

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY  
BRANCH 3

STATE OF WISCONSIN,

PLAINTIFF,

vs.

JURY TRIAL

TRIAL DAY 6

Case No. 06 CF 88

BRENDAN R. DASSEY,

DEFENDANT.

**DATE:** APRIL 21, 2007

**BEFORE:** Hon. Jerome L. Fox  
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.

NORMAN A. GAHN  
Special Prosecutor  
On behalf of the State of Wisconsin.

MARK R. FREMGEN  
Attorney at Law  
On behalf of the defendant.

RAYMOND L. EDELSTEIN  
Attorney at Law  
On behalf of the defendant.

BRENDAN R. DASSEY  
Defendant  
Appeared in person.

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**TRANSCRIPT OF PROCEEDINGS**

Reported by Jennifer K. Hau, RPR

Official Court Reporter

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1 THE COURT: Morning, ladies and gentlemen,  
2 morning counsel. This is, for the record, State vs.  
3 Dassey, 06 CF 88. Appearances.

4 ATTORNEY FALLON: Morning, Your Honor.  
5 If it please the Court, the State continues in  
6 its appearance by Special Prosecutors Ken Kratz,  
7 Tom Fallon and Norm Gahn.

8 ATTORNEY FREMGEN: Attorney Mark  
9 Fremgen, Attorney Ray Edelstein appear with the  
10 defendant in person.

11 THE COURT: I believe, uh, we were  
12 crossing -- or -- or, uh, Mr. Edelstein was  
13 cross-examining Investigator Wiegert.

14 THE CLERK: You want him to be sworn?

15 THE COURT: Uh, we'll re-swear him,  
16 yeah.

17 **MARK WIEGERT,**  
18 called as a witness herein, having been first duly  
19 sworn, was examined and testified as follows:

20 THE CLERK: Please be seated.

21 THE COURT: All right. Proceed.

22 ATTORNEY EDELSTEIN: Thank you, Your  
23 Honor.

24 **CROSS-EXAMINATION CONT'D**

25 BY ATTORNEY EDELSTEIN:

1 Q Morning, Detective.

2 A Morning.

3 Q You have before you up there by the witness stand

4 a copy of the 3/1 transcript previously marked,

5 and you'll have to help me out, what sticker

6 number is on that?

7 A Uh, 216.

8 Q Very good. And that's the one that, uh, you've

9 previously identified; correct?

10 A Yes.

11 Q All right. Directing your attention to page 572,

12 please, just generally, Detective Wiegert, can

13 you tell this jury how many times during the

14 course of this some three-hour exchange between

15 you and Fassbender and the defendant did one or

16 the other of you, not speaking of Brendan, of

17 course, suggest to him an answer? Do you know?

18 I don't know that you need to look at

19 the transcripts to answer that one. How many

20 times during the course of the exchange did you

21 or Fassbender suggest an answer to Brendan?

22 A From this page?

23 Q No. During the three-hour interview.

24 A I don't know. I couldn't answer that.

25 Q Would you agree that it was certainly more than

1           20?

2    A    No, I wouldn't agree with that unless I counted them

3           up. I have no idea.

4    Q    Okay. So you haven't -- When's the last time you

5           actually read through that?

6    A    Um, probably three days ago.

7    Q    Well, take a look, if you would, at page 572,

8           fourth line down, you tell him, do you not, come

9           on, be honest, you went in that back room. You

10          told him that; didn't you?

11   A    Yes, I did.

12   Q    Okay. He didn't -- Or the next entry is, tell us

13          now, Brendan. Correct? And that's by

14          Fassbender?

15   A    Yes.

16   Q    And you followed up before he has any opportunity

17          to say anything, we know you were back there.

18          Correct?

19   A    That's part of that superior knowledge which we

20          talked about yesterday.

21   Q    Well, is it superior knowledge or is it a flat

22          out lie? Because we've talked about different

23          techniques, lies being one and superior knowledge

24          being another? Correct?

25   A    Yes.

1 Q Truth of the matter is, when you talked to him on  
2 the 1st, you had, quote, no superior knowledge  
3 from a factual standpoint that he was ever even  
4 back there; true or false?  
5 A Part of Mr. -- That's true. It's --  
6 Q All right.  
7 A -- telling Mr. Dassey -- or getting Mr. Dassey to  
8 think that we had superior knowledge like we talked  
9 about.  
10 Q Okay. But it's a false statement to him; isn't  
11 it?  
12 A Yes.  
13 Q Okay. Let's talk about that, because you  
14 apparently -- you're obviously wanting him to  
15 say, yes, I was back there. Correct?  
16 A No. I'd like him to tell us the truth whether he was  
17 back there or not.  
18 Q Well, within the -- the short frame of three  
19 lines, both you and Fassbender tell him that you  
20 believe he was back there. Correct?  
21 A Yes.  
22 Q Okay. During the course of this investigation --  
23 and you're the -- one of the two lead  
24 investigators -- was the carpet from the back  
25 bedroom ever removed?

1 A I know a portion of it was. I don't know if it all  
2 was or not, but there was a portion of that carpet  
3 removed, yes.

4 Q Well, you're the lead investigator. It seems to  
5 me you would know what evidence has been  
6 submitted to your lab for analysis, wouldn't you?

7 A I have a general knowledge of what went to the Crime  
8 Lab, yes.

9 Q And what was the purpose of submitting that  
10 carpet to the Crime Lab?

11 A Again, I don't know for sure if that carpet went to  
12 the Crime Lab or just one of our techs looked at it.  
13 I --

14 Q All right.

15 A -- I couldn't ans --

16 Q Let me ask you this: Given the questioning  
17 regarding the location of items in that back  
18 bedroom, would it have made any sense at all to  
19 you, as an investigator, to have taken the carpet  
20 to have it looked at to determine any sort of  
21 wear patterns that might be evident?

22 A No, I don't think wear patterns would have told us  
23 anything.

24 Q Pard me?

25 A No, I don't think wear patterns would have told us



1 anything.

2 Q Well, you've got carpet in your house, I guess,  
3 somewhere, don't you?

4 A Yes, sir.

5 Q Okay. Carpet under a piece of furniture tends  
6 not to get worn out, whereas, areas immediately  
7 surrounding that type of furniture tends to show  
8 some sign of wear, doesn't it?

9 A That would be true.

10 Q Okay. So wouldn't it have made sense in your  
11 opinion as an investigator to pull that to  
12 determine -- in order to try to verify some of  
13 the things that Brendan said about the location  
14 of the furniture? Wouldn't that have made sense  
15 to you?

16 A No, that wouldn't have made sense. Mr. Avery only  
17 was in that trailer for maybe a year. It wouldn't  
18 have made a difference.

19 Q Okay. Well, again, as to the back bedroom, on  
20 March 1 Brendan told you, did he not, that he cut  
21 Teresa's throat?

22 A Yes.

23 Q All right. Yet there was absolutely no evidence  
24 of blood spatter or blood pooling in the bedroom;  
25 correct?

1 A You're talking about two different things. But there  
2 was no blood spatter and we didn't find any pooling,  
3 which I'm not surprised about at all.

4 Q Well, in the bedroom, was it a -- a mattress  
5 only? Was there a box spring?

6 A I believe there was a mattress and box spring.

7 Q Okay. Did you personally examine the mattress?

8 A I did not. Our evidence techs do that work.

9 Q And you discovered from the evidence techs that  
10 there was absolutely no evidence of blood on that  
11 mattress; correct?

12 A Not surprisingly. He's correct.

13 Q Was there any luminol sprayed in the back  
14 bedroom?

15 A Yes.

16 Q Nothing to indicate the presence of blood in the  
17 back bedroom; true?

18 A Not true.

19 Q Was there any on the bed? The bedding?

20 A The bedding was burned. There would be no way to  
21 tell.

22 Q Well, how do you know the bedding was burned?

23 A Brendan Dassey told us the bedding was burned in the  
24 fire after they killed Teresa.

25 Q Okay. And Brendan Dassey also told you that he

1 cut Teresa's hair, didn't he?

2 A Yep.

3 Q But the truth of the matter is throughout the

4 course of this investigation you didn't find one

5 single hair fiber that could be identified to

6 Teresa Halbach; right?

7 A That's true.

8 Q All right. So he told you that, but you -- What?

9 You don't believe it or you do believe it?

10 A No, I believe he cut their -- her hair.

11 Q Okay. This was a carpet cleaner; right?

12 A That is true.

13 Q You guys seized the vacuum, didn't you?

14 A We did.

15 Q You had somebody go through that vacuum to

16 determine the presence of things like hair,

17 didn't you?

18 A Yes, we did.

19 Q And you found none; true?

20 A Not true. We found lot of hair.

21 Q Did you find any you could identify as Teresa's?

22 A Doesn't work that way.

23 Q Did you find any you could identify as Teresa's?

24 A No. But I'd like to explain if you'd like me to.

25 Q I'll give you a chance.

1 A Sure.

2 Q Did you have, during the course of your

3 opportunity to be involved in this case, the

4 opportunity to get from Teresa's residence any

5 hairbrushes?

6 A We did.

7 Q So you had samples of her hair; correct?

8 A Yes.

9 Q But none of what you found in the -- at the

10 trailer was able to be matched up to any that

11 came from any of her hairbrushes; right?

12 A Again, not true.

13 Q Well, is there -- did the lab provide you any

14 sort of report indicating there was a match

15 between the hair of what was found at the scene

16 and what you believed to be Teresa's hair?

17 A There was no hair attempted to match up. And there's

18 reasons for that.

19 Q Well, I'm sure the State will give you a chance

20 to explain that. But I find it somewhat curious

21 when you tell us that you believe some things but

22 you don't necessarily believe the others that he

23 told you?

24 ATTORNEY FALLON: Objection.

25 Argumentative.

1 THE COURT: Objection's sustained.

2 Q (By Attorney Edelstein) Detective, how many

3 times during the course of this three-hour

4 exchange did you or Fassbender tell Brendan, um,

5 in an effort to have him tell you things, it's

6 not your fault, Steve made you do it?

7 A Quite a few times as you guys saw yesterday.

8 Q Pard me?

9 A Quite a few times as the jury saw yesterday.

10 Q But you don't know how many?

11 A Didn't count them. No.

12 Q Okay. Directing your attention to page 580,

13 please?

14 A Sure.

15 Q Toward the bottom, there, Detective, third

16 entry -- ac -- actually fourth entry from the

17 bottom, you stated to him, you helped to tie her

18 up, though, didn't you, Brendan, because he

19 couldn't tie her up alone. There's no way. Did

20 you help him to tie her up? Right?

21 A That's what I said. Yep.

22 Q All right. Do you believe that that's a leading

23 and suggestive question to him?

24 A I believe that's something that makes sense.

25 Q Do you believe it to be a leading and suggestive

1 question?

2 A No.

3 Q Okay. Going over to the next page -- Well,

4 before we get there, during the course of this

5 interview, Brendan told you that, um, there was a

6 rope involved in the restraint; correct?

7 A That's true.

8 Q Okay. And you were present during the course of

9 all the prior testimony, and you heard, and I

10 can't recall his name real quickly, but the truth

11 of the matter is there was absolutely no rope

12 fibers that were recovered that would indi --

13 that would tend to verify what he told you about

14 the restraint?

15 A I believe that's correct. There were no fibers

16 found.

17 Q And there was no rope?

18 A There was a lot of rope found on that, uh -- in that

19 area.

20 Q In the bedroom?

21 A Um, there was a lot of rope throughout. I don't know

22 if there was any in the bedroom, specifically.

23 There's a lot in the garage.

24 Q There wasn't any in the -- You have no memory of

25 any being found in the --

1 A I don't recall if there was specifically any in the  
2 bedroom or not.

3 Q Well, given what he told you about that, I  
4 would -- would you expect that you would remember  
5 that? That being a fairly significant, uh, piece  
6 of physical evidence to corroborate something  
7 he's told you?

8 A We took almost a thousand pieces of evidence. No. I  
9 don't recall if there was or not.

10 Q He also told you that he helped in some fashion  
11 removing, um, the metal restraints that he  
12 claimed were used; right?

13 A That's correct.

14 Q Detective, we've got a number of metal handcuffs;  
15 right?

16 A Yes, we do.

17 Q They all have different exhibit numbers?

18 A Yes, sir.

19 Q The pink ones didn't have -- they didn't come  
20 from Steve Avery's place; right?

21 A No. They came from Brendan Dassey's house.

22 Q They came out of his mother's room?

23 A They came from where Brendan Dassey --

24 Q They --

25 A -- lives.

1 Q -- didn't come from -- Brendan lives with his  
2 mother?  
3 A That is correct.  
4 Q Who else lives with his mother?  
5 A Uh, he's got three other brothers.  
6 Q Who?  
7 A Bobby, Blaine and Bryan, is it, I believe, and Barb.  
8 Q All right. So why didn't you just tell us that  
9 they came from Bobby's house?  
10 A They came from the Dassey residence.  
11 Q All right. But they didn't come from Brendan's  
12 room?  
13 A In his room, specifically, no.  
14 Q Okay. In any event, some other ones -- And I'm  
15 not attempting to befuddle you or the record, but  
16 I don't recall which exhibit number it was.  
17 There were -- there was a pair of handcuffs and  
18 these longer ones taken from the Avery place;  
19 right?  
20 A Yes.  
21 Q Okay. Brendan claims to have un -- undone some  
22 of these; right?  
23 A That's true.  
24 Q But you know from your involvement in this case  
25 there's no fingerprints of his, no DNA of his on



1           there; right?

2    A    Not surprisingly, no.

3    Q    Not surprisingly?

4    A    That's correct.

5    Q    You can editorialize when they ask you. Just try

6           to answer mine for me, would you please?

7    A    Sure. I'll do the best I can.

8    Q    Isn't it fair to say that you and Fassbender

9           repeatedly, throughout the course of this in --

10           this interview, tried to get Brendan to say that

11           Teresa had socks on while she was restrained on

12           the bed?

13   A    No, I don't think that's true. I don't recall that.

14           It might have been mentioned, but I don't think

15           repeatedly that I'm aware of.

16   Q    On the 1st, if you know, how many times did

17           either you or Fassbender tell Brendan, all right,

18           Brendan, we're just going to start all over

19           again? And you, essentially, would have him

20           start from, what you believed to be the

21           beginning, about when he got home from school?

22   A    I could estimate maybe three to four times, but,

23           again, I didn't count how many times I said certain

24           things.

25   Q    So if it was more in the nature of six or seven,

1           you wouldn't debate that, necessarily?

2   A       I wouldn't debate it with you unless I counted.

3   Q       I believe you testified yesterday about some of

4           the questions that you may have used to test the

5           veracity or correctness of some of the things

6           Brendan said; right?

7   A       Yes.

8   Q       Okay. And you gave as an example of the

9           statement -- Directing your attention, Officer,

10          to page 662?

11   A       Yes.

12   Q       At the very bottom, that's the exchange that was

13          had between the investigators and Brendan about

14          the tattoo; right?

15   A       That's correct.

16   Q       And you used that as an example to the jury

17          yesterday that that served as verification to you

18          that he was being honest; right?

19   A       That was one of the things that we use. It's one of

20          the false things that we know is false that we put to

21          him.

22   Q       Okay. On 662, can you read the last entry?

23   A       Okay. We know now that Teresa had a tattoo on her

24          stomach. Do you remember that?

25   Q       And on 663, his response?

1 A He shakes his head, no. Ugh-ugh.

2 Q All right. So by that he's indicating that he

3 doesn't know whether Teresa had a tattoo on her

4 stomach; right?

5 A I guess that'd be up to interpretation. That's not

6 how I took it.

7 Q That's not how you took it?

8 A He -- Let me just re-read that real quick. Yeah, I

9 guess you'd be accurate that he doesn't remember

10 that. Um-hmm.

11 Q Well, and then Fassbender follows up on 663, do

12 you disagree with me when I say that? Right?

13 A Right.

14 Q Brendan's response is, no, but I don't know where

15 it -- where it was. Right?

16 A Exactly what he says.

17 Q Okay.

18 A Yes.

19 Q So when he's asked, do you disagree with me, he

20 says, no. Correct?

21 A Yes.

22 Q Which would suggest, certainly by his response,

23 that he's not taking issue with what claim is

24 being presented to him? I.e., Teresa had a

25 tattoo. Right?

1 A Are you asking for my interpretation of what he said?  
2 Q Well, isn't that what it meant to you?  
3 A It meant -- If you're asking what it meant to me,  
4 I'll tell you that.  
5 Q Well, let me ask you this: You asked these  
6 questions to get answers for purposes of trying  
7 to determine the truth and veracity of what he's  
8 saying?  
9 A That is true. Yes.  
10 Q All right. When you asked these questions, you  
11 have to sit there and decide what does his answer  
12 mean in order to go onto the next question;  
13 right?  
14 A That is correct. Yes.  
15 Q Am I correct in stating that he did not disagree  
16 with the assertion that was being put forth to  
17 him?  
18 A He's saying he doesn't disagree but he doesn't see a  
19 tattoo. That's exactly the correct --  
20 Q That's right.  
21 A -- thing. Yeah.  
22 Q So he is agreeing with the assertion, is he not?  
23 A He's saying he doesn't disagree, but he doesn't see a  
24 tattoo is what he's saying.  
25 Q Wouldn't that suggest to you that he is,

1           therefore, adopting and agreeing with the  
2           assertion?

3   A    No.  If he was adopting it, he would have said, yeah,  
4           I remember the tattoo.

5   Q    He told you he had no idea where it was; correct?

6   A    Correct.

7   Q    Does that not suggest to you that he is adopting  
8           it?  That I believe there was one, I just don't  
9           know where it was?

10  A    No, he doesn't say that.

11  Q    All right.  But you have to interpret what he  
12           says, as an investigator, do you not?

13  A    I do exactly what you're doing, yes.  We try to  
14           interpret.

15  Q    All right.  And that's what any human does when  
16           they speak with somebody?  They have to interpret  
17           and understand answers, don't they?

18  A    Yes.

19  Q    How many times did he change his answer after  
20           either you or Fassbender expressed displeasure by  
21           telling him things?  For example, Brendan, come  
22           on.  Or, Brendan, you're lying.  Or, Brendan, we  
23           know that's not true.  How many times did he  
24           change during the course of that three-hour --

25                   ATTORNEY FALLON:  Objection.

1 Irrelevance as phrased.

2 THE COURT: Sustained.

3 Q (By Attorney Edelstein) Did he ever change his  
4 answer to any question that you asked of him, or  
5 Fassbender asked of him, when you expres --  
6 expressed displeasure?

7 A Yes.

8 Q Happened how many -- Do -- do you know how many  
9 times?

10 A No.

11 Q Would you disagree with me that if I suggested it  
12 was more than 20?

13 A I can't agree or disagree unless I count.

14 Q During the course of that interview, Brendan told  
15 you that Teresa had been stabbed inside the back  
16 of the Rav 4; correct?

17 A Yeah, I believe that's correct. Yes.

18 Q Yet other than the evidence that's already been  
19 testified to regarding, uh, blood smears along  
20 the back or where the expert believed the hair  
21 may have been, that you would concede that there  
22 certainly wasn't any evidence of blood spatter;  
23 correct?

24 A I wouldn't expect evidence of blood spatter.

25 Q Would you explec -- expect blood spatter with a

1 stab wound?

2 A No.

3 Q It would -- But you're not an expert on blood  
4 spatter, are you?

5 A Not an expert, no.

6 Q Okay. During the course of that interview,  
7 Brendan told you that Teresa was moved about  
8 using what's been described as a creeper; true?

9 A True.

10 Q And you know that, as a result of that statement,  
11 the creeper was forensically examined; true?

12 A That's true.

13 Q No blood?

14 A Not surprising, no.

15 Q No DNA?

16 A Again, no.

17 Q So do you believe him when he says that?

18 A Absolutely.

19 Q But you have no physical evidence to back it up;  
20 correct?

21 A Not true.

22 Q Tell me what you have by way of the creeper?

23 A We have the creeper, which he said was in the garage.

24 Q How many times had that boy been in the garage  
25 before March 31?

1 A You'd have to ask him that.

2 Q Did you ask him that?

3 A No.

4 Q Don't you think he was familiar with what was in  
5 that garage?

6 A I don't know.

7 Q You didn't ask him, did you?

8 A No, I didn't.

9 Q Did it seem reasonable, given your experience as  
10 a human being, an investigator, that this young  
11 man may have been in that garage before March 1?

12 A He may have been. I don't know.

13 Q I'm going to hand you what's been marked as  
14 Exhibit 129. That's the, uh, .22 taken from  
15 Avery's bedroom; right?

16 A Yes, sir.

17 Q In connection with your occupation, I assume  
18 you've had some firearms training?

19 A I've had some. Yes.

20 Q Do you hunt?

21 A No.

22 Q Okay. But you do know the difference between a  
23 single shot rifle and an automatic or  
24 semi-automatic; right?

25 A Certainly.



1 Q Okay. Do you know the difference between a  
2 bolt-action rifle, and a single shot, or an  
3 automatic?  
4 A I do.  
5 Q Do you know the difference between a lever-action  
6 rifle, and a single shot, and a bolt-action, and  
7 a semi-automatic?  
8 A I do.  
9 Q And what you're holding is what type?  
10 A This would be -- I believe that they described it as  
11 a semi-automatic.  
12 Q Very good. Um, now -- And it's -- So it's not a  
13 single shot; right?  
14 A That's correct.  
15 Q Okay. If you would -- I think it's on 650. On  
16 the 1st, when you had this interview -- And it's  
17 about three-quarters of the way down. Bren --  
18 Brendan had previously been asked, um, what type  
19 of gun it was; right? And he had -- he responded  
20 that it was a single; correct?  
21 A Yes.  
22 Q Okay. And then immediately thereafter Fassbender  
23 says, it was a single shot, not a semi-automatic?  
24 Right?  
25 A Correct.

1 Q Okay. Now, I realize that you didn't ask that  
2 particular question -- And answer it if you can.  
3 But do you know why semi-automatic was contained  
4 in that question, when, in fact, that you knew it  
5 was a semi-automatic that had been recovered, as  
6 opposed to the question being presented to him  
7 about a bolt- or a lever-action?

8 A I didn't ask the question.

9 Q So you don't know the answer?

10 A No.

11 Q You don't know why he said it that way?

12 A You'd have to ask him.

13 Q Okay. Is it fair to say that there really wasn't  
14 any sort of follow-up to determine why he  
15 believed it was a single shot as opposed to the  
16 semi-automatic, which, in fact, we know was true?

17 A Why there was a difference in his answer was your  
18 question?

19 Q My question is, can you explain to me why there  
20 was no follow-up on that issue in order to try  
21 to, in fact, get a correct answer because he was  
22 obviously wrong?

23 A We don't try to get correct answers. We try to get  
24 the truth.

25 Q Now, going into this interview, you were

1 well-aware of the forensic findings regarding the  
2 skull pieces and the, uh, gunshot wound  
3 entrances; correct?

4 A Um, I was aware of them. Yes.

5 Q All right. If you know, how many times was it  
6 suggested or said to Brendan that he shot Teresa?

7 A Several times. And, again, it's one of those things  
8 he resisted each time we asked him. He resisted.

9 Q All right. So on some occasions he said, no,  
10 you're wrong, I didn't do that?

11 A That's correct.

12 Q Despite the fact that he -- yourself and  
13 Fassbender repeatedly, uh, made statements  
14 suggesting that you knew that he had shot her;  
15 correct?

16 A Yep. That's correct.

17 Q But you didn't have anything at all to support  
18 that sort of conclusion, did you?

19 A Conclusion being --

20 Q That Brendan had shot Teresa?

21 A No. We asked him the question.

22 Q Did you ask him the question or -- You -- You  
23 agreed with me just a minute ago that statements  
24 were made to him, which the statements, in and of  
25 themselves, suggest that, yes, he actually shot

1           Teresa; right?

2   A    Yes.  We asked him several times.

3   Q    Okay.  Yet you had absolutely nothing to support

4           a belief that he had, in fact, done that?

5   A    Yes, we asked him several times whether or not he

6           shot her.  Again, he resisted each and every time.

7   Q    You suggested to him that his DNA would be on the

8           gun; right?

9   A    Yes, we did.  In which he said there --

10  Q    If you had nothing at all to support even a

11           conclusion or a guess, even a guess, that he may

12           have shot Teresa, why would you present him with

13           those type of questions?

14  A    I didn't know whether or not he shot Teresa or not at

15           that time.  He puts himself in the bedroom.  He puts

16           himself in the garage where she was killed.

17  Q    You expressed an opinion to him, certainly, that

18           he did, in fact, do it, did he -- did you not?

19  A    I certainly did, yes.

20  Q    All right.  Isn't it true, Detective, that the

21           first person, during the course of this exchange

22           with Brendan on the 1st, who even mentioned her

23           being shot in the head, was you?

24  A    That is true.  Yes.

25  Q    All right.  And, initially, he said, yes, he

1           believed there were two shots in the head; right?

2   A       Which fits with the evidence that we have. Two shots

3           in the head, that's correct.

4   Q       All right. All right. So if that fits with the

5           evidence that you have, I guess you would believe

6           what he tells -- what he said was correct then;

7           right?

8   A       I believe that there were two shots in the head, yes.

9   Q       You don't --

10   A       That we know of. I mean, we don't have the whole

11           skull, unfortunately. Could there have been more?

12           Certainly.

13   Q       Sure. The fact of the matter is that after you

14           go back and forth with this, he changes it

15           several times, doesn't he, as far as the number?

16   A       When we get to the torso and things, yes.

17   Q       Okay. I think the number runs all the way up to

18           10 or 11?

19   A       That is true.

20   Q       Exhibit 128. It's a little box. It's got the --

21           the shells casings -- .22 shell casings, CCI

22           manufacturer, from the garage; right?

23   A       That's true. Yes.

24   Q       You're the lead investigator; right?

25   A       Yes. One of the --

1 Q Okay. You never asked anybody at the lab to  
2 examine these for DNA evidence; true or false?  
3 A That's true. Lot of reasons for it.  
4 Q You'll get your chance.  
5 A I'm sure I will.  
6 Q You never asked anybody at the lab to examine  
7 them for fingerprint evidence?  
8 A Pretty difficult to get fingerprint evidence off of  
9 that.  
10 Q You're not a fingerprint expert, are you?  
11 A I didn't say I was. No.  
12 Q These -- These are pretty smooth surfaces, aren't  
13 they?  
14 A Pretty small smooth surfaces.  
15 Q In order to load this gun, somebody has to touch  
16 those shells at some point, don't they?  
17 A Probably not big enough to get a whole fingerprint  
18 on.  
19 Q You're not a fingerprint expert, are you?  
20 A No.  
21 Q You've seen -- you have been involved in cases,  
22 have you not, where experts have testified and  
23 you relied on evidence utilizing portions of  
24 fingerprints; correct?

25 ATTORNEY FALLON: Your Honor, I'm going

1 object to the continued line of inquiry of the,  
2 uh, investigator. Said he wasn't a fingerprint  
3 analyst.

4 ATTORNEY EDELSTEIN: He's offering  
5 opinions about --

6 THE COURT: I -- I'll overrule the  
7 objection.

8 Q (By Attorney Edelstein) You know what a partial  
9 print is, don't you?

10 A I do.

11 Q And do you know investigators oftentimes rely on  
12 that; right?

13 A No, I don't know that.

14 Q Um, directing your attention to page 582, please?

15 A Sure.

16 Q I'm sorry, 587?

17 A Okay.

18 Q All right. That's -- Is -- is that fair to say  
19 that that's about the time during the course of  
20 this interview that the issue comes up as far as  
21 Teresa's head? It hadn't really come up much  
22 before that? Fair statement?

23 A It comes up here.

24 Q Okay. Um, and Fassbender states about halfway  
25 down, it's extremely, extremely important you

1 tell us this for us to believe you. Do you see  
2 that?

3 A True.

4 Q Okay. And immediately thereafter you say, come  
5 on Brendan, what else? Right?

6 A Very true.

7 Q Okay. Um, flip over, if you would, to 589?

8 A Okay.

9 Q Six lines down, when he's asked how many times  
10 Steve shot Teresa, what's his answer?

11 A He says, twice, but I don't know if he's referring to  
12 the head or what, but he does say twice.

13 Q Well, you didn't ask him what was being referred  
14 to, did you?

15 A Well, he's just talked about the head prior to that.  
16 So you asked me before to interpret and that would be  
17 my interpretation, but...

18 Q Well, Detective, I hate to quibble, but I don't  
19 think it takes a lot of interpretation. Look at  
20 the very first question on that page. You asked  
21 him, where did you shoot her? Right?

22 A Where did you shoot her? Right.

23 Q Yes.

24 Answer: In the head.

25 A That's correct.



1 Q Who shot her? What did he say?  
2 A He did.  
3 Q Talking about Steve; right? Right?  
4 A I would assume. Yes.  
5 Q Well, who else were you looking at?  
6 A He said, he did. Yes, I assume he's talking about  
7 Steve.  
8 Q Um, little further down is it indicated anywhere  
9 else upon the person of Teresa where she may have  
10 been shot?  
11 A Yes. He's asked, do you shoot her elsewhere?  
12 Q Now, when you use the term "you" there's no way  
13 to know from this transcript or, quite frankly,  
14 from the video, who you're talking about? Are  
15 you talking about he and Steve collectively? Are  
16 you talking about him individually? Would you  
17 agree with me that there's no way to discern to  
18 whom you reference that question?  
19 A Fassbender asked, do you shoot her elsewhere? His  
20 answer: In the stomach.  
21 Q Fassbender then asks a little further down, how  
22 many times do you shoot her when he handed you  
23 the gun? Right?  
24 A Yep.  
25 Q You have nothing to support that suggestion, do

1           you?

2   A    We certainly did. And the answer is zero. Which he

3       continues to resist that. You're correct.

4   Q    Well, when you say "resist" are you saying that

5       he is lying?

6   A    No, I didn't say that.

7   Q    But do you agree that prior to that question

8       being asked, you hadn't absolutely nothing to

9       suggest that there was any truth to this

10      statement that, when he handed you the gun?

11   A    Not sure I understand your question.

12   Q    When you did the interview on the 1st --

13   A    Yes.

14   Q    -- you had nothing to support the statement

15      submitted to Brendan when he, making reference to

16      Steve, handed you the gun. Is that true or

17      false?

18   A    That's true.

19   Q    All right. But, nevertheless, that was presented

20      to him as if it were a fact; correct?

21   A    Absolutely it was.

22   Q    All right. If you would flip over to page 591?

23   A    Okay.

24   Q    The last entry on the page, Detective, would you

25      read that question?

1 A How many times did you shoot her? Tell me again how  
2 many times did you shoot her?  
3 Q And you asked that question; right?  
4 A Yes.  
5 Q And the answer?  
6 A He says, three. Which is not surprising.  
7 Q And your next question on 592?  
8 A And where -- where did he shoot her?  
9 Q Talking again about Steve; right?  
10 A Yes.  
11 Q Okay. His answer: In the head, stomach, and  
12 heart.  
13 A That's exactly what he said.  
14 Q You then asked him, what side of the head;  
15 correct?  
16 A Yep.  
17 Q And he told you he had no idea. What he said  
18 was, no.  
19 A That's correct.  
20 Q Okay. How, if at all, do you account for --  
21 Well, just let me put it this way: So when this  
22 questioning continues about where the shots may  
23 have occurred, it changes, does it not?  
24 A It does.  
25 Q And you knew that, from the forensics, there were

1 two pieces of skull, two holes; correct?

2 A True.

3 Q All right. And I have to find my right page

4 here. During the course of this exchange, you

5 had asked about some hooks or wires in the

6 garage; right?

7 A Yes.

8 Q Um, were those ever forensically examined?

9 A Um, they were looked at by our evidence techs.

10 Q And they found absolutely nothing of any

11 significance; correct?

12 A True.

13 Q If you know, how many times during the course of

14 the contact you had with Brendan on the 1st did

15 you personally ask him, or suggest to him, or

16 tell him that Steve made him do something?

17 A I can't -- Excuse me. I didn't go through and count

18 how many times I made any statement. I don't know.

19 Q Would you agree that it was multiple?

20 A I'll agree it was more than one time.

21 Q Would you agree it's more than ten?

22 A No, I wouldn't agree with that unless I counted it.

23 Q All right. If you would, go to page 571, please?

24 A Sure. Okay.

25 Q About in the middle of the page, little -- little

1 past that, and this is when you're talking about  
2 whether or not Brendan engaged in any sort of  
3 sexual activity with Teresa. Is that a fair  
4 statement?

5 A Yeah, it looks like it. Yes.

6 Q All right. You make the statement to him, and  
7 this is a little past halfway down, okay, what  
8 happens next? Remember, we already know, but we  
9 need to hear it from you. You see that?

10 A I do.

11 Q And that's what you told him; right?

12 A That's true.

13 Q And in literally the same breath you said, it's  
14 not your fault. Right?

15 A You are right. Yes.

16 Q How many times did you tell him things like, it's  
17 not your fault?

18 A Quite a few. I haven't counted them, but...

19 Q How about --

20 A Many.

21 Q -- page -- Go to page 574, please. Again, about  
22 halfway down?

23 A Yes.

24 Q You said to him, it's not your fault. He makes  
25 you do it. Right?

1 A Yes.

2 Q And I take it you don't believe, as a trained  
3 investigator, dealing with Brendan Dassey, that  
4 phrasing things to him that way, where you  
5 suggest that if he did something, it's not his  
6 fault, is going to cause him to say he did,  
7 because you are telling him that it's okay and  
8 it's not his fault?

9 A No. I don't believe that at all.

10 Q All right.

11 A Clearly you saw on the tape what he said.

12 Q Everybody saw what he says.

13 A That's correct.

14 Q But you would have to give me this, Detective,  
15 that it's not just the sterile words that people  
16 speak, but it's the meaning behind them; correct?

17 A Correct.

18 Q It's the intonation; correct?

19 A Correct.

20 Q It's the reaction between individuals; correct?

21 A Absolutely.

22 Q How many times during the course of this contact  
23 did you praise him?

24 A Again, I haven't counted anything I've said in the  
25 interview. I don't know how many times I said

1 anything in that interview.

2 Q Is it fair to say that it occurred on multiple

3 occasions? It occurred more than once?

4 A I'll agree with you.

5 Q But you don't know how many times?

6 A No, I don't.

7 Q Okay. Um, if you would, go to page 595?

8 A Five ninety-five?

9 Q Yes.

10 A Okay.

11 Q You see about three quarters of the way down?

12 The statement is made to him -- this is by

13 Fassbender -- I think you're doing a real good

14 job up to this point. Right?

15 A Yep.

16 Q Okay. And he goes on to say some other things;

17 correct?

18 A Yeah, it's a pretty lengthy paragraph.

19 Q Okay. A little further down, he -- when we're

20 talking about the garage, he claims to have

21 knowledge about some things happening in the

22 garage; right?

23 A Yes.

24 Q And he prefaces his request for Brendan to tell

25 the truth by the following words: You need to

1 tell us about this so we know you're telling the  
2 truth. Right?

3 A Yes.

4 Q And in fairness, he said, I'm not going to tell  
5 you what to say. You need to tell us. Right?

6 A You're correct.

7 Q And you knew that this was being recorded, didn't  
8 you?

9 A Absolutely. So did he.

10 Q So if you wanted to get something on this video,  
11 you knew all you had to do was say it; right?

12 A It's nothing to do with the video.

13 Q Did you -- you knew it's being recorded?

14 A So did Brendan.

15 Q Okay. I'll grant you that. Think you're a  
16 little more sophisticated and intelligent than  
17 Brendan?

18 A I would hope so.

19 Q Do you think so? Not what you hope.

20 A I think so. Yeah, I think so.

21 Q So is Fassbender; isn't he?

22 A I think so.

23 Q In fact, he's been at this lot long -- about  
24 twice as long as you have, hasn't he?

25 A That's correct. Yes.



1 Q Just as the number of gunshots that you discussed  
2 with Brendan changed throughout the course of  
3 this contact, is it -- it is correct, is it not,  
4 that the times changed when talking about events,  
5 particularly when he gets home, when he goes over  
6 by Steve; right?

7 A Yes. Not surprisingly, they do.

8 Q Isn't it true, Detective, during the course of  
9 your contact on the 1st, that Brendan's told you  
10 flat out he was guessing at some of the questions  
11 that were asked of him?

12 A You'd have to be more specific. I don't know. I'm  
13 sure he may have said that once or twice, but...

14 Q For example, the knife. If you to page 645?

15 A Sure. Okay.

16 Q You asked him, now, quarter of the way down, what  
17 about the knife? Where is the knife? Be honest  
18 with me. Where's the knife? Right?

19 A Yes.

20 Q Okay. His answer: Probably in the drawer.

21 A That's what he says.

22 Q Okay. And you asked, which drawer? Right?

23 A Right.

24 Q If you would, just kind of read yourself the rest  
25 of that on that page.

1                   ATTORNEY FALLON: I'm sorry, Counsel,  
2                   what page was that again?  
3                   ATTORNEY EDELSTEIN: Five -- I'm sorry.  
4                   Six forty-five.  
5                   ATTORNEY FALLON: Thank you.  
6                   THE WITNESS: Yeah. I'm ready.  
7       Q        (By Attorney Edelstein) Is it fair to say that  
8               even you concluded that he has no idea what  
9               happened to this knife?  
10      A       That -- That's true, because he says, I think it is.  
11              Indicating he's really not sure where it went.  
12      Q        So the insertion of the simple word "think"  
13              indicates to you that that, in and of itself, is  
14              not a complete affirmation of what's being said?  
15              Do I understand you correctly?  
16      A       I'm saying is that he says, I think -- that's where I  
17              think it is. And I take that to mean he's not really  
18              sure where it might be.  
19      Q        So when he told you, for example, that he thought  
20              it was two shots, three shots, ten shots, are  
21              you -- are you then adopting the same  
22              interpretation that you're not even certain that  
23              he has any certainty to that -- that answer?  
24      A       I'm thinking he knows she was shot, but he probably  
25              doesn't recall the exact number of times. That's the

1 way I took it. Which is not surprising.

2 Q When Brendan said things that you did not believe

3 to be true, is it fair to say that you attempted

4 him to correct his response?

5 A Yes, and several times he would resist that.

6 Q Well, when you say "resist", you're certainly not

7 telling this jury that the mere fact that he did

8 not change an answer, that you have any

9 independent method to prove that his answer was

10 false?

11 A It shows that he's not very suggestible to answers.

12 That he answers what he knows. That's what it shows.

13 Q Now, you're not an ex -- an expert on

14 suggestibility by any means, are you?

15 A You are correct. I'm not.

16 Q All right. But you conceded earlier that he did

17 change his answers many times?

18 A Yes, he did.

19 Q But when you say he resists -- Let -- Let's go

20 back to the hair.

21 A Um-hmm.

22 Q I guess you would conclude that he, uh -- he --

23 he clearly told you that he cut the hair; right?

24 A True.

25 Q You asked him where the hair went?

1 A True.

2 Q Okay. Supposedly on what he described as the  
3 counter. Later determined to be the nightstand  
4 or something in Steve's room; right?

5 A No. I believe what he said is on the dresser.

6 Q He told you a counter. You asked him. Then he  
7 clarified that it was the dresser; correct?

8 A I recall him saying dresser. If he said counter  
9 first, I'll go along with that.

10 Q Whatever. We're talking about the back bedroom?

11 A That is correct.

12 Q He told you that; right?

13 A Yes.

14 Q You had nothing to sh -- You found no hairs of  
15 Teresa in the trailer; true or false?

16 A We don't know. So I'd have to --

17 Q Well --

18 A -- say false.

19 Q -- what do you mean you don't know? You're the  
20 lead investigator. My question is this simple,  
21 did you find any hairs of Teresa Halbach in the  
22 trailer of Steven Avery?

23 A We don't know.

24 Q You looked, didn't you?

25 A We recovered a lot of hair.

1 Q Well, did you not ask anybody to check it to see  
2 whose it was?  
3 A It's not that simple.  
4 Q You're not an expert on hair comparison, are you?  
5 A You're right, I'm not.  
6 Q You had -- At any given time, what was the  
7 maximum number of people out there on the Avery  
8 property helping you with this case?  
9 A Any given time it could range from 15 to over a  
10 hundred.  
11 Q And not only that, you have the resources of the  
12 State Crime Lab; right?  
13 A Yes, we did.  
14 Q You had troopers out there helping you?  
15 A Helping us search. That is correct.  
16 Q You had volunteers?  
17 A We had volunteer firefighters helping us go through  
18 the salvage yard.  
19 Q With all of these resources, there some reason  
20 that you did not -- Let me make sure I'm clear.  
21 Did you ever ask anybody involved in the forensic  
22 world to compare hairs found at Steven Avery's  
23 trailer with known samples from Teresa?  
24 A There were general discussions revolving --  
25 Q Did you or didn't you? That's a simple question.

1 Yes or no?

2 A There were --

3 Q I'm just asking you the same way you asked

4 Brendan many times. Yes or no?

5 A There were general discussions. Yes.

6 Q Did you ask -- So is the answer, yes? Did you

7 ask somebody to do a comparison?

8 A We had general discussions about hair. Specific --

9 Did I ask somebody, specifically, to do a comparison?

10 No.

11 Q And you agree that you could have done that,

12 couldn't you?

13 A No, I don't.

14 Q All right. You were lead investigator? Co-lead

15 investigator; right?

16 A Yes, sir.

17 Q What stopped you from asking either the Wisconsin

18 State Crime Lab or another lab from doing a hair

19 comparison?

20 A Well, if you'd like me, I'll explain the whole thing

21 about hair, if that's what you'd like.

22 Q I don't want to know your spin on the value of

23 doing the comparisons. I just want to know why

24 you didn't ask somebody to do it?

25 ATTORNEY FALLON: Well, then, he's --

1           then he's now entitled to answer that question.

2                   THE COURT: I -- I think he is, Counsel. I  
3           think -- I think -- You -- you may characterize it,  
4           editorially, as a spin, but you've asked him, so go  
5           ahead and answer it.

6                   THE WITNESS: Thank you.

7   Q       (By Attorney Edelstein) Why didn't you do it?

8   A       Thank you. Hair evidence -- First of all, we took a  
9           carpet cleaner, which you've all seen. There's a  
10          vacuum cleaner that was taken as well. Okay? There  
11          is probably thousands and thousands and thousands of  
12          hairs both in there and in the vacuum cleaner.  
13          Number one.

14                 Number two, we had to prioritize things  
15          on this case. It was a huge case. One of the  
16          biggest submissions of evidence ever done to the  
17          Wisconsin State Crime Lab.

18                 Had we had somebody look through every  
19          piece of hair that we found, they'd still be  
20          doing it today, and probably still be doing it  
21          two years from now. The Crime Lab is -- has only  
22          so many people, which you all know, which you've  
23          all seen.

24                 We took the evidence that we thought  
25          best would solve this crime and bring the

1 murderer of Teresa Halbach to justice, and that's  
2 what we did.

3 Could we have spent two, three, four  
4 years going through every hair? Absolutely. Is  
5 it feasible? It's not feasible.

6 And if he's going to talk to me about  
7 DNA, which he's probably going to, on hair,  
8 almost impossible unless you have a root. He  
9 never cut any of the -- He never pulled the hair  
10 out. He said he cut it. Thus, there's no root  
11 there.

12 So there's a lot of reasons we didn't do  
13 hair analysis. Not to mention the Crime Lab does  
14 very limited hair analysis anymore to begin with.

15 DNA? Absolutely, if you have the root.  
16 Even if you have the root of that hair, and it  
17 went through that cleaner, you have to have skin  
18 follicles on that root. The odds of having skin  
19 follicles on the root of that hair when it goes  
20 through a cleaner like that are probably slim to  
21 none. Could we have done it in the next couple  
22 years? Certainly. That's the reason.

23 Q So as a matter of -- of prioritizing things?

24 A One of the reasons.

25 Q Could have been done. You just chose not to;



1 correct?

2 A I'll go with you. Sure.

3 Q All right. Okay. Detective, let me ask you

4 this, uh, going back to the interview again.

5 Initially, I believe, Brendan said that he saw

6 Teresa up on the porch talking with Steve; right?

7 A True.

8 Q Okay. And then at some point in time he was

9 confronted, um, and Fassbender -- and, I'm sorry,

10 I can't find a page -- but if you have an

11 independent memory -- Maybe do it this way. Um,

12 Fassbender told him that, quote, you couldn't

13 have seen Teresa on the porch. Right?

14 A Very true.

15 Q Okay. And then Brendan agreed with that, and

16 said, no, I didn't. Right?

17 A Correct, because Brendan didn't see her there.

18 Q And that's another example of times that he

19 changed based upon either a leading question or a

20 negative response from one of you guys; right?

21 A Because Brendan knew he was caught in a lie.

22 Exactly.

23 Q Well, you don't know what Brendan knew, did you?

24 You -- Come on.

25 A Brendan knew it wasn't true. She wasn't there on the

1 porch at that time. We know that.  
2 Q You have the ability to sit here and purport to  
3 tell this jury that you have the ability to know  
4 what he knows?  
5 A I know Teresa wasn't there on the porch at that time.  
6 So he couldn't have seen her.  
7 Q You're not a mind reader, are you?  
8 A She wasn't on the porch.  
9 Q Are you a mind reader? Do you have that ability?  
10 A I'm not a mind reader.

11 ATTORNEY EDELSTEIN: That's all.

12 THE COURT: Redirect?

13 ATTORNEY FALLON: Yes. Thank you.

14 **REDIRECT EXAMINATION**

15 BY ATTORNEY FALLON:

16 Q Let's start with, um, guns. Were any bolt-action  
17 or lever-action .22 caliber weapons seized from  
18 Steven Avery's trailer?

19 A No.

20 Q All right. During your questioning of the  
21 defendant, did it appear to you that he had  
22 sufficient -- Or no. Did it appear to you that  
23 he really knew much about guns?

24 A No. Matter of fact, he had talked about being afraid  
25 to shoot a cat, or watch somebody shoot a cat, for

1           fear he had hardly any knowledge of guns.

2       Q   All right. Now, Counsel asked you -- I'm going  
3           to switch, now, to the SUV and this blood spatter  
4           question. You were asked a question on  
5           cross-examination about wouldn't you expect blood  
6           spatter in the SUV if a stabbing, for instance,  
7           had occurred there, and you said you would not.  
8           Tell us why?

9       A   That's correct. When somebody's stabbed, there isn't  
10          this great amount of blood that goes flying out of a  
11          stab wound. Anybody that's in the medical field has  
12          knowledge of that.

13                 Um, when you talk about blood spatter,  
14                 it usually comes from something higher velocity.  
15                 Stabbing a knife into somebody isn't going to  
16                 cause all this blood to go anywhere. When you  
17                 stab somebody in the area, from my limited  
18                 medical knowledge -- Where is it he says he  
19                 stabbed her? It's in the cavity. Even, free  
20                 bleeding. It's going to bleed into that cavity.  
21                 It's pretty simple. There isn't going to be this  
22                 big blood spatter. It's not going to happen.

23       Q   All right. So there's a difference between  
24           spatter and pooling of blood, for instance?

25       A   Yes, sir.

1 Q All right. And just so that we're clear, we  
2 didn't see any pooling in the center of that  
3 cargo area upon forensic examination?

4 A No, I wouldn't expect it to.

5 Q All right. Now, did you learn that there were  
6 the pos -- that -- that it was at least two  
7 gunshot wounds to the head at the same time? Did  
8 you learn about both gunshot findings at the same  
9 time?

10 A No. Actually, um, we had learned about the first  
11 gunshot wound, I believe it was around November --  
12 Correction. Let me -- Let me go back. I believe it  
13 was around, um, February 27. We learned much later  
14 than that, and I believe it was after this interview,  
15 about the second gunshot wound that they found. So,  
16 no, we did not know there were two suspected entrance  
17 wounds.

18 Q At least two?

19 A Two that we know of. Again, we don't have all of the  
20 skull.

21 Q Okay. Um, I just have a couple of final  
22 questions. The defendant was at, um, the  
23 Sheriff's Department for quite a while. But in  
24 terms of the actual interview of the defendant,  
25 how much interview time are we talking about

1           here?

2   A    Two hours and I believe it's 53 minutes, outside of  
3       breaks when we got him water, when we got him sodas,  
4       when we got him a sandwich, when we offered him to go  
5       to the bathroom. Outside of those breaks, there was  
6       about two hours -- just under three hours.

7   Q    Of questioning?

8   A    Of questioning.

9   Q    All right.

10  A    Yes.

11  Q    Now, um, yesterday, uh, when we ended, Counsel  
12       asked you about the absence of DNA and  
13       fingerprints that connect the defendant to the  
14       crime. Do you recall that?

15  A    I do.

16  Q    All right. Now, although there is no DNA profile  
17       of the defendant, or his fingerprints, is there  
18       scientific evidence that connects him to this  
19       crime in your opinion?

20  A    Absolutely.

21  Q    Let's take that in two parts. After receiving  
22       the statement that we witnessed yesterday, what  
23       did you do?

24  A    After receiving the statement, which you guys all saw  
25       yesterday, on March 1, we applied and obtained a

1 search warrant, which was signed by a judge. We  
2 entered that garage, did a full search of that  
3 garage.

4 As you already know, we found two bullet  
5 fragments in that garage. Number one bullet  
6 fragment that came -- that we found underneath  
7 that air compressor, which you all saw, we  
8 retrieved, we sent it to the lab, and we found  
9 Teresa Halbach's DNA on that bullet that we  
10 discovered after Mr. Dassey told us she was shot  
11 in the garage.

12 That very bullet was analyzed by the  
13 weapons specialist, which you heard talk here.  
14 That bullet came from the .22 hanging in Steve  
15 Avery's bedroom, which Brendan told us. Brendan  
16 told us where we'd find that .22 and that's where  
17 we found it. To the exclusion of all other guns,  
18 that's where that bullet came from. That's  
19 information that Mr. Dassey told us during this  
20 interview that we did not know.

21 Q All right. And while you were interviewing him,  
22 did you have a -- a fair command of the forensic  
23 evidence that you knew and that existed prior to  
24 this statement?

25 A Yes, sir.

1 Q All right. And in terms of the evidence that was  
2 known to you at the time of the interview, what  
3 scientific evidence did you -- do you believe  
4 corroborates many of the details he provided?  
5 Just to --

6 A There's a lot of it. I -- I'll -- I'll give you a  
7 few examples. The bleach, for example, corroborates  
8 what he says about cleaning up in the garage. We  
9 find the bleach bottle where he says we'd find the  
10 bleach bottle. The bleach bottle's empty.

11 The rake and the shovel, which he says  
12 they took out of the garage to help tend the  
13 fire. Where did we find the rake and shovel?  
14 Out by the fire.

15 His pants. He's the one who tells us  
16 that there's bleach stains on the pants from  
17 cleaning up blood in the garage. He turns over  
18 the pants. You saw for yourself what's on the  
19 pants.

20 He indicated that there were re --  
21 restraints used. He's the one who told us they  
22 were handcuffs. We find handcuffs.

23 He tells us they put Teresa, after they  
24 kill her, in the back of her own vehicle. We  
25 find Teresa's DNA, blood, in the back of that

1 vehicle.

2 He tells us that Steve's got a cut on  
3 his finger. We find Steve's blood in Teresa's  
4 truck. Just a few examples.

5 Q Thank you.

6 ATTORNEY FALLON: No further questions.

7 THE COURT: Uh, any recross on these --

8 ATTORNEY EDELSTEIN: Yes.

9 THE COURT: -- points?

10 ATTORNEY EDELSTEIN: Please, Your Honor.

11 Briefly.

12 **RECROSS-EXAMINATION**

13 BY ATTORNEY EDELSTEIN:

14 Q So if Steven Avery had told Brendan Dassey, when  
15 Brendan got over there, I shot Teresa in the  
16 garage. You need to help me clean it up. That's  
17 just -- that's -- that's certainly a possibility,  
18 isn't it?

19 A Are you saying that's all he told him?

20 Q No. I'm just asking you. You -- you said that  
21 in order to scientifically connect the defendant,  
22 you pointed to the bullet fragment with Teresa's  
23 DNA; right?

24 A That is correct. Yes.

25 Q I'm not going to argue with you. We know it has



1 her DNA --

2 A Yes.

3 Q -- right? And that came from the gun; right?

4 A Yes.

5 Q You don't know how many times he was in that

6 garage before he -- before the -- the, uh, 31st,

7 do you?

8 A How many times Brendan was in the garage?

9 Q Right.

10 A No, I don't.

11 Q You don't know how many times he sat around

12 watching Steve burn things in that pit, do you?

13 A No.

14 Q You don't know if he ever saw that rake and

15 shovel that's been paraded around up here before

16 the 31st, do you?

17 A No. He said he got them out of the garage.

18 Q So he could have had preexisting knowledge of the

19 rake and the shovel; right?

20 A Sure. He could have.

21 Q He could have had preexisting knowledge about

22 that gun hanging up there in that bedroom,

23 couldn't he?

24 A I'm assuming he could have.

25 Q All right. This all occurred Nov -- October 31;

1 right?

2 A Yes.

3 Q And he said that he told you that he helped Steve

4 clean up this mess; right? In the garage?

5 A He said he helped do a lot of things. One of the

6 things was help --

7 Q Listen --

8 A -- clean up the garage. Yes.

9 Q Okay. And he talked about using bleach; right?

10 A Yes.

11 Q So the fact that there's a bleach bottle that is

12 discovered some four months later in Steve's

13 trailer, you're telling this jury is scientific

14 evidence to corroborate what he said?

15 A I'm telling you to put it all together, along with

16 the gas cap --

17 Q Let them put it together.

18 A Absolutely.

19 Q Do you -- you just answer my question?

20 A Yes, I am.

21 Q That bleach bottle wasn't scientifically analyzed

22 to determine whether it had Brendan's DNA on it,

23 was it?

24 A No.

25 Q It wasn't scientifically analyzed to determine

1           whether it had his fingerprints on it, was it?

2   A       Wouldn't expect it to.

3   Q       You don't know how long that thing had been

4           sitting there, do you?

5   A       I don't.

6   Q       You told Mr. Fallon you had a pretty fair command

7           of the, uh, forensic evidence, uh, by the time

8           you conducted the interview; right?

9   A       I knew the majority of it.

10  Q       All right. Um, when, um, did you -- Well, let me

11           ask you this way. Did -- did I understand you to

12           say that it was February 27 was the first time

13           that you had any knowledge about a gunshot wound

14           being an issue in this case?

15  A       I can tell you that there was a report written by

16           somebody at the Crime Lab on the 27th about a

17           suspected gunshot wound, and we received it on the

18           28th. Um, there may have been conversations with,

19           um, for example, Leslie Eisenberg, who you saw

20           testify about the skull pieces, earlier than that. I

21           didn't --

22  Q       Excuse me. What -- what was that about earlier

23           than the 27th from Eisenberg?

24  A       I said there may have been discussions that she may

25           have found one piece of skull earlier than that.

1 Q Let me ask you this.

2 A But I don't know.

3 Q Well, do you have a recollection of being told as

4 early as November 15 of '05 from your lead co-

5 investigator, Agent Fassbender, that he got

6 information from Eisenberg that there was clear

7 evidence of a gunshot wound?

8 A Do I have an independent recollection of that? No.

9 But I believe that would be true that --

10 Q All right.

11 A I don't know that she could say it was a clear wound

12 at that time. She had a sus -- suspect that there

13 was one at that time.

14 Q Yeah.

15 A That's probably true.

16 Q All right. So it certainly wasn't a revelation,

17 uh, from Brendan that there was an issue of a

18 gunshot wound; correct?

19 A One gunshot wound.

20 Q You already knew this going into this interview?

21 A One gunshot wound. Yes, I said that. Yes.

22 Q You also indicated in response to Counsel's

23 question about corroborating what he said to you

24 from a scientific standpoint that he told you

25 Steven had a cut finger and you found some blood;

1 right?

2 A True.

3 Q If he was over there tending the fire and he saw

4 Steve had a cut finger, does that surprise you?

5 A He even said Steve went in and got a bandaid to put

6 on it when he was --

7 Q So what? If he sees a cut finger and he says he

8 got a bandaid, how is that scientific?

9 A It's knowledge that he would have known and --

10 Q It's not --

11 A -- puts him -- again puts him there.

12 Q Okay. That's all.

13 THE COURT: All right. You may step down.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: Uh, any exhibits?

16 ATTORNEY EDELSTEIN: Your Honor, we

17 haven't moved that, uh, exhibit that the witness

18 has.

19 THE COURT: The transcript, 216, I think?

20 ATTORNEY EDELSTEIN: Right. Yes, 216.

21 THE COURT: All right.

22 ATTORNEY FALLON: No objection to that.

23 THE COURT: All right. That's received.

24 ATTORNEY FREMGEN: I think with the same

25 conditions we've talked about.

1                   ATTORNEY EDELSTEIN: Right. For -- for  
2 purposes of the record.  
3                   THE COURT: Right. Any further witness --  
4 I'm sorry.  
5                   THE CLERK: Two-fifteen hasn't been  
6 received yet.  
7                   THE COURT: And 215 is?  
8                   THE CLERK: Report and transcript of the  
9 2/27 interview.  
10                  ATTORNEY EDELSTEIN: Same motion for the  
11 same purpose.  
12                  ATTORNEY FALLON: Um, that one I may  
13 want to think about. But let me just begin by  
14 saying for the purposes of which it was  
15 specifically identified and the specific  
16 questions referenced, I have no objection. But  
17 for any other purpose -- So, in other words, for  
18 those limited purposes, I have no objection.  
19                  THE COURT: All right. It's received --  
20                  ATTORNEY EDELSTEIN: All right.  
21                  THE COURT: -- for those limited --  
22                  ATTORNEY EDELSTEIN: And I'm going to --  
23                  THE COURT: -- purposes.  
24                  ATTORNEY EDELSTEIN: Your Honor, just so  
25 that we have cleanup, I think No. 214, which was

1           the --

2           THE COURT:  Miranda rights form?

3           THE CLERK:  That was received.

4           THE COURT:  That was received.

5           ATTORNEY EDELSTEIN:  Very good.  Thank

6           you.

7           THE COURT:  All right.

8           ATTORNEY FALLON:  Um, Madam Clerk, are

9           there any other exhibits unaccounted for at this

10          time that we need to address?

11          THE CLERK:  No.

12          THE COURT:  Well, any further witnesses

13          from the State?

14          ATTORNEY FALLON:  The State at this time

15          would offer to the Court no further witnesses.

16          We would rest our case and reserve our right to

17          rebut argue -- or, rather, evidence presented by

18          the defense.

19          THE COURT:  All right.  Is the defense

20          prepared to proceed?

21          ATTORNEY FREMGEN:  Judge, we should,

22          uh -- We do have issues to deal with prior to

23          proceeding.

24          THE COURT:  All right.  We'll deal with

25          those issues.  I'll excuse the jury.

1                   ATTORNEY FALLON: Pretty close to the  
2 morning breaktime anyways.

3                   THE COURT: It is.

4                   (Jury out at 9:58 a.m.)

5                   THE COURT: All right. Be seated. You  
6 have a motion, Mr. Fremgen?

7                   ATTORNEY FREMGEN: Judge, yes. Before  
8 we start our portion of the trial, we would  
9 move -- and I believe it's Count 2, the, uh,  
10 sexual assault offense -- we would move that the  
11 Court consider at this time, uh, dismissal of  
12 that count. The evidence thus far that's been  
13 introduced this past week, in our opinion, does  
14 not independently support the first degree sexual  
15 assault charge as to any element of that offense  
16 absent the confession of the defendant.

17                   Now, it supports -- general rule is  
18 that, uh, one may not be convicted solely upon  
19 their uncorroborated confession. But I -- I can  
20 cite cases, **Triplett v. State**, is the one that I  
21 have, 65 Wis. 2d 371, I believe **Holt v. State** is  
22 17 Wis. 2d 468, more of the, uh -- the primary  
23 case in Wisconsin in regards to corroborated  
24 confessions.

25                   But in that regard, I believe it was in



1       **State v. Verhasselt**, 83 Wis. 2d 647, Wisconsin  
2       Supreme Court case. Supreme Court stated that,  
3       quote, as to the need for corroborating evidence,  
4       all of the cri -- elements of the crime do not  
5       have to be proved independently of an accused's  
6       confession. Essentially, it's enough that,  
7       quote, some corroboration, unquote, of that  
8       confession be necessary in order to sustain a  
9       conviction. That's the Supreme Court in  
10      **Verhasselt**.

11               In this case, there are three crimes.  
12       There are three distinct and separate offenses.  
13       Each has distinct and separate elements of the  
14       offenses. Now, certainly, we -- not taking issue  
15       that there has been independent evidence that  
16       supports at least an element of the other two  
17       offenses, intentional -- first degree intentional  
18       homicide and mutilation of a corpse.

19               In this case, there's been no  
20       independent evidence to support the confession by  
21       the defendant that first degree intentional -- or  
22       excuse me -- first degree sexual assault  
23       occurred. There's no independent evidence  
24       outside the statement -- the videotaped statement  
25       provided yesterday to the Court. No scientific

1 evidence that ties the defendant to any sexual  
2 assault, no physical evidence that even suggests  
3 that a sexual assault occurred.

4 Nothing connects this defendant with  
5 Teresa Halbach in regards to any indication of a  
6 sex crime. For example, no DNA of Teresa Halbach  
7 on the leg irons or handcuffs. Items that might  
8 be indicative of a sex crime.

9 No indication of bodily fluids  
10 indicative of a sex crime such as semen. Nothing  
11 on -- on any bedding, on any carpeting. No body  
12 fluids at all suggestive of a sexual assault.

13 So we'd ask that the Court dismiss that  
14 count in regards to the uncorroborated --  
15 uncorroborated detail of any element of that  
16 crime.

17 THE COURT: Response?

18 ATTORNEY KRATZ: Thank you, Judge. This  
19 motion is brought, uh, not surprisingly, at the,  
20 uh, conclusion of the State's case where the  
21 standard the Court is to apply, uh, is whether a  
22 view of the evidence in the light most favorable  
23 to the State could sustain a conviction.

24 Mr., uh, Fremgen's argument, I believe,  
25 is misplaced, uh, especially given the, uh,

1 postmortem, um, mutilation of the evidence and  
2 the destruction, uh, of what we might expect to  
3 find as, uh, other corroborative, uh, physical  
4 evidence.

5 In this case, uh, the fact that the  
6 body, uh, is, uh, totally consumed by fire, the  
7 fact that the bedding and the clothes, which may  
8 have at one point contained DNA, are, by the  
9 defendant's own, uh, instrumentality, burned, uh,  
10 do not, uh, aver to the, uh, benefit of the,  
11 uh -- of the defendant, himself.

12 Uh, the term "corroboration", Your  
13 Honor, uh, requires or suggests this Court, uh,  
14 include and consider all of the evidence, uh,  
15 that has been, uh, presented. There is certainly  
16 corroboration as to, uh, restraints, as to, uh,  
17 weaponry, and as to other, um, items that have  
18 been seized when viewed in light, uh, most  
19 favorable, uh, to the State, uh, would, in fact,  
20 uh, be, uh, considered, or can be considered,  
21 corroborative.

22 But the bottom line, and the underlying  
23 principle, is, uh, when viewed in light most  
24 favorable to the State, uh, whether or not the,  
25 uh, jury could, in fact, convict, we certainly

1 have met that burden. We ask that the  
2 defendant's, uh, motion be dismissed. Or, excuse  
3 me, denied at this time.

4 THE COURT: Response?

5 ATTORNEY FREMGEN: Just one quick  
6 response, Judge. The -- the case that I cited,  
7 and I think it's cited numerous times and -- and  
8 without -- well, somewhat ad nauseam in the case  
9 law, says the elements of the crime, not any  
10 element of any crime. I think if the Supreme  
11 Court wanted to say any element of any crime  
12 charged, they would have done that.

13 So in this case, there isn't any  
14 evidence suggestive of any sexual assault. And  
15 despite the fact that there might be evidence  
16 that the State suggests had been destroyed, once  
17 again, that comes from the confession of the  
18 defendant. There's nothing to corroborate that  
19 there was bedding in -- in -- in the fire, no  
20 evidence has been suggested that they found  
21 remnants of bedding in the fire.

22 So, once again, our -- I understand the  
23 State's position, but the case law's pretty clear  
24 there has to be something other than the  
25 confession. Not just, well, it's not fair that

1 he can confess to something, destroy all of the  
2 evidence, and then we can't go any further with  
3 the case because we can't corroborate the  
4 confession. That's the law.

5 THE COURT: I think -- and I don't have any  
6 cases in front of me right now -- but most recently  
7 there was a case called **State v. Bannister**. It's at  
8 2006, uh, Wisconsin Appellate something or other,  
9 uh, and that stated, once again, what I think,  
10 essentially, both defense and prosecution agree,  
11 that an uncorroborated confession cannot stand alone  
12 to sustain a conviction.

13 What I believe the, uh -- the general  
14 rule is, that there has to be some material fact  
15 that corroborates, in one way or another, the  
16 confession. Uh, the State, uh, is correct in  
17 saying that at this stage in the proceeding there  
18 need be shown here a prima facie case to, uh,  
19 allow the Court to conclude, under the best of  
20 all circumstances, at least at viewed -- as  
21 viewed from the prosecution standpoint, that a  
22 case has been entered that could convict a  
23 defendant on a particular charge.

24 The -- In this particular instance,  
25 the -- the -- the State finds some of the

1 implements described in the statement of this  
2 defendant, and introduced, uh, uh, by way of the  
3 videotape, uh, and the implements, themselves,  
4 introduced here as pieces of evidence, to be  
5 sufficient material corroborating evidence to --  
6 to at least, uh, move this beyond this stage in  
7 the proceedings, and I'll respectfully deny your  
8 motion.

9 ATTORNEY KRATZ: When would you like us  
10 back, Judge?

11 THE COURT: Uh, 10:25.

12 (Recess had at 10:07 a.m.)

13 (Reconvened at 10:27 a.m.)

14 THE COURT: Mr. Fremgen?

15 ATTORNEY FREMGEN: Thank you, Judge.  
16 We'd call, first, Kris Schoenenberger-Gross.

17 THE CLERK: Please raise your right hand.

18 **KRIS SCHOENENBERGER-GROSS,**  
19 called as a witness herein, having been first duly  
20 sworn, was examined and testified as follows:

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

23 THE WITNESS: Kris Schoenenberger-Gross,  
24 S-c-h-o-e-n-e-n-b-e-r-g-e-r, hyphen, G-r-o-s-s.

25 **DIRECT EXAMINATION**

1 BY ATTORNEY FREMGEN:

2 Q Um, Ms. Gross, if you could just pull the

3 microphone a little closer to you. Thank you.

4 Where do you work?

5 A Mishicot School District.

6 Q And how long have you been with the Mishicot

7 School District?

8 A This is my ninth year.

9 Q In what capacity do you work at the, uh, Mishicot

10 School District?

11 A I'm the school psychologist and the coordinator of

12 alternative services, which includes the special

13 education coordinator responsibilities.

14 Q In the capacity as the school counselor, are you

15 familiar with Brendan Dassey?

16 A Yes.

17 Q Now, how -- First of all, without going into

18 specifics, how do you know Brendan Dassey?

19 A I know him as a student at Mishicot High School and

20 as a student whom I evaluated.

21 Q Generally, in the -- the course of your

22 responsibilities with the Mishicot School

23 District, do you maintain or compile records

24 pertaining to each student?

25 A Yes.

1 Q And not -- not just students that maybe you're  
2 involved with, all the students in the Mishicot  
3 School District; correct?  
4 A Correct.  
5 Q And those are maintained at the School District,  
6 itself?  
7 A Yes.  
8 Q And these type of records would include, for  
9 instance, class schedules, grades, uh,  
10 evaluations, IEPs?  
11 A Correct.  
12 Q Among other things possibly?  
13 A Correct.  
14 Q In your, um, capacity as the school counselor, do  
15 you have access to these records?  
16 A Yes.  
17 Q And you have an opportunity at times to review  
18 the records?  
19 A Yes.  
20 Q Now, in your capacity and in your position as  
21 school counselor with the -- the Mishicot School  
22 District, had you, in fact, had access to the  
23 records of Brendan Dassey?  
24 A Yes.  
25 Q I'm going to show you what's been marked as an



1 exhibit. Does it indicate that that's been  
2 marked as an Exhibit 217?

3 A Yes.

4 Q And can you tell us what that is?

5 A Um, this is a compilation of Brendan's records.

6 Q And you brought that to court today; correct?

7 A Correct.

8 Q So do you believe that that's a, uh, true and  
9 accurate copy of the records from the Mishicot  
10 School District that you've had access to?

11 A Yes.

12 Q I'm going to show you what's been marked as  
13 Exhibit 218. I'll leave this here in case you  
14 need to --

15 A Okay.

16 Q -- refer to it. It is -- Again, this -- this is  
17 marked as Exhibit 218; correct?

18 A Correct.

19 Q Now, did this appear to be a record, for  
20 instance, that we've been talking about? Records  
21 kept in the normal course of the School District  
22 activities?

23 A Yes.

24 Q And, specifically, this is a record of Brendan  
25 Dassey; correct?

1 A Correct.

2 Q Can you tell us what -- what this is?

3 A This is a copy of, um, Brendan's most recent IEP,  
4 Individualized Education Program, which contains, um,  
5 the goals that he was working on, services that were  
6 provided through his special education programming.

7 Q I want to ask you, if you could, if you could  
8 refer to page -- I believe it's listed as --  
9 either it's 1.11 or I-11? And do you -- do you  
10 see that?

11 A Um-hmm.

12 Q You have to --

13 A Yes.

14 Q -- answer yes.

15 A Yes.

16 Q And this is part of that first, um, IEP; correct?

17 A Correct.

18 Q And -- and I shouldn't say, first. It's actually  
19 dated September 29, 2005; correct?

20 A Correct.

21 Q Could you refer to the last paragraph on that  
22 page? Do you see where it starts, present level  
23 of education performance? And there seems to be  
24 an un-highlighted or bold section and a bold  
25 section; correct?

1 A Correct.

2 Q Now, the other -- the section that's not bold, is  
3 that just the standard form, itself?

4 A Correct.

5 Q And then the bold section is added to it by an  
6 evaluator or someone else from the school;  
7 correct?

8 A Correct.

9 Q And if you could just look down to where it  
10 starts, speech -- uh, speech, slash, language?  
11 You see where that is?

12 A Yes.

13 Q Could you read from that?

14 A He exhibits difficulty responding clearly and  
15 concisely to others. Paragraph comprehension,  
16 defining vocabulary, and understanding  
17 age-appropriate vocabulary terms remains challenging.

18 Brendan will occasionally ask questions  
19 when he is unsure. However, eye contact and  
20 participation during discussions with adults and  
21 peers is limited. Brendan's memory,  
22 specifically, is affecting all areas of language.

23 Q And -- and, actually, just to be clear, the word  
24 "discussion" is actually misspelled; correct?

25 A Correct.

1 Q Okay. And, again, that's just simply a summary  
2 of present level of educational performance? Or  
3 part of the summary?

4 A Correct.

5 Q Okay. I'm now going to show you what's been  
6 marked as Exhibit 219. And, again, can you -- do  
7 you recognize that document?

8 A Yes.

9 Q A -- again, is that something that's from the  
10 full record before you in Exhibit 217?

11 A Yes, it is.

12 Q That's just one item taken from that larger group  
13 of documents; correct?

14 A Correct.

15 Q Again, kept at the School District?

16 A Correct.

17 Q And can you tell us what this -- this, uh,  
18 Exhibit 219 is?

19 A This is, um, the evaluation summary pages from the  
20 re -- or -- re-evaluation which was conducted in  
21 September of 2005.

22 Q So this is one report used to generate the  
23 progress report that we've just discussed? The  
24 IEP?

25 A Correct.

1 Q And ask you to refer to -- I believe it's  
2 under -- it's on the first page, par -- page 1.5?  
3 Do you see that?

4 A Yes.

5 Q Okay. And under -- There's some handwritten  
6 notes under the section -- looks like the -- a  
7 form section. It says, to guide this analysis?  
8 You see that?

9 A Yes.

10 Q Okay. Can you read the handwriting? I know --  
11 I -- I don't --

12 A Yes.

13 Q -- know if you -- Okay. Can -- can you, uh, read  
14 what that states?

15 A Brendan continues to demonstrate delays in his basic  
16 reading, reading comprehension, and language skills,  
17 both receptively and expressively. Brendan needs  
18 specialized instruction which the regular education  
19 environment alone does not provide.

20 He needs special education services and  
21 supports to help him be successful in school and  
22 to help meet his needs.

23 Q Thank you. Can -- and if I ask you to refer,  
24 then, to page -- again I don't know if it's 1.3  
25 or I.3 -- of that same exhibit, Exhibit 219? Do

1           you see that?

2    A     Yes.

3    Q     And under, E -- Again, this is part of that same

4           evaluation report; is that correct?

5    A     Correct.

6    Q     And, again, there's some handwriting on this form

7           as well?

8    A     Correct.

9    Q     And under, E, where it indicates, observations by

10          teachers or related service providers?

11   A     Um-hmm. Yes.

12   Q     Could you read the handwritten comments?

13   A     Uses minimal eye contact, gestures, and a variation

14          of pitch in conversations in therapy and in the

15          classroom. Willingly participates in speech and

16          language therapy sessions.

17   Q     I'm now going to show you what's been previously

18          marked as Exhibit 220, and do you recognize this

19          document?

20   A     Yes.

21   Q     Again, is this from that larger compilation of

22          school records?

23   A     Yes.

24   Q     And what is this, uh, specific document?

25   A     This is an evaluation report that was completed by

1 the speech and language pathologist.

2 Q So this is specifically in regards to speech and

3 language; correct?

4 A Correct.

5 Q If I can ask you to refer to page three of that

6 document? And before I do so, I'm sorry, if I

7 can have you go back to the first page, it's not

8 actually dated with a specific date, is it?

9 A No. There are two dates.

10 Q Two dates. So the evaluation went from

11 September 22 and 27th of '05?

12 A Correct.

13 Q And, again, back to page three, under paragraph

14 six, discussion and summary, there appears to

15 be -- well, appears to be the summary of the

16 evaluation; correct?

17 A Correct.

18 Q Could you read that, please?

19 A Overall, Brendan demonstrates significantly delayed

20 receptive and expressive language skills, memory,

21 short-term memory, immediate memory, and working

22 memory, vocabulary, sentence comprehension,

23 pragmatics, and areas of abstract language. For

24 example, idioms.

25 Brendan's language standard scores range

1 from 58 to 83 with an overall language score of  
2 66. Brendan's strengths are in his willingness  
3 to participate in speech therapy, knowledge of  
4 familiar sequences and his articulation skills.  
5 This information will be shared with the IEP  
6 team.

7 Q And, again, these are all records that are  
8 normally kept in the -- at the School District?

9 A Correct.

10 Q And you have access to?

11 A Yes.

12 Q And have reviewed as well at times?

13 A Yes.

14 Q I'm now going to show you Exhibit 221, and though  
15 the questioning may sound repetitive, again, this  
16 is -- also appears to be a separate document from  
17 that compilation you -- exhibit before you?

18 A Correct.

19 Q Can you, uh, indicate what that -- what that  
20 document is?

21 A This is the IEP document dated October 12, 2004.

22 Q Similar to the one that you described in Exhibit  
23 218 from September 29, 2005?

24 A Similar to. It does not include evaluation --

25 Q Okay.



1 A -- results.

2 Q And, again, if I could ask you to refer to  
3 whether it's page I-11 or 1.11?

4 ATTORNEY KRATZ: Judge, if -- if -- if I  
5 may interpose an objection, we've heard about  
6 Brendan's, um, educational programming, um, close  
7 to this event. That is, in the fall of 2005. I  
8 don't know how going back several years is at all  
9 relevant to any, uh, material fact that this jury  
10 has to decide. That is, uh, how Brendan may have  
11 done in school in ninth grade, or eighth grade,  
12 or fourth grade, uh, I don't think really has any  
13 relevance to this case.

14 THE COURT: I think this is from October 1  
15 of 2004?

16 ATTORNEY KRATZ: Yes.

17 THE COURT: So that would be, uh, a year  
18 prior; correct?

19 ATTORNEY KRATZ: It looks like they're  
20 going backwards.

21 THE COURT: Well, I -- I'm -- I'm cognizant  
22 of moving backwards here. Are -- are we going  
23 back -- are you proposing to go back further than  
24 this?

25 ATTORNEY FREMGEN: I have two more.

1 I -- I guess, given the historical background --  
2 Uh, and if State wants to agree that the  
3 information will be similar to what the  
4 information is from Exhibit 218, 219 and 220, I  
5 have no problem, uh, ending at this point.

6 THE COURT: Any response?

7 ATTORNEY KRATZ: I want to know how it  
8 is --

9 THE COURT: Well --

10 ATTORNEY KRATZ: -- relevant to or  
11 material issue of this case, Judge.

12 THE COURT: Well, I think -- I think it --  
13 it certainly has some relevance. I'll -- I'll  
14 overrule your objection. I'll permit the testimony  
15 with respect to -- to 2004. Beyond that, I think we  
16 do, uh -- I -- I think we're simply going to be  
17 replicating what has already been testified to. So,  
18 with that said, you may go ahead.

19 ATTORNEY FREMGEN: Okay.

20 Q (By Attorney Fremgen) An -- and, again, I'm  
21 referring to you on page I.11 or 1.11?

22 A Yes.

23 Q Uh, there is, um, a handwritten note on the form  
24 as well?

25 A Correct.

1 Q Okay. Bear with me. I just lost my place. The  
2 last sentence of that, uh, handwritten paragraph,  
3 starting with, Brendan will occasionally, can you  
4 read from there?

5 A Brendan will occasionally ask questions when he is  
6 unsure. However, eye contact and participation  
7 during discussions with adults and peers is limited.

8 Q So, again, pretty similar to the previous -- or  
9 the September, '05, IEP?

10 A Correct.

11 Q I just have one more exhibit.  
12 (Exhibit No. 224 marked for identification.)

13 Q I'm going to show you what's been marked as  
14 Exhibit 2 --

15 ATTORNEY KRATZ: Just a minute. Could  
16 you --

17 Q (By Attorney Fremgen) -- what's been marked as  
18 Exhibit 224. And, again, would that al -- also  
19 appear to be one of the pages or documents that  
20 is kept in that compilation exhibit before you?

21 A Correct.

22 Q And this is from September 16, '05?

23 A Correct.

24 Q These are -- What -- what, specifically, is this  
25 document?

1 A This is a document that one of Brendan's regular  
2 education teachers completed, um, to provide  
3 observations about how he performs in the classroom,  
4 how he processes information based on that person's  
5 observations.

6 Q Can you turn to the second page of that document?  
7 And if you could read from that highlighted  
8 section?

9 A Brendan is expressionless, no facial expression,  
10 seemingly blank stare, possibly indicating  
11 daydreaming.

12 Q Thank you.

13 ATTORNEY FREMGEN: Thank you, Judge. I  
14 have no other questions.

15 THE COURT: Cross?

16 **CROSS-EXAMINATION**

17 BY ATTORNEY KRATZ:

18 Q Uh, Ms. Schoenenberger-Gross, uh, as a school  
19 psych -- Oh, I'm sorry. As a school  
20 psychologist, um, are you educated to the point  
21 where you have a Ph.D?

22 A No.

23 ATTORNEY FREMGEN: Judge, can we  
24 approach?

25 THE COURT: Sure.

1 ATTORNEY FREMGEN: Before I --

2 (Discussion off the record.)

3 Q (By Attorney Kratz) I think we left off with  
4 your educational background. Could you just tell  
5 us what that is, please?

6 A I have a Master's of Science in education in the area  
7 of school psychology.

8 Q All right. And, usually, when we hear the term  
9 "psychologist", um, aren't we normally hearing  
10 from people with, um, a more advanced degree? A  
11 Doctorate? A Ph.D? Or something like that?

12 A Correct.

13 Q How is it, then, that you have obtained the title  
14 psychologist?

15 A Well, school psychologists, specifically, um, which,  
16 um, I'm able to obtain with a Master's Degree, but my  
17 position and training is in evaluating students, um,  
18 interpreting evaluation results, conducting  
19 observations, interviews, um, you know, through the  
20 special education progress programs and trying to  
21 help determine appropriate programming for students.

22 Q And it's within that academic arena that you're  
23 able not only to review just records, uh, but  
24 you're able to form some opinions? And, in fact,  
25 you've been asked to do this in the past in this

1           very case, haven't you?

2    A     Correct.

3    Q     Mr. Fremgen provided you a very large binder of

4           materials, Exhibit 217. Uh, those are the school

5           records. Have you had the opportunity in, uh, a

6           rather detailed way to review Brendan's prior

7           school records?

8    A     Yes, I have.

9    Q     And not only have you reviewed those records, but

10          you have, yourself, that is, as the school

11          psychologist, uh, performed some testing,

12          performed some examinations, and certainly

13          interviewed Brendan in the past; isn't that

14          right?

15   A     Correct.

16   Q     When determining the appropriate programming for

17          any student, especially students who are at least

18          under the, uh, broad umbrella of special

19          education, uh, it falls upon you to do that

20          testing; is that right?

21   A     Correct.

22   Q     Let's talk about Brendan's educational program.

23          First of all, it's true, is it not, that Brendan

24          was in regular classes at Mishicot?

25   A     Yes.

1 Q So he wasn't the kind of student that, uh, you  
2 would consider to be, uh, cognitively disabled?  
3 You know what I mean by that term, don't you?  
4 A Yes.  
5 Q Was he the kind of student that your, um, school  
6 district considered cognitively disabled?  
7 A No.  
8 Q And although getting some special classes in  
9 speech or language, Brendan pretty much, um, was  
10 a normal kid? That is, uh, went through normal  
11 classes in Mishicot; is that right?  
12 A Yes.  
13 Q During your examinations of Brendan, do you  
14 recall providing Brendan with, uh, various tests  
15 that are tests that you could, uh, assess  
16 Brendan's general IQ level?  
17 A Yes.  
18 Q And within his IQ tests, and understanding IQ's  
19 kind of a broad, uh, range, but there are also  
20 abilities that psychologists and, in fact, you  
21 have, to assess, um, where Brendan may have some  
22 strengths and where he may have some weaknesses,  
23 at least cognitively or, uh, his ability to  
24 understand, or to think, or to achieve; isn't  
25 that true?

1 A Yes.

2 Q Are you familiar with the Woodcock-Johnson test?

3 A Yes.

4 Q Could you just briefly tell the jury what that

5 is, please?

6 A Um, Woodcock-Johnson, Third Edition, has tests of

7 cognitive abilities and achievements. Um, the

8 cognitive test looks at, um, measure of intelligence,

9 looking at his overall intellectual ability.

10 Q All right. And some of those areas that you look

11 at, uh, some of those sub-areas that we talked

12 about, included, uh, his, um, verbal abilities;

13 isn't that right?

14 A Yes.

15 Q And his ability to think? That is, what's

16 called, uh, the thinking scores, or the thinking

17 range; isn't that true?

18 A Yes.

19 Q Now, are there, um, norms? In other words, are

20 there numbers or averages that, uh, when a test

21 like that is scored, they're put into?

22 A Yes.

23 Q Now, the Woodcock-Johnson, uh, test, uh, could

24 you tell us what the average score is? Or if

25 there's a range of being average?



1 A The average range would be approximately 90 to 109.

2 Q All right. Now, one of the things you tested

3 Brendan for was something called the thinking?

4 That is, the ability to problem-solve or to

5 process information; isn't that true?

6 A Yes.

7 Q And are you familiar, Ms., uh,

8 Schoenenberger-Gross, with what Brendan's scores

9 were on his thinking ability? That is, his

10 ability to process information or to

11 problem-solve?

12 A Yes.

13 Q What is that score?

14 A A 93.

15 Q Ninety-three?

16 A Ninety-three.

17 Q That place, uh, Brendan in the average range of,

18 uh, his thinking ability?

19 A Yes.

20 Q Other things that you test for in, um, students,

21 not just Brendan, but in other students, are

22 their ability to achieve academically? That is,

23 how well they're able to, or at least predictive,

24 that is, how -- how you can predict they're going

25 to do, with, I guess, what we used to call book

1           learning; isn't that right?

2    A    Yes.

3    Q    And, again, those tests that are performed, um,

4           are broken down into various -- especially with

5           academic scores -- various disciplines? Academic

6           disciplines like reading, or math, or reasoning,

7           or things like that; isn't that true?

8    A    Um-hmm. Yes.

9    Q    And did you perform those tests and are you aware

10          of the results of those tests for Brendan?

11   A    Uh, I did not personally perform an academic

12          achievement test on Brendan, but there was one

13          conducted in 2002, and I am aware of those results.

14   Q    All right. Now, as you mentioned before, Brendan

15          has some, um, deficits, or at least he needed

16          some extra tutoring or help, uh, in the area of

17          speech or, uh, language, or even in reading;

18          isn't that true?

19   A    Yes.

20   Q    Uh, are you aware of the results for Brendan,

21          let's say, in the area of math? His math skills

22          and achievement levels?

23   A    Yes.

24   Q    Can you tell us what that number was, please?

25   A    In 2002, he scored within the average range. I would

1           need to refer to the report to give the exact number.

2   Q    Are you able to find that quickly?

3   A    I -- I certainly can.

4   Q    Why don't you look at Exhibit 217 and find that

5       for us, please. His math score was what?

6   A    Uh, math reasoning was a 102. Math calculation

7       skills, 100.

8   Q    Okay. And is that scored on the same, um, basic

9       score? That is, anywhere between 90 and 110 is

10      considered average?

11   A    Correct.

12   Q    Now, what's the difference between math and math

13      reasoning?

14   A    Um, math calculation would be where he's required to,

15      um, do some possibly adding, subtracting,

16      multiplying, dividing. Just solving the basic

17      problems that are in the book. Reasoning, he needs

18      to apply the skills he has, which may include some

19      story problems that he would need to figure out how

20      to set up and solve.

21   Q    And it's within that test, that is, when provided

22      with a story problem, or when given a set of

23      facts that he has to apply, uh, Brendan actually

24      achieved, if we're going to be technical about

25      it, over and above average? A 102; isn't that

1 true?

2 A Average. A 102 would be solid average range.

3 Q All right.

4 A Um-hmm.

5 Q So these results, that is, that is either 93 in

6 processing or problem-solving, or the 102, or the

7 100 results, supported your conclusion that

8 Brendan does not have any cognitive disabilities;

9 isn't that true?

10 A Correct.

11 Q As a school psychologist, are you also called

12 upon on occasion to assess and to make

13 recommendations about some behavioral problems?

14 A Yes.

15 Q Now, behavioral programming, at least within a

16 school district, and Mishicot's no different than

17 other school districts, can include some

18 specialized classes? In fact, can include

19 segregation of students from what's called the

20 general population; isn't that true?

21 A Correct.

22 Q Now, was Brendan a behavioral problem at

23 Mishicot?

24 A No.

25 Q Did Brendan exhibit any difficulties with, um,

1 acting out at school or, uh, in a, uh -- or  
2 demonstrating an inability to follow direction?  
3 A No. And "direction" meaning regarding behavior,  
4 specifically.  
5 Q I'm talking about behavior --  
6 A Yes.  
7 Q -- at this point. If Brendan would have been  
8 unable, for whatever reason, an inability to, um,  
9 conform or, uh, would -- would exhibit a -- a --  
10 a propensity to act out in school, uh, would it  
11 be likely that he would have been removed from  
12 general classes?  
13 A Over time, we would try intervention first, but --  
14 but if that is not working, then we would look at  
15 other programming options.  
16 Q In fact, those programming options are called ED  
17 or, uh, possibly, uh, emotionally disturbed  
18 classes for -- for children; is that correct?  
19 A Correct.  
20 Q That wasn't Brendan?  
21 A No.  
22 Q When you go through all these, um, what are  
23 called IEP, the Individual Education Programs,  
24 and for Brendan it was for speech and -- and  
25 language, uh, was Brendan's mother involved in

1           those programming meetings?

2   A    Yes.

3   Q    And to your knowledge, and in, uh, reflection of

4       the Exhibit, uh, 217, did Brendan's mother ever

5       express any particular concerns, uh, that, uh --

6       that she had with Brendan? Let's talk

7       behaviorally first, okay?

8   A    Behaviorally? Can I refer to if she -- if it was

9       documented?

10   Q    Yeah, why don't you do that?

11   A    Okay. Did you say -- 217 in the binder. Okay. Are

12       you referring to the last IEP meeting, can I ask?

13       Or --

14   Q    And that's the most relevant. In the fall of --

15   A    Okay.

16   Q    -- uh, 2005. Are there any behavioral notes

17       that --

18   A    Okay.

19   Q    -- are included?

20   A    Um, in the IEP, it was indicated that she would like

21       him to continue to main an -- an assignment notebook.

22   Q    Okay. So other than mom would like him to keep

23       a -- an assignment notebook, there were no other

24       problems that were noted at home? Behaviorally.

25   A    Behaviorally? No. Not that I recall.

1 Q Okay. Let's talk about memory just a -- a -- a  
2 little bit, because I know that, you know, one of  
3 the notes that Mr. Fremgen had you read, it talks  
4 a little bit about memory; isn't that -- isn't  
5 that right?

6 A Correct.

7 Q Are you familiar with different kinds of memory?

8 A Yes.

9 Q Are you familiar that there is a difference  
10 between something that is called, uh, event  
11 memory, that is, when somebody actually goes  
12 through an event and they remember it when  
13 they've lived through something, that they  
14 remember that differently than, say, when a  
15 teacher reads them a story, or when they learn  
16 something in class? You know there's a  
17 difference in those two kinds of memory?

18 A Yes.

19 Q Now, from an academic standpoint, the memory that  
20 you're most concerned about, and the memory that  
21 Mr. Fremgen had you read about, uh, is that  
22 second kind. That is, the memory that, uh, has  
23 to do with learning or what he can remember from  
24 a classroom setting; isn't that true?

25 A Correct.

1 Q You didn't test for -- and I assume you don't  
2 have an opinion -- as to Brendan's ability to  
3 recall or remember things that he's actually  
4 lived through? That's true; isn't it?

5 A True.

6 Q Do you still have Exhibit 224 with you?

7 A Yes.

8 Q Mr. Fremgen asked you to read something. I think  
9 it was on the second page. He highlighted  
10 something for you to read. Do you see that?

11 A Yes.

12 Q I'm going to ask you to read the line just before  
13 what Mr. Fremgen asked you to read. Could you do  
14 that for me, please?

15 A He will respond when called on by teacher if he knows  
16 the answer. If not, he shrugs his shoulders.

17 Q So from an educational classroom standpoint, when  
18 Brendan, um, was called on in class and he didn't  
19 know the answer, that note reflects he just  
20 shrugged his shoulders; isn't that right?

21 A Correct.

22 Q Nothing in that note that's says when Brendan  
23 didn't know an answer, he just made something up?  
24 He just made up some false statement? Note  
25 doesn't say that, does it?



1 A It does not.

2 Q The final area of questions that I have for you,  
3 Ms. Schoenenberger-Gross, comes in the area of  
4 suggestibility. Are there some students within  
5 the Mishicot School District that you identify,  
6 and, in fact, your staff, uh, expresses concerns  
7 about, being overly suggestible?

8 A We -- we wouldn't probably use the term "suggestible"  
9 but we would, perhaps, use the term, "easily  
10 influenced". Um, and, yes, there are.

11 Q All right. And if there's a student in Mishicot,  
12 uh -- in the Mishicot School District that you've  
13 observed as being easily influenced, or easily  
14 led, uh, is that something that would be  
15 addressed either through programming or  
16 discussions with teachers or discussion with  
17 parents?

18 A Yes.

19 Q And that's happened before at Mishicot, hasn't  
20 it?

21 A Yes.

22 Q Now, last question I have for you is, did the  
23 Mishicot School District ever, ever identify that  
24 Brendan Dassey was easily influenced, or easily  
25 led, or suggestible, such that you addressed with

1           either a teacher or a parent that particular  
2           observation?

3   A     There's nothing in the records to indicate that that  
4           was an area of concern.

5   Q     That's fine. Thank you for coming.

6                   ATTORNEY KRATZ: That's all I have,  
7           Judge.

8                   THE COURT: Redirect?

9                   ATTORNEY FREMGEN: Yes, please.

10                           REDIRECT EXAMINATION

11   BY ATTORNEY FREMGEN:

12   Q     I'm going to show you what's been marked as, uh,  
13           Exhibit 223. Do you recognize that document?

14   A     Yes.

15   Q     During some of the questions by Mr. Kratz, you  
16           were referring to test results. Um, I believe  
17           one, specifically, was the Woodcock-Johnson?

18   A     Yes.

19   Q     And --

20                   THE COURT: Excuse me. Could you have her  
21           identify the document?

22                   ATTORNEY FREMGEN: I'm sorry.

23   Q     (By Attorney Fremgen) What is -- What is that  
24           document?

25   A     This is a copy of my report from the testing that I

1 did in October of -- of 2002.

2 Q And is -- is this where you were testifying to as  
3 far as, um, some of the numbers in regards to the  
4 Woodcock -- Wood -- for instance, the  
5 Woodcock-Johnson?

6 A Yes.

7 Q Okay. And so this would be, um, the actual  
8 report where you -- where some of the questions  
9 came from Mr. Kratz in regards to, for instance,  
10 that one test and some other tests in regards to  
11 cognitive abilities; correct?

12 A Correct.

13 Q Now, the actual test result of the  
14 Woodcock-Johnson General Intellectual Ability was  
15 what score?

16 A Seventy-eight.

17 Q And is that average? Below average? Or what --  
18 what -- what would you, uh -- how would you  
19 describe that?

20 A That would be a borderline to below average range.

21 Q Referring to that same exhibit on page two under  
22 your observations and discussion?

23 A Yes.

24 Q Can you read the second sentence under that --  
25 your observations and discussion of assessment

1 results?

2 A In the first paragraph?

3 Q Uh, the first paragraph under that subsection.

4 Correct.

5 A Okay. He guessed on the items that he was not sure

6 about at times.

7 Q So at times when he didn't know answers, you're

8 saying he guessed at them?

9 A Yes.

10 Q Now, the -- the attachment to that, uh -- to your

11 report in -- indicates actual test score results

12 and his percentile ranking; correct?

13 A Yes.

14 Q And under the observations and discussion

15 setting -- uh, section of your report, you

16 actually reference, um -- For instance, if you

17 can go down, oh, that second full paragraph,

18 probably three quarters of the way down, where it

19 indicates Brendan -- uh, Brendan obtained a

20 cognitive efficiency standard score of 73?

21 A Yes.

22 Q Okay. And the percentile ranking is what?

23 A Four.

24 Q What is the significance of that? What does that

25 mean?

1 A That means that on that particular area Brendan  
2 scored as well as, or better than, four out of one  
3 hundred students his age.

4 Q So if I'm -- Just to make sure I'm clear, 96  
5 people would have scored better than -- out of a  
6 hundred would have scored better than him in  
7 regards to the cognitive efficiency test?

8 A As well as or better than him.

9 Q As well as or better?

10 A Um-hmm.

11 Q And right after that, you comment about his  
12 short-term memory abilities? Can you read that  
13 line?

14 A Brendan's short-term memory abilities are within the  
15 well-below average to borderline range.

16 Q Now, you testified on cross that -- that is --  
17 that -- that, generally, Brendan was in  
18 mainstream, uh, classes at Mishicot; correct?

19 A Correct.

20 Q And -- but you would agree that, based on -- if  
21 you need to review the IEPs -- his fourth grade  
22 reading lev -- or, excuse me -- his reading level  
23 was at a fourth grade level? Or do you recall  
24 what level he was listed at reading?

25 ATTORNEY KRATZ: I'm going to --

1 A Uh --

2 ATTORNEY KRATZ: Judge, if I may

3 interpose an objection, I'm not sure that this

4 jury, um, needs to, um, consider anything about

5 Brendan's reading level. I didn't hear any

6 testimony about any reading ability.

7 ATTORNEY FREMGEN: The State that --

8 talked about math level. I think I can go --

9 THE COURT: We -- we --

10 ATTORNEY FREMGEN: -- into that.

11 THE COURT: Yeah. Uh, I'm going to

12 overrule the objection. We've -- we've heard a lot,

13 and the State put some of it in. Well, I'll

14 overrule the objection and she can answer the

15 question.

16 ATTORNEY KRATZ: Thank you.

17 Q (By Attorney Fremgen) And -- and if you need to

18 refresh --

19 A I --

20 Q -- your recollection --

21 A -- would need to refer to --

22 Q I believe --

23 A -- something.

24 Q -- it would be the first -- Well, let me get the

25 number for you. You should have the exhibit up

1           there.  It's a separate exhibit from 217.  I  
2           believe it's the, uh -- the September 29, 2005,  
3           IEP.  I believe that is Exhibit 218?  
4   A       Yes.  
5   Q       Okay.  And I believe if you refer, again, to page  
6           I.11?  
7   A       Yes.  
8   Q       Okay.  Does it indicate what his reading level  
9           was?  
10  A       Brendan is currently reading at the end of fourth  
11           grade level.  
12  Q       And what grade level was he in at that time?  
13  A       Tenth grade.  
14                   ATTORNEY FREMGEN:  I have nothing else.  
15                   THE COURT:  Any recross?  
16                   ATTORNEY KRATZ:  That's all I have.  
17           Thank you, Judge.  
18                   THE COURT:  You may step down.  Thank you.  
19           Your next witness, Counsel?  
20                   ATTORNEY FREMGEN:  Yes, Judge.  We'll  
21           call Blaine Dassey.  
22                   THE COURT:  I showed this witness testified  
23           with respect to Exhibits 217 to 221, 223 and 224.  
24           Was there a 222?  
25                   DEFENDANT'S ATTORNEY:  I would withdraw --

1 Well, I didn't actually offer 222. No, that was  
2 another exhibit.

3 THE COURT: All right. Are you offering  
4 these at this time?

5 ATTORNEY FREMGEN: Yes, I -- we would  
6 offer those exhibits at this time.

7 THE COURT: Any objection?

8 ATTORNEY KRATZ: For the reasons they  
9 were used, no, Judge.

10 THE COURT: Okay. And they're received for  
11 that. Come on up here and just remain standing.  
12 You're going to be sworn in as a witness.

13 THE CLERK: Please raise your right hand.

14 **BLAINE DASSEY,**

15 called as a witness herein, having been first duly  
16 sworn, was 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: Blaine Dassey,  
20 D-a-s-s-e-y.

21 **DIRECT EXAMINATION**

22 BY ATTORNEY FREMGEN:

23 Q Blaine, how old are you?

24 A Eighteen.

25 Q And are you currently in school?



1 A Yes.

2 Q What school do you go to?

3 A Mishicot High School.

4 Q Who do you live with right now?

5 A Um, my mom, Barb.

6 Q Anyone else live in the house with you?

7 A Yeah. Scott Tadych.

8 Q And who's Scott?

9 A He's my step-dad.

10 Q Now, do you recall who was living with you on

11 October 31, 2005?

12 A Yes.

13 Q Can you tell us who was all living there?

14 A Um, my mom, uh, Tom -- Tom Janda, and me, Brendan,

15 Bobby and Bryan.

16 Q Now, you've mentioned Brendan. Do you recognize

17 Brendan?

18 A Yes.

19 Q Right here? That's your brother; right?

20 A Yes.

21 Q Okay. He's a year younger than you?

22 A Yes.

23 Q Do you recall -- Again, I asked if you recalled

24 where you lived on October 31, 2005, but do you

25 recall the events of that day?

1 A Yes.

2 Q And I'm going to have you think about that day

3 and answer some questions; all right?

4 A Yeah. Okay.

5 Q Were you in school that day?

6 A Yes.

7 Q Now, normally, how -- what time do you get home

8 from school?

9 A Three forty-five.

10 Q What time did you get home on that day?

11 A Three forty-five.

12 Q Was this a normal day for you then?

13 A Yes.

14 Q Did you come home with anyone in particular?

15 A No.

16 Q Does anyone else ride the bus with you?

17 A No.

18 Q No one else on the school bus?

19 A Except for Brendan.

20 Q Except for Brendan? Okay. And did Brendan come

21 home with you that day as well?

22 A Yes.

23 Q What did you guys do when you got off the bus?

24 A We walked down the -- the long road.

25 Q The long road?

1 A Yeah.

2 Q Okay. So --

3 A The --

4 Q I'm sorry.

5 A The road that our house is on.

6 Q Okay. So you -- does the bus -- doesn't drop you

7 off in front of your house?

8 A No.

9 Q Drops you off about how far away?

10 A About a half a mile.

11 Q How long does it take you to get from your house

12 to where they drop you off?

13 A About four minutes. Three minutes.

14 Q On that day, did you take about three or four

15 minutes to get home that day?

16 A Yes.

17 Q As you were walking with Brendan, did you notice

18 anything?

19 A No.

20 Q Did you guys talk about anything on the way from

21 the bus stop to -- to the house?

22 A Um, yes.

23 Q What did you talk about?

24 A About using the phone or computer.

25 Q Why did you guys talk about using the phone or

1           the computer?

2   A    I don't know. Because that's all we do.

3   Q    Something to talk about?

4   A    Yeah.

5   Q    Do you have just one phone and one computer?

6   A    Yes.

7   Q    Can't both be on at the same time?

8   A    No.

9   Q    When you got into the house, do you -- who got to

10       use the phone?

11   A    I did.

12   Q    What did you do?

13   A    I called my friend, Jason.

14   Q    And why did you call Jason?

15   A    Because we were going to go trick or treating.

16   Q    So this was Halloween; right?

17   A    Yes.

18   Q    So did Brendan plan on going trick or treating

19       with you?

20   A    No.

21   Q    Was anyone else home when you got home? You --

22       when you and Brendan got home?

23   A    No.

24   Q    Now, you said that you have a brother at that

25       time that lived with you as well?

1 A Yes.

2 Q And that was?

3 A Bobby.

4 Q Bobby. Bobby was not home?

5 A No.

6 Q But did Bobby get home at anytime that afternoon

7 when you were there?

8 A I don't remember. No. I don't think he was.

9 Q You don't think so?

10 A He wasn't -- He wasn't there.

11 Q So after you got done talking to Jason on the

12 phone, what did you do?

13 A Uh, went on the computer.

14 Q And how long were you on the computer?

15 A Um, about 30 minutes.

16 Q Now, do you know where Brendan was during this

17 time period?

18 A Yes. He was playing with the video games.

19 Q So you have a -- a separate -- do you have

20 separate rooms or are you in the same room?

21 A We're in the same room.

22 Q So the computer is the same room as the TV room

23 or the video room?

24 A Yes.

25 Q Did Brendan ever leave?

1 A No.

2 Q At what time did you actually leave, then, to  
3 meet Jason?

4 A About 5:20.

5 Q Did you have supper?

6 A No. Yeah.

7 Q You did have supper?

8 A Yes.

9 Q Who made supper for you?

10 A Um, me and Brendan made it.

11 Q Between 3:45, when you left at 5:20, did you ever  
12 see Brendan leave the house?

13 A No.

14 Q Were you watching him all the time?

15 A Yes.

16 Q You -- you keep track of your brother that way?

17 A Yeah.

18 Q You do? Okay. Now, you -- are you guys close?  
19 Would you say you're close?

20 A Yes.

21 Q Did you notice, from about October 31, 2005 until  
22 March of '06, whether Brendan was losing weight?

23 A Yes.

24 Q Did you guys talk about that?

25 A Yes.

1 Q Do you know why he was losing weight?

2 A Because, um, everybody he knew would make fun of him

3 because he's fat and stuff.

4 Q So he wanted to lose weight so no one would make

5 fun of him?

6 A Yes.

7 Q Did -- That same period of time, did he seem to

8 be overly emotional? Do you know what that

9 means?

10 A Yeah.

11 Q Do you -- Would you -- Did he appear to be overly

12 emotional?

13 A Yes.

14 Q He did? Did he cry a lot?

15 A Not really. He was just sad and stuff.

16 Q Okay. Now, was -- is that normally Brendan's

17 character? To be a little sad?

18 A I don't know. He was shy. He wouldn't -- He doesn't

19 talk a lot.

20 Q To other people?

21 A Yeah.

22 Q What about to you?

23 A I don't think he -- I don't know.

24 Q Now, I -- I asked you earlier if you ever saw

25 Brendan go leave the house until you left to go

1           meet Jason at 5:20?

2    A     Yeah.

3    Q     Did you ever leave the house?

4    A     No.

5    Q     Never went outside at all?

6    A     No.

7    Q     At anytime did you guys look out the window?

8    A     No.

9    Q     Do you know if Brendan looked out the window?

10   A     No.

11   Q     You me -- you mean you don't know if he did or he

12         didn't look out the window?

13   A     No, he didn't. He was playing his video games.

14   Q     Did, uh, Steven Avery -- You know who Steven

15         Avery is; right?

16   A     Yes.

17   Q     And who is he?

18   A     He's my uncle.

19   Q     And how far away does he live from you?

20   A     He's our neighbor. Like right across --

21   Q     Pretty close or --

22   A     Yeah.

23   Q     -- miles?

24   A     Pretty close. Pretty close.

25   Q     Couple hundred feet maybe?



1 A Yeah.  
2 Q Did he ever come over to your house?  
3 A Yeah.  
4 Q Between 3:45 and --  
5 A No.  
6 Q -- 5:20 that day --  
7 A No.  
8 Q You -- Did anyone come over to the house at  
9 that --  
10 A No.  
11 Q -- that day? Now, what time did you get home  
12 that night?  
13 A About 11.  
14 Q About 11?  
15 A Yeah.  
16 Q Did you see Brendan when you got in?  
17 A Yes.  
18 Q Where was he?  
19 A He was in his bed.  
20 Q Thank you, Blaine. I have nothing else.

21 THE COURT: Cross.

22 **CROSS-EXAMINATION**

23 BY ATTORNEY KRATZ:

24 Q Blaine, do you remember testifying in the trial  
25 of Steven Avery?

1 A Yes.

2 Q Do you remember in that trial being asked the  
3 question, when you got home at 11 or 11:30, if  
4 you saw Brendan in your bedroom?

5 A Yes.

6 Q Do you remember being asked that question?

7 A Yes.

8 Q What did you tell the jury at that time?

9 A That I didn't see him.

10 Q That you didn't see him; right?

11 A (No verbal response.)

12 Q Now, in the last four weeks has your memory  
13 gotten better?

14 A Yeah.

15 Q It's gotten better in the last --

16 A I --

17 Q -- four weeks?

18 A I -- I can remember.

19 Q You can remember better now?

20 A Yeah.

21 Q I'm sorry?

22 A Yes.

23 Q Okay. Has nothing to do with your brother being  
24 on trial this time, does it?

25 A No.

1 Q You said that you went trick or treating on the  
2 31st. How old are you?

3 A Eighteen. Eighteen.

4 THE COURT: Could you pull that  
5 microphone a little closer, please?

6 THE WITNESS: Yes.

7 Q (By Attorney Kratz) Thank you, Blaine. On  
8 October 31, 2005, how old were you?

9 A Um, 17.

10 Q And who, at age 17, were you going trick or  
11 treating with?

12 A My friend, Jason, and his little brothers.

13 Q Where were you going trick or treating?

14 A Two Rivers. Manitowoc.

15 Q Now, in that community, that is, in Two Rivers,  
16 um, trick or treating is on, actually, Halloween  
17 Day; is that right?

18 A Yes.

19 Q Are you familiar with, uh, communities that have  
20 trick or treating perhaps the day earlier? On  
21 Sunday the day before?

22 A Yes.

23 Q And do you know around, um, the Mishicot area if  
24 there were any communities, as you think back,  
25 that had trick or treating on that Sunday?

1 A I don't remember.

2 Q Did you go trick or treating on that Sunday?

3 That is, the day before?

4 A No.

5 Q All right. You told Mr. Fremgen that as you

6 walked home, or as you walked down the -- the --

7 the path, and I'm going to show you what has been

8 received as Exhibit No. 71, as you walked down

9 this path, this road actually goes, uh, all the

10 way up towards your grandmother's house; is --

11 A Yes.

12 Q -- that right? You have to wait until I --

13 A Okay.

14 Q -- I -- I finish asking the question; all right?

15 But as you walked down towards your house, you

16 told Mr. Fremgen that you didn't see anything, or

17 that you didn't see anything unusual. You

18 remember saying that today?

19 A Yes.

20 Q As you think back now, uh, do you now remember

21 something that you saw before you went into the

22 house?

23 A Yeah.

24 Q Why don't you tell the jury what you saw?

25 A I seen Steven Avery walking to the burn barrel with a

1 plastic bag in his hand and he dropped it in there.

2 Q And Steven Avery's your uncle; is that right?

3 A Yes.

4 Q Now, when Steven Avery you said was walking, um,

5 towards a burn barrel, I'm going to, again, have

6 you look at Exhibit No. 71, Blaine, and show you,

7 uh, what is, um, just kind of a -- uh, to the

8 center and to the right of that exhibit, uh, what

9 looks like a burn barrel. Is that the burn

10 barrel that you're talking about?

11 A Yes.

12 Q When you saw your Uncle Steven taking something

13 and putting it in that burn barrel, did you

14 notice if that burn barrel was burning? That is,

15 uh --

16 A Yes.

17 Q -- was it on fire?

18 A Yes.

19 Q Yes, it was already burning?

20 A Yes.

21 Q And when you told this jury that you saw him

22 walking towards that burn barrel, did you see him

23 walking from his trailer towards that burn

24 barrel?

25 A Yes.

1 Q You said that you saw him put something in it.  
2 After putting something in that burning barrel,  
3 where did your Uncle Steve go?  
4 A I think he went back to his house.  
5 Q Did you see him turn around and go back to his  
6 trailer?  
7 A Yes.  
8 Q All right. Now, you told this jury today that  
9 you left at about 5:20 to go to your friend,  
10 Jason's; is that right?  
11 A Yes.  
12 Q How did you get to Jason's that day?  
13 A His mom, Carmen Wiensch.  
14 Q His mother's name is Carmen?  
15 A Yeah.  
16 Q And her last name is Wiensch; is that --  
17 A Yes.  
18 Q -- right? W-i-e-n-s-c-h?  
19 A Yes.  
20 Q Is that right? Okay. Now, where did she pick  
21 you up?  
22 A At the end of -- where the bus drops us off.  
23 Q So you had to walk a ways from your trailer,  
24 which is on Exhibit No. 71 here, back up that  
25 road for Mrs. Wiensch to pick you up; is that --

1 A Yes.

2 Q -- right? You have to wait until I'm done asking

3 the question, okay?

4 A Okay.

5 Q Now, did she pick you up at 5:20 or did you leave

6 your house at 5:20?

7 A She picked me up at 5:20.

8 Q So is it fair to say that you left your house

9 sometime before that?

10 A Yeah.

11 Q Now, you're telling us today that you got home at

12 about what time?

13 A Eleven.

14 Q When you got home at about 11:00, why don't you

15 tell the jury what you saw before you walked into

16 your trailer?

17 A I seen a person standing out by the -- or, uh --

18 bonfire.

19 Q Now, up until now, we haven't heard about you

20 seeing a bonfire. Why don't you tell us about

21 that?

22 A Say that question over?

23 Q Sure. Why don't you tell the jury about the

24 bonfire that you saw?

25 A Um, it was about five-foot high.

1 Q All right. Can you tell the jury where you saw  
2 that bonfire?  
3 A Behind Steven's garage.  
4 Q All right. I'm going to have you look at Exhibit  
5 No. 71 again, and this, uh, dark area right to  
6 the left of the screen, uh, is that the area that  
7 you saw that fire?  
8 A Yes.  
9 Q Now, when you came walking into your house, um,  
10 were there any obstructions to your view of that  
11 bonfire? In other words, was there anything that  
12 blocked your view between you and that fire?  
13 A No.  
14 Q You're telling this jury that you saw somebody  
15 standing by that bonfire; is that --  
16 A Yes.  
17 Q -- right? You have to wait until I'm done asking  
18 the question. Were you able at that time to  
19 identify who it was who was standing by that  
20 bonfire?  
21 A Yeah. It was a bigger guy.  
22 Q A bigger --  
23 A Steven --  
24 Q -- guy?  
25 A -- Steven's size.



1 Q Steven's size?

2 A Yeah.

3 Q All right. Again, do you remember about four

4 weeks ago being asked that same question?

5 A Yes.

6 Q What did you tell the jury about four weeks ago?

7 A That I said that I don't know who was standing out

8 there.

9 Q All right. But after talking to Mr. Fremgen, and

10 after being called in your brother's case, you

11 now think that it was a bigger guy. Somebody

12 like Steven; is that --

13 A Yes.

14 Q -- right?

15 ATTORNEY FREMGEN: Objection to the

16 question. There is no evidence that this witness

17 talked about --

18 THE COURT: I -- I --

19 ATTORNEY KRATZ: I can ask it a -- a

20 different way.

21 THE COURT: Please do. I -- and, uh, I

22 direct that the jury not take notice of that

23 question.

24 ATTORNEY KRATZ: That's fine.

25 Q (By Attorney Kratz) Let me ask you this, Blaine,

1           between that hearing, the Steven Avery trial, and  
2           today, did you, in fact, talk to Mr. Fremgen?  
3    A    No.  
4    Q    You haven't talked to Mr. Fremgen or  
5           Mr. Edelstein?  
6    A    No.  
7    Q    Uh, so there hasn't been any conversation at all  
8           between -- between you and them; is that right?  
9    A    No.  
10   Q   All right. Between that hearing, though, and  
11           today, you agree that your testimony's different;  
12           is that true? I'll be more specific if you want  
13           me to be.  
14   A    Yeah.  
15   Q    About the person that you saw out by the fire  
16           that night? Yes?  
17   A    Yes.  
18   Q    And your testimony's different as to whether or  
19           not your brother, Brendan, was home. That's  
20           different than it was four weeks ago; right?  
21   A    Yes.  
22   Q    You said that you ate at home that night. That  
23           is, in your trailer. Is that your testimony?  
24   A    Yes.  
25   Q    Do you remember on the 7th of November, that's

1           like a year-and-a-half ago, being interviewed by  
2           two agents of the Division of Criminal  
3           Investigation?  
4   A     Yes.  
5   Q     Do you remember telling or being asked by those  
6           agents where you ate dinner that night?  
7   A     Yes.  
8   Q     Do you remember what you told those agents that  
9           night?  
10   A    No, I don't remember.  
11   Q     Remember telling them that you had dinner at your  
12           friend, Jason's, house that night?  
13   A     No.  
14   Q     No? You don't remember telling them that?  
15   A     No.  
16   Q     Okay. Now, your Uncle Steve had a vehicle, which  
17           was called a Suzuki Samurai. Do you know what  
18           I'm talking about?  
19   A     Yes.  
20   Q     Let me just get to that exhibit number. I'm  
21           showing you Exhibit No. 117. Do you recognize  
22           that vehicle?  
23   A     Yes.  
24   Q     What is that?  
25   A     That's his Suzuki.

1 Q And, uh, you knew that to be your Uncle Steve's  
2 Suzuki?  
3 A No. It's my grandpa's.  
4 Q Okay. I'm sorry. But you recognize it in this  
5 photo, at least, to be in your Uncle Steve's  
6 garage; is that right?  
7 A Yes.  
8 Q Now, on the 31st, that is, on Halloween, do you  
9 know where that Suzuki was parked?  
10 A Yes.  
11 Q Can you tell the jury, please, where on the 17th  
12 that was parked?  
13 A It was on the outside on the left side of the garage.  
14 Q All right. I'm going to show you what's been  
15 received as Exhibit No. 67. And although -- In  
16 that photo we see it backed into the garage. The  
17 31st, that is, on the Halloween when you got  
18 home, you remember seeing that Suzuki outside of  
19 the garage, uh, to the left, or what would be to  
20 the east, of your Uncle Steve's garage; isn't  
21 that right?  
22 A Yes.  
23 Q Now, do you know how that Suzuki Samurai got put  
24 into your Uncle Steve's garage and when that  
25 happened?

1 A No.

2 Q You know that it was just sometime after

3 Halloween? That is, after the 31st --

4 A Yes.

5 Q -- is that right? Okay. When you left at, uh,

6 5:00, Blaine -- I'm sorry, uh, sometime before

7 5:20. I guess you didn't say 5, you said

8 sometime before 5:20. Remember seeing a fire

9 behind Steve's garage even then? Even a little

10 after 5:00?

11 A No.

12 Q Did you look? In other words, do know if there

13 was fire or did you just not see it?

14 A No, I didn't look. I didn't see it.

15 Q That -- It's two different answers. Did you

16 look?

17 A No.

18 Q Okay.

19 ATTORNEY KRATZ: If I could have just a

20 moment, Judge? I have no further questions,

21 Judge. Thank you.

22 THE COURT: Any redirect?

23 ATTORNEY FREMGEN: Please.

24 **REDIRECT EXAMINATION**

25 BY ATTORNEY FREMGEN:

1 Q When Mr. Kratz was asking you some questions, you  
2 said that, uh, you had seen Steven, your Uncle  
3 Steven, dropping a bag into a burn barrel;  
4 correct?

5 A Yes.

6 Q And he showed you the picture, and you agree that  
7 that was the burn barrel; correct?

8 A Yes.

9 Q Now, the -- When was this? When did you see him  
10 throwing -- dropping the bag into the burn  
11 barrel?

12 A When we were walking down the -- the driveway.

13 Q And by "we" who are you -- who do you mean?

14 A Me and Brendan.

15 Q So you and Brendan were walking down back from  
16 the school bus?

17 A Yes.

18 Q Sometime after 3:45?

19 A Yes.

20 Q You indicated that Jason's mom picked you up  
21 about 5:20?

22 A Yes.

23 Q But that would have been down by where the bus  
24 drops you off and picks you up?

25 A Yes.

1 Q And you said it takes about how long to get down  
2 that road?  
3 A Three or four minutes.  
4 Q So you would have left sometime three or four  
5 minutes before 5:20?  
6 A Yes.  
7 Q Mr. Kratz was asking you if you recalled speaking  
8 to, uh, law enforcement on November 7; correct?  
9 Of --  
10 A Yes.  
11 Q -- 2005; correct?  
12 A Yes.  
13 Q I know that's a long time ago. But you in -- he  
14 indicated to you that your answers seemed to be  
15 different from now from back then; correct?  
16 A Yes.  
17 Q And do you agree that some of your answers are  
18 different?  
19 A Yes.  
20 Q Do you recall telling law enforcement back then  
21 that you actually got home between 9:30 and 10  
22 that night?  
23 A No.  
24 Q You don't recall saying that? Do you recall  
25 saying you actually saw Brendan when you came

1 home that night?

2 A Yes.

3 Q Okay. And that was on November 7? To law  
4 enforcement?

5 A Yes.

6 Q Okay. Thank you.

7 ATTORNEY FREMGEN: Nothing else, Judge.

8 ATTORNEY KRATZ: I have nothing. Thank  
9 you, Judge.

10 THE COURT: You may step down.

11 ATTORNEY FREMGEN: I do have one more  
12 witness if, uh -- It should be very short.

13 THE COURT: Very good. You may call that  
14 witness.

15 THE CLERK: Please raise your right hand.

16 **MICHAEL KORNELY,**

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

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

21 THE WITNESS: It's, um, Michael, or Mike,  
22 Kornely, K-o-r-n-e-l-y.

23 **DIRECT EXAMINATION**

24 BY ATTORNEY FREMGEN:

25 Q Mike, what do you do for a living?



1 A Uh, I work as a sales manager for a company out of  
2 Milwaukee, and I also do some yard work as an extra  
3 job.  
4 Q And do you generally live in the Manitowoc/Two  
5 Rivers area?  
6 A Yes, I live in Francis Creek.  
7 Q Are you familiar with, uh, Brendan Dassey?  
8 A Yes.  
9 Q And how do you know Brendan?  
10 A Um, Brendan is, uh -- Blaine, he works for me  
11 currently, and, uh, Blaine's brother, and Brendan  
12 worked for me for a period of time.  
13 Q And how -- how long have you known Brendan?  
14 A About three-and-a-half years.  
15 Q Would you be able to -- Well, for instance,  
16 hypothetically, you would have called him on the  
17 phone, would you be able to recognize his voice?  
18 A Yes.  
19 Q Now, do you know -- do you recall where you were  
20 on October 31, 2005?  
21 A I was in Birmingham, Alabama.  
22 Q On that -- at -- on that night, or at some point  
23 in -- on October 31, 2005, did you contact the  
24 Dassey residence?  
25 A Yes, I did.

1 Q By that I mean did you call them?

2 A Yes. I -- I called to talk to -- to Blaine to see if

3 he was going to come to work on the following

4 weekend, because he hadn't worked, uh, with me the

5 weeks before -- the two weeks before. Um, said that

6 he was putting on a roof on one of his uncle's

7 cottages up north and it was working with Steven.

8 Q And do you recall what time it was that you

9 called?

10 A It was around 6:00. I think it probably was about --

11 between quarter to six and maybe ten to six. I think

12 it was before six.

13 Q Did you speak with Blaine?

14 A No. I, uh, spoke with Brendan and asked him if

15 Blaine was there, and, uh, he said, no, that he went

16 trick or treating. And I kind of was taken aback. I

17 said, well, he can't be trick or treating, he's 17.

18 And then he told me that he had taken his friend,

19 Jason, uh, two brothers, and they went trick or

20 treating together.

21 Q How long did the conversation between you and

22 Brendan take place?

23 A Somewhere around probably five minutes.

24 Q And do you recognize that voice on the other line

25 as Brendan?

1 A Oh, yes. Yes.

2 ATTORNEY FREMGEN: I have nothing else  
3 for this witness.

4 THE COURT: Cross.

5 **CROSS-EXAMINATION**

6 BY ATTORNEY GAHN:

7 Q Good morning, sir.

8 A Good morning.

9 Q How long, Rick, (sic) had you been in Birmingham,  
10 Alabama?

11 A I got there on, uh, Monday, and I was there until  
12 Thursday.

13 Q And, um, did you call from -- I'm sorry. Were  
14 you staying, like, at a hotel or something?

15 A Yes. I was staying at the Sheraton. The Marriott  
16 Court Yard.

17 Q And did you call from the hotel phone or did you  
18 have a cell phone or what?

19 A I don't exactly remember that. I'm quite sure it was  
20 my cell phone.

21 Q And at anytime since, uh, the day that you made  
22 that call, did anyone ask you to check your cell  
23 phone records for the exact time of that call?

24 A Yes, I think, um, Brendan's first attorney asked me  
25 if I had a record for it.

1 Q And, um, do you have a record for the time that  
2 you made that call, sir?

3 A I -- I didn't find that telephone call on my Sprint  
4 record, which means I could have made it through the  
5 hotel operator. Sometimes my phone goes dead at the  
6 end of the day. And I could have made it through the  
7 hotel. I -- I honestly wish I could recall. I just  
8 can't.

9 Q Do you recall, um, on November 7 of 2005, which  
10 would have been shortly after, um -- what, seven  
11 days after October 31?

12 A Um-hmm.

13 Q Where two agents did come to your home to talk to  
14 Blaine?

15 A Yes.

16 Q And do you recall telling those agents that you  
17 thought the call may have been around 5:30?

18 A You know, I -- I -- I don't remember that. That is  
19 possible. I thought it was 5:30, but I got back to  
20 the hotel, and I made the call, and it could have  
21 been between 5:30 and 6:00.

22 Q And for that fact, could have been between 5:15  
23 and 6:15? I -- I'm just asking you, sir.

24 A Yes, it could have been, because my day usually ends  
25 sometimes around there, and by the time I get back to

1 the hotel it might be after five.

2 Q So you -- sometime after -- You know it was  
3 sometime after five, though, is that fair to say?

4 A Yes. Um, I -- I thought Brendan told me that he left  
5 about 5:10 or something, so I would have already  
6 missed Blaine then. So, you know, because Blaine  
7 wasn't there for me to talk to him.

8 Q So the call could have been at 5:15 for all  
9 you -- as you recall? Is that fair to say?

10 A Um, yeah, it's possible.

11 Q Okay.

12 A It is possible.

13 Q All right. I thank you, sir. Thank you for  
14 coming today.

15 ATTORNEY GAHN: That's all I have, Your  
16 Honor.

17 THE COURT: Any redirect?

18 **REDIRECT EXAMINATION**

19 BY ATTORNEY FREMGEN:

20 Q I just have one question in follow-up to, um --  
21 Mr. Gahn asked you about meeting with law  
22 enforcement as to that time frame when you made  
23 that phone call; correct? You had --

24 A Yes.

25 Q Remember that --

1 A Yes.

2 Q -- conversation? And you said -- Or the question  
3 was asked of you, do you recall telling them it  
4 was 5:30? And you said, maybe?

5 A Yeah. It seemed closer to six because, you know, I  
6 would end my day probably around five. I -- I -- I  
7 wish I could recall and I don't. But I thought it  
8 was closer to six, because what Brendan had said to  
9 me is, well, Blaine had already left by about ten  
10 after five or so, and so this seemed like, you know,  
11 it was a while, like he was gone almost an hour  
12 already.

13 Q So it was sometime after Blaine had left as far  
14 as you recall from the conversation?

15 A Yes.

16 Q And do you recall telling law enforcement it was  
17 5:30 or 5:45? That that was the time frame you  
18 gave to them originally?

19 A It's possible I could have told them that. I -- I  
20 could be off like that.

21 Q Okay. Thank you, very much.

22 THE COURT: Any recross?

23 ATTORNEY GAHN: No, Your Honor.

24 THE COURT: You may step down.

25 THE WITNESS: Thank you.

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ATTORNEY FREMGEN: That's the last  
witness for today that we have available.

THE COURT: All right. Then we will  
adjourn until Monday morning at 8:30. Ladies and  
gentlemen, once again, don't talk about this amongst  
yourselves or anything about this case, or to anyone  
else. Thank you. Have a nice weekend. We'll see  
you Monday.

(Court stands adjourned at 11:44 a.m.)

1 STATE OF WISCONSIN )  
2 ) SS.  
3 COUNTY OF MANITOWOC )

4 I, Jennifer K. Hau, Official Court  
5 Reporter for Circuit Court Branch 3 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 11<sup>th</sup> day of December, 2007.

16  
17  
18 Jennifer K. Hau  
19 Jennifer K. Hau, RPR  
20 Official Court Reporter  
21  
22  
23  
24  
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