5           happening -- or what had happened to this missing  
6           person, right?

7       A.    Yeah.

8       Q.    And if Scott was there with you, then, did they  
9           ask Scott the nature of his relationship with  
10          Teresa?

11      A.    Yeah.

12      Q.    Did they ask any kind of probing questions about  
13          whether he was ever intimately involved with her?

14                   ATTORNEY KRATZ:  Objection relevance,  
15          Judge.  Is this a Calumet County bias; that's my  
16          question?

17                   THE COURT:  Mr. Buting.

18                   ATTORNEY BUTING:  Investigative biases are  
19          relevant no matter who is doing the investigation  
20          involved in the case.

21                   THE COURT:  I don't know if this really  
22          falls under bias; I will allow the question.

23                   THE WITNESS:  Please ask me again.

24      Q.    (By Attorney Buting)~ Did the investigators probe  
25          the nature of Scott's relationship at all to see,

1           you know, as to whether or not there was any kind  
2           of intimate relationship between the two of them?  
3    A.    I don't believe they probed into it.  I believe  
4           he just said that he was a roommate and a friend.  
5    Q.    Okay.  So a single man living in a house with a  
6           single woman, but that was the extent of it, just  
7           roommates?  
8    A.    Yes.  
9    Q.    And as far as you knew, that was the extent of  
10           their relationship as well?  
11   A.    Yes.  
12   Q.    Scott never told you otherwise?  
13   A.    That's correct.  
14   Q.    Teresa never told you otherwise?  
15   A.    That's correct as well.  
16   Q.    And your recollection is that you don't know when  
17           your former boyfriend status ever came up; it was  
18           sometime down -- some several days later?  
19   A.    That's correct.  
20   Q.    Wasn't like the next day?  
21   A.    May have been.  Like I said, I don't know when it  
22           came up.  
23   Q.    Okay.  So, going to the next day for a minute,  
24           now, let's just go to November 4th.  You  
25           mentioned that -- Well, let me go back for a

1 minute. You mentioned that you had this meeting,  
2 sort of on Friday -- on Thursday night, the 3rd.  
3 And that was you and Scott and Kelly, and is that  
4 it, or do other friends come over?

5 A. I believe her friend, Lisa, was over, but not  
6 until quite a bit later that night.

7 Q. Okay. And so the plan was made to contact this  
8 organization, YES, the next day, make posters?

9 A. No, actually the family was in contact with YES.

10 Q. Okay. So that was something that came up later?

11 A. Yes.

12 Q. On the 4th, after you had all these posters made  
13 up; you had another meeting that -- that late  
14 afternoon or evening, Friday, to talk about where  
15 to go from here?

16 A. Yeah, Friday -- Friday night, after the posters  
17 were done being handed out.

18 Q. Okay. And you said that you downloaded satellite  
19 images and maps and were kind of trying to figure  
20 out how to divide up different areas, right?

21 A. Yes.

22 Q. And you were asked about why you directed any  
23 efforts towards the Avery area, on direct, by  
24 Mr. Kratz; do you recall that?

25 A. Yes.



1 Q. And I believe you said it was because the media  
2 had the information and the media was already  
3 seeming to focus on Mr. Avery; is that right?

4 A. I don't think it was Avery himself. I believe  
5 that it was just that we knew her last  
6 whereabouts were out in Manitowoc County.

7 Q. Okay. And had you seen any interviews with  
8 Mr. Avery at that point, or any news people  
9 coming down and talking to people on the Avery  
10 property?

11 A. I don't know if I had seen any interviews. I  
12 guess I was out putting posters up most of the  
13 day.

14 Q. But you did know that by that time the word was  
15 out in the media that the last known place, at  
16 least that they thought the last known place had  
17 been at the Averys, right?

18 A. Yes.

19 Q. And so that would have been true for anybody's  
20 knowledge, not just yours, anybody watching the  
21 media?

22 A. Yes.

23 Q. Now, the next morning, then, when you started  
24 dividing up things, Scott was with you, right?

25 A. Yes.

1 Q. And was Scott helping to assign people different  
2 places?  
3 A. Yes.  
4 Q. And when the Sturm's arrived, you said that Scott  
5 had borrowed Pam Sturm a camera; is that right?  
6 A. Yes.  
7 Q. Had lent, had lent her, given her a camera?  
8 A. Yes.  
9 Q. A digital camera?  
10 A. Yes.  
11 Q. He didn't give everyone of those members,  
12 Saturday morning, a camera, did he?  
13 A. No.  
14 Q. He just gave it to Pam Sturm, who he knew was  
15 going to go out to the Avery Salvage Yard?  
16 A. That's correct.  
17 Q. The only person he gave a camera to, right?  
18 A. Yes.  
19 Q. And during this entire missing person period,  
20 that is, before the RAV4 was found, did the  
21 police ever ask you for any kind of alibi for  
22 October 31st?  
23 A. No.  
24 Q. They never asked your whereabouts whatsoever?  
25 A. I don't believe so.

1 Q. Okay. Anybody, point blank, ever ask you, if you  
2 had any knowledge about her disappearance, or  
3 were involved in it?

4 A. I don't know if they did it like that, like they  
5 were accusing me but, of course, people asked me  
6 if I had talked to her, or knew anything. And  
7 that's why I was there to help.

8 Q. Okay. And, to your knowledge, did you ever hear  
9 the police ever ask Mr. Bloedorn, Scott Bloedorn,  
10 if he had an alibi for Monday, October 31st in  
11 the evening, late afternoon hours?

12 A. I don't know that.

13 Q. So it would be fair to say that you weren't in  
14 any way treated like a suspect, that you could  
15 tell?

16 A. That's correct.

17 Q. And even on the 5th, and thereafter, when the  
18 search narrowed into the Avery's area and  
19 surrounding areas, the police actually let you  
20 through some check points, along with some other  
21 searchers, you leading them to come and search  
22 the area, right?

23 A. Yes.

24 Q. Within the perimeter of the area around the Avery  
25 property that they had made off limits to the

1           general public, right?

2       A.    Yes.

3       Q.    And was that true of Scott as well?

4       A.    Yes.

5                   ATTORNEY BUTING:   That's all I have.

6                   THE COURT:   Any redirect?

7                               **REDIRECT EXAMINATION**

8       BY ATTORNEY KRATZ:

9       Q.    Just so we're clear Mr. -- I'm sorry.   Just so  
10           we're clear, Mr. Hillegas, the area that you were  
11           allowed access to was the outside of the Avery  
12           property itself, in other words, the surrounding  
13           properties, not within the salvage property; is  
14           that true?

15      A.    Yes.

16                   ATTORNEY KRATZ:   That's all I have, Judge.  
17           Thank you.

18                   THE COURT:   All right.   You are excused.

19                   ATTORNEY KRATZ:   I call Pam Sturm, Judge.

20                   THE CLERK:   Please raise your right hand.

21                               **PAMELA STURM**, called as a witness

22           herein, having been first duly sworn, was  
23           examined and testified as follows:

24                   THE CLERK:   Please be seated.   Please state  
25           your name and spell your last name for the record.

1                   THE WITNESS: My name is Pamela Sturm,  
2                   capital S-t-u-r-m.

3                   **DIRECT EXAMINATION**

4 BY ATTORNEY KRATZ:

5 Q. Good afternoon, Ms Sturm. Describe for the jury,  
6 if you will, whether you knew a young woman named  
7 Teresa Halbach.

8 A. Yes, I did. She is my second cousin. Her  
9 father, Tom Halbach, is my first cousin.

10 Q. Ms Sturm, sometime after the 3rd of November,  
11 after Teresa was reported missing, did you  
12 volunteer to become involved in search efforts  
13 for Teresa?

14 A. Yes, I did.

15 Q. Can you describe for the jury how you first  
16 became involved.

17 A. On November 4th, I saw a news release at like  
18 10:00 in the morning and it was a Friday morning.  
19 And it said that -- They showed Teresa's picture  
20 and it said Teresa was missing. And as soon as I  
21 got home from work, I called my sister and she  
22 didn't know anything about it. So I waited until  
23 night and I called my other first cousin, Betty  
24 Halbach, who is Tom Halbach's sister. And I  
25 asked her if that was correct and she said, yes,

1           Teresa is missing.

2   Q.   All right.  When was it, Ms Sturm, then, that you  
3           first became involved in actually searching for  
4           Teresa?

5   A.   Well, that Friday night, when I had talked to  
6           Betty, I said, anything I can do for you,  
7           anything I can help you with, I will certainly  
8           help.  And she had called back like an hour later  
9           and said there's going to be a search tomorrow  
10          morning starting at probably 9:00.  And I said,  
11          well, I would be happy to help.

12   Q.   That next morning, then, on Saturday, the 5th of  
13          November, did you go to the rendezvous place; in  
14          other words, the place where everybody else was  
15          meeting?

16   A.   Yes, I did.  It's an old farmhouse that Teresa  
17          was renting.  And I met with two gentlemen, Ryan  
18          and Scott.  And they were organizing a search  
19          team.

20   Q.   Just so I can complete the record, that would be  
21          Ryan Hillegas and Scott Bloedorn?

22   A.   That's correct.

23   Q.   All right.  Who did you go there with?

24   A.   My daughter, Nikole Sturm, came with me.

25   Q.   How old is Nikole?

1 A. Twenty-nine years old.

2 Q. About what time did you arrive at the residence,  
3 if you recall?

4 A. I estimated it at around 9:00 a.m.

5 Q. When you got there Pam, what happened?

6 A. Well, we got there late; the search team was  
7 already gone. Ryan and Scott were still there.  
8 And I asked them if I could help out. And they  
9 said, yes, they have maps for the area that they  
10 were going to search. And he showed me the map  
11 and then he showed me the picture of Teresa and  
12 all the details regarding Teresa.

13 And I indicated that I would like to go  
14 to the Avery Salvage Yard where Teresa was last  
15 seen. And he said, well, if you want to, it's  
16 not part of, you know, the search, but if you  
17 wish to do that, go ahead.

18 Q. Okay. About what time, then, did -- Let me back  
19 up just a minute. Prior to going to the Avery  
20 salvage property, did you receive anything from  
21 either of those gentlemen?

22 A. I received a map and I received a bulletin that  
23 showed Teresa's picture and all her details.

24 Q. Did you get anything else, that you can recall?

25 A. I also forgot my camera, so I thought I should,

1           you know, try to get a camera and see if Scott or  
2           Ryan had a camera, in case we came across  
3           something on the property. And I believe it was  
4           Scott's camera and he lent it to us.

5   Q.   Do you remember what kind of camera it was?

6   A.   It was just a digital camera as far as I know.

7   Q.   So the jury understands, it was you that asked  
8           for a camera?

9   A.   Yes, I did.

10  Q.   Ms Sturm, were you familiar with the Avery  
11           salvage property?

12  A.   No, I'm not -- I wasn't at all. All I knew it  
13           was a 40 acre plot salvage yard for vehicles.

14  Q.   Did you proceed to that location?

15  A.   Yes, we did.

16  Q.   About what time did you and Nikole arrive at that  
17           location?

18  A.   I approximate the time about 10 minutes to 10,  
19           right around that area.

20  Q.   Okay. I'm showing you what's been marked and  
21           received as Exhibit No. 35, Ms Sturm. It is  
22           directly to your right on the large screen, do  
23           you see that?

24  A.   Yes.

25  Q.   Will that aerial photograph assist you in



1 explaining for the jury where you and Nikole went  
2 upon your arrival?

3 A. Yes.

4 Q. And are you oriented pretty well there; do you  
5 recognize that location?

6 A. I recognize the buildings and the approximate  
7 area that I found the vehicle.

8 Q. I think I misspoke. I think it's -- It's Exhibit  
9 25, I'm sorry. I'm going to take a laser  
10 pointer. Do you recognize the road that comes in  
11 from Highway 147 and this is --

12 A. Yes.

13 Q. -- the business itself; that is, the office  
14 building and the like. Now, do you recognize the  
15 orientation?

16 A. Yes.

17 Q. All right. About 10 to 10, sometime before  
18 10:00 in the morning, could you tell the jury  
19 what happened?

20 A. Well, we drove in and we noticed that there were  
21 three driveways to the salvage yard. And it  
22 appeared to be the center driveway was probably  
23 the one we should take. So we did take that one.

24 Q. Ms Sturm, you are going to have to back up just  
25 about three inches from the microphone, okay.

1           Because it is distorting you just a little bit.

2           We can hear you just fine. Go ahead, tell us.

3       A.    I was in my car and we pulled up in front of the  
4           main building.

5       Q.    And on Exhibit No. 25, can you tell what that is?  
6           Can you point with that with the laser pointer?

7       A.    I believe it's that one.

8       Q.    When you got to that location, what did do you?

9       A.    When we got to that location, there were a few  
10          cars parked to the right of us and we saw two  
11          gentlemen conversing. But we went into the  
12          building to see if we could find any of the  
13          owners of the property. And there was no one  
14          inside so then we exited.

15      Q.    After exiting, did you, in fact, find one of the  
16          owners of the business and did you, in fact, talk  
17          to him?

18      A.    Yes, we did. The two gentlemen that were  
19          conversing by the vehicle, they stopped  
20          conversing and I walked up to them and I said, is  
21          anyone of you an Avery, an owner of this  
22          property? And he said, yes, and he walked over  
23          to us and he said his name was Earl.

24      Q.    Just very quickly going to show you a photograph;  
25          is this the gentleman that you spoke with, Earl

1 Avery?

2 A. Yes, that's correct.

3 Q. Okay. I'm sorry to interrupt you; go ahead, what  
4 happened then?

5 A. Well, I told them that we were from -- we were  
6 volunteers from the search party. And I said it  
7 would relieve Karen and Tom's mind if we could go  
8 through the property and make sure that the  
9 vehicle, Teresa's vehicle, wasn't there.

10 And Earl said, yeah, I know how it is  
11 because I just lost a nephew and I know how they  
12 are feeling. They must feel awful that she's  
13 missing. We just had a conversation and then I  
14 asked him if we could go and search the property,  
15 the whole property, for a sign of Teresa, or her  
16 vehicle. And he gave us permission.

17 Q. Now, Ms Sturm, prior to your arrival at that  
18 location, had you had any contact or direction  
19 from any law enforcement officials?

20 A. No, sir, we didn't.

21 Q. After obtaining permission or consent from Earl  
22 Avery to search the property, what did you do?

23 A. Earl said that the roads were very muddy in the  
24 salvage yard and it would be better if you would  
25 walk. So, you know, we locked up our vehicle and

1 walked to the left.

2 We decided we were going to sweep from  
3 the left to the right. So we walked down in  
4 between the buildings, I believe it was, and  
5 started on the left and swept to the right.

6 Q. Do you want to show us with the pointer what you  
7 did, if you can recall?

8 A. So we were parked here -- I'm sorry. And then we  
9 walked, I believe we walked through here and we  
10 searched these vehicles first.

11 Q. Just so the record is clear, on Exhibit No. 25  
12 here, you are pointing to vehicles that would be  
13 just to the south of the Avery business itself  
14 and just as you would be walking, I guess, almost  
15 directly south from the property; is that  
16 correct?

17 A. That's correct.

18 Q. All right. How long did that take you; do you  
19 remember?

20 THE COURT: Maybe we should ask the witness  
21 a few questions to orient direction.

22 ATTORNEY BUTING: Judge, before we do that,  
23 could we approach side bar for a minute, please?

24 THE COURT: Sure.

25 (Side bar taken.)

1 Q. (By Attorney Kratz)~ I'm sorry, Ms Sturm, do you  
2 know -- do you know -- Orienting yourself to  
3 Exhibit No. 25; do you know which way is north or  
4 south or east or west?

5 A. Well, actually, I didn't before, but I looked on  
6 a map and it appears that the car was in the  
7 southeast corner.

8 Q. So which way is south on the -- on Exhibit No.  
9 25, if you know? You are pointing to what would  
10 be the southeast corner of the 25 -- or the 40  
11 acre parcel; is that right?

12 A. Right.

13 Q. South, do you know, would south be to the right  
14 or to the left of the diagram?

15 A. No.

16 Q. Pointing at Exhibit No. 25, Ms Sturm, do you  
17 remember where you and Nikole walked?

18 A. Yes.

19 Q. Okay. Let me just ask a clarifying question.  
20 Does this photo, does this exhibit help you  
21 explain to the jury where you folks looked and  
22 searched?

23 A. Yes.

24 Q. If I zoomed in a little bit on the diagram, would  
25 that help --

1 A. I think that would help.

2 Q. Does that help you some more?

3 A. Oh, yes.

4 Q. Why don't you show us, then, and then as you

5 explain, where did you and Nikole start looking?

6 A. That's the building and then I believe I went in

7 between and she went around here. And then we

8 searched all these vehicles here and we went down

9 here and right here. And then we found it up

10 here.

11 Q. All right. Now, there's a lot of heres there,

12 so --

13 A. I'm sorry.

14 Q. That's all right.

15 A. I'm not good at directions.

16 Q. I'm going to take you through this and help you

17 explain, for the record, what you were talking

18 about. You continued in a southerly direction,

19 you and Nikole, basically walking south, looking

20 through the vehicles; is that right?

21 A. Right.

22 Q. Now, which batch of vehicles did you search, if

23 you can -- if you can explain the kind of

24 searching that you were doing; I'm sure the jury

25 is going to be interested in that as well.

1 A. Okay. I started up here. And up here are  
2 trucks, cars, RVs. And we had tried to look in  
3 each and every one of them. And you can see  
4 there are rows here.

5 Q. Again, you are pointing to an area what would be  
6 just south of the business outbuildings; is that  
7 right?

8 A. Right.

9 Q. Okay.

10 A. Right.

11 Q. And you moved to a different batch of cars; is  
12 that right?

13 A. Right. So we had searched all of these. Then we  
14 went down here south and there were, like, you  
15 can see there's two rows here. So I searched the  
16 first row. My daughter was on the second row.

17 Q. I'm going to stop you right there, Pam. Can you  
18 tell the jury what you were looking for.

19 A. We were looking for any trace of Teresa, be it  
20 the car or herself.

21 Q. Did you find, by the way, when you searched those  
22 two rows of cars, any vehicle that either matched  
23 the description of Teresa's, or anything that you  
24 thought was obvious?

25 A. No.

1 Q. Where did you go then?

2 A. Then we continued south and I searched these

3 vehicles. And my daughter was right around here.

4 Q. I'm going to stop you there. You are pointing to

5 an area just north of what looks like a body of

6 water or small pond; is that correct?

7 A. That's correct, there's a --

8 Q. Point to the pond.

9 A. There's a little pond right here.

10 Q. Okay.

11 A. Okay.

12 Q. And after looking at those rows of cars, where

13 did you then look?

14 A. Okay. Then my daughter went to this row and I

15 had continued up here. And I saw these vehicles

16 up here. And this is like a ridge up here.

17 Q. Okay.

18 A. And it's shaped like a bowl, the quarry. So up

19 on the top, there was a little car path up there.

20 Just a path, I would say. But I had to climb up

21 this little hill here. And you could see there

22 are some vehicles here. And I thought, I have to

23 search up there. I have to search each and every

24 one.

25 Q. All right. And did you do that?



1 A. So I went up there and I went through, like,  
2 three cars. And I came upon this car that had  
3 all these branches on the top of it, leaning  
4 against it. And there was an old hood of a car  
5 there, up against it. And it was kind of bluish  
6 green. And I thought this is really strange.  
7 This is really strange.

8 And it looked like a little SUV, like I  
9 was looking for, a RAV4 Toyota SUV. And I went  
10 around to the back of the vehicle. And, again,  
11 there were branches leaning up against it. And I  
12 noticed that it said RAV4. Well, my heart  
13 started going, you know, oh, my goodness, maybe  
14 this is it.

15 Q. Let me stop you right there.

16 A. All right. Sorry.

17 Q. Ms Sturm, I have showed you what has now been  
18 marked as Exhibit No. 385; that's the first --

19 A. Yes.

20 Q. -- first vehicle?

21 ATTORNEY BUTING: What was the number?

22 ATTORNEY KRATZ: Three -- I'm sorry,  
23 Exhibit 29. I'm sorry.

24 Q. (By Attorney Kratz)~ Do you see that?

25 A. Yes.

1 Q. It's 385 on my list. All right.

2 A. Correct.

3 Q. Now, looking at the large screen; is that the  
4 photo, 385?

5 A. Yes, that's correct.

6 Q. Now, you spoke to the jury just before about  
7 seeing the back of this vehicle and seeing the  
8 word RAV4 on it. Is Exhibit No. 385 -- excuse me  
9 -- Exhibit 29, does that look the same or similar  
10 as it looked on the morning of October -- excuse  
11 me -- November 5th?

12 A. Yes.

13 Q. In fact, Ms Sturm, were these photos; that is,  
14 the next 6 photos that we are going to see, Nos.  
15 29 through 35, were those taken by your daughter,  
16 Nikole, with your assistance, on the morning of  
17 the 5th of November?

18 A. Yes, that's correct.

19 Q. And do Exhibits 29 through 35 -- 34, I'm sorry,  
20 all appear the same, or similar, as they did on  
21 the 5th of November?

22 A. Yes.

23 Q. We're going to go through those in just a minute,  
24 but since you mentioned the back of the vehicle,  
25 I want to show this picture. What else did you

1           see?

2       A.    I looked for license plates on the front and on  
3           the back and I couldn't find any. I noticed  
4           LeMieux Toyota was on the back, but I didn't know  
5           if that was on Teresa's car.

6       Q.    Let me just stop you. In fact, on Exhibit 29,  
7           you can see the LeMieux Toyota sticker on the  
8           back of this exhibit; is that right?

9       A.    Right.

10      Q.    All right. You mentioned, I think, that part of  
11           your observations were that the vehicle had some  
12           other debris on it. Let me just show you this  
13           exhibit. Which number is that? I think -- Is it  
14           31, Exhibit 31?

15      A.    Thirty-one.

16      Q.    All right. I'm going to have you describe  
17           Exhibit No. 31, tell us what we're looking at,  
18           please.

19      A.    Well, that's the front of the vehicle. And it  
20           appears to be some kind of door frame up against  
21           the vehicle. And then you will see on the  
22           bottom, there's a piece of plywood propped  
23           against the front passenger side.

24      Q.    Why don't you -- I'm sorry to stop you, why don't  
25           you do the best you can and take the laser

1 pointer and show me that door frame that was  
2 propped up against it.

3 A. I thought this was a door frame here.

4 Q. All right.

5 A. And then there was a piece of plywood. That's  
6 plywood there. And there's an old hood of a car,  
7 not from the Toyota, propped against the car  
8 right here. And you can see all these branches  
9 against the car too, and then on top of the car  
10 too.

11 Q. Now, in this exhibit, that is, Exhibit No. 31,  
12 you can see there's no front license plate; is  
13 that what you saw on that morning as well?

14 A. That's correct.

15 Q. By the way, these exhibits, 29 through 34, are  
16 they identical to what you and Nikole saw that  
17 morning?

18 A. They are identical.

19 Q. How do you know that?

20 A. Because we actually took the photos of this car.

21 Q. So Exhibits 29 through 34 were taken with what?

22 A. With the digital camera I got from Scott. My  
23 daughter, Nikole Sturm, took the pictures of the  
24 vehicle.

25 Q. And how close were you when she took them?

1 A. I was right next to her.

2 Q. So all of these photos were images that you saw?

3 A. Yes.

4 Q. Now, Ms Sturm, I know that you are no expert and

5 I'm not going to ask for an expert opinion at

6 all. But from what you saw, especially on

7 Exhibit 31, did it appear that those items had

8 been intentionally placed there?

9 A. I thought so. I thought it was obscuring the

10 view of the car, or even like a camouflage on the

11 car. That's what I thought.

12 Q. Let me go through the rest of the images here.

13 We saw the back of the car. Again, this is

14 Exhibit No. 29; is that right?

15 A. Yes.

16 Q. Exhibit No. 30 is the side of the car?

17 A. Yes.

18 Q. Thirty-one is the -- what would be the front

19 right corner of the car?

20 A. Yes.

21 Q. Thirty-two is one of the tires, looks like the

22 left rear tire, or that area of the vehicle?

23 A. Yes.

24 Q. Is this No. 33?

25 A. Yes, that's correct.

1 Q. A left side, in fact, the driver's door and the  
2 left or driver's rear door; is that an accurate  
3 description?

4 A. That's correct.

5 Q. And, finally, Exhibit No. 34, would be looking  
6 from the left side, but the top of the vehicle  
7 showing some branches and some other debris; is  
8 that right?

9 A. Yes, that's correct.

10 Q. When you saw this, Ms Sturm, what did you do?

11 A. My daughter was still searching to the right of  
12 me. I couldn't see her. I became very, very  
13 worried for our safety, because 90 percent this  
14 was probably Teresa's car and we're in danger.

15 So I called Nikole's name. I think I  
16 maybe even screamed. I shouldn't have, but I  
17 did, and I went running to the area where she  
18 was. I said, Nikole, Nikole, you have to come  
19 and see this car. It must be her car. So she  
20 came up by me and she looked at it and she said,  
21 mom, it does look like her car. It's got that  
22 LeMieux Toyota, and it's RAV 4. And she thought  
23 perhaps it was too.

24 Q. Ms Sturm, after making these observations, did  
25 you attempt to verify the identification of this

1 vehicle?

2 A. Yes.

3 Q. And how was that done?

4 A. My daughter, Nikole, brought her cell phone along  
5 and we -- I should back up. Ryan gave us a  
6 direct line to Sheriff Pagel in case we found  
7 something. So I dialed Sheriff Pagel's number  
8 and at that point I got voice mail.

9 I thought, oh, no, I need to talk to the  
10 sheriff. And it said something about if you want  
11 to go back to the dispatcher, dial 0, so we did.  
12 And we came back to the dispatcher. And I said,  
13 we need to talk to Sheriff Pagel, now. I think I  
14 found the vehicle. So she switched us over  
15 directly to Sheriff Pagel.

16 Q. Exhibit No. 35, Ms Sturm, is a audio recording.  
17 I'm going to have you listen to that. And I'm  
18 going to ask you if this is, in fact, the phone  
19 call that you placed just about 10:30 in the  
20 morning on Saturday, November 5th. I hope it is  
21 loud enough and audible and we'll give it a try.

22 (Tape playing.)

23 DISPATCH: Dispatch.

24 PAM STURM: Okay. I called to --  
25 Mr. Pagel's answering service is on.

1                   DISPATCH:   Okay.

2                   PAM STURM:   Okay.   We are at Avery

3                   Salvage.

4                   DISPATCH:   Okay.

5                   PAM STURM:   Okay.   And we're searching

6                   for the vehicle.

7                   DISPATCH:   Right.

8                   PAM STURM:   For Teresa Halbach.   We have

9                   found a RAV4.   What color, specifically, was her

10                  RAV4 and do you have a VIN number?

11                  DISPATCH:   Um --

12                  PAM STURM:   This vehicle --

13                  DISPATCH:   Inaudible.

14                  PAM STURM:   Okay.   This -- I don't know,

15                  this is like a --

16                  DISPATCH:   Do you know --

17                  PAM STURM:   -- bluish green.   Okay.   Do

18                  you have a -- Do you have the ID number?

19                  DISPATCH:   Hold on.   Hold on.

20                  PAM STURM:   -- the ID number.

21                  DISPATCH:   Hold on.   801, can you call

22                  dispatch right away.   Do we have a VIN number, a

23                  VIN number?

24                  PAM STURM:   It's not on the side, Nick,

25                  go on the other side.



1                   DISPATCH: Hold on. Here's Jerry.

2                   SHERIFF PAGEL: Hi, this is Sheriff

3                   Pagel.

4                   PAM STURM: Oh, Sheriff Pagel, hi. This

5                   is Pam Sturm. I'm on the search for Teresa

6                   Halbach and we found a RAV4.

7                   SHERIFF PAGEL: You did?

8                   PAM STURM: It's a bluish green, more

9                   blue than green. We just wanted to know if you

10                  have the VIN number for that vehicle.

11                  SHERIFF PAGEL: Yes, we do. We do have

12                  a VIN number. Have you got the VIN number?

13                  PAM STURM: I can't find it on the --

14                  SHERIFF PAGEL: Where is the vehicle at?

15                  PAM STRUM: I'm at Avery salvage.

16                  SHERIFF PAGEL: Okay.

17                  PAM STURM: It is all covered up.

18                  SHERIFF PAGEL: It's all covered up?

19                  PAM STURM: Not all covered, but it has

20                  got a lot of stuff on it, branches.

21                  SHERIFF PAGEL: I don't have my glasses.

22                  Okay. It's got branches over it?

23                  PAM STURM: Yeah. Where is the VIN

24                  number on something like this?

25                  SHERIFF PAGEL: The VIN number would

1           probably be on the windshield -- or underneath by  
2           the -- on the dash, driver's side.

3                     PAM STURM:   Dash, driver's side, Nick.

4                     SHERIFF PAGEL:   Look through the front  
5           window.

6                     PAM STURM:   Through the front window.

7                     SHERIFF PAGEL:   Mm-hmm.   I will give you  
8           Investigator Wiegert, he's got the VIN number  
9           here.

10                    INVESTIGATOR WIEGERT:   Hi, are you  
11           looking at it right now?

12                    PAM STURM:   Yeah, and you know we can't  
13           find that VIN number.

14                    INVESTIGATOR WIEGERT:   What color is it?

15                    PAM STURM:   It is bluish green.

16                    INVESTIGATOR WIEGERT:   Does it look like  
17           a newer one?

18                    PAM STURM:   Yes, it's a '99 to 2000.

19                    INVESTIGATOR WIEGERT:   Is there --

20                    PAM STURM:   More of a bluish green,  
21           though, that's why we don't want to put, you  
22           know --

23                    INVESTIGATOR WIEGERT:   Is there any  
24           license plates on it?

25                    PAM STURM:   No plates on it, but it's a

1           little covered up. It's weird, it's covered up.

2                   INVESTIGATOR WIEGERT: Okay.

3                   PAM STURM: Some of it's --

4                   INVESTIGATOR WIEGERT: Can you get to

5           the front of the car?

6                   PAM STURM: Yeah, I will. It's a

7           LeMieux Toyota sticker on it. But I haven't --

8                   INVESTIGATOR WIEGERT: I don't know if

9           they had a LeMieux Toyota sticker on it. I don't

10          know about that.

11                  PAM STURM: Is it okay if I go in the

12          car?

13                  INVESTIGATOR WIEGERT: No, do not go in

14          the car. Do not touch the car.

15                  PAM STURM: Yeah.

16                  INVESTIGATOR STURM: Stay on the outside

17          of the car. Go over to the front, on the

18          driver's side.

19                  PAM STURM: Yeah, I realize that. I'm

20          in the business. I kind of know, but I can't

21          find the VIN number. I'm picking up the wiper.

22                  INVESTIGATOR WIEGERT: Okay.

23                  PAM STURM: There is -- Can't find the

24          VIN number. Can't find it. Oh, here it is,

25          Nick. I don't have my glasses.

1                   INVESTIGATOR WIEGERT: You don't have  
2                   your glasses either?

3                   PAM STURM: My daughter is with me.

4                   INVESTIGATOR WIEGERT: Okay.

5                   PAM STURM: Okay. Now hang on. The  
6                   first -- the last four digits, 3044.

7                   INVESTIGATOR WIEGERT: Okay. Hold on.  
8                   I have to find it here again. 3044?

9                   PAM STURM: Yes.

10                  INVESTIGATOR WIEGERT: Okay. Can you go  
11                  even more in?

12                  PAM STURM: I don't know. Nick, can you  
13                  look at any other numbers? There are some people  
14                  out here. So we have to be careful. And, you  
15                  know, there's some -- I don't know if they are  
16                  employees or --

17                  INVESTIGATOR WIEGERT: Okay.

18                  PAM STURM: -- who they are, but they  
19                  are like -- Okay, Nickie, just --

20                  INVESTIGATOR WIEGERT: Can you see any  
21                  other numbers?

22                  PAM STURM: Yeah. Say it real slow,  
23                  Nick. Can't see the very beginning number, but  
24                  here goes, T0Z5F7, a 1 or a T, a 1 or a T --

25                  INVESTIGATOR WIEGERT: Okay. Where are

1           you?

2                   PAM STURM: 30 -- Is that the number?

3                   INVESTIGATOR WIEGERT: Where are you?

4                   PAM STURM: No, you just tell me if this

5           is the car.

6                   INVESTIGATOR WIEGERT: Okay. Stop. I

7           can't tell you anything. Where are you?

8                   PAM STURM: I'm at Avery salvage.

9                   INVESTIGATOR WIEGERT: Okay. Are you on

10          their property?

11                  PAM STURM: Yes, I am.

12                  INVESTIGATOR WIEGERT: With their

13          permission or not?

14                  PAM STURM: Yes, sir. Yes, sir.

15                  INVESTIGATOR WIEGERT: Okay. Stay right

16          where you are. Do not touch anything. Do not go

17          anywhere around that vehicle. Stay right

18          where --

19                  PAM STURM: Are you --

20                  INVESTIGATOR WIEGERT: What's your phone

21          number?

22                  PAM STURM: Is this it?

23                  INVESTIGATOR WIEGERT: I don't know

24          that.

25                  PAM STURM: Okay.

1                   INVESTIGATOR WIEGERT: What's your phone  
2                   number?

3                   PAM STURM: What's your phone number,  
4                   Nick? 920-941-0211.

5                   INVESTIGATOR WIEGERT: I'll call them on  
6                   the way.

7                   PAM STURM: This is long distance. You  
8                   need to dial the entire number.

9                   INVESTIGATOR WIEGERT: Okay. Stay where  
10                  you are. Do not touch the vehicle. Do not let  
11                  anybody else touch the vehicle.

12                  PAM STURM: Don't touch it. Don't touch  
13                  it, Nick.

14                  INVESTIGATOR WIEGERT: And I will be  
15                  calling you shortly, okay?

16                  PAM STURM: Well, I hope you can get me,  
17                  you know.

18                  INVESTIGATOR WIEGERT: Just stay where  
19                  you are; I will find you.

20                  PAM STURM: Well, we asked this guy real  
21                  nice to come in here. But --

22                  INVESTIGATOR WIEGERT: If you have a  
23                  problem you dial 911.

24                  PAM STURM: That's --

25                  INVESTIGATOR WIEGERT: We'll be on our

1 way. We're going to have somebody over there as  
2 soon as possible.

3 PAM STURM: All right.

4 INVESTIGATOR WIEGERT: Okay. Thank you.

5 PAM STURM: All right.

6 (Tape concluded.)

7 (Tape transcribed to the best of my ability.)

8 Q. (By Attorney Kratz)~ Let me ask you, again, Ms  
9 Sturm, Exhibit No. 35, that audio conversation  
10 that you heard, between yourself, Sheriff Gerald  
11 Pagel and Investigator Mark Wiegert; is that a  
12 true and accurate version of the conversation or  
13 representation of the conversation as it occurred  
14 the morning of the 5th of November?

15 A. Yes, it is.

16 ATTORNEY KRATZ: We would move the  
17 admission of Exhibit 35, Judge.

18 ATTORNEY BUTING: No objection.

19 THE COURT: Exhibit 35 is admitted.

20 ATTORNEY KRATZ: And as they have been  
21 identified, Judge, I am going to move the admissions  
22 of Exhibit 29 through 34.

23 ATTORNEY BUTING: No objection to those  
24 either.

25 THE COURT: Exhibits 29 through 34 are

1 admitted as well.

2 Q. (By Attorney Kratz)~ Ms Sturm, were any other --  
3 At about this time, were any other investigative  
4 behaviors or actions taken with this SUV? Do you  
5 understand my question?

6 A. I don't understand.

7 Q. Did you or your daughter, Nikki, attempt to  
8 determine whether or not this vehicle was open or  
9 locked?

10 A. Nikole attempted to open the doors.

11 Q. Did she do so with a bare hand, or did you see  
12 her doing this?

13 A. I told her to use the sleeve of her sweatshirt,  
14 but evidently she used tissue. You know, I saw  
15 her reach in, but I'm not sure if it was -- you  
16 know, I didn't exactly see the tissue. So, yes,  
17 she did try the doors, but you will have to ask  
18 her which specific doors.

19 Q. I will do that, but if you -- did you or your  
20 daughter determine whether or not the doors were  
21 opened or locked.

22 A. They were all locked.

23 Q. Did you or your daughter ever otherwise enter  
24 that vehicle?

25 A. No.



1 Q. Did you or your daughter otherwise touch that  
2 vehicle?

3 A. No, just the windshield wiper.

4 Q. After Investigator Wiegert told you to step away  
5 from the vehicle and to not touch it further, did  
6 you and Nikki do that?

7 A. Yes, we did. We probably went -- I don't know,  
8 probably about a thousand yards -- again, on  
9 directions I'm terrible.

10 Q. Well, at this point we're not going to --

11 A. Right.

12 Q. -- ask you to guess. Back to Exhibit No. 25,  
13 then, Ms Sturm, let's go back just very briefly.  
14 Could you show us, again, or show the jury again,  
15 the location to the best that you can recall  
16 where this vehicle was discovered?

17 A. It was up on this ridge.

18 Q. And you are pointing to a ridge or a berm area to  
19 the immediate south of that pond; is that right?

20 A. That's correct.

21 Q. That would be the area farthest -- or furthest  
22 southernmost point of the Avery property; is that  
23 your understanding?

24 A. That's my understanding.

25 Q. On Exhibit No. 25, just so that we're not talking

1 south or north, be to the right of the pond; is  
2 that right?

3 A. That is correct.

4 Q. You mentioned that after calling dispatch, after  
5 reporting the discovery of this vehicle, you and  
6 your daughter went to a location on the property;  
7 is that right?

8 A. Yes, that's correct.

9 Q. Where was that?

10 A. Well, I was up here, okay, because that's where I  
11 found the vehicle. And you can look over to this  
12 quarry over here. So I went to the highest  
13 point -- and that was almost the highest point  
14 anyhow, but I just had to look to see if Teresa  
15 was over there.

16 So then I looked over there and then we  
17 proceeded down here. And over here is a car  
18 compacter and we -- we were over there. And I  
19 put my daughter behind a car because I thought we  
20 were in danger and I just stayed out here.

21 Q. All right. You are pointing to an area near what  
22 we have been calling the car crusher, but there  
23 is an open -- an open area where there aren't any  
24 junk vehicles; is that what you are pointing to?

25 A. There are some vehicles here and there's

1           compacted vehicles here and here's the compacter  
2           itself, but, yeah, right in here there aren't any  
3           cars.

4   Q.   Is that where you waited?

5   A.   Yes.

6   Q.   Now, tell us what happened then?

7   A.   Well, we waited about 20, 25 minutes before  
8           someone arrived. Before they arrived, we saw a  
9           man up on the ridge. By the buildings up here,  
10          there's a ridge. And I got a little concerned so  
11          I -- like I said, I put Nikki behind a car so  
12          nothing would happen to her. And we just waited  
13          and waited. And it seemed like forever, you  
14          know.

15   Q.   In 20 or 25 minutes, did somebody arrive?

16   A.   Yes. A Sheriff Remiker arrived first.

17   Q.   Was he a plain clothes officer or an officer in  
18          uniform; do you remember?

19   A.   No, I don't recall if it was.

20   Q.   Do you know what department responded first?

21   A.   I believe it was Manitowoc County.

22   Q.   Okay. After the law enforcement officers got  
23          there, did they, then, basically, take over that  
24          area?

25   A.   Yes, he had another patrolman go back to the car

1           and just, like, you know, stay by the car so no  
2           one else would go by the car.

3       Q.    Tell us what you saw; did you see anybody going  
4           by the car?

5       A.    He stayed by the car and then other officers  
6           arrived sheriff, Sheriff -- Deputy Wiegert.

7       Q.    Now, these are Calumet deputies; is that right?

8       A.    Yes.   Yes, Deputy Wiegert.

9       Q.    Slow down --

10      A.    I'm sorry.

11      Q.    Ms Sturm, slow down just a second.   Before any  
12           other police officers arrived on the scene, after  
13           you and Nikki had called in to dispatch, did you  
14           notice any other individuals going up or near  
15           that vehicle?

16      A.    No one went near that vehicle.   We watched to  
17           make sure no one went over there.

18      Q.    You were watching just for that; isn't that  
19           right?

20      A.    Yes.

21      Q.    And after the law enforcement of -- the Manitowoc  
22           County law enforcement officers got there, did  
23           any of those law enforcement officers enter or  
24           approach that vehicle?

25      A.    Only one deputy went up by the vehicle, just to

1 guard. He was just guarding the vehicle. He  
2 never went in the vehicle. He never touched the  
3 vehicle.

4 Q. That's what I'm asking you. And you were  
5 watching for that, weren't you?

6 A. Yes, I was. Yes.

7 Q. So nobody from the time -- Listen to my  
8 question --

9 A. All right.

10 Q. -- before shaking your head. Nobody from the  
11 time that you discovered that vehicle, until  
12 Calumet County law enforcement officials,  
13 including Investigator Wiegert, nobody touched or  
14 entered that vehicle, to your knowledge; is that  
15 true?

16 A. That's correct.

17 Q. After the police officers arrived, did you have a  
18 chance to speak with Investigator Wiegert?

19 A. Yes, I did. I explained to him, you know, how we  
20 found the vehicle. And he said that we would  
21 have to give a statement at that time.

22 Q. Did you give an oral and a written statement  
23 then?

24 A. We gave an oral statement to Deputy Wiegert and  
25 then we gave a written statement and an oral

1 statement to Deputy Dederling.

2 Q. Also from Calumet County?

3 A. Yes.

4 Q. I want you to look at Exhibit No. 25 again, how  
5 long from when you entered that property did it  
6 take you to find Teresa's vehicle?

7 A. I believe we entered at 10 to 10 and by 10:20 to  
8 10:25 we had found the vehicle.

9 Q. So within the first 40 minutes?

10 A. Correct.

11 Q. Ms Sturm, do you know how many vehicles are on  
12 this property?

13 A. I didn't at that time. I had no idea.

14 Q. Looking at it now, do you think you got lucky?

15 A. Yeah. Well, not lucky, God showed us the way; I  
16 do believe that.

17 Q. Do you think, looking at this exhibit now, that  
18 you and your daughter Nikki could have searched  
19 that entire salvage yard?

20 A. We would have tried. We would have came back the  
21 next day if we had to.

22 Q. After giving your statements, after both the oral  
23 and written statements were provided to law  
24 enforcement, after assuring them that you hadn't  
25 touched or entered the vehicle, where did you go?

1 A. One of the deputies brought us back to the main  
2 building, in his vehicle, because I was kind of  
3 afraid to walk back up there. And then we left.

4 Q. Where did you go then?

5 A. Actually, we went to Karen and Tom's house and  
6 talked to them for a while.

7 Q. Who's Karen?

8 A. Karen is Teresa's mother.

9 Q. Did you tell her what you found?

10 A. Yes.

11 Q. Ms Sturm, about what time, then, did you get to  
12 the Halbach residence; if you know?

13 A. You know, I think it was --

14 ATTORNEY BUTING: What's the relevance of  
15 this?

16 THE COURT: Just a minute. Mr. Kratz.

17 ATTORNEY KRATZ: I'm just wondering if she  
18 went anywhere in between; I can ask it that way.

19 THE COURT: Go ahead.

20 Q. (By Attorney Kratz)~ Did you go anywhere in  
21 between the Avery salvage property and the  
22 Halbach residence?

23 A. No, we didn't.

24 Q. Went straight there?

25 A. Yes.

1                   ATTORNEY KRATZ: That's all the questions I  
2                   have of this witness, Judge. Thank you.

3                   THE COURT: All right. We'll get started  
4                   on cross-examination today, go until 4:30.  
5                   Mr. Buting.

6                   ATTORNEY BUTING: Thank you, Judge. We may  
7                   get done if we're lucky.

8                   **CROSS-EXAMINATION**

9                   BY ATTORNEY BUTING:

10                  Q. Now, ma'am, you -- on the dispatch tape, we heard  
11                   you say, I know, I'm sort of in the business. By  
12                   that you mean you have private investigator  
13                   experience, right?

14                  A. That's correct.

15                  Q. You used to be a licensed private investigator,  
16                   right?

17                  A. That's correct.

18                  Q. So you had some idea what to do and how to do  
19                   this search, right?

20                  A. Some idea.

21                  Q. Is it your testimony that before Saturday  
22                   morning, November 5th, you had not done anything  
23                   in terms of investigating or searching for Teresa  
24                   or her vehicle?

25                  A. No, I haven't -- hadn't.



1 Q. And after that, did you also do any additional  
2 investigation on your own?

3 A. Yes, I did.

4 Q. And did you, in fact -- Were you, in fact, called  
5 to an area near Mishicot by some individuals who  
6 had found what they thought might be some  
7 evidence?

8 A. I don't recall being called by someone, no.

9 Q. Well, did you -- Were you with somebody looking,  
10 in the area of Mishicot?

11 A. We were in the area of Mishicot and I spoke with  
12 some of the business owners in Mishicot.

13 Q. Those were bars, right?

14 A. That's correct.

15 Q. And they were down near the river?

16 A. No, this was about -- the river is about a  
17 quarter mile from the actual town.

18 Q. Okay. And what day was that?

19 A. I'm not sure.

20 Q. Well, was it Saturday night -- Was it nighttime  
21 or daytime?

22 A. No, it was during the day. So it was, you know,  
23 Sunday, Monday, Tuesday, one of those days, that  
24 I had a day off and I wanted to help out.

25 Q. And what was your purpose in going to those bars

1           and talking to those --

2    A.    To see --

3    Q.    -- business owners?

4    A.    To see if anyone knew anything about Teresa or

5           had seen Teresa.

6    Q.    Okay.  And were you passing out your name and

7           phone number or anything like that for people?

8    A.    I don't recall doing that, no.

9    Q.    Do you remember being called to an area near the

10          river, a turn around area near the river, by one

11          of those individuals from the bar area, to look

12          at some --

13   A.    I know we had searched around the river area and

14          then at that point, we, meaning one of the bar

15          owners in town, said he would come down and help

16          me out.  And on the search we had found a cell

17          phone.

18   Q.    And what was that bar owner's name?

19   A.    I don't recall.

20   Q.    Do you remember -- Do you know an individual by

21          the name of John Campion (phonetic)?

22   A.    I'm not sure if that was his name or not.

23   Q.    Okay.  And you found a cell phone down by the

24          river?

25   A.    Yes.

1 Q. And also some business papers, some sort of  
2 papers nearby?

3 A. I don't recall any papers.

4 Q. But that cell phone, you thought, might be  
5 important?

6 A. I thought perhaps it was important.

7 Q. For all you know, it could have been Teresa's,  
8 right?

9 A. Could have been.

10 Q. So what did you do?

11 A. I called the sheriff's department and someone  
12 came down and photographed the cell phone.

13 Q. And who was that; Mr. Wiegert?

14 A. No, I'm not sure -- exactly sure who that was. I  
15 believe I got his card, though.

16 Q. Was he plain clothes?

17 A. No.

18 Q. He was wearing a deputy's brown uniform?

19 A. That is correct.

20 Q. Which county sheriff are we talking about?

21 A. I'm not sure.

22 Q. Well, this is Mishicot, so that's Manitowoc  
23 County, right?

24 A. I would assume.

25 Q. So you would assume that it was probably a

1           Manitowoc County sheriff deputy that came down  
2           there, right?

3    A.    There were so many police officers at the Avery  
4           salvage yard at that time, it could have been  
5           anyone.

6    Q.    This wasn't at the Avery salvage yard, was it?

7    A.    No.

8    Q.    This was miles away over in Mishicot?

9    A.    Couple miles away, yeah.

10   Q.    And the cell phone, you said somebody took  
11          pictures of it?

12   A.    That's right.

13   Q.    And did that individual also take possession of  
14          the cell phone?

15   A.    Yes.

16   Q.    And what happened next?

17   A.    We met up with the search party again.  And I  
18          described the cell phone to one of the Halbachs,  
19          I believe, and they said it wasn't Teresa's.

20   Q.    Well, did you make any notes of what kind of cell  
21          phone it was?

22   A.    I did at that time, I knew what it was.  Now I  
23          can't recall.

24   Q.    Okay.  But you didn't take any pictures of your  
25          own, though?

1 A. No.

2 Q. And you don't know what day this was; it could

3 have been Sunday, the 6th?

4 A. It was after the 5th.

5 Q. Okay. So it could have been the 6th, right?

6 A. No, I don't think I worked on the 6th. I think I

7 had off on Monday or Tuesday and I went back to

8 help out.

9 Q. Okay. Now, you are not a private investigator at

10 this point, right?

11 A. No, I'm not.

12 Q. And you weren't back in October of 2005?

13 A. No, I wasn't.

14 Q. You were just helping out as a volunteer for the

15 Halbach family at that time?

16 A. Yes.

17 Q. And you said that Ryan, when you met on Saturday

18 morning, Ryan Hillegas gave you a direct phone

19 number for Sheriff Pagel?

20 A. Yes.

21 Q. So he had -- Evidently he had Sheriff Pagel's

22 direct line?

23 A. It was either the direct line or the line into

24 that department.

25 Q. Well, when you called it, it got right to Sheriff

1           Pagel's voice on his voice mail, right?

2    A.    Voice mail, yes.

3    Q.    Okay.

4    A.    But we did talk to the dispatch too.

5    Q.    I know, that's later, though.  The number you

6           called just put you right to Sheriff Pagel's

7           voice mail, correct?

8    A.    Yes.

9    Q.    When you saw the vehicle there, up on that ridge,

10           and you said you thought it was 90 percent in

11           your own mind that this might be, in fact,

12           Teresa's vehicle you, of course, looked inside

13           for Teresa as well, right?

14   A.    Correct.

15   Q.    And you got a decent look inside there because

16           you actually saw some soda bottles too, I think,

17           right?

18   A.    We did see some soda bottles.

19   Q.    Okay.  And you didn't see Teresa, right?

20   A.    No.

21   Q.    And you didn't see any blood, right?

22   A.    Not that we could visually see, no.

23   Q.    Okay.  Well, you didn't see any blood, period.

24   A.    No.

25   Q.    Okay.  And you were looking.  What else did you

1           see besides soda bottles? See anything with her  
2           name on it?

3   A.   No, I can't remember anything, no.

4   Q.   Okay. If I understood you correctly, did you say  
5           that you actually found this vehicle within 10  
6           minutes of your search?

7   A.   No, sir.

8   Q.   I thought you said you went in at 10:10 and you  
9           found it at -- or 10 minutes to 10; is that  
10          right?

11   A.   That's correct?

12   Q.   Okay. I misunderstood. I apologize. So you  
13          found it within about 30, 35 minutes or so?

14   A.   That's correct.

15   Q.   And when you walked up on that ridge, it was the  
16          only car with any kind of branches, or wood, or  
17          debris put on top of it, right?

18   A.   That I saw, yes.

19   Q.   All the other ones looked like they did -- they  
20          do in this photograph here. They are generally  
21          visible, not camouflaged, or anything of that  
22          sort, right?

23   A.   I guess I didn't look any further down the line  
24          so I can't really say absolute, you know.

25   Q.   Okay. But of the vehicles -- of the area you did

1 look through, which would have been from the  
2 buildings in the upper left corner, where  
3 actually is the northeast corner, south all the  
4 way to that edge of the Avery property, you  
5 didn't see any other vehicles that were --  
6 appeared to have been obscured, or covered with  
7 anything?

8 A. No.

9 Q. So this one was unique of all of the vehicles  
10 that you saw?

11 A. Right. And it was about the right color and it  
12 was a RAV4.

13 Q. And to you, it looked pretty obvious that this  
14 was somebody just trying to camouflage this,  
15 right?

16 A. It appeared to be that way.

17 Q. But it was actually double parked along that  
18 ridge of vehicles, on the left -- or I'm sorry,  
19 on that car path you mentioned behind the pond,  
20 right?

21 A. Right.

22 Q. Those were a single line of cars and this one was  
23 double parked right next to one?

24 A. Right.

25 Q. On the tape, I heard you say something, I think



1           about there were people nearby, while you were at  
2           the scene and calling in to report this?

3    A.    When we first walked down the quarry --

4    Q.    That's a simple yes or no; were their people --  
5           you said something about their being people  
6           nearby, right?

7    A.    Yes.

8    Q.    And these appeared to be what, other customers or  
9           something, milling about?

10   A.    I can't say for sure, but I thought perhaps they  
11          were getting parts off of vehicles.

12   Q.    Okay. Like customers would do there, right?

13   A.    Right.

14   Q.    And Steven Avery wasn't one of them, I assume,  
15          right?

16   A.    No.

17   Q.    And you mentioned a man up on the ridge, or not  
18          on the ridge, but up on the hill, kind of back  
19          towards the buildings, when you were sitting  
20          there waiting for 20 minutes?

21   A.    Correct.

22   Q.    And Steven Avery wasn't that man either, was he?

23   A.    I don't know for sure.

24   Q.    Well, who was that man; do you know?

25   A.    I don't know.

1 Q. Do you have any description of him?

2 A. No, sir.

3 Q. Was it the same -- Was it Earl Avery?

4 A. It could have been. It's just too far away to

5 see.

6 Q. So you just -- wasn't anything in particular

7 about that man, or what he was doing, that caused

8 you concern; it was just the overall feeling you

9 had that maybe this wasn't the safest place to

10 be; is that fair?

11 A. That's fair, yes.

12 Q. Okay. And until the police arrived, you were --

13 ATTORNEY BUTING: We're about to finish up,

14 Judge.

15 Q. (By Attorney Buting)~ Until the police arrived,

16 you were trying to keep an eye on that vehicle,

17 make sure none of these other customers or

18 anybody else would walk near, right?

19 A. That's correct.

20 Q. But once the police arrived, then that was their

21 job, right?

22 A. No, we kept our eye on it.

23 Q. Once Manitowoc arrived, you were concerned about

24 Manitowoc police approaching that vehicle?

25 A. About anyone approaching or touching that

1           vehicle.

2       Q.   And so you kept a good eye to make sure none of  
3           the Manitowoc people would do it?

4       A.   That anyone would do it.

5       Q.   But if you were about a thousand -- What did you  
6           say, a thousand yards away, a thousand feet away?

7       A.   I'm not very good at distance; right by the car  
8           compacter.

9       Q.   Okay. But then after Wiegert -- after Detective  
10          Remiker arrived, you went back over by the -- to  
11          the left, on this picture, did you not? I think  
12          you said you went about a thousand yards away?

13      A.   Could you rephrase that.

14      Q.   I believe, maybe I misunderstood you, but I  
15          thought -- I thought you said that you walked  
16          about a thousand yards away from where the  
17          vehicle was, when Detective Wiegert arrived?

18      A.   Like I said, I'm not very good at distance. I  
19          would say three football fields. Now, I'm trying  
20          to judge the distance that way.

21      Q.   Okay. Nine hundred yards, a thousand yards,  
22          close enough. And you weren't paying attention  
23          at that point, then, to what was going on with  
24          the car, from that big of distance away once --  
25          once Investigator Wiegert arrived, right?

1                   ATTORNEY KRATZ: Judge, I'm sorry, I know  
2                   this is late, but a football field is only  
3                   100 yards, three of them wouldn't be 900? If my  
4                   math --

5                   (Attorneys talking over each other.)

6                   ATTORNEY BUTING: You are right. I'm  
7                   sorry. I'm sorry, it is late, 900 feet.

8       Q.        (By Attorney Buting)~ But after Wiegert arrived,  
9                you were talking to Investigator Wiegert, gave an  
10               oral statement to him, right?

11      A.       Right.

12      Q.       And you talked to Dederling and gave an oral and  
13               written statement to him, right?

14      A.       Correct.

15      Q.       So, you weren't paying attention to what was  
16               going on with the car at that point; you were  
17               giving statements oral and written, right?

18      A.       We were facing the vehicle.

19      Q.       While you are sitting there writing a statement,  
20               or did you not write it?

21               ATTORNEY KRATZ: Objection, argumentative,  
22               Judge. She said she watched the vehicles the whole  
23               time. I don't know how many times she has to say  
24               that?

25               THE COURT: Well, he's allowed to ask a

1 question about writing and watching the vehicle at  
2 the same time. I will allow the question.

3 Q. Did you hand write the statement yourself?

4 A. Yes.

5 ATTORNEY BUTING: Thank you, no further  
6 questions.

7 THE COURT: Attorney Kratz?

8 ATTORNEY KRATZ: Not for today, Judge.  
9 That's fine.

10 THE COURT: Okay. You are excused -- Well,  
11 before I say that, when you say not for today, are  
12 you intending to ask questions on redirect tomorrow?

13 ATTORNEY KRATZ: No, I'm sorry.

14 THE COURT: Very well, you are excused for  
15 today.

16 Members of the jury, that concludes the  
17 portion of the trial for you today. I will  
18 remind you again not to talk to each other about  
19 this matter. Also, make sure that you do not  
20 listen to any news accounts. Don't read the  
21 newspaper. Don't listen to the local news on the  
22 radio. Don't watch the local news on TV. We  
23 will see you tomorrow, tomorrow morning.

24 (Jury not present.)

25 THE COURT: Now, you may be seated.

1 Counsel, before we leave today, did you wish to take  
2 up the issue of these stipulations on the record?

3 ATTORNEY KRATZ: We certainly can, Judge --

4 ATTORNEY BUTING: Judge, before we do that,  
5 I do want to clear up a couple of things. And it's  
6 a -- I want to make a specific renewed discovery  
7 request on two items. Because until today, I was  
8 not aware, have not actually received any reports  
9 from any Manitowoc or Calumet County sheriffs about  
10 this search that Ms Sturm was involved in down by  
11 the Mishicot river area, where a cell phone was  
12 found, photographs apparently were taken, the phone  
13 was seized. There's no reports of that activity  
14 anywhere in any of the discovery we have received.

15 Secondly, Mr. Sturm -- I'm sorry,  
16 Mr. Drumm testified about Exhibit 25, and perhaps  
17 it wasn't clear, because he was asked maybe two  
18 different things on direct and cross, but I  
19 understood him to say that Exhibit 25 was a  
20 picture of a photograph taken on November 4th.

21 And as I looked at it more carefully,  
22 it's obvious that it was not. It was something  
23 taken long after the vehicle was discovered.  
24 There's all sorts of police vehicles around,  
25 Command Posts, the RAV is not there. The RAV 4

1 is not there.

2 But he did testify that he did not  
3 recall video -- whether video was being taken  
4 during the flight, but he did recall photographs  
5 being taken. And we did not receive any  
6 photographs from that flight. All we have  
7 received was a video and so I would renew a  
8 discovery request for those photographs as well.

9 THE COURT: All right. And before I ask  
10 for a response from the State, I did want to note  
11 for the record that the side bar that was requested  
12 during the testimony of Pamela Sturm related to that  
13 photo and the issue that Mr. Buting just raised.

14 And as I understand it, both parties  
15 acknowledge that Exhibit 25 is an aerial photo of  
16 the Avery Salvage Yard property, but one that was  
17 taken some time after at least the victim's  
18 vehicle was removed from the property. And how  
19 long after that, I'm not exactly sure. But is  
20 that correct, counsel?

21 ATTORNEY KRATZ: It is, Judge, and in fact,  
22 there are a couple of very important points to  
23 raise. First, the question that I asked of  
24 Mr. Drumm was whether or not Exhibit No. 25 looked  
25 the same or similar as to what he observed on the

1           4th. I think that is not at all the same question  
2           as, was this photo taken on the 4th.

3                       Perhaps as importantly, the Court will  
4           note in the proposed stipulations and agreed upon  
5           stipulations by the parties, that aerial photos  
6           are one area that before we even walked into  
7           court we had agreed would be admissible without  
8           objection. And this might be a good segue to put  
9           that on the record.

10                      Lastly, this cell phone down by the  
11           river is the first I have heard of this.  
12           Certainly never came through our office. Never  
13           was provided by our office as part of discovery,  
14           because I don't have anything from that.

15                      Mr. Drumm's testimony about a video  
16           being taken from his plane is accurate. That was  
17           already provided to defense and I can also assure  
18           the Court that I am unaware of any photographs  
19           that were taken therefrom.

20                      So although the video has been provided  
21           from that flyover, from that aerial search, I  
22           don't understand there to be any still photos  
23           from there; although, they did get the video.

24                      THE COURT: So what you are saying is that  
25           your understanding is, from what I take it, exactly



1 the opposite of Mr. Drumm's understanding. I think  
2 he said he thought there were photos taken, but was  
3 not aware of video, though, he wasn't personally  
4 involved in either one, he was flying the plane.  
5 You are telling me that what actually happened was  
6 video was taken, but no photos. The video has been  
7 turned over.

8 ATTORNEY KRATZ: I'm sure the camera he saw  
9 was a video camera and that has been turned over to  
10 the defense.

11 ATTORNEY BUTING: I would ask, if counsel  
12 is just discovering this cell phone incident today,  
13 and the way she described it, obviously there was  
14 some sort of police involvement, that perhaps  
15 overnight he should check with probably Manitowoc  
16 and see what's up with that.

17 ATTORNEY KRATZ: Perhaps Mr. Buting would  
18 like to do that; it's not in my possession, Judge.

19 THE COURT: How did this come to light?  
20 How did you know how to ask the questions about it,  
21 Mr. Buting? I guess I'm at a loss. I don't know  
22 how it got started.

23 ATTORNEY BUTING: We get tips too, just  
24 like they do. Sometimes useless, sometimes not.  
25 This one sounded like maybe it might be more

1           legitimate, so I thought I would ask her about it.  
2           But I had no confirmation of it, until today.

3                   And she clearly describes a police  
4           action of some sort. They -- To say that it's  
5           not in his possession, Manitowoc officers are  
6           testifying for the State. They have been  
7           involved in critical parts of this case in terms  
8           of evidence that was discovered, so I think he  
9           does have an obligation under **Brady**, potentially,  
10          to get to the bottom of this and find out is this  
11          something that was never even documented,  
12          Manitowoc never even wrote a report or did they  
13          write a report and we just haven't received it.

14                   ATTORNEY KRATZ: Wait a second, Judge.  
15          When throwing the word **Brady** around, it sounded  
16          through this witness that inquiry was made that very  
17          day. Was this Teresa's cell phone? The Halbach  
18          family assured them it wasn't her cell phone at all.  
19          I don't know what could ever be considered  
20          exculpatory, potentially exculpatory, relating to  
21          relevant evidence.

22                   That notwithstanding, I just asked  
23          Investigator Wiegert, he hasn't heard of this  
24          either. We can certainly check our reports and  
25          we're happy to do that for Mr. Buting. And more

1           thoroughly check that and also make some  
2           inquiries, but it's quite certain, at least to  
3           me, that it isn't something in our possession.  
4           And even if it were, would have very little, if  
5           any, relevance to this particular case.

6                     THE COURT:   Well, I don't know if it has  
7           any **Brady** implication or not, but it sounds like  
8           something that would be in at least the possession  
9           of the State, this case being State of Wisconsin vs.  
10          Mr. Avery, not Calumet County.   So I'm going to ask  
11          the State to determine whether there are any reports  
12          of the incident and if there are any, share them  
13          with the defense.

14                    ATTORNEY KRATZ:   We'll do that, Judge.

15                    ATTORNEY BUTING:   Thank you.

16                    THE COURT:   I did not understand Mr. Drumm  
17          to be testifying that the aerial photo on the screen  
18          was one that he necessarily thought was taken the  
19          day he flew over the salvage yard property.   It  
20          might -- If it's going to come up as an issue in any  
21          way because of, for example, the line of police cars  
22          that are on the property, it might be helpful for  
23          the parties to notify the jury when the photo was  
24          taken.   I don't think anything about that's come in  
25          yet, or if it has, I haven't caught it.

1                   ATTORNEY BUTING: I think we should because  
2 we did zoom in on it a little bit. And I don't know  
3 if they saw, but I mean I knew what I was looking at  
4 and the RAV4 was clearly not there. I don't want  
5 them back in deliberations, you know, not knowing  
6 what's going on, looking at this. You know, if they  
7 misunderstood that it was taken when Mr. Drumm was  
8 flying on the 4th, before the vehicle was even  
9 discovered, it just may confuse things.

10                  THE COURT: As I watched the evidence  
11 myself, I wondered if anybody was going to zoom in  
12 and show where the RAV4 was because I was not aware  
13 of when the photo was taken. So I think the jury  
14 should be informed of that.

15                  Anything else before we get to the  
16 stipulations? Have I missed anything that's been  
17 placed in issue?

18                  ATTORNEY KRATZ: No.

19                  THE COURT: If not, let's move on to the  
20 stipulations. Who is going to speak?

21                  ATTORNEY KRATZ: I certainly can, Judge.  
22 Mr. Strang, I'm sure, will correct me if there's a  
23 problem. First of all, there is one stipulation  
24 that came up this afternoon. As Mr. Schmitz was  
25 leaving the witness stand, I had neglected to

1           inquire of him what his telephone number was.

2                       I'm simply doing that because there's  
3 going to be a summary exhibit contemplated later  
4 that each of the witnesses, rather than  
5 calling -- a custodian of Mr. Schmitz's phone may  
6 have been called, rather than recall him for that  
7 purpose, Mr. Strang was gracious enough to agree  
8 to a stipulation. His phone number, Judge, is  
9 894-3912. I believe that's a 920 area code. And  
10 that should be included as a fact and provided to  
11 the jury.

12                      As the Court knows, Mr. Strang,  
13 Mr. Buting, and the prosecution team had worked  
14 for several weeks on proposed stipulations of  
15 fact. We have tried to eliminate witnesses that  
16 were either unnecessary or would provide  
17 testimony or evidence that was not really  
18 contested or at consequence to the real issues in  
19 this lawsuit.

20                      And so in an exchange of emails,  
21 Mr. Strang and I came up with these following  
22 stipulations. Most of them, Judge, I will tell  
23 you do not have to be provided to the jury by way  
24 of affirmative comment by the Court, but simply  
25 as an agreement as happens in most trials,

1           between attorney's, that objections will not be  
2           made or an agreement as to admissibility of  
3           evidence.

4                       And so from that perspective, the  
5           parties have agreed as follows:

6                       First, that the DNA exemplar of the  
7           victim in this case, Teresa Halbach, which  
8           consisted of a Pap smear, a cervical sample,  
9           would be admitted without the necessity of  
10          providing witnesses as to its -- how it was  
11          obtained, how it was stored, or the transport  
12          thereof.

13                      There will be testimony as to the DNA  
14          analysis performed by the Wisconsin Crime Lab,  
15          but authentication and transport witnesses,  
16          Mr. Strang has agreed, will not be required. If  
17          the Judge wants to inquire of Mr. Strang as we do  
18          these one at time, that's fine, or I can do them  
19          en masse. I don't care how the Court wants to  
20          proceed.

21                      THE COURT: Mr. Strang.

22                      ATTORNEY STRANG: I think the much more  
23          efficient way to do this would be just to make a  
24          part of the record my February 4, 2007, email to  
25          Mr. Kratz which lays out in writing just exactly

1           what's stipulated and what's not. I think, you  
2           know, these go paragraphs A through W and not all of  
3           them are stipulations, but most of them are.

4                   THE COURT: Do I understand that these are  
5           not, for want of a term of art, Jury Instruction 162  
6           stipulations that are going to be read to the jury,  
7           these are simply items pertaining to evidence that  
8           the parties are going to agree to as we go along?

9                   ATTORNEY STRANG: That's right. And that's  
10          a good distinction between these and the Steven  
11          Schmitz stipulation. On the Steven Schmitz  
12          stipulation, the stipulation is that, had he been  
13          asked, he would have testified that his telephone  
14          number is 920-894-3912. So that's a stipulation  
15          about what evidence would have been given by a  
16          witness. Most of these --

17                   THE COURT: Just a minute. If there's  
18          another written document, or something that's going  
19          to be received with his telephone number on it and  
20          it's not objected to, I don't know that I have to  
21          instruct the jury in --

22                   ATTORNEY STRANG: Right.

23                   THE COURT: -- closing instructions, the  
24          parties can agree that's his phone number, right?

25                   ATTORNEY STRANG: Correct, if there were a

1 written document and it's not objected to, then  
2 there is no Pattern Instruction 162 stipulation  
3 instruction to give. And most -- most of these  
4 paragraphed stipulations are of the latter nature.  
5 In other words, we just agreed among us that I won't  
6 make an authenticity objection, you know, you still  
7 have to prove up relevance, or I, you know, I may or  
8 may not object under 904.03. But I don't have a  
9 problem with authenticity.

10 Some of them go -- Some of them go  
11 further than that; for instance, just as an  
12 example, we're stipulating that Teresa Halbach  
13 purchased a Motorola RAZR V3 phone in August,  
14 2005. And we're going to allow admission of the  
15 contract and receipt without the calling of any  
16 witness, so.

17 THE COURT: I have no problem with simply  
18 accepting a written copy of the email; though I have  
19 already marked up the copy that was circled by, I  
20 believe, Mr. Kratz or someone and given to me, so I  
21 will need a clean one, but I won't require the  
22 parties to put the agreement further on the record  
23 if they don't feel a need for it.

24 ATTORNEY KRATZ: Judge, what I will do,  
25 since what you have, dated the 4th of February, is



1       actually a response to an email that I wrote to Mr.  
2       Strang on the 25th of January, I'm going to attach  
3       both of these as one exhibit. I will have it  
4       marked, I will have it received by the Court. And  
5       this, together, is an accurate reflection, then, of  
6       what both parties agree to. I don't have any  
7       problem with the procedure.

8               ATTORNEY STRANG: And that's ideal because  
9       my February 4 email says see your January 25, 2007,  
10      email. I will also just make crystal clear that  
11      we're not walking away from the stipulation to the  
12      authenticity of the aerial photographs. There is no  
13      objection to Exhibit 25.

14             The issue is -- and I fully accept  
15      Mr. Kratz's explanation of what question he  
16      actually asked Mr. Drumm. Once he repeats it, I  
17      think it rings a bell with me. All I can say is  
18      that sitting here, as one attentive observer, in  
19      my own mind, when I heard Mr. Drumm testifying, I  
20      was -- I guess assuming that Exhibit 4 --  
21      inferring that Exhibit 25 was taken on  
22      November 4. And if I made that mistake then  
23      jurors may have. So that's why we just need to  
24      clear up the date. It doesn't affect the  
25      admissibility or the authenticity of Exhibit 25.

1           We have no quarrel with that.

2                   THE COURT: Well, again, I think perhaps  
3           the primary reason to clear up the date is not have  
4           the jury wondering whether or not the RAV 4 is in  
5           that photo. The parties have already demonstrated  
6           to the jury that they have the capability to zoom in  
7           on these photos. So I think it will help the jury  
8           and everyone, to know exactly when it was taken.  
9           Anything further this afternoon?

10                   ATTORNEY KRATZ: It's a digital photo,  
11           Judge. I'm just telling the Court because just  
12           something that I learned about the signature on a  
13           digital photo. It was taken, at least if the time  
14           in the camera is correct, on November 8th, 2005, at  
15           7:15 a.m., using a Canon EOS Digital Rebel XT  
16           camera. I don't know what the Court wants by way of  
17           information, but we'll try to verify that time and  
18           any other information. And I think it's a very  
19           valid point and we'll alert the jury to that.

20                   ATTORNEY STRANG: I don't think the State  
21           needs to spend anymore time verifying that. I mean,  
22           November 8, I don't have any reason to doubt and the  
23           photo is perfectly plausible for having been taken  
24           on November 8.

25                   THE COURT: Okay.

1                   ATTORNEY STRANG:   So I'm happy with that.

2                   ATTORNEY KRATZ:   Judge, if I may, page 185  
3 of the Calumet County Sheriff's Department  
4 discovery, on the third last paragraph, actually  
5 talks about this very image, how it was taken and  
6 when and why and those kind of things.   So, page  
7 185.

8                   THE COURT:   All right.

9                   ATTORNEY KRATZ:   That not withstanding,  
10 Judge, we will -- Oh, I'm sorry.   I'm sorry, Judge.  
11 I misspoke.   I was hearing two things, page 185, the  
12 third last paragraph is the information regarding  
13 the other cell phone that was found, that mystery  
14 one down by the river.

15                  THE COURT:   The Mishicot cell phone?

16                  ATTORNEY KRATZ:   Yeah, page 185 of the  
17 Calumet County Sheriff's Department report, third  
18 from the bottom paragraph, that should be the  
19 information that Mr. Buting has been looking for.

20                  I'm sorry.   But the other information,  
21 as to the time and date of the aerial photo, all  
22 seems accurate as well.   That's all I have for  
23 today.

24                  THE COURT:   All right.   I will ask the  
25 attorneys to meet in chambers again at 8:30 just to

1           give me the agenda for the day. See you tomorrow  
2 morning.

3                   ATTORNEY KRATZ: All right. Thank you.

4                           (Proceedings concluded.)

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1 STATE OF WISCONSIN )  
 )ss  
2 COUNTY OF MANITOWOC )  
3

4 I, Diane Tesheneck, Official Court  
5 Reporter for Circuit Court Branch 1 and the State  
6 of Wisconsin, do hereby certify that I reported  
7 the foregoing matter and that the foregoing  
8 transcript has been carefully prepared by me with  
9 my computerized stenographic notes as taken by me  
10 in machine shorthand, and by computer-assisted  
11 transcription thereafter transcribed, and that it  
12 is a true and correct transcript of the  
13 proceedings had in said matter to the best of my  
14 knowledge and ability.

15 Dated this 8th day of October, 2007.  
16  
17  
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19 \_\_\_\_\_  
Diane Tesheneck, RPR  
20 Official Court Reporter  
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